

ORDINANCE NO. 3826

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF FRANKLIN, SOMERSET COUNTY, NEW JERSEY MORE PARTICULARLY CHAPTER 236, MUNICIPAL SERVICES

SUMMARY

An ordinance amending Chapter 236, Municipal Services to comply with the State Municipal Services Act and to provide that reimbursement of said services starts when the Association takes ownership of the street light poles.

BE IT ORDAINED by the Township Council of the Township of Franklin, County of Somerset and State of New Jersey that the Code of the Township of Franklin be and it is hereby amended as follows:

SECTION I

Chapter 236, Municipal Services is amended thereto as follows:

**CHAPTER 236. MUNICIPAL SERVICES
ARTICLE I. Homeowners' Associations**

§ 236-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ASSOCIATION

Any residential condominium, cooperative, fee simple community, or horizontal property regime, the residents of which do not receive any tax abatement or tax exemption related to its construction, comprised of a community trust or other trust device, condominium association, homeowners' association, ~~property owners' association~~ or council of ~~homeowners~~ co-owners, wherein the cost of ~~providing streetlighting and of maintaining roads and streets and the water mains beneath them~~ providing essential services is paid for by a not-for-profit entity consisting exclusively of unit owners within the community. No apartment building or garden apartment complex owned by an individual or entity that receives monthly rental payments from tenants who occupy the premises shall be considered ~~to be an association~~ an Association. No "proprietary campground facility," as defined in N.J.S.A. 45:22A-49, shall be considered to be an Association.

CONDITIONALLY QUALIFIED STREETLIGHT POLE

Those poles providing streetlighting for both qualified streets and parking areas coincidentally and which if removed would eliminate necessary lighting for a qualified street. Only those streetlight poles set forth in Schedule A ~~Editor's Note: Schedule A is included at the end of this chapter.~~ as conditionally qualified streetlight poles shall qualify for partial funding by the Township in accordance with § 236-3 herein.

QUALIFIED STREET

A street or road located within an association and providing access to driveways or parking areas within that association; provided, however, that in no event shall areas used primarily as parking areas or parking lots be considered qualified streets. The streets and roads set forth on Schedule A annexed hereto and made a part hereof are hereby deemed to be a listing of all qualified streets. Any street not set forth on Schedule A shall not be deemed a qualified street notwithstanding any provision herein.

QUALIFIED STREETLIGHT POLE

Those poles providing streetlighting which are located on or near qualified streets and which provide lighting for qualified streets. Streetlighting poles providing lighting for areas primarily used as parking lots shall be excluded from the definition of qualified streetlight pole. Only those streetlight poles set forth in Schedule A as qualified streetlights shall qualify for total funding by the Township.

REIMBURSABLE SNOW/ICE REMOVAL COSTS

Cost incurred by the association for the removal of snow and ice from the roads and streets located on the association property as set forth in Schedule A, excluding all costs attributable to clearing sidewalks, parking lots and other areas of the association property other than roads and streets.

§ 236-2. Services to be provided.

- A. The Township of Franklin shall provide the following services within an association in the same fashion as it provides these services on public roads and streets:
 - (1) Maintenance and repair of qualified streets;
 - (2) Maintenance and repair of waterlines (up to the curb stop of each individual unit), storm sewers beneath qualified streets; and
 - (3) Streetlighting of conditionally qualified and qualified streetlight poles.
- B. For purposes of maintenance and repair pursuant to Subsection [A\(1\)](#) and [\(2\)](#) above, the Township of Franklin shall provide the following services: catastrophic road repair; pothole repair; repair of cracks including alligator cracks; and other routine road repairs. The Township shall not provide complete overlayment of qualified streets nor shall the Township provide any maintenance and repair necessitated as a result of any road openings, other than road openings performed by Franklin Township.
- C. For purposes of streetlighting pursuant to Subsection [A\(3\)](#) above, each association shall authorize the Township of Franklin to transfer billing of qualified street light poles from the association to the Township, and the Township shall assume liability for payment of lighting said poles from the date when the Association takes ownership of such transfer, even if the Association takes ownership said poles become operational prior to the aforementioned transfer and prior to a qualified Association's addition to Schedule A

by official action of the Township's governing body. In accordance with N.J.S.A. 40:67-23.3(a)(2), the Township shall provide streetlighting to the extent of payment for the electricity required for the operation of such poles, but shall not be responsible for the installation or maintenance of lamps, standards, wiring or other equipment.

- D. The Township shall provide annual reimbursement to any association for the association's reimbursable costs for snow and ice removal in ~~accordance with the following schedule:~~ the amount of 100% of reimbursement costs, as further detailed in this Chapter.

