

First Reading:	01-16-2020
Publication:	01-23-2020
Second Reading:	02-06-2020
Publication:	02-13-2020

**ORDINANCE NO. 2607**

**AN ORDINANCE AMENDING CHAPTER XL, SECTION 40-311  
OF THE CODE OF THE BOROUGH OF ROSELLE PARK,  
ENTITLED, "DECISIONS"**

**WHEREAS**, Section 40-311 of the Code of the Borough of Roselle Park relates particularly to decisions of the Municipal Land Use Board related to applications for development; and,

**WHEREAS**, the governing body wishes to clarify and otherwise establish the enforcement authority for said decisions made by the Municipal Land Use Board; and,

**WHEREAS**, the Municipal Land Use Board, at its January 27, 2020 Regular Meeting reviewed said foregoing Ordinance and referred the same back to the governing body for final action.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Roselle Park, County of Union and State of New Jersey that Chapter XL of the Code of the Borough of Roselle Park be and hereby is amended as follows:

**SECTION 1.** Amendment(s) to Procedure for Enforcement of Decisions

Part 1 Procedures

Article III Provisions Applicable to the Municipal Land Use Board

40-311 DECISIONS.

- A. Each decision on any application for development shall include findings of fact and conclusions based thereon and shall be reduced to writing. The findings and conclusions shall be provided through:
1. A resolution adopted at a meeting held within the time period provided in this chapter for action on an application for development; or,
  2. A memorializing resolution adopted at a meeting held not later than forty-five (45) days after the date of the meeting at which the vote to grant or deny was approved. Only the members of the Planning Board or Board of Adjustment who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to N.J.S.A. 40:55D-9, resulting from the failure of a motion to approve an application, shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote of the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the Planning Board or Board of Adjustment and not to be an action of the Planning Board or Board of Adjustment; however, the date of the adoption of the resolution shall

constitute the date of the decision for purposes of the mailings, filings and publications required by subsections h. and i. of N.J.S.A. 40:55D-10. If the Planning Board or Board of Adjustment fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court of New Jersey in a summary manner for an order compelling the Planning Board or Board of Adjustment to reduce its findings and conclusions to writing within a stated time, and the cost of the application, including attorneys' fees, shall be assessed against the Borough of Roselle Park.

- B. A member of the Planning Board or Board of Adjustment who was absent for one (1) or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one (1) or more of the meetings; provided, however, that such member has available to him the transcript or recording of all of the hearing from which he was absent and certifies in writing to the Board that he has read such transcript or listened to such recording.
- C. A copy of the decision shall be mailed by the Board within ten (10) days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and have paid the fee prescribed by the Board for such service. A copy of the decision shall also be filed in the office of the Borough Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality and available for public inspection at the Clerk's office during reasonable hours.
- D. **The decision, and thereby the accompanying Resolution as prescribed in Paragraph A of this Section, shall be explicitly enforceable by the Construction Official, Zoning Officer, or their respective designee(s) assigned from within the Department of Code Enforcement. Actions, omissions, or other deviations from any decision promulgated by the Municipal Land Use Board shall be considered a violation of the Municipal Code by reference hereto and shall be subject to a fine of not more than two thousand dollars (\$2,000.00) for each and every day that such a violation shall exist.**

**SECTION 2.** Invalidity

If any section or portion of a section of this Code shall be invalid for any reason, such invalidity shall not affect the validity of the remaining sections or portions of this Ordinance.

**SECTION 3.** Inconsistent Ordinances Repealed.

All Ordinances or parts of Ordinances, to the extent that they are inconsistent herewith, are hereby repealed.

**SECTION 4.** Captions.


Captions contained in this Ordinance have been included only for the purpose of facilitating reference to the various sections and are not intended and shall not be utilized to construe the intent and meaning of the text of any section. Likewise, all strike through text ~~thus~~ should be considered a deletion from Borough Code, and all bolded text **thus** should be considered an addition to Borough Code.

**SECTION 5.** Effective Date.

This Ordinance shall become effective upon publication and in accordance with law.

Introduction: January 16, 2020

Adoption: February 6, 2020

Attest:   
 Andrew J. Casais, RMC  
 Borough Clerk

  
 Joseph Signorello III  
 Mayor

Record of Vote – Introduction				
	Aye	Nay	Abstain	Absent
Petrosky	X			
Fahoury	X			
Connelly	X			
Negron	X			
Delorio	X			
Mathieu	X			

Record of Vote – Adoption				
	Aye	Nay	Abstain	Absent
Petrosky	X			
Fahoury	X			
Connelly	X			
Negron	X			
Delorio	X			
Mathieu	X			

Copy To: R. Belluscio (Zoning Officer), Municipal Land Use Board (M. Banks), F. Genova (Construction Official).