

**ORDINANCE NO. 16-2018**

**BOROUGH OF ROSELAND**

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

**AN ORDINANCE RESCINDING ORDINANCE NO. 21-1980 ENTITLED “AN ORDINANCE AUTHORIZING THE BOROUGH COUNCIL TO PROVIDE FOR THE SNOWPLOWING AND SALTING OF ROADS AND STREETS WHICH HAVE NOT BEEN TAKEN OVER BY THE GOVERNING BODY OR DEDICATED AND ACCEPTED AS PUBLIC HIGHWAYS” [STONEGATE], RESCINDING ORDINANCE NO. 23-1983 ENTITLED “AN ORDINANCE AUTHORIZING THE BOROUGH COUNCIL TO PROVIDE FOR THE SALTING AND SANDING OF CERTAIN PRIVATE ROADS LOCATED IN A RESIDENTIAL DEVELOPMENT KNOWN AS HOLMEHILL UPON CERTAIN CONDITIONS”, RESCINDING ORDINANCE NO. 2000-16 ENTITLED “MAINTENANCE AND REPAIRS OF THE ROADWAYS IN THE CONDOMINIUM DEVELOPMENT KNOWN AS THE EAGLE ROCK”, RESCINDING ORDINANCE NO. 2000-19 ENTITLED “MAINTENANCE AND REPAIRS OF THE ROADWAYS IN THE CONDOMINIUM DEVELOPMENT KNOWN AS ROSELAND GLEN”, RESCINDING ORDINANCE NO. 2000-35 ENTITLED “MAINTENANCE AND REPAIRS OF THE ROADWAYS IN THE CONDOMINIUM DEVELOPMENT KNOWN AS ROSELAND GLEN COMPLEX”, RESCINDING ORDINANCE NO. 2000-36 ENTITLED “MAINTENANCE AND REPAIRS OF THE ROADWAY IN THE CONDOMINIUM DEVELOPMENT KNOWN AS PARADISE PLACE”, RESCINDING ORDINANCE NO. 02-2018 ENTITLED “AMENDING CHAPTER XIX OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ROSELAND ENTITLED STREETS AND SIDEWALKS”, AND 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 in an effort to ensure that every Qualified Private Condominium Association and Homeowner’s Association within the Borough of Roseland, and their owners, receive fair and equal treatment as compared to other residential real estate owners of the Borough of Roseland; and

**WHEREAS**, the Mayor and Council of the Borough of Roseland therefore 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, snow plow, salt, resurface and reconstruct private streets, but not parking lots, sidewalks or driveways, and maintain pump stations under appropriate terms and conditions within every Qualified Private Condominium Association and Homeowner’s Association within the Borough of Roseland; and

**WHEREAS**, the Mayor and Council of the Borough of Roseland wish to rescind previously adopted ordinances of the Borough of Roseland that apply only to a specific Qualified Private Condominium Association or Homeowner Association that are either in conflict with or may create confusion with the desired amendments;

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Roseland that the previously adopted ordinances identified herein are hereby rescinded; and

**BE IT FURTHER RESOLVED** that Section Chapter XIX of the Revised General Ordinances of the Borough of Roseland entitled “Streets and Sidewalks” shall be rescinded and replaced as follows:

**SECTION I**

Ordinance No. 21-1980 authorizing the Borough of Roseland to perform snowplowing and salting of roads and streets which have not been taken over by the Governing Body or dedicated and accepted as public highways is hereby rescinded in its entirety; and

Ordinance No. 23-1983 authorizing the Borough Council to provide for the snowplowing and salting and sanding of certain private roads located in a residential development known as Holmehill upon certain conditions; and

Ordinance No. 16-2000 authorizing the Borough of Roseland to perform maintenance and repairs to private roadways in the condominium development known as the Eagle Rock is hereby rescinded in its entirety; and

Ordinance No. 19-2000 authorizing the Borough of Roseland to perform maintenance and repairs to private roadways in the condominium development known as the Roseland Glen is hereby rescinded in its entirety; and

Ordinance No. 35-2000 authorizing the Borough of Roseland to perform maintenance and repairs to private roadways in the condominium development known as the Roseland Glen is hereby rescinded in its entirety; and

Ordinance No. 36-2000 authorizing the Borough of Roseland to perform maintenance and repairs to private roadways in the condominium development known as the Paradise Place is hereby rescinded in its entirety; and

Ordinance No. 02-2018 amending Chapter XIX of the Revised General Ordinances of the Borough of Roseland entitled “Streets and Sidewalks” is hereby rescinded in its entirety.

