

FOURTH ROUND

HOUSING ELEMENT AND FAIR SHARE PLAN

BOROUGH OF LEBANON | HUNTERDON COUNTY, NEW JERSEY

JUNE 2025

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**FOURTH ROUND HOUSING ELEMENT
AND FAIR SHARE PLAN**

ADOPTED BY THE PLANNING BOARD: JUNE 9, 2025

ENDORSED BY THE MAYOR & COUNCIL:

PREPARED BY:

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NEW JERSEY PROFESSIONAL PLANNER LICENSE #5537

KYLE + McMANUS ASSOCIATES

A SIGNED AND SEALED ORIGINAL IS ON FILE WITH THE BOROUGH CLERK

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INTRODUCTION & EXECUTIVE SUMMARY

Since the 1975 New Jersey Supreme Court decision known as “Mount Laurel I”, New Jersey municipalities have had a constitutional obligation to provide opportunities for the creation of low and moderate housing units. This 1975 decision led to a body of case law, legislative changes, and rulemaking by a state agency that, collectively, is now referred to as the “Mount Laurel doctrine”. Through these actions, New Jersey municipalities have been assigned a specific number of affordable housing units that must be created or planned for creation to have “satisfied” their constitutional obligation, commonly referred to as their affordable housing obligation. The purpose of this Fourth Round Housing Element and Fair Share Plan is to present how Lebanon Borough will address its affordable housing obligation.

Affordable housing in New Jersey is defined as housing units which are reserved for households with incomes not more than 80% of the regional median income. Each affordable unit, with limited exceptions, must remain reserved for very-low-, low- and moderate-income households for a minimum of 30 years and for rental units, 40 years, and it is typically enforced by a deed restriction. Each affordable unit is eligible for one “credit” against the obligation and certain units are eligible for “bonus credits”, which provide more than one credit per unit. In addition to providing the minimum number of credits, municipalities must ensure diversity in the level of affordability – meaning very-low-, low- and moderate-income units – and diversity in the size of affordable units – meaning one-, two- and three-bedroom units.

Participation in this process, and therefore satisfaction of the affordable housing obligation, can be achieved voluntarily or involuntarily. However, our laws heavily incentivize voluntary compliance. Municipalities that do not voluntarily comply may be vulnerable to “builder’s remedy” litigation. A builder’s remedy is a litigation tool to compel the municipality to include a builder’s site in the Fair Share plan. However, to secure such a remedy, the developer must “succeed in litigation”, provide a “substantial” affordable housing set-aside and the developer’s “proposed project” must not clearly violate “sound land use planning”. The Supreme Court’s desire to ensure that developers who provide affordable housing do so in accordance with sound planning, which is a pillar of the Mount Laurel doctrine.

The Housing Element and Fair Share Plan

In accordance with the Fair Housing Act (as amended) this Housing Element and Fair Share Plan includes the following:

- a. 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;
- b. A projection of the municipality’s housing stock, including the probable future construction of low and moderate income housing for the next ten (10) years, taking into account, but not necessarily limited to, construction permits issued, approvals of

- applications for development, and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including, but not necessarily limited to, household size, income level, and age;
 - d. An analysis of the existing and probable future employment characteristics of the municipality;
 - e. 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
 - f. 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 providing low and moderate income housing;
 - g. An analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c. 273 (C.52:27D-329.20); and
 - h. An analysis of consistency with the State Development and Redevelopment Plan, including water, wastewater, stormwater, and multi-modal transportation based on guidance and technical assistance from the State Planning Commission.

Items a through d are included as an appendix item and items e through h are included in the body of this Fair Share Plan.

AFFORDABILITY REQUIREMENTS

Affordable housing is defined under New Jersey's FHA as a dwelling, either for sale or rent, which is within the financial means of households of very-low-, low-, or moderate-income, as is measured within each housing region. Lebanon Borough is in Region 3, which includes Hunterdon, Somerset and Middlesex counties. Moderate-income households are those with annual incomes greater than 50%, but less than 80% of the regional median income. Low-income households are those with annual incomes that are 50% or less than the regional median income. Very-low-income households are a subset of "low-income" households and are defined as those with incomes 30% or less than the regional median income.

