

MIDDLESEX BEACH ASSOCIATION (MBA)

Rules & Regulations for Construction, Repair, Tree Removal, Demolition, Paving, Maintenance & Other Work

May 1, 2020

These Rules and Regulations for Construction, Repair, Tree Removal, Demolition, Paving, Maintenance & Other Work are updated and issued annually. Do not rely on previous documents.

Building, remodeling, and maintenance done within the MBA guidelines enhance our entire community and may increase property values. Rules & Regulations, policies and guidelines all serve to protect neighbors from excessive disturbances, and ensure quality of life during a construction project.

1. **MBA Building Permits are required in advance for all Construction, Repair, Tree Removal, Demolition, Paving, Maintenance and any other work, except as provided in these Rules and Regulations.**
 - a. **Large Projects:** Large Projects include any work valued at \$25,000 or more. Once the entire permit package is submitted to CAS, MBA has up to 30 (thirty) days to provide a response approving or denying a permit. Please allow such time for a response.
 - b. **Small Projects:** Small Projects include any work, including repair, maintenance, landscaping, driveway, or tree work valued at less than \$25,000. Once submitted, MBA has up to thirty (30) days to provide a response approving or denying a permit. Typically, MBA provides a response for Small Projects in approximately ten (10) days. MBA accumulates the value of work being done concurrently or in proximity on the same property to determine whether it is considered a Small Project or whether the collective work should be deemed a Large Project.
 - c. **Demolition:** Demolition includes substantially deconstructing, demolishing, disassembling, removing or otherwise reducing an existing structure, whether or not it will be replaced. See "*Definitions*" below.
 - d. **Emergency Repair Work:** Emergency repairs include only the minimum, immediate, short-term work necessary to control unexpected and immediate threats to people or property which, if not remediated, would reasonably result in proximate injury, death or loss of property. An MBA Building Permit is not required to initiate Emergency Repair Work.
 - i. Property owners must notify MBA via the Emergency Repair Notification Form on the MBA website (or via notification to the MBA President by email or phone) within 48 hours of beginning any Emergency Repair work. Please see "*Emergency Repair Procedures*" on the MBA website.
 - ii. Within seven (7) days of beginning such Emergency Repair work, owners must apply for an MBA Building Permit, and must obtain applicable permits from Sussex County, and from the Delaware Department of Natural Resources and Environmental Control (DNREC).
2. **MBA Building Permit Applications may be obtained from Community Association Services, Inc. (CAS) by calling 410-524-1500 or from the MBA website: www.middlesexbeach.org.**

3. **Permit Applications for Large Projects** are available online on the Middlesex Beach website and must be submitted to CAS along with each of the following:
 - a. **Permit Fee:**
 - i. Residential: \$250 plus ½% of the project cost over \$25,000, to a maximum of \$1,500. If the lot size of the project exceeds a platted MBA single lot, then the maximum permit fee is adjusted; e.g., a double-lot project has a maximum permit fee of \$3,000.
 - ii. Commercial: \$2,000 for new construction; \$1,000 for renovation or repair.
 - b. **Damage and Completion Deposit:** 5% of the construction cost.
 - c. **Building Plans:** Two (2) paper copies of all building plans and specifications of the signed contract from the contractor, including the estimated construction costs. Please see Addendum for Plan Specifics.
 - d. **Notification of Owner's Intent to Conform:** The Owner must submit a signed Notification of Intent form, certifying owner's and contractor's commitment to adhere to applicable building codes, regulations, zoning and flood maps, Restrictive Covenants, and other rules and regulations related to the project.
4. **Permit Applications for Small Projects** are available online on the Middlesex Beach website and may be submitted to CAS, or electronically to building@middlesexbeach.org. Ordinarily MBA does not require a permit fee or a completion and damage deposit for small projects, but reserves the right to take all facts and circumstances into account, and may re-characterize a small project for good cause.
5. **Permit Applications for Demolition** are available online on the Middlesex Beach website and must be submitted to CAS along with:
 - a. **Permit fee:** \$250
 - b. **Damage & Completion Deposit:** \$1,000
6. **Definitions and Permissible Days and Times for Work:** Important definitions of Construction, Repair, Maintenance and other terms, are included in the attached rules, *Permissible Days & Times for Work*. This attachment also sets out the days and times when different types of construction, emergency repairs, restoration, demolition, maintenance, repairs, tree removal, paving, and other interior and exterior work are allowed.
7. **Restrictive Covenants:** Compliance with the Restrictive Covenants remains the responsibility of the property owner, including throughout a building project and subsequent clean-up.
8. **Timely Start of Work:** Construction, demolition, or other work must start within one (1) year from the date the permit was signed by the Building Committee. Otherwise the Permit will be declared null and void and permit fees forfeited. A project started later than one (1) year after the permit has been issued will be considered a new project, and a new permit application must be submitted.
9. **Completion and Damage Deposits:** A construction Completion and Damage Deposit may be retained for remedial issues, or may be forfeited in part or in whole for any violations of the MBA Restrictive Covenants related to the project. Note that projects must be started and completed within the allowed time periods for specific types of work. Construction or demolition which is not completed in a timely manner may be deemed "abandoned" and face legal consequences under Section 4.4 of the Restrictive Covenants.
10. **Monetary Fines:** Violations of the Covenants, Rules & Regulations for Construction and/or the Permissible Days & Times document may result in fines of up to \$100 per day.

