



LEBANON BOROUGH COMMON COUNCIL
Wednesday, February 19, 2020

The Regular Meeting of the Lebanon Borough Common Council was called to order by Mayor James J Pittinger at 7:30 pm.

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 Pittinger.

MOMENT OF SILENCE:

As of today, a total 8483 of American Service Members have given their lives for our Country in the war against terrorism, New Jersey total remains at 130. Mayor Pittinger requested a moment of silence in remembrance of all the service men and women who have paid the ultimate sacrifice. On behalf of a grateful nation, they are truly heroes.

ROLL CALL:

Present: Mayor Pittinger, Councilwoman Saharic, Council President Burton, Councilman Berger, Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

Absent:

Also, Present: Administrator /Clerk Karen M Romano RMC
and Attorney Joseph Novak Esq.

RESOLUTION #49-2020:

Council President Burton made a motion to approve Resolution 49 -2020 the Consent Agenda. With a second by Councilman Berger.

**BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
RESOLUTION # 49-2020
CONSENT AGENDA**

All matters listed under the Consent Agenda are 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. Resolution supporting Full Time Polytech- from Clinton
2. Tax Collector Annual Report 2019
3. Highlands Grant
4. Clinton/Lebanon Fire Safety Report
5. Lebanon Reform Church Annual Walk request
6. Animal Control Solutions Report
7. Finance Report
8. Tax Assessor Report

Introduced and adopted: February 19, 2020

Ayes: Saharic, Burton, Berger, Junge, Harris, Baldinger
Absent:

LEBANON BOROUGH COUNCIL

Richard J. Burton, Council President

ATTEST: _____

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Administrator/ Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on the February 19, 2020 force and effect as of the date I have subscribed my signature.

Date: February 19, 2020

Karen M. Romano, RMC
Borough Administrator/Clerk

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

NO:

Absent:

APPROVAL OF MINUTES:

Council President Burton made a motion to approve the January 2020 regular meeting minutes. With a second by Councilwoman Saharic.

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

NO:

Absent:

OPEN PUBLIC SESSION:

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

Lex Saharic of Main Street spoke of Poly-Tech going to the Exxon Property.

Former Michael Reino of Betty Ct spoke of the history of why the State Police were hired. He then offered to speak with the Public Safety Committee directly to share the research and findings of the previous committee.

Joe Hauck of Brunswick Ave state he has been here for 45 years and the State Police are the only Police that work. He gave examples of when Lebanon had it's own police department and when Lebanon was covered by Clinton Township on two different occasions.

Karen and Scott Murphy of Brunswick Ave stated the State Police were great. They see them all the time in town. They felt they were very responsive and have become an asset to Lebanon.

Mary Logan of Cherry Street stated when she was of Council, She continued Jeff Thornes research on the State Police along with Mike Reino and Mark Paradis. The State Police were far better trained and remain very cost effective. She also volunteered to assist the Public Safety Committee.

Jay Kumar of Maple Street said he was the grandson of a State Police officer. He stated they are like the "Navy Seals of Police". Living across from the school he sees them all day long.

Dan Elwell of Maple Street said he was also the Grandson of a State Police officer and the President of the Lebanon School Board. He stated the State Police were an asset to the School. Listing areas of assistance such as: crossing guards, DARE program, Safety programs, K9 programs, Flight safety and more. The school community feels they are doing a great job!

Greg Crawford of Brunswick Ave stated the State Police are doing a great job and their response Time is fantastic.

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

STREET OPENING: Mayor Pittinger request a motion approving the opening of a sewer easement on Corporate Drive. Administrator Romano stating the opening would be reviewed By the Sewer Engineer as well as the Borough Engineer.

Council President Burton made a motion to approve the Street Opening with a second by Councilman Berger.

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

NO:

Absent:

ORDINANCE 2020-01 ZONING MAP CHANGE INTRODUCTION:

Council President Burton made a motion to Introduce Ordinance 2020-01 with a second from Councilwoman Saharic

BOROUGH OF LEBANON

**COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

ORDINANCE NO. 2020-01

AN ORDINANCE OF THE BOROUGH OF LEBANON, COUNTY OF HUNTERDON, AMENDING AND SUPPLEMENTING CHAPTER 295, ENTITLED "ZONING", TO CHANGE THE BOROUGH ZONING MAP AND TO ESTABLISH A NEW R-MF-10 MULTI-FAMILY RESIDENCE 10 DISTRICT, AND TO SET FORTH THE STANDARDS AND CRITERIA APPLICABLE THERETO

WHEREAS, the Borough of Lebanon has a constitutionally mandated requirement to provide affordable housing; and

WHEREAS, the Borough Council desires to create additional opportunities for the creation of affordable housing with the Borough; and

WHEREAS, the Borough Council has determined that certain lands known as 135 Main Street, identified as Block 13.02, Lot 22 are suitable for inclusionary development: and

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Lebanon that a new multi-family residence district shall be established and designated as R-MF-10 Multi-Family Residence District, with the zoning map to be changed to reflect the new district, and to set forth standards and criteria in the district as follows:

SECTION 1.

Chapter 295 entitled “Zoning”, Subsection 295-101 is hereby deleted and replaced with the following new text:

§295-101. Zone Districts.

A. Designation of zoning districts. For the purposes of this Chapter, the Borough of Lebanon is hereby divided into the following districts or zones, which terms may be used interchangeably, to be designated as follows:

One-Family Residence (20,000 square feet)	R-1-20
One-Family Residence (15,000 square feet)	R-1-15
One-Family Residence (professional)	R-1-15P
Multifamily Residence	R-MF
Multifamily / Affordable Housing Element	R-MF/AH
Local Business	C-LB
Research-Office-Manufacturing	ROM-100,000
Research-Office-Manufacturing/Commercial	ROM-C-200,000
Research-Office-Manufacturing/Commercial	ROM-C-100,000
Multifamily Residence 10	R-MF-10

B. Zoning Map. The location and boundaries of the above districts are hereby established on the Zoning Map of the Borough of Lebanon in Hunterdon County, which is attached hereto and made a part of this Article. The Zoning Map is on file in the office of the Borough Clerk. Said map or maps and all notations, references and designations shown thereon shall be a part of this Article as if the same were all fully described and set forth herein, and accordingly are adopted as the March 2020 Lebanon Borough Zoning Map.

C. Designation of zone boundaries.

- (1) Unless otherwise noted, the district boundary lines are intended generally to follow the center lines of streets; the center lines of railroad rights-of-way; existing lot lines; and the municipal boundary lines. However, where a district boundary line does not follow such a line, its position shall be shown on the Zoning Map by a specific dimension expressing its distance in feet from a street line or other boundary line as indicated.
- (2) In the event that a district boundary line divides one or more lots, then the zone boundary line shall be considered the lot limit for computing all area, bulk, yard, buffer and any other dimension requirements specified in this Article, unless a zone district boundary line falls within 20 feet of a lot line existing at the time of passage of this Article, then the lot line shall be considered the zone boundary line.
- (3) In cases of uncertainty or disagreement as to the true location of any district boundary line, the determination shall be made by the Board of Adjustment.

SECTION 2.

Chapter 295 entitled “Zoning”, Subsection 295-114 is hereby deleted in its entirety and replaced as follows:

§ 295-114. Multifamily Residence 10, R-MF-10 Zone

- A. Permitted Principal Uses.
 - (1) Two-family dwellings.
 - (2) Multi-family dwellings.
- B. Permitted Accessory Uses.
 - (1) Public or private recreation facilities.
 - (2) Fences and walls.
 - (3) Off-street parking and garages.
 - (4) Trash enclosures.
 - (5) Signs.
 - (6) Public and private utilities.
- C. Area, Bulk and Yard Requirements.

- (1) Minimum lot size - 3 acres.
- (2) Minimum front yard setback - 30 feet.
- (3) Minimum side yard setback - 20 feet.
- (4) Minimum rear yard setback - 30 feet.
- (5) Density. Maximum density of the site shall not exceed ten (10) units per acre.
- (6) Minimum distance between buildings:
 - (a) Front to front - 60 feet.
 - (b) Side to side - 25 feet.
 - (c) Rear to rear - 50 feet.
 - (d) Other configuration - 30 feet.
- (7) Maximum building length - 100 feet.
- (8) Maximum building coverage - 45%.
- (9) Maximum impervious coverage - 60%.
- (10) Maximum building height - 2 stories and 35 feet.

