



**LEBANON CITY COUNCIL
OCTOBER 5, 2022 - 7:00 PM
COUNCIL CHAMBERS, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

1. Call to Order

To participate in this meeting, please [join live via Microsoft Teams](#) or call 929-229-5356 (access code: 121 060 910#). If you have trouble accessing this meeting, please [email Shaun Mulholland](#).

2. Pledge of Allegiance

3. Public Forum Announcement by the Mayor

Any member of the public who desires to speak on any item may do so when the item is taken up by the Council and will be allowed to speak on the subject for not more than three minutes. **(Note: Speakers are asked to state their name, ward of residence, and to use the microphone provided.)**

4. Open to the Public

5. Recognitions: None

6. Approval of Minutes

- A. MOTION TO approve the minutes as presented in the October 5, 2022 agenda packet.

7. Appointments

- A. Downtown Lebanon TIF Advisory Board, Victoria Smith (Reappointment as a property owner/occupant member)

8. Public Hearing Items

- A. ORDINANCE 2022-04 TO REPEAL CITY CODE CHAPTER 117 – A public hearing for the purpose of receiving public input and taking action on proposed Ordinance 2022-04 to repeal City Code Chapter 117, Passenger Vehicles for Hire.
 - i. Presentation:
 - ii. Opening of the Public Hearing:
 - iii. Questions & Comments by the Public:
 - iv. Closing of the Public Hearing:
 - v. Council Deliberation & Action:

9. Old Business: None

10. New Business

- A. Review and adoption of City Council Policy CC-103 - Procurement Policy
- B. Presentation of Zoning Amendments

- 11. City Manager Report**
- 12. Council Representatives to Other Bodies Report**
- 13. Future Agenda Items**
- 14. Non-Public Session**
- 15. Adjournment**

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.

FUTURE BOARD/COMMITTEE/COMMISSION APPOINTMENTS

Board/Committee: Arts & Culture Commission

Position: Alternate Member

Applicant: L. Copp

Re-Assigned Councilor: C. Simon

Re-Assigned Date: 09/28/2022

Board/Committee: Arts & Culture Commission

Position: Alternate Member

Applicant: B. Cook

Re-Assigned Councilor: D. Wilkie

Re-Assigned Date: 09/28/2022

Board/Committee: Board of Cemetery Trustees

Position: Regular Member

Applicant: D. Muzzy

Re-Assigned Councilor: G. Sykes

Re-Assigned Date: 08/09/2022

Board/Committee: Board of Cemetery Trustees

Position: Regular Member

Applicant: T. Palazzo

Re-Assigned Councilor: K. Zook

Re-Assigned Date: 09/28/2022

Board/Committee: Downtown Lebanon TIF Advisory Board

Position: Regular Member

Applicant: B. Schuster

Assigned Councilor: D. Whittlesey

Assigned Date: 08/09/2022

Board/Committee: Downtown Lebanon TIF Advisory Board

Position: Regular Member

Applicant: C. Haidari

Assigned Councilor: C. Below

Assigned Date: 09/28/2022

Board/Committee: Conservation Commission

Position: Regular Member

Applicant: B. James

Assigned Councilor: K. Hill

Assigned Date: 08/09/2022

Note: While 1 City Councilor is officially assigned to interview each applicant, any City Councilor may interview any applicant for any position to better inform their decision.

PROPOSED FUTURE AGENDA ITEMS: Dates may be tentative and this list is not considered all-inclusive.

Lebanon City Council Agenda
October 5, 2022

OCTOBER 19, 2022 - Start time 6:00pm

NEW BUSINESS:

- A. Review and Discussion of 2022 3rd Quarter Budget Report and Release of Public Schools Impact Fees.
- B. Review and Action on Properties Qualified for Tax Deeding
- C. Overview and Presentations of the 2023 Capital Improvements Program (CIP) Budget

NOVEMBER 1, 2022 - Budget Work Session

- A. Overview of Proposed 2023 Annual Budget
- B. Question and Answer Session with City Departments
 - 1. City Manager
 - 2. Finance/Assessing Departments
 - 3. Planning & Development Department
 - 4. Recreation Arts, & Parks

NOVEMBER 2, 2022

NEW BUSINESS:

- A. Presentation of the 2021 Financial Audit (TENTATIVE)

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 5, 2022**

6. ACCEPTANCE OF MINUTES:

MINUTES TO BE ACCEPTED

- September 21, 2022 (Regular Meeting)

MOVED, to approve the minutes as presented in the October 5, 2022 agenda packet.

DRAFT

**LEBANON CITY COUNCIL
MINUTES**

Wednesday, September 21, 2022, 7:00 p.m.

Remote Via Microsoft Teams: [LebanonNH.gov/Live](https://lebanonnh.gov/Live)

MEMBERS PRESENT: Mayor Tim McNamara, Assistant Mayor Clifton Below, Erling Heistad, Karen Liot Hill, Chris Simon, George Sykes, Douglas Whittlesey, Devin Wilkie, and Karen Zook (remote)

MEMBERS ABSENT:

STAFF PRESENT: City Manager Shaun Mulholland, Deputy City Manager David Brooks, Interim Director of Planning & Zoning/Senior Planner Tim Corwin, Lebanon Airport Manager Carl Gross, City Manager Executive Assistant Beth Beraldi, Finance Director Vicki Lee, Deputy Finance Director Alesia Williams, DPW Administrative Services Manager Kelly Crate

1. CALL TO ORDER: Mayor McNamara called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE: Councilor Liot Hill led the Council in the Pledge.

City Manager Shaun Mulholland announced the meeting criteria for the public.

3. PUBLIC FORUM: Mayor McNamara made the Public Forum announcement.

Councilor Zook arrived at 7:05P and stated the reason she was attending this remotely was because she is out-of-state.

