

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

ORDINANCE NO. 04-2026

**ORDINANCE REPEALING AND REPLACING ARTICLE I, ENTITLED
“DEVELOPMENT FEE” OF THE TOWNSHIP OF LEBANON CODE**

BE IT ORDAINED by the Township Committee of the Township of Lebanon, County of Hunterdon, State of New Jersey, as follows:

This Ordinance repeals and replaces Article I, entitled, “Development Fee” of the Lebanon Township Code:

Article I, “Development Fee”

- § 110-1 Purpose.
- § 110-2 Retention of fees.
- § 110-3 Residential development fees.
- § 110-4 Nonresidential development fees.
- § 110-5 Eligible exaction, ineligible exaction and exemptions.
- § 110-6 Collection of fees.
- § 110-7 Housing Trust Fund.
- § 110-8 Use of funds.
- § 110-9 Expiration of article.
- § 110-10 Definitions.

Article I, “Development Fees.”

§ 110-1 Purpose; legislative authority.

- A. This section establishes standards for the collection, maintenance, and expenditure of development fees in accordance with P.L.2024, c.2, Sections 8 and 32-38. Fees collected pursuant to this section shall be used for the sole purpose of providing low- and moderate-income housing. This section shall be interpreted within the framework of the DCA’s rules on development fees, codified at N.J.A.C. 5:97-8.
- B. The collection of development fees from builders of residential and non-residential properties has been authorized by the court through the powers established pursuant to the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.). Due to the Legislature’s determination that the role of the Committee on Affordable Housing has not developed in practice as intended, the Legislature further determines that authority relating to rulemaking on the collection of residential and non-residential development fees is appropriately delegated to the Department of Community Affairs (the Department), given the department’s existing roles related to local government finance and the funding and financing of affordable housing throughout the State.

§ 110-2 Basic requirements.

- A. This section shall not be effective until approved by the Department pursuant to N.J.A.C. 5:96-5.1.
- B. Lebanon Township shall not spend development fees until the Department 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.

§ 110-3 Definitions.

The following terms, as used in this section, shall have the following meanings:

AFFORDABLE HOUSING DEVELOPMENT — 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 one-hundred-percent affordable development.

COAH or COMMITTEE — means the Committee on Affordable Housing established in, but not of, DCA by the Act and that was abolished effective March 20, 2024 by section 3 of P.L. 2024, c.2 (N.J.S.A. 52:27D-304.1).

CONSTRUCTION — Means new construction and additions, but does not include alterations, reconstruction, renovations, and repairs as those terms are defined under the State Uniform Construction Code promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (N.J.A.C. 52:27D-119 et seq.)

COMMISSIONER — means the Commissioner of Community Affairs.

DEPARTMENT — means the Department of Community Affairs.

PROGRAM — The Affordable Housing Dispute Resolution Program, established pursuant to section 5 of P.L.2024, c.2 (N.J.A.C. 52:27D-313.2). The Program has the purpose of efficiently resolving disputes involving the Fair Housing Act.

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

DEVELOPMENT FEE — Money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:97-8.3.

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

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

MIXED-USE DEVELOPMENT — Means any development which includes both a non-residential development component and a residential development component, and shall include developments for which (1) there is a common developer for both the residential development component and the non-residential development component, provided that for purposes of this definition, multiple persons and entities may be considered a common developer if there is a contractual relationship among them obligating each entity to develop at least a portion of the residential or non-residential development, or both, or otherwise to contribute resources to the development; and (2) the residential and non-

residential developments are located on the same lot or adjoining lots, including but not limited to lots separated by a street, a river, or another geographical feature.

AGENCY — The New Jersey Housing and Mortgage Finance Agency.

NON-RESIDENTIAL DEVELOPMENT — Means: (1) any building or structure, or portion thereof, including but not limited to any appurtenant improvements, which is designated to a use group other than a residential use group according to the State Uniform Construction Code promulgated to effectuate the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), including any subsequent amendments or revisions thereto; (2) hotels, motels, vacation timeshares, and child-care facilities; and (3) the entirety of all continuing care facilities within a continuing care retirement community which is subject to the "Continuing Care Retirement Community Regulation and Financial Disclosure Act," P.L.1986, c.103 (C.52:27D-330 et seq.).

NON-RESIDENTIAL DEVELOPMENT FEE — means the fee authorized to be imposed pursuant to sections 32 through 38 of P.L.2008, c.46 (C.40:55D-8.1 through C.40:55D-8.7).

UHAC — The Uniform Housing Affordability Controls. UHAC governs how a municipality meets its housing need once defined, and how affordable housing units in that town's plan are administered.