D. Affordable Housing Requirements.

- (1) Twenty (20%) percent of the units shall be reserved for, and affordable to, low- and moderate-income households regardless of tenure. The units shall meet the low-/moderate-income split required by the Uniform Housing Affordability Controls (“UHAC”) except in lieu of ten (10%) percent of units at thirty-five (35%) percent of median income, the developer shall provide at least thirteen (13%) percent of the units as very-low income units at thirty (30%) percent of median income within each bedroom distribution.
- (2) The affordable units shall have a minimum thirty (30) year deed restriction. Any such affordable unit shall comply with UHAC, applicable affordable housing regulations, the Fair Housing Act, any applicable order of the Court, and other applicable laws.
- (3) The units shall meet the bedroom distribution required by the UHAC.

- (4) The developer shall be responsible for retaining the Borough's Administrative Agent, or an approved equivalent as approved by the Borough, at the developer's sole cost and expense.
- (5) All necessary steps shall be taken to make the affordable units provided creditworthy pursuant to applicable law.
- (6) The affordable units shall be dispersed throughout the site and be designed to be architecturally consistent with the market-rate units.

E. Lighting.

- (1) Parking lot lighting shall be no more than twenty (20) feet in height.
- (2) A minimum average of one-half (0.5) footcandle shall be maintained within parking lots. A minimum average of 0.3 footcandle shall be maintained over all pedestrian walkways.
- (3) Parking lot fixtures shall be full cut off.
- (4) Footcandles at the tract boundary shall not exceed one (1) footcandle, except where there are entrance/exit driveways.

F. Off-Street Parking Requirements.

- (1) All parking spaces shall measure no less than nine (9') feet in width by eighteen (18') feet in length.
- (2) Off-street parking shall be provided in accordance with RSIS.
- (3) There shall be no parking of recreational vehicles, trailers, or boats.
- (4) Hairpin striping shall be utilized to delineate parking spaces.

G. Building Design.

- (1) Building wall offsets, including both projections and recesses, shall be provided along any street-facing building wall measuring greater than thirty (30) feet in length in order to provide architectural interest and variety to the massing of a building and relieve the negative visual effect of a single, long wall.
- (2) The maximum spacing between such offsets shall be thirty-five (35) feet. The minimum projection or depth of any individual vertical offset shall not be less than one (1) foot.

- (3) Vertical offsets can include, but are not limited to, pilasters, projecting bays, changes in façade materials and balconies.
- (4) The architectural treatment of a façade shall be completely continued around all street-facing façades of a building. All sides of a building shall be architecturally designed to be consistent regarding style, materials, colors, and details.
- (5) If the building has a flat roof, a parapet shall project vertically to hide any roof-mounted mechanical equipment.
- (6) Roofline offsets shall be provided along any gable roof measuring more than forty (40) feet in length. The maximum spacing between such offsets shall be forty-five (45') feet.
- (7) Building façades visible from any street shall consist of durable, long-lasting materials such as brick, stone, cast stone, Hardie plank or other high-quality material.
- (8) Heating, ventilating and air-conditioning systems, utility meters and regulators, exhaust pipes and stacks, satellite dishes and other telecommunications receiving devices shall be screened or otherwise specially treated to be, as much as possible, inconspicuous as viewed from the public right-of-way and adjacent properties.

H. Landscaping.

- (1) Areas of the property not used for buildings, parking or other impervious surfaces shall be landscaped.
- (2) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts, provide windbreaks for winter winds and summer cooling for buildings, and enhance buffer areas. Plants and other landscaping materials shall be selected in terms of aesthetic and functional considerations. The landscape design shall create visual diversity and contrast through variation in size, shape, texture, and color. The selection of plants in terms of susceptibility to disease and insect damage, wind and ice damage, habitat, soil conditions, growth rate, longevity, root pattern, maintenance requirements, etc., shall be considered.
- (3) There shall be a minimum ten- (10) foot-wide landscaped buffer adjacent to any existing single-family properties. The only improvements that are permitted to encroach on this buffer are utilities and driveways.
- (4) Buffer plantings shall consist of a combination of shade trees, evergreen trees, ornamental trees, and shrubs. Existing shade and evergreen trees within the buffer area may be counted in fulfilling the required buffer planting.

- (5) Buffer plants shall include, at a minimum, the following:
 - (a) One shade tree for every seventy-five (75) linear feet of buffer.
 - (b) One evergreen tree for every forty (40) linear feet of buffer.
 - (c) Ten (10) shrubs for every fifty (50) linear feet of buffer.
 - (6) Buffer plants shall be the following size at the time of planting:
 - (a) Shade trees shall be planted at a minimum three (3") inch caliper and shall be a minimum of twelve (12) to fourteen (14) feet in height, balled and burlapped.
 - (b) Evergreen trees shall be planted at a minimum height of seven (7') feet, balled and burlapped.
 - (c) Shrubs shall be planted at a minimum of three (3') feet in height. All shrubs shall be evergreen.
 - (7) Foundation plantings shall be provided around all buildings. These plantings shall include species that provide seasonal interest at varying heights to complement and provide pedestrian scale to the proposed architectural design of the buildings. The foundation planting shall incorporate evergreen shrubs and groupings of small trees in order to provide human scale to building facades and winter interest.
 - (8) Street trees.
 - (a) Street trees shall be provided along all public streets, planted at an average of fifty (50) feet on center.
 - (b) The following species are permitted: October Glory Maple, Greenspire Linden, Village Green Zelkova, Red Sunset Maple.
 - (c) Street trees shall be a minimum three (3") inch caliper.
- I. Signs. The following types of signs shall be permitted:
- (1) Monument sign.
 - (a) One monument sign per street frontage.
 - (b) The maximum sign area (excluding the base) shall be thirty (30) square feet per side.

- (c) The maximum sign height shall be five (5') feet.
- (d) Monument signs shall be setback a minimum of ten (10') feet from any property line.
- (e) Monument signs may be illuminated.

J. Refuse.

- (1) Trash and recycling receptacles shall not be visible from the public street and shall be located in the rear or side yard.
- (2) All trash and recycling receptacles shall be screened by a solid fence or decorative masonry wall on three sides and a heavy-duty gate on the fourth.

K. Utilities. All utilities shall be underground.

L. Fences and walls.

- (1) Fences and walls within the front yard shall be a maximum of four (4') feet in height.
- (2) Fences and walls within the side and rear yards shall be a maximum of six (6') feet in height.

SECTION 3. Severability.

The various parts, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. Repealer.

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

SECTION 5. Effective Date.

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

ATTEST

BOROUGH OF LEBANON

Karen Romano, Administrator/Clerk

Richard Burton, Council President

Vote after public hearing and upon final adoption:

Berger _____

Burton _____

Junge _____

Saharic _____

Harris _____

Baldinger _____

Ordinance approved by the Governing Body and presented
To the Mayor on _____, 2020

Veto in Whole or Part:

Approved:

James P. Pittinger, Mayor
Date:

James P. Pittinger, Mayor
Date:

Returned to Borough Clerk with statement attached on _____, 2020.

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on February 19, 2020 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 March 18, 2020 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey.

Karen M. Romano, RMC, CMR
Administrator/Borough Clerk

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

NO:

Absent:

ORDINANCE 2020-02 AFFORDABLE HOUSING COMPLIANCE INTRODUCTION:

Council President Burton made a motion to Introduce Ordinance 2020-02 with a second from Councilwoman Saharic

BOROUGH OF LEBANON

**COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE BOROUGH OF LEBANON, COUNTY OF HUNTERDON, TO AMEND CHAPTER 80 “AFFORDABLE HOUSING” TO ADDRESS THE REQUIREMENTS OF THE FAIR HOUSING ACT AND THE UNIFORM HOUSING AFFORDABILITY CONTROLS (UHAC) REGARDING COMPLIANCE WITH THE BOROUGH’S AFFORDABLE HOUSING OBLIGATIONS.

WHEREAS, the Borough of Lebanon has a constitutional obligation to create a realistic opportunity for the construction of its fair share of the region’s need for affordable housing; and

WHEREAS, the Borough Council of the Borough of Lebanon desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

WHEREAS, the Borough voluntarily brought a timely declaratory judgment action pursuant to the procedures set forth by the Supreme Court in In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (“Mt. Laurel IV”) seeking approval of a Housing Element and Fair Share Plan that satisfies the Borough’s obligation to provide for its fair share of the regional need of low- and moderate-income housing; and

WHEREAS, after a Fairness Hearing held on November 22, 2019, by Order dated December 3, 2019, Hon. Thomas Miller, J.S.C. approved a settlement agreement between the Borough of Lebanon and Fair Share Housing Center, which established the Borough’s affordable housing obligations; and

WHEREAS, the Lebanon Planning Board will adopted a Housing Element and Fair Share Plan dated March 10, 2020 pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq., which addresses the requirements of N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq. as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, the Borough is desirous of amending and supplementing the Borough Code to implement the above-referenced Housing Element and Fair Share Plan, which has been endorsed by the Governing Body, and include provisions addressing Lebanon’s constitutional obligation to provide for its fair share of low- and moderate-income housing, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, et seq., as amended and supplemented, N.J.A.C. 5:80-26.1, et seq., as amended and supplemented, and the New Jersey Fair Housing Act of 1985; and

WHEREAS, this Ordinance is intended to provide assurances 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 those units.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Lebanon, with the Approval of the Mayor, that Chapter 80, entitled “Affordable Housing” and specifically Articles I, II and III are hereby repealed in their entirety and replaced as follows:

SECTION 1.

