

ORDINANCE NO. 02-2018

BOROUGH OF ROSELAND

COUNTY OF ESSEX, STATE OF NEW JERSEY

**AN ORDINANCE AMENDING CHAPTER XIX OF THE REVISED
GENERAL ORDINANCES OF THE BOROUGH OF ROSELAND
ENTITLED “STREETS AND SIDEWALKS”**

WHEREAS, the Mayor and Council of the Borough of Roseland wish to amend Section 19-16 of the Revised General Ordinances of the Borough of Roseland entitled “Private Roads” in order to authorize the Borough to maintain and repair private streets within Qualified Private Condominium Association and Homeowner’s Association developments;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Roseland that Section Chapter XIX of the Revised General Ordinances of the Borough of Roseland entitled “Streets and Sidewalks” shall be amended as follows:

SECTION I

Section 19-6 Entitled “Private Roads” shall be amended to add the following **thus** and to delete the following **thus**:

19-16.1 Snowplowing and Sanding by Borough.

a. The Borough may, in its sole and exclusive discretion, provide for snowplowing and salting of any road or street which has not been taken over by the Borough or dedicated and accepted as a public highway.

b. The Borough Council may require as a condition for providing the services set forth herein that the affected residents enter into an agreement with the Borough which will fix the terms upon which the services are to be provided. The agreement shall require that the affected residents will save the Borough harmless from any and all claims arising out of the performance of the services set forth in paragraph a. The agreement may require such other terms as may be deemed just and reasonable under the circumstances including the payment by the affected residents to the Borough for the cost of such services.

19-16.2 Snowplowing Private Roads in Holmehill by Borough.

The Borough Council hereby determines that snowplowing, salting and sanding shall be provided by the Borough for the private roads in the development known as Holmehill, in that the travel on such private roads is sufficient to warrant such expenditure.

19-16.63 Effective Date; Execution of Agreement.

This section shall not take effect until the Holmehill Association, Inc., a New Jersey Corporation representing the homeowners in said Holmehill, executes an agreement in the form

and style annexed saving the Borough harmless of any and all claims arising out of performance of the snowplowing, salting and sanding to be provided by the Borough.

19-16.34 Snowplowing and Maintenance of Private Roads in Stonegate at Roseland.

a. *Maintenance at Stonegate.* The Borough Council determines that the following repairs and other services shall be provided by the Borough for the private roads in the development known as Stonegate at Roseland, Block 12, Lot 19 in that the travel on the private roads is sufficient to warrant such expenditure.

b. *Maintenance to be Provided.* The Borough shall snowplow and salt the private roads located in Block 12, Lot 19 as required; remove obstructions from the roads; and patch and repair the roads in order to maintain safe passage. Nothing in this subsection shall require the realignment, widening or reconstruction of the roads or the removal of snow or ice (as distinguished from snowplowing and salting) from said roads.

c. *Maintenance Not to Constitute Acceptance of Roads.* The private roads set forth in paragraphs a. and b. above shall remain private roads and no act performed by the Borough pursuant to this subsection shall constitute an acceptance by the Borough of the roads as public highways.

19-16.5 Roads to Remain Private.

The private roads set forth in subsections 19-16.2 and 19-16.34 above shall remain private roads and no act by the Borough pursuant to this section shall constitute an acceptance by the Borough of such roads as public highways.

19-16.46 Borough Not to Maintain or Improve Such Roads.

Nothing in this section shall require the realignment, or widening ~~or reconstruction~~ of such roads or the removal of snow or ice, as distinguished from snowplowing and salting and sanding, from such roads.

19-16.7 Maintenance and Repair of Private Roads in Eagle Rock Development

a. The Borough of Roseland shall assume the maintenance and repairs of the roadways in the condominium development known as Eagle Rock, which are known as follows:

Clements Court, Conklin Court, DePaolo Court, Harkey Court, Kent Drive, Meeker Court, Mulford Court.

b. The roads shall not be dedicated to the Borough of Roseland but shall remain private. Roseland shall not provide snow removal but shall continue its obligations pursuant to the Condominium Services Act, N.J.S.A. 40:67-23.5. *[Reference Ord. No. 16-2000]*

19-16.8 Maintenance and Repair of Private Roads in Roseland Glen Development

a. The Borough of Roseland shall assume the maintenance and repairs of the roadways in the condominium development known as Roseland Glen, which are known as follows:

