



**LEBANON BOROUGH COMMON COUNCIL
MINUTES
September 19, 2012**

The Regular Meeting of the Lebanon Borough Common Council was called to order by Mayor Reino at 7:30 p.m.

The meeting was convened in compliance with the Open Public Meeting Act of 1975; notice was sent to three local newspapers and posted on the bulletin board at Borough Hall.

PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Mayor Reino.

ROLL CALL:

Present: Mayor Reino, Council President Berger, Councilman Knoble, Councilwoman Schmidt, Councilman Junge, Councilman Burton and Councilman Pittinger

Absent: None

Also Present: Attorney Joe Novak, Clerk Karen M. Romano

MOMENT OF SILENCE:

Mayor Reino stated a total of 7986 United States Service Members had given their lives for our country for the war on terrorism. New Jersey total continues at 119. Mayor Reino requested a moment of silence in remembrance of all service men and women, who have paid the supreme sacrifice on behalf of a grateful nation, they are truly heroes.

RESOLUTION # 76-2012:

Councilman Burton made a motion to approve Resolution 76 -2012 the Consent Agenda with a second by Councilwoman Schmidt.

**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION # 73-2012
CONSENT AGENDA**

September 19, 2012

All matters listed under the Consent Agenda are considered to be routine by the Governing Body of Lebanon Borough and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired that item may be removed from the Consent Agenda and considered separately.

1. NJ Office of the Governor Purchase of Property
2. Ferriero letter for Bond release for Pizzo and Pizzo
3. Statewide Insurance Fund regarding hidden fees
4. HC Water Quality Management
5. NJTPA Rail Freight Assessment

6. Finance June 2012, July 2012, and August 2012
7. North Hunterdon Municipal Court
8. NJDOT local Aid
9. NJLM Convention

Introduced and adopted September 19, 2012

Ayes: 6
Nays: 0
Absent: 0

Sam Berger, Council President

ATTEST: _____

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on the September 19, 2012 force and effect as of the date I have subscribed my signature.

Date: September 19, 2012

Karen M. Romano, RMC
Lebanon Borough Clerk

The motion was passed by the following vote:

YES: Council President Berger, Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton, and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

APPROVAL OF MINUTES:

Councilwoman Schmidt made a motion to accept the Regular Meeting Minutes. With a second by Councilman Burton.

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

APPROVAL OF EXPENDITURES:

Council President Berger made a motion to approve the bill list for August and September 2012. Councilman Berger seconded the motion.

List of Bills - (All Funds)