§ 110-4 Residential development fees.

A. Imposed fees.

1. Within Lebanon Township's affordable housing district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.
2. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of 6% 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 1 1/2 of the equalized assessed value on the first two units; and the specified higher percentage up to 6% 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.
3. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
4. Single-family additions less than 1,000 square feet shall be exempt from paying a development fee.

5. One- and two-family 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.

§ 110-5 Nonresidential development fees.

A. Imposed fees.

1. Within all zoning districts, nonresidential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to 2.5% of the equalized assessed value of the land and improvements, for all new nonresidential construction on an unimproved lot or lots.
2. Nonresidential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to 2.5% of the increase in equalized assessed value resulting from any additions to existing structures to be used for nonresidential purposes.
3. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of 2.5% shall be calculated on the difference between the equalized assessed value of the preexisting 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 nonresidential development fee shall be zero.

B. Eligible exactions ineligible exactions, and exemptions for nonresidential development.

1. The nonresidential portion of a mixed-use inclusionary or market rate development shall be subject to the development fee of 2.5%, unless otherwise exempted below.
2. The fee of 2.5% shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
3. Nonresidential developments shall be exempt from the payment of nonresidential 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." Any exemption claimed by a developer shall be substantiated by that developer.
4. A developer of a nonresidential development exempted from the nonresidential 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 nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the nonresidential development, whichever is later.
5. If a property which was exempted from the collection of a nonresidential 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 nonresidential development fees under these circumstances may be enforceable by Lebanon Township as a lien against the real property of the owner.

C. Collection procedures.

1. 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.
2. For nonresidential 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 nonresidential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the nonresidential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
3. The construction official responsible for the issuance of a 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.
4. 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.
5. 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.
6. 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.
7. Should Lebanon Township 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 (N.J.S.A. 40:55D-8.6).
8. 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.
9. Appeal of development fees.
 - i. 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 Township. 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, N.J.S.A. 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.
 - ii. A developer may challenge nonresidential 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 Township. 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, N.J.S.A. 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.

§ 110-6 Affordable Housing Trust Fund.

- A. There 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 nonresidential 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 10% of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. Rental income from municipally operated units; Repayments from affordable housing program loans; Recapture funds;
 4. Proceeds from the sale of affordable units; and
 5. Any other funds collected in connection with Lebanon Township's affordable housing program.
- C. Within seven days from the opening of the trust fund account, Lebanon Township shall provide DCA with written authorization, in the form of a three-party escrow agreement between the municipality, the bank and DCA to permit DCA 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 DCA.
- E. Use of funds.
 1. The expenditure of all funds shall conform to a spending plan approved by DCA. Funds deposited in the Housing Trust Fund may be used for any activity approved by DCA to address the Lebanon Township'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 nonresidential 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.

2. Funds shall not be expended to reimburse Lebanon Township for past housing activities.
3. At least 30% of all development fees collected or such amount as approved through the DCA waiver process 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% 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% 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% 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
4. Lebanon Township 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.
5. No more than 20% of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or 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% 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 DCA's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the DCA's regulations and/or action are not eligible uses of the affordable housing trust fund.

§ 110-7 Monitoring.

Lebanon Township shall complete and return to DCA all monitoring forms included in monitoring requirements related to the collection of development fees from residential and nonresidential 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 Township's housing program, as well as to the expenditure of revenues and implementation of the plan certified by the Program. Monitoring will be completed through the Affordable Housing Monitoring System (AHMS).

§ 110-8 Ongoing collection of fees.

The ability for Lebanon Township to impose, collect and expend development fees shall expire with its substantive certification unless Lebanon Township has filed an adopted Housing Element and Fair Share Plan with DCA, has petitioned for substantive certification, and has received DCA's approval of its Development Fee Ordinance. If Lebanon Township fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, 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 (N.J.S.A. 52:27D-320). Lebanon Township 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 Township retroactively impose a development fee on such a development. Lebanon Township shall not expend development fees after the expiration of its substantive certification or judgment of compliance

Introduced: February 11, 2026
Public Hearing: March 11, 2026
Adopted: March 11, 2026

ATTEST


Carolynn Budd, RMC
Township Clerk


Jay Wojcik
Mayor

CERTIFICATION

I, Carolyn Budd, Township Clerk of the Township of Lebanon, County of Hunterdon, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of an Ordinance introduced by the Lebanon Township Committee at a meeting held February 11, 2026 and adopted by the Township Committee on March 11, 2026.


Carolynn Budd, RMC
Township Clerk