

MIDDLESEX BEACH ASSOCIATION (MBA)

Rules & Regulations for Construction, Repairs & Maintenance, Tree Work, Demolition, Driveways/Parking Lots May 1, 2023

These Rules and Regulations for Construction, Repairs & Maintenance, Tree Work, Demolition, Driveways/Parking Lots are updated and issued annually. **Do not rely on previous documents.**

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

MBA Lot Owners (also sometimes referred to as “property owners”) and their contractors must legally comply with:

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

1. Construction & Demolition:

- a. **Construction** is defined as 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.
- b. This includes any reconstruction; renovation; remodeling; pile driving; drilling; excavating; filling or grading associated with the construction, staging/storage of materials or equipment related to construction or similar work; the delivery and supply of materials, removal of refuse from the construction site; or the starting up of engines or mechanized construction equipment or vehicles.
- c. **Demolition** includes substantially deconstructing, demolishing, disassembling, removing or otherwise reducing an existing structure, whether or not it will be replaced.

2. Repairs & Maintenance

- a. **Repairs** are defined as the like-for-like patching, mending, and replacement of materials, or fixtures for the purpose of fixing a damaged element of the primary or accessory structure.
- b. **Maintenance:** is defined as work which is routinely required to preserve property function and appearance.
- c. **Work is not considered a “Repair” or “Maintenance” but is considered “Construction” or “Demolition,”** subject to item one (1) above if the scope of work would result in an altered structure or would remove or add a component.
- d. Repairs & Maintenance may be performed without an approved permit only within the allowed provisions and hours illustrated in the Days & Times chart (Attachment A)

3. **Tree 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 does not include the use of hand tools to cut small trees, trim shrubs, or to prepare fallen branches or small trees for yard waste pick up.
4. **Contractor Work** is any work performed by an individual, agent or company hired or otherwise commercially engaged to perform work for a Lot Owner.
5. **Lot Owner(s) Work** is any Construction, Demolition, Repairs & Maintenance, or Tree Work performed by the Lot Owner(s) or by his or her family, guests, or renters.

6. Holiday and/or Holiday Weekend Work:

- a. **Contractors** may not perform **any** kind of work in Middlesex Beach on Holidays or Holiday weekends, except Emergency Repairs.
- b. Holidays and Holiday weekends are identified as:
 - New Year's Day
 - Martin Luther King weekend (Saturday–Monday)
 - President's Day weekend (Saturday–Monday)
 - Easter weekend (Saturday–Sunday)
 - Memorial Day weekend (Saturday–Monday)
 - Juneteenth
 - 4th of July (including the 3-day weekend if July 4 falls on a Friday–Monday)
 - Labor Day weekend (Saturday–Monday)
 - Veteran's Day
 - Thanksgiving weekend (Thursday–Sunday)
 - Christmas Day
- c. Lot Owner(s) may perform interior Construction, Repairs & Maintenance on Holidays and Holiday weekends.

7. MBA Building Permits are required in advance for all Construction, Demolition, Tree Work, Driveway/Parking Lot Work

- a. **Large Projects** include any work valued at \$25,000 or more. Once the complete permit application is submitted to Solutions Property Management, a response by MBA may take up to thirty (30) days. Please allow approximately thirty (30) days for approval.
- b. **Small Projects** include any work valued at less than \$25,000. Once the complete permit application is submitted, the response may take up to ten (10) days. Please allow approximately ten (10) days for approval. MBA cumulates 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:** See item 1 c above.
- d. **Emergency Repair Work** includes only the minimum, immediate, short-term work necessary to control unexpected and immediate threats to people or property which, if not remediated, would potentially result in injury, death, or in serious damage, destruction, or loss of property. An MBA Building Permit is not required **to initiate** Emergency Repair Work.
 - i. Property owners are requested to notify MBA via the Emergency Repair Notification Form on the MBA website (or via notification to the MBA President by email or text) within 24 hours of beginning any Emergency Repair work.
 - ii. The approved Emergency Permit is valid for seven (7) days. Should the emergency repair take longer than seven (7) days to complete, property 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) as necessary.

8. MBA Building Permit Applications may be obtained by emailing building@middlesexbeach.org; by calling Solutions Property Management, 302-851-9060; or from the MBA website: www.middlesexbeach.org.