**SECTION II**

Section 19-6 Entitled “Private Roads” shall be deleted in its entirety and replaced by the following new section:

**19-16 PRIVATE ROADS, PUMP STATIONS, SANITARY SEWER LINES AND WATER MAINS.**

**19-16.1. Definitions.**

The following definitions shall apply to this Section 19-16:

*Ice Removal* shall mean the collection and removal of ice from the street.

*Maintenance* shall mean and include removal of debris from the street, crack sealing, pothole repair, and catch basin repair.

*Pump Station* shall mean a pump station privately owned by a Qualified Private Condominium Association and Homeowner's Association and shall include the pump station located at the Roseland Green.

*Qualified Private Condominium Association and Homeowner's Association* shall mean residential communities organized under New Jersey's Condominium Act N.J.S.A. 46:8B-1 et seq. located within the Borough of Roseland, including the developments known as Stone Gate at Roseland, Eagle Rock, Roseland Glen, Roseland Green, Paradise Place, and the Homeowner's Association of Holmehill.

*Realignment* shall mean changing the position of the physical elements of the street or changing the geometric design of the street.

*Reconstruction* shall mean removal of existing asphalt surfacing prior to adding a new layer of asphalt, and may include excavation, replacement, or supplementation of road subgrade materials.

*Resurfacing* shall mean adding a layer of asphalt on the existing street surface.

*Road* in this section shall have the same meaning as *Street*.

*Salting* shall mean the mechanical application of road salts, such as chloride salts of sodium, calcium, magnesium, or potassium and/or brine solutions, or other common chemicals used to control snow and ice in order to make winter driving safer and more efficient.

*Sanitary Sewer Main Collection Lines* shall not include individual house connections

*Snow Plowing* shall mean plowing of snow from the street.

*Snow removal* shall mean the collection and removal of snow from the street.

*Street* shall mean a private street, avenue, road, alley, lane, highway, or boulevard within a Qualified Private Condominium Association and Homeowner's Association, but shall not include a private cross-walk, culvert, driveway, parking lot, retention basin, or sidewalk within a Qualified Private Condominium Association and Homeowner's Association.

*Water Mains* shall not include individual house connections

**19-16.2. Maintenance, Paving, Salting and Snow Plowing of Qualified Private Condominium Association and Homeowner's Associations.**

- a. The Borough of Roseland in its sole discretion shall provide maintenance, resurfacing, salting and snow plowing of the Streets of any Qualified Private Condominium Association and Homeowner's Association provided that as a condition precedent to the Borough of Roseland having any obligation to perform any such act the specific Qualified Private Condominium Association and Homeowner's Association must comply with all the terms and conditions of section 19:16.2(e).
- b. The Borough of Roseland shall not and shall have no obligation to perform any ice removal, realignment or reconstruction of any Street of any Qualified Private Condominium Associations or Homeowner's Association, and shall not and shall have no obligation to perform any activity with respect to any private cross-walk, culvert, driveway, parking lot, culvert, retention basin, or sidewalk within any Qualified Private Condominium Association and Homeowner's Association.
- c. The Borough of Roseland shall perform all work referenced in 19-16.2(a) in the same manner and timeliness as public Streets.
- d. The Borough of Roseland shall have no obligation to widen any Street or roadway of any Qualified Private Condominium Association and Homeowner's Association.
- e. As a prerequisite to the Borough of Roseland having any obligation to perform any work referenced within section 19-6.2(a) the specific Qualified Private Condominium Association and Homeowner's Association shall execute a contract with the Borough of Roseland in a form to be approved by the Borough Attorney. Said contract shall at a minimum:
  1. Require the Qualified Private Condominium Association and Homeowner's Association to authorize and request the Borough of Roseland perform the work set forth in 19-16.2(a) that shall be specifically designated and set forth therein;
  2. Require the specific Qualified Condominium Association and Homeowner's Association to warrant and provide proof to the Borough of Roseland that it obtained in accordance with its rules and regulations, by-laws Master Deed or other laws, rules or regulations, the consent and authority of its membership to enter into the contract with and to permit the Borough or Roseland to perform the work;
  3. Require the specific Qualified Private Condominium Association and Homeowner's Association to indemnify and hold harmless the Borough of Roseland from any and all claims related to the work set forth in 19:6-2(a), including but not limited to any and all claims arising out of the Borough of Roseland's negligence;
  4. Require the specific Qualified Private Condominium Association and Homeowner's Association to obtain primary, commercial general liability insurance listing the Borough or Roseland as a named insured with coverage of at least one million dollars (\$1,000,000.00) for each occurrence and two million dollars (\$2,000,000.00) in the