Article I. Affordable Housing Ordinance

§ 80-1. Title and Statutory Authorization.

- D. The title of this chapter shall be the “Affordable Housing” Ordinance.
- E. The Legislature of the State of New Jersey has, in the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., delegated the authority to local governments to adopt an ordinance to provide a realistic opportunity for sound shelter for low- and moderate-income households. Therefore, the Council of the Borough of Lebanon does ordain as follows:

§ 80-2. Monitoring and Reporting Requirements.

The Borough of Lebanon shall comply with the following monitoring and reporting requirements regarding the status of the implementation of its Court-approved Housing Element and Fair Share Plan:

- M. Beginning on the first anniversary of the execution of the Settlement Agreement, and on every anniversary of that date through July 1, 2025, the Borough agrees to provide annual reporting of its Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs (DCA), Council on Affordable Housing (COAH) or Local Government Services (LGS), or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center (FSHC) and posted on the municipal website, using forms developed for this purpose by DCA, COAH or LGS. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the source and amount of funds collected and the amount and purpose for which any funds have been expended.

- N. Beginning on the first anniversary of the execution of the Settlement Agreement, and on every anniversary of that date through July 1, 2025, the Borough agrees to provide annual reporting of the status of all affordable housing activity within the municipality through posting on the municipal website with a copy of such posting provided to FSHC, using forms previously developed for this purpose by COAH or any other forms endorsed by the Special Master and FSHC.
- O. By July 1, 2020, as required pursuant to N.J.S.A. 52:27D-313, the Borough will post on its municipal website, with a copy provided to FSHC and the Intervenor, a status report as to its implementation of its Plan and an analysis of whether any unbuilt sites or unfulfilled mechanisms continue to present a realistic opportunity. Such posting shall provide the opportunity for interested parties to submit comments to the Borough, with a copy to the court, FSHC, and the Intervenor, regarding whether any sites no longer present a realistic opportunity and should be replaced.
- P. Within 30 days of the third anniversary of the execution of the Settlement Agreement, and every third year thereafter until July 1, 2025, as required by N.J.S.A. 52:27D-329.1, the Borough will post on its municipal website, with a copy provided to FSHC, a status report as to its satisfaction of its very-low income requirements, including its family very-low income requirements. Such posting shall provide the opportunity for interested parties to submit comments to the Borough, with a copy to the court, and FSHC, regarding whether the Borough has complied with its very-low income housing obligation under the terms of the executed Settlement Agreement.

§ 80-3. Definitions.

- A. The following terms when used in this Ordinance shall have the meanings given in this Section:

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

ADAPTABLE - Constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

ADMINISTRATIVE AGENT - The entity designated by the Borough to administer affordable units in accordance with this Ordinance, N.J.A.C. 5:93, and UHAC (N.J.A.C. 5:80-26).

AFFIRMATIVE MARKETING - 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 - The average percentage of median income at which new restricted units in an affordable housing development are affordable to low- and moderate-income households.

AFFORDABLE - A sales price or rent level that is within the means of a low- or

moderate-income household as defined within N.J.A.C. 5:93-7.4, and, 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 HOUSING DEVELOPMENT - A development included in or approved pursuant to the Housing Element and Fair Share Plan or otherwise intended to address the Borough's fair share obligation, and includes, but is not limited to, an inclusionary development, a municipal construction project or a one hundred percent (100%) affordable housing development.

AFFORDABLE HOUSING PROGRAM(S) - Any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

AFFORDABLE UNIT - A housing unit proposed or created pursuant to the Act and approved for crediting by the Court and/or funded through an affordable housing trust fund.

AGENCY - 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 - 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 wherein the unit is situated are sixty-two years of age or older; or 2) at least eighty percent (80%) of the units are occupied by one person who is fifty-five years of age 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.

ALTERNATIVE LIVING ARRANGEMENT - A structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangements include, but are not limited to: transitional facilities for the homeless; Class A, B, C, D and E boarding homes as regulated by the State of New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

ASSISTED LIVING RESIDENCE - A facility that is 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 - A household that has been certified by an Administrative Agent as a low income household or moderate income household.

COAH - The Council on Affordable Housing, as established by the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301, et seq.), or any successor agency charged with the administration of the Act.

COURT – The Superior Court of New Jersey, Law Division, Hunterdon County, Vicinage 13.

DCA - The State of New Jersey Department of Community Affairs.

DEFICIENT HOUSING UNIT - A housing unit with health and safety code violations that requires 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 - Any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land included in a proposed development including the holder of an option to contract to purchase, or other person having an enforceable proprietary interest in such land.

DEVELOPMENT - 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.

INCLUSIONARY DEVELOPMENT - A development containing both affordable units and market rate units. This term includes, but is not limited to: new construction, the conversion of a non-residential structure to residential use and the creation of new affordable units through the gut rehabilitation or reconstruction of a vacant residential structure.

LOW-INCOME HOUSEHOLD - A household with a total gross annual household income equal to fifty percent (50%) or less of the regional median household income by household size.

LOW-INCOME UNIT - A restricted unit that is affordable to a low-income household.

MAJOR SYSTEM - 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 and load bearing structural systems.

MARKET-RATE UNITS - Housing not restricted to low- and moderate-income households that may sell or rent at any price.

MEDIAN INCOME - The median income by household size for the applicable housing region, as adopted annually by COAH or a successor entity approved by the Court.

MODERATE-INCOME HOUSEHOLD - A household with a total gross annual household income in excess of fifty percent (50%) but less than eighty percent (80%) of the regional median household income by household size.

MODERATE-INCOME UNIT - A restricted unit that is affordable to a moderate-income household.

NON-EXEMPT SALE - 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 - 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 - The maximum housing value in each housing region affordable to a four-person household with an income at eighty percent (80%) of the regional median as defined by duly adopted Regional Income Limits published annually by COAH or a successor entity.

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

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

UHAC - The Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26, et seq.

VERY-LOW INCOME HOUSEHOLD - A household with a total gross annual household income equal to thirty percent (30%) or less of the regional median household income by household size.

VERY-LOW INCOME UNIT - A restricted unit that is affordable to a very-low income household.

WEATHERIZATION 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 purposes of a rehabilitation program.

§ 80-4. Applicability.

- A. The provisions of this Ordinance shall apply to all affordable housing developments and affordable housing units that currently exist and that are proposed to be created within the Borough of Lebanon pursuant to the Borough's most recently adopted Housing Element and Fair Share Plan.
- B. Moreover, this Ordinance shall apply to all developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.
- C. Any property in the Borough of Lebanon that receives a rezoning, use or density variance, redevelopment or rehabilitation plan to permit a multi-family residential development of five or more units with a density at or above 6 units to the acre, shall provide an affordable housing set-aside of at least twenty percent (20%) of the residential units constructed, as required for developments located within the jurisdiction of the Highlands Water Protection and Planning Council, pursuant to N.J.S.A. 52:27D-329.9(a), whether the units will be for rent or will be for sale. No property shall be subdivided so as to avoid compliance with this requirement. All affordable units shall be governed by the provisions of this Ordinance. This requirement shall not apply to sites zoned for inclusionary residential development, which shall comply with the applicable zoning or redevelopment plan requirements of providing affordable housing units. This requirement does not, and shall not be construed to, grant any developer the right to any rezoning, variance, redevelopment designation or other relief or establish any obligations on the part of the municipality to grant such rezoning, variance, redevelopment designation or other relief.

§ 80-5. Alternative Living Arrangements.

- A. The administration of an alternative living arrangement shall be in compliance with N.J.A.C. 5:93-5.8 and Uniform Housing Affordability Controls (UHAC), with the following exceptions:

- (1) Affirmative marketing (N.J.A.C. 5:80-26.15), provided, however, that the units or bedrooms may be affirmatively marketed by the provider in accordance with an alternative plan approved by COAH or the Court;
 - (2) Affordability average and bedroom distribution (N.J.A.C. 5:80-26.3).
- B. With the exception of units established with capital funding through a twenty (20)-year operating contract with the Department of Human Services, Division of Developmental Disabilities, alternative living arrangements shall have at least thirty (30)-year controls on affordability in accordance with UHAC, unless an alternative commitment is approved by COAH or the Court.
- C. The service provider for the alternative living arrangement shall act as the Administrative Agent for the purposes of administering the affirmative marketing and affordability requirements for the alternative living arrangement.