Total	Vendor	Description	Payment	Check
Current Fund				
220.00	403 - AMERICAN PROTECTIVE SYSTEMS, INC	PO 4848 BURGLAR ALARM SYSTEM, CUST 10492	220.00	
301.28	202 - CENTURYLINK	PO 4874 TELEPHONE SERVICE, ACCT 310227467/3	301.28	
8,708.75	357 - CLARKE CATON HINTZ	PO 4813 PROF SERVICES FOR JUNE 2012, INV 54	8,708.75	
677.50	357 - CLARKE CATON HINTZ	PO 4849 PROF SERVICES FOR JULY 2012, INV 54	677.50	
45.99	107 - CLINTON BUSINESS PRODUCTS, INC	PO 4809 KITCHEN SUPPLIES	45.99	
1,430.35	254 - CLOVER HILL LANDSCAPING LLC	PO 4764 LAWN SVC FOR 2012 SEASON 6 OF 8	1,430.35	
285.44	247 - COMCAST	PO 4850 TELEPHONE SVC FOR SEPTEMBER 2012, A	285.44	
772.11	38 - COUNTY OF HUNTERDON	PO 4870 GASOLINE/DIESEL FUEL FOR JULY 2012	772.11	
1,982.50	566 - DAVID G. TILLOU	PO 4851 PROF DESIGN SERVICES FROM JUNE 1 -	1,982.50	
342.00	118 - DEPENDABLE FIRE EQUIPMENT CO.	PO 4852 ANNUAL MAINTENANCE, INV 7223	342.00	
812.50	111 - ELIZABETH C MCKENZIE	PO 4853 PROF SVCS FOR AUGUST 2012, THIRD RO	812.50	
18.87	39 - ELIZABETH TOWN GAS	PO 4854 NATURAL GAS SERVICE, ACCT 263560059	18.87	
71.58	153 - HOME DEPOT CREDIT SVCS	PO 4856 BLDG/GRD SUPPLIES, ACCT 60353225409	71.58	
245.81	83 - HORIZON BLUE CROSS BLUE SHIELD NJ	PO 4492 DENTAL INSURANCE FOR OCTOBER 2012	245.81	
23.67	54 - NJN PUBLISHING	PO 4857 LEGAL AD - COKESBURY PLAZA, ACCT L9	23.67	
1,694.26	16 - JCP&L	PO 4858 ELECTRIC SERVICE, ACCT 200000052726	1,694.26	
1,643.82	16 - JCP&L	PO 4881 ELECTRIC SERVICE, ACCT100064143520/	1,643.82	
6.50	16 - JCP&L	PO 4882 SVCS FOR ACCT /1000636447751000634	6.50	
211.55	16 - JCP&L	PO 4883 ELECTRIC SERVICE, ACCT 100064140575	211.55	
3,000.00	264 - JOSEPH S. NOVAK	PO 4435 MONTHLY LEGAL SERVICE, SEPT 2012	3,000.00	
100.00	167 - KAREN ROMANO	PO 4825 CELL PHONE ALLOWANCE FOR SEPT 2012	100.00	
977.90	559 - LANZA & LANZA LLP	PO 4859 LEBANON BORO VS T.M. BRENNAN CONTRA	977.90	
226,860.00	59 - LEBANON BOROUGH BOARD OF EDUCATION	PO 4860 OCTOBER LOCAL SCHOOL TAX	226,860.00	
3,499.60	253 - NEW JERSEY STATE POLICE	PO 4861 STATE POLICE SERVICES FOR JULY 201	3,499.60	
32.00	42 - NJ STATE LEAGUE OF MUNICIPALITIES	PO 4833 2012 SUBSCRIPTION RENEWAL, ID 12M-8	32.00	
7.00	42 - NJ STATE LEAGUE OF MUNICIPALITIES	PO 4878 LEGISLATIVE BULLETIN, ID 12B-8970	7.00	
708.00	35 - NORTH HUNTERDON MUNICIPAL COURT	PO 4507 MUNICIPAL COURT SVC FOR SEPT 2012	708.00	
80.74	513 - PAYCHEX OF NEW YORK LLC	PO 4862 PAYROLL SERVICE , INV 626461	80.74	
80.74	513 - PAYCHEX OF NEW YORK LLC	PO 4879 PAYROLL SERVICE , INV 628962	80.74	
200.00	37 - PITNEY BOWES - RESERVE ACCOUNT	PO 4530 POSTAGE	200.00	
11.41	68 - POLAND SPRING WATER CO	PO 4863 BOTTLED WATER, ACCT 0430758649	11.41	
4,832.96	28 - PREMIER DISPOSAL, INC	PO 4548 TRASH REMOVAL SERVICE FOR AUGUST 20	4,832.96	
679.54	20 - QUILL CORPORATION	PO 4865 OFFICE AND CLEANING SUPPLIES, ACCT	679.54	
301.96	6 - RICHARD M. CONLEY , LLC	PO 4866 SPECIAL TAX COUNSEL FOR AUGUST 201	301.96	
217.50	344 - SHARP ELECTRONICS CORP	PO 4837 MAINTENANCE CONTRACT #7110000858	217.50	
90.00	390 - TELE-DATA SOLUTIONS	PO 4523 OCTOBER 2012 PHONE MAINTENANCE CHG	90.00	
2,436.57	382 - TOWNSHIP OF TEWKSBURY	PO 4798 CHESTNUT PLACE CATCH BASIN WORK	2,436.57	
665.48	348 - VAIL ENERGY SERVICES, LLC	PO 4868 HVAC MAINTENANCE AND REPAIR, INV 52	665.48	
3,493.98	27 - WASTE MANAGEMENT OF NJ INC	PO 4869 SOLID WASTE DISPOSAL FOR AUGUST 201	3,493.98	
245.00	552 - ZIP SYSTEMS INC.	PO 4880 ELEVATOR MAINTENANCE SVC, INV 3576	245.00	
TRUST FUNDS				
350.00	518 - BEAVER BROOK COUNTRY CLUB	PO 4873 DEPOSIT FOR HOLIDAY EVENT 12-04-201	350.00	
475.00	470 - CELEBRATION TRAVEL & TOURS	PO 4872 TRANSPORTATION FOR SENIOR TRIP TO J	475.00	
1,100.00	535 - JEFFERSON HOUSE INC.	PO 4846 SENIORS TRIP FOR SEPT BBQ 9-10-2012	1,100.00	
50.00	400 - MARY ANN BADORE	PO 4847 TIP FOR BBQ TRIP 9-10-12 JEFFERSON	50.00	
166.65	565 - ROSIE SUDOL	PO 4867 REFUND FOR SUMMER RECREATION	166.65	
GENERAL CAPITAL FUND				
2,962.50	46 - FERRIERO ENGINEERING	PO 4855 CAPITAL PROJECTS FOR JULY 2012, INV	2,962.50	
---	TOTAL			-----
273,119.01				
Total to be paid from Fund 01 Current Fund		268,014.86		
Total to be paid from Fund 03 TRUST FUNDS		2,141.65		

