

**ORDINANCE NO. 39-2023**

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

AN ORDINANCE AMENDING CHAPTER 10 OF THE  
REVISED GENERAL ORDINANCES OF THE BOROUGH OF  
ROSELAND ENTITLED "BUILDING AND HOUSING",  
SECTION 10-2 ENTITLED "CERTIFICATE OF OCCUPANCY"

**WHEREAS**, the Mayor and Council of the Borough of Roseland wish to amend Chapter 10 of the Revised General Ordinances of the Borough of Roseland entitled "Building and Housing", Section 10-2 entitled "Certificate of Occupancy";

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Roseland that Chapter 10 of the Revised General Ordinances of the Borough of Roseland entitled "Building and Housing", Section 10-2 entitled "Certificate of Occupancy" shall be amended as follows:

**SECTION I**

That Section 10-2.1 entitled "Certificates of Occupancy and Continued Occupancy" shall be amended by adding the following **thus** and deleting the following **thus**:

**§ 10-2.1 Certificates of Occupancy ~~and Continued Occupancy~~.**

- a. No building constructed, erected, altered, converted, or in any way changed, except for minor revisions, shall be occupied or used in whole or in part for any use whatsoever, and no change of use of any building or any part shall be made until a certificate of occupancy shall have been issued by the Construction Official. A certificate of occupancy shall be issued after the Construction Official has determined that all applicable codes and ordinances administered and enforced by the Borough of Roseland have been complied with.
- ~~b. Upon any change of tenancy of an existing building or structure, the owner or new tenant must apply to the Construction Official for a certificate of continued occupancy. A certificate of continued occupancy shall be issued after the Construction Official has determined that all applicable codes and ordinances administered and enforced by the Borough of Roseland have been complied with.~~
- ~~c. Neither a certificate of occupancy nor a certificate of continued occupancy shall be issued until an inspection of all smoke detection devices, carbon monoxide devices, and explosive gas alarms within the building or structure shall have been performed by the Fire Protection Subcode Official, the Fire Official, or another Borough official as may be designated by the Construction Official, and such official has determined that all applicable codes and~~

~~ordinances administered and enforced by the Borough of Roseland have been complied with, and such official has issued a certificate of occupancy smoke detector certification.~~

~~d. Neither a certificate of occupancy nor a certificate of continued occupancy shall be issued for residential dwelling premises until after the Construction Official, or other Borough official designated by the Construction Official, has determined that a carbon monoxide sensor device, tested and listed by a product certification agency recognized by the New Jersey Division of Codes and Standards shall have been installed inside the premises.~~

~~e. Neither a certificate of occupancy nor a certificate of continued occupancy shall be issued for residential dwelling premises until after the Construction Official, or other Borough official designated by the Construction Official, has determined that an explosive gas alarm, tested and listed by a product certification agency recognized by the New Jersey Division of Codes and Standards, shall have been installed inside the premises.~~

~~f.b.~~ For each and every violation of this section, the Construction Official may issue a notice of violation, for which the penalty shall not exceed five hundred (\$500.00) dollars per week per building or structure to the owner or to any other person, or persons interested as lessees, tenants or otherwise in any building, land or premises, where such violation has been committed or shall exist.

~~g.c.~~ The certificate of occupancy shall evidence only that a general inspection of the visible parts of the building has been made, and that no violations of N.J.A.C. 5:23-2.14 have been determined to have occurred and no unsafe conditions violative of N.J.A.C. 5:23-2.32(a) have been found.

~~h. The certificate of continued occupancy shall evidence only that a general inspection of the visible parts of the building has been made, and that no violations of N.J.A.C. 5:23-2.14 have been determined to have occurred. Issuance of a certificate of continued occupancy does not constitute a safety inspection as provided for in N.J.A.C. 5:23-2.32(a), and no implication with respect to a building or structure's compliance with N.J.A.C. 5:23-2.32(a) is to be derived from issuance of a certificate of continued occupancy.~~

## **SECTION II**

That Section 10-2.2 entitled "Revocation of Certificates of Occupancy and Continued Occupancy" shall be amended by adding the following **thus** and deleting the following **~~thus~~**:

### **§ 10-2.2 Revocation of Certificates of Occupancy and Certificate of Continued Occupancy.**

~~a. Upon any change of tenancy of an existing building or structure, the owner or new tenant must apply to the Construction Official for a certificate of continued occupancy. No owner, agent, or any person or entity, shall rent, lease, sell, transfer ownership, or in any way deliver up for use, change of use, or occupancy any business, building, dwelling unit, lodging unit, rooming unit, or boarding unit, until a Certificate of Continued Occupancy~~

has been issued by the Code Enforcement Officer. A certificate of continued occupancy shall be issued after the Construction Official has determined that all applicable codes and ordinances administered and enforced by the Borough of Roseland have been complied with.

