

BOROUGH OF MIDDLESEX

ORDINANCE NO. 1877-15

AN ORDINANCE OF THE BOROUGH OF MIDDLESEX, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY AMENDING THE CODES OF THE BOROUGH OF MIDDLESEX TO CREATE CHAPTER 321, TITLED "PRIVATE PROPERTY MAINTENANCE LANDSCAPING"

SECTION 1. This chapter shall be known as the "Private Property Maintenance Landscaping Ordinance of the Borough of Middlesex."

321-1. Definitions and word usage.

- A. Word Usage. When not inconsistent with the content, words used in the present tense include the future; words in the plural include the singular; and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.
- B. Definitions. For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein:

BASE OF OPERATION. Where the landscaping vehicles and equipment shall be garaged, stored and located, which shall be within a three mile radius of the herein-defined center of the Borough, being the Municipal Building, located at 1200 Mountain Avenue, Middlesex, New Jersey.

BASIC LANDSCAPING SERVICE. The cutting, removal and disposal of grass, weeds (or similar vegetation), snow and/or ice from any private property within the Borough.

BOROUGH. The Borough of Middlesex.

DESIGNATED LANDSCAPER. Any person, firm partnership, association, corporation, company or organization who resides in, or has a bona fide business office within the Borough of Middlesex, and who has been issued an annual license by the Zoning Officer and is on the Landscape Maintenance List maintained by the Zoning Officer or his/her designee.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

LANDSCAPER. A person in the business of, or offering the services of, lawn maintenance and/or gardening as well as snow and/or ice removal.

LANDSCAPE MAINTENANCE LIST. A list maintained by the Zoning Officer containing the names of those Landscapers licensed and contacted by the Borough to respond to requests for Basic Landscaping Services made by the designated Borough Official.

ZONING OFFICER. The person or persons authorized by the Code of the Borough of Middlesex to inspect and issue violation notices and summons for failure to maintain a property within the Borough.

321-2. License required; term.

Any person who wishes to engage in business as a landscaper in the Borough to provide landscaping maintenance on private property at the request of the Zoning Officer or his/her designee shall be licensed by the Borough pursuant to this chapter. Upon adoption of this Ordinance, Applications to provide Basic Landscaping Services shall be accepted as herein provided and any licenses issued shall be valid until December 31, 2015. Thereafter, applications shall be completed and submitted to the Borough as herein provided no later than December 1 and Designated Landscapers shall be licensed to provide Basic Landscaping Services for the immediately following calendar year, unless sooner terminated as provided for hereunder. Any license issued pursuant to this chapter, except for licenses issued in year 2015, shall be for a period of 12 months, subject to annual renewal, and shall be nontransferable.

1. Application submission, fee and contents.

- A. Any person who desires to provide services as a landscaper at the request of the Zoning Officer for the Borough, or such other designee, shall submit an application for a license, in duplicate, to the Zoning Officer, accompanied by a fee of **\$100**, made payable to the Borough.
- B. The application shall set forth the following information:
 - a. The full name, address and telephone number of the applicant. If the applicant is a corporation, the name of the corporation and the name and address of the officers, directors, principals and its registered agent. If the applicant is a partnership, the names and addresses of all partners.
 - b. The year, make and type of each vehicle used in said landscaping business by the applicant, the vehicle's serial number, registration number and the name and address of its registered owner.
 - c. The address of the Landscaping business' base of operation where the landscaper's vehicles and equipment are regularly garaged, stored and located.
 - d. The telephone number or numbers and email address that the designated Borough official herein may contact the landscaper during regular business hours, which shall include Monday through Friday, 9:00 am to 6:00 pm and Saturday 9:00 am to 3:00 pm, except for holidays when the Borough Offices are closed.
 - e. The names, addresses and New Jersey motor vehicle driver's license numbers of all the individuals who operate motor vehicles on behalf of landscaper.
 - f. The name and address of the insurance carrier and agents and the policy limits and policy numbers of all insurance policies held by the applicant in regard to its operations as a landscaping service.
 - g. A certified statement of indemnification, as required in **§ 321-8**.

- h. A certified statement of the willingness of the landscaper to be available to perform required landscaping services within 24 hours of a request by the designated Borough Official to perform the same, except on Sundays and holidays when such services shall be performed the next calendar day that is not Sunday or a holiday.
- i. A certified statement of the willingness of the landscaper to abide by the instructions and directions of the Zoning Officer or his designees, and the provisions of the Code of the Borough of Middlesex.
- j. A certified statement that all employees are of legal age and are citizens of the United States or are legal residents, and are authorized to work in the United States.

321-3. Investigation.

The Zoning Officer or his/her designee shall investigate each application submitted to determine:

- A. The truth and accuracy of all information contained in the application.
- B. Whether public convenience and/or necessity will be served by placing the landscaper on the landscaping maintenance list.
- C. The applicant's practical and technical ability to perform the landscaping services required hereunder.
- D. Whether the landscaper possesses the equipment necessary to perform the landscaping services required hereunder, which equipment shall consist of, at minimum, a working lawn mower, hedge trimmer, power edger, shovel, and such other equipment as is reasonably necessary to maintain lawns or perform landscaping services.

321-4. Approval procedure.

The Zoning Officer or his/her designee, upon completion of the foregoing investigation, shall forward a copy of the landscaper's application to the Borough Council along with any recommendation for approval or disapproval of the license application and the reasons, if any, for disapproval. The Borough Council shall then determine whether or not the applicant has complied with all the necessary standards and criteria, and thereupon award or deny the applicant a Designated Landscaper license. If the applicant is found to be qualified, and upon the payment of an annual license fee of **\$50**, a license shall be issued to the applicant and the applicant's name shall be added to the end of the Landscaping Maintenance List.