The regional median income uses the federal income limits established by Department of Housing and Urban Development (hereinafter "HUD") on an annual basis. In the spring of each year, HUD releases updated regional income limits. It is from these income limits that the rents and sale prices for affordable units are derived. Said income limits post Mount Laurel IV are now set by Court Order.

For 2025, New Jersey Housing and Mortgage Finance Agency (NJHMFA) updated income limits for all housing regions in New Jersey. These income limits for Region 3 will be utilized for Lebanon. See Table 1 for 2025 income limits for Region 3.

Table 1: 2025 Income Limits for Region 3					
Household Income Levels	1-Person Household	2-Person Household	3-Person Household	4-Person Household	5-Person Household
Median	\$107,400	\$122,800	\$138,100	\$153,400	\$165,700
Moderate	\$85,920	\$98,240	\$110,480	\$122,720	\$132,560
Low	\$53,700	\$61,400	\$69,050	\$76,700	\$82,850
Very Low	\$32,220	\$36,840	\$41,430	\$46,020	\$49,710
Source: New Jersey Housing and Mortgage Finance Agency					

PRESENT AND PROSPECTIVE NEED OBLIGATION

The fair share affordable housing obligation consists of a rehabilitation component (present need) and a new construction component (prospective need). Pursuant to the Amended Fair Housing Act (FHA), the NJ State Department of Community Affairs (DCA) was required to calculate the present need and prospective need obligations for municipalities within the State. The methodology to calculate the municipality's obligation was based on three main factors including the median household income as compared to the Region 3 median household income, the total municipal nonresidential property valuation as compared to the total Region 3 nonresidential property valuation and municipality's total developable land as compared to the developable land in Region 3.

The FHA entitled municipalities to adjust the obligation if the information used in the DCA calculation was outdated or in error. After the review of the DCA methodology for the present and prospective need obligations, the Borough determined that the DCA calculation was correct and adopted the DCA calculations for present and prospective need for the Fourth Round. The Borough's obligation for the Fourth Round is as follows

- **Present Need (Rehabilitation): 0 units.** The rehabilitation obligation can be defined as an estimate of the number of deteriorated housing units, based on 2020 US Census data, existing in Lebanon Borough occupied by low- and moderate-income households.
- **Prospective Need: 29 units.** The prospective need obligation can be defined as the cumulative July 1, 2025, through June 30, 2035, new construction affordable housing obligation.

PROSPECTIVE NEED OBLIGATION: 29 units

Vacant Land Adjustment and Realistic Development Potential (RDP) Analysis

If there is a lack of sufficient land to meet the new construction obligation, a municipality is entitled to rely on COAH regulations to adjust the new construction obligation downward pursuant to *N.J.S.A 52:27D-311 (m)*. The adjusted number is known as the realistic development potential (RDP). The RDP represents the portion of the new construction affordable housing obligation that can theoretically be addressed with inclusionary development (defined as a mix of market and affordable units) on lots identified as being suitable in the Vacant Land Analysis (“VLA”). The portion of the new construction obligation for which there is insufficient land is known as the “unmet need”. The unmet need is calculated as the difference between the total obligation and the RDP.

The Borough undertook a current vacant land analysis which supports an RDP of 5 units as shown in Table 2.

Table 2: Vacant Land Analysis and RDP determination							
Parcel ID	Address	Block/Lot	Gross Lot Area	Net Lot Area	RDP Density Du/acre	Total Units	20% AH Setaside RDP
1	22 Cokesbury Road	2/13	0.71	0.71	12	9	2
2	1391 Highway 22	6/1	1.4	1.4	12	17	3
Total RDP							5

Unmet Need Determination

The Borough’s prospective need obligation is 29 units and with a five (5) unit RDP, the Unmet Need is 24 units ($29-5=24$). The Amended FHA requires a municipality that receives an adjustment of the prospective need to identify sufficient parcels that are likely to redevelop during the Fourth Round to address 25 percent of the adjusted prospective need with realistic or meaningful zoning. While there are questions related to the interpretation of whether the “adjusted prospective need” refers to RDP or Unmet Need obligations, the Borough will provide meaningful zoning on parcels it believes are likely to redevelop over the next ten (10) years to address a minimum of six (6) affordable housing units toward the unmet need ($24 \times 0.25 = 6$).

