

RIVERSIDE TOWNSHIP

ORDINANCE 2006-26

**AN ORDINANCE AMENDING CHAPTER 166, REFERRED TO
AS THE "ILLEGAL IMMIGRATION RELIEF ACT"**

WHEREAS, on July 26, 2006, the Riverside Township Committee passed the Illegal Immigration Relief Act Ordinance, designated as Ordinance 2006-16; and

WHEREAS, minor amendments were thereafter made by adoption of Ordinance 2006-18 on August 23, 2006; and

WHEREAS, the Township continues to review and analyze the terms of the Ordinance in an effort to clarify same and make the Ordinance more efficient, enforceable and effective.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Riverside that the Chapter 166, governing "Illegal Immigration Relief" is hereby amended as follows:

§ 166-1. Title.

This chapter shall be known and may be cited as the "Riverside Township Illegal Immigration Relief Act Ordinance."

§ 166-2. Findings and Declaration of Purpose.

The People of the Township of Riverside find and declare:

A. State and Federal law require that certain conditions be met before a person may be authorized to work or reside in this country.

B. Unlawful workers and illegal aliens, as defined by this ordinance and State and Federal law, do not normally meet such conditions as a matter of law when present in the Township.

C. Unlawful employment and the harboring of illegal aliens in dwelling units in the Township harm the health, safety and welfare of authorized workers and legal residents in the Township.

D. The State and Federal Government lack the resources to properly protect the citizens of the Township from the adverse effects of unauthorized employment and harboring of illegal aliens. While the Federal Government has passed laws and regulations on these issues, it has woefully forsaken the enforcement of same.

E. The Township finds that it is in the best interests of and will serve and benefit the health, safety and welfare of the public and law-abiding business entities and property owners to adopt policies and procedures to deter and prevent unauthorized employment and harboring of illegal aliens.

F. United States Code, Title 8, Subsection 1324(a)(1)(A) prohibits the harboring of illegal aliens. The provision of housing to illegal aliens is a fundamental component of harboring.

G. It is not the intent of this Ordinance, nor shall the Township or others construe this Ordinance, to prohibit the rendering of emergency medical care, emergency assistance, or legal assistance to any person.

H. According to census figures, the Township of Riverside's population is approximately 8,000 residents; however, estimates are that approximately 2,000 to 3,000 illegal aliens live within the Township. By the very nature of this population, the exact numbers are impossible to document. These additional residents place increased demands on all municipal services and thereby create a drain on the Township's financial resources.

I. Code enforcement has revealed extensive instances of unscrupulous landlords renting to illegal aliens by a process referred to as "stacking." These landlords charge excessive rates to each individual and often charge weekly rates to illegal aliens, creating and fostering overcrowding conditions. These landlords make substantial profit in creating these conditions, which conditions are conducive to fire and other health hazards.

J. A fire within the Township on Delaware Avenue on or about June 19, 2006 resulted in approximately twenty (20) illegal aliens fleeing the building and the scene, indicating the severity of health and public safety issues presented by the housing methods used in "stacking."

K. This Ordinance intentionally targets those that unlawfully employ and/or house illegal aliens, as defined herein, often at exploitative rates of pay or rents, and nothing within this Ordinance should be construed to be a direct regulation by the Township of illegal aliens or their status in this Country.

L. The Township of Riverside is empowered and mandated by the interests of the health, safety and welfare of its residents to undertake this Ordinance.

§ 166-3. Definitions.

A. Whenever used in this chapter, the following terms shall have the following meanings and shall be construed so as to be consistent with state and federal law, including federal immigration law:

1. "Basic Pilot Program": The electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L.

104-208, Division C, Section 403(a); United States Code, Title 8, Subsection 1324a, and operated by the United States Department of Homeland Security (or a successor program established by the Federal Government.)

2. "Business Entity": Any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood, whether for profit or not-for-profit entities.

(a) The term business entity shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors.

(b) The term business entity shall include any business entity that possesses a business license under Chapter 127, any business entity that is exempt by law from obtaining such a business license, and any business entity that is operating unlawfully without such a business license.

