

ORDINANCE NO. 13-2019

**BOROUGH OF ROSELAND
COUNTY OF ESSEX, STATE OF NEW JERSEY**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XXX
OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF
ROSELAND ENTITLED "LAND DEVELOPMENT" TO AMEND
SECTION 30-404 ENTITLED "DISTRICT REGULATIONS", AND
SECTION 30-511 ENTITLED "DRAINAGE"**

WHEREAS, the Mayor and Council of the Borough of Roseland wish to amend various sections of Chapter XXX of the Revised General Ordinances of the Borough of Roseland entitled "Land Development";

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Roseland that Chapter 30 of the Revised General Ordinances of the Borough of Roseland entitled "Land Development" shall be amended as follows:

SECTION I

Section 30-404.2 entitled "R-7/AH-1, R-8/AH-2, R-9/AH-3 Affordable Housing Zones" shall be amended to add the following thus and to delete the following ~~thus~~:

30-404.2 R-7/AH-1, R-8/AH-2, R-9/AH-3 Affordable Housing Zones.

The Borough of Roseland recognizes its obligation under the New Jersey Fair Housing Act to provide for its own indigenous need and its fair share of the regional need of low and moderate income (affordable) housing. According to data developed by the New Jersey Council on Affordable Housing (COAH), Roseland's preccredited housing need is two hundred sixty (260) housing units consisting of an indigenous need of three (3) units and an inclusionary component of two hundred fifty-seven (257) units. Due to a lack of available, developable, vacant land, the Borough has sought an adjustment of the inclusionary component from COAH.

- a. No change
- b. No change
- c. No change
- d. No change
- e. No change
- f. No change
- g. No change
- h. No change

i. *Occupancy Selection.*

1. The ~~Administrator~~ Administrative Agent shall designate an application period during which applications to purchase or rent units will be accepted.

2. Applications shall be accepted only if submitted on an application form prepared and approved by the ~~Administrator~~ Administrative Agent. Applications shall be completely filled out and notarized. Knowingly or intentionally making any false statement on a form shall be grounds for disqualifying an applicant even if the applicant is otherwise eligible. The following information shall be required to determine income eligibility for low and moderate income housing:

- (a) A copy of IRS Form 1040 (Tax Computation form) for each of the three (3) years prior to the date of the application and a verified statement of income and assets on a form prepared by the ~~Administrator~~ Administrative Agent.
- (b) No change
- (c) No change
- (d) No change
- (e) No change
- (f) No change

3. The ~~Administrator~~ Administrative Agent shall determine whether the applicant meets the income and other requirements established in these regulations. The review process shall also involve a credit background report. To be an eligible applicant, the applicant shall have an acceptable credit history such that there is a realistic possibility that he will be approved for a mortgage.

4. The ~~Administrator~~ Administrative Agent will determine which eligible applicants shall be offered the opportunity to purchase or rent units. Selection from among the eligible applicants shall be on a random basis subject only to the priority schedule established herein.

j. *Eligibility.* Sale or rental of low- and moderate-income dwelling units shall be on the basis of income of applying eligible households.

- 1. No change
- 2. No change

3. Appeals. In the event that an applicant is determined to be ineligible for a low- or moderate-income unit by the ~~Administrator~~ Administrative Agent, the applicant may submit additional proofs and request reconsideration by the Affordable Housing Board. Such request for reconsideration shall be made within ten (10) days of receipt of notice of denial by the applicant.

4. **Waiting List.** The ~~Administrator~~ Administrative Agent may establish a waiting list for the remaining eligible applicants in the manner established herein. After all the units are occupied, the ~~Administrator~~ Administrative Agent, in consultation with the Council, or the Affordable Housing Board may choose to accept new applications. If an applicant is deemed eligible, the applicant shall be placed on the waiting list at the bottom of the particular priority classification for which the applicant qualifies. The ~~Administrator~~ Administrative Agent or the Affordable Housing Board shall periodically recertify the applicants on the waiting list to ensure that the list remains current and that the applicants are still qualified for the units to which they applied.

k. *Income Eligibility Standards.*

1. The ~~Affordable Housing Board~~ Council shall adopt income eligibility ceilings for low and moderate income units for various sized households based upon United States Department of Housing and Urban Development "uncapped median income by family size" for the PMSA in which Roseland is located. No applicant with a household income in excess of these ceilings shall be eligible to rent the low and moderate income units.

2. Upon periodic publication of updated income standards by the United States Department of Housing and Urban Development, the ~~Administrator~~ Council shall modify its income eligibility ceilings accordingly.