9. Permit Applications for Large Projects must be submitted to Solutions Property Management, 602 Poplar Ct, Bethany Beach, DE [this is a drop box only] 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. Separate checks payable to Middlesex Beach Association (MBA) must be submitted.
- d. **Building Plans:** One (1) paper copy of all building plans and specifications of the signed contract from the contractor, including the estimated construction costs.

- e. **Statement of Intent to Conform:** The property owner must submit a signed Statement 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.
- 10. Permit Applications for Small Projects** must be submitted to building@middlesexbeach.org or mailed to Solutions Property Management, PO Box 594, Bethany Beach, DE 19930. 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.
- 11. Permit Applications for Demolition** must be submitted to Solutions Property Management, PO Box 594, Bethany Beach, DE 19930 with:
- a. **Permit fee:** \$250 (separate check)
 - b. **Damage & Completion Deposit:** \$1,000 (separate check)
- 12. Days and Times for Work:** Please see Days & Times Chart, Attachment A.
- 13. MBA Restrictive Covenants:** Compliance with the Restrictive Covenants remains the responsibility of the property owner, including throughout a building project and subsequent clean-up.
- 14. Timely Start of Work:** Construction and demolition or other work must start within one (1) year from the date the permit was approved 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.
- 15. Damage and Completion Deposit:** A construction Damage and Completion 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 consequences under Section 4.4 of the MBA Restrictive Covenants.
- 16. Monetary Fines:** Violations of the Covenants, Rules & Regulations for Construction and/or the Days & Times Chart may result in fines assessed by the MBA Board.
- 17. Regulation by Multiple Jurisdictions:** Setbacks, elevation, height and other 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. Projects must comply with the most restrictive of the requirements.
- 18. Property Surveys:** Property boundary corners must be PHYSICALLY STAKED and CLEARLY MARKED for applicable construction projects and must remain marked until the project has been completed by the final inspection. Required property surveys are at the owner's expense.
- 19. Changed Building Plans:** The property owner must inform the MBA Building Committee in writing or by emailing building@middlesexbeach.org 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.
- 20. Height Surveys:** No structure of any type shall exceed the height of thirty-five (35) feet. The height will be measured from the highest point of any MBA road immediately adjacent to 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. See Sect. (2)(2.1) of the MBA Restrictive Covenants. If the design height is more than thirty (30) feet above the highest point of the immediately adjacent MBA road, height

verification will be ordered by MBA, and performed by a licensed surveyor with the cost covered by the applicable Building Permit fee.

21. **Swimming Pools:** Swimming pools and related equipment and structures (including fences and pumps) shall comply with Rules & Regulations Concerning Swimming Pools in Middlesex Beach, and with all MBA governing documents. See **Attachment B**.
22. **Total Footprint:** The total footprint of all structures on any lot shall not exceed forty-five (45%) of the area of such lot. See Sect. (6)(6.1) of the MBA Restrictive Covenants. Impervious surfaces and all driveways are considered a structure for the purpose of the 45% calculation.
23. **Driveways:** All driveways must have a pervious surface with a pervious subsurface. 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.
24. **Impervious Surfaces Prohibited:** No MBA 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.
25. **Construction Debris:** The property owner must provide a dumpster for all construction debris. Debris and/or construction materials, including trimmings or fill, is not allowed to accumulate on the 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.
26. **Dumpsters and Portable Toilets:** Dumpsters, port-a-potties and similar facilities or equipment may never be placed on community property.
27. **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.
28. **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, 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.
29. **Signs/Signage:** Signs or signage of any type must comply with applicable MBA rules and regulations, including: MBA *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.
 - b. **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.
 - c. **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.
- d. 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.
30. **Violations:** Alleged violations of these Rules are to be reported in writing (written note, email, or text etc.) to the MBA Building Committee (building@middlesexbeach.org) or the MBA President. Documentation by photos of such violations is recommended. Anonymous reports will not be accepted.

