



**Clarke Caton Hintz**

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# Amended Third Round Housing Element & Fair Share Plan

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**Adopted by the Planning Board May 19, 2010**





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- Appendix D. Coach House LLC Approving Resolution**
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## **EXECUTIVE SUMMARY**

This amended third round housing element and fair share plan has been prepared for the Borough of Lebanon, Hunterdon County in accordance with the 2008 revised rules of the New Jersey Council on Affordable Housing (“COAH”) at N.J.A.C. 5:96 et seq. and N.J.A.C. 5:97 et seq. In addition, as the Borough of Lebanon is under the jurisdiction of the New Jersey Highlands Water Protection and Planning Council (“Highlands Council”), the Borough’s affordable housing plan components were reviewed for consistency with the Highlands Regional Master Plan (“Highlands RMP”). This amended third round housing element and fair share plan was also guided by COAH’s August 12, 2009 Guidance for Municipalities that Conform to the Highlands Regional Master Plan as well as the August 2009 Highlands Council “Module 3: Housing Element and Fair Share Plan Instructions – Highlands Mod 3”.

This plan is an amendment to the previous third round housing element and fair share plan adopted by the Planning Board and endorsed by the Borough Council in June 2006 and subsequently submitted as a third round petition to COAH. This Plan will serve as the foundation for the Borough’s submission to Superior Court for a Judgment of Compliance and Repose by June 8, 2010. The Plan will also be submitted to the Highlands Council by June 8, 2010.

There are three components to a municipality’s affordable housing obligation: the rehabilitation share, the prior round obligation and the third round obligation. The Borough’s total affordable housing obligation can be summarized as the following:

- Rehabilitation Obligation: 3 units
- Prior Round Obligation: 34 units
- Third Round Obligation: 30 units (Highlands RMP)

The Borough will satisfy the rehabilitation obligation with new construction units from the Presidential Place and Coach House LLC developments, the prior round obligation will be satisfied by the Heights of Lebanon and Presidential Place developments and the third round will be satisfied with a group home, remaining units at Presidential Place and an accessory apartment program.



## **AFFORDABLE HOUSING IN NEW JERSEY**

### **INTRODUCTION TO COAH**

In its landmark 1975 decision referred to now as “*Mount Laurel I*”, the New Jersey Supreme Court ruled that developing municipalities have a constitutional obligation to provide a realistic opportunity for the construction of low and moderate income housing.<sup>1</sup> In its 1983 “*Mount Laurel II*” decision, the Supreme Court extended the obligation to all municipalities, designated the State Development Guide Plan or any successor State Plan as a critical touchstone to guide the implementation of this obligation and created an incentive for private developers to enforce the “*Mount Laurel* doctrine” by suing municipalities which are not in compliance.<sup>2</sup>

In 1985, the Fair Housing Act (“FHA”) (N.J.S.A. 52:27D-310) was adopted as the legislative response to the *Mt. Laurel* court decisions. The FHA created the Council on Affordable Housing as the administrative alternative to the Courts. COAH is responsible for establishing housing regions, estimating low and moderate income housing needs, setting criteria and guidelines for municipalities to determine and address their fair share numbers, and reviewing and approving housing elements and fair share plans.

Municipalities have the option of filing their adopted and endorsed housing elements and fair share plans with COAH and petitioning for COAH’s approval, known as “substantive certification”. Municipalities that opt to participate in the COAH certification process are granted a measure of legal protection against exclusionary zoning litigation. By petitioning, COAH allows a municipality to maximize control of its planning and zoning options in addressing its affordable housing obligation. Similarly, under the FHA, a municipality can apply to the Superior Court for a Final Judgment of Compliance and Repose, which is the judicial equivalent of COAH’s grant of substantive certification.

Under the Municipal Land Use Law (“MLUL”), a municipal Planning Board must adopt the housing element as part of the Master Plan. COAH’s process also requires the governing body to endorse the housing element by resolution. In addition, the governing body’s resolution requests that COAH review the housing element and fair share plan along with supporting documents for substantive certification action. Once the municipality’s housing element and fair share plan have been granted substantive

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<sup>1</sup> Southern Burlington NAACP v. Township of Mt. Laurel, 67 NJ 151 (1975)

<sup>2</sup> Southern Burlington NAACP v. Township of Mt. Laurel, 92 NJ 158 (1983)





certification by COAH, the municipality's zoning ordinance enjoys a presumption of validity against any lawsuits challenging it.

### **COAH'S FIRST AND SECOND ROUND METHODOLOGY**

The FHA empowered COAH to create criteria and guidelines for municipalities to determine and address their respective fair share numbers. In response, COAH established a formula for determining municipal affordable housing obligations for the six-year period between 1987 and 1993 (*N.J.A.C. 5:92-1 et seq.*), which became known as the "first round." That formula was superseded by the 1994 COAH regulations (*N.J.A.C. 5:93-1.1 et seq.*) which recalculated a portion of the 1987-1993 affordable housing obligation for each municipality and computed the additional municipal affordable housing need from 1993 to 1999; this 12 year cumulative period from 1987 through 1999 is known as the "second round."

### **COAH'S THIRD ROUND METHODOLOGY**

On December 20, 2004, COAH's first version of the third round rules became effective. At that time the third round was defined as the time period from 1999 to 2014 condensed into an affordable housing delivery period from January 1, 2004 through January 1, 2014. The third round rules marked a significant departure from the methodology utilized in COAH's two prior rounds. Previously, COAH assigned an affordable housing obligation as an absolute number to each municipality. These third round rules implemented a "growth share" approach that linked the production of affordable housing with future residential and non-residential development within a municipality. Each municipality was required to project the amount of residential and nonresidential growth that would occur during the period 2004 through 2014. Then municipalities were required to provide one affordable unit for every 8 market rate housing units developed and one affordable unit for every 25 jobs created (expressed as non-residential building square footage).

However, in a unanimous decision in January 2007, the New Jersey Appellate Court invalidated key aspects of COAH's third round rules. The Court ordered COAH to propose and adopt amendments to its rules to address the deficiencies identified by the Court. COAH's revised rules, effective on June 2, 2008 as well as a further rule revision, adopted September 22, 2008 and effective on October 20, 2008, provide residential development and job projections for the third round (which was expanded to encompass the years 2004 through 2018). Additionally, COAH revised its ratios to require one



affordable housing unit for every four market rate housing units developed and one affordable housing unit for every 16 jobs created, still expressed as non-residential building square footage. As discussed below, municipalities within the Highlands that are conforming with the Highlands RMP are required to use the aforementioned affordable housing ratios; however, they may elect to utilize either COAH's household and employment projections or the projections based on the Highlands RMP build-out under Module 2.

Municipalities must set forth in the Housing Element and Fair Share Plan how they intend to accommodate the projected affordable housing obligation. However, COAH's substantive rules also require that a municipality provide a realistic opportunity for affordable housing in proportion to its actual growth during the third round as expressed in permanent certificates of occupancy issued for residential and nonresidential development.

### **HIGHLANDS REGIONAL MASTER PLAN**

In 2008, the Borough began the process of preparing a revised third round housing element and fair share plan to address COAH's revised third round rules at N.J.A.C. 5:96 et seq. and 5:97 et seq., which became effective on June 2, 2008. During the same time period, the Borough reviewed the Highlands RMP and initiated conversations regarding participation in the Highlands RMP conformance process.

On September 5, 2008, Governor Corzine issued Executive Order #114 to coordinate actions between COAH and the Highlands Council. The Executive Order directed the Highlands Council to work with COAH and the Department of Environmental Protection ("DEP") to establish a framework for municipalities in the Highlands to provide for a realistic opportunity for affordable housing while also conforming to the Highlands RMP.

In response to the Executive Order, in October, 2008, COAH and the Highlands Council entered into a Memorandum of Understanding (MOU) that outlined the structure of the relationship between COAH and the Highlands Council. Among other items, the MOU provided for joint determinations of the suitability of affordable housing sites. Additionally, the MOU identified a process for developing revised growth projections for Highlands municipalities that are consistent with the RMP. Under the MOU, the projections created under this process would serve as the basis for allocating third round growth share obligations to municipalities in the Highlands.



Pursuant to the MOU, COAH granted waivers from the December 31, 2008 petition submission deadline established in its rules at N.J.A.C. 5:96-16.2(a) for Highlands municipalities that submitted: 1) a Notice of Intent in accordance with the Highlands Council's Plan Conformance Guidelines; and 2) submitted an adopted resolution notifying COAH of its intent to petition COAH no later than December 8, 2009. COAH also imposed a scarce resource order for all municipalities in the Highlands that are under COAH jurisdiction in order to preserve scarce land, water, and sewer capacity for the production of affordable housing. The Borough accepted the December 8, 2009 extension.

On August 12, 2009, COAH again extended the deadline for municipalities in the Highlands Region to petition for substantive certification from December 8, 2009 to June 8, 2010. COAH also adopted *Guidance for Municipalities that Conform to the Highlands Regional Master Plan*, and granted a waiver from COAH's regulations that outlined how a municipality may calculate its projected growth share obligation. Instead, COAH permitted a municipality to base its third round growth share obligation on projections completed under the Highlands Module 2 build-out analysis. On August 20, 2009, the Highlands Council issued additional instructions on completing a housing element and fair share plan.

#### **RECENT EFFORTS AT AFFORDABLE HOUSING REFORM**

On July 17, 2008 Governor Corzine signed P.L.2008, c.46 (also known as the "Roberts Bill" after NJ Assembly Speaker Joseph Roberts), which amended the Fair Housing Act in a number of ways. Key provisions of the bill included the following:

- Established a statewide 2.5% nonresidential development fee instead of a nonresidential growth share delivery for affordable housing;
- Eliminated regional contribution agreements; and
- Requirement for 13% of affordable housing units and 13% of all units funded by the Balanced Housing Program and the Statewide Affordable Housing Trust Fund to be restricted to very low income households (30% or less of median income).

COAH has not yet promulgated rules to effectuate the "Roberts Bill". COAH's 2008 revised third round rules were again challenged and the Appellate Division heard oral arguments in late 2009. A decision is expected in the spring of 2010. In addition, on July 27, 2009, Governor Corzine signed P.L. 2009, c. 90 "NJ Economic Stimulus Act of



2009”, which instituted a moratorium on the collection of non-residential affordable housing development fees.

On February 9, 2010, new Governor Chris Christie signed Executive Order No. 12. This Order established a five-member Housing Opportunity Task Force which was charged with reviewing the effectiveness of the Fair Housing Act, COAH and COAH’s regulatory structure in meeting the constitutional obligations under the *Mount Laurel* doctrine. The Executive Order also ordered COAH to refrain from continuing to process applications for substantive certification or from otherwise implementing the third round rules during the Housing Opportunity Task Force’s 90-day review period. On February 19, 2010, the Appellate Division issued a stay on the portion of the Executive Order that prevented COAH from processing applications and implementing its third round rules. On March 20, 2010, Governor Christie issued Executive Order No. 20, which rescinded Executive Order No. 12.

The Governor’s Executive Order No. 20 coincided with the release of the report prepared by the Housing Opportunity Task Force on March 20, 2010. In the report, the Task Force recommended that the Governor revisit COAH’s original growth share methodology, reinstate the use of regional contribution agreements and eliminate prior round obligations. To date, the Christie Administration has not advanced the recommendations outlined in the Task Force’s report.

In addition to affordable housing reform activities in the Executive branch, the legislature has introduced a number of pieces of legislation aimed at reforming affordable housing in New Jersey. The most notable is Senate Bill No. 1, known as “S-1”, which would abolish COAH and completely restructure the State’s affordable housing operation. Despite all of this uncertainty about the future of COAH, the Borough must proceed with its compliance with the current COAH regulations, which require the Borough to petition for third round substantive certification by June 8, 2010 in order to remain under COAH’s jurisdiction and therefore be protected from builder’s remedy lawsuits.

A municipality’s third round fair share plan must address (1) its rehabilitation share, (2) the prior round obligation and (3) the COAH-projected third round growth share obligation or the Highlands projections based on actual growth through 2008 and the RMP build-out for Module 2. The rehabilitation share is the estimated number of existing substandard housing units in a municipality that are occupied by low or moderate income households, as determined by COAH (Appendix B. to *N.J.A.C. 5:97*). The prior round obligation is a municipality’s adjusted second round new construction



component brought forward to the third round (Appendix C. to *N.J.A.C.* 5:97). Third round housing plans must document how existing or proposed affordable housing units satisfy this prior round obligation.

As stated above, the third round obligation is based on growth projections for the period of 2004 and 2018. Municipalities within the Highlands that are conforming with the RMP are required to use the aforementioned affordable housing ratios. Lebanon Borough has elected to utilize the Highlands Council's household and employment projections. A more detailed explanation of how the third round growth share obligation is established is described later in the plan.

#### **AFFORDABILITY REQUIREMENTS**

Affordable housing is defined under New Jersey's Fair Housing Act as a dwelling, either for sale or rent that is within the financial means of households of low or moderate income as income is measured within each housing region. The Borough of Lebanon is in COAH's Region 3, which includes Hunterdon, Somerset and Middlesex counties. Moderate-income households are those earning between 50% and 80% of the regional median income. Low-income households are those with annual incomes that are between 30% and 50% of the regional median income. With changes to the law in July of 2008, COAH has also created a very low-income category, which is defined as households earning 30% or less of the regional median income.

Through the Uniform Housing Affordability Controls ("UHAC") at *N.J.A.C.* 5:80-26.3(d) and (e), COAH requires that the maximum rent for a qualified unit be affordable to households that earn no more than 60% of the median income for the region. The average rent must be affordable to households earning no more than 52% of the median income. The maximum sale prices for affordable units must be affordable to households that earn no more than 70% of the median income. The average sale price must be affordable to a household that earns no more than 55% of the median income.

The regional median income is defined by COAH using the federal Department of Housing and Urban Development ("HUD") income limits on an annual basis. In the spring of each year HUD releases updated regional income limits which COAH reallocates to its regions. It is from these income limits that the rents and sale prices for affordable units are derived. See Tables 1 through 3 for additional information. Table 1 provides the 2009 Income Limits for Region 3, however, COAH has published figures for up to eight person households; the most common figures have been supplied here. Income limits are updated annually and are available from COAH. The sample rents



and sale prices in Tables 2 and 3 are gross figures and do not account for the specified utility allowance.

**Table 1. 2009 Income Limits for Region 3**

Household Income Levels	1 Person Household	2 Person Household	3 Person Household	4 Person household	5 Person Household
Moderate Income	\$56,056	\$64,064	\$72,072	\$80,080	\$86,486
Low Income	\$35,035	\$40,040	\$45,045	\$50,050	\$54,054
Very Low Income	\$21,021	\$24,024	\$27,027	\$30,030	\$32,432

Source: COAH 2009 Regional Income Limits

**Table 2. Sample 2009 Affordable Rents for Region 3**

Household Income Levels	1 Bedroom Unit Rent	2 Bedroom Unit Rent	3 Bedroom Unit Rent
Moderate Income at 60%	\$1,126	\$1,351	\$1,562
Low Income at 46%	\$863	\$1,036	\$1,197
Very Low Income at 30%	\$563	\$676	\$781

Source: COAH Illustrative 2009 Low and Moderate Income Rents for New Construction and/or Reconstruction

**Table 3. Sample 2009 Affordable Sale Prices for Region 3**

Household Income Levels	1 Bedroom Unit Purchase	2 Bedroom Unit Purchase	3 Bedroom Unit Purchase
Moderate Income at 70%	\$118,243	\$141,892	\$163,964
Low Income at 50%	\$84,459	\$101,351	\$117,117
Very Low Income at 30%	\$50,676	\$60,811	\$70,270

Source: COAH Illustrative 2009 Low & Moderate Income Sales Prices for New Construction



## **HOUSING ELEMENT AND FAIR SHARE REQUIREMENTS**

In accordance with the MLUL, found at *NJSA 40:55D-1*, et seq., a municipal Master Plan must include a housing element as the foundation for the municipal zoning ordinance. Pursuant to the FHA, a municipality's housing element must be designed to provide access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing. The housing element must contain at least the following, as per the FHA at *NJSA 52:27D-310*:

- An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
- A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the next ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development, and probable residential development trends;
- An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;
- An analysis of the existing and probable future employment characteristics of the municipality;
- A determination of the municipality's present and prospective fair share of low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share of low and moderate income housing; and
- A consideration of the lands most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for, low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

In addition, pursuant to COAH regulations (*N.J.A.C. 5:97-2.3*), the housing element and fair share plan must address the entire third round cumulative (1987-2018) affordable housing obligation consisting of the rehabilitation share, any remaining balance of the prior round obligation and the third round obligation based either on COAH's projections or the Highlands RMP Adjusted Growth Projections. COAH's regulations require the following documentation to be submitted with the housing element and fair share plan:



- The minimum requirements of the FHA listed above (*NJSA 52:27D-310*);
- Household and employment projections created by COAH;
- Municipal rehabilitation, prior round and third round obligations;
- Descriptions of any credits intended to address any portion of the fair share obligation, including all information required by *N.J.A.C. 5:97-4*;
- Descriptions of any adjustments to any portion of the fair share obligation, including all information required by *N.J.A.C. 5:97-5*;
- Descriptions of any mechanisms intended to address the prior round obligation, the rehabilitation share and the third round obligation;
- An implementation schedule with a detailed timetable that demonstrates a “realistic opportunity” for the construction of affordable housing, as defined by *N.J.A.C. 5:97-1.4*.
- Draft and/or adopted ordinances necessary for the implementation of the mechanisms designed to satisfy the fair share obligation;
- A demonstration that existing zoning or planned changes in zoning provide adequate capacity to accommodate any proposed inclusionary developments, pursuant to *N.J.A.C. 5:97-6.4*;
- A demonstration of existing or planned water and sewer capacity sufficient to accommodate all proposed mechanisms;
- A spending plan, pursuant to *N.J.A.C. 5:97-8.10*;
- A map of all sites designated by the municipality for the production of low and moderate income housing;
- A copy of the most recently adopted Master Plan and, where required, the immediately preceding adopted Master Plan;
- A copy of the most recently adopted zoning ordinance;
- A copy of the most up-to-date tax maps; and
- Any other information required by *N.J.A.C. 5:97* or requested by COAH or the Superior Court.





## **BOROUGH OF LEBANON AFFORDABLE HOUSING HISTORY**

An exclusionary zoning lawsuit against the Borough of Lebanon was filed by Pizzo on November 13, 2003. Via a Consent Order entered on January 3, 2005, the parties agreed that Lebanon Borough had not satisfied the 1987-1999 cumulative second round fair share obligation. After negotiation, the Borough adopted an Interim Housing Element and Fair Share Plan on March 6, 2006 which included an inclusionary development on the Pizzo Property. A Settlement Agreement between Pizzo and the Borough was executed on October 18, 2006. This inclusionary development is now under construction and known as Presidential Place on Block 3, Lots 1 and 3.

On November 14, 2006 an Order of Superior Court was executed which approved the Settlement Agreement between the Borough and Pizzo and also established procedures for the satisfaction of the Borough's remaining second and third round obligation. While this order did not include a Judgment of Repose, it did review and preliminarily approve the Borough's prior round and third round affordable housing mechanisms.

In response to COAH's adoption of the third round rules, the Borough adopted a third round housing element and fair share plan on December 10, 2008. However, the Borough did not request approval of this third round housing element and fair share plan from either Superior Court or the Council on Affordable Housing.



## **GOALS AND OBJECTIVES**

In furtherance of the Borough's efforts to ensure sound planning, this Plan is consistent with the Highland RMP's goals and objectives pursuant to Lebanon Borough's Initial Assessment report, which was submitted to the Highlands Council on March 10, 2009. The Borough's housing element and fair share plan is consistent with the following goals, objectives, and policies related to Housing and Community Facilities identified in the RMP:

- To establish a region-wide, comprehensive approach to addressing housing needs in the Highlands Region, serving all age groups, income levels, and mobility options
- A comprehensive housing program addressing regional housing needs within the context of preserving the character and environmental integrity of the Highlands.
- An interagency partnership with the COAH in support of the achievement of both the resource protection requirements of the RMP and the municipal constitutional obligation, in "growth areas," to provide a realistic opportunity for the construction of a fair share of affordable housing for low and moderate income households.
- Preserve and monitor existing stocks of affordable housing.
- To promote, where appropriate and permitted by the Land Use Capability Zone, center-based development approaches that address a mix of housing types, support mixed uses, and implement compact development approaches.
- To promote, where appropriate and permitted by the Land Use Capability Zone, affordable housing within new residential and mixed use development, redevelopment, or adaptive reuse projects.
- To encourage the targeting of new housing to areas with compatible existing densities and within walking distance of schools, employment, transit, and community facilities and services.
- To locate and maintain community facilities and services that support compact development patterns, shared services, and provide a high level of service.
- To require that conforming municipalities implement both the resource protection requirements of the RMP along with the New Jersey Supreme Court's doctrine, in its Mount Laurel decisions, that every municipality in a "growth area" has a constitutional obligation to provide through its land use regulations, sound land use, and long range planning, a realistic opportunity for a fair share of its region's present and prospective needs for housing for low and moderate income families.



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- To require that conforming municipalities update and adopt a housing element, fair share plan, and implementing ordinance(s) to reflect current conditions and resource protection requirements of the RMP.



**HOUSING STOCK, DEMOGRAPHIC & EMPLOYMENT ANALYSIS**

In 2,000 there were 477 housing units in the Borough of Lebanon, of which 19 or 4% were vacant. Of the 458 occupied units, 78% were owner occupied and 22% were rented. Single-family detached and attached housing units dominate the housing stock in the Borough, comprising 88% of all housing units. Of the owner occupied units, 96% are single family detached or single family attached units. See Table 4, *Housing Tenure by Number of Units in Structure, 2000* for additional information.

**Table 4. Housing Tenure by Number of Units in Structure, 2000**

Type	Owner Occupied	Rental	Vacant	Total
1, detached	192	31	16	239
1, attached	155	25	3	183
2	9	23	0	32
3 or 4	2	17	0	19
5 to 9	2	2	0	4
10 to 19	0	0	0	0
20 to 49	0	0	0	0
50 or more	0	0	0	0
Mobile home	0	0	0	0
Boat, RV, van, etc.	0	0	0	0
<b>Total</b>	<b>360</b>	<b>98</b>	<b>19</b>	<b>477</b>

Source: 2000 US Census

Table 5, *Housing Units by Age of Structure, 2000*, below illustrates the aging of the Borough's housing stock. The largest periods of housing construction in the Borough occurred prior to 1939 with 34% of all units being constructed and between 1980 and 1989 with 32% of all units being constructed. The Borough's construction rates for the decade between 2000 and 2009 are likely to meet or exceed these periods of high growth. However, it is notable that the recent high rates of residential growth are as a



result of the Borough's two inclusionary projects – Presidential Place and the Heights of Hampton – being constructed.

**Table 5. Housing Units by Age of Structure, 2000**

Year Built	Total Units	% of Total Units	Owner-Occupied	% of Total Units	Renter-Occupied	% of Total Units	Vacant
1990 to 2000	53	11%	50	10%	0	0.0%	N/A
1980 to 1989	152	32%	126	26%	26	5.5%	N/A
1970 to 1979	21	4%	19	4%	2	0.4%	N/A
1960 to 1969	25	5%	21	4%	4	0.8%	N/A
1950 to 1959	41	9%	22	5%	17	3.6%	N/A
1940 to 1949	25	5%	18	4%	7	1.5%	N/A
1939 or earlier	160	34%	104	22%	42	8.8%	N/A
<b>Totals</b>	<b>477</b>		<b>360</b>		<b>98</b>		<b>19</b>

Source: 2000 US Census

The housing stock in Lebanon Borough is diverse in terms of its size. Only 8% of the units have less than four rooms, 60% of the units have 4 through 6 rooms and 31% of the units have 7 or more rooms. See Table 6, *Housing Units by Number of Rooms, 2000* for additional information.



**Table 6. Housing Units by Number of Rooms, 2000**

Rooms	Number of Units	Percent
1 rooms	5	1%
2 rooms	6	1.3%
3 rooms	31	6%
4 rooms	57	12%
5 rooms	149	31%
6 rooms	83	17%
7 rooms	76	16%
8 rooms	38	8%
9 or more rooms	32	7%
<b>Total</b>	<b>477</b>	

Source: 2000 US Census

While home prices rose from 1990 to 2000, the majority of homes in the Borough remained at a value of less than \$200,000 – 77% in 1990 as compared to 64% in 2000. Lower value units under \$150,000 are of particular concern for affordable housing. In 2000, the median housing value in Lebanon Borough was \$168,100, up from \$166,800 in 1990. See Tables 7 and 8, *Housing Values, Owner-Occupied Units*, for additional information.



**Table 7. Housing Values, Owner-Occupied Units, 1990**

Home Value	Number	Percent
Less than \$200,000	183	77%
\$200,000 to \$300,000	51	21%
\$300,000 to \$400,000	4	2%
\$400,000 to \$500,000	0	0%
\$500,000 or more	9	0%
<b>Total</b>	<b>238</b>	

Note: Percentage totals may add up to greater than 100% due to rounding  
 Source: 1990 US Census

**Table 8. Housing Values, Owner-Occupied Units, 2000**

Home Value	Number	Percent
Less than \$200,000	215	64%
\$200,000 to \$300,000	98	29%
\$300,000 to \$400,000	17	5%
\$400,000 to \$500,000	5	1%
\$500,000 or \$750,000	0	0%
\$750,000 to \$1,000,000	0	0%
\$1,000,000 or more	0	0%
<b>Total</b>	<b>335</b>	

Note: Percentage totals may add up to greater than 100% due to rounding  
 Source: 2000 US Census

Table 9, *Comparison of Lebanon Borough / Hunterdon County Monthly Rental Cost, 2000*, tabulates the differences in the gross costs of rental housing between Lebanon Borough and Hunterdon County. In 2000, Lebanon's average monthly rent of \$837 was nearly 12% higher than the County's average monthly rent of \$749.



**Table 9. Comparison of Lebanon Borough/Hunterdon County Monthly Rent, 2000**

Contract Rent	Lebanon	Percent	Hunterdon County	Percent
Less than \$500	2	2%	687	10%
\$500 to \$1000	56	57%	4,362	65%
\$1,000 to \$1,500	27	28%	968	14%
\$1,500 to \$2,000	5	5%	163	2%
\$2,000 or more	-	0%	82	1%
No Cash Rent	8	8%	414	6%
<b>Total</b>	<b>98</b>		<b>6,676</b>	

Note: Percentage totals may add up to greater than 100% due to rounding  
 Source: 2000 US Census

Between 1970 and 2000, Lebanon Borough grew in population and percent of population far less than the County. Consistent with the Borough's growth in housing units, the period from 1980 and 1990 has the highest growth rate – 26%. In fact, during this decade the Borough's population growth rate exceeded the County's growth rate. Most recently, from 1990 through 2000, the Borough's population increased by 3% where as the County's population increased by 13%. See Table 10, *Comparison of Lebanon Borough / Hunterdon County Population Growth* for additional detail.

**Table 10. Comparison of Lebanon Borough / Hunterdon County Population Growth**

	1970	% Change	1980	% Change	1990	% Change	2000	% Change
Borough of Lebanon	885	1%	820	-7%	1,036	26%	1,065	3%
Hunterdon County	69,718	29%	87,361	25%	107,776	23%	121,989	13%

Source: 1960, 1970, 1980, 1990 and 2000 US Census

From 1990 through 2000 the Borough gained population in all age groups except for the under 5 years age group and the 25-34 years age group. These losses indicate that young families and young adults are choosing to leave the Borough. See Table 11, *Age Distribution, 1990-2000* for additional detail.





**Table 11. Age Distribution, 1990-2000**

Age Group	1990	Percent	2000	Percent	Percent Change
Under 5	96	9%	78	7%	-19%
5 - 14	100	10%	139	13%	39%
15-24	125	12%	84	8%	-33%
25-34	256	25%	152	14%	-41%
35-44	179	17%	219	21%	22%
45-54	113	11%	169	16%	50%
55-64	80	8%	106	10%	33%
65 - 74	43	4%	69	6%	60%
75 +	44	4%	49	5%	11%
<b>Totals</b>	<b>1,036</b>		<b>1,065</b>		
<b>Median Age</b>	<b>N/A</b>		<b>39</b>		

Note: Percentage totals may add up to greater than 100% due to rounding  
 Source: 1990 and 2000 US Census

In 2000, there were 458 households in the Borough, with an average of 2.33 persons per household and 287 families with an average of 2.97 persons per family. As such, approximately 63% of the Borough's households consisted of family households. Of the Borough's family households, approximately 80% were comprised of married couples with or without children.

In 2000, there was a lower percentage of households in Lebanon Borough with an income of \$100,000 or greater than the County – 26% versus 38%. Similarly, the Borough's median household of \$68,542 was lower than that of the County's median household income of \$79,888. See Table 12, *Household Income – Borough of Lebanon and Hunterdon County, 2000*, for additional information.



Table 12. Household Income – Borough of Lebanon and Hunterdon County, 2000

	Lebanon Households	Percent	Hunterdon County Households	Percent
Less than \$15,000	13	3%	2,277	5%
\$15,000 to \$20,000	19	4%	1,308	3%
\$20,000 to \$25,000	20	4%	1,079	2%
\$25,000 to \$30,000	18	4%	1,358	3%
\$30,000 to \$35,000	24	5%	1,457	3%
\$35,000 to \$40,000	16	4%	1,504	3%
\$40,000 to \$45,000	12	3%	1,623	4%
\$45,000 to \$50,000	14	3%	1,517	3%
\$50,000 to \$75,000	118	26%	8,199	19%
\$75,000 to \$100,000	78	17%	7,207	16%
\$100,000 to \$150,000	89	19%	8,543	20%
\$150,000 to \$200,000	25	5%	3,927	9%
\$200,000 or more	11	2%	3,731	9%
<b>Totals</b>	<b>457</b>		<b>43,730</b>	

Note: Percentage totals may add up to greater than 100% due to rounding

Source: 2000 US Census

Table 13, *Distribution of Employment by Industry, Employed Lebanon Residents, 2000* shows the distribution of employment by industry for employed Borough residents. The education, health and social services industry captured the largest segment of the population at 17%, with manufacturing in second with 14% of the workforce and retail in third with 12% of the workforce..



**Table 13. Distribution of Employment by Industry, Employed Lebanon Residents, 2000**

Industry	Number	Percent
Agriculture, Forestry, Fishing and Hunting and Mining	-	0%
Construction	46	7%
Manufacturing	91	14%
Wholesale Trade	9	1%
Retail Trade	77	12%
Transportation and Warehousing and Utilities	48	8%
Information	52	8%
Finance, Insurance, Real Estate, and Rending and Leasing	59	9%
Professional, Scientific, Management, Administrative, and Waste Management Services	72	11%
Education, Health and Social Services	105	17%
Arts, Entertainment, Recreation, Accommodation and Food Services	20	3%
Public Administration	21	3%
Other	32	5%
<b>Total</b>	<b>632</b>	

Note: Percentage totals may add up to greater than 100% due to rounding

Source: 2000 US Census

Table 14, *Employment by Occupation, Lebanon Residents, 2000* identifies the occupations of employed persons. While Lebanon Borough residents worked in a variety of industries in 2000, 43% of residents were employed in management, professional, and related occupations. An additional 33% of residents were employed in sales and office occupations.



**Table 14. Employment by Occupation, Lebanon Residents, 2000**

<b>Sector Jobs</b>	<b>Number</b>	<b>Percent</b>
Management, Professional and Related Occupations	270	43%
Service Occupations	54	9%
Sales and Office Occupations	206	33%
Farming, Fishing and Forestry Occupations	0	0%
Construction, Extraction and Maintenance Occupations	54	9%
Production, Transportation and Material Moving Occupations	48	8%
<b>Total</b>	<b>632</b>	

Note: Percentage totals may add up to greater than 100% due to rounding

Source: 2000 US Census



## **GROWTH TRENDS & PROJECTIONS**

The Borough can accommodate the household and job growth projected to occur during the third round (2004 through 2018) period based on the Highlands RMP build-out analysis under Module 2.

### **RESIDENTIAL TRENDS AND PROJECTIONS**

There were 65 units created in Lebanon Borough between 2004 and 2009. This actual growth plus limited future growth will meet the residential projection of 66 units.

### **NONRESIDENTIAL TRENDS AND PROJECTIONS**

Lebanon Borough has experienced moderate non-residential growth in the last decade consisting of office space. The Borough expects limited amounts of nonresidential development during the third round. According to the projections based on the Highlands RMP build-out analysis under Module 2, Lebanon Borough is expected to add 485 jobs between 2004 and 2018 (384 jobs from actual growth and 101 jobs from projected growth). Lebanon Borough finds the nonresidential projections based on the Highlands RMP build-out under Module 2 to be consistent with the Borough's projections, which were based on certificates of occupancy issued and projects that are approved, pending or anticipated before the planning board.

### **CAPACITY FOR GROWTH**

To assess if the Borough of Lebanon has the capacity to meet projections of residential and non-residential growth based on the Highlands RMP build-out analysis from Module 2, the Borough analyzed projected residential and non-residential growth through assessing development under construction, approved development and pending applications. The Borough also looked at potential future growth based on historic trends and whether the development would be consistent with the RMP.

The analysis confirmed that the Borough has the capacity to meet the Highlands RMP growth projections of 66 housing units and 485 jobs, and thus to address the Highlands RMP adjusted growth share obligation of 30 third round affordable units.



## **Availability of Existing and Planned Infrastructure**

Nearly all of the Borough of Lebanon is served by sewer and water. The remaining properties are served by individual well and septic systems. As per the Highlands RMP build-out analysis under Module 2, the combination of available public sewer and water capacity and individual well and septic systems will accommodate the projections.

## **Anticipated Land Use Patterns**

Anticipated land use patterns range from single family infill development to multi-family residential development as part of the Borough's inclusionary developments. Additionally, the Borough anticipates modest commercial growth, which is consistent with the projections. The Borough's future land use patterns will be guided by the Highlands RMP and will be consistent with the projections based on the Highlands RMP build-out analysis completed for Module 2 of Highlands RMP Plan conformance.

## **Borough Economic Development Policies**

The downtown and Route 22 corridor serve as the primary mechanisms for accommodating non-residential growth within the Borough's boundaries. The Borough anticipates that modest amounts of nonresidential infill and redevelopment will occur in these areas.

## **Constraints on Development**

The Borough has approximately 81% of its lands in the Existing Community Zone, meaning these lands are already developed. There are 48 acres in the Protection Zone, of which approximately 2/3 have "pre-Highlands Act" development approvals and are under construction. The rest of the lands within the Protection Zone will have the most stringent Highlands Environmental restrictions applied as a result of Highlands Conformance. The remaining open lands in the Borough representing two farm management units, approximately 57 acres total, are located in the Conservation Zone. One of the farms consisting of 37 acres has been permanently protected for agriculture and the other consisting of approximately 20 acres is located in the environmentally constrained sub-zone. As a result, there is virtually no new development potential in the Borough.



There are no known federal regulations that would hinder the development projected as part of the Borough's adopted third round housing element and fair share plan. However, portions of the Borough are listed on both the State and National Register of Historic Places. All development that occurs within these areas will be required to conform to the State Historic Preservation Office's process and guidelines.

According to the Borough's Master Plan, there do not appear to be any constraints on development related to land ownership issues, i.e., the necessity to consolidate lots, small lots sizes, or isolated lot development. Thus, existing land ownership patterns in the Borough have been taken into account in the anticipated growth as detailed in the Borough's plan.

According to NJ DEP data, there are 10 known contaminated sites in the Borough's borders. The contaminated sites will not negatively affect the Borough's ability to accommodate the projections or the proposed affordable housing sites.

The Borough's Master Plan, Land Use Ordinance and existing land review procedures provide the measures to address the development constraints noted above, as set forth at N.J.A.C. 5:97-3.13(b), and others as further land use regulations evolve.



## **CONSIDERATION OF LANDS APPROPRIATE FOR AFFORDABLE HOUSING**

As part of this housing element, the Borough of Lebanon considered land in the Highlands Planning Area that was appropriate for the construction of low and moderate income housing. The Borough is able to accommodate its remaining prior round obligation and its projected third round growth share obligation on the sites identified in this plan and supplemented by accessory apartment programs.

The property owner of Block 4, Lot 1.03 has expressed interest in providing affordable housing. However, the Borough is not in a position to include the site in its Fair Share Plan at this time due to the timing of the inquiry and the fact that the Borough can satisfy the affordable housing obligation using existing programs supplemented by an accessory apartment program.

Additional analyses will take place in the future if the need for additional affordable housing is triggered by future growth. If additional housing sites are required in the future, they will adhere to the Highlands RMP site consistency standards.





### **RELATIONSHIP TO HIGHLANDS RMP**

On December 8, 2009, Lebanon Borough submitted its petition for Highlands RMP Plan Conformance. As part of its petition, the Borough requested three RMP Updates. The only update impacting the Borough's affordable housing sites was one which requested that the Presidential Place site (an inclusionary development) be changed from the Protection Zone to the Existing Community Zone in order to reflect the developed nature of the site.



**LEBANON BOROUGH’S AFFORDABLE HOUSING PLAN**

Lebanon Borough will satisfy the rehabilitation obligation, the prior round obligation and the third round obligation consistent with COAH’s substantive rules, *N.J.A.C. 5:97*.

**CALCULATION OF THE AFFORDABLE HOUSING OBLIGATION**

**The Rehabilitation Obligation**

The rehabilitation obligation is defined as the number of deficient housing units occupied by low and moderate income households within a municipality (*N.J.A.C. 5:97-1.4*). COAH calculates this figure using indices such as overcrowding of units constructed prior to 1950, incomplete kitchen facilities, incomplete plumbing facilities and the estimated number of low and moderate income households in the municipality. COAH has calculated Lebanon’s rehabilitation obligation to be 3 units. Please see Table 15. *Calculation of the Rehabilitation Obligation*, for additional information.

**Table 15. Calculation of the Rehabilitation Obligation.**

Overcrowding of units constructed prior to 1950	4
Incomplete plumbing facilities	+ 0
Incomplete kitchen facilities	+ 0
Low and moderate income share	*0.691
Rehabilitation share credit	- 0
<i>Rehabilitation Obligation</i>	<i>3 units</i>

**The Prior Round Obligation**

The prior round obligation can be defined as the cumulative 1987 through 1999 affordable housing obligation (*N.J.A.C. 5:97-1.4*). This time period corresponds to the first and second rounds of affordable housing. COAH has calculated Lebanon’s prior round obligation to be 34 units (Appendix C. to *N.J.A.C. 5:97*).



### The Third Round Obligation

COAH has taken a very different approach to calculating third round affordable housing obligations. The COAH third round obligation is initially based solely on COAH's household and job projections for each municipality during the third round. For every five households, or units, projected during the third round, one affordable housing unit must be provided. For every 16 jobs projected, the Borough must provide one affordable housing unit. Municipalities within the Highlands that are conforming with the RMP are required to use the aforementioned affordable housing ratios; however, they may elect to utilize either COAH's household and employment projections or the projections based on the RMP build-out under Module 2. The Borough of Lebanon has elected to utilize the projections based on the RMP build-out under Module 2 as the basis for its affordable housing obligation.

COAH's substantive rules require that a municipality plan for the affordable housing obligation generated by the projections; however, a municipality must provide affordable housing in proportion to its actual growth (N.J.A.C. 5:97-2.2(e)). The Highlands Council has projected the creation of 66 households (65 units of actual growth and 1 unit of projected growth) and 485 jobs (384 jobs of actual growth and 101 jobs of projected growth) in the Borough of Lebanon during the third round. Please see the *Lebanon Borough Municipal Build-out Report* submission to the Highlands Council for additional information.

COAH's substantive rules, N.J.A.C. 5:97-2.4, permit municipalities to exclude certain market and affordable units from the third round household projections. The Borough is eligible for two exclusions. The November 14, 2006 Judgment of Repose, and supported by the September 13, 2006 *Report of the Special Master on the Fairness of the Settlement and Interim Compliance Plan*, authorized both exclusions to the extent listed in Table 5.

The third round obligation which the Borough must satisfy in the Housing Element and Fair Share Plan is 30 affordable units. Table 16 shows what the third round obligation is composed of:



**Table 16. Calculation of Highlands' Projected Third Round Obligation**

<b>Residential</b>	
Actual Residential Growth (Units) (2004-2008)	65
RMP Residential Build-out (Units)	1
Permitted COAH Exclusions	
Presidential Place (Pizzo)	65
Heights of Lebanon (Kaplan)	80
<i>Total</i>	0
Units Creating Growth Share	0
<i>Residential Growth Share</i>	0
<b>Nonresidential</b>	
Actual Non-Residential Growth (Jobs)(2004-2008)	384.36
RMP Non-Residential Build-out (Jobs)	101
Permitted COAH Exclusions	
None	0
<i>Total</i>	0
Jobs Creating Growth Share	485.36
<i>Nonresidential Growth Share</i>	30.33
<b>Total Third Round Obligation</b>	<b>30.33</b>

**SATISFACTION OF THE REHABILITATION OBLIGATION**

The Borough's three unit rehabilitation obligation will be satisfied with new construction units as permitted by N.J.A.C. 5:97-6.2(b)7. The Borough will use two family rental units at the Coach House LLC development and one family rental unit at Presidential Place.

The Coach House, LLC development is located on Block 6, Lots 14 and 14.01 along Main Street. The development was approved in April 2010 for two accessory apartments. The site is approximately .9 acres. The project will consist of one rebuilt single family detached home, one unit in the existing barn and six units in the existing multi-family building nearest Main Street. All units will remain under ownership by one entity and



will be for rent. Accessory apartments are particularly appropriate for satisfying the rehabilitation obligation since both programs require 10 year affordability controls rather than 30 years, as required by all other affordable housing programs.

This project is unique in that there will be no owner occupied unit on the property; however, the single family home will serve as the principal use of the property, similar to a typical accessory apartment project. COAH defines an accessory apartment unit as the following (*N.J.A.C. 5:97-1.4*):

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

The affordable units in the Coach House LLC project will meet this definition with the exception of being located on the same site. However, the two properties shall be owned by the same entity for the life of the affordability controls to ensure that the affordable units remain related and accessory to the single family home on the property.

The following restrictions shall be put in place to the project is consistent with the intent of the accessory apartment program. These restrictions are reflected in the Planning Board resolution and shall be incorporated into a deed restriction.

1. The affordable units must comply with the applicable COAH rules and Uniform Housing Affordability Control rules;
2. The affordable units must be for rent;
3. The affordable units must have affordability controls restricting them to being occupied by low or moderate income households for a period of 10 years; and
4. The two properties (Block 6, Lots 14 and 14.01) must remain in common ownership for a period of 10 years.

The Borough did not provide a financial subsidy for the affordable units; instead the applicant was granted approval to increase the number of units in the multi-family building from four to six.

Please see the prior round obligation discussion for details on Presidential Place.



## SATISFACTION OF THE PRIOR ROUND OBLIGATION

In addition to satisfying the total obligation of 34 units, the Borough must also adhere to a minimum rental obligation and maximum number of age-restricted units.

- Minimum Rental Obligation = 9 units  
.25 (prior round obligation – prior cycle credits– impact of the 20% cap – impact of the 1000 unit cap) = .25 (34-0-0-0) = 8.50, rounded up to 9
  - A rental unit available to the general public receives one rental bonus;
  - An age-restricted unit receives a .33 rental bonus, but no more than 50 percent of the rental obligation shall receive a bonus for age-restricted units; and
  - No rental bonus is granted in excess of the rental obligation.
- Maximum Age Restricted = 8 units  
.25 (prior round obligation + rehabilitation share – prior cycle credits – rehabilitation credits – impact of the 20% cap – impact of the 1,000 unit cap – transferred or proposed prior round RCAs) = .25 (34+3-3-0-0-9) = 8.50, rounded down to 8

The Borough has two prior round sites – Presidential Place and the Heights of Lebanon.

### Presidential Place Inclusionary Development

Presidential Place (also known as the Pizzo Development) is located on Block 3, Lots 1 and 3. The subject site is located immediately north of Interstate 78 along Cokesbury Road. The site resulted from a builder's remedy lawsuit which was settled on October 18, 2006. The site obtained site plan approval on March 14, 2007. The project includes a total 150 housing units, of which 120 will be market rate and 30 will be affordable rental units. The development is served by public water and sewer. The site is located in the Borough's R-MF-AH2 zone district. It is also within the Planning Area of the Highlands Region and the Protection and Existing Community zones.

### Heights of Lebanon Inclusionary Development

The Heights of Lebanon (also known as the Kaplan Development) is located on Block 10, Lot 2. The subject site is located at the south end of the Borough, adjacent to the railroad tracks and along Railroad Avenue. The project includes a total 120 housing units, of which 108 will be market rate and 12 will be affordable rental units. The development is



served by public water and sewer. The site is located in the Borough’s R-MF-AH zone district. It is also within the Planning Area of the Highlands Region and the Existing Community Environmentally Constrained Highlands subzone.

The November 14, 2006 Superior Court Order granted a waiver of the COAH bedroom distribution requirements for this project to provide one less three bedroom unit than required. However, the granting of the waiver obligated Lebanon to “make best efforts to create one additional three bedroom unit in another development”. The Borough will continue to seek ways to create an additional three bedroom unit in its third round programs, such as the accessory apartment program.

**Prior Round Summary**

The Borough’s two previously approved inclusionary developments satisfies the entirety of the prior round obligation. The remaining units at Presidential Place will be used against the third round obligation. See Table 17, *Affordable Units Meeting the 34 Unit Prior Round Obligation*, for additional information.

**Table 17. Affordable Units Meeting the 34 Unit Prior Round Obligation**

Development	Rental	Senior	Units	Bonus Credits	Total Credits
Presidential Place (17 of 30)	x		13	0	13
Heights of Lebanon	x		12	9	21
<b>Total</b>			<b>25</b>	<b>9</b>	<b>34</b>

**SATISFACTION OF THE THIRD ROUND OBLIGATION**

The Borough will rely on remaining units at Presidential Place, one group home and an accessory apartment program to satisfy the 30 unit third round obligation.

In addition to satisfying the total obligation, the Borough must also adhere to standards pertaining to minimum total family units, minimum rental obligation, minimum family rental units, a maximum age-restricted units, maximum bonus credits and minimum very low income units.



- Minimum Family Obligation = 15 units  
 $.50(\text{third round affordable units}) = .50(30) = 15$
- Minimum Rental Obligation = 8 units  
 $.25(\text{third round obligation}) = .25(30) = 7.50$ , rounded up to 8
- Minimum Family Rental Obligation = 4 units  
 $.50(\text{third round rental obligation}) = .50(8) = 4$
- Maximum Age-restricted Units = 7 units  
 $.25(\text{third round obligation}) = .25(30) = 7.50$ , rounded down to 7
- Maximum Bonus Credits = 7 credits  
 $.25(\text{third round obligation}) = .25(30) = 7.50$ , rounded down to 7
- Minimum Very Low Income = 3 units  
Method 2:  $=0.13(\text{Number of units created after July 17, 2009}) = .13(23) = 2.99$ , rounded up to 3

### **Presidential Place**

The Borough will utilize 17 of the 30 family rental units, which were not used in the prior round, to satisfy a significant portion of the third round obligation. These units will satisfy the entire family rental obligation and four of the units will satisfy half of the rental obligation and the entire family rental obligation.

### **Hunterdon Alliance**

The Hunterdon Alliance for the Mentally Ill owns and operates a community residence for the developmentally disabled is located 4 Knox Lane on Block 8, Lot 26. The facility, which has four bedrooms, is built and occupied. This project was approved in the November 14, 2006 Superior Court Order.

### **Accessory Apartment Program**

The Borough is proposing a 3 unit accessory apartment program to satisfy a portion of the third round obligation. Lebanon Borough's housing stock is appropriate for an





accessory apartment program due to the large size of the housing structures and the historic nature of the homes.

All accessory apartments will be created where the lots are served by public water and sewer. The Borough’s program will comply with all regulations in *N.J.A.C. 5:97-6.8*, including but not limited to 10 year affordability controls and subsidies in the amount of \$20,000 for a moderate income unit and \$25,000 for a low income unit. The program will be administered by the Borough’s Administrative Agent.

This program will provide the Borough a total of 3 credits toward the third round obligation and will be used to satisfy the family obligation. Pursuant to *N.J.A.C. 5:97-3.5(a)* rental units addressing the prior round rental obligation that do not have 30 year affordability controls are not eligible for rental bonus credits.

### Third Round Summary

The Borough will rely on remaining units at Presidential Place, one group home and an accessory apartment program to satisfy the 30 unit third round obligation. See Table 18, *Affordable Units Meeting the 30 Unit Third Round Obligation*, for additional information.

Table 18. Affordable Units Meeting the 30 Unit Third Round Obligation

Project	Family	Rental	Senior	Units	Bonus Credits	Total Credits
Presidential Place	x	x		16	7	23
Hunterdon Alliance		x		4	0	4
Accessory Apartments	x	x		3	0	3
<b>TOTAL</b>				<b>23</b>	<b>7</b>	<b>30</b>

### IMPLEMENTATION SCHEDULE

Table 19, *Implementation Schedule*, outlines the Borough’s timeline for meeting its third round fair share obligation. As shown below, the Borough anticipates that it will provide an adequate number of affordable units / bonus credits by 2013 (earliest initial growth share evaluation).



Clarke Caton Hintz

Table 19. Implementation Schedule

Program	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total Credits
Presidential Place (inc. bonus credits)	23	0	0	0	0	0	0	0	0	24
Hunterdon Alliance	4	0	0	0	0	0	0	0	0	4
Accessory Apartments	0	1	1	1	0	0	0	0	0	3
<b>Total Units/Bonuses</b>	<b>27</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>30</b>



## **COST GENERATION**

The Borough of Lebanon's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards. Such expedition may consist of, but is not limited to, scheduling of pre-application conferences and special monthly public hearings. Furthermore, development applications containing affordable housing shall be reviewed for consistency with the Land Development Ordinance, Residential Site Improvement Standards (*N.J.A.C. 5:21-1 et seq*) and the mandate of the Fair Housing Act regarding unnecessary cost generating features. The focus of such development review shall not be whether the site is appropriately zoned. The Borough of Lebanon shall comply with COAH's requirements for unnecessary cost generating requirements, *N.J.A.C. 5:97-10.2*, procedures for development applications containing affordable housing, *N.J.A.C. 5:97-10.3*, and requirements for special studies and escrow accounts where an application contains affordable housing, *N.J.A.C. 5:97-10.4*.



## **MONITORING**

In accordance with *N.J.A.C. 5:96-11*, beginning two years from substantive certification, the Boroughs of Lebanon shall complete the annual monitoring reports of the Affordable Housing Trust Fund and of the affordable housing units and programs. Furthermore, the Borough will assist COAH with the biennial plan evaluation, pursuant to *N.J.A.C. 5:96-10*, where the actual growth of housing units and jobs is compared to the provision of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in a municipality and the number of units required pursuant to *N.J.A.C. 5:97-2.4* results in a pro-rated production shortage of 10 percent or greater, the Borough is not adhering to its implementation schedule pursuant to *N.J.A.C. 5:97-3.2(a)4*, or the mechanisms addressing the projected third round obligation no longer present a realistic opportunity for the creation of affordable housing, the Borough may be required by COAH to amend its plan in conformance with *N.J.A.C. 5:96-14* to address the affordable housing obligation set forth in *N.J.A.C. 5:97-2.5*.



## **FAIR SHARE ORDINANCES AND AFFIRMATIVE MARKETING**

The Borough of Lebanon has prepared an Affirmative Marketing and Fair Share Ordinance in accordance with COAH's substantive rules, *N.J.A.C. 5:97-9*, and the Uniform Housing Affordability Controls (hereinafter "UHAC") at *N.J.A.C. 5:80-26*. The Fair Share Ordinance will govern the establishment of affordable units in the Borough, as well as regulating the occupancy of such units. The Borough's Fair Share Ordinance covers the phasing of affordable units, the low/moderate income split, bedroom distribution, occupancy standards, affordability controls, establishing rents and prices, affirmative marketing, income qualification, etc.

The affirmative marketing plan is 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 the affordable units located in the Borough. Additionally, the affirmative marketing plan is intended to target those potentially eligible persons who are least likely to apply for affordable units and who reside in the Borough's housing region, Region 3, consisting of Hunterdon, Somerset and Middlesex counties.

The affirmative marketing plan includes regulations for qualification of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance to *N.J.A.C. 5:80-26*. All newly created affordable units will comply with the thirty-year affordability control required by UHAC, *N.J.A.C. 5:80-26-5* and *5:80-26-11*. This plan must be adhered to by all private, non-profit or municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit. The costs of implementing the affirmative marketing plan (i.e., the costs of advertising the affordable units, etc.) are the responsibilities of the developers of the affordable units. This requirement is included in the Borough's fair share ordinances and shall be a condition of any municipal development approval.



## **AFFORDABLE HOUSING TRUST FUND**

The Borough proposes to adopt a development fee ordinance to permit collection of residential development fees equal to 1.5% of the equalized assessed value of new residential construction and nonresidential development fees equal to 2.5% of the equalized assessed value of new nonresidential construction.

The Borough's spending plan, which discusses anticipated revenues, collection of revenues, and the use of revenues, was prepared in accordance to *N.J.A.C. 5:97-8.10*. All collected revenues will be placed in the Borough's Affordable Housing Trust fund and will be dispensed for the use of affordable housing activities. The Borough may use the funds in the trust fund for any of the below listed items, pursuant to *N.J.A.C. 5:97-8.7(a)*:

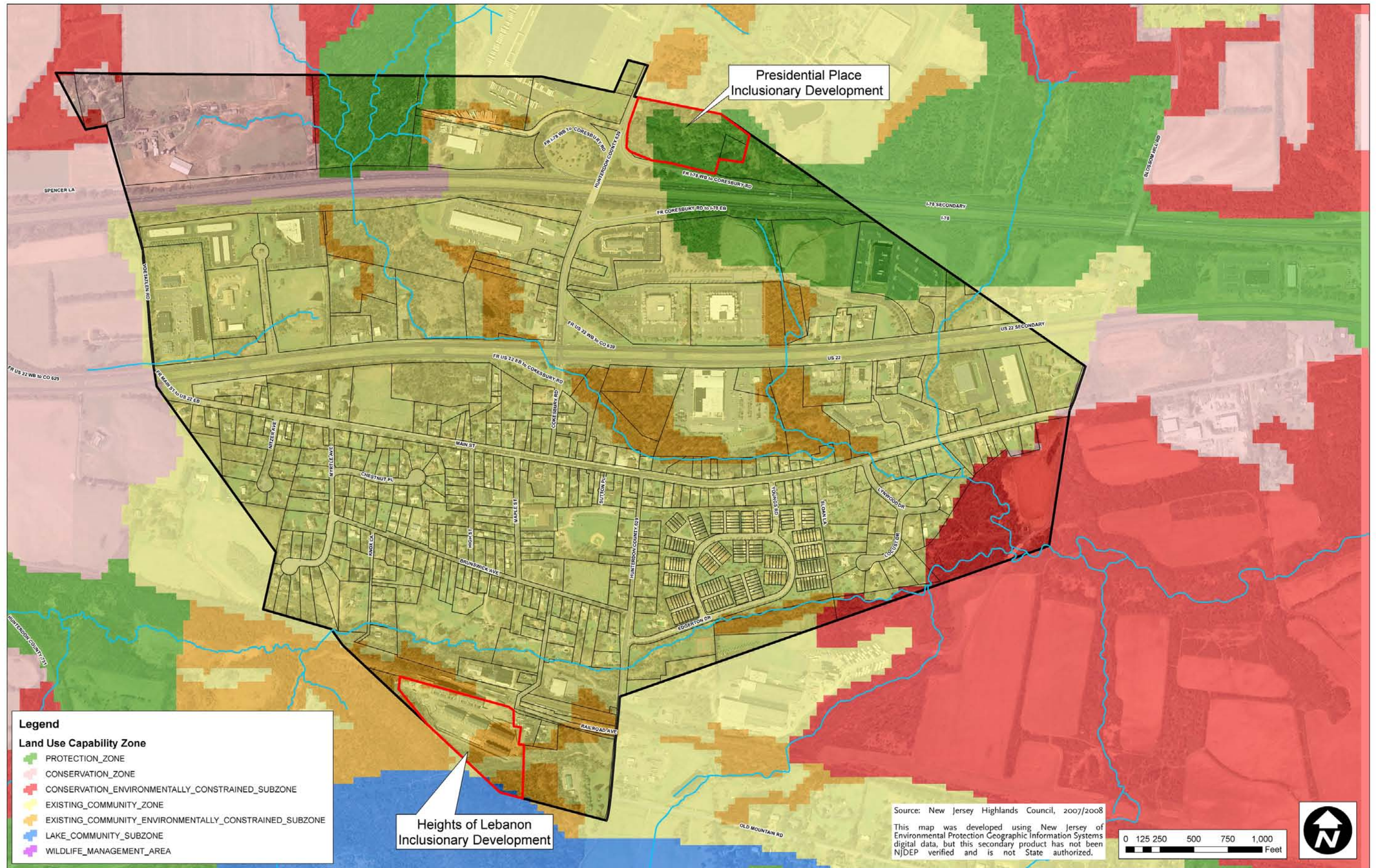
- Rehabilitation program;
- New construction of affordable housing units and related development costs; in the case of inclusionary developments, eligible costs shall be pro-rated based on the proportion of affordable housing units included in the development;
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites; in the case of inclusionary developments, costs shall be pro-rated based on the proportion of affordable housing units included in the development;
- Acquisition and/or improvement of land to be used for affordable housing;
- Purchase of existing market rate or affordable housing for the purpose of maintaining or implementing affordability controls, such as in the event of foreclosure;
- Accessory apartment or market to affordable programs;
- ECHO housing and related repair or unit relocation costs;
- Green building strategies designed to be cost-saving for low- and moderate income households, either for new construction that is not funded by other sources, or as part of necessary maintenance or repair of existing units;
- Maintenance and repair of affordable housing units;
- Repayment of municipal bonds issued to finance low- and moderate-income housing activity; and
- Any other activity as specified in the approved spending plan.



- However, the Borough is required to fund the programs in the certified Housing Element and Fair Share Plan, as well as provide affordability assistance.

At least 30% of collected development fees, excluding expenditures made from the inception of the fund to June 2, 2008 on all new construction, previously funded RCAs and rehabilitation activities, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. Additionally, no more than 20% of the revenues collected from development fees each year, exclusive of the fees used to fund an RCA, shall be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to prepare or implement a rehabilitation program, a new construction program, a housing element and fair share plan, and/or an affirmative marketing program.









**Clarke Caton Hintz**

Architecture

Planning

Landscape Architecture

# Fair Share Plan Appendices

100 Barrack Street  
Trenton NJ 08608  
clarkecatonhintz.com  
Tel: 609 883 8383  
Fax: 609 883 4044

## Borough of Lebanon, Hunterdon County, New Jersey

John Clarke, FAIA  
Philip Caton, FAICP  
Carl Hintz, AICP, ASLA  
John Hatch, AIA  
George Hibbs, AIA  
Brian Slaugh, AICP  
Michael Sullivan, AICP

**May 2010**



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## **Appendix A.**

**Planning Board Resolution adopting the  
Amended Housing Element and Fair Share Plan**



BOROUGH OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY

**Resolution #03-2010**

**Planning Board Resolution Adopting the Housing Element and Fair Share Plan  
Borough of Lebanon, Hunterdon County, New Jersey**

WHEREAS, the Planning Board of Lebanon Borough Hunterdon County, State of New Jersey, adopted its current Master Plan pursuant to N.J.S.A. 40:55D-28 in February 2008; and

WHEREAS, N.J.A.C. 5:97-2.1(a) requires the adoption of the Housing Element by the Planning Board and endorsement by the Governing Body; and

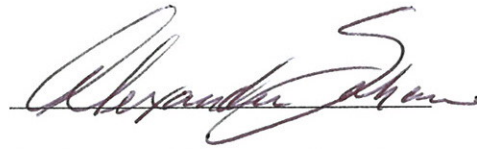
WHEREAS, N.J.A.C. 5:97-3.1(a) requires the preparation of a Fair Share Plan to address the total 1987-2018 fair share obligation of Lebanon Borough; and

WHEREAS, N.J.A.C. 5:97-3.1(b) requires the adoption of the Fair Share Plan by the Planning Board and endorsement by the Governing Body; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board of the Borough of Lebanon held a public hearing(s) on the Housing Element and Fair Share Plan on May 18, 2010; and

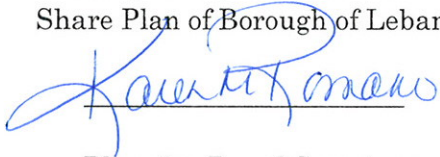
WHEREAS, the Planning Board has determined that the Housing Element and Fair Share Plan are consistent with the goals and objectives of the Borough of Lebanon's 2008 Master Plan and that adoption and implementation of the Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

NOW THEREFORE BE IT RESOLVED by the Planning Board of Borough of Lebanon, Hunterdon County, State of New Jersey, that the Planning Board hereby adopts the May 2010 Housing Element and Fair Share Plan.



Chairman of Planning Board

I hereby certify that this is a true copy of the resolution adopting the Housing Element and Fair Share Plan of Borough of Lebanon, Hunterdon County, on May 19, 2010.



