

**ORDINANCE NO. 04-2021**

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

**AN ORDINANCE AMENDING AND SUPPLEMENTING SECTION 2-56  
ENTITLED "MUNICIPAL HOUSING LIAISON" AND SECTION 30-1121  
ENTITLED "ENFORCEMENT OF AFFORDABLE HOUSING  
REGULATIONS" OF THE REVISED GENERAL ORDINANCES OF THE  
BOROUGH OF ROSELAND**

**WHEREAS**, New Jersey courts have held that municipalities in the State of New Jersey have a constitutional obligation to provide a realistic opportunity for the construction of their fair share of the region's low- and moderate-income housing needs; and

**WHEREAS**, numerous affordable housing units have been created in the Borough of Roseland ("Borough") in satisfaction of the Borough's affordable housing obligations; and

**WHEREAS**, the Borough has adopted regulations governing affordable housing units in the Borough; and

**WHEREAS**, the Borough desires to amend and supplement Article VI entitled "Boards, Committees, Commissions and Offices", Section 2-56 entitled Municipal Housing Liaison" of Chapter 2 of the Revised General Ordinances of the Borough of Roseland entitled "Administration" and Chapter 30 Section 1121 of the Revised General Ordinances of the Borough of Roseland entitled "Enforcement of Affordable Housing Regulations";

**NOW, THEREFORE, BE IT ORDAINED**, by the Governing Body of the Borough of Roseland, County of Essex, State of New Jersey, as follows:

**SECTION I**

That section 2-56 entitled "MUNICIPAL HOUSING LIAISON" of Chapter 2 of the Revised General Ordinances of the Borough of Roseland entitled "Administration" shall be amended by adding the following thus and deleting the following ~~thus~~:

**2-56 MUNICIPAL HOUSING LIAISON. AFFORDABLE HOUSING  
ADMINISTRATION**

**2-56.1 Purpose**

The purpose of this section is to create the administrative mechanisms needed for the execution of the Borough of Roseland's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

## 2-56.2 Definitions.

As used in this section:

### ADMINISTRATIVE AGENT

shall mean the entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Borough of Roseland to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate- income households.

### MUNICIPAL HOUSING LIAISON

shall mean the employee charged by the Governing Body with the responsibility for oversight and administration of the affordable housing program for the Borough of Roseland.

## 2-56.3 ~~Position Created~~ Municipal Housing Liaison; Compensation; Powers and Duties.

- a. Establishment of position. There is hereby established the position of Municipal Housing Liaison for the Borough of Roseland.
- b. Subject to the approval of the ~~Courteuncil on Affordable Housing (COAH)~~, the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- c. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- ed. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Roseland, including the following responsibilities which may not be contracted out to the Administrative Agent:
  1. Serving as the Borough of Roseland's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
  2. Monitoring the status of all restricted units in the Borough of Roseland's Fair Share Plan;
  3. Compiling, verifying, and submitting annual reports as required by ~~the Court~~ COAH;
  4. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
  5. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed; as offered or approved by COAH;
  6. If applicable, serving as the Administrative Agent for some or all of the restricted units in the Borough of Roseland as described in paragraph f. below.
- d. Subject to approval of the Court ~~by COAH~~, the Borough of Roseland may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of the Borough of Roseland. If the Borough of Roseland contracts with another

entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.

- ~~e. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.~~

#### 2-54.6 f. Administrative Agent: Compensation; Powers and Duties.

The Administrative Agent shall be an independent entity serving under contract to and reporting to the municipality. For new sale and rental developments, all of the fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. For resales, single family homeowners, and condominium homeowners shall be required to pay three percent of the sales price for services provided by the Administrative Agent related to the resale of their homes. That fee shall be collected at closing and paid directly to the Administrative Agent. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16 and 18 thereof, which include:

~~The following administrative powers and duties are delegated to the Administrative Agent:~~

1. Affirmative Marketing.
  - (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Roseland and the provisions of N.J.A.C. 5:80-26.15; and
  - (b) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements and landlord/tenant laws.
2. Household Certification.
  - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
  - (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
  - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
  - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of the ownership certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq;
  - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
  - (f) Employing the random selection process as provided in the Affirmative Marketing Plan of the Borough of Roseland when referring households for certification to affordable units.

(g) Notifying the following entities of the availability of affordable housing units in Borough of Roseland: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, East Orange NAACP, Newark NAACP, Morris County NAACP, Elizabeth NAACP, Cornerstone Family Programs, Operation Sisterhood, and the Supportive Housing Association of New Jersey.

3. Affordability Controls.

- (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
- (d) Communicating with lenders regarding foreclosures; and
- (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

4. Resale and Re-Rentals.

- (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
- (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.

5. Processing request from unit owners.

- (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;
- (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
- (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.

(d) Notifying the municipality of an owner's intent to sell a restricted unit.

6. Enforcement.

- (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;
- (b) Securing from all developers and sponsors of restricted units, at the earliest point



of contact in the processing of the project or development, written acknowledgment of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;

(c) The posting annually in all rental properties, including two family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent or other charges can be made.

(d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:8-26.18;

(e) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and

(f) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; ~~and~~

~~(e) Providing annual reports to COAH as required.~~

7. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

8. The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in the time to meet any monitoring requirements and deadlines imposed by the Court.

9. The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring and affirmative marketing at least annually and more often as needed.

