

**BOROUGH OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY  
ORDINANCE NO. 2016-02**

**AN ORDINANCE OF THE BOROUGH OF LEBANON, COUNTY OF HUNTERDON  
TO PROVIDE FOR PROTECTIVE CUSTODY OF PERSONS CHARGED WITH  
DRIVING UNDER THE INFLUENCE OR WHILE INTOXICATED**

**WHEREAS**, the provisions of "John's Law", N.J.S.A. 39:4-50.22 et seq., require that law enforcement agencies notify persons who accompany a drunk driver from the law enforcement premises that they may be held criminally or civilly liable if that person permits the person charged with driving while intoxicated to operate a motor vehicle, and also authorize law enforcement agencies to impound the drunk driver's vehicle; and

**WHEREAS**, the provisions N.J.S.A. 40:48-1.3 authorize a Municipality to enact an Ordinance providing that a person who has been arrested for driving while intoxicated pursuant to N.J.S.A. 39:4-50 shall be held in protective custody at an appropriate police or other facility; and

**WHEREAS**, the Borough of Lebanon does not have an appropriate facility where such person's condition may be monitored until that person is no longer a danger to himself or others; and

**WHEREAS**, the Borough of Lebanon has been and continues to desire to use the Hunterdon County Detention Center (and/or through Hunterdon County's contract for detention with Somerset County) for this purpose.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Lebanon, in the County of Hunterdon, and State of New Jersey, with the approval of the Mayor, that the Ordinances of the Borough of Lebanon shall be amended to provide as follows:

Section 1. Any person who is arrested for a violation of N.J.S.A. 39:4-50 shall be held in protective custody at an appropriate police or other facility where the person's condition may be monitored until the person is no longer a danger to himself or others. That person shall be released from protective custody when that person is no longer a danger to himself or others. A person is no longer a danger to himself or others when the person's blood alcohol concentration is less than 0.05% and the person is no longer under the influence of any intoxicating liquor or narcotics or hallucinogenic or habit-forming drug to the extent that the person's faculties are impaired. In no event shall the Borough's designee or the Hunterdon County Detention Center hold a person in protective custody for a period of longer than eight (8) hours without providing an appropriate hearing.

Section 2. Notwithstanding the provisions of this Ordinance, provided that it is not a detriment to the public safety, the arresting law enforcement agency may, because of the age, health or safety of the arrested person, release the person pursuant to the provisions of P.L. 2001, c.69, N.J.S.A. 39:4—50.22 et seq., or provide an appropriate alternative to protective custody. Neither the Borough of Lebanon or their designee, nor the Hunterdon County Detention Center shall be subject to liability if a person is released from custody pursuant to the provisions of this Ordinance under N.J.S.A. 40:48-1.3.

Section 3. Nothing in this Ordinance shall be construed as requiring the use of the N.J. State Police facilities by the Borough of Lebanon for purposes of this Ordinance under N.J.S.A. 40:48-1.3.

Section 4. All the provisions of N.J.S.A. 40:48-1.3 referenced above are hereby incorporated into and are deemed to be a part hereof.

Section 5. For purposes of this Ordinance, the appropriate police or other facility is the Hunterdon County Detention Center (or contractual entity designated through the Hunterdon County Board of Chosen Freeholders).

Section 6. Severability. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared severable.

Section 7. Repealer and Effective Date. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed, and this Ordinance shall take effect immediately upon final passage and publication as required by law.

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Michael Reino, Mayor

ATTEST:

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Karen M. Romano

Borough Administrator/ Clerk

Vote after public hearing and upon final adoption:

Berger\_\_\_\_\_ Ordinance approved by the Governing Body and presented  
Burton \_\_\_\_\_ to the Mayor on \_\_\_\_\_, 2016  
Junge \_\_\_\_\_  
Knoble \_\_\_\_\_  
Pittinger \_\_\_\_\_  
Schmidt \_\_\_\_\_

Veto in Whole or Part:

Approved:

\_\_\_\_\_

\_\_\_\_\_

Michael Reino, Mayor

Michael Reino, Mayor

Date:

Date:

Returned to Borough Clerk with statement attached on \_\_\_\_\_, 2016

## NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on May 18, 2016 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Lebanon to be held on June 15, 2016 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey

Karen M. Romano,

Borough Administrator/ Clerk