Planning Board Secretary

## **Appendix B.**

### **Governing Body Resolution Endorsing the Amended Housing Element and Fair Share Plan**



BOROUGH OF LEBANON  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY

**Resolution #76-2010**

**Governing Body Resolution Endorsing the Housing Element and Fair Share Plan  
Borough of Lebanon, Hunterdon County, New Jersey**

WHEREAS, the Planning Board of Borough of Lebanon, Hunterdon County, State of New Jersey, adopted the Housing Element of the Master Plan on May 19, 2010; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element is attached pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the Planning Board adopted the Fair Share Plan on May 19, 2010; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Fair Share Plan is attached pursuant to N.J.A.C. 5:96-2.2(a)2.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Lebanon, Hunterdon County, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Borough of Lebanon Planning Board; and

BE IT FURTHER RESOLVED that the Governing Body of the Borough of Lebanon, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.2(a), submits this Housing Element and Fair Share Plan to Superior Court for a Judgment of Compliance and Repose; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the petition; and

BE IT FURTHER RESOLVED that notice of this petition for a Judgment of Repose shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made

available for public inspection at the Lebanon Borough municipal clerk's office located at 6 High Street, during the hours of 8:30am to 4:30pm on Monday through Friday for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

Introduced and adopted:


LEBANON BOROUGH COUNCIL

Ayes: ~~0~~ 5  
Nays: 0  
Absent: ~~0~~ 1

  
\_\_\_\_\_  
R. Gary Quick

Borough Council President

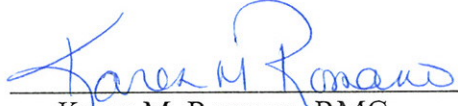
ATTEST:

  
\_\_\_\_\_  
Karen M. Romano, RMC  
Borough Clerk

### CERTIFICATION

I, Karen M. Romano Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on May 19, 2010 that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: May 19, 2010

  
\_\_\_\_\_  
Karen M. Romano, RMC  
Borough Clerk



## **Appendix C.**

**Revised Workbook D and Supporting Documentation**

**Summary of Adjusted Growth Share Projection Based On Land Capacity**  
**(Introduction to Workbook D)**

**Municipality Code:**

[Muni Code Lookup](#)

**Municipality Name:**

This workbook is to be used for determining the projected Municipal Growth Share Obligation by comparing growth projected by COAH with actual growth based on certificates of occupancy that have been issued from 2004 through 2008 and the RMP build-out analysis conducted under Module 2 of the Highlands RMP conformance process. Data must be entered via the "tabs" found at the bottom of this spreadsheet which may also be accessed through the highlighted links found throughout the spreadsheet. This workbook consists of five worksheets that, when combined on this introduction page, provide a tool that allows the user to enter exclusions permitted by N.J.A.C. 5:97-2.4 to determine the projected Growth Share Obligation. COAH-generated Growth Projections included in Appendix F(2) of the revised Third Round Rules, Highlands Council build-out figures based on Mod 2 Reports and actual growth based on COs as published by the DCA Division of Codes and Standards in The Construction Reporter are imported automatically upon entry of the Municipal Code.

[Click Here to enter COAH and Highlands Council data](#)

Municipalities seeking to request a revision to the COAH-generated growth projections based on opting in to the Highlands RMP may do so by providing this comparative analysis of COAH and RMP build-out projections. After completing this analysis, the growth projections may be revised based on the Highlands RMP build-out analysis. Actual growth must first be determined using the Actual Growth worksheet. The RMP adjustment applies only to RMP capacity limitations that are applied to growth projected from 2009 through 2018.

[Click Here to Enter Actual Growth to Date](#)

[Click Here to Enter Permitted Exclusions](#)

[Click Here to View Detailed Results from Analysis](#)

**Summary Of Worksheet Comparison**

	<b>COAH Projected Growth Share</b>	<b>Growth Share Based on Highlands RMP</b>
Residential Growth	10	66
Residential Exclusions	145	145
Net Residential Growth	-135	-79
Residential Growth Share	0.00	0.00
Non-Residential Growth	270	485
Non-Residential Exclusions	0	0
Net Non- Residential Growth	270	485
Non-Residential Growth Share	16.88	30.34
Total Growth Share	17	30

**Highlands RMP Projection does not necessitate a revision to the projections published by COAH. Please file this Workbook and use the COAH growth Projections in Appendix F2 of COAH's rules.**

## Growth Projection Adjustment - Actual Growth

Actual Growth 01/01/04 to 12/31/08

**Municipality Name: Lebanon Borough**

### Residential COs Issued

As Published by D C S	65
Per Municipal Records (if different)	65
<b>Qualified Residential Demolitions</b>	

**Note:** To **qualify** as an offsetting residential demolition, the unit must be the primary residence of the household for which the demolition permit has been issued, it had to be occupied by that owner for at least one year prior to the issuance of the demolition permit, it has to continue to be occupied by that household after the re-build and there can be no change in use associated with the property. (See [N.J.A.C. 5:97-2.5\(a\)1.v.](#)) A Certification Form must be completed and submitted for each qualifying demolition.

[Get Demolition Certification Form](#)

Non-residential CO's by Use Group	Square Feet Added (COs Issued) As Published by D C S	Square Feet Added (COs Issued) per Municipal Records (if different)	Square Feet Lost Demolition Permits Issued)	Jobs Per 1,000 SF	Total Jobs
B	399,873	137,272		2.8	384.36
M	0	0		1.7	0.00
F	0	0		1.2	0.00
S	0	0		1.0	0.00
H	0	0		1.6	0.00
A1	0	0		1.6	0.00
A2	0	0		3.2	0.00
A3	0	0		1.6	0.00
A4	0	0		3.4	0.00
A5	0	0		2.6	0.00
E	0	0		0.0	0.00
I	0	0		2.6	0.00
R1	0	0		1.7	0.00
<b>Total</b>	<b>399,873</b>	<b>137,272</b>	<b>0</b>		<b>384.36</b>

[Return to Main Page \(Workbook D Intro\)](#)

[Proceed to COAH Data and RMP Module 2 Build-out Data](#)

[Proceed to Exclusions Tab](#)

# Affordable and Market-Rate Units Excluded from Growth

Municipality Name: Lebanon Borough

## Prior Round Affordable Units NOT included in Inclusionary Developments Built Post 1/1/04

Development Type	Number of COs Issued and/or Projected
Supportive/Special Needs Housing	
Accessory Apartments	
Municipally Sponsored and 100% Affordable	
Assisted Living	
Other	
<b>Total</b>	<b>0</b>

## Market and Affordable Units in Prior Round Inclusionary Development Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if affordable units are rentals)

Development Name	Rentals? (Y/N)	Total Units	Market Units	Affordable Units	Market Units Excluded
Presidential Place (Pizzo)	y	65	52	13	52
Heights of Lebanon (Kaplan)	Y	80	68	12	68
		0			0
		0			0
		0			0
<b>Total</b>		<b>145</b>	<b>120</b>	<b>25</b>	<b>120</b>

## Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development

N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
		0
		0
		0
		0
<b>Total</b>	<b>0</b>	<b>0</b>

[Return to Main Page \(Workbook D Intro\)](#)

[Return to COAH Data and RMP Module 2 Build-out Data](#)

[Return to Actual Growth](#)

[View Detailed Results from Analysis](#)

## COAH Growth Projections and Highlands Buildout Data

**Must be used in all submissions**

### Municipality Name: **Lebanon Borough**

The COAH columns have automatically been populated with growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq. The Highlands RMP Build-out columns have automatically been populated with residential and non-residential build-out figures from the municipal build-out results with resource and utility constraints found in Table 4 of the RMP Module 2 report. Always check with the Highlands Council for updates. If figures have been updated, enter updated build-out results. Use the Tabs at the bottom of this page or the links within the page to toggle to the exclusions worksheet of this workbook. After entering all relevant exclusions, toggle back to the introduction page to view the growth share obligation that has been calculated based on each approach.

#### COAH Projections

From Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq.  
Allocating Growth To Municipalities

Residential	Non-Residential
10	270

#### Highlands RMP Buildout Analysis

From Module 2  
Table 4 – Municipal Build-Out Results With Resource and Utility Constraints  
Updated as of October 2, 2009

	Preservation Area	Planning Area	Totals
Residential units – Sewered	0	0	0
Septic System Yield	0	1	1
<b>Total Residential Units</b>	0	1	1
Non-Residential Jobs – Sewered	0	101	101

**Note: Always check with the Highlands Council for updated municipal Build-out numbers. Enter build-out figures in the appropriate boxes only if revised figures have been provided by the Highlands Council.**

[Click Here to link to current Mod 2 Build-Out Reports](#)

[Proceed to Enter Prior Round Exclusions](#)  
[Retrun to Enter Actual Growth](#)  
[Return to Main Page \(Workbook D Intro\)](#)

## Comparative Analysis Detail For Lebanon Borough

The following chart applies the exclusions permitted pursuant to N.J.A.C 5:97-2.4 to both the COAH growth projections and the projected growth that results from the Highlands RMP build-out analysis plus actual growth for the period January 1, 2004 through December 31, 2008.

	COAH			Highlands	
	Residential	Non-Residential		Residential	Non-Residential
<b>Projected Growth From COAH Appendix F(2)</b>	10	270			
<b>Residential Exclusions per 5:97-2.4(a) from "Exclusions" tab</b> COs for prior round affordable units built or projected to be built					
Inclusionary Development	25		Inclusionary Development	25	
Supportive/Special Needs Housing	0		Supportive/Special Needs Housing	0	
Accessory Apartments	0		Accessory Apartments	0	
Municipally Sponsored or 100% Affordable	0		Municipally Sponsored or 100% Affordable	0	
Assisted Living	0		Assisted Living	0	
Other	0		Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	120		Market Units in Prior Round Inclusionary development built post 1/1/04	120	
<b>Subtract the following Non-Residential Exclusions per 5:97-2.4(b) from "Exclusions" tab</b>			<b>Subtract the following Non-Residential Exclusions per 5:97-2.4(b) from "Exclusions" tab</b>		
Affordable units	0		Affordable units	0	
Associated Jobs		0	Associated Jobs		0
<b>Net Growth Projection</b>	<b>-135</b>	<b>270</b>	<b>Net Growth Projection</b>	<b>-79</b>	<b>485</b>
<b>Projected Growth Share</b> (Residential divided by 5 and jobs divided by 16)	<b>0.00</b>	<b>16.88</b>	<b>Projected Growth Share</b> (Residential divided by 5 and jobs divided by 16)	<b>0.00</b>	<b>30.34</b>
<b>Total Projected Growth Share Obligation</b>		<b>17</b>			<b>30</b>
		Affordable Units			Affordable Units

[Return to Main Page \(Workbook D Intro\)](#)  
[Return to COAH Data and RMP Module 2 Build-out Data](#)  
[Return to Actual Growth](#)  
[Return to Exclusions](#)



**Township of Clinton Construction Office  
1225 Route 31 South  
Suite 411, Building D  
Lebanon, NJ 08833  
(908) 735-8800 Ext. 256  
(908) 735-7346 – fax**

May 26, 2010

Elizabeth McManus  
Clarke Caton Hintz  
100 Barrack Street  
Trenton, NJ 08608

Re: Borough of Lebanon  
Final Certificates of Occupancies

Dear Ms. McManus,

Below is a breakdown by year showing the Certificates of Occupancy that were issued by this department versus what the Construction Code Reporter has reported.

2004

- The DCA Construction Reporter incorrectly states that the Borough issued three certificates of occupancy for three new residential structures. Only one certificate of occupancy was issued in 2004 for the creation of a new unit (2B Knox Lane (8/28/02). The remaining certificates of occupancy reported by the State are for alterations, not new units.
- The DCA Construction Reporter incorrectly states that 4,672 square feet of B use group floor area was created in 2004. No new floor area was created as a result of the permit (permit 03-4043.4; Block 5, Lot 9). As a result, no new nonresidential floor area was created in 2005.

2005

- The DCA Construction Reporter incorrectly notes that five certificates of occupancy were issued for new residential units in 2005. However two of the permits, 04-4093 and 03-4300, were for temporary certificates of occupancy. To date, the final certificate of occupancy for 04-4093 has not yet been issued and the final certificate of occupancy for 03-4300 was issued in 2007.
- The DCA Construction Reporter states that 390,000 square feet of B use group floor area was created in 2005. However, the permits issued for Block 4, Lot 1.05 were for one building which is 130,000 square feet. The DCA Construction Reporter incorrectly notes this floor area three times for a total of 390,000 square feet. Permit 04-4022.C was the final certificate of occupancy for the 130,000 square foot building. This is the only nonresidential floor area created in 2005.

2006

- No changes.

2007

- The DCA Construction Reporter notes that 33 certificates of occupancy for new residential units were issued in 2007; however, the correct figure is 34.
- The DCA Construction Reporter incorrectly notes that 5,210 square feet of B use group was created in 2007; however, the correct figure is 2,600 square feet. This 2,600 square feet was created on Block 5, Lot 27 and the certificate of occupancy number was 06-4117. The DCA Construction Reporter notes that permit 03-4075 also created new nonresidential floor area; however this permit corresponds to utility space in a multi-family residential building (Block 10, Lot 2.1025).

2008

- No changes.

If you have any questions, feel free to contact me @908-735-8800 ext. 256.

Regards,



Michael Wright  
Construction Official





Lebanon Borough  
 Construction Office  
 1370 Route 31 North  
 Annandale, New Jersey 08801

Date Issued 11/4/2005  
 Tracking Number C4-105A  
 Permit Number 04-4022+c  
 Permit Issue Date 7/21/2004

## Certificate

Construction Code Division  
 (Certificate of Occupancy)

### Identification

Work Site Location: 600 CORPORATE DRIVE LEBANON, NJ Block: 4 Lot: 1.05 Qual: \_\_\_\_\_  
 Owner in Fee: ADEVCO CORPORATION  
 Owner Address: 3867 HALCOMB BRIDGE RDOAD NORCROSS GA 10092-  
 Telephone: (770) 441-7600  
 Contractor: BOVIS LEND LEASE  
 Address: 821 ALEXANDER ROAD PRINCETON NJ 08540-6303  
 Telephone: (609) 951-0500 Fax: (609) 951-0038  
 License Number or Builders Registration Number: \_\_\_\_\_ Federal Emp. Number: 56-0315630

Home Warranty Number: \_\_\_\_\_

Type of Warranty Plan:  State  Private

Use Group: B Construction Classification: Type V

Maximum Live Load: 0 Maximum Occupancy Load: 0

Description of Work Use:  
NEW OFFICE BUILDING

Comments:

**Certificate of Occupancy**

This serves notice that said building or structure has been constructed in accordance with the New Jersey Uniform Construction Code and is approved for occupancy.

**Certificate of Approval**

This serves notice that the work completed has been constructed or installed in accordance with the New Jersey Uniform Construction Code and is approved. If the permit was issued for minor work, this certificate was based upon what was visible at the time of inspection.

**Certificate of Continued Occupancy**

This serves notice that based on a general inspection of the visible parts of the building there are no imminent hazards and the building is approved for continued occupancy.

**Temporary Certificate of Compliance**

The following conditions must be met no later than or the owner will be subject to fine or order to vacate: This certificate has an expiration date of:  
**Conditions to be met:**

**Certificate of Clearance - Lead Abatement 5:17**

This serves notice that based on written certification, lead abatement was performed as per NJAC5:17 to the following extent.

- Total removal of lead-based paint hazards in scope of work
- Partial or limited time period ( \_\_\_\_\_ years); see file

**Certificate of Clearance - Asbestos Abatement**

This serves notice that based on written certification, asbestos abatement was performed to the following extent.

- Total removal of asbestos hazards in scope of work
- Partial or limited time period ( \_\_\_\_\_ years); see file

**Certificate of Compliance**

This serves notice that said potentially hazardous equipment has been installed and/or maintained in accordance with the New Jersey Uniform Construction Code and is approved for use until

**Temporary Certificate of Occupancy**

The following conditions must be met no later than: or the owner will be subject to fine or order to vacate: This certificate has an expiration date of:  
**Conditions to be met:**

\_\_\_\_\_  
 Construction Official

Fee: \$10,991.00  
 Check Number: 01732689  
 Collected By: Mike Wright

Township of Clinton  
 1370 State Highway 31 North  
 Annandale, NJ 08801  
 908-735-9035 Fax: 908-735-7346



**BUILDING  
 SUBCODE  
 TECHNICAL SECTION**



Date Received 7/21/09  
 Date Issued \_\_\_\_\_  
 Control # \_\_\_\_\_  
 Permit # 04-4022+C

**A. IDENTIFICATION—APPLICANT:** COMPLETE ALL APPLICABLE INFORMATION. WHEN CHANGING CONTRACTORS, NOTIFY THIS OFFICE. CALL UTILITY DIG NO: 1-800-272-1000.

Block 4 Lot 105  
 Work Site Location 78 Corporate Drive Lebanon NJ  
 Owner in Fee Adecco Corporation  
 Address 3807 Holcomb Bridge Rd Suite 800  
Norcross GA 30092  
 Tele. (770) 441-7600  
 Contractor Bouis Land Lease  
 Address 821 Alexander Road  
Princeton, NJ 08540  
 Tele. (609) 577-0378 Fax (908) 236 9353  
 Lic. No. or Bldrs. Reg. No. FA  
 Federal Emp. No. 56-0315630

**C. CERTIFICATION IN LIEU OF OATH**

I hereby certify that I am the (agent of) owner of record and am authorized to make this application.

X Blair Goodshall  
 Signature

**D. TECHNICAL SITE DATA**

DESCRIPTION OF WORK

4 Story Office Bldg

**JOB SUMMARY (Office Use Only)**

PLAN REVIEW	Date	Initial	INSPECTIONS	Type:	Failure	Failure	Approval	Initial
<input type="checkbox"/> No Plans Required								
<input checked="" type="checkbox"/> All	<u>061004</u>	<u>[Signature]</u>	Footing				<u>072001</u>	<u>[Signature]</u>
<input type="checkbox"/> Footing			Foundation					
<input type="checkbox"/> Foundation			Slab				<u>102005</u>	<u>[Signature]</u>
<input type="checkbox"/> Frame			Frame				<u>030305</u>	<u>[Signature]</u>
<input type="checkbox"/> Other			Barrier-Free					
Joint Plan Review Required:			Insulation					
<input type="checkbox"/> Elec. <input type="checkbox"/> Plumb. <input type="checkbox"/> Fire <input type="checkbox"/> Elevator			Finishes					
SUBCODE APPROVAL			Energy					
<input checked="" type="checkbox"/> CO <input type="checkbox"/> CCO <input type="checkbox"/> CA			Mechanical					
Date: <u>072005</u>			TCO					
Approved by: <u>[Signature]</u>			Other					
			Final				<u>072005</u>	<u>[Signature]</u>
			Barrier-Free					

TYPE OF WORK:

- New Building
- Addition
- Alteration
- Roofing
- Siding
- Fence \_\_\_\_\_ Height (exceeds 6')
- Sign \_\_\_\_\_ Sq. Ft.
- Pool
- Asbestos Abatement Subchapter 8
- Lead Haz. Abatement NJAC 5:17
- Other \_\_\_\_\_
- Demolition

FEE (Office Use Only)

\$ \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**B. BUILDING CHARACTERISTICS**

Use Group Present \_\_\_\_\_ Proposed B  
 Constr. Class Present \_\_\_\_\_ Proposed 2B  
 No. of Stories 4  
 Height of Structure 45.5 Ft.  
 Area — Largest Floor 32,223 Sq. Ft.  
 New Bldg. Area/All Floors 130,000 Sq. Ft.  
 Volume of New Structure 17,131 Cu. Ft.  
 Total Land Area Disturbed 2,500 Sq. Ft.

Est. Cost of Bldg. Work:

1. New Bldg. \$ 13,600,000  
 2. Alteration \$ \_\_\_\_\_  
 3. Total (1+2) \$ 13,600,000

Administrative Surcharge \$ \_\_\_\_\_  
 Minimum Fee \$ \_\_\_\_\_  
 DCA Training Fee \$ \_\_\_\_\_  
 TOTAL FEE \$ \_\_\_\_\_

## **Appendix D.**

**Coach House LLC Approving Resolution**



**LEBANON BOROUGH PLANNING BOARD | BOARD OF ADJUSTMENT  
RESOLUTION 2-2010  
COACH HOUSE, LLC  
USE VARIANCES and PERMIT FOR STRUCTURE ON LOT  
WHICH DOES NOT ABUT PUBLIC STREET  
BLOCK 6, LOTS 14 and 14.01**

**WHEREAS**, Coach House, LLC has applied to the Lebanon Borough Planning Board/Board of Adjustment for approval to modify a multi-unit apartment building on Block 6, Lot 14 and to convert an existing bank barn into a single family residence on Block 6, Lot 14.01, both of which lots are located in the Residential/Professional (RIP) zone with a portion of Block 6, Lot 14.01 being located in the COMM-ROM 100,000 SF (COMM-ROM 100,000) zone at 46-50A Main Street in Lebanon Borough; and

**WHEREAS**, the relief requested requires the grant of two variances pursuant to *N.J.S.A. 40:55D-70d*, thereby establishing jurisdiction in the Board of Adjustment; and

**WHEREAS**, the applicant must also request direction for the issuance of a permit regarding a structure on a lot which does not abut a public street as permitted by *N.J.S.A. 40:55D-36*; and

**WHEREAS**, the application also involves site plan issues which must be resolved as part of the overall application; and

**WHEREAS**, the matter was heard before the Lebanon Borough Planning Board/Board of Adjustment (sitting as a Board of Adjustment) at a hearing on April 14,

2010, at which time the applicant was represented by Thomas Walsh, Esq. and sworn testimony was given by Alexander Patullo, a principal of Coach House, LLC; and

**WHEREAS**, testimony was also given on behalf of the municipality by Beth McManus of Clark • Caton • Hintz, the municipal planners, with Ms. McManus' testimony dealing only with the affordable housing aspect of this application; and

**WHEREAS**, the Board has determined that all jurisdictional requirements of the applicable state statute and local ordinance have been met, thereby conferring jurisdiction upon the Board to consider this matter; and

**WHEREAS**, the public had an opportunity to attend the hearing and to participate therein; and

**WHEREAS**, the Board makes the following findings of fact and conclusions of law:

1. The applicant's proposal is shown on a set of architectural drawings entitled "Proposed Addition & Alteration for: Coach House, LLC" prepared by Eric Trepkau, Architect, which plans are dated March 3, 2010. The drawings consist of three sheets; A-1 - the Floor Plans; A-2 - Elevations; and A-3 - Demolition Plans and Key Plans.

2. In addition to the plans mentioned above, the applicant provided the Board with a series of five drawings which bear the logo of Home Solutions. The drawings indicate that they were printed on November 18, 2009 and January 19, 2010. The drawings are unsigned and no testimony was provided regarding the accuracy of same. The drawings in question are the following: E-1 - First Floor Plan showing existing conditions for 46-50A Main Street; E-2 - Second Floor Plan showing existing conditions at the same address; P1 - Proposed First Floor Plan for 46-50A Main Street; P2 - Proposed Second Floor Plan for 46-50A Main Street; untitled drawing showing the proposed basement area at 46-50A Main Street with apartment unit. All of the drawings mentioned in the preceding two paragraphs appear to apply only to the improvements shown on Block 6, Lot 14.

3. The applicant also supplied a sealed survey of the subject properties

entitled "Exhibit for Coach House, LLC Block 6, Lots 14 and 14.01, Borough of Lebanon, Hunterdon County, New Jersey". The survey is dated April 13, 2010 and was prepared by Van Cleef Engineering Associates.

**Block 6, Lot 14:**

4. Block 6, Lot 14 is a 0.458 acre parcel. There is a two story frame multi-unit apartment building located on that lot. The lot is located in the RIP zone.

5. At the present time, the two story frame building contains four residential apartments. The layout of the four units are shown on drawings E1 and E2. The untitled drawing shows the proposed basement layout which includes the existing basement areas under existing units 1, 2 and 3 which will not be changed. It also shows the area which is beneath existing unit #4. That area will be converted into a one bedroom apartment known as unit #6.

6. The applicant proposes to do significant modifications to the area mentioned as unit 4 on drawings E1 and E2. Unit 4 on drawing E1 and E2 is a four bedroom apartment with the bedrooms located on the second floor. The first floor is presently used as a living room, kitchen and storage/garage area.

7. The applicant intends to modify the units as shown on the architectural plans and drawings P1 and P2. Unit four will become units 4 and 5.

As shown on the drawings, each will have a kitchen and a living room on the first floor and two bedrooms and a bath on the second floor.

8. The applicant testified that units 1, 2 and 3 will become two bedroom units. That change is not reflected on drawing P2 or on the architectural plans. The drawings will be revised to reflect the testimony given at the public hearing.

9. Finally, the applicant intends to use the most northeasterly portion of the basement as a one bedroom apartment in the manner shown on the unmarked drawing bearing the Home Solutions logo. The basement unit will include one bedroom, a bathroom and a open living area which includes a kitchenette, a dinette area and living room area.

10. At the present time, the four units consist of three separate three bedroom units and a four bedroom unit for a total of 13 bedrooms spread over the four units. The applicant testified that he intends to convert units 1, 2 and 3 from 3 bedroom units to 2 bedroom units. The four bedroom unit will be converted to two separate two bedroom units. The additional unit in the basement will provide one additional bedroom. Currently there are a total of 13 bedrooms. Under the applicant's current proposal, there will be a total of 11 bedrooms in the units.

11. 11. Nonetheless, the proposal must be considered as an intensification of the existing use since the applicant is asking to expand from four residential units on the subject property to six residential units on the same property. No changes in the footprint of the building are proposed.

12. Multi-family use is not a permitted use in the RIP zone. Accordingly, the apartment building currently exists as a pre-existing non-conforming use. If the

requested relief is granted, it would constitute an expansion of a non-conforming use. That relief can be granted only by a Board of Adjustment pursuant to *N.J.S.A. 40:55D-70d(2)*.

**Block 6, Lot 14.01:**

13. Lot 14.01 is a 0.468 acre parcel. The lot is irregularly shaped and does not abut any public street. The owner has access to this lot via a gravel drive which extends from Main Street in a northerly direction across Lot 14 into Lot 14.01.

14. Block 6, Lot 14.01 is a split lot in zoning terms. The most northerly portion of the property is located in the COMM-ROM 100,000 zone. The zone line runs through the two story frame barn which is located on the subject property.

15. Most of the lot is located in the RIP zone. There is a two story frame single family dwelling located on Block 6, Lot 14.01. That building is entirely located in the R/P zone. As previously noted, there is a two story frame barn which is bisected by the zone line. The southerly portion of the barn is located in the RIP zone.

16. The applicant proposes no changes to the two story frame dwelling. That building has already been almost completely refurbished by this applicant. The current use of this lot, a single family residence and a barn, constitutes permitted uses under the ordinance.

17. The primary focus of this part of the application is on the two story frame barn. It was characterized in the drawings and in the testimony as a bank



barn. The applicant intends to convert the bank barn into a single family residence. All proposed improvements will be located within the existing footprint of the bank barn. When the residential unit is completed, it will still resemble a bank barn from the outside.

18. As noted, the applicant proposes to convert the bank barn into a single family residence. If that is done, there will be two principal uses on the subject property. Although a single family residence is a permitted use in the RIP zone (but not the COMM-ROM 100,000 zone), the relief requested includes approval for the continuation of a existing principal use and for a second principal use. That relief can only be granted by the Board of Adjustment pursuant to *N.J.S.A. 40:44D-70 d (1)*.

19. Additionally, this lot also requires relief pursuant to *N.J.S.A. 40:55D-36*. It is a general rule that no permits will be issued for the development of a structure on a lot which does not directly abut a public street. Block 6, Lot 14.01 is a landlocked parcel which does not have any frontage on a public street. There is, however, a gravel drive which runs in a northerly direction across Block 6, Lot 14 and enters onto Block 6, Lot 14.01. That gravel drive provides access to the two-story frame apartment building and to the bank barn.

20. The applicant testified that the owners of Block 6, Lot 14.01 and the individuals who reside thereon have a legal right to use the gravel drive for egress and ingress to and from Main Street. There is no other means of ingress or egress to Main Street or any other public road.

**Grounds for Relief:**

21. The applicant is requesting permission to expand several non-conforming uses and to intensify the use of two properties, one of which is already more intensely developed than local ordinances allow. The applicant has justified these requests for relief by including an affordable housing component as part of the application. Mr. Patullo testified that two of the apartment units on Block 6, Lot 14 will be affordable housing units as provided by law.

22. The applicant has further testified that creating two affordable housing units on this site involves a substantial financial commitment. The plan will provide a benefit to the municipality because it will help meet the Borough's obligation to provide affordable housing. Additionally, the applicant has made a significant investment by upgrading all of the remaining facilities which are located on the two lots.

23. Beth McManus, P.P. appeared on behalf of the municipality at the hearing. Prior to the public hearing, Ms. McManus had outlined the Borough's obligations to provide affordable housing. During the hearing, she testified that this project provided a unique opportunity to provide two affordable housing units. She noted that the affordable units and the two properties must remain in common ownership throughout the affordability period. There will be a deed restriction requiring these properties to remain in common ownership for a ten year period.

24. If that is done, the planner concluded that this application provides a particular case which justifies the grant of the requested variances. The need for affordable housing and the ability to provide some affordable housing in this context constitutes a special reason for the grant of the subsection "d" variances.

25. In order to grant the variances, the Board of Adjustment must be

satisfied that the proposal will result in the creation of two affordable apartment units. Two of the two bedroom units in the multi-family structure on Lot 14 shall become affordable housing units. They will be accessory to the proposed new single family home located on Lot 14.01. The said single family home shall serve as the primary use on the property for the ten year period during which these lots must remain in common ownership.

26. The property owner shall be provided a subsidy for the creation of the affordable units in the form of a density increase of two units and sewer capacity to support the development program. As conceded to by the applicant, no additional subsidy is required to provide an adequate compensatory benefit for the creation of the two accessory apartments.

27. The accessory apartments shall comply with the following regulations:

a. The affordable accessory apartment units must comply with the applicable COAH rules and Uniform Housing Affordability Control rules;

b. The affordable accessory apartment units must be for rent;

c. The affordable accessory apartment units must have affordability controls restricting them to being occupied by low or moderate income households for a period of ten (10) years; and

d. The affordable accessory apartment units shall be administered by an affordable housing administrative entity in accordance with COAH rules and Uniform Housing Affordability Control rules.

28. The Board finds that, if these conditions are met, this application is a particular case and special reasons will exist for the grant of the subsection "d" variances.

29. The Board finds that there is also grounds to authorize the issuance of a permit for the bank barn to convert it into a single family residence if the applicant establishes as part of his site plan review that it will provide adequate access for fire fighting equipment, ambulances and other emergency vehicles necessary for the protection, the health and safety of the individuals who live on Block 6, Lot 14.01. The uses and layout involved herein do not have any adverse impact on any future street layout shown on the official map or on the general circulation plan element within the municipal master plan.

30. One of the neighboring property owners testified at the meeting. He expressed concern that it could result in the creation of nuisance aspects if additional units are allowed on the subject property. The Board is mindful of that possibility and will require that the leases for all the rental units be precise and include prohibitions against specific nuisance aspects. The applicant agreed to provide a copy of its standard lease and to demonstrate how these provisions will be enforced.

31. The Board is also satisfied that the relief requested can be granted without causing any substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and the zoning ordinance. The need for affordable housing and the overall quality of the work that the applicant has done thus far are strong arguments in favor of the grant of the necessary relief.

32. The applicant also discussed the arrangement of the access drive and the parking spaces on the subject property. At this point, the Board did not have sufficient information to make a determination regarding the site plan aspects of this project. The Board determined that it would vote on the variances only and that the applicant could return and address any site plan issues. Accordingly, all relief granted in this resolution will be subject to the applicant obtaining site plan approval and/or site plan waiver and meeting all conditions of same.

**NOW, THEREFORE, BE IT RESOLVED** by the Lebanon Borough Planning Board/Board of Adjustment (sitting as a Board of Adjustment) that the applicant's request for the following relief is hereby conditionally approved, for the reasons set forth in the body of this resolution:

1. Variance relief for Block 6, Lot 14 to allow the expansion of a non-conforming use from four (4) apartment units to six (6) units as set forth herein.

2. Permission to convert the existing two story frame building into a single family residence which will still retain the exterior appearance of a bank barn, thereby permitting a second principal use on Block 6, Lot 14.01.

3. Direction to issue a permit for the conversion of the aforementioned bank barn building into a single family residence even though Block 6, Lot 14.01 does not directly abut a public street; this relief to be subject to a demonstration that Lot 14.01 has legal access across Block 6, Lot 14 and subject to provisions which will insure future access for all emergency vehicles; and

**BE IT FURTHER RESOLVED** that the relief granted herein shall be subject to compliance with all rules and regulations necessary to establish that two of the

apartment units on Block 6, Lot 14 qualify as affordable housing units including but not limited to the provisions set forth in the body of this resolution; and

**BE IT FURTHER RESOLVED** that all relief granted herein is conditioned upon the applicant obtaining site plan review or site plan waiver for this project and compliance with any conditions attached to that relief including but not limited to the review of the applicant's standard lease and the access easement provisions for Block 6, Lot 14.01; and

**BE IT FURTHER RESOLVED** that these variances will remain in effect for a period of one year unless the applicant obtains site plan approval or waiver at which time the Board will extend the variances to be consistent with the term of the site plan approval or waiver.

