

Celebrating 50 Summers



Middlesex Beach Association • PO Box 173 • Bethany Beach, DE 19930 • [www.middlesexbeach.org](http://www.middlesexbeach.org)

## **RULES AND REGULATIONS FOR CONSTRUCTION**

**Effective September 1, 2009**

**note: these are issued annually; do not rely on old documents**

### **A) INTRODUCTION**

Each property in Middlesex Beach is bound by the MBA Restrictive Covenants. These covenants prescribe the special rules, approved by our residents, which, when observed, help to maintain the excellent quality of life that we treasure. As a part of the deed that describes each property, the covenants are enforceable in the Courts of Delaware, as with a contract. A copy of the covenants is included in the Middlesex Beach Association Directory which is published yearly or can be obtained from our Property Management Company, and from the Middlesex Beach website <http://www.middlesexbeach.org>.

New for 2009-2010 Construction Season: Even though some projects do not require a building permit, the Building Committee must still be notified of any project that may be reasonably expected to cause loud noise, truck traffic unsightliness or other offense or disturbance to neighbors, such as cutting of trees or remodeling of any part of an existing dwelling including replacement of roof shingles. This can be done by calling Right Property Management at 302-727-7000, or via the webpage <http://www.middlesexbeach.org/building/notify.htm>.

In particular, sections 4, 5, 6, 7, 8, 9, 10 and 12 of the Covenants deal with buildings and the specifics of construction in Middlesex. These restrictions are intended to maintain and enhance the appearance of our community and prevent encroachment upon common property or that of another. The restrictions on construction activity are also intended to ensure that this activity does not interfere with summertime or weekend enjoyment of our community. Each owner is urged to obtain a copy of the Covenants and carefully review its provisions.

The Building Committee is composed of up to three property owners who are responsible for approving or disapproving plans for either new construction or alterations to existing buildings. Guiding the committee's decisions are the Middlesex Beach Association Restrictive Covenants and actions approved by the Board of Directors of the Association.

Please note that the request for an MBA Building Permit is in addition to the Sussex County Building Permit, and does NOT replace it. Note also that the setback requirements for Sussex County are not identical to those for Middlesex Beach Association and construction must satisfy both. Construction which changes the footprint or height of the house or outbuildings may also require the approval of the Delaware Department of Natural Resources (DNREC). For all construction on the east side of Route 1, please check with DNREC to be sure that your plans conform to their requirements.

## **B) WORK THAT DOES NOT REQUIRE A PERMIT:**

You do NOT need a permit for any of the following:

- The repair or replacement of existing components such as Heating and Air Conditioning, Plumbing, Electrical or replacement of Appliances
- Painting/staining, power-washing, deck sealing
- Floor coverings-carpet, tile, vinyl, etc
- Repairs or general maintenance of existing structures or components, the cost of which is reasonably expected not to exceed \$5,000

## **C) WORK THAT DOES REQUIRE A PERMIT:**

### **Commercial :**

- Any new construction - Permit fee \$2,000.00.
- Any renovation that costs \$10,000.00 or more - Permit fee \$1,000.00

### **Residential:**

Construction which requires a permit falls into one of three types:

- Renovation/Construction over \$20,000- any new construction or extensive renovation, including movement or demolition of an existing dwelling unit or commercial building- Permit fee: \$200 plus 1/2% of the project cost over \$20,000, to a maximum of \$1,000.00 (reached when a project is \$180,000).
- Renovation/Construction from and including \$10,000 and \$20,000- any renovation project that, in its entirety, is anticipated to cost within these amounts -- Permit fee: \$200.
- Other Renovation or Construction which will cost less than \$10,000 but more than \$5,000 - any project between these amounts that affects the exterior appearance of a building or may be reasonably expected to cause loud noise, truck traffic, unsightliness or other offense or disturbance to the neighbors, such as cutting of trees or remodeling of the interior of any part of an existing dwelling. Replacement of any culverts is in this category. - Permit fee: none.

**Please note that any work which is started without a valid Middlesex Building permit will result in fines of \$100 per day.**

## **D) EMERGENCY WORK:**

NOTE: If emergency work is necessary resulting from fire or storm damage, work may commence upon notification to any member of the Building Committee. ***This does not relieve owners of their obligation to send written notification to the Building Committee or Right Property Management within 7 days.*** Under no circumstances should such emergency work alter the existing footprint or height of a structure.