- a.b. Neither a certificate of occupancy nor a ~~A~~ certificate of continued occupancy shall not be issued until an inspection and/or test of all smoke detection devices, carbon monoxide devices, and explosive gas alarms, and fire extinguishers within the building or structure shall have been performed by the Fire Protection Subcode Official, the Fire Official Code Enforcement Officer, or another Borough Official as may be designated by the Construction Official Borough Administrator, and such official has determined that all applicable codes and ordinances administered and enforced by the Borough of Roseland have been complied with. Furthermore, all of the smoke detection devices, carbon monoxide devices, explosive gas alarms, and fire extinguishers that have been installed inside the premises shall be determined to be listed by a product certification agency recognized by the New Jersey Division of Codes and Standards. and such official has issued a certificate of occupancy smoke detector certification
- hc. The certificate of continued occupancy shall evidence only that a general inspection of the visible parts of the building has been made, and that no violations of N.J.A.C. 5:23-2.14 have been determined to have occurred. Issuance of a certificate of continued occupancy does not constitute a safety inspection as provided for in N.J.A.C. 5:23-2.32(a), and no implication with respect to a building or structure's compliance with N.J.A.C. 5:23-2.32(a) is to be derived from issuance of a certificate of continued occupancy.
- d. A Certificate of Continued Occupancy shall only be issued upon inspection of the property and finding that the use(s) comply with Chapter 30, Article IV - Zoning or are valid pre-existing non-conforming uses as determined by the Zoning Officer or Board of Adjustment. A separate Certificate of Continued Occupancy shall be required for each and every individual tenant space that exists on a property, including, but not limited, to the occupancy of any business space, building or part thereof, dwelling unit, rooming unit, lodging unit or boarding unit.
- e. No Certificate of Continued Occupancy shall be issued for the transfer of ownership of a residential dwelling until a Final Water Meter Read has been scheduled with and completed by the Borough of Roseland Water Department. An inspection for the Certificate of Continued Occupancy may occur prior to a Final Water Meter Read.
- f. No Certificate of Continued Occupancy shall be issued without the applicant providing the name(s) of the seller, tenant, leasee, and/or buyer that will assume the occupancy and/or ownership of the space in question. The Certificate shall indicate:
1. the permitted use and/or tenancy,
  2. the occupancy limitations as stipulated in Section 403 of the Property Maintenance Code that are authorized by said Certificate,
  3. the name(s) of the seller, tenant, leasee, and/or buyer, as applicable
  4. compliance with all sections of this chapter,
  5. compliance with the Borough's Property Maintenance Code.
- g. Any use of the property in question or occupancy limitation violations that takes place on the property, that is not specifically authorized by the Certificate that is in effect at the time, shall be deemed an illegal occupancy which is a violation of this section and shall be subject to an immediate summons.



- h. For each and every violation of this section, the Code Enforcement Officer may issue a notice of violation, and/or a penalty as set forth in § 1-5 per building or structure to the owner or to any other person, or persons interested as lessees, tenants or otherwise in any building, land or premises, where such violation has been committed or shall exist.
- i. A Temporary Certificate of Continued Occupancy will only be considered upon receipt of a written request setting forth the reason for the request and a time schedule setting forth the unfinished items and when they will be completed. A Temporary Certificate of Continued Occupancy shall only be issued if all life safety, fire detection and prevention, and other safety items are determined to be in compliance with all applicable codes of the Borough of Roseland and the State of New Jersey.

### **SECTION III**

That new Section 10-2.3 entitled “Liability of Code Enforcement Officer” shall be added **thus**:

#### **§ 10-2.3 Liability of Code Enforcement Officer.**

The Code Enforcement Officer or any employee charged with the enforcement of this Chapter, acting in good faith and without malice in the discharge of his duties, shall not thereby be rendered personally liable; and is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the Code Enforcement Officer, or any employee thereof, because of such act or omission performed during the duties of the enforcement of any provisions of this Code, shall be defended by the legal department of the Borough at the Borough’s sole cost and expense, until final termination of the proceedings.

### **SECTION IV**

That Section 10-2.2 entitled “Revocation of Certificates of Occupancy and Continued Occupancy” shall be renumbered as Section 10-2.4 and amended by adding the following **thus** and deleting the following **thus**:

#### **§ 10-2.2-4 Revocation of Certificates of Occupancy and Continued Occupancy.**

The Construction Official may revoke a certificate of occupancy or a certificate of continued occupancy whenever a condition of a certificate has been violated. The Code Enforcement Officer may revoke a Certificate of Continued Occupancy whenever a condition of a certificate has been violated.

### **SECTION V**

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 VI**

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

DATE OF INTRODUCTION: November 21, 2023

Motion to Introduce by: Councilwoman Tolli

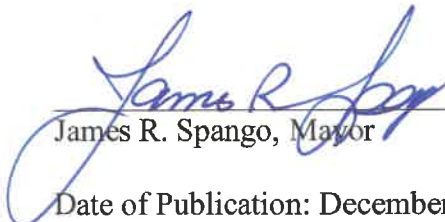
Motion Seconded by: Councilman Bardi

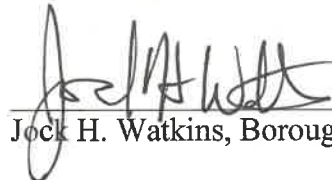
Introduction Approved: 3-0 Voice Vote (Fishman, Freda, Trillo absent)

DATE OF ADOPTION: December 19, 2023

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	RECUSE	ABSENT
Councilman Bardi		X	X				
Councilwoman Fishman			X				
Councilman Freda							X
Councilwoman Perrotti			X				
Councilwoman Tolli			X				
Council President Trillo	X		X				
Mayor Spango (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 19<sup>th</sup> day of December, 2023.

  
James R. Spango, Mayor

  
Jock H. Watkins, Borough Clerk

Date of Publication: December 28, 2023, The Progress

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