- 11. Regulation by Multiple Jurisdictions:** Setbacks, elevation, height and other important construction and repair requirements for Sussex County, DNREC, and MBA are not identical. Construction or other work must comply with all applicable restrictions and requirements. In other words, projects must comply with the most restrictive of the prevailing requirements.
- 12. Property Surveys:** Property boundary corners must be PHYSICALLY STAKED and CLEARLY MARKED for applicable exterior projects and must remain marked until the project has been completed by the final inspection. Required property surveys are at the owner's expense.
- 13. Changed Building Plans:** The property owner must inform the Building Committee in writing of any proposed variation from the approved plans. For example, proposed changes to the existing footprint, height or square footage of any structure will require a new or amended Building Permit. Other changes and modifications to the approved plans may also require applying for a new or amended permit.
- 14. Height Surveys:** No structure of any type shall exceed the height of thirty-five (35) feet. If the design height is more than thirty (30) feet above the highest point of the contiguous MBA road, height verification will be done by a licensed surveyor with the cost being covered by the applicable Building Permit fee. The height will be measured from the highest point of any road immediately adjacent the lot to the highest point of the building including but not limited to any ornamental improvements such as cupolas, widow's walks, crow's nest, elevator housings, chimneys or similar structures.
- 15. Swimming Pools:** Swimming pools and related equipment and structures (including fences and pumps) shall comply with swimming pool construction guidelines approved by the Board, and with all MBA governing documents. See **Attachment B**
- 16.** The total footprint of all structures on any lot shall not exceed forty-five (45%) of the area of such lot. [Sect. (6)(6.1)]. Impervious surfaces and all driveways are considered a structure for the purpose of the 45% calculation.
- 17.** All driveways must have a pervious surface with a pervious subsurface.
- 18. Construction Debris:** During construction, the property owner must provide a dumpster for all construction debris. Property owners must not allow debris or construction materials, including trimmings or fill, to accumulate on their property at any time or to blow, wash or otherwise migrate off the property to surrounding areas. The property owner must remove debris and construction materials, within ten (10) days of the project being completed, or work being halted, suspended or terminated for ten (10) consecutive days.
- 19. Dumpsters and Portable Toilets:** Dumpsters, port-a-potties and similar facilities or equipment may never be placed on community property.
- 20. Impervious Surfaces Prohibited:** No community property may be covered by impervious surfaces. Subsurface that forms the base for a pervious surface must also be of pervious materials. This restriction includes driveway material extending to MBA roads or across ditches, culverts or rights of way.
- 21. Owner Responsibility for Contractors:** Property owners are liable for all damage to community property or others' privately-owned properties, whether caused by their actions, omissions or negligence, or through those of tenants, lessees, guests, agents, contractors or subcontractors acting on their behalf.