aggregate that shall provide for thirty (30) days written notice to the Borough of Roseland of any cancellation thereof; and

5. Require the Qualified Private Condominium Association and Homeowner's Association to provide the Clerk of the Borough or Roseland with proof of insurance coverage conforming to this subsection prior to the Borough of Roseland to have any obligation to begin any work.
- f. The Borough of Roseland performing any act with respect to this section 19-16.2(a) shall not constitute the Borough of Roseland's acceptance of any street or road of any Qualified Private Condominium Association and Homeowner's Association. Every street and road of the Qualified Private Condominium Association and Homeowner's Association shall remain private.

### **19-16.3. Pump Stations, Sanitary Sewer Main Collection Lines and Water Mains**

- a. The Borough of Roseland shall accept and maintain any pump station, Sanitary Sewer and Water Mains of any Qualified Private Condominium Association and Homeowner's Association provided that as a condition precedent thereto:
  1. The Qualified Private Condominium Association and Homeowner's Association conveys to the Borough of Roseland through a Quitclaim Deed the ownership of the pump station, sanitary sewer main collection lines, and water mains, including the real property and any improvements related thereto;
  2. The Qualified Private Condominium Association and Homeowner's Association warrants and provides proof to the Borough of Roseland that it obtained in accordance with its rules and regulations, By-laws Master Deed or other laws, rules or regulations, the consent and authority of its membership to convey the Quitclaim Deed to permit the Borough or Roseland to take over ownership of the pump station, sanitary sewer main collection lines, and water mains, and the real property upon which it is located;
  3. The Qualified Private Condominium Association and Homeowner's Association conveys to the Borough of Roseland all appropriate easements required by the Borough of Roseland in its sole discretion to provide the Borough of Roseland with access to the pump station, sanitary sewer main collection lines, and water mains and records said easement(s); and
  - ~~4. The Qualified Private Condominium Association and Homeowner's Association provides the Borough of Roseland an opportunity to inspect the pump station and the Qualified Private Condominium Association and Homeowner's Association makes all repairs the Borough of Roseland requests prior to the conveyance.~~
- b. Exceptions. Sanitary Sewer Lines and Water Mains shall not include house connections for water and sewer.

**19-6.4. Borough Not to Maintain or Improve Private Streets**

Except as otherwise provided for in Subsection 19-6.2(a) the Borough of Roseland shall have no obligation to provide an 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 III**

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 IV**

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

**SECTION V**

This ordinance shall take effect in accordance with applicable law.

DATE OF INTRODUCTION: November 8, 2018

Motion to Introduce Amended Ordinance by: Councilman Tsilionis  
 Motion Seconded by: Councilman Bardi  
 Introduction Approved: 4-0 Voice Vote (Jacobs, Smith absent)

DATE OF ADOPTION:

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

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 \_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
 John Duthie, Mayor

\_\_\_\_\_  
 Jock H. Watkins, Borough Clerk

Date of Publication: