



**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.

- A. The title of this chapter shall be the "Affordable Housing" Ordinance.
- B. 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:

- A. 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.
- B. 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.
- C. 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.

- D. 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.

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

C. 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 1

Burton 1

Junge 1

Saharic 1

Harris 1

Baldinger 1

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

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

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Lebanon, in the County of Hunterdon, State of New Jersey, held in the Municipal Building on the 19th day of February 2020, and the same came up for final passage at a meeting of the said Borough Council on the 18th day of March, 2020 at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Lebanon, County of Hunterdon and State of New Jersey.

Karen M. Romano, RMC
Borough Administrator/ Clerk

**INTRODUCED: February 19, 2020
ADOPTED: March 18, 2020**