- 22. Repair and Restoration:** It is the responsibility of property owners to restore, replace, repair or correct damage to community property, including structures, signs, trees, shrubs, landscaping, ditches, culverts, swales, fences, wetlands, roads, or other items or areas, arising from construction, repairs, restoration, or other work on, or the development of, their lots. MBA may require that such repairs, replacement, restoration or remediation work use MBA-approved materials, and be completed in accordance with MBA's technical and/or permit standards at the sole expense of the owner.
- 23. Return of Permits:** All Building and Demolition Permits must be returned at the completion of the project. Failure to do so may result in a fine to be determined by the MBA Board.
- 24. Signs/Signage:** Signs or signage of any type must comply with applicable MBA rules and regulations, including among others: *Restrictive Covenants* Section (5) for signs anywhere in Middlesex Beach; Section (6.7) for Residential signs; and Section (7.8) for Commercial signs. An approved Building Permit is required for any proposed changes, alterations, repairs or additions to existing signs or signage. A permit is not required if the only change is to the copy on a sign, such as hours of operation, business name, product offerings, etc., provided that the type or features of the existing sign are not altered, and that the sign otherwise complies with the MBA Restrictive Covenants, rules, and regulations.
- a. Compatibility:** Signs must be compatible with the adjoining MBA residential neighborhoods, and in the Commercial District must also be compatible with other approved commercial signs.
 - b. Nature and Impact of the Sign:** In exercising its business judgment to approve or reject an application, the MBA Board will consider if the proposed size, construction, or features –whether taken individually or as a whole:
 - i. would cause the proposed sign or signage to be incompatible with adjoining MBA residential neighborhoods, including without limitation whether the sign or signage is deemed obtrusive, intrusive, conspicuous, garish, blatant, or excessively bright or intense; and
 - ii. would create a material annoyance, inconvenience, discomfort, or injury to neighboring property or properties, or to person or persons, or would materially impair an MBA member's or members' quiet enjoyment of his or their properties.
 - c. Prohibited Signs:** Flashing signs, including without limitation signs which change messages, colors, copy or images more frequently than once per 24-hour period. With the sole exception of signs which change *only* as to time and temperature information, this prohibition includes, among other signage: changeable signs, digital and LED signs, Electronic Message Centers, Electronic Message Displays, billboards, and all signs whose operation includes a message that scrolls, fades, dissolves, transitions, travels, flips, rotates, streams, shades, or simulates animation or movement.
- 25. Driveways and Parking:** New construction and other work which occurs on the ocean side of the MBA community must not be configured to remove or to reduce any existing community street parking spaces on the ocean side. An undeveloped property however, will be assured driveway access.
- 26. Attachment A:** The attached document, "*Permissible Days & Times of Work*" is an integral part of these "Rules and Regulations for Construction, Repair, Tree Removal, Demolition, Paving, Maintenance & Other Work." It is printed separately as a convenience for property owners so they can provide it to their contractors.

Attachment A

Middlesex Beach Association (MBA) Rules and Regulations for Permissible Days & Times of Work

May 1, 2020

These Rules and Regulations of Permissible Days & Times of Work are attached to and comprise an integral part of the “MBA Rules and Regulations for Construction, Repair, Tree Removal, Demolition, Paving, and Maintenance & Other Work.” These documents are updated and issued annually. Do not rely on previous documents.

Middlesex Beach strictly regulates the permissible Days and Times for performing interior or exterior work in the community, depending upon the nature of the approved work:

- Emergency Repairs
- Construction & Demolition
- Repairs
- Restoration
- Maintenance
- Tree Removal/Similar Work

MBA regulates the permissible days and times of construction or other work on property and/or lots to enable Lot Owners to cost effectively undertake and quickly complete building projects. These rules are also designed to ensure the peace and quiet of all in the community, and to comply with the MBA Restrictive Covenants, Section 9.1 *NUISANCES*. The Covenants mandate the prevention or occurrence of any activity or event in Middlesex Beach which could constitute “a public nuisance, or eyesore, or menace to public health, safety or welfare, or which threatens to adversely affect the safety of or value of Middlesex Beach and the other properties therein.”

These rules on *Permissible Days & Times of Work* include clear definitions of work types, and explain the specific days and hours when certain work is permitted or prohibited. MBA Lot Owners (as well as their contractors) must legally comply with:

- i. these regulations;
- ii. applicable Sussex County Codes, Rules and Regulations; and
- iii. applicable Delaware State statutes, codes and regulations, particularly those of the Delaware Department of Natural Resources and Environmental Control (DNREC).

These Permissible Days & Times for Work rules apply to all MBA Lots, and equally apply to:

- all Contractors or agents engaged by MBA Lot Owners, and
- all MBA Lot Owners, their family members and guests.