§ 80-6. Inclusionary Zoning.

- A. To implement the fair share plan in a manner consistent with the terms of the September 18, 2019 Settlement Agreement (executed September 19, 2019), ensure the efficient use of land through compact forms of development, and to create realistic opportunities for the construction of affordable housing, inclusionary zoning shall be permitted on the following properties consistent with the provisions of Lebanon's Housing Element and Fair Share Plan and the terms of the Settlement Agreement.
- (1) Heights at Lebanon. The property is known as Block 10, Lots 2 and 2.01 with several condominium qualifiers.
 - (2) Presidential Place. This property is known as Block 3, Lot 1.
 - (3) Harvestate. This property is known as Block 4, Lots 1.03 and 1.04.
 - (4) Villa on Main. This property is known as Block 13.02, Lot 22.

§ 80-7. Phasing Schedule for Inclusionary Zoning.

In inclusionary developments the following schedule shall be followed:

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

§ 80-8. Fractional Units and Payments-in-Lieu.

- A. Inclusionary developments that result in a fractional affordable housing obligation of 0.4 or less may round the number of affordable units down. The Applicant/Developer shall make a pro-rated payment-in-lieu to cover the fraction.
- B. If the required number of affordable units results in a fraction of 0.5 or greater, the Applicant shall round up and provide the additional affordable unit.
- C. The payment-in-lieu for Lebanon shall be \$105,000 for 2020. The payment-in-lieu shall increase by 3% each year. To calculate the payment-in-lieu the developer shall multiply the fraction by the payment. For example, a fraction of 0.4 triggered in 2022 would require a payment of \$44,557.80. The payment shall be made to the Borough's Affordable Housing Trust Fund.

§ 80-9. New Construction.

- A. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:
 - (1) The fair share obligation 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. At least thirteen percent (13%) of all restricted rental units within each bedroom distribution shall be very-low income units (affordable to a household earning thirty percent (30%) or less of regional median income by household size). Fifty percent of the very-low income units shall be available to families. The very-low income units shall be counted as part of the required number of low-income units within the development.
 - (2) In each affordable development, at least fifty percent (50%) of the restricted units within each bedroom distribution shall be very-low or low income units.
 - (3) 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 twenty percent (20%) of the total low- and moderate-income units;
 - (b) At least thirty percent (30%) of all low- and moderate-income units shall be two bedroom units;
 - (c) At least twenty percent (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.

- (4) 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. This standard may be met by having all one bedroom units or by having a two-bedroom unit for each efficiency unit. The Borough shall not be permitted to claim credit to satisfy its obligations under the Settlement Agreement for age-restricted units that exceed twenty-five percent (25%) of all units developed.

B. 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 the following:
- (2) All restricted townhouse dwelling units and all restricted units in other multi-story 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; and
 - (b) An adaptable kitchen on the first floor; and
 - (c) An interior accessible route of travel on the first floor; and
 - (d) 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
 - (e) If not all of the foregoing requirements in (2)(a) through (2)(d) can be satisfied, then an interior accessible route of travel must be provided between stories within an individual unit, but if all of the terms of paragraphs (2)(a) through (2)(d) above have been satisfied, then an interior accessible route of travel shall not be required between stories within an individual unit; 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, or evidence that Lebanon has collected funds from the developer sufficient to make ten percent (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 ten percent (10%) of the affordable units that have been constructed with adaptable entrances.

[3] The funds deposited under paragraph (f)[2] above shall be used by the Borough of Lebanon for the sole purpose of making the adaptable entrance of an 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 to the Construction Official of the Borough of Lebanon for the conversion of adaptable to accessible entrances.

[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 that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's Affordable Housing Trust Fund in care of the Borough Treasurer who shall ensure that the funds are deposited into the Affordable Housing Trust Fund and appropriately earmarked.

C. 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. Design:

- (1) In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (2) In inclusionary developments, low- and moderate-income units shall have access to all of the same common elements and facilities as the market units.

D. 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, utilizing the most recently published regional weighted average of the uncapped Section 8 income limits published by HUD and the calculation procedures set forth in the Settlement Agreement dated September 18, 2019 (executed September 19, 2019).
- (2) The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than sixty percent (60%) of median income, and the average rent for restricted rental units shall be affordable to households earning no more than fifty-two percent (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, provided that at least thirteen percent (13%) of all low- and moderate-

income rental units shall be affordable to very-low income households, which very-low income units shall be part of the low-income requirement.

- (4) The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than seventy percent (70%) of median income, and each affordable development must achieve an affordability average of fifty-five percent (55%) for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different sales prices for each bedroom type, and low-income ownership units must be available for at least two different sales prices for each bedroom type.
- (5) In determining the initial sales prices and rent levels for compliance with the affordability average requirements for restricted units other than assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one (1) person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half (1.5) person household;
 - (c) A two-bedroom unit shall be affordable to a three (3) person household;
 - (d) A three-bedroom unit shall be affordable to a four and one-half (4.5) person household; and
 - (e) A four-bedroom unit shall be affordable to a six (6) person household.
- (6) In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units in assisted living facilities and age-restricted developments, the following standards shall be used:
 - (a) A studio shall be affordable to a one (1) person household;
 - (b) A one-bedroom unit shall be affordable to a one and one-half (1.5) person household; and
 - (c) A two-bedroom unit shall be affordable to a two (2) person household or to two one (1) 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 ninety-five percent (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 twenty-eight percent (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 thirty percent (30%) of the eligible monthly income of the appropriate size household, including an allowance for tenant paid utilities, 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 rents of very-low, low- and moderate-income units may be increased annually based on the permitted percentage increase in the Housing Consumer Price Index for the Northeast Urban Area. This increase shall not exceed nine percent (9%) in any one year. Rent increases for units constructed pursuant to low-income housing tax credit regulations shall be indexed pursuant to the regulations governing low-income housing tax credits.

§ 80-10. Utilities.

- A. Affordable units shall utilize the same type of heating source as market units within an inclusionary development.
- B. Tenant-paid utilities included in the utility allowance shall be set forth in the lease and shall be consistent with the utility allowance approved by HUD for the Section 8 program.

§ 80-11. Occupancy Standards.

In referring certified households to specific restricted units, the Administrative Agent shall, to the extent feasible and without causing an undue delay in the occupancy of a unit, strive to:

- A. Provide an occupant for each bedroom;
- B. Provide children of different sexes with separate bedrooms;
- C. Provide separate bedrooms for parents and children; and
- D. Prevent more than two (2) persons from occupying a single bedroom.

§ 80-12. 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, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Lebanon takes action to release the unit from such requirements; prior to such action, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- C. Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the Administrative Agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value without the restrictions in place.
- D. At the time of the initial sale of the unit, the initial purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors, and assigns) to repay, upon the first non-exempt sale after the unit's release from the restrictions set forth in this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- E. 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.
- F. 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 following the removal of the restrictions provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

§ 80-13. 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 master deeds of inclusionary developments shall provide no distinction between the condominium or homeowner association fees and special assessments paid by low- and moderate-income purchasers and those paid by market purchasers.
- 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 anticipated capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom. See Section 80-16.

§ 80-14. 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 fifty percent (50%) of median income and moderate-income ownership units shall be reserved for households with a gross household income less than eighty percent (80%) of median income.
- B. Notwithstanding the foregoing, the Administrative Agent may, upon approval by the Borough Council, and subject to the Court's approval, permit a moderate-income purchaser to buy a low-income unit if and only if the Administrative Agent can demonstrate that there is an insufficient number of eligible low-income purchasers in the housing region to permit prompt occupancy of the unit and all other reasonable efforts to attract a low-income purchaser, including pricing and financing incentives, have failed. Any such low-income unit that is sold to a moderate-income household shall retain the required pricing and pricing restrictions for a low-income unit.
- C. A certified household that purchases a restricted ownership unit must occupy it as the certified household's principal residence and shall not lease the unit; provided, however, that the Administrative Agent may permit the owner of a restricted ownership unit, upon application and a showing of hardship, to lease the restricted unit to another certified household for a period not to exceed one (1) year.
- D. 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 thirty-three percent (33%) of the household's eligible monthly income.

§ 80-15. Limitations on Indebtedness Secured by Ownership Unit; Subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the owner shall apply to the Administrative Agent for a determination in writing that the proposed indebtedness complies with the provisions of this Section, and the

Administrative Agent shall issue such determination prior to the owner incurring such indebtedness.

- B. With the exception of First Purchase Money Mortgages, neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed ninety-five percent (95%) of the maximum allowable resale price of the unit, as such price is determined by the Administrative Agent in accordance with N.J.A.C.5:80-26.6(b).

§ 80-16. Capital Improvements to Ownership Units.