475.00	470 - CELEBRATION TRAVEL & TOURS	PO 4872	TRANSPORTATION FOR SENIOR TRIP TO J	475.00
1,100.00	535 - JEFFERSON HOUSE INC.	PO 4846	SENIORS TRIP FOR SEPT BBQ 9-10-2012	1,100.00
50.00	400 - MARY ANN BADORE	PO 4847	TIP FOR BBQ TRIP 9-10-12 JEFFERSON	50.00
166.65	565 - ROSIE SUDOL	PO 4867	REFUND FOR SUMMER RECREATION	166.65
GENERAL CAPTITAL FUND				
2,962.50	46 - FERRIERO ENGINEERING	PO 4855	CAPITAL PROJECTS FOR JULY 2012, INV	2,962.50
---	TOTAL			-----
272,078.16				

Total to be paid from Fund 01 Current Fund	266,974.01
Total to be paid from Fund 03 TRUST FUNDS	2,141.65
Total to be paid from Fund 04 GENERAL CAPTITAL FUND	2,962.50
	=====
	272,078.16

Checks Previously Disbursed

99999	LEBANON BOROUGH PAYROLL	PAYROLL 4/13/2012	8,292.30	9/14/2012
99999	LEBANON BOROUGH PAYROLL	PAYROLL 8/31/2012	9,012.69	8/28/2012

			17,304.99	

Total paid from Fund 01 Current Fund	17,304.99

	17,304.99

Total for this Bills List: 289,383.15

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

Dave Tillou- 96 Main Street

Bids went out and will be opened October 11, 2012

JCP&L – stopped by to show their support to Lebanon Borough updating all the new ways of available communication.

OPEN PUBLIC SESSION #1:

Councilman Burton made a motion to open the public session. Councilwoman Schmidt seconded the motion with the unanimous approval of Council the floor was opened.

There being no public comment Councilman Burton made a motion to close the public session. Councilwoman Schmidt seconded the motion with the unanimous approval of Council the floor was closed.

OPEN PUBLIC SESSION Ordinance #2012-07 :

Councilman Burton made a motion to open the public session. Councilwoman Schmidt seconded the motion with the unanimous approval of Council the floor was opened.

There being no public comment Councilman Burton made a motion to close the public session. Councilwoman Schmidt seconded the motion with the unanimous approval of Council the floor was closed.

ORDINANCE# 2012-07:

Council President Berger made a motion to Adopt Ordinance #2012-07 an Ordinance authorizing the increase of Dog Fees. With a second by CouncilmanBurton.



**AN ORDINANCE TO AMEND THE ANIMAL CONTROL ORDINANCE,
AND SPECIFICALLY FEES**

WHEREAS, the cost of the administration and yearly licensing of dogs within the Municipality has increased; without any increase in fees over a prolonged period.

NOW THEREFORE BE IT HEREBY 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 Animal Control Ordinance shall be amended to provide for the following new fees, effective January, 2013:

SECTION 1.

Fees:

1. \$12.00 for each neutered dog;
2. \$15.00 for each non-neutered dog;
3. An additional fee of \$5.00 per month and per dog on and after February 1st of each year for each dog that is not registered and licensed within the month of January of the said year.