3. "Contractor": A person, employer, or business entity that enters into an agreement to perform any service or work or to provide a certain product in exchange for valuable consideration. This definition shall include but not be limited to a subcontractor, contract employee, or a recruiting or staffing entity.

4. "Illegal Alien": An alien who is not lawfully present in the United States, according to the terms of United States Code, Title 8, Section 1101, et seq. The Township shall not conclude that a person is an illegal alien unless and until an authorized representative of the Township has verified with the federal government, pursuant to United States Code, Title 8, Subsection 1373(c), that the person is an alien who is not lawfully present in the United States.

5. "Township": The Township of Riverside.

6. "Unlawful worker": A person who does not have the legal right or authorization to work due to an impediment in any provision of federal, state or local law, including but not limited to a minor disqualified by nonage, or an unauthorized alien as defined by United States Code, Title 8, Subsection 1324a(h)(3).

7. "Work": Any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities.

§ 166-4. Business Permits, Contracts and Grants.

A. It is unlawful for any business entity to recruit, hire for employment, or continue to employ, or to permit, dispatch, or instruct any person who is an unlawful worker to perform work in whole or part within the Township. Every business entity that applies for a business license, seeks renewal of a business license, applies for a Township grant or seeks a Township contract to engage in any type of work in or for the Township shall sign an affidavit, in a form

prepared by the Township, affirming that they do not knowingly utilize the services or hire any person who is an unlawful worker.

B. Enforcement. The Township Code Enforcement Officer and Township Police are hereby authorized to enforce and responsible for enforcing the requirements of this section.

1. An enforcement action shall be initiated by means of a written signed complaint to the Township Code Enforcement Officer or Township Police submitted by any Township official, business entity, or resident. A valid complaint shall include an allegation which describes the alleged violator(s) as well as the actions constituting the violation, and the date and location where such actions occurred.

2. A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.

3. Upon receipt of a valid complaint, the enforcement officials shall, within seven business days, request identity information from the business entity regarding any persons alleged to be unlawful workers. The enforcement officials shall suspend the business permit, grant or contract of any business entity which fails, within three business days after receipt of the request, to provide such information. In instances where the unlawful worker is alleged to be an illegal alien, the enforcement officials shall submit identity data required by the Federal Government to verify, pursuant to United States Code, Title 8, Section 1373, the immigration status of such persons, and shall provide the business entity with written confirmation of that verification.

4. Violation of the above provisions in the context of a Township grant or contract shall result in termination of the grant or contract. The termination of a Township contract may, in the discretion of the Township, constitute "prior negative experience" in the consideration of the award of future contracts under the Local Public Contracts Law, N.J.S.A. 40A: 11-1, et seq.

5. In the context of a business license, the enforcement officials shall suspend the business license of any business entity which fails to correct a violation of this section, within three business days after notification of the violation by the enforcement officials.

6. The enforcement officials shall not suspend the business license, grants or contracts of a business entity if, prior to the date of the violation, the business entity had verified the work authorization of the alleged unlawful workers using the Basic Pilot Program.

7. The suspension of a business license under this Ordinance shall be terminated by the enforcement official within seven (7) business days after a legal representative of the business entity submits, to the enforcement officials, a sworn affidavit stating that the violation has ended.

(a) The affidavit shall include a description of the specific measures and actions taken by the business entity to end the violation, and shall include the name, address and other adequate identifying information for the unlawful workers related to the complaint.

(b) Where two or more of the unlawful workers were verified to be illegal aliens, the business entity shall submit to the enforcement officials, in addition to the prescribed affidavit, documentation which confirms that the business entity has enrolled in and will participate in the Basic Pilot program for the duration of the validity of the business permit granted to the business entity.

8. For a second violation, the enforcement officials shall suspend the business license of a business entity for a period of thirty (30) days. For a third or subsequent violation, the enforcement officials shall suspend the business license of a business entity for a period of one (1) year. After the end of the suspension period, and upon receipt of the prescribed affidavit, the enforcement official shall reinstate the business permit. The code official shall forward the affidavit, complaint, and associated documents to the appropriate State or Federal enforcement agency.

