

**TOWNSHIP OF MILLBURN
ORDINANCE NO. 2518-18
AN ORDINANCE OF THE TOWNSHIP OF MILLBURN, COUNTY OF ESSEX,
STATE OF NEW JERSEY, AMENDING CHAPTER III OF THE REVISED GENERAL ORDINANCES OF
THE TOWNSHIP OF MILLBURN**

STATEMENT OF PURPOSE: *The purpose of this ordinance is to provide appropriate standards and regulations for conducting construction activity within the suburban residential environment of Millburn Township. The ordinance establishes standards and limitations so as to promote sanitary and safe construction sites, avoid adverse impacts on neighboring properties and residents, including from noise and dust, and to provide for the health and safety of the residents.*

WHEREAS, construction activity in residential sections of Millburn creates certain impacts on neighboring properties, including noise from the use of equipment, dust emanating from the project site, among other negative consequences; and

WHEREAS, Millburn Township is largely built out and of a density such that limitations on the use of certain equipment and standards for construction activity are ~~is~~ required; and

WHEREAS, construction activity can be limited with controls in order to compatibly integrate such activity into suburban residential settings; and

WHEREAS, providing toilet facilities at construction sites is a necessary sanitation condition for the health and safety of residents and workers; and

WHEREAS, construction sites that are properly maintained are more conducive to safe operations by those engaged in the construction activity, and less intrusive on neighborhoods and neighboring property owners; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Millburn in the County of Essex and State of New Jersey, as follows:

Section 1. Chapter 3 entitled “Police Regulations” shall be amended and supplemented by the adoption of the following changes to Section 3-8 entitled “Hours of Construction and Use of Power Equipment” to read as follows:

Section 3-8 CONSTRUCTION ACTIVITY MITIGATION.

Section 3-8.1 – Purpose.

The purpose of this Section 3-8 is to regulate the hours of construction, the use of power equipment and heavy equipment, imposing requirements for dust and silt control, requiring fencing, requiring toilet facilities, limiting the location of dumpsters, and requiring compliance with the current tree preservation ordinance in order to protect and promote the health, welfare and safety of the public in the Township. This Section 3-8 is applicable to all land use activities.

Section 3-8.2 – Definitions.

The following definitions apply to this Section 3-8:

- (a) Construction Activity – Construction, repair, alteration or demolition of any building or structure, or the laying of any pavement, and including, but not limited to, the making of an excavation, movement of earth, clearing of land, and loading or unloading of construction material, equipment or supplies, where a permit is required to perform the work.
- (b) Power Equipment – Any tools powered by electricity or fuel, including, but not limited to, a power saw, hammer, sander, drill, grinder, lawn mower, leaf blower, thatcher, generator, air compressor, or like power equipment.
- (c) Heavy Equipment – Heavy-duty vehicles, designed for executing construction tasks, including, but not limited to, a bulldozer, backhoe or excavator.
- (d) Person – Any individual, entity, contractor, sub-contractor, or group of persons engaging in Construction Activity.
- (e) Legal Holidays – The following days are observed as federal Legal Holidays, in accordance with 5 U.S.C.A. § 6103(a): New Year’s Day, Martin Luther King, Jr. Day, Washington’s Birthday also referred to as Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.

Section 3-8.3 – Activities Restricted.

- (a) Construction Activity shall be unlawful except as carried out as specified in this Section 3-8.
- (b) Operating any Power Equipment shall be unlawful except as carried out as specified in this Section 3-8.
- (c) Operating any Heavy Equipment, for the purposes of performing Construction Activity, shall be unlawful except as carried out as specified in this Section 3-8.

Section 3-8.4 – Permitted Hours of Restricted Activities.

- (a) The activities restricted by this Section 3-8 shall be permitted only during the following hours:
 - Weekdays: 8:00 a.m. to 7:00 p.m.
 - Saturdays: 9:00 a.m. to 5:00 p.m.
- (b) On Sundays and Legal Holidays, the activities restricted by this Section 3-8.3(a) and (b) shall be permitted from 9:00 a.m. to 5:00 p.m. by:
 - (i) persons who both own and reside on the premises;
 - (ii) occupants of the premises; or

(iii) relatives of (i) or (ii).

The operation of Heavy Equipment, as restricted by Section 3-8.3(c), is not permitted on Sundays and Legal Holidays by any Person.

Section 3-8.5 – Exceptions.

The restrictions of this Section 3-8 shall not apply to the following:

- (a) Activities confined within a wholly enclosed building or structure.
- (b) Activities conducted pursuant to and within the terms of a permit issued by the Township Administrator, or his designee, where he finds that the public health and safety will be enhanced by the work or will be harmed by failure to perform the work at the time indicated therein.
- (c) Activities necessary to prevent injury to persons or property, including snow removal.
- (d) Activities conducted by or for any government unit or agency, or for work by public utilities.
- (e) Grass cutting on golf courses which may commence at 7:00 a.m. on weekdays and 8:00 a.m. on Saturdays, Sundays and Legal Holidays.