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Sue Lachemayer, Vice Chairperson

ATTEST:

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KAREN ROMANO, Secretary

DATE MEMORIALIZED: May 12, 2010

## **Appendix E.**

### **Draft Accessory Apartment Ordinance**

**Ordinance \_\_\_\_**  
**Draft Ordinance Creating the Accessory Apartment Program**  
**Borough of Lebanon, Hunterdon County, New Jersey**

**Accessory Apartments.**

1. Accessory apartments shall be permitted on all single-family detached residential lots.
2. The Borough shall provide a subsidy of \$20,000 to each property owner creating a moderate income accessory apartment and \$25,000 to each property owner creating a low income accessory apartment. Said subsidy shall be provided within 60 days of the date which the certificate of occupancy for the accessory apartment is issued and the deed restriction is in place.
3. Each accessory apartment unit shall be for rent.
4. Each accessory apartment shall, for a period of at least 10 years, be rented only for such rents as shall be affordable to individuals and families of low or moderate income, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
5. There shall be a recorded deed or declaration of covenants and restrictions applying to each accessory apartment, running with the land, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26).
6. The accessory apartment may be located in and part of the principal dwelling, or in a garage, carriage house, barn or other accessory building.
7. No accessory apartment shall receive Board approval or zoning permit unless the property owner demonstrates that an adequate potable water supply is available.
8. There shall be no more than two accessory apartments per single-family dwelling on each lot.
9. The accessory apartment shall be in full compliance with all applicable health and construction codes prior to occupancy.
10. Each accessory apartment shall have living/sleeping space, cooking facilities, a kitchen sink and complete sanitary facilities for the exclusive use of its occupants. It shall consist of no less than two rooms, one of which shall be a full bathroom.
11. Each accessory apartment shall have a private entrance with direct access to the outdoors.
12. In the case of an accessory apartment created illegally or without proper permits which the property owner desires to legitimize as an accessory apartment under this chapter, all of the requirements of this chapter in addition to meeting COAH criteria shall apply.
13. The accessory apartment shall be affirmatively marketed to the housing region, consistent with COAH's substantive rules (N.J.A.C. 5:97) and the Uniform Housing Affordability Control Rules (N.J.A.C. 5:80-26)..
14. Adequate parking for the accessory apartment shall be provided in a manner which shall be compatible with the established neighborhood character.



## **Appendix F.**

### **Draft Affordable Housing Ordinance**

**Lebanon Borough, Hunterdon County  
Draft Affordable Housing Ordinance**

**AN ORDINANCE OF THE BOROUGH OF LEBANON, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY AMENDING CHAPTER \_\_ "AFFORDABLE HOUSING" OF THE CODE OF THE BOROUGH OF LEBANON TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING'S THRID ROUND RULES**

**WHEREAS**, the New Jersey Council on Affordable Housing ("COAH") has promulgated rules, set forth at N.J.A.C. 5:96 and 5:97, concerning the substantive and procedural requirements for obtaining third round substantive certification of the Borough's Housing Element and Fair Share Plan; and

**WHEREAS**, on (Insert Date), the Court issued Hampton Borough a third round judgment of repose; and

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

**NOW THEREFORE, BE IT ORDAINED** by the Borough Committee of the Borough of Lebanon, County of Hunterdon and State of New Jersey, that the "Code of the Borough of Lebanon" ("Code") is hereby amended as follows:

**Section 1.** Chapter \_\_, entitled "Affordable Housing," Deleted and Replaced. Chapter \_\_ "Affordable Housing" of the Code is hereby deleted in its entirety and replaced with a new Chapter \_\_ "Affordable Housing," which shall read as follows:

**Chapter \_\_  
AFFORDABLE HOUSING**

**ARTICLE I  
General Program Purposes, Procedures**

**§ \_\_-1. Affordable Housing Obligation.**

- A. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing for the period beginning June 2, 2008 with amendments through October 20, 2008", N.J.A.C. 5:97 et seq., the Uniform Housing Affordability Controls ("UHAC"), N.J.A.C. 5:80-26.1 et seq., and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate

income households. In addition, this section applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill").

- B. This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The Lebanon Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Plan has also been endorsed by the Borough Committee of the Borough of Lebanon. The Fair Share Plan describes the ways the Borough shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- E. The Borough shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Lebanon Borough Municipal Building 405 Mine Road, Asbury, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey.

§ \_\_-2. **Definitions.** As used herein the following terms shall have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not

limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with *N.J.A.C. 5:97-6.4*.

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

E. 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.

2. In each affordable development, at least 50% of the restricted units within each bedroom distribution shall be low-income units.
3. Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low income households.
4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
  - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
  - (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and
  - (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

F. Accessibility Requirements:

1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor;
  - (b) An adaptable kitchen on the first floor;
  - (c) An interior accessible route of travel on the first floor;



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

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

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

(3) The funds deposited under paragraph (2) herein, shall be used by the Borough for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

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

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

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

G. Maximum Rents and Sales Prices.

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

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

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

**§ \_\_-4. Condominium and Homeowners Association Fees.**

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

**§ \_\_-5. Reserved.**

**§ \_\_-6. Reserved.**

**§ \_\_-7. Reserved.**

**§ \_\_-8. Reserved.**

**§ \_\_-9. Reserved.**

ARTICLE II  
**Affordable Unit Controls and Requirements**

**§ \_\_-10. Purpose.**

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

**§ \_\_-11. Affirmative Marketing.**

- A. The Borough shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, 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 also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 3 and covers the period of deed restriction.

- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 3, comprised of Hunterdon, Middlesex and Somerset Counties.
- D. The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- 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 process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Lebanon.

**§ \_\_-12. Occupancy Standards.**

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

**§ \_\_-13. Selection of Occupants of Affordable Housing Units.**

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.

- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of N.J.A.C. 5:80-26 *et seq.*

**§ \_\_-14. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.**

- A. Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- D. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- E. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

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

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

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

**§ \_\_-16. Buyer Income Eligibility.**

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

**§ \_\_-17. Limitations on indebtedness secured by ownership unit; subordination.**

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

**§ \_\_-18. Control Periods for Restricted Rental Units.**

- A. Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Hunterdon. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

- D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
1. Sublease or assignment of the lease of the unit;
  2. Sale or other voluntary transfer of the ownership of the unit; or
  3. The entry and enforcement of any judgment of foreclosure.



**§ —19. Price Restrictions for Rental Units; Leases.**

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

**§ —20. Tenant Income Eligibility.**

- A. Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
  - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
  - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
  - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - 1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;

3. The household is currently in substandard or overcrowded living conditions;
  4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)<sup>1</sup> through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

**§ \_\_-21. Conversions.**

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

**§ \_\_-22. Reserved.**

**§ \_\_-23. Reserved.**

**§ \_\_-24. Reserved.**

ARTICLE III  
**Administration**

**§ \_\_-25. Municipal Housing Liaison.**

- A. The position of Municipal Housing Liaison for the Borough of Lebanon is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Borough Committee and be subject to the approval of the Court.
- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Lebanon.
- C. The Municipal Housing Liaison must meet COAH's requirements for qualifications, including initial and periodic training.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Lebanon,

including the following responsibilities which may not be contracted out to the Administrative Agent:

1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
2. The implementation of the Affirmative Marketing Plan and affordability controls.
3. When applicable, supervising any contracting Administrative Agent.
4. Monitoring the status of all restricted units in the Borough of Lebanon's Fair Share Plan;
5. Compiling, verifying and submitting annual reports as required by COAH;
6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.

**§ \_\_-26. Administrative Agent.**

- A. The Borough shall designate by resolution of the Borough Committee, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Court. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- C. The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
  1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;

2. Affirmative Marketing;
3. Household Certification;
4. Affordability Controls;
5. Records retention;
6. Resale and re-rental;
7. Processing requests from unit owners; and
8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
9. The Administrative Agent shall, as delegated by the Borough Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

**§ \_\_-27. Enforcement of Affordable Housing Regulations.**

- A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
  - I. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
    - (a) A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

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

(c) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.

C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.

D. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

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

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

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

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

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Committee of the Borough of Lebanon, in the County of Hunterdon, State of New Jersey, held on (Insert Date). It will be further considered for final passage, after public hearing thereon, at a meeting of the Borough Committee to be held in the meeting room of the Municipal Building, 405 Mine Road, Asbury on (Insert Date) at 7:00 p.m., and during the week prior and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

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Diane Pflugfelder, R.M.C., Clerk

## **Appendix G.**

**Draft Development Fee Ordinance**



**Ordinance \_\_\_\_**  
**Draft Development Fee Ordinance**  
**Lebanon Borough, Hunterdon County, New Jersey**

I. Purpose

- a) In Holmdel Builder's Association V. Holmdel Boroughship, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) 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 is 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 are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to N.J.A.C. 5:96-5.1.
- b) Lebanon Borough shall not spend development fees until COAH has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- a) The following terms, as used in this ordinance, shall have the following meanings:
  - i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.
  - ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

- iii. “Development fee” means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.
- iv. “Developer” means 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.
- v. “Equalized assessed value” means 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).
- vi. “Green building strategies” means 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.

4. Residential Development fees

a) Imposed fees

- i. Residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent of the equalized assessed value for residential development provided no increased density is permitted.
- ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-7od(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-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-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b) Eligible exactions, ineligible exactions and exemptions for residential development

- i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments

where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

- ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- iii. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

5. Non-residential Development fees

a) Imposed fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- iii. 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 improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time 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.

b) Eligible exactions, ineligible exactions and exemptions for non-residential development

- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
- ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

- iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time 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 of the non-residential development, whichever is later.
- v. 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 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Lebanon Borough as a lien against the real property of the owner.

6. Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) 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.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should Lebanon Borough fail to determine or notify the developer of the amount of the development fee within 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).

Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

- i) Appeal of development fees
  - 1) 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 Lebanon Borough. 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 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
  - 2) 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 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Lebanon Borough. 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 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the chief financial officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
  - 1. payments in lieu of on-site construction of affordable units;
  - 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a Boroughhouse or other multistory attached development accessible;
  - 3. rental income from municipally operated units;
  - 4. repayments from affordable housing program loans;
  - 5. recapture funds;
  - 6. proceeds from the sale of affordable units; and
  - 7. any other funds collected in connection with Lebanon Borough's affordable housing program.
- c) Within seven days from the opening of the trust fund account, Lebanon Borough shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Lebanon Borough'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, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or 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, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse Lebanon Borough for past housing activities.
- c) At least 30 percent of all development fees collected and interest earned 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 of the affordability assistance

portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

- i. 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.
  - ii. Affordability assistance to households earning 30 percent 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 30 percent or less of median income.
  - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) Lebanon Borough may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
  - e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. 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. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) Lebanon Borough shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Lebanon Borough's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

- a) The ability for Lebanon Borough to impose, collect and expend development fees shall expire with its judgment of compliance unless Lebanon Borough has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If Lebanon Borough fails to renew its ability to impose and collect development fees prior to the expiration of judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal 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). Lebanon Borough shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall Lebanon Borough retroactively impose a development fee on such a development. Lebanon Borough shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

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## **Appendix H.**

**Governing Body Resolution Requesting Approval of Development Fee Ordinance**



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

**Resolution #77-2010**

**Governing Body Resolution Requesting Approval of Draft Development Fee Ordinance  
Lebanon Borough, Hunterdon County, New Jersey**

WHEREAS, the Governing Body of Lebanon Borough, Hunterdon County will file for a Judgment of Compliance and Repose with Superior Court; and

WHEREAS, 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), permits municipalities that are under the jurisdiction of COAH or of a court of competent jurisdiction and that have a COAH-approved spending plan to impose and retain fees on residential and non-residential development; and

WHEREAS, subject 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), N.J.A.C. 5:97-8.3 permits a municipality to prepare and submit a development fee ordinance for review and approval by the Council on Affordable Housing (COAH) that is accompanied by and includes the following:

1. A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d) ;
2. A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e);
3. A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d) ;
4. A description of collection procedures per N.J.A.C. 5:97-8.3(f);
5. A description of development fee appeals per N.J.A.C. 5:97-8.3(g); and
6. A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h).

WHEREAS, Lebanon Borough has prepared a draft development fee ordinance that establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations at N.J.A.C. 5:97-8 and in accordance with P.L.2008, c.46, Sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

NOW THEREFORE BE IT RESOLVED that the Governing Body of Lebanon Borough, Hunterdon County requests that COAH review and approve Lebanon Borough's development fee ordinance.

*↑ Draft*

Introduced and adopted:

Ayes: ~~0~~ 5  
Nays: 0  
Absent: ~~0~~ 1

LEBANON BOROUGH COUNCIL

*R. Gary Quick*

R. Gary Quick

Borough Council President

ATTEST:

*Karen M. Romano*

Karen M. Romano, RMC  
Borough Clerk

**CERTIFICATION**

I, Karen M. Romano Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on May 19, 2010 that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: May 19, 2010

*Karen M. Romano*

Karen M. Romano, RMC  
Borough Clerk

## **Appendix I.**

### **Spending Plan**



Clarke Caton Hintz

# Third Round Spending Plan

Borough of Lebanon, Hunterdon County, New Jersey

May 2010



## INTRODUCTION

Lebanon Borough has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was most recently approved by COAH on July 18, 2005. The ordinance establishes Lebanon Borough's affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, Lebanon Borough has collected \$34,781.29, expended \$0 resulting in a balance of \$30,000. The balance as of March 31, 2010 is \$35,337.54. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund account TD Bank. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$31,857.35. From January 1, 2005 through July 17, 2008, Lebanon Borough collected \$2,923.949 in interest. From January 1, 2005 through July 17, 2008, Lebanon Borough expended funds on the affordable housing activities detailed in section 4 of this spending plan.



**REVENUES FOR CERTIFICATION PERIOD**

To calculate a projection of revenue anticipated during the period of third round Judgment of Repose, Lebanon Borough considered the following:

- (a) Development fees: \$114,000
  - 1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
  - 2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
  - 3. Future development that is likely to occur based on historical rates of development.
  
- (b) Payment in lieu (PIL): \$20,000  
Lebanon Borough does not anticipate any payments in lieu (PIL) of construction from developers.
  
- (c) Other funding sources: \$0  
Lebanon Borough is not anticipating collecting money from other funding sources at this time. All monies in the Affordable Housing Trust fund are anticipated to come from development fees, payments in lieu of construction and interest.
  
- (d) Projected interest: \$4,500  
Based on the current average interest rate, Lebanon Borough anticipated collecting \$4,500 in interest through 2018.



Clarke Caton Hintz

Source of Funds – Housing Trust Fund 2009 Through 2018

	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Development fees:										
Approved Development	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Development Pending Approval	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Projected Development	\$0	\$0	\$5	\$5	\$20	\$21	\$21	\$21	\$21	\$114
Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$10	\$10	\$0	\$0	\$20
Other Funds	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest	\$.5	\$.5	\$.5	\$.5	\$.5	\$.5	\$.5	\$.5	\$.5	\$4.5
<i>Total</i>	\$.5	\$.5	\$5.5	\$5.5	\$20.5	\$31.5	\$31.5	\$21.5	\$21.5	\$138.5





Lebanon Borough projects a total of \$118,500 in revenue to be collected between May 1, 2010 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

### **ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS**

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Lebanon Borough:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Lebanon Borough's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

The Planning Board adopts and forwards a resolution to the governing body recommending the expenditure of development fee revenues as set forth in this spending plan. The governing body reviews the request for consistency with the spending plan and adopts the recommendation by resolution.