## **E) ALLOWABLE DAYS AND TIMES FOR CONSTRUCTION:**

No new construction project may begin on or after June 1 until the day after Labor Day. Buildings under construction before June 1 (i.e. pilings or foundation in place) must be completely enclosed by the subsequent June 30, at which time all exterior construction shall cease.

- NO exterior construction requiring a permit is permitted between July 1 and Labor Day, inclusive (except emergency repairs and general maintenance).
- Exterior construction work, when permitted between September 1st and June 30th, may be done only between 8:00a.m. and 4:30 p.m. A period of 15 minutes before and after allowable work hours may be used for setup and cleanup of work areas.

- Interior work may continue throughout the summer only in those dwellings that are completely enclosed and only between 9:30 a.m. and 4:30 p.m. All aspects of construction must occur inside the enclosed building. Interior work means NO work outside of the enclosed building.
- Completely enclosed is defined as a building with all doors, windows and other openings closed so that any activity within the building does not disturb anyone outside of the building.
- At no time is any work that requires a permit allowed on Saturday, Sunday or the following holidays. (Holidays are: New Year's Day, January 1st.; Martin Luther King, Jr. Day (third Monday in January); President's Day (third Monday in February); Memorial Day (last Monday in May); Labor Day (first Monday in September); Columbus Day (second Monday in October); Thanksgiving Day (fourth Thursday in November); Day after Thanksgiving Day; Christmas Day (December 25<sup>th</sup>))

### **WEEKEND REPAIRS/MAINTENANCE BETWEEN LABOR DAY and JUNE 1 (Off-Season):**

**Between, but not including, Labor Day and Memorial Day Weekend, repairs and maintenance** which do NOT require a permit may be performed on Saturday and Sunday between 9:30AM and 4:30PM. **Any work which produces excessive noise must be done during weekdays. For example, if you are painting your house, it is acceptable to re-nail some trim as part of the process. Replacing all the boards on your deck would obviously produce excessive noise and should be scheduled during the week. Please be considerate of your neighbors. If you are in doubt about whether your project falls within this scope, please ask a member of the Building Committee for clarification.**

### **F) DOCUMENTS TO BE SUBMITTED:**

- For Construction which exceeds \$10,000 (New Construction AND Renovations):

Property Owners must submit

- a) An Application for a Middlesex Beach Association Building Permit,
- b) The required permit fee noted in section C above,
- c) The required construction bond,
- d) A copy of the Statement of Intent to Conform signed by both the Property Owner and General Contractor that they have read and agree to abide by all appropriate Middlesex Beach Association Regulations and Restrictive Covenants,
- e) Two copies of your project plans and specifications, (see Technical Information to be submitted ... below) and
- f) Two copies of the signed contract from the contractor including estimated construction price. (These will be kept in confidence, and are merely to ensure that the amount of the Construction Bond to be posted is accurate.)

These documents should be submitted to Right Property Management; Attn: MBA Building Permit; 22A Cedar Drive; Millville, DE 19967

- For Renovation or Construction which will cost between \$5,000 and \$10,000:

Property Owners must submit

- a) An Application for a Middlesex Beach Association Building Permit,
- b) Diagram of proposed work,
- c) Plot Plan showing measurements of lot, buildings, structures, parking and building setback distances ~
- d) A copy of the Statement of Intent to Conform, signed by the Property Owner and general contractor that they have read and agree to abide by all appropriate Middlesex Beach Association Regulations and Restrictive Covenants.

## **TECHNICAL INFORMATION TO BE SUBMITTED WITH REQUEST FOR NEW CONSTRUCTION:**

1) Blueprints (two copies.) All plans must be drawn to scale, showing steps, porches, projections, decks and material specifications. All commercial plans must bear the signature and seal of an architect or professional engineer. Included should be:

- a) Foundation/Piling plan as appropriate
- b) Floor plan (all floors)
- c) Elevation plan clearly showing the height of each roofline measured from the level of the highest contiguous Middlesex road.
- d) Estimated schedule of completion.

2) Plot Plan (two copies) showing measurements of lot, buildings, structures, parking and building setback distances. Included should be:

- a) Perimeter of lot.
- b) All buildings and structures existing or to be erected on the lot with all steps, stoops, porches, decks and other projections.
- c) For Commercial Lots: Off-street parking and loading.
- d) Area to be cleared of trees/vegetation for construction.