4. OPEN TO PUBLIC: No one came forth.

5. RECOGNITIONS:

- Paula Maville Retirement Resolution, Deputy City Manager

**RESOLUTION HONORING
Retiring Deputy City Manager PAULA MAVILLE**

WHEREAS, Paula Maville has devoted herself to a lifelong career in public service, having served the residents and businesses of the City of Lebanon and the region for more than 35 years; and

WHEREAS, Paula began her service with the City in 1986 as a temporary clerk/typist in the Planning Office and, upon recognition of her remarkable work ethic and skills, was recruited as a full-time employee working across several city departments until she was promoted to the City Manager's Office in 2008, eventually being appointed as the first Deputy City Manager in 2013 for the City of Lebanon and serving as Interim City Manager off and on until 2018; and

WHEREAS, during her time with the City, Paula faced and overcame many challenging issues and situations. She consistently took charge and provided communication to elected officials, in-house staff, legal counsel, and the public, and helped guide the City through each situation in the best way possible;

1 and

2
3 **WHEREAS**, during her time as Deputy City Manager, Paula regularly made improvements in citywide
4 systems and procedures. She built in resources to help educate residents on City operations by creating the
5 Lebanon Citizens Academy. Her ability as a critical thinker and problem solver allowed her to provide
6 support for City Staff and the public with many great outcomes; and
7

8 **WHEREAS**, Paula was an exemplary city employee with decades of experience, institutional knowledge,
9 a knack for creative thinking, a willingness to be open to new ideas and to try new approaches. She
10 routinely sought to implement more streamlined, efficient methods for the daily operations of the city; and
11

12 **WHEREAS**, Paula's leadership through actively listening, making intelligent and logical suggestions, and
13 instilling confidence in employees to ask questions and use their skills and knowledge to work together
14 and solve issues, made her someone who always had the utmost respect from her peers, coworkers, and
15 the public.
16

17 **NOW, THEREFORE, BE IT RESOLVED**, that we, the members of the Lebanon City Council, on
18 behalf of the citizenry of Lebanon, Paula's friends, and her fellow employees and associates, express our
19 admiration of and respect for the career of our outstanding and faithful employee, and extend to her our
20 sincere gratitude and wish her well in her retirement,
21

22 **BE IT FURTHER RESOLVED** that this Resolution be written upon the minutes of the Lebanon City
23 Council meeting and a copy be presented to Paula L. Maville.
24

25 Dated this 21st day of September 2022.
26

27 _____
28 TIMOTHY J. MCNAMARA, MAYOR
29 City of Lebanon

30 - Inclusiveness Resolution
31

32 **INCLUSIVENESS RESOLUTION**

33

34 **WHEREAS**, the City Council of Lebanon wishes to act in accord with the City's Master Plan,
35 Principles for Sustainability and Guiding Principles in preserving the public trust and promoting
36 community identity, civic pride, and quality of life for all residents, regardless of age, sex, gender
37 identity or expression, race, creed, color, marital status, familial status, physical or mental ability,
38 national origin, sexual orientation, ethnicity or culture, language or religion, economic or housing
39 status, or citizenship or immigration status; and
40

41 **WHEREAS**, the City Council of Lebanon wishes to take a leading role in protecting civil liberties,
42 promoting inclusiveness, and providing equal protection under the law to all persons in the City; and
43

44 **WHEREAS**, the City Council of Lebanon recognizes that a diverse population supports a resilient
45 economy and fosters a high quality of life for its residents and visitors, in accordance with the City's

1 Sustainability Principles; and

2
3 **WHEREAS**, the City Council of Lebanon recognizes that while Free Speech is protected under the
4 First Amendment; we can speak out against and discourage hate speech as contrary to our values; and

5
6 **WHEREAS**, the City Council of Lebanon has demonstrated its commitment to protecting its residents
7 and visitors against discrimination on the basis of age, sex, gender identity or expression, race, creed,
8 color, marital status, familial status, physical or mental ability, national origin, sexual orientation,
9 ethnicity or culture, language or religion, economic or housing status, or citizenship or immigration
10 status; and

11
12 **WHEREAS**, the City Council wishes to take a stand against ideologies of violence, hatred, and
13 intolerance

14
15 **NOW THEREFORE**, I, Timothy McNamara, Mayor of the City of Lebanon, New Hampshire, on
16 behalf of the Lebanon City Council, resolve that:

- 17
18 1. The City Council of Lebanon denounces and rejects ALL ideologies based on discrimination,
19 hatred, and intolerance, including racism, xenophobia, and homophobia, and condemns
20 activities that promote these ideologies; and
21 2. The City Council of Lebanon affirms its strong support for the fundamental constitutional
22 rights and civil liberties of every person, regardless of age, sex, gender identity or expression,
23 race, creed, color, marital status, familial status, physical or mental ability, national origin,
24 sexual orientation, ethnicity or culture, language or religion, economic or housing status, or
25 citizenship or immigration status; and
26 3. The City Council of Lebanon celebrates and embraces its diverse community and is committed
27 to fostering a community of inclusiveness where everyone can feel safe, welcome, and valued;
28 and
29 4. The City Council of Lebanon commits to fair and equal treatment of everyone in our
30 community, including in housing, education, employment, and healthcare, and will strive to
31 ensure all of our actions, policies, and operating procedures reflect this commitment.
32

33 Dated this 21st day of September 2022.
34

35 _____
36 TIMOTHY J. MCNAMARA, MAYOR
37 City of Lebanon

38 **6. ACCEPTANCE OF MINUTES:**

- 39 • August 17, 2022 (Regular Meeting)
40

41 *Councilor Heistad MOVED to approve the August 17, 2022 (Regular Meeting) as amended*
42 *(from the August 17, 2022 agenda packet) and presented in the September 21, 2022 City Council*
43 *agenda packet.*

44 *Seconded by Councilor Liot Hill.*

1 **Roll Call Vote:**

2 **All voting Yea: Assistant Mayor Below, Councilors Heistad, Liot Hill, Sykes, Wilkie, Whittlesey,**
3 **Simon, Zook, and Mayor McNamara**

4 **None Voted Nay**

5
6 ****The Vote on the Motion was approved (9-0)***

7
8 • September 7, 2022 (Regular Meeting)
9 Amendments: Page 24 of 97: Change State Law “RSA 45(a)-17” to “RSA 485(a):17”

10
11 ***Councilor Wilkie MOVED to approve the September 7, 2022 (Regular Meeting) minutes as amended***
12 ***and presented in the September 21, 2022 City Council agenda packet.***
13 ***Seconded by Councilor Heistad.***

14
15 **Roll Call Vote:**

16 **All voting Yea: Assistant Mayor Below, Councilors Heistad, Liot Hill, Sykes, Wilkie, Whittlesey,**
17 **Simon, Zook, and Mayor McNamara**

18 **None Voted Nay**

19
20 ****The Vote on the Motion was approved (9-0)***

21
22 **7. APPOINTMENTS: None**

23
24 **8. PUBLIC HEARING ITEMS: None**

25
26 **9. OLD BUSINESS: None**

27
28 **10. NEW BUSINESS**

29 **A. Discussion & Set Public Hearing for October 5, 2022: Ordinance #2022-04 to delete**
30 **and repeal City Code Chapter 117, Passenger Vehicles for Hire**

31
32 Included in the agenda packet:

- 33 1. Proposed Ordinance #2022-04 (*Pages 46, City Council agenda packet*)
34 2. September 15, 2022 Legal Opinion by Attorney Christine Filmore RE: Ordinance #2022-04,
35 Passenger Vehicles for Hire, Chapter 117 (*Page 47, City Council agenda packet*)

36
37 Available but Not Included in agenda packet:

38 City Code Chapter 117, Passenger Vehicles for Hire: <https://ecode360.com/32352856>

39
40 City Manager Mulholland reviewed the reasons to delete and repeal City Code Chapter 117, Passenger
41 Vehicles for Hire as listed in the background.