SECTION 2.

All other provisions of the Ordinance, Chapter and Article shall remain unchanged and in full force and effect.

SECTION 3. Severability.

In event that any clause, section, paragraph, or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason; it shall be deemed severable, and the Borough Council hereby declares its intent that the balance of the Ordinance shall not be affected by the said invalidity, and the remainder shall remain in full force and effect.

SECTION 4. Effective date.

This Ordinance shall take effect upon final adoption and publication in accordance with the law.

ATTEST

BOROUGH OF LEBANON

Karen Romano, Borough Clerk

Michael Reino, Mayor

Vote after public hearing and upon final adoption:

Berger _____

Burton _____

Junge _____

Ordinance approved by the Governing Body and presented

Knoble _____

to the Mayor on _____, 2012

Pittinger _____

Schmidt _____

Veto in Whole or Part:

Approved:

Michael Reino, Mayor

Michael Reino, Mayor

Date:

Date:

Returned to Borough Clerk with statement attached on _____, 2012

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on July 18, 2012 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 September 19, 2012 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey

Karen M. Romano, RMC,CMR Borough Clerk

**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

ORDINANCE 2012-07

**NOTICE OF FINAL PASSAGE
AN ORDINANCE AUTHORIZING THE INCREASING THE DO LICENSING FEES**

NOTICE

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Lebanon, in the County of Hunterdon, State of New Jersey, held in the Municipal Building on the 18th day of July 2012, and the same came up for final passage at a meeting of the said Borough Council on the 19th day of September 2012 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by

order of the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey.

Karen M. Romano, RMC
Borough Clerk

INTRODUCED: July 18, 2012
ADOPTED: September 19, 2012

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

ORDINANCE# 2012-08:

Councilman Burton made a motion to Introduce Ordinance #2012-08 an Ordinance Amending the code for COAH. With a second by Council President Berger.



BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY

ORDINANCE NO. 2012-8

AN ORDINANCE OF THE BOROUGH OF LEBANON, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY AMENDING THE CODE OF THE BOROUGH OF LEBANON TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING'S RULES

WHEREAS, Lebanon Borough received a Prior Round Judgment of Repose from Superior Court on August 20, 2012

WHEREAS, as part of its review and grant of the Borough's repose, the Court requires that the Borough's affordable housing ordinances be updated and brought into compliance with COAH's current rules.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey, with the approval of the Mayor that the Borough of Lebanon Ordinance hereby amended as follows:

Section 1. Affordable Housing

General Program Purposes, Procedures

§ __-1. Affordable Housing Obligation.

- A. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the “Substantive Rules of the New Jersey Council on Affordable Housing for the period beginning June 2, 2008 with amendments through October 20, 2008”, N.J.A.C. 5:97 et seq., the Uniform Housing Affordability Controls (“UHAC”), N.J.A.C. 5:80-26.1 et seq., and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill").
- B. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The Lebanon Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Borough Council of the Borough of Lebanon. The Fair Share Plan describes the ways the Borough shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- E. The Borough shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Lebanon Borough Municipal Building 6 High Street Lebanon, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey.

§ __-2. Definitions. As used herein the following terms shall have the following meanings:

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.).

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

"Fair Share Plan" means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of N.J.A.C. 5:97-3.

"Housing Element" means the portion of the Borough's Master Plan, required by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-28b(3) and the Act, that includes the information required by N.J.A.C. 5:97-2.3 and establishes the Borough's fair share obligation.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50% or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH.

“Moderate-income household” means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by COAH’s adopted Regional Income Limits published annually by COAH.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30% or less of the median household income.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

§ __-3. New Construction. The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

Maximum Percentage of Market-Rate Units <u>Completed</u>	Minimum Percentage of Low- and Moderate- Income <u>Units Completed</u>
25	0
25+1	10
50	50
75	75
90	100

B. Design. In inclusionary developments, to the extent possible, low- and moderate- income units shall be integrated with the market units.

C. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

D. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. Affordable units in a development shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
3. Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low income households.
4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
 - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
 - (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and

(d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.

5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

E. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:

- (a) An adaptable toilet and bathing facility on the first floor;
- (b) An adaptable kitchen on the first floor;
- (c) An interior accessible route of travel on the first floor;
- (d) An interior accessible route of travel shall not be required between stories within an individual unit;
- (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
- (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that the Borough has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible:

(1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.