C. All agencies of the Township shall enroll and participate in the Basic Pilot Program.

D. As a condition for the award of any Township contract or grant to a business entity for which the value of employment, labor or, personal services exceeds the bid threshold established under the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., the business entity shall provide documentation affirming its enrollment and participation in the Basic Pilot Program.

E. Private Cause of Action for Unfairly Discharged Employees. The discharge of any employee who is not an unlawful worker by a business entity in the Township is an unfair business practice if, on the date of the discharge, the business entity was not participating in the Basic Pilot program and the business entity was employing an unlawful worker. The discharged worker shall have a private cause of action against the business entity for the unfair business practice.

§ 166-5. Harboring Illegal Immigrants.

A. It is unlawful for any person or business entity that owns a dwelling unit in the Township to harbor an illegal alien in the dwelling unit, either knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, unless such harboring is otherwise expressly permitted by Federal law.

1. For the purposes of this section, to let, lease, or rent a dwelling unit to an illegal alien, either knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, shall be deemed to constitute harboring. To suffer or permit the occupancy of the dwelling unit by an illegal alien, either

knowingly or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, shall also be deemed to constitute harboring.

2. A separate violation shall be deemed to have been committed for each adult illegal alien harbored in the dwelling unit, beginning one business day after receipt of a notice of violation from the enforcement officials.

3. A separate violation of this section shall be deemed to have been committed for each business day on which the owner has failed, following written notice from the enforcement officials, to provide the enforcement officials with identity data needed to obtain a federal verification of immigration status, beginning three days after the owner receives written notice from the enforcement officials.

B Enforcement. The code enforcement officer and/or the Township Police shall enforce the requirements of this section.

1. An enforcement action shall be initiated by means of a written signed complaint to the enforcement officials submitted by any Township official, business entity, or resident of the Township. A valid complaint shall include an allegation which describes the alleged violator(s) as well as the actions constituting the violation, and the date and location where such actions occurred.

2. A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.

3. Upon receipt of a valid written complaint, the enforcement officials shall, pursuant to United States Code, Title 8, Section 1373(c), verify with the federal government the lawful immigration status of a person seeking to use, occupy, lease, or rent a dwelling unit in the Township. The agency shall submit identity data required by the federal government to verify immigration status. The Township shall forward identity data provided by the owner to the federal government, and shall provide the property owner with written confirmation of that verification.

4. If after seven (7) business days following receipt of written notice from the Township that a violation has occurred and that the immigration status of any alleged illegal alien has been verified, pursuant to United States Code, Title 8, Section 1373(c), the owner of the dwelling unit fails to correct a violation of this section, the enforcement officials shall deny or suspend the rental license of the dwelling unit.

5. The denial or suspension shall terminate within seven (7) business days after a legal representative of the dwelling unit owner submits, to the enforcement official, a sworn affidavit stating that each and every violation has ended. The affidavit shall include a description of the specific measures and actions taken by the business entity to end the violation, and shall include the name, address and other adequate identifying information for the illegal aliens who were the subject of the complaint.

6. The enforcement official shall forward the affidavit, complaint, and associated documents to the appropriate state or federal enforcement agency.

7. Any dwelling unit owner who is found guilty of a violation of this section shall be subject to a fine of not less than one thousand (\$1,000) dollars nor more than two thousand (\$2,000) for each separate violation; a term of imprisonment not exceeding ninety (90) days; and/or a period of community service not exceeding (90) days.

8. Upon the request of a dwelling unit owner, the enforcement officials shall, pursuant to United States Code, Title 8, Section 1373(c), verify with the Federal Government the lawful immigration status of a person seeking to use, occupy, lease, or rent a dwelling unit in the Township. The penalties in this section shall not apply in the case of dwelling unit occupants whose status as an alien lawfully present in the United States has been verified.

§ 166-6. Construction and Severability.

A. The requirements and obligations of this Chapter shall be implemented in a manner fully consistent with Federal law regulating immigration and protecting the civil rights of all citizens and aliens.

B. If any part of provision of this Chapter is in conflict or inconsistent with applicable provisions of federal or state statutes, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part of provision shall be suspended and superseded by such applicable laws or regulations, and the remainder of this Chapter shall not be affected thereby.