42
43 **BACKGROUND**

44 The City Council originally adopted City Code Chapter 157 in 2008 to regulate taxicabs. This chapter
45 was repealed in 2017 and replaced with Chapter 117, Passenger Vehicles for Hire. The reasons for the
46 change related to reducing the insurance requirements and expanding the types of services regulated
47 relative to vehicles for hire.

Chapter 117 does not address Uber and similar digital network companies (which offer rides for a fee) as these are regulated and permitted through the State of New Hampshire under NH RSA 376-A – Transportation Network Company.

Presently there are no taxicab services that operate within the City. The broader definition of passenger vehicles for hire does include a limousine type service. The city administration does not see a compelling public need to regulate this industry. We have no means to determine the accuracy of taxicab meters. Vehicles operated by providers are already subject to vehicle inspection, as are all vehicles in the state under the state motor vehicle code. Additionally, the city does not have resources to adequately provide oversight of this industry. Services such as Uber and Lyft are now the major provider of what were traditional taxi services.

The City Administration recommends repeal of this chapter of the city code. If there is a compelling need for regulation by the city of this industry in the future, the Council could re-adopt the provisions of Chapter 117 at that time.

ACTION:

*Assistant Mayor Below MOVED, that the Lebanon City Council hereby schedules a public hearing for Wednesday, October 5, 2022, beginning at 7:00 p.m. in Council Chambers, City Hall, for the purpose of receiving public input and taking action on Proposed Ordinance #2022-04, to amend the Code of the City of Lebanon, by repealing Chapter 117, Passenger Vehicles for Hire.
Seconded by Councilor Liot Hill.*

Roll Call Vote:

All voting Yea: Assistant Mayor Below, Councilors Heistad, Liot Hill, Sykes, Wilkie, Whittlesey, Simon, Zook, and Mayor McNamara
None Voted Nay

**The Vote on the Motion was approved (9-0)*

CITY OF LEBANON ORDINANCE #2022-04

AN ORDINANCE TO AMEND the Code of the City of Lebanon by deleting and repealing Chapter 117, Passenger Vehicles for Hire, in its entirety.

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1

The Code of the City of Lebanon is hereby amended by deleting and repealing Chapter 117, Passenger Vehicles for Hire.

Section 2. Severability:

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses or part of this ordinance.

1 Section 3. Effective Date

2
3 **This Ordinance shall become effective immediately upon its adoption.**

4
5 **B. Discussion and Recommendation on Lebanon Essential Air Service Contract**

6
7 Included in the agenda packet *(All the below are detailed on Pages 50-97, City Council agenda packet):*

- 8 1. US Department of Transportation Order Requesting Proposals, issued June 22, 2022 **50-**
9 2. Proposal of Southern Airways Express to provide subsidized Essential Air Service
10 for Lebanon, NH
11 3. Proposal of Cape Air to provide subsidized Essential Air Service for Lebanon, NH

12
13 Mayor McNamara wanted to kick this discussion off with a couple of things:

- 14 1. A description of the process that has been done so far.
15 2. Hear a report from the Selection Committee.

16
17 City Manager Mulholland described the history and background behind this discussion as listed below.

18
19 **BACKGROUND**

20 Cape Air's current contract with the US Department of Transportation (USDOT) to provide Essential Air
21 Service (EAS) to Lebanon (LEB) Airport will expire on November 30, 2022. In anticipation of the contract
22 expiration, the USDOT issued an order in June 2022 requesting proposals from air carriers interested in
23 providing EAS to Lebanon for a new contract term beginning December 1, 2022. The USDOT received
24 proposals from Boutique Air, Cape Air, and Southern Airways Express, which were subsequently
25 forwarded to the City for review.

26
27 City Manager Mulholland established the Selection Committee and assigned the Airport Director (Carl
28 Gross) and asked the Mayor to appoint a member of the City Council (Councilor Whittlesey). Tracy
29 Hutchins (Executive Director of the Upper Valley Alliance) was asked to be part of this Review Committee.
30 The Review Committee was tasked to review the proposals, receive presentations, and make a
31 recommendation to the City Council on a preferred carrier.

32
33 On September 1st, 2022, the Selection Committee voted to recommend Southern Airways Express as the
34 preferred EAS carrier based on the proposals and presentations received. On September 3, 2022, the
35 carriers were notified of the recommendation of the Review Committee that would be made to the City
36 Council. On September 6, 2022, USDOT was notified of the Review Committees recommendation and
37 the date of the City Council meeting. Draft packets were put together and sent to the City Council.

38
39 The Southern Airways Express proposal is for four (4) daily flights to Boston and two (2) daily flights to
40 Newark. They requested the Council to consider a four- year contract term.

41
42 The USDOT requested comments from the City Council relative to the recommended EAS carrier for
43 Lebanon Airport for the upcoming contract. All comments must be submitted to USDOT no later than
44 September 30, 2022.

45
46 Airport Manager Carl Gross and Mr. Mark Cesteri (Southern Airways Express) came forth to present and
47 discuss the proposal and answer questions.

48
49 Mayor McNamara noted there was a representative from Cape Air in the audience to answer any
50 questions as well.

1
2 **Review Committee Comments:**

3 Mayor McNamara wanted the Selection Committee, or Airport Manager Carl Gross, to review the process
4 they went through in evaluating the proposals; the pros and cons of the proposals; and, how they came to
5 their decision regarding a recommendation.
6

7 Mr. Carl Gross (Airport Manager) noted that when they started the evaluation process, they looked at
8 several different factors with the service we had (Cape Air). Since 2012-2019, we have been averaging
9 about 10,200 passengers per year, roughly 36% of those passengers traveled to White Plains, NY and
10 64% traveled to Boston. Our load factors in Boston have been averaging about 50%, which is the number
11 of occupied seats compared to the number of seats flown. We are averaging a little over 60% traveling to
12 White Plains, NY and since we are right on the cusp of 10K enplanements, which are required for our
13 airport entitlements, we thought about ways of improving that number to bring it a little bit higher to give
14 us a safety cushion. In looking at Boston, we felt it had a pretty good amount of traffic going in and out,
15 and Boston's on-time arrival was running about 82% over the past three (3) years and according to
16 USDOT statistics, Newark, NJ was running 77% over the past three (3) years. For on time departures:
17 Newark was running at 77% and Boston was running at 84%.
18