(2) To this end, the builder of restricted units shall deposit funds within the Borough of Lebanon's affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.

(3) The funds deposited under paragraph (2) herein, shall be used by the Borough for the sole purpose of making the adaptable entrance of any affordable unit

accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

(4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Lebanon.

(5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Lebanon's affordable housing trust fund in care of the Chief Financial Officer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

(6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

F. Maximum Rents and Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - (a) At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.

5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
 - (c) A two-bedroom unit shall be affordable to a three-person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
 - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:
 - (a) A studio or efficiency unit shall be affordable to a one-person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half person household; and
 - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the

maximum resale price established by the administrative agent be lower than the last recorded purchase price.

10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed 9% in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ __-4. Condominium and Homeowners Association Fees.

For any affordable housing unit that is part of a condominium association and/or homeowners association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

§ __-5. Reserved.

§ __-6. Reserved.

§ __-7. Reserved.

§ __-8. Reserved.

§ __-9. Reserved.

Affordable Unit Controls and Requirements

§ __-10. Purpose.

The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

§ __-11. Affirmative Marketing.

- A. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 3 and covers the period of deed restriction.

- B. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 3, comprised of Hunterdon, Middlesex and Somerset Counties.
- C. The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- D. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- E. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- F. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Lebanon.

§ __-12. Occupancy Standards.

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§ __-13. Selection of Occupants of Affordable Housing Units.

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 *et seq.*

§ __-14. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.

- D. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- E. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ __-15. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices.

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ __-16. Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

§ __-17. Limitations on indebtedness secured by ownership unit; subordination.

- A. **Prior** to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

§ __-18. Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Hunterdon. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

§ __-19. Price Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

§ __-20. Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ __-21. Conversions.

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

§ __-22. Reserved.

§ __-23. Reserved.

§ __-24. **Reserved.**

**ARTICLE III
Administration**

§ __-25. **Municipal Housing Liaison.**

- A. The position of Municipal Housing Liaison for the Borough of Lebanon is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Borough Council and be subject to the approval of the Court or COAH, as appropriate.
- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Lebanon.
- C. The Municipal Housing Liaison must meet COAH's requirements for qualifications, including initial and periodic training.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Lebanon, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - 1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - 2. The implementation of the Affirmative Marketing Plan and affordability controls.
 - 3. When applicable, supervising any contracting Administrative Agent.
 - 4. Monitoring the status of all restricted units in the Borough of Lebanon's Fair Share Plan;
 - 5. Compiling, verifying and submitting annual reports as required by COAH;
 - 6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - 7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

§ __-26. **Administrative Agent.**

- A. The Borough shall designate by resolution of the Borough Council, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of

the Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

- C The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 2. Affirmative Marketing;
 3. Household Certification;
 4. Affordability Controls;
 5. Records retention;
 6. Resale and re-rental;
 7. Processing requests from unit owners; and
 8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
 9. The Administrative Agent shall, as delegated by the Borough Council, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ __-27. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing the affordable 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, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. 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 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 found 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 \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

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

(c) In the case of an Owner who has rented his or her 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, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any 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- and moderate-income unit.

C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and 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 and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

D. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and 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 and to the 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.

- E. 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 low- and 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. The 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.
- F. 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 low- and 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 low- and 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.
- G. Failure of the low- and 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 low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ __-28. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

Section 2. Repealer. All ordinances , or provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 3. Severability. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any Court of competent jurisdiction that any such portion of this Ordinance is un-Constitutional, void or ineffective for any cause or reason, shall not affect any other portion of this Ordinance.

Section 4. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

ATTEST

BOROUGH OF LEBANON

Karen Romano, Borough Clerk

Michael Reino, Mayor

Vote after public hearing and upon final adoption:

Berger _____

Burton _____

Junge _____

Ordinance approved by the Governing Body and presented

Knoble _____

to the Mayor on _____, 2012

Pittinger _____

Schmidt _____

Veto in Whole or Part:

Approved:

Michael Reino, Mayor

Michael Reino, Mayor

Date:

Date:

Returned to Borough Clerk with statement attached on _____, 2012

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on September 19, 2012 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 October 17, 2012 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey

Karen M. Romano, Borough Clerk

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

Resolution #77-2012:

Councilman Burton made a motion to approve Resolution #77-2012 with a second by Councilwoman Schmidt.



