

CITY OF SOUTH LEBANON, OHIO
Ordinance No. 2021-44

AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT AND EXECUTE A SETTLEMENT PARTICIPATION FORM FOR PARTICIPATION IN A PROPOSED SETTLEMENT AGREEMENT WITH VARIOUS ENTITIES COLLECTIVELY REFERRED TO AS "JANSSEN", AND DECLARING AN EMERGENCY

THIS IS AN EMERGENCY ORDINANCE AUTHORIZING the Mayor to execute a Settlement Participation Form, attached as Exhibit 1, for the Janssen Settlement Agreement, also referred to as the J&J Master Settlement Agreement, with Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively referred to as "Janssen"), regarding the pursuit and use of potential opioid litigation settlement funds and consistent with the material terms of the July 21, 2021 proposed J&J Master Settlement Agreement available for complete review at <https://nationalopioidsettlement.com/>.

WHEREAS, the City of South Lebanon, Ohio ("the City") is a municipal entity formed and organized pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, the people of the State of Ohio and its communities have been harmed by misfeasance, nonfeasance, and malfeasance committed by certain entities within the Opioid Pharmaceutical Supply Chain; and

WHEREAS, the State of Ohio, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Opioid Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance, and malfeasance; and

WHEREAS, the State of Ohio, through its Governor and Attorney General, and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance, and malfeasance throughout the State of Ohio; and

WHEREAS, a settlement proposal is being presented to the State of Ohio and Local Governments by Janssen to resolve governmental entity claims in the State of Ohio consistent with the material terms of the July 21, 2021 proposed Janssen Settlement Agreement; and

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WHEREAS, the State and its Local Governments, subject to completing formal documents effectuating the parties' agreements, have circulated and made available a Settlement Participation Form, which City officials have reviewed, that describes the basic requirements for participation in the Janssen Settlement Agreement; and

WHEREAS, City Council desires to participate in and agree to the material terms of the proposed Janssen Settlement Agreement, which is available for review at the website referenced above; and

WHEREAS, immediate action is required to ensure execution of the Settlement Participation Form before the deadline of January 2, 2022, and in order to preserve the public peace, health, or safety of the City .

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SOUTH LEBANON, OHIO, at least two-thirds of all members elected thereto concurring:

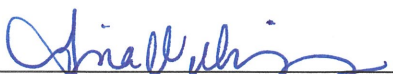
Section 1. That the Mayor is authorized to accept and execute the Settlement Participation Form on behalf of the City of South Lebanon, which is attached as Exhibit 1 and incorporated as if fully rewritten herein, and take any further action as may be necessary to ensure the City's participation in the Janssen Settlement Agreement.


Section 2. That it is found and determined that all formal actions of the Council relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

Section 3. This Ordinance is hereby declared to be an emergency measure, necessary for the preservation of the public peace, health, welfare and safety of the residents of the City and for the further reason that the Settlement Participation Form must be signed by January 2, 2022 to ensure prompt pursuit of funds to assist in abating the opioid epidemic throughout Ohio. It shall therefore become immediately effective upon its passage.

Adopted this 16th day of December, 2021.

Attest:


Petrina D. Williams, Fiscal Officer/Clerk

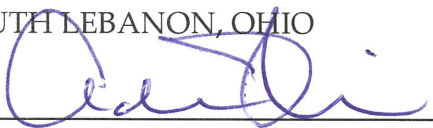

James D. Smith, Mayor

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Rules Suspended: <u>12/16</u> /2021 (if applicable)	Effective Date <u>12/16</u> /2021
Vote - <u>5</u> Yeas ___ Nays	
First Reading - / /2021 Second Reading - / /2021 Third Reading - / /2021	Effective Date - / /2021
Vote - ___ Yeas ___ Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
SOLICITOR
SOUTH LEBANON, OHIO

By: 
Date: 12/16/2021

Settlement Participation Form

Governmental Entity: South Lebanon village	State: OH
Authorized Signatory:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated July 21, 2021 (“Janssen Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity’s election to participate is specifically conditioned on participation by Litigating Subdivisions and Litigating Special Districts representing 95% or more of the population (combined) of Litigating Subdivisions and Litigating Special Districts in Ohio. Should the combined population of the Litigating Subdivisions and Litigating Special Districts in Ohio that participate be less than 95% of the population (combined) of the Litigating Subdivisions and Litigating Special Districts in Ohio, this Election and Release shall be deemed void and no claims shall be released.
3. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed.
4. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.
5. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.



8. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.

10. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.

11. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.



I swear under penalty of perjury that I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: James D. Smith
Name: James D. Smith
Title: Mayor
Date: 12/16/21



Thank you for registering your subdivision on the national settlement website and for considering participating in the proposed Settlement Agreement with Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. (collectively "Janssen"). This virtual envelope contains a Participation Agreement including a release of claims. The document in this envelope must be executed, without alteration, and submitted in order for your subdivision to be considered potentially "participating."

The sign-on period for subdivisions ends on January 2, 2022. On or after that date, the states (in consultation with the subdivisions) and Janssen will determine whether the subdivision participation rate is sufficient for the settlement to move forward. In your state, the settlement will not move forward unless 95% or more of the Litigating Subdivisions and Litigating Special Districts population participates. If the deal moves forward, your release will become effective. If it does not, it will not.

As a reminder, if you have not already started your review of the settlement documentation, detailed information about the Settlements may be found at: <https://nationalopioidsettlement.com/>. This national settlement website also includes links to information about how the Settlements are being implemented in your state and how settlement funds will be allocated within your state, including information about, and links to, any applicable allocation agreement or legislation. This website will be supplemented as additional documents are created. The Ohio Attorney General's Office has also set up a state-specific website, which may be found at: <https://ohioattorneygeneral.gov/Media/Easing-the-opioid-addiction-crisis>. If you have questions, please contact Jonathan.Blanton@OhioAGO.gov, (614) 728-1171.