19 During that same time, White Plains pretty much had the same on-time performance as Newark,
20 according to USDOT. We took a look at those (statistics) and questioned where we could look for
21 improvement in our connectivity and service. Boston is not a traditional hub where various planes will
22 come in and discharge the passengers who go to another aircraft and disperse. White Plains is more of a
23 destination airport, but connectivity is not there for other flights out of that airport. However, we felt, with
24 the international and domestic connectivity at Newark, and the banking that the airlines provide on both
25 the arrivals and departures, was the area for us to look at for improvement.
26

27 We also looked at the aircraft that were operating on the routes. We understand the Cessna will be
28 replaced by the Tecnam in the key proposal from Cape Air. The Southern Airways Express proposal is
29 flying a Cessna 208 Caravan. The Tecnam is a twin engine aircraft (piston powered) with about 88 cu. ft
30 cargo space. The Cessna Caravan is a single engine aircraft; is turbine powered with a slightly different
31 method of operation; has over 100 cu. ft. of cargo space that provides the capability of carrying outsized
32 luggage such as golf clubs, skis, etc.
33

34 We also looked at the reliability factors on engines through 2016 through the FAA. That does not mean
35 an engine shutdown, it just means there was something that happened in an engine after 3200 hrs./ per
36 piston airplane, and roughly 3030 hrs./per turboprop airplane. We did not feel we were missing out on
37 reliability with the aircraft engine on the single engine aircraft as proposed by Southern Airways Express,
38 and felt we were picking up additional cargo space.
39

40 Ms. Tracy Hutchins noted she was brought into the Selection Committee to bring in the business
41 viewpoint. She spoke with a number of businesses and people she knows who fly frequently, either to
42 Boston or New York and received a lot of good comments about Cape Air. However, there were not
43 many comments regarding ground service flying into Westchester, NY and felt it was not as convenient
44 as flying into a hub airport like Newark. The ability to connect flights out of Newark was an important
45 consideration.
46

47 In terms of goals in promoting tourism and the ability to have more cargo space in a plane, the Selection
48 Committee felt this could be important. This was something raised in talking with representatives from
49 Dartmouth College; many of the students who use the air service to get to and from school; and, their
50 ability to take public transportation from Newark into New York City for meetings/internships. We just

1 really felt that Southern Airways Express was going to provide us with a capacity to grow and that their
2 partnership was a better fit for the Lebanon community as it stands right now.

3
4 Councilor Whittlesey noted some of the comments they received were concerns around traveling to
5 Newark and the difficulties in getting to mid-town. The fact is, the Newark Liberty International Airport
6 has a direct connection to the northeast corridor line. You can pick up five (5) trains/hr. going to Penn
7 Station, which is also where Cape Air drops off customers. In looking at this, flying into Newark was
8 likely faster than the limo service from Westchester Airport, noting that while Westchester Airport is
9 large, it is still a community airport and is not a major hub airport. As he thought about where Lebanon is
10 going, where our growth is coming from, and what we could expect to see in the future, Newark is going
11 to serve as a much better catchment area. In Newark, you are reaching the entire country and gives us
12 another major hub into/out of Lebanon. The other compelling piece is the ability to drive tourism into
13 Lebanon and the Upper Valley. While the Tecnam is a beautiful plane, you cannot fit skis or golf clubs in
14 them as it is really designed to meet the needs of your commuter travelers and that would be limiting the
15 passengers who are inherently going to use the service. Giving that, we have been operating at a 50%
16 load capacity for a number of years (excluding COVID), Cape Air has not ever averaged more than 50-
17 55%. For him, it was really about driving up ridership up here.

18
19 Mayor McNamara emphasized that the City Council does not make this decision. Ultimately the FAA
20 makes this decision and they have requested the City Council to make a recommendation on the carrier
21 we would like. He also stressed that if Lebanon does not get 10K enplanements/year, we stand to lose our
22 central air service contract subsidy with the Federal Government, which is about \$1 million/year that goes
23 towards subsidizing the Lebanon Airport. This is a very big deal. Currently, we are somewhat close to
24 the 10K enplanements. In December, there are some promotions and we just slip over the edge (i.e., the
25 last non-COVID year we ended up with 10,091 enplanements as of December 31, 2019. Six thousand
26 three hundred and eighty-one (6381) of those (10,091 enplanements) went to Boston and the remaining
27 went on to White Plains). Amazingly, in the first seven (7) months of 2022, we are at 3,926 to Boston,
28 which is 99% of where we were the first seven (7) months in 2019 and we were at 2207 to White Plains,
29 which is 93% of where we were the first seven (7) months in 2019. Right now, it looks like we are just
30 on track to hit those 10K enplanements in 2022, which is a critical number for us.

31 32 **Airline Presentation Summaries:**

33 34 **Southern Airways Express Proposal (Pages 58- 73, Council agenda packet)**

35 Mr. Mark Cesteri (Southern Airways Express - SAE) came forth to review and discuss Southern Airways
36 Express proposal and summarized the following points:

37 38 **Consistency in the Marketplace:**

39 He noted consistency and reliability are really their stock and trade. Many of the other commuter airlines
40 have been badly hurt by the pilot situation and we have not because of the aircraft type that we fly. This
41 has allowed us to have the best reliability in the industry. When you are the only airline in town, that is
42 the most important thing.

43
44 **Reliability:** He understands there has been some issues with the current carrier in terms of reliability, but
45 also knows they do an excellent job.

46
47 **Fare Issues:** He also felt there was a fare issue with Cape Air. SAE is proposing that if you keep them
48 below \$100, you do much better than if you go above, and we are committed to doing that.

49
50 **Cargo:** Another major defining difference is the cargo capacity. To the Mayor's point, the weak months
51 in this market are the winter months and we see those as an opportunity for us to seize and bring skiers to

town, which would drive up the number of passengers. Not being able to carry skis is a major deficiency of the current carrier. From an economic development perspective, this is a key advantage (that we can offer).

Connectivity: We have interline agreements with American, Alaska, and United and have worked very hard to establish those interline agreements. We fly to Dallas (American Airlines) and four markets in the mid-Atlantic (United Airlines hub at Washington's Dulles Airport) and our load factors in those markets have hit a record every single month this year. We will be able to bring that benefit here with the United Airlines service. Additionally, the competitor has a relationship with Jet Blue Airways, who is contemplating a merger with Spirit Airlines. Especially for your higher end customers, Spirit Airlines will drive the Jet Blue Airline down to the Spirit level. That is who your connections are going to be at Boston Logan. He did not say this in a disparaging way, he was just saying this as a reality of what is in the pipeline for Jet Blue.