Section 3-8.6 – Requirements.

Any Person, including owners and occupants of the premises, engaging in Construction Activity shall comply with all of the following requirements:

- (a) Shall maintain the construction site in an orderly manner during the duration of any Construction Activity, including by being maintained in such a manner as to comply with the requirements of Chapter X, entitled “Property Maintenance,” including, but not limited to, the removal of brush, weeds, obnoxious growth, garbage and debris. Within ten (10) days of the conclusion of Construction Activity, all equipment and unused construction material shall be removed from the premises, or stored in an appropriate manner.
- (b) Shall provide toilet facilities for all persons engaged in construction activity at the construction site, in compliance with Occupational Safety and Health Administration regulations.
- (c) For all Construction Activity requiring a Hudson-Essex-Passaic Soil Conservation District permit, shall install chain-link temporary fencing with solid colored screening, which shall not have signage or symbols, around the perimeter of the construction site, adequate to block the sight of ground level Construction Activity from neighboring properties, and to mitigate the effects of dust and debris leaving the premises. Temporary fencing installed for the purpose of complying with this Section 3-8:

- (i) Must not exceed six (6) feet in height, in compliance with Development Regulations and Zoning Ordinance § 609.6;
 - (ii) Is permitted in the front yard as a permissible exception to Development Regulations and Zoning Ordinance § 609.6(a) as to prohibiting fences in front yards;
 - (iii) Must be removed within ten (10) days of the conclusion of Construction Activity; and
 - (iv) Does not alleviate the requirement for temporary fencing, pursuant to Development Regulations and Zoning Ordinance § 608.5 (steep slope areas), where required.
- (d) Shall keep dumpsters used during Construction Activity on the same property where the Construction Activity is occurring, or receive and comply with a permit from the Police Department for placement on the roadway, and such dumpsters shall be properly maintained, including, but not limited to, removal when full.
- (e) Shall take reasonable precautions to mitigate dust, silt and debris resulting from Construction Activity from leaving the premises, which includes:
 - (i) wetting down the structure daily during demolition activity to prevent dust from leaving the perimeter of the property;
 - (ii) use of tracking mats, in such locations approved by the Township Engineer, as to minimize the tracking of mud and dirt outside of the perimeter of the property;
 - (iii) installation of inlet filter bags in any Township inlet directly in the front of the property and the first downstream inlet on the street from the property to trap waterborne sediment from entering the storm sewer, and:
 - (A) inlet filter bags shall be maintained throughout construction, and replaced as necessary; and
 - (B) removed within ten (10) days of the conclusion of Construction Activity; and
 - (iv) washing of trucks and equipment by spraying with a hose before leaving the construction site; and
 - (v) keeping the roadway and adjacent sidewalk free and clear of materials being tracked off site during construction.
- (f) Shall comply with all of the requirements of Chapter XI, entitled "Tree Preservation," including, but not limited to, obtaining a Tree Removal Permit and submitting a Millburn Tree Restoration Plan, where applicable.

- (g) Prior to commencing any new construction, in addition to the requirements of this Ordinance concerning protective measures at construction sites, the Construction Code Official shall be authorized to require an applicant for a permit related to Construction Activity to submit how he/she intends to comply with the Standard Division Specifications of the Construction Specifications Institute.
- (h) The Township Construction Code Official, Health Officer, Code Enforcement Officer, Township Forester, Township Engineer, Police Department, Township Administrator, or his designee, shall have authority to discern compliance with this Ordinance and the authority to secure compliance with this Ordinance with regard to certain actions taken by Persons engaged in Construction Activity to ensure that neighbors are not unreasonably subjected to noise, dust, unsanitary or unsightly conditions, or other violations of the provisions of this Ordinance. Enforcement by the Police Department is limited to enforcement of Section 3-8.4 (enforcement of permissible hours and days of construction activity) and Section 3-8.6(d) (location of dumpsters).

Section 3-8.7 – Violations.

If any of the requirements of this Section 3-8 are not complied with:

- (a) the Township Construction Code Official may issue a stop work order, pursuant to his/her authority under N.J.A.C. 5:23-2.31, which shall remain in full force and effect until the violation is remedied to the satisfaction of the Township Official; and/or
- (b) the Township may initiate prosecution for a violation pursuant to Chapter I, Section 1-5 “General Penalty”, as applicable; and/or
- (c) such other actions may be initiated as permitted by law; and/or
- (d) the Township shall also have the right to commence litigation in a court of competent jurisdiction.

Section 2. The provisions of this ordinance are severable and the invalidity of any phrase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 3. This ordinance shall take effect after final passage and publication as required by law.

Introduced: 11/20/2018

Published: 11/29/2018