- A. 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 made since the purchase of the unit. Eligible capital improvements shall be those that render the unit suitable for a larger household or that add an additional bathroom. In no event shall the maximum sales price of an improved housing unit exceed the limits of affordability for the larger household.
- B. Upon the resale of a restricted ownership unit, all items of property that are permanently affixed to the unit or were included when the unit was initially restricted (for example, refrigerator, range, washer, dryer, dishwasher, wall-to-wall carpeting) shall be included in the maximum allowable resale price. Other items may be sold to the purchaser at a reasonable price that has been approved by the Administrative Agent at the time of the signing of the agreement to purchase. The purchase of central air conditioning installed subsequent to the initial sale of the unit and not included in the base price may be made a condition of the unit resale provided the price, which shall be subject to ten (10) year, straight-line depreciation, has been approved by the Administrative Agent. Unless otherwise approved by the Administrative Agent, the purchase of any property other than central air conditioning shall not be made a condition of the unit resale. The owner and the purchaser must personally certify at the time of closing that no unapproved transfer of funds for the purpose of selling and receiving property has taken place at the time of or as a condition of resale.

§ 80-17. 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, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance for a period of at least thirty (30) years, until Lebanon takes action to release the unit from such requirements. Prior to such action, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented.
- B. 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 thirty (30) days of the receipt of a Certificate of Occupancy.

- C. 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 on the property containing the unit.

§ 80-18. Rent Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units 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 five percent (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.
- D. No rent control ordinance or other pricing restriction shall be applicable to either the market units or the affordable units in any development in which at least fifteen percent (15%) of the total number of dwelling units are restricted rental units in compliance with this Ordinance.

§ 80-19. 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 thirty percent (30%) of the regional median household income by household size.
 - (2) Low-income rental units shall be reserved for households with a gross household income less than or equal to fifty percent (50%) of the regional median household income by household size.
 - (3) Moderate-income rental units shall be reserved for households with a gross household income less than eighty percent (80%) of the regional median household income by household size.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very-low income household, low income household or a moderate income household, as applicable to the unit, and the rent proposed for the unit does not exceed thirty-five percent (35%) (forty percent (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 thirty-five percent (35%) (forty percent (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 thirty-five percent (35%) (forty percent (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 reliable anticipated 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 A.1. through B.5. above with the Administrative Agent, who shall counsel the household on budgeting.

§ 80-20. Reserved.

§ 80-21. Reserved.

§ 80-22. Reserved.

Article II. Municipal Housing Liaison.

§ 80-23. Purpose

The purpose of this article is to create the administrative mechanisms needed for the execution of the Borough of Lebanon's responsibility to promote and oversee the provision of affordable housing pursuant to the Fair Housing Act of 1985.

§ 80-24. Definitions.

A. As used in this article, the following terms shall have the meanings indicated:

ADMINISTRATIVE AGENT - The entity duly designated and responsible for administering the affordability controls on low- and moderate-income units created in the Borough of Lebanon to ensure that the restricted units are affirmatively marketed and sold or rented, as applicable, only to very-low, low- and moderate-income households.

MUNICIPAL HOUSING LIAISON - The municipal employee duly designated by the governing body with the responsibility for monitoring, reporting oversight and general administration of the affordable housing program for the Borough of Lebanon.

§ 80-25. Establishment of position and compensation; powers and duties.

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of Lebanon.
- B. Subject to the approval of the Court, the Municipal Housing Liaison shall be appointed by the governing body and may be a full- or part-time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for monitoring, reporting, oversight, and general administration of the affordable housing program for the Borough of Lebanon, including the following responsibilities which may not be contracted out to an Administrative Agent:
- (1) Serving as the Borough of Lebanon's primary point of contact for all inquiries from the state, affordable housing providers, administrative agents, and interested households;
 - (2) Monitoring the status of all restricted units in the Borough of Lebanon's Housing Element and Fair Share Plan;

- (3) Compiling, verifying, and publishing on the Borough's website all referenced monitoring reports as required by the Court;
 - (4) Coordinating meetings with affordable housing providers and the administrative agent(s) as applicable; and
 - (5) Attending continuing education programs as required to obtain and maintain certification as a Municipal Housing Liaison.
- D. Subject to approval by the Court, the Borough of Lebanon may contract with or authorize a consultant, authority, government or any agency charged by the governing body, which entity shall have the responsibility of administering the affordable housing program of the Borough of Lebanon. If the Borough of Lebanon contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and affirmative marketing plan, the Municipal Housing Liaison shall supervise the contracting administrative agent.
- E. Compensation. Compensation shall be fixed by the governing body at the time of the appointment of Municipal Housing Liaison.

Article III. Administrative Agent

§ 80-26. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of the Borough of Lebanon's responsibility to promote and oversee the provision of affordable housing pursuant to the Fair Housing Act of 1985.

§ 80-27. Establishment of position; powers and duties.

An Administrative Agent may be an independent entity serving under contract to and reporting to the municipality. The fees of the Administrative Agent shall be paid by the owners of the affordable units for which the services of the Administrative Agent are required. The Administrative Agent shall perform the duties and responsibilities of an Administrative Agent as set forth in UHAC, including those set forth in Sections 5:80-26.14, 16, and 18 thereof, which includes:

- A. Affirmative Marketing:
- (1) Conducting an outreach process to affirmatively market affordable housing units in accordance with the Affirmative Marketing Plan of the Borough of Lebanon and the provisions of N.J.A.C. 5:80-26.15; and
 - (2) Providing counseling or contracting to provide counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

B. Household Certification:

- (1) Soliciting, scheduling, conducting, and following up on interviews with interested households;
- (2) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
- (3) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
- (4) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 et seq.;
- (5) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located;
- (6) Employing a random selection process as provided in the Affirmative Marketing Plan of the Borough of Lebanon when referring households for certification to affordable units; and
- (7) Notifying the following entities of the availability of affordable housing units in the Borough of Lebanon: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, the Supportive Housing Association, and the Central Jersey Housing Resource Center.

C. Affordability Controls:

- (1) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
- (2) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
- (3) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the Hunterdon County Register of Deeds or Hunterdon County Clerk's office after the termination of the affordability controls for each restricted unit;
- (4) Communicating with lenders regarding foreclosures; and

- (5) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.

D. Resales and Re-rentals:

- (1) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or re-rental; and
- (2) Instituting and maintaining an effective means of communicating information to low- (or very-low) and moderate-income households regarding the availability of restricted units for resale or re-rental.

E. Processing Requests from Unit Owners:

- (1) Reviewing and approving requests for determination from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership that the amount of indebtedness to be incurred will not violate the terms of this Ordinance;
- (2) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the depreciated cost of central air conditioning systems;
- (3) Notifying the municipality of an owner's intent to sell a restricted unit; and
- (4) Making determinations on requests by owners of restricted units for hardship waivers.

F. Enforcement:

- (1) Securing annually from the municipality a list of all affordable housing units for which tax bills are mailed to absentee owners, and notifying all such owners that they must either move back to their unit or sell it;
- (2) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
- (3) Posting annually, in all rental properties (including two-family homes), a notice as to the maximum permitted rent together with the telephone number of the

Administrative Agent where complaints of excess rent or other charges can be made;

- (4) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
- (5) Establishing a program for diverting unlawful rent payments to the municipality's Affordable Housing Trust Fund; and
- (6) Creating and publishing a written operating manual for each affordable housing program administered by the Administrative Agent, to be approved by the Borough Council and the Court, setting forth procedures for administering the affordability controls.

G. Additional Responsibilities:

- (1) The Administrative Agent shall have the authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.
- (2) The Administrative Agent shall prepare monitoring reports for submission to the Municipal Housing Liaison in time to meet the Court-approved monitoring and reporting requirements in accordance with the deadlines set forth in this Ordinance.
- (3) The Administrative Agent shall attend continuing education sessions on affordability controls, compliance monitoring, and affirmative marketing at least annually and more often as needed.

Article IV. Affirmative Marketing Requirements.

§ 80-28. Affordable Marketing Requirements.

- A. The Borough of Lebanon shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, that is compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- B. 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 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 marketing activities toward Housing Region 3 and is required to be followed throughout the period of restriction.