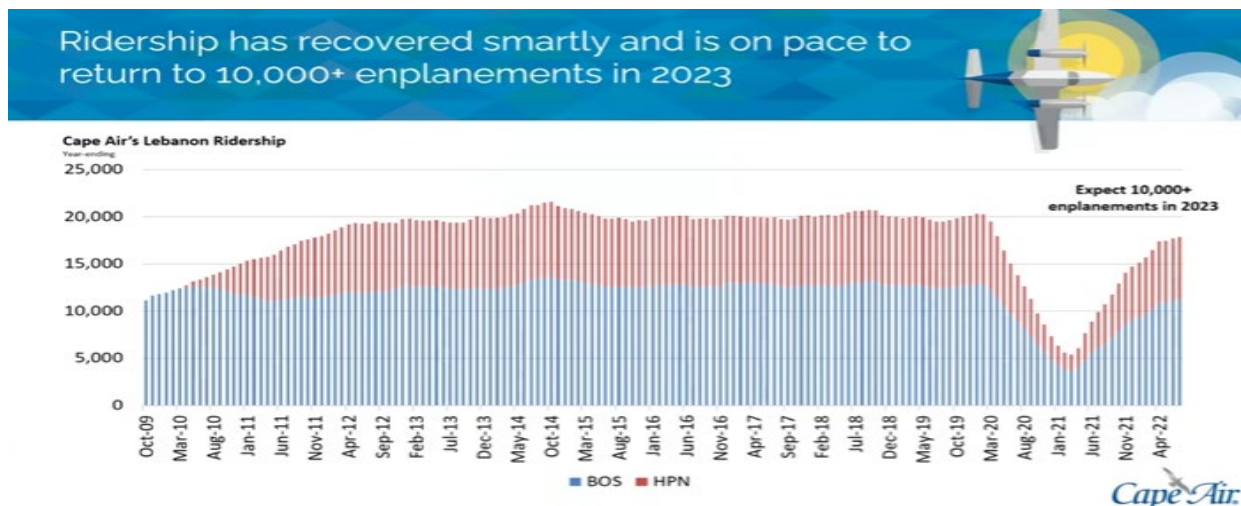
For the Newark hub, he understands that for some folks the benefit of having door-to-door service from Westchester to Manhattan is a benefit, but in aggregate, the number of international destinations out of Newark, and the weatherproof transportation that is offered from Newark vs. van service, gives us the best of both worlds in addition to our connectivity at Boston.

Reliability: Again, when you are the only airline in town, this is the most important thing.

We ask you (Council) to consider all these very objective differentiators and ratify the Selection Committee's recommendation.

Cape Air Proposal:

Mr. Andrew Bonney (Senior Vice President of Planning for Cape Air), Mr. Chuck Fererra (VP Corporate and Airport Affairs), Mr. John Nikolovski (Lebanon's Station Manager) and Mr. Allen Joseph (Owner of the Ground Transportation Co. in New York), all came forth representing Cape Air's proposal.

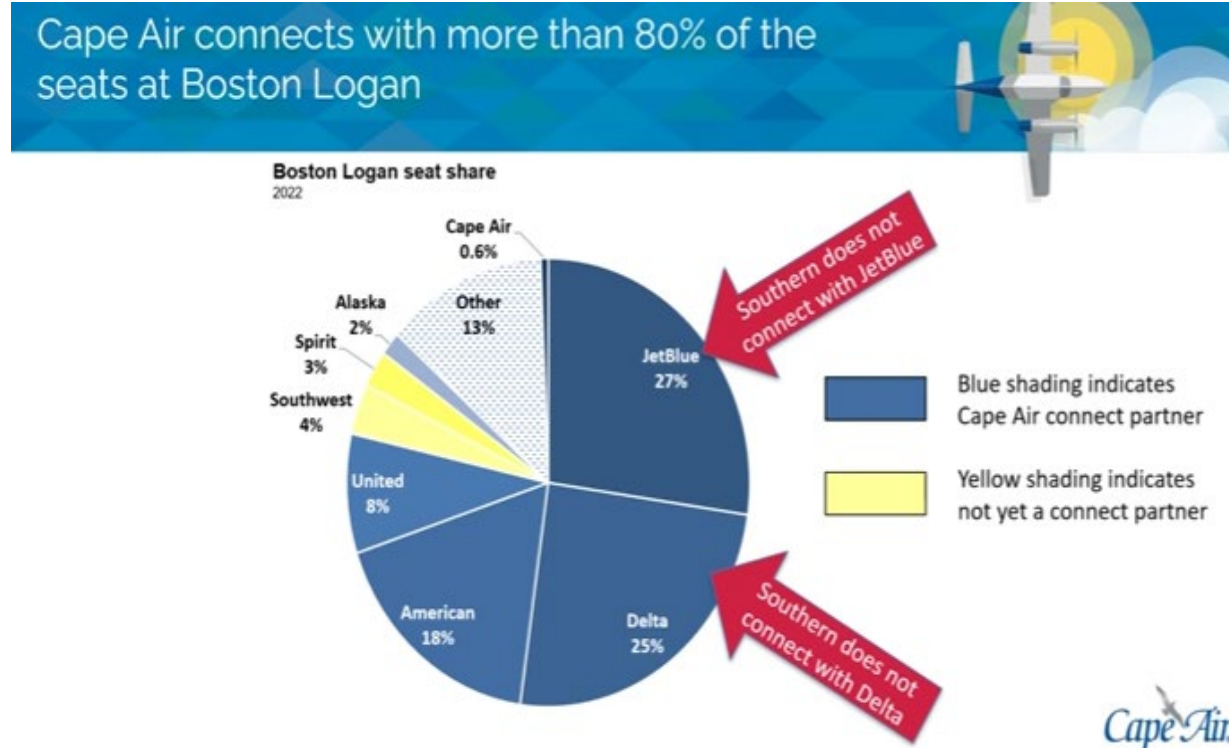


Mr. Bonney noted that when Cape Air was first invited to serve the Upper Valley in 2008, we were given a very specific mandate and it was to make sure that we had 10K enplanements every year because of the Lebanon Airport Improvement Funding, which is so critical to this community. He was really pleased that Cape Air's record was acknowledged for hitting that (mandate) consistently year end and year out while we have been in Lebanon. He also noted they see encouraging signs on bookings and ridership for this year (2022).

He focused specifically on some of the features of Cape Air's proposal. (The full proposal is on the USDOT website as well). One of the unique features of Cape Air is that we are interlining/co-chairing with all of the major carriers, which is important for connectivity and it is particularly important for driving. It is one thing for someone from the Upper Valley to know to use the local airport, but when someone from LA or Phoenix is looking at visiting up here, they need to be able to go onto any of their favorite websites and book the tickets here.