~~[Added 2-13-1996 by Ord. No. 1939; amended 10-10-2000 by Ord. No. 3162]~~

July 1, 1995 to June 30, 1996	75% of reimbursement costs
July 1, 1996 to June 30, 1997	100% of reimbursement costs

- (1) The Township shall not be obligated to pay reimbursement to an association for any service for which the costs incurred by the association for any service for which reimbursement is sought exceeds the cost that would have been incurred by the Township in providing the particular service directly. This limitation shall be calculated and applied as follows:
- (a) Following the close of each budget year, the Township will determine the total annual cost incurred by the Township for snow and ice removal. Based upon those figures, the Township will determine the annual cost for each such service in accordance with Subsection D(1)(b);
 - (b) The annual Township cost for snow removal shall be divided by the total linear miles of all public streets owned and maintained by the Township to produce the annual unit cost for snow removal;
 - (c) The annual unit cost for each service shall be multiplied by the total linear miles of association's roads and streets, as applicable, to produce the annual reimbursement cost ceiling for snow removal service.
- (2) The Township reserves the right to provide to the association snow removal services in lieu of paying reimbursement to the association for such service. If the Township elects to provide any service, or to terminate any such service after it has been provided, the association shall be given advance written notice. The Township shall not be obligated to pay reimbursement to the association for any costs incurred by the association for any services while the same services are being provided by the Township. If the Township elects to provide any service, the association shall pay the cost of any insurance riders required by the Township to enable Township vehicles to operate on the association's private roads and streets, consistent with N.J.S.A. 40:67-23.4.
- (3) Requests by the association for the payment of reimbursement under this ~~agreement~~ Section shall be processed pursuant to the following procedure:
- (a) The association shall submit a signed voucher to the Township with each request for payment, using voucher forms to be provided by the Township.

- (b) Vouchers shall be submitted on an annual basis following the end of the snow removal season for which reimbursement is requested, but in no event later than September 15. Each voucher shall be accompanied by copies of invoices, payment receipts and other appropriate documentation, which demonstrates to the satisfaction of the Township that all costs constitute reimbursement costs and that the association incurred all costs during the applicable reimbursement period. Vouchers shall not be processed for payment by the Township if they do not conform with these requirements. In that event, the association will be given notice and the opportunity to provide additional requested documentation and/or otherwise cure any nonconformity with these submission requirements.
- (c) The Township will review the association's documentation and determine whether the requested reimbursement is consistent with and authorized by this ~~article~~**Chapter**. The Township will disallow any excess amount or unauthorized portion of the reimbursement request.
- (d) After making such determination, the reimbursement amount (less any disallowed amount) for snow removal will be reduced by the Township if it exceeds the applicable reimbursement cost ceiling, as calculated pursuant to § 236-~~3.2~~, Subsection D(1).
- (e) The total reimbursement amount shall then be multiplied by the applicable percentage in § 236-~~3.2~~, Subsection D(1), to produce the approved reimbursed amount.
- (f) Following formal approval of a reimbursement request, payment shall be issued in accordance with routine Township procedures.

§ 236-3. ~~Partial~~Additional services to be provided.

The Township shall provide payment for streetlighting for ~~50%~~ ~~50~~**[100%]** of the conditionally qualified streetlighting poles. For purposes of streetlighting pursuant to this section, each association shall authorize the Township of Franklin to transfer billing for ~~50%~~ ~~50~~**[100%]** of the conditionally qualified street lighting poles set forth in Schedule A from the association to the Township, ~~and the~~ **The** Township shall assume liability for payment of streetlighting for said poles from the date when the Association takes ownership, ~~even if the Association takes ownership of~~ **prior to the aforementioned transfer and prior to a qualified Association's addition to Schedule A by official action of the Township's governing body. In accordance with N.J.S.A. 40:67-23.3(a)(2), the Township shall provide streetlighting to the extent of payment for the electricity required for the operation of such poles, but shall not be responsible for the installation or maintenance of lamps, standards, wiring or other equipment.**

§ 236-4. General Provisions; Limits Upon Township's Obligations and Accounting by Associations

A. In accordance with N.J.S.A. 40:67-23.2 et seq., unless otherwise provided herein the Township shall not be obligated or required to operate any municipally owned or leased vehicles or other equipment, or to provide any of the services enumerated in this

Chapter, upon, along or in relation to any road or street in an Association which either (1) is not accepted for dedication to public use, or (2) does not meet all municipal standards and specifications for such dedication, except for width.

B. In all cases where the Township reimburses an Association in lieu of providing services directly under this Chapter, the Association shall provide an accounting of the use of the money paid over to it by the Township, and for the refunding to the Township of any payments in excess of the amounts actually expended or contractually committed by the Association, during the accounting period in order to provide the services for which reimbursement is provided.

§ 236-5. Schedule A.

[Amended 2-13-1990 by Ord. No. 1545; 4-17-1990 by Ord. No. 1561; 2-13-1996 by Ord. No. 1939]

(Editor's Note: Schedule A is included at the end of this chapter.)

SECTION II

Each clause, section and subsection of this ordinance shall be deemed a separate provision to the intent that if any such clause, section or subsection should be declared invalid, the remainder of this ordinance shall not be affected.

SECTION III

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION IV

This ordinance shall take effect immediately upon adoption and publication according to law.

ORDINANCE NO. 3826

THIS IS A TRUE COPY OF AN ORDINANCE ADOPTED BY THE
TOWNSHIP COUNCIL, TOWNSHIP OF FRANKLIN, SOMERSET, NJ

INTRODUCED: April 14, 2009
PUBLIC HEARING: May 12, 2009
ADOPTED:
NOTICE OF FINAL ADOPTION:
EFFECTIVE DATE:

ANN MARIE McCARTHY, TOWNSHIP CLERK