- C. The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work in Housing Region 3, comprised of Hunterdon, Middlesex, and Somerset Counties.
- D. The municipality has the ultimate responsibility for adopting the Affirmative Marketing Plan and for the proper administration of the Affirmative Marketing Program, including initial sales and rentals and resales and re-rentals. The Administrative Agent designated by the Borough of Lebanon shall implement the Affirmative Marketing Plan to assure the affirmative marketing of all affordable units.
- E. 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.
- F. The Affirmative Marketing Plan shall describe the media to be used in advertising and publicizing the availability of housing. In implementing the Affirmative Marketing Plan, the Administrative Agent shall consider the use of language translations where appropriate.
- G. The affirmative marketing process for available affordable units shall begin at least four (4) months or one hundred twenty (120) days prior to the expected date of occupancy.
- H. Applications for affordable housing shall be available in several locations, including, at a minimum, the Middlesex County Administration Building, Somerset County Administration Building, Somerset County Library Headquarters, Hunterdon County Library Headquarters, and Lebanon Borough Municipal Building ; and the developer's rental office. Applications shall be mailed to prospective applicants upon request.
- I. In addition to other affirmative marketing strategies, the Administrative Agent shall provide specific notice of the availability of affordable housing units in Lebanon to the following entities: Fair Share Housing Center, the New Jersey State Conference of the NAACP, the Latino Action Network, NORWESCAP, Supportive Housing Association, and the Central Jersey Housing Resource Center.
- J. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner.

§ 80-29. Enforcement of Affordable Housing Regulations.

- A. Upon the occurrence of a breach of any of the regulations governing an 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, a requirement for household recertification, acceleration of all sums due under a mortgage, recuperation of any funds from a sale in 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(s) against the Owner, Developer or Tenant for any violation that remains uncured for a period of sixty (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 adjudged 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 five hundred dollars (\$500.00) per day or imprisonment for a period not to exceed ninety (90) days, or both, provided that each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not a continuation of the initial offense;
 - (b) In the case of an Owner who has rented a 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 a 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 that would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any such 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- or moderate-income unit.
 - (a) The 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 his right to possession terminated as well as his title conveyed pursuant to the Sheriff's sale.
 - (b) 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 the full 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 (2) 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 (2) 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.

- (c) 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.
- (d) 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.
- (e) 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.

- (f) 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.

§ 80-30. Appeals.

Appeals from all decisions of an Administrative Agent appointed pursuant to this Ordinance shall be filed in writing with the Court.

§ 80-31. Reserved.

SECTION 2. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 3. Repealer.

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only.

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, Administrator/Clerk

Richard Burton, Council President

Vote after public hearing and upon final adoption:

Berger _____

Burton _____

Junge _____

Saharic _____

Ordinance approved by the Governing Body and presented
To the Mayor on _____, 2020

Harris _____

Baldinger _____

Veto in Whole or Part:

Approved:

James P. Pittinger, Mayor
Date:

James P. Pittinger, Mayor
Date:

Returned to Borough Clerk with statement attached on _____, 2020.

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on February 19, 2020 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 March 18, 2020 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey.

Karen M. Romano, RMC, CMR
Administrator/Borough Clerk

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

NO:

Absent:

ORDINANCE 2020-03 AFFORDABLE HOUSING DEVELOPMENT FEES

INTRODUCTION:

Council President Burton made a motion to Introduce Ordinance 2020-02 with a second from Councilwoman Saharic

BOROUGH OF LEBANON

**COUNTY OF HUNTERDON
STATE OF NEW JERSEY**

ORDINANCE NO. 2020-03

AN ORDINANCE OF THE BOROUGH OF LEBANON, COUNTY OF HUNTERDON, TO AMEND CHAPTER 80 “AFFORDABLE HOUSING”, TO ADD ARTICLE V, TO BE ENTITLED “DEVELOPMENT FEES” TO PROVIDE FOR THE COLLECTION OF DEVELOPMENT FEES AS PERMITTED BY THE FAIR HOUSING ACT

WHEREAS, In Holmdel Builder’s Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and the State Constitution, subject to the adoption of Rules by the Council on Affordable Housing (COAH); and

WHEREAS, pursuant to P.L. 2008, c. 46, Section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH was authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring, and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that were under the jurisdiction of COAH and that are now before a court of competent jurisdiction and have a Court-approved Spending Plan may retain fees collected from non-residential development; and

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Lebanon that Chapter 80 is hereby amended to add Article V, as of the date of full adoption and Court approval, relating to the collection and disposition of mandatory development fees to be used in connection with the Borough's affordable housing programs, as directed by the Superior Court and consistent with N.J.A.C. 5:93-1, *et seq.*, as amended and supplemented, N.J.A.C. 5:80-26.1, *et seq.*, as amended and supplemented, and the New Jersey Fair Housing Act of 1985.

SECTION 1.

Chapter 80 entitled “Affordable Housing” is hereby supplemented with a new Article V entitled “Development Fees” as follows:

Article V. Development Fees.

§ 80-32. Affordable Housing Development Fees.

F. Purpose.

- (1) This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH’s regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole

purpose of providing very-low, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

G. Basic Requirements.

- (1) This Ordinance shall not be effective until approved by the Court.
- (2) The Borough of Lebanon shall not spend development fees until the Court has approved a plan for spending such fees (Spending Plan).

H. Definitions.

- (1) The following terms, as used in this Ordinance, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT - 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 one hundred percent (100%) affordable housing development.

COAH or the COUNCIL - The New Jersey Council on Affordable Housing established under the Fair Housing Act.

COURT - The Superior Court of New Jersey, Law Division, Hunterdon County, Vicinage 13.

DEVELOPMENT FEE - Money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH Rules.

DEVELOPER - The legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

EQUALIZED ASSESSED VALUE - The assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

GREEN BUILDING STRATEGIES - Those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

I. Residential Development Fees.

- (1) Imposition of Fees.
 - (a) Within the Borough of Lebanon, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
 - (b) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two (2)-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two (2)-year period preceding the filing of the variance application.
- (2) Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments.
 - (a) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Lebanon, shall be exempt from the payment of development fees.
 - (b) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.
 - (c) Improvements or additions to existing one- and two-family dwellings on individual lots shall not be required to pay a development fee, but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one (1) year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee

shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

- (d) Homes replaced as a result of a natural disaster (such as a fire or flood) shall be exempt from the payment of a development fee.

J. Non-Residential Development Fees.

(1) Imposition of Fees

- (a) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- (b) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- (c) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

(2) Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development.

- (a) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.
- (b) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations, and repairs.
- (c) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-

Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.

- (d) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.
- (e) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within forty-five (45) days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Lebanon as a lien against the real property of the owner.

K. Collection Procedures.

- (1) Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.
- (2) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (3) The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.
- (4) Within ninety (90) days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.
- (5) The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

- (6) Within ten (10) business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- (7) Should the Borough of Lebanon fail to determine or notify the developer of the amount of the development fee within ten (10) business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).
- (8) Except as provided in Section E(1)(C) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.
- (9) Appeal of Development Fees
 - (a) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Lebanon. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - (b) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within forty-five (45) days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Lebanon. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq.*, within ninety (90) days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

L. Affordable Housing Trust Fund.

- (1) There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Lebanon for the purpose of depositing development fees collected from residential and

non-residential developers and proceeds from the sale of units with extinguished controls.

- (2) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 - (a) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Lebanon.
 - (b) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
 - (c) Rental income from municipally operated units;
 - (d) Repayments from affordable housing program loans;
 - (e) Recapture funds;
 - (f) Proceeds from the sale of affordable units; and
 - (g) Any other funds collected in connection with Lebanon's affordable housing program.

- (3) In the event of a failure by the Borough of Lebanon to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs (DCA), Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Lebanon, or, if not practicable, then within the County or the Housing Region.
 - (a) Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

- (4) Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

M. Use of Funds.

- (1) The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Lebanon's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.
- (2) Funds shall not be expended to reimburse the Borough of Lebanon for past housing activities.
- (3) At least thirty percent (30%) of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third (1/3) of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning thirty percent (30%) or less of the median income for Housing Region 3, in which Lebanon is located.
 - (a) Affordability assistance programs may include down payment assistance, security deposit assistance, low-interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.
 - (b) Affordability assistance to households earning thirty percent (30%) or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning thirty percent (30%) or less of median income. The specific programs to be used for very-low income affordability assistance shall be identified and described within the Spending Plan.

- (c) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Lebanon, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (4) The Borough of Lebanon may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.
- (5) No more than twenty percent (20%) of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.
 - (a) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the twenty percent (20%) of collected development fees that may be expended on administration.
 - (b) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements.

N. Monitoring.

The Borough of Lebanon shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended.

O. Ongoing Collection of Fees.

- (1) The ability for the Borough of Lebanon to impose, collect, and expend development fees shall be permitted through the expiration of the repose period covered by its Judgment of Compliance and shall continue thereafter so long as the Borough of Lebanon has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

- (2) If the Borough of Lebanon is not pursuing authorization to impose and collect development fees after the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).
- (3) After the expiration of the Judgment of Compliance, or any extensions thereof, if the Borough does not pursue or obtain continued authorization, the Borough of Lebanon shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

§80-33. Reserved.

§80-34. Reserved.

SECTION 2. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 3. Repealer.