This community is granted six (6) daily departures by USDOT, and in both Cape Air and Southern's proposal, four (4) of those are going to Boston. He knows there was a lot of discussion about New York, but our New York Service is doing pretty well, with a load factor in the 60's. He refocused on where the majority of Lebanon's flights are going, which is to Boston, noting Cape Air has been servicing since 1989.



1 Cape Air has interline agreements with airlines that offer 80% of their seats at Boston Logan. If Southern
2 Airways Express were to serve Lebanon, you would lose the #1 airline there (Jet Blue) and the #2 airline
3 there (Delta). Combined, those two airlines provide 52% of the capacity at Boston Logan.
4

Cape Air also proposes 2x daily access to New York City
via Westchester County Airport (HPN), including
complimentary ground transportation between HPN
and Manhattan



Exclusive Cape Air ground transfers between Westchester County Airport and Manhattan



5
6
7
8 Regarding New York City, if you recall when Cape Air took over the service, you actually had service to
9 LaGuardia. When we started offering ground transportation service into midtown (NYC), you were
10 actually shaving 45 minutes to an hour off the door-to-door trip time compared to when people had access
11 to LaGuardia. The big piece of the time saved was not having to taxi around in the airplane at the major
12 hub airport. When we go to White Plains, we are in a private facility that has no TSA, so you can show up
13 just before your flight and just roll right out to airplane. We have a terrific partner, Allen Joseph, who has
14 been our ground transportation provider for the last 10-years. He noted ground transportation is
15 contracted with Cape Air, so you never have to worry about missing your flight.
16

17 Connectivity is also important, and Boston has over 140 nonstop destinations served by all carriers.
18 Boston has changed in a huge way over the last 15 years in terms of becoming a hub. It was mentioned
19 earlier that Newark has a connecting bank complex, which is absolutely correct, but this comes with some
20 downsides, namely congestion. If you are arriving at prime time (in Newark), you will have long airline
21 taxi times and congested terminals. Cape Air loves going to Westchester for access to NYC, and all have
22 been on time. Cape Air does not charge extra for the ground transportation, that is part of your booking.
23

24 Fares: Cape Air's average fare in the last full calendar year (2021) for Boston was \$63 and for New York
25 it was \$100. Mr. Bonney wanted to make sure the actual facts were presented.
26

Cape Air proposes service in our fleet of new twin-engine Tecnam Travellers



Cape Air's Tecnam Traveller



Features

- Two engines, for safety
- 9 passenger seats*
- 2 pilot seats, and certificated for single pilot operations
- Italian leather seats
- Air conditioning
- LED lighting
- USB ports
- **LEB's only proposal which preserves Lebanon's federal entitlement to multi-engine service**

*Flights may be restricted to 8 selling seats



What Cape Air is pleased to bring you, is our brand new twin engine aircrafts, the Tecnam Traveler. Cape Air was thrilled that on August 22, 2022, we were actually able to take folks out to the airplane. We now have 30 of these on our property, and we will have the airplane ready to start in Lebanon by December 1, 2022, with a new contract. This aircraft does have less baggage space than the Cessna Caravan, but the baggage queue on this aircraft is custom designed by Cape Air for commuter-type service. Luggage is easier to load for staff, with the modern bags, and that includes golf clubs. Skis are another matter, and we could see that Southern Airways Express Cessna would be better for carrying skis because it has a freight pedigree, which is what it was designed for. Because it was designed as a freight airplane, it was designed with a single engine. The turbines are fabulous engines, but risk is probability times consequences if there is ever an issue. Cape Air now has 104 multi-engine aircraft and we continue to grow with multi-engine aircraft because we think that is the right thing to do for our communities.

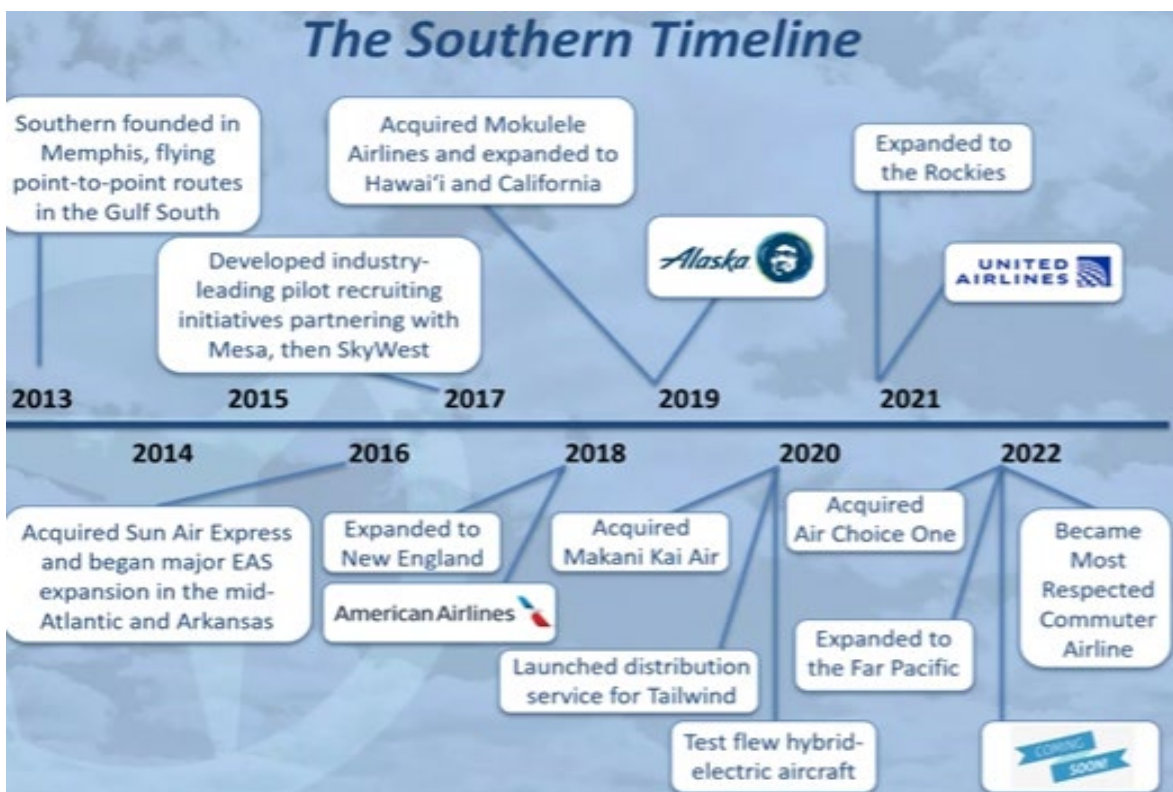
Cape Air is pursuing a green future, having put cash deposits down on 75 Eviation Alice electric aircraft



Mr. Bonney noted Cape Air is working on electric aircraft for the future. The Tecnams are already here (Lebanon) and certified. We have cash deposits down for 75 electric airplanes and are expecting our first flight in the next couple of weeks.