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**RESOLUTION #77-2012
Town Wide Yard Sale**

BE IT RESOLVED that the Borough of Lebanon Mayor and Council permit one-way traffic only on the following streets on September 24, 2011, from the hours of 8:00AM to 4:00 PM, or on the rain date, September 25, 2011 from 1:00 PM to 4:00 PM.

ONE WAY:

- going South on Myrtle Avenue
- going North on High Street
- going South on Maple Street
- and going East on Brunswick Avenue

The Recreation Commission or State Police may, at its discretion; post "No Parking" signs where ever it is deemed necessary.

Introduced and adopted: September 19, 2012

LEBANON BOROUGH COUNCIL

Ayes: 6

Nays: 0

Absent: 0

Sam Berger, Borough Council President

ATTEST:

Karen M. Romano, RMC
Borough Clerk

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Common Council at a meeting duly held on the 19th day of September, 2012; that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: September 19, 2012

Karen M. Romano, RMC
Borough Clerk

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

Resolution #78-2012:

Councilman Knoble made a motion to approve Resolution #78-2012 with a second by Councilwoman Schmidt.



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**RESOLUTION #78—2012
COAH**

WHEREAS, Lebanon Borough received a Prior Round Judgment of Repose from Superior Court on August 20, 2012

WHEREAS, Lebanon Borough's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:97-1, et. seq.); and

WHEREAS, pursuant to N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et. seq., Lebanon Borough is required to appoint a Municipal Housing Liaison for the administration of Lebanon Borough's affordable housing program to enforce the requirements of N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, Lebanon Borough has amended the Borough Code to provide for the appointment of a Municipal Housing Liaison to administer Lebanon Borough's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of Lebanon Borough in the County of Hunterdon, and the State of New Jersey that Karen Romano, Municipal Clerk, is hereby appointed by the Governing Body of Lebanon Borough as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance Lebanon Borough's Code.

Karen Romano
Municipal Clerk

Introduced and adopted: September 19, 2012

LEBANON BOROUGH COUNCIL

Ayes: 6

Nays: 0

Absent: 0

Sam Berger, Borough Council President

ATTEST:

Karen M. Romano, RMC
Borough Clerk

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Common Council at a meeting duly held on the 19th day of September, 2012; that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: September 19, 2012

Karen M. Romano, RMC
Borough Clerk

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

Resolution #79-2012:

Councilman Knoble made a motion to approve Resolution #79-2012 with a second by Councilwoman Schmidt.



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**RESOLUTION # 79- 2012
Vail Energy Services, LLC**

WHEREAS, the governing body has commenced the renovation of the Borough Municipal Building, working in conjunction with its Buildings and Grounds Committee and the Special Advisory Committee on the renovation project; and

WHEREAS, a need has arisen for an ongoing maintenance program, or emergent tasks which must be accomplished in a timely manner so as to not delay the any repair; and

NOW THEREFORE, BE IT RESOLVED by the Council of the Borough of Lebanon with regard to the Municipal Building renovation project that the Buildings & Grounds Committee recommends engagement of Vail Energy Services, LLC. to perform specific maintenance procedures, reports, and associated services to the HVAC system for a sum not-to-exceed \$3,552.00 for one year, has been approved.

ATTEST:

LEBANON BOROUGH COUNCIL

Karen Romano, RMC
Borough Clerk

Sam Berger, Council President

Introduced and adopted:
Ayes: 6
Nays:
Abstain:

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Municipal Clerk hereby certify that this resolution was duly adopted by the Council of the Borough of Lebanon at a meeting duly held on the 19th day of September, 2012; that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: September 19, 2012

Karen Romano, RMC, CMR
Municipal Clerk

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

Resolution #80-2012:

Councilman Knoble made a motion to approve Resolution #80-2012 with a second by Councilwoman Schmidt.