The release of funds requires the adoption of the governing body resolution in accordance with the COAH-approved spending plan. Once a request is approved by resolution, the Chief Financial Officer releases the requested revenue from the trust fund for the specific use approved in the governing body's resolution.

### **DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS**

(a) Rehabilitation and new construction programs and projects (N.J.A.C. 5:97-8.7)

Lebanon Borough will dedicate \$70,000 to rehabilitation and new construction programs (see detailed descriptions in Fair Share Plan) as follows:



Rehabilitation program: \$0

Lebanon Borough has satisfied the rehabilitation obligation; however, the Borough will use any excess funds for rehabilitation. Please see the 2010 Housing Element and Fair Share Plan for additional information.

Accessory Apartment Program: \$70,000

The Borough will conduct a three (3) unit accessory apartment program; two low income units and one moderate income unit shall be provided. Consistent with N.J.A.C. 5:97-(b)2., the Borough shall provide a \$25,000 subsidy for the low income units and a \$20,000 subsidy for the moderate income units. Accordingly, the Borough shall dedicate up to \$70,000 for this program.

(b) Affordability Assistance (N.J.A.C. 5:97-8.8)

Lebanon Borough is required to spend a minimum of 30 percent of development fee revenue to render existing affordable units more affordable and one-third of that amount must be dedicated to very low-income households (i.e. households earning less than 30 percent of the regional median income). The actual affordability assistance minimums are calculated on an ongoing basis in the CTM system based on actual revenues.



Projected Minimum Affordability Assistance

Actual development fees and interest 4/1/2010		\$35,338
Development fees and interest projected 2010-2018	+	\$138,500
Less housing activity expenditures through 6/2/2008	-	\$0
<i>Total</i>	=	\$173,383
30 percent requirement	x 0.30 =	\$52,151
Less Affordability assistance expenditures through 12/31/2004	-	\$0
<i>PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018</i>	=	\$52,151
<i>PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018</i>	÷ 3 =	\$17,384

Lebanon Borough will dedicate \$52,151 from the affordable housing trust fund to render units more affordable, including \$17,384 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

- Down-payment assistance;
- Rental assistance;
- Security deposit assistance
- Low interest loans
- Assistance with homeowners association or condominium fees and special assessments; and/or
- Converting low-income units to very-low-income units, etc.

(c) Administrative Expenses (N.J.A.C. 5:97-8.9)

Lebanon Borough may use affordable housing trust fund revenue for related administrative costs up to a 20 percent limitation pending funding availability after programmatic and affordability assistance expenditures. The actual



administrative expense maximum is calculated on an ongoing basis in the CTM system based on actual revenues.

**Projected Maximum Administrative Expenses**

Actual development fees and interest 5/1/2010		\$35,338
Development fees and interest projected 2010-2018	+	\$138,500
Less RCA expenditures actual and projected	-	\$0
<i>Total</i>	=	\$173,383
20 percent maximum permitted administrative expenses	x 0.20 =	\$34,768
Less administrative expenditures through 12/31/2004	-	\$0
Projected allowed administrative expenditures	=	\$34,768

Lebanon Borough projects that \$34,768 will be available from the affordable housing trust fund to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

- Borough Planner fees related to obtaining a Judgment of Repose;
- Rehabilitation administration fees
- Administration fees related to the Martin Village inclusionary development
- Administration fees related to the Lebanon Electric inclusionary development
- Administration fees related to the Luster / Dodger Blues inclusionary development
- Administration fees related to the Market to Affordable program

**EXPENDITURE SCHEDULE**

Lebanon Borough intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.



Projected Expenditure Schedule 2010 Through 2018

Program	Units Projected	Funds Expended and/or Dedicated (thousands)									
		2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Accessory Apartments	3	\$0	\$25	\$20	\$25	\$0	\$0	\$0	\$0	\$0	\$70
<i>Total Programs</i>	3	\$0	\$25	\$20	\$25	\$0	\$0	\$0	\$0	\$0	\$70
Affordability Assistance		\$5.7	\$5.8	\$5.8	\$5.8	\$5.8	\$5.8	\$5.8	\$5.8	\$5.8	\$52.1
Administration		\$3.8	\$3.9	\$3.8	\$3.9	\$3.8	\$3.9	\$3.8	\$3.9	\$3.9	\$34.7
<i>Total</i>		\$8.2	\$33.2	\$28.3	\$33.2	\$8.3	\$8.2	\$8.3	\$8.2	\$8.3	\$156.8

**EXCESS OR SHORTFALL OF FUNDS**

Pursuant to the Housing Element and Fair Share Plan, the governing body of Lebanon Borough has adopted a resolution agreeing to fund any shortfall of funds required for implementing the rehabilitation or market to affordable programs. In the event that a shortfall of anticipated revenues occurs, Lebanon Borough will bond to satisfy the gap in funding. A copy of the adopted resolution is attached.

**BARRIER FREE ESCROW**

Collection and distribution of barrier free funds shall be consistent with Lebanon Borough's Affordable Housing Ordinance in accordance with N.J.A.C. 5:97-8.5.

**SUMMARY**

Lebanon Borough intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated November 2008.

Lebanon Borough has a balance of \$35,337.54 as of March 31, 2010 and anticipates an additional \$138,500 in revenues before the expiration of its Judgment of Repose for a total of \$173,383. The municipality will dedicate \$70,000 toward the accessory apartment program], \$44,500 to render units more affordable, and \$29,700 to administrative costs. Any shortfall of funds will be offset by bonding. The municipality will dedicate the \$16,464 in excess funds toward rehabilitation.



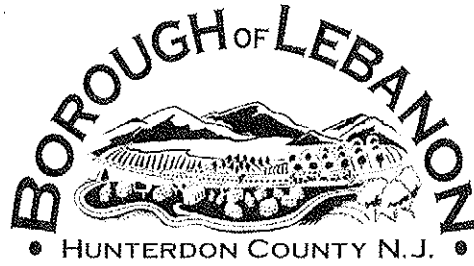
## Spending Plan Summary

Revenues	
Balance as of March 31, 2010	\$35,338
Projected Revenue from July 18, 2008 through 2018	
1. Development fees	+ \$114,000
2. Payments in lieu of construction	+ \$20,000
3. Other funds	+ \$0
Interest	+ \$4,500
<i>Total Projected Revenue</i>	= \$173,383
Expenditures	
Funds used for Rehabilitation	- \$0
Funds used for New Construction	
1. Accessory Apartment	- \$70,000
Affordability Assistance	- \$52,151
Administration	- \$34,768
Excess Funds for Additional Housing Activity	= \$0
1. Rehabilitation	\$16,464
<i>Total Projected Expenditures</i>	= \$173,383
<i>REMAINING BALANCE</i>	= \$0.00

## **Appendix J.**

**Governing Body Resolution Requesting Approval of Spending Plan**





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

**Resolution 78-2010  
Governing Body Resolution Requesting Approval of Spending Plan  
Lebanon Borough, Hunterdon County, New Jersey**

**WHEREAS**, the Governing Body of Lebanon Borough, Hunterdon County will file with Superior Court for a Judgment of Compliance and Repose; and

**WHEREAS**, Lebanon Borough will request approval from COAH of its development fee ordinance; and

**WHEREAS**, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds and/or proceeds from the sale of affordable units;

**WHEREAS**, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

**WHEREAS**, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;

4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;
9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, Lebanon Borough has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Governing Body of Lebanon Borough, Hunterdon County requests that COAH review and approve Lebanon Borough's spending plan.

Introduced and adopted:

Ayes: 5  
 Nays: 0  
 Absent: 1

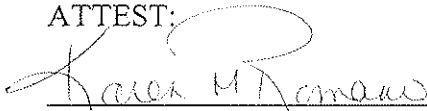
LEBANON BOROUGH COUNCIL



R. Gary Quick

Borough Council President

ATTEST:



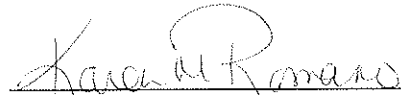
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Karen M. Romano, RMC  
Borough Clerk

**CERTIFICATION**

I, Karen M. Romano Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on May 19, 2010 that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: May 19, 2010

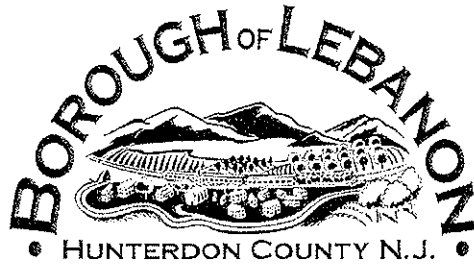


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Karen M. Romano, RMC  
Borough Clerk

## **Appendix K.**

### **Governing Body Resolution of Intent to Bond**



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

**Resolution #75-2010**

Governing Body Resolution of Intent to Bond In Case of Shortfall  
Lebanon Borough, Hunterdon County, New Jersey

WHEREAS, pursuant to N.J.A.C. 5:96-2.1, the Borough Council of the Borough of Lebanon in Hunterdon County, New Jersey, has endorsed an amended Housing Element and Fair Share Plan setting forth the Borough's commitment to meeting its affordable housing obligation through 2018; and

WHEREAS, pursuant to N.J.A.C. 5:96-3.1, the Borough Council is submitting its Third Round Housing Element and Fair Share Plan to Superior Court for a Judgment of Repose; and

WHEREAS, this amended Housing Element and Fair Share Plan includes accessory apartments for which the Borough must demonstrate an adequate and stable funding source; and

WHEREAS, the Borough Council is confident that adequate and stable funding will be available from monies collected in the Borough's affordable housing trust fund, from Federal, State or County funding sources, and/or from the funding sources set forth in "A Guide to Affordable Housing Funding Sources," dated October 2008, posted by COAH on its website to assist municipalities; and

WHEREAS, the provisions of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-311(d) state that nothing in said Act shall require a municipality to raise or expend municipal revenue in order to provide low and moderate income housing; and

WHEREAS, COAH nonetheless requires documentation to be submitted with its Fair Share Plan to indicate the availability of funding for its affordable housing compliance mechanisms.

**NOW THEREFORE BE IT RESOLVED** by the Borough Council of the Borough of Lebanon in Hunterdon County, New Jersey, as follows:

1. The Borough Council determines that there is adequate and stable funding for all of the affordable housing compliance mechanisms set forth in its endorsed amended Housing Element and Fair Share Plan, consisting of funding in the Borough's affordable housing trust fund and from governmental grants and/or other outside sources as set forth in the publication


entitled "A Guide to Affordable Housing Funding Sources," dated October 2008, and posted by the Council on Affordable Housing on its website to assist municipalities.

2. In the event that the above-referenced funding sources are not sufficient to implement the entirety of the Borough's amended Housing Element and Fair Share Plan through 2018, the Borough of Lebanon, in the discretion of the governing body then representing the Borough, may determine to provide for an alternate source of affordable housing funding such as, but not limited to, municipal bonding, or elect to modify and change said amended Housing Element and Fair Share Plan to address its remaining affordable housing obligation in lieu of municipal bonding.

Introduced and adopted:

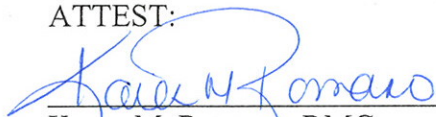
LEBANON BOROUGH COUNCIL

Ayes: ~~0~~ 5  
Nays: 0  
Absent: ~~0~~ 1

  
\_\_\_\_\_  
R. Gary Quick

Borough Council President

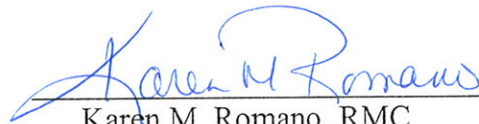
ATTEST:

  
\_\_\_\_\_  
Karen M. Romano, RMC  
Borough Clerk

### CERTIFICATION

I, Karen M. Romano Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Council at a meeting duly held on May 19, 2010 that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: May 19, 2010

  
\_\_\_\_\_  
Karen M. Romano, RMC  
Borough Clerk

## **Appendix L.**

**Draft Housing Liaison Ordinance and Appointing Resolution**

ORDINANCE NO. \_\_\_\_\_-\_\_\_\_\_

**AN ORDINANCE TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF ADMINISTERING LEBANON BOROUGH'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT.**

**BE IT ORDAINED** by the Council of Lebanon Borough in the County of Hunterdon and State of New Jersey that the following amendments be made to Chapter \_\_\_\_\_ of Lebanon Borough:

**Section 1. Purpose.**

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

**Section 2. Definitions.**

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

**MUNICIPAL HOUSING LIAISON** – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for Lebanon Borough

**ADMINISTRATIVE AGENT** – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for Lebanon Borough to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

**Section 3. Establishment of Municipal Housing Liaison 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 Lebanon Borough.
- B. Subject to the approval of the Council on Affordable Housing (COAH), 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 oversight and administration of the affordable housing program for Lebanon Borough, including the following responsibilities which may not be contracted out, exclusive of item 6 which may be contracted out:
  - (1) Serving as Lebanon Borough'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 Lebanon Borough's Fair Share Plan;
  - (3) Compiling, verifying, and submitting annual reports as required by COAH;
  - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;



- (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
  - (6) If applicable, serving as the Administrative Agent for some or all of the restricted units in Lebanon Borough as described in F. below.
- D. Subject to approval by COAH, Lebanon Borough 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 Lebanon Borough, except for those responsibilities which may not be contracted out pursuant to subsection C above. If Lebanon Borough 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 the Municipal Housing Liaison.

**Section 4. Severability.**

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

**Section 5. Inconsistent Ordinances Repealed.**

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

**Section 6. Effective Date.**

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Adopted: (Insert date)

ATTEST:

APPROVED:

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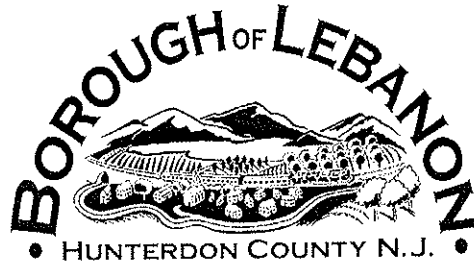
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xxxxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxxxx

Municipal Clerk

Mayor



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

**RESOLUTION #120-2009**

**FAIR HOUSING AND AFFORDABLE HOUSING OFFICER**

**WHEREAS**, the Borough of Lebanon has a need for the services of a Housing Officer to assist the Council and Borough in meeting its responsibilities with regard to several programs in which it is a participant; and

**WHEREAS**, such Housing Officer would assist in the Affordable Housing Program as established through the Council on Affordable Housing, the housing rehabilitation programs undertaken by the Borough, Grant programs such as Small Community Black Grant Program, and such other necessary affiliated tasks; and

**WHEREAS**, the Borough has available to it, the experienced services of a long time resident who currently serves as a municipal official and has specific knowledge of the municipality that would be key to fulfilling the responsibilities of a Housing Officer.

**NOW, THEREFORE, BE IT RESOLVED**, by the President and Borough Council of the Borough of Lebanon, on this 19<sup>th</sup> day of August, 2009, that Joseph Hauck is hereby appointed as Housing Officer for the purposes as outlined herein, and as may be further determined and directed by the Borough Council.

Introduced and adopted: August 19, 2009

Ayes: 5  
Nays: 0  
Absent: 1  
Abstain: 0

LEBANON BOROUGH COUNCIL

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R. Gary Quick, Council President

ATTEST:

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Karen M. Romano, RMC  
Borough Clerk

## CERTIFICATION

I, Karen M. Romano, Lebanon Borough Clerk hereby certify that this resolution was duly adopted by the Borough of Lebanon Common Council at a meeting duly held on the 19th day of August, 2009; that this resolution has not been amended or repealed; and that it remains in full force and effect as of the date I have subscribed my signature.

Date: August 19, 2009

\_\_\_\_\_  
Karen M. Romano, RMC  
Borough Clerk