Assistant Mayor Below directed his question toward Southern Airways and asked where the gates would be at both Logan and Newark. Mr. Cesteri noted at Logan the gate would be located at Terminal B, which is where United/American/Alaska are located. There would be no need to go through a 2nd TSA. In Newark, the gate would be located in Terminal C, also which is the commuter side of United, and there would be no need to go through a 2nd TSA. Assistant Mayor Below also asked about the extent of Boston and Newark in terms of hubs for United/American/Alaska. Mr. Cesteri noted the way SAE is looking at this is that the Boston service has a higher percentage of local travelers, but they see the primary connecting pathway to United's hub at Newark, especially with the addition of all the international destinations served from there.

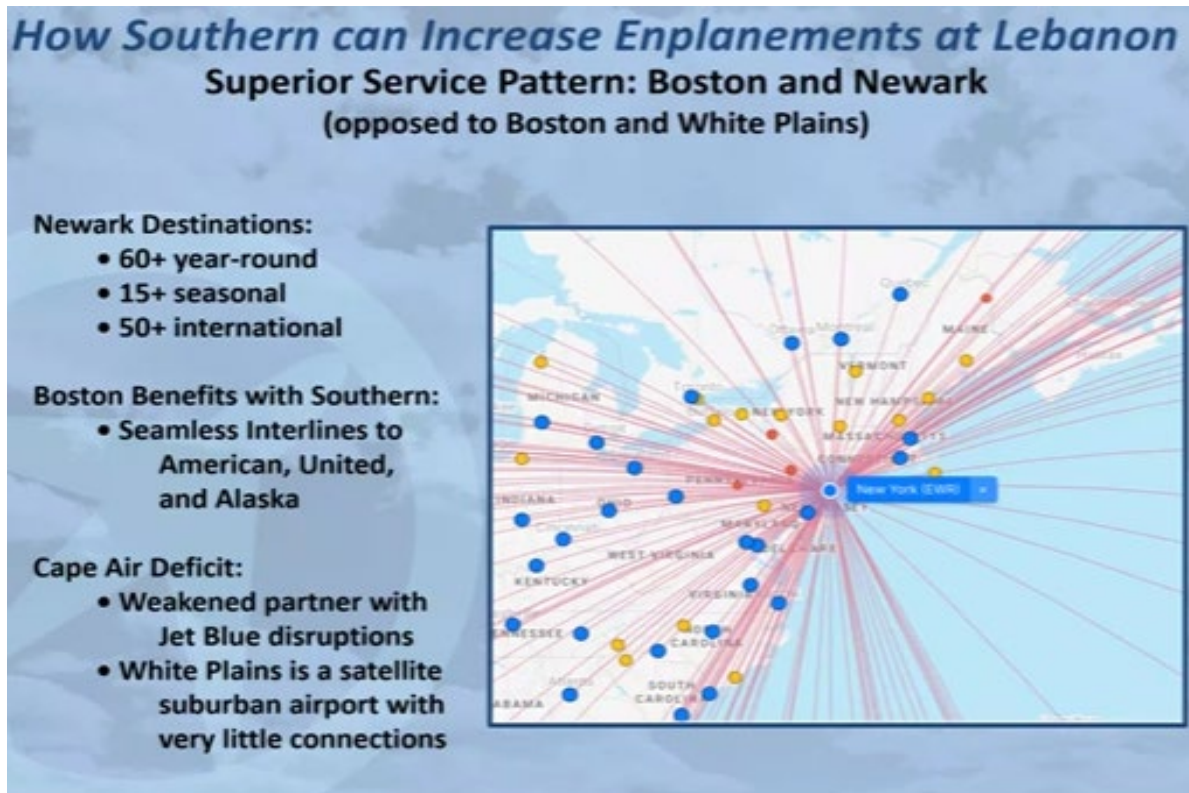
Since Mr. Cesteri (Southern Airways Express) did not present a slide presentation earlier in the meeting, Mayor McNamara extended the opportunity for him to do so. Mr. Cesteri presented and reviewed the following slides, of which some were not part of the presentation in the Council's agenda packet.



This slide is history about how Southern has grown to become the largest commuter in the country.