DEFINITIONS

- 1. Emergency Repairs:** Emergency Repairs include only the minimum, immediate, short-term work necessary to control unexpected and immediate threats to people or property, which if not remediated would reasonably result in imminent injury, death or in serious damage, destruction or loss of property.
 - a. Work which would otherwise require a permit, but is legitimately defined as an “Emergency Repair” by this definition, may proceed temporarily without a formal MBA building permit or MBA approval.
 - b. Notification and Permits required.

- i. Notification must be made via the Emergency Repair Notification form on the MBA website, or via notification to the MBA President by email or phone, **within 48 hours of beginning any Emergency Repair Work**. Please see “*Emergency Repair Procedures*” on the MBA website.
- ii. Separately, an application for an appropriate Building Permit for construction, demolition, and/or repair must be made as soon as is practical – but not later than seven (7) calendar days after beginning such Emergency Repair Work.
- iii. If such work is later determined not to be Emergency Repair Work, the property owner may be subject to appropriate fines or other sanctions.

2. Construction & Demolition:

- a. **Construction** is defined as any interior or exterior work resulting in a new, added, or altered: main structure or its roof or attachments; detached accessory structures including sheds and detached garages; fences, walkways or retaining walls; trash and recycling enclosures; water and sewer lines; signs; and/or imperviously paved areas. This includes any reconstruction, renovation, remodeling, pile driving, drilling, excavating, filling or grading associated with the construction, as well as the staging/storage of materials or equipment related to construction or similar work.
- b. **Demolition** includes substantially deconstructing, demolishing, disassembling, removing or otherwise reducing an existing structure, whether or not it will be replaced.

3. Repairs: Repairs are defined as repair and/or replacement for the purpose of restoring structures, components or paved areas to safe and usable conditions.

- a. **“Repairs”** include interior or exterior work such as: patching; mending; restoration; and minor replacement of materials, elements, components, equipment or fixtures. Replacement is considered a “repair” when done on a like-for-like basis. Examples include replacing a door, window, outside deck board, electrical fixture, built-in appliance, faucet, or a small (< 4’ x 4’) section of leaking roof shingles, or similar elements, with a like-for-like item.
- b. **Work is not considered a “Repair” but is considered “Construction” or “Demolition”** subject to paragraph (2) above if the scope of work would result in an “altered structure” or would remove or add a component. This includes, among others, interior or exterior work such as: adding or removing a deck, wall, door or window; installing a different size door or window; running a new water line; expanding, enclosing or removing a porch or driveway; replacing roof or wall sheeting/sheathing in conjunction with replacing roof shingles or siding boards; adding additional electrical fixtures.

4. Maintenance: Maintenance is defined as Interior or Exterior Work that is not *Construction*, *Demolition*, or *Repair*, but which is routinely required to preserve property appearance and mechanical operations. Maintenance includes activities such as routine household electric, HVAC or plumbing maintenance; cutting grass or trimming shrubs; minor landscaping; spraying for mosquitoes; cleaning ditches, gutters or drains; re-nailing deck boards; or work required to prevent the interior or exterior of structures from deterioration by screening, painting, or staining, using only hand tools or residential-sized power washers.

5. Tree Removal and Similar Work: Tree Removal/Work is defined as any work requiring equipment such as trucks, trailers, cherry-pickers, or power tools to cut, chip, grind, or remove a tree or its limbs, branches, stump or roots from a Lot. This definition is not intended to prevent the use of hand tools to cut small trees, trim shrubs, or to prepare fallen branches or small trees for yard waste pick up.