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**RESOLUTION # 80 - 2012
Automatic Temperature Control Services, Inc.**

WHEREAS, the governing body has commenced the renovation of the Borough Municipal Building, working in conjunction with its Buildings and Grounds Committee and the Special Advisory Committee on the renovation project; and

WHEREAS, a need has arisen for an ongoing maintenance program, or emergent tasks which must be accomplished in a timely manner so as to not delay the any repair; and

NOW THEREFORE, BE IT RESOLVED by the Council of the Borough of Lebanon with regard to the Municipal Building renovation project that the Buildings & Grounds Committee recommends engagement of Automatic Temperature Control Services, Inc. to perform specific maintenance procedures, reports, and associated services to the HVAC control system for a sum not-to-exceed \$3,120.00 for one year, has been approved.

ATTEST:

LEBANON BOROUGH COUNCIL

Karen Romano, RMC
Borough Clerk

Sam Berger, Council President

Introduced and adopted:
Ayes: 6
Nays: 0
Abstain:0

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Municipal Clerk hereby certify that this resolution was duly adopted by the Council of the Borough of Lebanon at a meeting duly held on the 19th day of September, 2012; that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: September 19, 2012

Karen Romano, RMC, CMR
Municipal Clerk

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

Resolution #81-2012:

Councilman Knoble made a motion to approve Resolution #81-2012 with a second by Councilwoman Schmidt.



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

**RESOLUTION # 81 - 2012
C CY 2012/SFY 2013 Best Practice Inventory Program
Best Practice Public Meeting Certification Form**

WHEREAS, the governing body has approved the **C CY 2012/SFY 2013 Best Practice Inventory** and

NOW THEREFORE, BE IT RESOLVED by the Council of the Borough of Lebanon with regard to the **C CY 2012/SFY 2013 Best Practice Inventory**, has been approved.

I hereby certify that the Governing Body of the Borough of Lebanon in the County of Hunterdon discussed and approved the CY 2012/SFY 2013 Best Practice Inventory as prepared by the Chief Financial Officer at a public meeting on September 19, 2012

Signature of Municipal Clerk	
Printed name of Clerk:	
RMC #:	
Date:	

ATTEST:

LEBANON BOROUGH COUNCIL

Karen Romano, RMC
Borough Clerk

Sam Berger, Council President

Introduced and adopted:

Ayes: 6

Nays: 0

Abstain:0

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Municipal Clerk hereby certify that this resolution was duly adopted by the Council of the Borough of Lebanon at a meeting duly held on the 19th day of September, 2012; that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: September 19, 2012

Karen Romano, RMC, CMR
Municipal Clerk

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

Resolution #82-2012:

Councilman Knoble made a motion to approve Resolution #82-2012 with a second by Councilwoman Schmidt.



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

RESOLUTION # 82 - 2012

WHEREAS, Pizzo & Pizzo, Inc. as the original Developer, and Presidential Place at Lebanon, LLC as the successor, received approval for and developed Block 3, Lots 1 and 3 in the Borough of Lebanon as a residential rental project; and

WHEREAS, the Developer has posted a surety performance bond and cash guarantee to insure the installation of public improvements in accordance with the Municipal Land Use Law and its prior approvals; and

WHEREAS, the Borough was notified that performance was substantially completed and the Borough Engineer, Paul W. Ferriero, P.E. inspected the improvements, and by report to the Lebanon Borough Governing Body dated August 1, 2012 has recommended the release of the Developer's original performance guarantee upon certain conditions as set forth in the said report attached hereto.

NOW THEREFORE BE IT RESOLVED by the Lebanon Borough Council that the Developer's original performance bond #0467253 guarantee be returned and the cash portion thereof be refunded subject to the following conditions:

1. Posting of an acceptable two year maintenance bond guarantee in the amount of \$153,810.00.
2. Posting of a cash bond in the amount of \$5,000.00 to address the following items, and upon completing these items, and review and written approval by the Borough Engineer, the said cash bond can be released:
 - (a) A Landscape "As-Built" Plan depicting changes to the shade tree and buffer plantings installed.
 - (b) Installation of a site identification sign as depicted on the signed plan drawings. If the Developer seeks to modify the pre-approved sign, the Developer shall pursue any variance and/or Hunterdon County approval for the sign and proposed location.

- (c) Submission of three copies of the “As-built” plans referenced in the Borough Engineer’s letter of August 1, 2012.
3. Upon receipt of an acceptable two year maintenance guarantee and the \$5,000.00 cash bond, the performance bond referenced hereinabove, shall be returned to the Developer.