FAIR SHARE PLAN

Prior Rounds Compliance Status

Pursuant to the Amended FHA, the Fourth Round Fair Share Plan is required to provide an assessment of the degree to which the prior rounds fair share obligations have been met as established by prior court approval. The municipality is required to determine to what extent the obligation is unfulfilled or whether the municipality has excess credits. If a prior round obligation remains unfulfilled the municipality shall address the prior round unfulfilled obligation in this Fourth Round Fair Share Plan. In addressing the status of the prior round projects, the municipality must demonstrate how any sites that were not built in the prior rounds continue to present a realistic opportunity. The Prior and Third Round Obligation totaled 145 units, and the Borough applied 37 bonus credits. The following table provides the status of the projects that addressed the obligation from the prior rounds:

Table 3: Status of Prior Round Projects			
Program/Project	Unit Type	Status	Units
The Coach House	Rehabilitation Accessory Apartments	Completed	2
Heights at Lebanon	Family Rental	Occupied	12
Presidential Place	Family Rental	Occupied	30
Hunterdon Alliance	Special Needs	Occupied	4
Town Center	Family Rental	Approved	56
Villa on Main	Inclusionary Zoning	Zoned	6
Total			108

The Town Center development received preliminary site plan approval from the Planning Board on August 24, 2021. The applicant requested and received an extension for final site plan approval to August 24, 2025 primarily due to the developer working with a commercial developer to provide a commercial use on a portion of the property. The Land Use Board also recognized the delay in the project and the need for an extension due to the past economic uncertainty resulting from the aftermath of the COVID-19 pandemic. The inclusionary zoning for Villa on Main approved in the Third Round Judgment of Compliance remains in effect. The Borough believes that the Third Round projects continue to provide a realistic

opportunity for the construction of affordable housing. Therefore, there are no unfulfilled units that need to be accounted for from the Third Round in the Fourth Round Fair Share Plan.

The Fourth Round Compliance Process

On March 20, 2024, Governor Murphy signed an amendment to the Fair Housing Act into law (“Amended FHA”) that created new procedures and laws. The municipality must file a Housing Element and Fair Share Plan with the Court and Program by June 30, 2025, and comply with a series of other requirements to continue to have immunity from builder’s remedy lawsuits and remain compliant with the Amended FHA.

The Borough took the necessary steps required by the Amended FHA by adopting a binding resolution and filing the declaratory relief action to establish the Fourth Round obligation. The Borough and the Planning Board will adopt, endorse and submit this Housing Element and Fair Share Plan with the Court and the Program prior to June 30, 2025, to comply with the Amended FHA deadline.

Consideration of Affordable Housing Options

The Borough did not receive proposals from developers of affordable housing projects to satisfy the Fourth Round prospective need obligation.

The Borough believes that the zoning proposed in this Fair Share Plan represents the best options for affordable housing in the Borough. The mechanisms within this Fourth Round Fair Share Plan satisfy the Borough’s affordable housing obligation as adjusted. While the Borough recognizes that developers may, in the future, present sites that possess characteristics that could lend themselves to affordable housing development, additional sites are not needed to satisfy the obligation at this time.

Satisfaction of the Fourth Round Affordable Housing Obligation

The Borough is addressing its affordable housing obligation as follows:

Realistic Development Potential: 5 units

The Borough is addressing an RDP obligation of five (5) units with an inclusionary zoning district over two lots that are vacant and contribute to the RDP calculation.