3) Surveys: (two copies) a perimeter survey by a licensed Professional Land Surveyor or a scale drawing from a recorded plat. If a drawing of the lot is taken from a recorded plat, the date, plat book and page number must be shown on the drawing.

**THE PROPERTY BOUNDARY CORNERS MUST BE PHYSICALLY STAKED AND CLEARLY MARKED.**

## **TECHNICAL INFORMATION TO BE SUBMITTED WITH REQUEST FOR RENOVATION:**

1) Blueprints (two copies.) These do not need to be as extensive or as professional as those required for new construction, but they must give a clear indication of all of the work which is being proposed. If the elevation of the existing building is being modified, the final height must be shown and must be in compliance with the Middlesex Beach Association Covenants.

2) Plot Plan (two copies) showing measurements of lot, buildings, structures, parking and building setback distances. Included should be:

- a) Perimeter of lot.
- b) All buildings and structures existing or to be erected on the lot with all steps, stoops, porches, decks and other projections.
- c) For Commercial Lots: Off-street parking and loading areas.
- d) Area to be cleared of trees/vegetation for construction.
- e) If the renovation will involve expansion beyond the footprint of the existing structure

**F) THE PROPERTY BOUNDARY CORNERS MUST BE PHYSICALLY STAKED AND CLEARLY MARKED.**

## **G) CULVERT PLACEMENT AND REPLACEMENT**

For placement or replacement of any driveway culverts on private or adjacent MBA property, the following are required:

- a) An Application for Middlesex Beach Association Building Permit and

b) A copy of your project plans and specifications, including length of any culvert and distance from both side property lines.

The Building Committee will consult with the Community Facilities Committee to determine the proper elevation of the culverts. It is strongly recommended that Property Owners consult Miss Utility prior to starting any culvert replacement/drainage/grading project. Property Owners are urged to ensure that their lot drains towards the nearest MBA drainage ditch or surface drain as appropriate.

#### **H) REVIEW OF DOCUMENTS BY BUILDING COMMITTEE:**

The Association's Building Committee will review the plans and note any discrepancies from the Restrictive Covenants which come to light. Please be advised that the fact that the Building Committee does not note a discrepancy does not mean that a variance has been approved. Compliance with the Restrictive Covenants remains the responsibility of the owner. Nothing herein is, or shall be construed as, a waiver of any of the provisions set forth in the Middlesex Beach Association Restrictive Covenants, and it should be understood that the Building Committee has no right or authority to waive or alter any Covenant. If an exception is desired it can only be obtained by the procedures outlined in section #18 of the Covenants.

Within 30 days of receipt of all required documents, the Building Committee will issue a letter approving or disapproving the Request for a Building Permit. If disapproved, they will state why this has been done, and may request additional documents that are deemed necessary to complete the review. A new 30-day period for review will start upon receipt of the requested additional documents by the Building Committee.

Don't wait until the last minute to submit your permit request.

#### **I) CHANGES TO APPROVED PLANS**

Should any variation from the approved plans be necessary, Property Owners are required to inform the Building Committee in writing. If the changes are significant the Building Committee may require a new permit application. No changes to the proposed footprint of any permitted building may be made unless a new (amended) building permit is issued.

Please note that any work which is started without a valid Middlesex Building permit will result in fines of \$100 per day.

#### **J) POSTING OF CONSTRUCTION BOND AND RECEIPT OF BUILDING PERMIT:**

No construction, renovation, demolition or movement of any existing Structure may commence until the appropriate Permit has been issued (emergency repairs may commence with verbal approval from Building Committee prior to actual issuing of permit).

The Building Permit, signed by a Building Committee member, shall be sent to the property owner only after all of the documentation has been reviewed and approved by the Committee and after an appropriate construction bond has been posted, if necessary. The amount of the bond is equal to 5% of the anticipated total price of the project and is to ensure project completion according to all appropriate Restrictive Covenants and other regulations, and also to ensure that any damage to adjoining private or community property is satisfactorily repaired. The bond monies will not be deposited until the permit has been approved and issued.

