

TOWNSHIP OF LEBANON

HUNTERDON COUNTY, NEW JERSEY

ORDINANCE NO. 2016-06

**ORDINANCE FOR PROTECTIVE CUSTODY OF INDIVIDUALS ARRESTED FOR
DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS**

WHEREAS, pursuant to N.J.S.A. 39:4-50.22, commonly known as “John’s Law,” a law enforcement agency arresting a person for a violation of N.J.S.A. 39:4-50, driving under the influence of alcohol or drugs, may release said person to an individual summoned by the arrestee to transport or accompany the arrestee from the premises of a law enforcement agency; and

WHEREAS, in situations where the arrestee is unable to summon an individual to transport or accompany the arrestee from the premises of a law enforcement agency pursuant to N.J.S.A. 39:4-50.22, that the arrestee may present a danger to self or others if provisions are not made for the arrestee’s protective custody; and

WHEREAS, pursuant to N.J.S.A. 40:48-1.3, a municipality may enact an ordinance providing that person arrested for a violation of the provisions of N.J.S.A. 39:4-50, driving under the influence of alcohol or drugs, shall be held in protective custody at an appropriate police or other facility where the arrestee’s condition may be monitored until the arrestee is no longer a danger to himself or others, and that municipalities have additional authority under N.J.S.A. 40:48-1(34) to provide protective custody for persons arrested for operating a motor vehicle in violation of N.J.S.A. 39:4-50, driving under the influence of alcohol or drugs; and

WHEREAS, it is recognized that it is an inefficient use of police resources to require that protective custody be held at the police station, and that the Hunterdon County Jail, the Somerset County jail, the custody of the Hunterdon County Sheriff or such other places designated as places for holding arrestees could be a more appropriate facility within which to monitor the arrestee’s condition until the arrestee is no longer a danger to himself or others.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Committee of the Township of Lebanon, in the County of Hunterdon, and State of New Jersey, as follows:

When an individual is arrested within this jurisdiction for operating a motor vehicle while under the influence of alcohol or drugs pursuant to N.J.S.A. 39:4-50, and where the arrestee is unable to summon an individual to transport or accompany the arrestee from the premises of a law enforcement agency pursuant to N.J.S.A. 39:4-50.22, the arresting officer or other designated police officer shall:

1. Make arrangements for the arrestee to be held in protective custody at an appropriate police or other appropriate facility as defined further herein until such time that the

arrestee is no longer a danger to himself or others as defined in paragraph 2 of this Ordinance.

2. The officer or other individual holding the arrestee shall release the arrestee from protective custody when he is no longer a danger to himself or others, which is defined as when the arrestee's blood alcohol level is less than .05% and that person is no longer under the influence of any intoxicating liquor or narcotic or hallucinogenic or habit-forming drug to the extent that the person's faculties are impaired.
3. The period of protective custody shall not exceed eight hours without providing the arrestee an appropriate hearing before the Municipal Court to determine if a protective custody period longer than eight hours is required in order to prevent the arrestee from being a danger to himself or others as defined in paragraph 2 of this Ordinance.
4. For the purposes of this Ordinance, an appropriate facility shall include a police station, the Hunterdon County Jail, the Somerset County jail, the custody of the Hunterdon County Sheriff or such other places designated as places for holding arrestees or, if the arresting officer deems appropriate, a school or hospital that has supervisory measures in place to ensure that the arrestee will not be released until such time that the arrestee is no longer a danger to himself or others as defined in paragraph 2 of this Ordinance.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon final passage and publication according to law.

Marc Laul, Mayor

ATTEST:

Karen J. Sandorse, RMC/CMC
Municipal Clerk

Date of Introduction and First Reading: _____

Date of Second Reading and Adoption: _____

I certify that the foregoing Ordinance is a true and accurate copy of an Ordinance adopted by the Lebanon Township Committee on _____, 2016.

Karen J. Sandorse, RMC/CMC
Lebanon Township Clerk