Any Ordinances or parts thereof in conflict with the provisions of these Ordinance are hereby repealed as to their inconsistencies only. **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, Administrator/Clerk

Richard Burton, Council President

Vote after public hearing and upon final adoption:

Berger _____

Burton _____

Ordinance approved by the Governing Body and presented

Junge _____ To the Mayor on _____, 2020

Saharic _____

Harris _____

Baldinger _____

Veto in Whole or Part:

Approved:

James P. Pittinger, Mayor
Date:

James P. Pittinger, Mayor
Date:

Returned to Borough Clerk with statement attached on _____, 2020.

NOTICE

TAKE NOTICE that the above ordinance was introduced at a regular meeting of the Borough Council of the Borough of Lebanon on February 19, 2020 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 March 18, 2020 at 7:30 p.m. in the Municipal Building, located at 6 High Street, Lebanon, New Jersey.

Karen M. Romano, RMC, CMR
Administrator/Borough Clerk

RESOLUTION #50-2020:

Councilman Junge made a motion to approve Resolution #50-2020 with a second by Councilman Berger.

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

RESOLUTION 50-2020

**APPOINTING ADMINISTRATIVE AGENTS TO ADDRESS
THE BOROUGH OF LEBANON
AFFORDABLE HOUSING OBLIGATIONS**

WHEREAS, the Borough of Lebanon petitioned the Superior Court of New Jersey for a Declaratory Judgment to determine that the Borough's proposed Housing Element and Fair Share Plan is compliant with its constitutional obligation to provide its fair share of the regional need for very-low, low, and moderate income housing; and

WHEREAS, the Borough's proposed 2020 Housing Element and Fair Share Plan ("Plan") will result in the creation of housing units affordable to and intended for occupancy solely by qualified very-low, low, and moderate-income households; and

WHEREAS, the Borough's Plan has a rehabilitation component and third round component and the Borough requires the assistance of an Administrative Agent for the Borough's rehabilitation program and third round program; and

WHEREAS, the Borough has received proposals from Community Grants, Planning and Housing ("CGP&H"), Triad Associates ("Triad") and Community Action Services ("CAS") for such administrative services; and

WHEREAS, the Borough Council of the Borough of Lebanon has reviewed the proposals and has determined to retain and designate CAS as its Administrative Agent for its rehabilitation program and CGP&H its Administrative Agent for all other components of the Housing Element and Fair Share Plan; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Lebanon, County of Hunterdon, State of New Jersey, that

1. The Borough hereby approves the retention of Community Action Services, P.O. Box 6025, East Brunswick, New Jersey 08816 as its Administrative Agent for the Borough's rehabilitation program in accordance with the terms of CAS's April 2018 proposal for Housing Rehabilitation Program Administrative Agent Services, at a cost not to exceed \$2,000 for preparation of the Housing Rehabilitation Manual and per completed unit for Housing Rehabilitation Program Management, as set forth in the proposal.
2. The Borough hereby approves the retention of Community Grants, Planning and Housing, 101 Interchange Plaza, Suite 301, Cranbury, New Jersey 08512 as its Administrative Agent for all other administrative services set forth in the Borough's Housing Element and Fair Share Plan, including but not limited to the Borough's operating manual and affirmative marketing plan, in accordance with the terms of the January 28, 2020 proposal submitted by CPG&H for Affordable Housing Administrative Agent and Housing Rehabilitation Administration, at a cost to the Borough not to exceed \$2,000 per year for the project setup fee, not to exceed \$2,000 per year for general administrative services and reimbursement of expenses not to exceed \$300, as set forth in the proposal; and
3. That the Mayor and the Administrator/ Clerk are authorized to execute Agreements with CAS and CGP&H on behalf of the Borough of Lebanon.
4. This Resolution shall take effect immediately.

Introduced and adopted: February 19, 2020

Ayes: Saharic, Burton, Berger, Junge, Harris, Baldinger
Absent:

LEBANON BOROUGH COUNCIL

Richard J. Burton, Council President

ATTEST: _____

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Administrator/ Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on the February 19, 2020 force and effect as of the date I have subscribed my signature.

Date: February 19, 2020

Karen M. Romano, RMC
Borough Administrator/Clerk

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger
NO:
Absent:

RESOLUTION #51-2020:

Council President Burton made a motion to approve Resolution #51-2020 with a second by Councilman Berger.

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

RESOLUTION: 51-2020

RESOLUTION ADOPTING A DOMESTIC VIOLENCE POLICY

WHEREAS, on or about October 15, 2019, the New Jersey Civil Service Commission issued a Statewide Domestic Violence Policy (DVP) for Public Employers, which is attached hereto; and

WHEREAS, pursuant to N.J.S.A. 11A:2-6a(b)(l), "The [Civil Service Commission]

shall develop a uniform domestic violence policy, which all public employers shall adopt and distribute to their employees, regardless of whether a public employer is subject to the provisions of Title 1 1A, Civil Service, of the New Jersey Statutes;" and

WHEREAS, the Borough of Lebanon seeks to update its Personnel Policies and Procedures Manual to comply with N.J.S.A. 1 1A:2-6a(b)(1).

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Borough Council of the Borough of Lebanon, in the County of Hunterdon, that the Borough of Lebanon Policies and Procedures Manual is updated as follows:

1. The Statewide DVP (which is attached hereto) shall be referenced and adopted in the Borough of Lebanon Personnel Policies and Procedures Manual.
2. The Borough of Lebanon Personnel Policies and Procedures Manual shall designate Karen M Romano and, as primary and Jennifer Mooney secondary Human Resources Officer (HRO) for purposes of the DVP.
3. The Table of Contents shall be updated to reflect the inclusion Borough's adoption of the Statewide DVP.

BE IT FURTHER RESOLVED that a copy of the updated Borough of Personnel Policies and Procedures Manual is on file with the Clerk's office; and

BE IT FURTHER RESOLVED that a copy of this Resolution shall be forwarded to the Borough Administrator/ Clerk for distribution to all Borough employees.

Introduced and adopted: February 19, 2020

Ayes: Saharic, Burton, Berger, Junge, Harris, Baldinger

Absent:

LEBANON BOROUGH COUNCIL

Richard J. Burton, Council President

ATTEST: _____

CERTIFICATION

I, Karen M. Romano, Lebanon Borough Administrator/ Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on the February 19, 2020 force and effect as of the date I have subscribed my signature.

Date: February 19, 2020

Karen M. Romano, RMC
Borough Administrator/Clerk

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

NO:

Absent:

RESOLUTION #52-2020: Tabled
BOROUGH OF LEBANON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY

RESOLUTION #52-2020
TABLED
EDITOR OF THE LANTERN

BE IT RESOLVED, by the Lebanon Borough Common Council that Barbara Schmidt be appointed as Editor of the Lantern newsletter:

BE IT FURTHER RESOLVED by the Lebanon Borough Council that the salary for the Editor of the Lantern having been established not to exceed \$2500.00, the following salary is hereby granted to the employee for the year 2020:

Introduced and adopted: February 19, 2020

Ayes: :

Nays:

Absent: 0

LEBANON BOROUGH COUNCIL

Richard J. Burton, Council President

ATTEST: _____

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 February 2020; 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.

Dated: February 19, 2020

Karen M. Romano, RMC
Borough Administrator/ Clerk

APPROVAL OF EXPENDITURES:

Councilwoman Saharic made a motion to approve the bill list for February 2020. Council President Burton second the motion.