No work will commence until a signed and dated Building Permit is properly posted on the property where the work is being done. The Property Owner is responsible for the performance of all

Contractors and subcontractors in regard to the Restrictive Covenants. The construction bond may be forfeited in whole or in part for any violations of the Middlesex Beach Association Restrictive Covenants.

The Building Permit will include the property address, name of the Property Owner, name and local contact phone number of the Primary Contractor, and estimated completion date. A Laminated Poster will also be issued which clearly states the allowable days and times of exterior and interior construction. Both the Building Permit and the Laminated Allowable Hours of Construction Poster are to be prominently displayed at the building site near the street so that all onsite contractors and subcontractors will see them. Both must also be posted so as to be viewable by any community member without venturing too far onto the potentially-hazardous construction site.

Work shall NOT commence before the requirements set forth in this document are satisfied, including application for a Building Permit with all documents, payment of the Permit Fee, submission of a Construction Bond as appropriate, and posting of both Laminated Posters (all as detailed in Section F and/or J as appropriate).

Construction must start within 1 year from the date the permit was signed by the Building Committee. Otherwise, the permit shall be declared null and void and the permit fees are forfeited.

#### **K) NOTIFICATION DURING CONSTRUCTION:**

If a Construction Bond was posted: The homeowner and/or Contractor are responsible for informing the Building Committee at two points of construction:

- 1) When the building is framed-in and the roof is installed; and
- 2) Immediately before the completion of the building project.

It is important to notify the Building Committee in order that Compliance with the approved plans and specifications can be verified, including set-back and height measurements, site elevation, landscaping and condition of the ditches.

All homeowners must also notify the Building Committee when the project has been completed. All notifications mentioned in this section can be either in writing to the Property Manager, or by filling out the webpage at <http://www.middlesexbeach.org/building/request.htm> .

All Building Permits must be returned to the Building Committee at the completion (failure to do so will result in a fine to be determined by the MBA Board).

#### **L) RECEIPT OF OCCUPANCY PERMIT AND RETURN OF CONSTRUCTION BOND**

When the project has been satisfactorily completed, the property owner must inform the Building Committee. Before a construction bond can be returned the property owner must submit a copy of the Sussex County Occupancy Permit, and a written request to the Middlesex Beach Association Building Committee for final review of the project by a member of the Building Committee. If design height is 30 feet or more above the contiguous Middlesex road, a copy of the Certificate of Elevation, (or a construction survey clearly showing the height of each roofline measured from the level of the highest Middlesex contiguous road). If proof of height is not supplied MBA will contract a height survey and the owner will be billed for the expense. The bond funds will be returned within 30 days of receipt of the request if there are no outstanding issues to be resolved.

The Middlesex Beach Association Board of Directors is authorized to impose a penalty, to be assessed against any owner, for any violation of these Rules and Regulations. Penalties shall be as follows:

- Either \$100.00 per violation per day or 1.5% of the total construction bond per violation per day, whichever is greater.
- The penalty for any construction which differs in size, height, location or general purpose from the approved plans or which is in contrast to the Middlesex Beach Association Covenants shall be 100% of the amount of the construction bond.
- The Board of Directors reserves the right to suspend any part of said penalties at their discretion.

**M) RESPONSIBILITY TOWARDS PROPERTY OF MIDDLESEX BEACH ASSOCIATION AND OTHER PROPERTY OWNERS:**

All Property Owners are reminded that it is their responsibility to restore, replace, or correct damage to existing culverts, driveways, lawns, landscaping, utilities, natural drainage, roadways, walkways, wetlands and other areas on either private property and/or community common areas as a result of the development of their lot. Property Owners are liable for all damages whether caused by their actions, or through the actions or negligence of any Contractors, or Subcontractors, acting on their behalf.

During any extensive construction project, the Property Owner shall provide a dumpster for all construction debris. Property Owners shall not allow piles of construction debris to accumulate on their property. Property Owners are responsible for ensuring that no debris blows off their property and litters the surrounding area, either by providing a cover for the dumpster or by having the dumpster emptied as necessary.

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**Statement of Intent to Conform:**

I/We have read, understood and agree to abide by the Middlesex Beach Association Restrictive Covenants and the procedures outlined in this Construction in Middlesex Beach document

Signed:

Date:

Owner: \_\_\_\_\_

MBA Address: \_\_\_\_\_

Contractor: \_\_\_\_\_  
\_\_\_\_\_