- 6. Signs/Signage:** All signs/signage must be in compliance with the Covenants and applicable MBA rules, including the *Rules & Regulations for Construction, Repair, Tree Removal, Demolition, Paving, Maintenance & Other Work*. Changes to or additions to existing signage and/or erection of new signage must be approved by the MBA Board.
- 7. Contractor Work:** Contractor Work is any work performed by an individual, agent or company hired or otherwise commercially engaged to perform work for a Lot Owner.
- 8. Lot Owner(s) Work:** Lot Owner(s) work is any Construction, Demolition, Repair, Tree/Removal Work, or Maintenance performed by the property or Lot Owner(s) or by their family member(s) or guests.
- 9. Holiday and/or Holiday Weekend Work:**
- a. Contractors may not perform of any kind of work in Middlesex Beach on Holidays or Holiday weekends, except Emergency Repairs.
 - b. Lot Owner(s) may perform Interior Construction, Repair work, and Maintenance on Holidays and Holiday weekends.
 - c. Exterior Construction or Repair is not permitted on these days:
 - New Year's Day
 - Martin Luther King weekend (Sat.–Mon.)
 - President's Day weekend (Sat.–Mon.)
 - Easter weekend (Sat.–Sun.)
 - Memorial Day weekend (Sat.–Mon.)
 - 4th of July (including the 3-day weekend if July 4 falls on a Fri.–Mon.)
 - Labor Day weekend (Sat.–Mon.)
 - Columbus Day weekend (Sat.–Mon.)
 - Veteran's Day if the holiday falls on a Mon. or Fri. (including the 3-day weekend)
 - Thanksgiving weekend (Thu.–Sun.)
 - Christmas Day

10. Building Permits

MBA Building Permits are required for all Construction, Repair, Tree Removal, Maintenance and any other work as provided by MBA rules governing construction activities. Permits are required for:

- a. **Large Projects:** Any work valued at \$25,000 or more. **(Please allow approximately thirty (30) days for a response)**
- b. **Small Projects:** Any work, repair, maintenance, or tree work valued at less than \$25,000. (Please allow approximately ten (10) days for a response).
- c. **Demolition:** See "*Definitions*," above.
- d. **Emergency Repairs:** Owners must notify MBA via the Emergency Repair Notification form on the MBA website (or notification to the MBA President by email or phone) **within 48 hours of beginning Emergency Repair work.**
 - i. **Emergency Repairs include** only the minimum, immediate, short-term work necessary to control unexpected and immediate threats to people or property, which if not remediated would reasonably result in imminent injury, death or in serious damage, destruction or loss of property. Emergency repair work can only be started without a permit in order to control or abate such imminent threats.
 - ii. **Within seven (7) days of beginning such Emergency Repair Work**, owners must also apply for proper MBA Building Permits, as well as applicable permits from Sussex County, and/or DNREC.
See Days and Times Charts for details of allowable work times

Attachment B

Swimming Pools

Rules & Regulations Concerning Swimming Pools in Middlesex Beach (MBA)

- 1.) Swimming pools must be in conformity with the MBA Restrictive Covenants.
- 2.) Swimming pools are considered a structure.
- 3.) Pools must comply with the setback requirements and be located at least twenty-five (25) feet from the rear property line and at least ten (10) feet from any side property line. [Sect. (2)(2.2)]
- 4.) Pools are not allowed forward of the front parallel of the principle structure.
- 5.) Every swimming pool must be protected by a safety fence or barrier at least four (4) feet in height. Fences may be up to six (6) feet in height. Any portion of the fence between four (4) and six (6) feet high shall contain repeated patterns of openings equal to at least 50% of the said area of such a fence. Fencing may be wood, stockade wood, wrought iron or vinyl/pvc. [Sect.(6.6)(b)]
- 6.) Gates in the safety fence must be self-closing and self-latching.
- 7.) All pool equipment must be fully screened.
- 8.) Above-Ground Pools that are temporary in nature are prohibited. [Sect. (9.3)]
- 9.) In-Ground Pools
There must be a walk space or apron at least five (5) feet wide surrounding all sides of the pool. This walk space/apron may intrude on the rear and/or side setbacks. Any portion of the walk space/apron that intrudes on the setback(s) must be of a pervious surface. [Sect. (2)(2.2)]
- 10.) The total footprint of all structures on any lot shall not exceed forty-five (45%) of the area of such lot. [Sect. (6)(6.1)]
- 11.) Submission of the appropriate Building Permit application will be required to begin the approval process. Corresponding fees and deposits may apply. [Sect. (4.2)]
- 12.) Plot plans are required to be submitted along with the "Construction Large Projects" permit application and other required documentation for the approval process. Such plot plan will be a prepared survey or scaled drawing of the property with the proposed locations of the swimming pool and all current structures on the property. The plot plan will show:
 - The overall dimensions of the property
 - Street labeled
 - Location of existing structures and proposed location of swimming pool and its dimensions
 - Location and dimensions of the surrounding walk-way
 - Distance from the pool to the rear and side setbacks
 - Distance from the surrounding walk-way/apron to the rear and side setbacks