321-5. Issuance of license.

Upon approval by the Borough Council, and payment of the annual license fee, the Zoning Officer shall issue a license to the applicant landscaper confirming the landscaper's status as a Designated Landscaper for a period of one year from the date of issuance. A copy of such license shall be forwarded to the Chief of Police, Director or DPW and the Zoning Officer.

321-6. Indemnification.

Any application under this chapter shall include a certified statement by the applicant that landscaper assumes all liability and shall indemnify and save the Borough, its subdivisions, departments, agents and employees harmless from damages or losses sustained while performing any tasks associated with any landscaping services rendered, including Basic Landscaping Services, and from all personal injuries and property damage occurring to any persons or property as a result of the performance of landscaping services.

321-7. Insurance

No license shall be issued to any landscaper until the applicant has deposited with the Zoning Officer and Chief of Police the following insurance policies:

- A. Automobile Insurance Policy. A automobile or fleet insurance policy for all vehicles used by the landscaper in the performance of landscaping services in the minimum amount required by New Jersey State Law.
- B. General Business Liability Insurance Policy. A general business liability insurance policy covering the applicant's business and equipment in the minimum amount of \$500,000 for any one person injured or killed, and a minimum of \$1,000,000 for more than one person killed or injured in any accident and an additional \$100,000 for any damage arising from injury or destruction to property, and/or a combined single limit of \$1,000,000. In addition to each policy containing an endorsement showing the Borough as an additional insured, such policy shall also provide an endorsement entitling the Borough to 30 days' prior written notice to the Zoning Officer and Chief of Police in the event of any change in coverage under the policy, or in the event of the cancellation of the policy.
- C. Workers' Compensation Policy. A workers' compensation insurance policy covering all of applicant's employees and operations, containing statutory coverage, including liability coverage of at least \$100,000 for each accident per person, \$500,000 policy aggregate limit.

321-8. Standard of Performance and Rotation.

All Designated Landscapers shall perform landscaping services in a good and workman like fashion, as determined in the sole discretion of the Borough. When performing landscaping services, the Designated Landscaper shall perform all services so as to conform with Section 317-11 of the Code of the Borough of Middlesex. Unless otherwise impractical as determined in the sole discretion of the Borough, the Basic Landscaping Services shall be performed on a rotating basis by the Designated Landscapers whose names appear on the Landscape Maintenance List. Notwithstanding the above, in the interests of public safety, the Zoning Officer, in his or her discretion, taking into account the emergency, safety and location of the property, may deviate from the order of the Landscape Maintenance List.

321-9. Costs

All costs incident to landscaping services performed by the Designated Landscaper shall be paid by the owner of the property. The Designated Landscaper, upon completion of

landscaping services, shall submit an invoice of services and fees to the Borough Tax Collector and Zoning Officer for payment by the Borough. If the owner of the property fails to reimburse the Borough for any amounts paid to the Designated Landscaper for landscaping services performed hereunder, the Borough Tax Collector shall place a tax lien on the property in such amount.

321-10. Fee Schedule

Unless agreed to by the Borough prior to performance of the landscaping services by the Designated Landscaper, Basic Landscaping Services, which shall include lawn mowing, trimming of landscaping, edging and removal of all debris, shall not exceed **\$250**. Prior to performance of any work or services which shall exceed \$250, the Designated Landscaper shall notify the Zoning Officer in writing of the same and shall only be entitled to payments hereunder if authorized by the Zoning Officer in writing that performance of work or services exceeding \$250 is authorized.

322-11. Rules and Regulations

The Borough Council is hereby authorized to establish and cause the enforcement of such reasonable, nondiscriminatory and non-exclusionary regulations governing landscapers engaging in the business of performance of landscaping services and to cause the enforcement of such reasonable regulations to effectuate this chapter as the Borough Council may deem appropriate for the safety, well-being and protection of citizens within the Borough and their property. All regulations promulgated pursuant to this chapter shall be made available to the public during normal business hours of the Borough at the offices of the Zoning Officer.

321-12. Enforcement Officer; Termination of License

The Zoning Officer is hereby designated as the enforcement officer for this chapter and may recommend to the Borough Council the termination or suspension of any license or other actions concerning the same is in his/her sole discretion.

321-13. Complaint and Dispute Resolution

Any person having a dispute or complaint arising from a specific act or performance of landscaping services hereunder shall present that complaint or dispute to the Zoning Officer for resolution. The Zoning Officer shall render his/her decision within 10 days of conducting a hearing, if requested by the complainant. Such hearing can be in person or via telephone.

321-14. Violations and Penalties.

Any person found guilty of violating or breaching any of the provisions of this chapter shall, upon conviction thereof, have the subject landscaping license revoked, be removed from the Landscaping Maintenance List and be liable for a fine no to exceed \$1,000.

321-15. Severability

In the event any provision, paragraph or subsection of this chapter shall be found unlawful or unconstitutional by a court of competent jurisdiction, such finding shall not affect the remaining provisions of this chapter.

321-16. Actions Authorized by Resolution.

Any action required to be taken pursuant to this chapter by the Borough Council may be authorized by a resolution of the Borough Council.

SECTION II. The provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged invalid and shall not be deemed to effect the operation of any other portion thereof, which shall remain in full force and effect.

SECTION III. All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV. This Ordinance shall take effect immediately upon final passage and publication according to law.

ATTEST:

BOROUGH OF MIDDLESEX

Kathleen Anello, RMC
Borough Clerk

Ronald S. Dobies, Mayor

INTRODUCED: May 26, 2015

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