Bartlett Court, Ebersbach Lane, Leonard Terrace, Varick Way

b. The roads shall not be dedicated to the Borough of Roseland but shall remain private. Roseland shall not provide snow removal but shall continue its obligations pursuant to the Condominium Services Act, N.J.S.A. 40:67-23.5. *[Reference Ord. No. 2000-19 and Ord. No. 2000-35]*

19-16.9 Maintenance and Repair of Private Roads in Paradise Place Development

a. The Borough of Roseland shall assume the maintenance and repairs of the roadway in the condominium development known as Paradise Place, which is known as follows:

Paradise Place.

b. The roads shall not be dedicated to the Borough of Roseland but shall remain private. Roseland shall not provide snow removal but shall continue its obligations pursuant to the Condominium Services Act, N.J.S.A. 40:67-23.5. *[Reference Ord. No. 2000-36]*

19-16.10 Reconstruction, Resurfacing and Paving of Private Streets of Condominium and Homeowner Associations.

a. The Borough in its sole discretion shall reconstruct, resurface or repave the streets and roadways of any condominium association and homeowner association within Roseland in accordance with the terms and conditions of this Section 19-16.7.

b. The Borough shall have no obligation to reconstruct, resurface or repave any driveway or parking lot of any condominium association or homeowner association.

c. The Borough shall perform all work referenced herein in the same manner and timeliness as public streets and roadways.

d. The Borough shall have no obligation to realign or widen any street or roadway of any condominium association or homeowner association.

e. As a prerequisite to the Borough having any obligation to perform the work referenced within this section the condominium or homeowner association shall execute a contract in a form to be approved by the Borough Attorney. Said contract shall at a minimum:

1. Require the association to authorize and request the Borough perform the work that shall be specifically designated and set forth therein;

2. Require the association to warrant and provide proof that the association has obtained in accordance with its rules and regulations, by-laws Master Deed or other laws, rules or regulations, the consent and authority of the association's membership to enter into the contract with and to permit the Borough to perform the work;

3. Require the association to indemnify and hold harmless the Borough from any and all claims related to the work, including but not limited to any and all claims arising out of the Borough's negligence;

4. Require the association to obtain primary, commercial general liability insurance listing the Borough as a named insured with coverage of at least \$1,000,000.00 for each occurrence and \$2,000,000.00 in the aggregate that shall provide for 30 days written notice to the Borough of any cancellation thereof; and

5. Require the association to provide the Borough with proof of insurance coverage conforming to this subsection prior to the Borough beginning any work.

f. The reconstruction, resurfacing and/or repaving of any street or road shall not constitute the Borough's acceptance of any street or road of the association. Every street and road of the association shall remain private, and no act of the Borough pursuant to Section 19-16.7 shall constitute an acceptance by the Borough of the private street or road as a public street or road.

19-16.11. Borough Not to Maintain or Improve Private Streets

Except as otherwise provided for in Subsection 19-16, the Borough shall have no obligation to provide any maintenance or repairs, realignment or widening, snow or ice removal, or to perform any snowplowing, salting or sanding with respect to any private street or road, parking lot or driveway or other private property.

SECTION II

If any section of provision of this ordinance shall be invalid in any court the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

SECTION III

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV

This ordinance shall take effect in accordance with applicable law.

DATE OF INTRODUCTION: February 20, 2018

Motion to Introduce by: Councilman Tsilionis
Motion Seconded by: Councilman Bardi
Introduction Approved: Voice Vote 5-0 (Jacobs abstain)

DATE OF ADOPTION: March 27, 2018

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	RECUSE	ABSENT
Councilman Bardi			X				
Councilman Jacobs		X	X				
Councilman Leonard			X				
Councilman Smith	X		X				
Council President Tolli							X
Councilman Tsilionis			X				
Mayor Duthie (In case of tie)							
VOTE:			5	0			

I hereby certify that the above Ordinance was duly adopted by the Mayor and Council of the Borough of Roseland at a meeting of Borough Council held on the 27th day of March 2018.

John Duthie, Mayor

Jock H. Watkins, Borough Clerk

Date of Publication: April 2, 2018, the Star Ledger

Editor's Note:

References

- | | | |
|----------------|-----------------------|---|
| <u>19-16.7</u> | <i>Eagle Rock</i> | <i>Ordinance No. 16-2000 adopted 7/25/2000</i> |
| <u>19.16.8</u> | <i>Roseland Glen</i> | <i>Ordinance No. 19-2000 adopted 8/8/2000 and</i> |
| | | <i>Ordinance No. 35-2000 adopted 12/5/2000</i> |
| <u>19.16.9</u> | <i>Paradise Place</i> | <i>Ordinance No. 36-2000 adopted 12/5/2000</i> |