3. No change
4. No change
5. No change

l. *Initial Sales and Rental Price.*

1. No change
2. No change
3. No change
4. No change
5. No change

6. The ~~Administrator~~ Administrative Agent shall submit all prices, including (where applicable) the proposed stratification, proposed affordability level, and documentation for all elements as set forth above to the ~~Affordable Housing Board~~ Council which may modify the prices where necessary to comply with this rule. No representation with respect to the price of any low- and moderate-income unit may be made by the ~~Administrator~~ Administrative Agent until that price has been approved by the ~~Affordable Housing Board~~ Council.

m. *Procedure for Resale Transaction.*

1. All resale transactions of affordable housing units shall be administered by the ~~Affordable Housing Board~~ Administrative Agent. From the date on which the Administrative Agent ~~Affordable Housing Board~~ receives a notice of intent to sell by the owner of a low and moderate income unit, the ~~Borough Affordable Housing Board~~ shall have the exclusive right to purchase the unit or to refer prospective purchasers to that unit for a period of ninety (90) days unless waived in writing by the ~~Affordable Housing Board Council~~. In the event that a contract for the unit is executed within the ninety (90) day period set above and the prospective buyer is unable to close, the period during which the ~~Affordable Housing Board~~ Administrative Agent shall have the exclusive right to market the unit is automatically extended for a period of twenty-one (21) days from the date it is notified of the buyer's inability to close.

2. In the event that no contract has been entered into for the unit at the end of a ninety (90) day period, the owner of the unit may seek approval to sell the unit directly. The ~~Affordable Housing Board Borough~~ may choose not to purchase the unit only if, in its judgment, there is no purchaser willing to pay the resale price as determined here. If the ~~Affordable Housing Board Borough~~ chooses at that point not to purchase the unit, it shall authorize the applicant to sell the unit as follows unless it determines that the failure to enter into a contract was the result of negligence, absence of good faith effort or lack of cooperation on the part of the seller:

- (a) No change
- (b) No change
- (c) No change

n. *Calculation of Resale Price.* The resale price of the unit shall be the base price increased pursuant to paragraph n,1. and n, 2., less any reductions pursuant to paragraph n, 3. herein.

1. Percentage Increase in Household Income. The price approved by the ~~Affordable Housing Board~~ Administrative Agent at which the seller acquired the property shall be the base price. The base price shall be multiplied by one hundred (100) plus the percentage increase in the H.U.D. uncapped median income by family size for the P.M.S.A. in which Roseland Borough is located from the time of acquisition of the property to the date that notice of intent to sell is given to the ~~Affordable Housing Board~~ Administrative Agent divided by one hundred (100). For example, if the base price is \$30,000.00 and the median income at the time of the acquisition is \$32,000.00 and at the time of the resale transaction has increased twenty-five (25%) percent to \$40,000.00 then the resale price is as follows:

$$100/1 \pm 25/100 = 1.25$$
$$\$30,000. \times 1.25 = \$37,500.$$

2. Improvements. In addition, the seller shall be entitled to add to the selling price of the unit the cost of an eligible capital improvement which, pursuant to N.J.A.C. 5:92-12.8, renders the unit suitable for a larger household.

Upon request of an owner of a low or moderate income unit, the ~~Affordable Housing Board~~ Administrative Agent shall consider within thirty (30) days whether to grant prior approval of any improvement and to approve a specific dollar amount up to the amount actually expended for that improvement.

3. Deductions for Repairs Made Necessary by Owner. The ~~Affordable Housing Board~~ Administrative Agent shall upon notice from the owner of an intent to sell have an inspection of the unit made. In the event that, as a result of the inspection, the ~~Affordable Housing Board~~ Administrative Agent determines that the unit is in need of substantial repairs with respect to plumbing, heating, roof, electrical, structural or foundation defects or that the unit has been left in an infested condition, the ~~Affordable Housing Board~~ Administrative Agent shall submit in writing to the owner a list of violations and/or necessary repairs. The estimated cost of any required repair or improvement not completed by the owner prior to the date of closing shall be deducted from the resale price, and the cost to complete these repairs shall be then placed in an escrow account to cover the cost of the repairs.