Attachment A: Days & Times Chart

Work by Contractors

	Emergency Repairs (1)	Construction & Demolition (2)	Repairs & Maintenance (3 & 4)	Tree Removal/Work (5)
September from the day after Labor Day to October 31	Emergency repairs include only the minimum, immediate, short-term work necessary to control unexpected & immediate threats to people or property which, if not remediated, would potentially result in injury, death; or in serious damage, destruction, or loss of property. An MBA Building Permit is not required to initiate Emergency Repair Work.	M-F: 8:00 AM with departure from site no later than 6:00 PM	M-F: 8:00 AM with departure from site no later than 6:00 PM	M-F: 8:00 AM with departure from site no later than 6:00 PM
November 1 to June 30		M-F: 8:00 AM with departure from site no later than 6:00 PM . Saturdays: 9:00 AM with departure from site no later than 4:30 PM . Note: No new exterior construction may begin after June 1.	M-F: 8:00 AM with departure from site no later than 6:00 PM . Saturdays: 9:00 AM with departure from site no later than 4:30 PM	M-F: 8:00 AM with departure from site no later than 6:00 PM . Saturdays: 9:00 AM with departure from site no later than 4:30 PM
July 1 to September until the day after Labor Day		Construction work (inside & outside) is NOT allowed through the day after Labor Day.	Only Interior Work within completely enclosed space with windows & doors closed M-F: 8:00 AM with departure from site no later than 6:00 PM . Repairs by these contractors may be performed at any time: cable, HVAC, pumps/sewer/plumbing; propane; telephone; electricity.	No work allowed except for work that meets "Emergency Repair Procedures" requirements

Work by Lot/Property Owner(s) with Family & House Guests & Renters

	Emergency Repairs (1)	Construction & Demolition (2)	Repairs & Maintenance (3 & 4)	Tree Removal/Work (5)
September from the day after Labor Day to October 31	Emergency repairs include only the minimum, immediate, short-term work necessary to control unexpected & immediate threats to people or property which, if not remediated, would potentially result in injury, death; or in serious damage, destruction, or loss of property. An MBA Building Permit is not required to initiate Emergency Repair Work.	M-F: 8:00 AM until no later than 6:00 PM	M-F: 8:00 AM until no later than 6:00 PM ; Saturdays: 9:00 AM-4:30 PM Sundays: 9:00 AM-4:30 PM	M-F: 8:00 AM until no later than 6:00 PM ; Saturdays: 9:00 AM-4:30 PM Sundays: 9:00 AM-4:30 PM
November 1 to June 30		M-F: 8:00 AM until no later than 6:00 PM . Saturdays: 9:00 AM until no later than 4:30 PM ; Sundays: 9:00 AM-4:30 PM	M-F: 8:00 AM until no later than 6:00 PM . Saturdays: 9:00 AM until no later than 4:30 PM ; Sundays: 9:00 AM-4:30 PM	M-F: 8:00 AM until no later than 6:00 PM . Saturdays: 9:00 AM until no later than 4:30 PM ; Sundays: 9:00 AM-4:30 PM
July 1 to September until the day after Labor Day		Construction work (inside & outside) is NOT allowed through the day after Labor Day.	Only Interior Work within completely enclosed space with windows & doors closed. M-F: 8:00 AM until no later than 6:00 PM ; Saturdays: 9:00 AM until no later than 4:30 PM ; Sundays: 9:00 AM-4:30 PM . Repairs by these contractors may be performed at any time: cable, HVAC, pumps/sewer/plumbing; propane; telephone; electricity.	No work allowed except for work that meets "Emergency Repair Procedures" requirements.

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. See [Sect. (2)(2.2)] of the MBA Restrictive Covenants.
- 4.) Pools are not allowed forward of the front parallel of the principal 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. See [Sect.(6.6)(b)] of the MBA Restrictive Covenants.
- 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. See [Sect. (9.3)] of the MBA Restrictive Covenants.
- 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. See [Sect. (2)(2.2)] of the MBA Restrictive Covenants.
- 10.) The total footprint of all structures on any lot shall not exceed forty-five (45%) of the area of such lot. See [Sect. (6)(6.1)] of the MBA Restrictive Covenants.
- 11.) Submission of the appropriate Building Permit application will be required to begin the approval process. Corresponding fees and deposits may apply. See [Sect. (4.2)] of the MBA Restrictive Covenants.
- 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 must 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 walkway
 - Distance from the pool to the rear and side setbacks
 - Distance from the surrounding walkway/apron to the rear and side setbacks