The affordable housing rules require municipalities to designate sites that are “suitable, approvable, available and developable”, as defined in N.J.A.C. 5:93-1. These terms are defined as follows:

- *Suitable site means a site that is adjacent to compatible land uses, has access to appropriate streets and is consistent with the environmental policies delineated in N.J.A.C. 5:93-4.*
- *Approvable site means a site that may be developed for low and moderate income housing in a manner consistent with the rules and regulations of all agencies with jurisdiction over the site. A site may be approvable although it is not currently zoned for low and moderate income housing.*

- *Available site means a site with clear title, free of encumbrances which preclude development for low and moderate income housing.*
- *Developable site means a site that has access to appropriate water and sewer infrastructure and is consistent with the applicable areawide water quality management plan (including the waste management plan) or is included in an amendment to the areawide water quality management plan submitted to and under review by the NJ Department of Environmental Protection.*

AH-5 Zoning District: Inclusionary Zoning Districts- 5 family units (Proposed)

The Borough will zone Block 6, Lot 1, a 1.4 acre lot with frontage on Highway Route 22 and Main Street and Block 2, Lot 13, a 0.71 acre lot with frontage on Cokesbury Road to permit inclusionary residential development at a density of twelve (12) dwelling units per acre with a required setback of 20% to yield a minimum of five (5) family affordable units.

The site provides a realistic opportunity for affordable housing in compliance with COAH's Prior Round rules at N.J.A.C. 5:93-1.3 and N.J.A.C. 5:93- 5.6 for inclusionary development. The specific regulations are addressed below:

- The sites are suitable. Each site has access on an appropriate road. Block 6, Lot 1 has frontage on Route 22 and Block 2, Lot 13 has frontage on Cokesbury Road. The surrounding uses are compatible with future inclusionary residential development. Regarding Block 6, Lot 1, detached single family homes are located to the south of the site and a vacant lot is located to the east of the site. Regarding Block 2, Lot 13, a detached single-family home is located to the south of the site, a commercial/light industrial use is located to the north and west of the site and commercial/office is located across Cokesbury Road to the east of the site.
- The sites are approvable. The sites are located in an area designated as a Highlands Center making it a preferable location for development of affordable housing. The Borough will zone both sites to permit inclusionary residential housing as a principal permitted use. The development of an inclusionary residential development on each site will require site plan approval from the Land Use Board and any outside agency approvals, including but not limited to NJ Department of Transportation, NJ Department of Environmental Protection and Hunterdon County.
- The sites are available. There is no knowledge that the site has known legal encumbrances or deed restrictions that would preclude the development of affordable housing, and there are no known historic or architecturally important sites or buildings on the property or in the immediate vicinity that will affect the development of affordable housing.
- The sites are developable. There are no known contaminated facilities on the sites. There are no wetlands or Category One streams on the sites and the sites are not within a flood

plain area. The sites are within the Readington Lebanon sewer service area, and the Borough has indicated it has sufficient infrastructure and capacity to serve future residential development at the proposed densities.

Unmet Need: 6 units (25% of 24 units)

Unmet Need Proposed: 33 units

The remaining obligation is known as the Fourth Round Unmet Need and will be addressed through an overlay district permitting inclusionary housing at a density of eight (8) dwelling units per acre on Block 4, Lots 1.01 (6.5 acres), 1.02 (7.2 acres) and 1.05 (7.3 acres) which currently contain office buildings that are partially or fully vacant. The office building on Lot 1.01 is 75% vacant and the office buildings on Lots 1.02 and 1.05 are 100% vacant. An overlay zone is a zoning option that allows an applicant to develop at higher densities for residential development provided they set aside at least 20% of the units as affordable housing available to low-and moderate-income households. This type of zoning is known as inclusionary zoning. The total parcel area is 21 acres and a build-out of inclusionary residential housing would yield 168 units which would provide 33 affordable housing units. The proposed ordinance amendments are included in the appendix and represent meaningful zoning options for future affordable housing opportunities.

PRESERVATION OF MULTIGENERATIONAL FAMILY CONTINUITY

The 2024 FHA requires an analysis of the extent to which municipal ordinances and other local factors advance or detract from the goal of preserving multigenerational family continuity as expressed in the recommendations of the Multigenerational Family Housing Continuity Commission, adopted pursuant to paragraph (1) of subsection f. of section 1 of P.L.2021, c. 273 (C.52:27D-329.20). The Commission has the primary goal of enabling senior citizens to reside at the homes of their extended families, thereby preserving and enhancing multigenerational family continuity. A review of the Borough's ordinance indicates that there are no ordinances that would specifically create a detraction from meeting the Commission's goal of enabling senior citizens to reside at the homes of their extended families. In fact, the Borough defines a family that is permitted to live in a single family dwelling in such a way that a senior citizen may live in that single family dwelling unit with their extended family which is a permitted use in the residential zoning districts. The Lebanon ordinances advance the multigenerational family continuity goal.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN CONSISTENCY