Lebanon Borough

		List of Bills - (All Funds)		Meeting Date: 02/19/2020 For bills from 01/16/2020 to 02/14/2020	
Vendor	Description	Payment	Check Total		
Current Fund					
745 - BALANEY CONTRACTING LLC	PO 10280 Snow Removal / Salt - Borough 1/18/2020	2,272.00			
	PO 10281 Snow Removal at School 1/18/2020	112.00			
255 - BANISCH ASSOC., INC	PO 10259 Professional Services	5,204.50			
746 - BETHLEHEM TOWNSHIP	PO 10255 Shared Services CFO - February 2020	2,194.71			
26 - BOROUGH OF LEBANON - PETTY CASH	PO 10305 Replenish Petty Cash	169.46			
247 - COMCAST	PO 10296 Internet / Phone Services: 6 High Street	503.43			
652 - CONSTELLATION NEWENERGY INC	PO 10288 Electricity: 12/13/2019 - 1/13/2020	819.69			
13 - COUNTY OF HUNTERDON - COUNTY TAX	PO 10264 County Tax 1st Qtr. 2020	283,690.68			
14 - COUNTY OF HUNTERDON - LIBRARY TAX	PO 10266 Library Tax 1st Qtr. 2020	28,382.78			
15 - COUNTY OF HUNTERDON- OPEN SPACE TAX	PO 10265 Open Space Tax 1st Qtr. 2020	27,952.37			
817 - Danene Gooding	PO 10269 Tax Collectors - 2020 Membership Renewa	50.00			
39 - ELIZABETH TOWN GAS	PO 10284 Natural Gas 12/16/2019 - 1/13/2020	839.07			
46 - FERRIERO ENGINEERING	PO 10304 Professional Services: Engineering	498.75			
769 - Great America Financial Services	PO 10275 Phone System Lease January 2020	101.19			
83 - HORIZON BLUE CROSS BLUE SHIELD NJ	PO 10273 Employee Dental 2/1/2020 - 3/1/2020	201.31			
737 - Hunterdon County Democrat	PO 10285 2020 Annual Subscription	49.99			
16 - JCP&L	PO 10258 Electricity	143.03			
	PO 10286 Electricity	1,203.13			
	PO 10307 Electricity	126.46			
597 - JERSEY ELEVATOR COMPANY INC.	PO 10298 Monthly Maintenance February 2020	146.79			
167 - KAREN ROMANO	PO 10256 Cell Phone Reimbursement - February 202	100.00			
557 - LANDMARK FIRE PROTECTION, INC.	PO 10260 1st Qtr 2020 Fire Sprinkle Testing & Ins	460.00			
59 - LEBANON BOROUGH BOARD OF EDUCATION	PO 10257 Local School Tax February 2020	282,894.20			
119 - LEBANON FIRE COMPANY	PO 10253 2020 Annual Contribution - Partial Payme	10,000.00			
715 - Maser Consulting P.A.	PO 10289 Affordable Housing	143.00			
9 - MUNICIPAL SOFTWARE, INC	PO 10234 2020 Annual Support	6,963.00			
253 - NEW JERSEY STATE POLICE	PO 10287 State Police Service: December 2019	3,521.52			
54 - NJ ADVANCE MEDIA	PO 10268 Lebanon Borough 2020 Meeting Dates and T	48.89			
	PO 10282 Advertising Resolution 15-2020 Professi	47.96			
	PO 10283 Legal Advertising - Resolution 13-2020	102.12			
31 - NOVAK & NOVAK LLC	PO 10254 Legal Services Retainer February 2020	4,083.33			
233 - PITNEY BOWES	PO 10293 Postage Machine Rental: 2/16/2020 - 5/15	75.00			
20 - QUILL CORPORATION	PO 10252 Office Supplies	223.96			
	PO 10261 Office Supplies	229.98			
	PO 10301 Office Supplies	129.71			
830 - Republic Services	PO 10274 Monthly Garbage Disposal January 2020	6,765.00			
487 - RICHARD BURTON	PO 10279 Mileage Reimbursement for League of Muni	155.44			
453 - RR DONNELLY	PO 10197 Vital Records Forms	73.50			
176 - SHOPRITE OF HUNTERDON COUNTY	PO 10292 Recreation, Clerk & Building and Grounds	140.37			
540 - STATESIDE INSURANCE FUND	PO 10271 1st Installment of Insurance 2019	8,460.50			
291 - STORM WATER COMPLIANCE SOLUTIONS LL	PO 10272 Municipal Compliance Services:	1,406.25			
765 - Tele Cloud, LLC	PO 10295 Monthly Phone Service: 2/1/2020 to 2/29/	246.39			
808 - Thermal Service of New Jersey Inc.	PO 10299 Monthly Billing of PM Service Contract -	330.00			
43 - TOWN OF CLINTON	PO 10302 Water Bill: Nov / Dec / Jan 2020	152.91			
718 - VIKING PEST CONTROL	PO 10306 Pest Control February 2020 - 6 High Stre	107.45			
11 - VITAL COMMUNICATIONS, INC	PO 10291 MOD IV Tax Master File - 2020	100.00			
27 - WASTE MANAGEMENT OF NJ INC	PO 10300 Municipal Waste - 1/1/2020 - 1/31/2020	4,948.54			
FEDERAL AND STATE GRANTS					
46 - FERRIERO ENGINEERING	PO 10303 Professional Services Stormwater Managem	3,063.75			
715 - Maser Consulting P.A.	PO 10290 Professional Services: HEFSP	2,029.25			
GENERAL CAPITAL FUND					
46 - FERRIERO ENGINEERING	PO 10262 Professional Services: Cokesbury Road	779.00			
448 - TOP LINE CONSTRUCTION CORP	PO 10170 Cokesbury Road Resurfacing	33,327.81			
ANIMAL CONTROL FUND					
321 - NJ DEPT OF HEALTH & SENIOR SVCS	PO 10294 Animal License Fees January 2020	165.00			
SENIOR CITIZEN FUND					
663 - DAVID A. TENNY SR. DBA/TRIPLE D TRA	PO 10276 Deposit Senior Trip: Wind Creek Casino 6	100.00			
663 - DAVID A. TENNY SR. DBA/TRIPLE D TRA	PO 10278 Deposit Senior Trip: Wind Creek 11/16/20	100.00			
752 - Good Times Tours, Inc	PO 10277 Deposit Senior Trip: The Pines Theatre 9	300.00			
140 - HUNTERDON HILLS PLAYHOUSE	PO 10263 Deposit for Seniors Trip 5/30/2020	200.00			
176 - SHOPRITE OF HUNTERDON COUNTY	PO 10292 Recreation, Clerk & Building and Grounds	38.21			
TOTAL					726,673.38
Total to be paid from Fund 01 Current Fund		686,570.36			
Total to be paid from Fund 02 FEDERAL AND STATE GRANTS		5,093.00			
Total to be paid from Fund 04 GENERAL CAPITAL FUND		34,106.81			
Total to be paid from Fund 12 ANIMAL CONTROL FUND		165.00			
Total to be paid from Fund 13 SENIOR CITIZEN FUND		738.21			
					726,673.38
Checks Previously Disbursed					
21520	NJ STATE HEALTH BENEFITS PLAN	PO# 10297	Employee Health Benefits January 2	4,223.48	2/14/2020
2032020	DEPOSITORY TRUST CO	PO# 10270	Payment of Bond Principal and Inte	210,737.25	2/07/2020
21720	BOROUGH OF LEBANON-EMAIL SERVICE	PO# 10267	Email Services January 2020	223.16	1/22/2020
20201501	LEBANON BOROUGH PAYROLL		PAYROLL 1/15/2020	10,514.41	1/10/2020
11556	Hunterdon County Municipal Clerks' Assoc.	PO# 10251	Clerks Meeting / Luncheon: January	60.00	1/17/2020
					225,758.30

Totals by fund	Previous Checks/Voids	Current Payments	Total
Fund 01 Current Fund	225,758.30	686,570.36	912,328.66
Fund 02 FEDERAL AND STATE GRANTS		5,093.00	5,093.00
Fund 04 GENERAL CAPITAL FUND		34,106.81	34,106.81
Fund 12 ANIMAL CONTROL FUND		165.00	165.00
Fund 13 SENIOR CITIZEN FUND		738.21	738.21
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BILLS LIST TOTALS	225,758.30	726,673.38	952,431.68

The Motion was passed by the following vote:

YES: Councilwoman Saharic, Council President Burton, Councilman Berger Councilman Junge, Councilwoman Harris and Councilwoman Baldinger

NO:

Absent:

OPEN PUBLIC SESSION:

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

Sargent Walsh and Trooper Sanderson Thanked Everyone for coming out to support the State Police. Trooper Sanderson stated the individuals from the incident at the Heights of Lebanon in 2017 were arrested and the case was now closed.

Greg Crawford of Brunswick Ave asked if seeking another police force was a rumor. Mayor Pittinger stated Clinton Township submitted a proposal. He stated he did not request the proposal. The Public Safety Committee was doing their do diligence.

Jay Kumar of Maple described a speeding White Tahoe while walking his dog being a concern. Michelle Saharic of Knox lane said it was her, but she wasn't speeding.

Sargent Walsh spoke about the perception of speeding

Mary Logan of Cherry Street asked if her proposed Ordinance regarding foreclosures was still being considered. Administrator Romano answered yes it was still under review.

Mike Girgis of Superior Towing suggested Business Sponsors to off set the cost of the Lantern newsletter.

Councilwoman Saharic spoke of the confusing occurring regarding every other week Recycling and what was considered Recycling items.

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

DISCUSSION:

Administrator Romano asked Council to review the Comcast Ordinances in the packet for the March meeting along with the 2020 Land Use Element.

MISCELLANEOUS:

COUNCIL COMMITTEES:

ADJOURN:

Councilman Junge moved and Council President Burton seconded a motion to adjourn, there being no further business to come before Council. The meeting was adjourned at 9:45 pm by unanimous vote.

Respectfully Submitted

Karen M. Romano, RMC
Borough Administrator/Clerk

LBCC
7-17-13
71

LBCC
7-17-13
72