ATTEST:

LEBANON BOROUGH COUNCIL

Karen Romano, RMC
Borough Clerk

Sam Berger, Council President

Introduced and adopted:
Ayes: 6
Nays: 0
Abstain:0

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Municipal Clerk hereby certify that this resolution was duly adopted by the Council of the Borough of Lebanon at a meeting duly held on the 19th day of September, 2012; that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: September 19, 2012

Karen Romano, RMC, CMR
Municipal Clerk

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

STREET OPENING PERMIT: Elizabethtown Gas requested a Street Opening permit for 71,73,77,78,79,82, and 85 Brunswick Ave.

Mayor Reino requested a motion to allow the Street Opening Permit with the approval of the Engineer and Shade Tree Committee.

Councilman Burton made a motion to approve the Street Opening Permit as stated with a second by Councilwoman Schmidt.

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None

COMMITTEE/ COMMISSION/BOARD UPDATES:

Shade Tree: Chairman Joe Hauck reported three lots in Lebanon were undeveloped. Kaplan will no longer be cutting the old Railroad Avenue area,

Recreation: Councilman Pittinger stated the Town Wide Yard Sale would be on September 22nd from 8am to 4 pm.

OPEN PUBLIC SESSION #2:

Councilman Knoble made a motion to open the public session. Councilman Pittinger seconded the motion with the unanimous approval of Council the floor was opened.

There being no public comment Councilman Knoble made a motion to close the public session. Councilman Pittinger seconded the motion with the unanimous approval of Council the floor was closed.

MISCELLANEOUS:

Attorney Novak reported the judgment regarding Pizzo and Pizzo vs. Lebanon Borough states Lebanon Borough now complies with all COAH requirements.

Codification-- no progress has been made.

RFP's for Snow Plowing Leaf Pick and Lawn Services have been mailed.

Mayor Reino requested a motion to enter into Executive Session to discuss a contractual issue regarding the building renovation.

Councilman Burton made a motion to approve the Resolution with a second by Councilwoman Schmidt.

The motion was passed by the following vote:

YES: Council President Berger Councilman Knoble, Councilman Pittinger, Councilman Junge, Councilman Burton and Councilwoman Schmidt

NO: None

ABSTAIN: None

ABSENT: None



**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

RESOLUTION #83 -2012

Whereas, the Open Public Meetings Act allows the Mayor and Council to exclude the public from a portion of a meeting in certain circumstances,

Now therefore, be it Resolved, by the Council of the Borough of Lebanon, that the public shall be excluded from discussion of the following matter(s):

- 1. A confidential matter under Federal or State Law or Court Rule.
- 2. A matter involving information that may jeopardize the Borough's rights to receive funds from the United States Government.
- 3. A matter constituting an unwarranted invasion of an individual's privacy rights.
- 4. Collective Bargaining Agreement or negotiation of the Agreement.
- 5. Matters involving the purchase, lease or acquisition of real property.
- 6. Tactics and techniques to protect the safety and property of the public, including investigations of violations or potential violations of the law.
- 7. Litigation Tax Court Matters _____ Anticipated Litigation _____
Contract Negotiations: _____
- 8. Matters falling within the attorney-client privilege: _____.
- 9. Personnel matters involving a specific employee or officer of the Borough: Policies.
- 10. Deliberations involving a public hearing which may result in the imposition of a specific civil penalty or suspension or loss of a license or permit.

The approved Executive Session minutes will be placed on file in the Borough Clerk's Office and will be available to the public as provided for by Law.

Be it further Resolved, that this Resolution shall take effect immediately.

Introduced and adopted:
Ayes: 6
Nays: 0
Absent: 0

LEBANON BOROUGH COUNCIL

Sam Berger, Council President

ATTEST:

Karen M. Romano, RMC
Borough Clerk

I certify that the foregoing is a true copy of the Resolution adopted by the Borough Council at a meeting held September 19, 2012.

Karen Romano, RMC
Borough Clerk

AJOURN:

Council President Berger moved and Councilman Burton seconded a motion to adjourn, there being no further business to come before Council. The meeting was adjourned at 9:15 PM by unanimous vote.

Respectfully Submitted

Karen M. Romano, RMC
Borough Clerk