4. No change

o. *Exempt Sales.* The following transactions shall not be deemed sales for the purpose of these regulations and the owner of the unit may receive a statement of exemption from the ~~Administrative Agent Affordable Housing Board~~. Transfer of ownership of an affordable sales unit between husband and wife or between a former husband and wife as the result of a judicial decree of divorce; this shall not include a sale to a third party as a result of divorce. A grant of exemption shall not eliminate the resale control restriction set forth in these regulations. Any subsequent sale shall be subject to all of the terms of these regulations.

p. *Rental Increases.* All rental transactions shall be administered by the ~~Affordable Housing Board~~ Administrative Agent. The rents of affordable housing units may increase annually based on the percentage increase in median income for each housing region as determined from the uncapped Section 8. income limits, published by HUD, or other recognized standard adopted by the COAH that applies to the rental housing unit.

q. *Repairs.* Repairs may be performed after review and approval by the ~~Administrator~~ Administrative Agent.

r. *Rental of Low and Moderate Income Sales Unit.* No owner of a lower income unit may lease the unit to another without prior written approval of the ~~Affordable Housing Board~~ Administrative Agent which shall not be granted except when justified by particular and unusual circumstances. Any owner seeking such approval shall submit a written request to the ~~Affordable Housing Board~~ Administrative Agent setting forth the particular circumstances of the case including the reasons for the request to rent and the proposed

duration of the tenancy. In the event the ~~Affordable Housing Board~~ Administrative Agent approves the request, it shall notify the owner of the unit. The owner shall rent the unit only to a qualified low or moderate income tenant for the period approved by the ~~Affordable Housing Board~~ Administrative Agent at a rent affordable to a low or moderate income tenant, whichever is applicable. If such permission is granted, the running of time for duration of controls as defined in paragraph u. below shall be suspended.

- s. No change
- t. No change
- u. No change

v. *Expiration of Controls.* At the end of any twenty (20) year period (or ten (10) year period for rehabilitated units) of controls, the low and moderate income restrictions established in these regulations shall expire except as provided herein. In the event of the first sale of a low and moderate income unit after the controls expire, the unit may be sold to any purchaser at fair market value. However, at closing, ninety (90%) percent of the difference between the fair market value of the unit at the time of closing and the price at which the unit could be sold if it were subject to resale controls shall be paid to the ~~Affordable Housing Board~~ Borough; the funds received by the ~~Affordable Housing Board~~ Borough shall be dedicated by the Borough solely for the purpose of promotion of low and moderate income housing. The ~~Affordable Housing Board~~ Borough may ~~have~~ retain an appraiser to determine whether the unit is in fact being sold for fair market value. The municipality shall have the right to extend the affordability controls for a period of thirty (30) years, or until released by the Borough of Roseland, whichever is later, in accordance with the rules of the Council on Affordable Housing and the Housing and Mortgage Finance Agency, by way of adoption of a resolution extending the affordability controls.

For example, if the unit could be sold for \$60,000.00 subject to the resale controls and the fair market value is \$110,000.00, the difference is \$50,000.00. Ninety (90%) percent of \$50,000.00 equals \$45,000.00. This payment shall be paid to the ~~Affordable Housing Board~~ Borough on the day of closing of the first sale after the resale controls expire.

w. *Foreclosure.* Any mortgage for a low and moderate income unit shall contain a provision requiring the holder of a mortgage on the property to inform the ~~Affordable Housing Board~~ Borough at any time that the purchaser of a unit is forty-five (45) days or more in arrears on payment of his mortgage payments. The ~~Affordable Housing Board~~ Borough shall further be notified by the mortgagee in the event of institution of a foreclosure action.

The ~~Affordable Housing Board~~ Borough shall at all times have the right to intervene in any foreclosure action. In addition, the ~~Affordable Housing Board~~ Borough shall have the right to advance and pay all sums necessary to cure any arrears, to cure any other default or exercise any right of redemption or pay and satisfy any first mortgage or other lien so that the unit may be preserved and retained as a low and moderate income unit. All sums advanced by the ~~Affordable Housing Board~~ Borough shall become a lien against the unit and shall have a higher priority than any lien except that of a first mortgage and tax or other liens held by any

government agencies. The ~~Affordable Housing Board~~ Borough is required to advance and pay all sums necessary to cure any default or exercise any right of redemption unless in its judgment there is no other purchaser willing to pay the resale price as determined in paragraph o. above.

x. *Foreclosure Exemption from Resale Controls.* In the event of a foreclosure by an institutional first mortgagee, the unit shall be exempt from all further resale restrictions provided that the following conditions have been satisfied:

1. The first mortgage did not exceed one hundred (100%) percent of the authorized sales price of the unit by the current occupant (unless written authorization was given by the Administrative Agent ~~Affordable Housing Board~~ for the owner to enter into a mortgage for a higher amount).