## SECTION II

### 30-1121 ENFORCEMENT OF AFFORDABLE HOUSING REGULATIONS.

a. Bi-annual residency recertification.

1. Every two years, the administrative agent shall notify all owners of affordable housing units in the municipality that they must submit to the administrative agent the following documents so that the administrative agent may verify the compliance of the household to the residency requirement set forth in §30-1113(c).

(a) A municipal residency form, which may be amended from time to time, that requires each head of household to provide the name and age of every resident of the affordable housing unit, and to certify as to its accuracy.

(b) A copy of the property tax assessment for the affordable housing unit.

(c) A copy of a New Jersey driver's license for every member of the

household who has been issued a current driver's license; or for every member of the household over the age of 16 who has not been issued a current New Jersey driver's license, an alternative identification, issued by the State of New Jersey, the federal government, or a school district, that clearly includes the address of the household member.

(d) A copy of two utility bills issued within the past four months for each of the following services received: water, sewer, gas, electric, TV, phone and internet services provided to the unit.

(e) A signed and notarized statement from every member of the household 18 years or older that the affordable housing unit is their primary residence; that they reside in the affordable housing unit 260 days or more during the course of each year; that no part of the affordable housing unit is leased to any other party for any purpose ; that no persons outside of the household resides in the affordable housing unit or uses the unit address for their residency; and that they understand if they fail to comply with residency requirements, they will be subject to applicable fines or other legal remedies, including but not limited to foreclosure.

2. The owner shall have 60 days to provide the documentation requested, and shall be sent a second notification after 30 days from the date of the first notification. If the submission of documents is determined to be incomplete, the owner shall be so notified and given another 15 days to provide the recertification documentation. The owner shall be deemed to be in violation of this article if, after 90 days from the date of the first notice, the proper documentation has not been submitted or has revealed that the owner is not in compliance with the residency requirement.

b. Upon the occurrence of a breach of any of the regulations governing an affordable housing unit by an owner, developer or tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

c. After providing written notice of a violation to an owner, developer or tenant of a low- or moderate- income unit and advising the owner, developer or tenant of the penalties for such violations, the municipality may take the following action(s) against the owner, developer or tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation or violations of the regulations governing the affordable housing unit. If the owner, developer or tenant is adjudged by the Court to have violated

any provision of the regulations governing affordable housing units the owner, developer or tenant shall be subject to one or more of the following penalties, at the discretion of the Court:

(a) A fine of not more than \$500 per day or imprisonment for a period not to exceed 90 days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense.

(a)(b) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Roseland Affordable Housing Trust Fund of the gross amount of rent illegally collected.

(c) In the case of an owner who has rented a low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the Court.

2. The municipality may file a court action in the Superior Court seeking a judgment that would result in the termination of the owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such judgment shall be enforceable as if the same were a judgment of default of the first purchase money mortgage and shall constitute a lien against the low- or moderate-income unit.

(a) The judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the very-low-, low- or moderate-income unit of the violating owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any first purchase money mortgage, any prior liens held by the municipality, and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating owner shall have his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.

(b) The proceeds of the Sheriff's sale shall first be applied to satisfy the first purchase money mortgage lien and any prior lien upon the very-low-, low- or moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating owner shall be personally responsible for the full extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the



owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the owner shall make a claim with the municipality for such. Failure of the owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the owner or forfeited to the municipality.

- (c) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the very-low-, low- or moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. An owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (d) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the , first purchase money mortgage and any prior liens, the municipality may acquire title to the very- low-, low- or moderate- income unit by satisfying the first purchase money mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the first purchase money mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the very- low-, low- or moderate- income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (e) Failure of the very-low-, low- or moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the owner to accept an offer to purchase from any qualified purchaser which may be referred to the owner by the municipality, with such offer to purchase being equal to the maximum resale price of the very-low-, low- or moderate-income unit as permitted by the regulations governing affordable housing units.
- (f) The owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions governing affordable housing units until such time as title is conveyed from the owner.



### **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**

This ordinance shall take effect upon publication as provided by law.

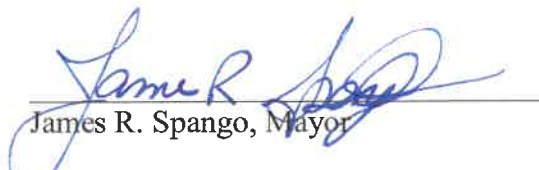
DATE OF INTRODUCTION: February 16, 2021

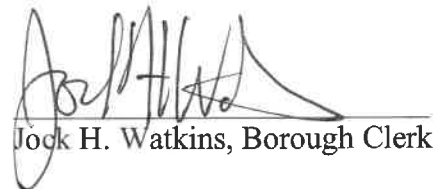
Motion to Introduce by: Councilman Bardi  
Motion Seconded by: Councilwoman Tolli  
Introduction Approved: 6-0 Voice Vote

DATE OF ADOPTION: March 16, 2021

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	RECUSE	ABSENT
Councilman Bardi	X		X				
Council President Fishman		X	X				
Councilman Freda			X				
Councilwoman Perrotti			X				
Councilwoman Tolli			X				
Councilman Trillo			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 16<sup>th</sup> day of March, 2021.

  
James R. Spango, Mayor  
Date of Publication: April 1, 2021, The Progress

  
Jock H. Watkins, Borough Clerk

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