

Ordinance #12-1359

**AN ORDINANCE TO AMEND CHAPTER XVI, PROPERTY MAINTENANCE,
OF THE BOROUGH OF MILLTOWN, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY,
TO ADOPT THE *INTERNATIONAL PROPERTY MAINTENANCE CODE, 2012 EDITION,*
WITH MODIFICATIONS TO SECTION 101.1, TITLE, SECTION 106.4, VIOLATION PENALTIES,
SECTION 112.4, FAILURE TO COMPLY, SECTION 302.4, WEEDS,
SECTION 304.14, INSECT SCREENS, SECTION 602.3, HEAT SUPPLY AND
SECTION 602.3, OCCUPYABLE WORK SPACES; THE DELETION OF SECTION 103.5, FEES;
AND THE ADDITION OF SECTIONS 104.3A, SEARCH WARRANT
AND 508, STORM DRAINAGE.**

BE IT ORDAINED by the Borough of Milltown of the County of Middlesex and State of New Jersey that the Revised General Ordinances of the Borough of Milltown be amended as follows:

Section 1. Chapter XVI, "Property Maintenance" of the Revised General Ordinances of the Borough of Milltown is hereby repealed and the following inserted in its place and stead:

16-1.1 Adoption of the *International Property Maintenance Code, 2012 Edition, by Reference.*

A certain document, three (3) copies of which are on file in the office of the Municipal Clerk of the Borough of Milltown, being marked and designated as the *International Property Maintenance Code, 2012 edition*, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Borough of Milltown, in the State of New Jersey for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collections of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Municipal Clerk are hereby referred to, adopted and made a part hereof, as if fully set out in this Chapter, with the additions, insertions, deletions and changes, if any, prescribed in Section 16-1.2 of this Chapter.

16-1.2 Revisions to *International Property Maintenance Code, 2012 edition.*

The *International Property Maintenance Code, 2012 edition*, is hereby revised as follows:

a. Section 101.1 is amended to delete "[NAME OF JURISDICTION]" and insert "the Borough of Milltown in its place and stead.

b. Section 103.5 is deleted in its entirety.

c. Section 104.3A is hereby added as follows:

104.3A Search warrant: If the code official is refused access to a structure or premises under Section 104.3, the code official may, upon affidavit, apply to a judge of a court having jurisdiction in the Borough for a search warrant, setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of the code may exist on the premises, including one or more of the following:

(a) Receipt of a written complaint;

(b) Observation of the external condition of the premises and its public area has resulted in the belief that violation of this Chapter exist;

(c) Circumstances such as age of building, type of building, particular use of premises or other factors which render systematic inspections of such buildings necessary in the interest of public health and safety.

If the judge is satisfied as to the matters set forth in said affidavit, the judge shall authorize the issuance of a search warrant permitting access for an inspection of that part or those parts of the premises on which the nuisance or violation may or is suspected to exist.

d. Section 106.4 is hereby amended as follows:

106.4 Violation penalties.

1. Any person who shall violate any provisions of this code shall be subject to a fine of not less than \$100.00 nor more than \$1,000.00, or imprisonment for a term not to exceed 90 days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.

2. In accordance with N.J.S.A. 40:48-2.13 and 40:48-2.13a , any owner or tenant of premises who has neglected or refused to remove or destroy brush, weeds, including ragweeds, dead and dying trees, stumps, roots, noxious growths, filth, garbage, trash and debris within ten (10) days after written notice for the removal or destruction of same by the Borough shall be charged for the removal or destruction of same by the Borough, which at its option may remove or destroy the violation in order to preserve the health, safety, general welfare or to eliminate a fire hazard, and said charge shall become a lien upon such premises and shall be added to and become and form part of the taxes next to be assessed and levied upon such premises. Such lien shall bear interest at the same rate as the taxes and shall be collected and enforced by the tax collector.

e. Section 112.4 is amended to delete the two references to "[AMOUNT]" and provide for a fine of "not less than \$100.00 or more than \$1,000.00."

f. Section 302.4 is amended to delete "[JURISDICTION TO INSERT HEIGHT IN INCHES]" and insert "8 inches" in its place and stead.

g. Section 304.14 is amended to delete the two references to "[DATE]" and provide for a period "from April 15th to October 15th."

h. Section 508, entitled "Storm Drainage" is deleted and the following inserted in its place and stead:

**508
STORM DRAINAGE**

508.1 Intent and Purpose: The implementation of this section will aid the Borough by limiting and reducing the inflow of additional water into the sanitary sewer systems. By prohibiting the discharge of water from any roof, surface ground, sump pump, swimming pool, other natural precipitation, and other sources of inflow into the Borough's sanitary sewer system, the Borough is seeking to reduce costs as well as protect against other damaging effects. The Borough's sanitary sewer system will

and has on occasions in the past been overloaded and flooded thereby creating the potential to cause significant damage or threat to individual's property as well as the system. Further, all water that enters the system must be treated at the Middlesex County Utility Authority sewage treatment plant. Therefore, by reducing and eliminating this inflow of "clean water" into the sanitary sewer system and the subsequent unnecessary treatment, the expenses to the Borough and the citizens will be reduced and will assist in protecting the health, safety and welfare of the residents of the Borough and in protecting the environment in general.

508.2 Violations.

1. Prohibited Discharges. No person or entity shall discharge or cause to be discharged any stormwater, groundwater, roof runoff, yard drainage, yard fountain, swimming pool, pond, overflow, or any other substance other than sanitary sewage into the sanitary sewer collection system. No person, business or other entity shall discharge or cause to be discharged any hazardous substances into the sanitary sewer collection system. Any discharge from a sump pump shall be made to the grounds adjacent to the structure that the sump pump serves and in a manner to prevent the accumulation of stagnant water thereon, or on adjacent properties.
2. Amnesty Period for Disconnection.
 - a. On or before December 31, 2012, any person, business, or other entity who shall have a connection described above and who shall voluntarily report said connection to the Borough, so that said illicit connection shall be remedied, shall have any and all permit, connection and inspection fees waived by the Borough. This waiver of fees applies only to Borough fees and does not include the actual cost of remediation.
 - b. After December 31, 2012, any person, business, or other entity who shall have a connection described above, and shall fail to voluntarily report such connection by December 31, 2012 shall be liable for all permit fees, inspection fees, and connection fees as required by the Borough to remedy the illicit connection.
3. Manner of Disconnection.
 - a. Any property owner, tenant, landlord, or other person with a property interest who shall have a connection in violation of this Chapter, or not obtained a waiver pursuant to Section 508.7, shall immediately remove such connection and correct such situation. If not removed or corrected within one hundred and twenty (120) calendar days after receiving a Notice of Violation which has been personally delivered or delivered via certified mail, the Borough shall impose a Surcharge as defined and in the amount provided for in Section 508.4.
 - b. All disconnections of said illicit connections shall be accomplished by a complete and permanent method and performed in a competent manner and approved and inspected by the Borough Building Inspector, any Borough sub-code inspector, Borough Fire Code official and/or Borough Engineer. Any disconnection, plugging, capping, re-routing, altering, or modifying must be done in accordance with all applicable state and municipal building codes.

c. Upon issuance of the Surcharge pursuant to Section 508.4, if the property owner, tenant, landlord, or other person with a property interest remedies the illicit connection, said property owner, tenant, landlord, or other person with a property interest shall call the Borough's Building Department for an inspection of the connection by the Borough's Building Inspector, a Borough sub-code inspector, Borough Fire Code official or Borough Engineer, and upon certification that the illicit connection has been remedied, the Surcharge shall be lifted, beginning the month following the inspection and certification. If, however, on a subsequent and periodic inspection for which a property was subject to the Surcharge, the illicit connection exists, the Surcharge amount as provided for in Section 508.4 shall be calculated from the previous inspection date.

508.3 Inspections: The Building Inspector, Borough Engineer, Borough Fire Code official and/or a Borough sub-code inspector, as long as they display the property credentials and identification, shall be permitted to request entrance to any property for the purpose of inspecting, observing, testing and sampling to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system in accordance with this Chapter.

Any owner, tenant, landlord, or other person with a property interest who shall refuse entrance to the Building Inspector, Borough Engineer, Borough Fire Code official or Borough sub-code inspector, shall immediately become subject to the monthly Surcharge noted in Section 508.4 of this Chapter. Said property shall remain subject to the monthly Surcharge until such time as an inspection is permitted to ensure compliance by the Borough of all terms of this Chapter.

508.4 Surcharge.

1. A surcharge of fifty dollars (\$50.00) per month (the "Surcharge") is hereby imposed upon every sewer utility bill to property owners, tenants, landlords, or other persons with a property interest for the following conditions:

- a. Failure to comply with this Chapter; or
- b. Refusal to permit inspection.

2. If the Surcharge is not paid and received by the Borough, a lien shall be imposed upon the property as per N.J.S.A. 40:14B-42.

3. Said Surcharge shall remain on the property and sewer utility bill until such time as the Borough Building Inspector or Borough Engineer certifies that the property owner, tenant, landlord, or other person with a property interest is in full compliance with this Chapter.

508.5 Appeal of Surcharge: Any property owner who shall be assessed a Surcharge pursuant to this Chapter shall have a right to appeal to the Municipal Court for the purposes of proving compliance with this Chapter.

508.6 Municipal Assistance: The Borough shall assist and provide guidance to any property owner, tenant, landlord, or other person with a property interest in remedying the situation as it involves a matter of public concern to the resident's health, safety and welfare of the community in remedying the illicit connection. Except as specifically set forth in this Chapter, all costs associated with complying with this Chapter shall be borne by the property owner, tenant, landlord, or other person with a property interest.

508.7 Waiver: Any person, business, or other entity, who by inspection or voluntary reporting is determined to be in violation of any section of this Chapter, shall be permitted to file for a waiver of the Surcharge requirement of this Chapter, if they can prove that they have exhausted all possible remedial measures. Remedial measures include but are not limited to the installation of a dry-well, the connection to a storm sewer, and/or use of one's own property for discharge of the water so long as such discharge does not adversely affect any neighboring property owner. Upon certification of the Building Inspector and/or Borough Engineer, the person, business, or other entity shall be granted such waiver, but only for such time as to when a remedy becomes available. If such remedy is made available by the Borough, the Borough shall notify the person, business, or other entity, that they shall comply with this Chapter within one hundred twenty (120) days of receiving said notice. Failure to comply will result in the imposition of a Surcharge as per Section 508.4.

508.8 Maintenance of Sump Pumps: Sump Pumps shall be maintained in good repair and free from all obstructions.

i. Section 602.3 is amended to delete the two references to "[DATE]" and provide for a period "from October 15th to May 15th."

j. Section 602.4 is amended to delete the two references to "[DATE]" and provide for a period "from October 15th to May 15th."

16-1.3 Effect of Adoption of the *International Property Maintenance Code, 2012* edition.

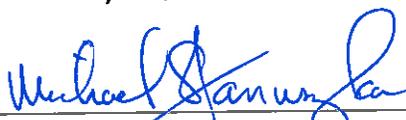
Nothing in this Chapter or in the *International Property Maintenance Code, 2012* edition, hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Chapter.

Section 2. Each clause, section or subsection of the ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of the ordinance shall not be affected.

Section 3. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed as to the extent of such inconsistency.

Section 4. This ordinance shall take effect immediately upon adoption and publication according to law.

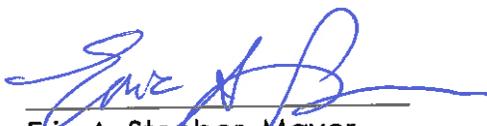
ADOPTED ON FIRST READING
DATED: July 23, 2012


Michael S. Januszka, Municipal Clerk

ADOPTED ON SECOND READING
DATED: August 27, 2012


Michael S. Januszka, Municipal Clerk

APPROVAL BY MAYOR ON THIS 29th DAY OF August, 2012


Eric A. Steeber, Mayor