The Fourth Round Housing Element and Fair Share Plan is consistent with the 2001 State Development

and Redevelopment Plan (SDRP) and draft SDRP as the proposed inclusionary and overlay zoning district are within an existing Highlands Center, which is the preferred location for redevelopment for compact growth. The development of affordable housing in a Highlands Center is consistent with the overall State Development and Redevelopment Plan goal to direct redevelopment and growth into existing “centers” where infrastructure can support the development and support services such as open space, retail shopping, public transportation, schools are within walking distance.

AFFORDABLE HOUSING ADMINISTRATION & AFFIRMATIVE MARKETING

Lebanon Borough adopted an Affordable Housing Ordinance in accordance with COAH’s substantive rules and UHAC. The Affordable Housing Ordinance governs the establishment of affordable units in the Borough as well as regulating the occupancy of such units. The Borough’s Affordable Housing 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 Borough will update the Affordable Housing Ordinance as needed and determined by the Program or Court.

The Borough also established the position of the Municipal Housing Liaison and appointed a staff member to the position. The Borough relies on their affordable housing administrator to conduct the administration and affirmative marketing of its affordable housing sites. The affirmative marketing plans are 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 people who are least likely to apply for affordable units and who reside in the Borough’s housing region, Region 4, consisting of Monmouth, Mercer and Ocean counties. The Borough will continue to rely on the Affirmative Marketing Plan adopted in the Third Round and will update it as required by new permanently adopted Uniform Housing Affordability Controls provided by the Department of Community Affairs.

The administrative agent, who is a consultant to the Borough, is responsible for the marketing, the setting of sale and rental prices for affordable units, income certification of applicants, creation of a waiting list of income certified applicants and the initial random selection process for new affordable housing units. The Borough’s Operating Manual, which describes the policies and procedures used to create affordable housing units and fill them with income-eligible families, is available on the Borough’s website.

The existing affirmative marketing plan includes regulations for qualifications of income eligibility, price and rent restrictions, bedroom distribution, affordability control periods, and unit marketing in accordance with N.J.A.C. 5:80-26.1 et seq. All newly created affordable units will comply with the 30-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, and municipal developers of affordable housing units and must cover the period of deed restriction or affordability controls on each affordable unit.

AFFORDABLE HOUSING TRUST FUND

A development fee ordinance was adopted to create a dedicated revenue source for affordable housing.

The future Spending Plan will cover anticipated revenues, collection of revenues, and the use of revenues, which will be prepared in accordance with COAH's applicable substantive rules. All collected revenues will be placed in the Borough's Affordable Housing Trust fund and may be dispensed for the use of eligible affordable housing activities including, but not limited to:

- New construction of affordable housing units and related development costs;
- Extensions or improvements of roads and infrastructure directly serving affordable housing development sites;
- Acquisition and/or improvement of land to be used for affordable housing;
- Purchase of affordable housing units for the purpose of maintaining or implementing affordability controls,
- 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.

At least 30% of collected development fees, excluding expenditures made since July 17, 2008, when affordability assistance became a statutory requirement in the Fair Housing Act, shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in a municipal Fair Share Plan. At least one-third (1/3) of the affordability assistance must be expended on very-low income units. Additionally, no more than 20% of the revenues collected from development fees each year, 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.

COST GENERATION

The Borough's Land Development Ordinance has been reviewed to eliminate unnecessary cost generating standards. The Borough will adopt, if needed, Planning Board rules for expediting the review of development applications containing affordable housing. Such expedition may consist of, but is not

limited to, scheduling 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 FHA regarding unnecessary cost generating features. Lebanon Borough shall comply with COAH's requirements for unnecessary cost generating requirements, N.J.A.C. 5:93-10.1, procedures for development applications containing affordable housing, N.J.A.C. 5:93-10.4, and requirements for special studies and escrow accounts where an application contains affordable housing.