2. The ~~Affordable Housing Board~~ Borough has been given both notice of the default by the mortgagee, as well as notice of the institution of foreclosure. In addition, the ~~Affordable Housing Board~~ Borough has not exercised its rights to cure the default.

3. The lender who is the foreclosing mortgagee is the successful bidder at a sheriff's sale and takes title by deed from the sheriff; or the ~~Affordable Housing Board~~ Borough has given written approval for a deed in lieu of foreclosure.

y. *Second Mortgages.* No second mortgage shall be placed upon the property without the prior written approval of the ~~Affordable Housing Board~~ Borough. The sum of the first and second mortgage shall not exceed ninety-five (95%) percent of the resale value of the unit provided herein. In determining whether to grant an approval for the second mortgage, the ~~Affordable Housing Board~~ Borough shall consider the need for the second mortgage and the impact that the second mortgage shall have upon the ability of the ~~Affordable Housing Board~~ Borough to maintain this unit as a low and moderate income unit. Under no circumstances shall a foreclosure of a second mortgage constitute grounds for eliminating the resale controls provided for in this regulation. Prior written approval shall be denied unless second mortgages are specifically authorized by the COAH regulations and the application is consistent with those regulations.

z. No change

aa. *Certificate of Occupancy.* No certificate of occupancy for a low or moderate income unit shall be issued until the developer shall have submitted and have approved by the ~~Affordable Housing Board~~ Borough Attorney, a deed restriction encompassing all the provisions of these regulations.

No certificate of occupancy shall be issued for a resale unit unless the ~~Affordable Housing Board~~ Administrative Agent shall certify that the resale complies with the terms of these regulations.

No low and moderate income unit may be occupied by an initial purchaser or resale purchaser without a certificate of occupancy.

bb. *Affirmative Marketing.* The ~~Administrator~~ **Administrative Agent** shall develop and implement an affirmative marketing program for affordable housing units that shall include the following:

1. No change
2. No change
3. No change
4. No change
5. No change

cc. *Waiver.* In the event of a special hardship or in the event that a minor technical modification of these regulations is necessary to effectively implement the policy of this subsection, the ~~Affordable Housing Board~~ **Administrative Agent, after consultation with the Council**, may waive or modify those regulations relating to occupancy selection, sale or resale prices, or income eligibility standards provided that such waiver of modification is (a) consistent with the intent of these regulations and the Development Regulations; and (b) does not violate the COAH policy, regulations or statute.

- dd. No change
- ee. No change
- ff. No change

SECTION II

Section 30-511.3 entitled "Building Drainage" shall be amended to add the following **thus** and to delete the following **thus**:

30-511.3 Building Drainage

a. All sump pumps, roof leaders and foundation drains shall be connected to the **drainage stormwater** system, if available. **No connections shall be permitted into any sanitary sewer.**

b. No change

SECTION III

If any section or 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 IV

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

SECTION VII

This ordinance shall take effect in accordance with applicable law.

DATE OF INTRODUCTION: May 23, 2019

Motion to Introduce by: Councilman Freda

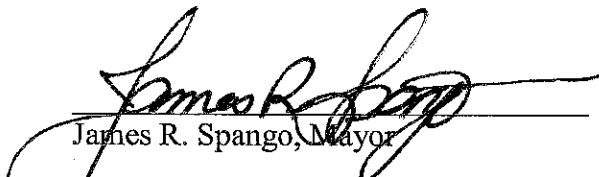
Motion Seconded by: Councilwoman Fishman

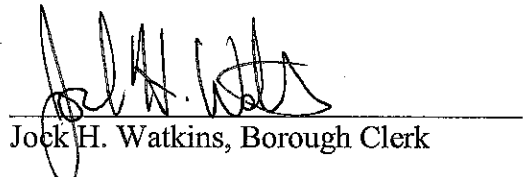
Introduction Approved: 6-0 Voice Vote

DATE OF ADOPTION: July 16, 2019

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	RECUSE	ABSENT
Councilman Bardi	X		X				
Councilwoman Fishman			X				
Councilman Freda		X	X				
Councilman Jacobs			X				
Councilwoman Perrotti			X				
Councilwoman Tolli			X				
Mayor Spango (In case of tie)							
VOTE:			6	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 16th day of July, 2019.


James R. Spango, Mayor
Date of Publication: July 25, 2019, The Progress


Jock H. Watkins, Borough Clerk