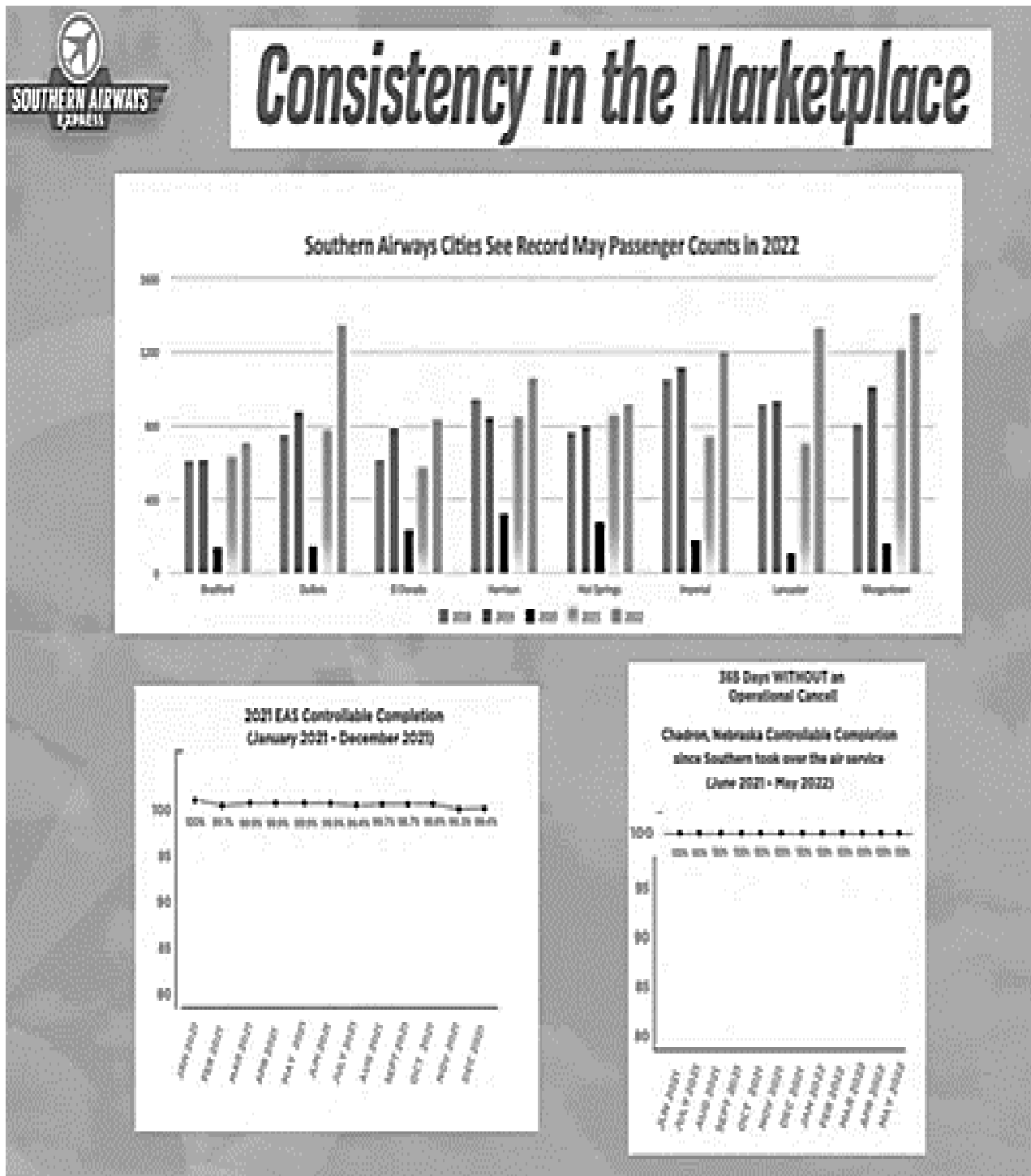


This slide shows the footprints of where SAE has services to. In response to Assistant Mayor Below's question, Mr. Cesteri noted SAE's current strategy for New England is a Nantucket base, not a Boston base, so we fly from four airports on the mainland to Nantucket. This Logan service would be new for us.



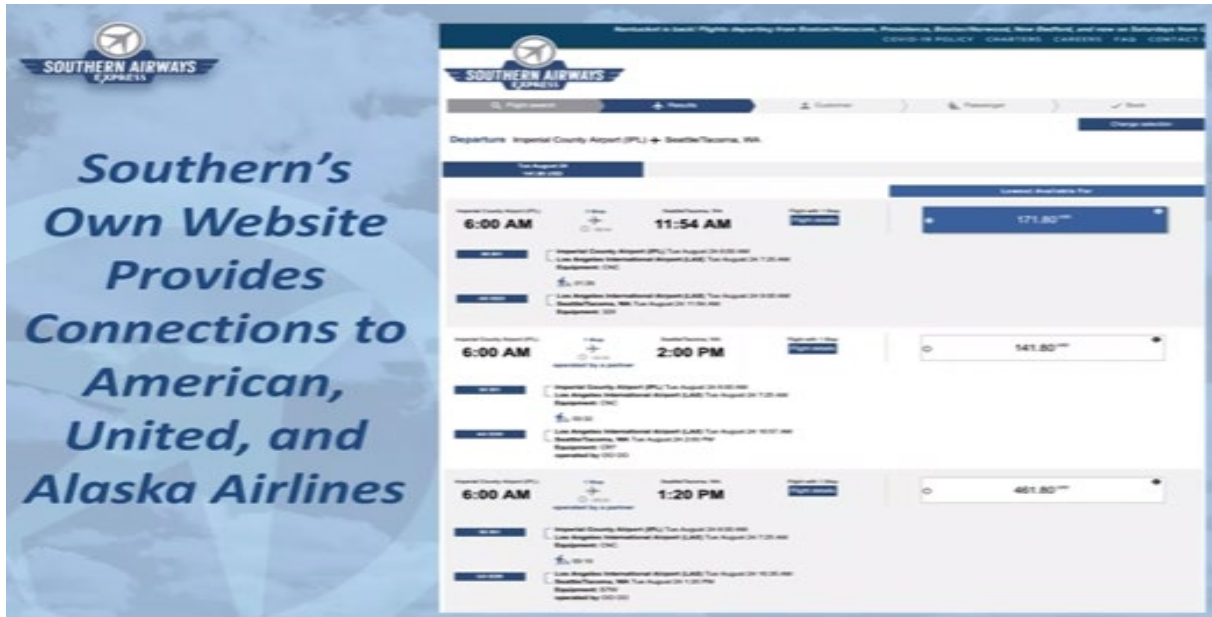
This shows what you get with flying into Newark.

1



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7

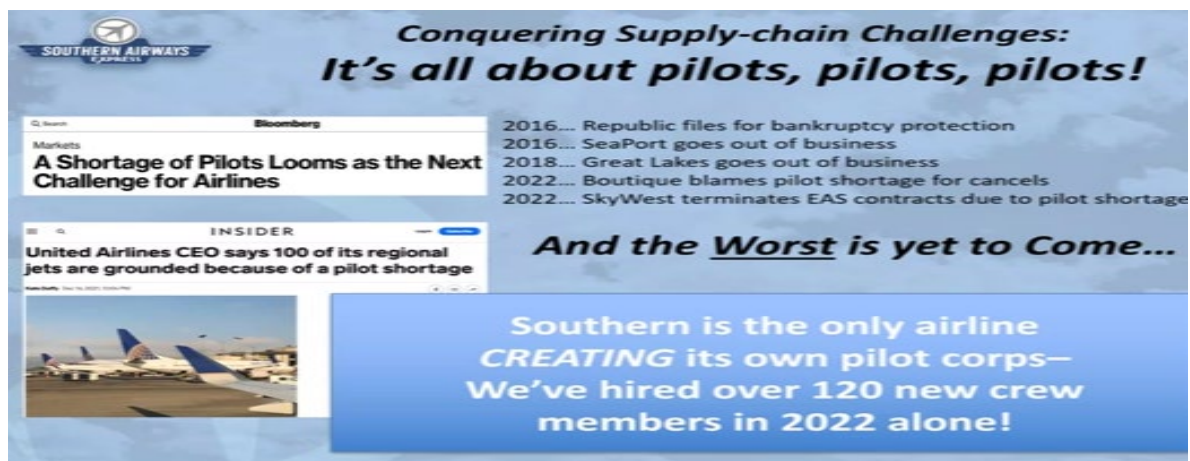
Slide above shows the benefits of connecting to Dallas/Fort Worth and Washington Dulles. We (SAE) are achieving boarding in every market. For SAE's reliability profile from January 2021-December 2021, there were 365 days without an operational cancellation.



One of the benefits of our interline agreements is that they are bilateral agreements, so you can go onto our website and buy a ticket on United/American or Alaska Airlines.



SAE's local community partnerships. They have corporate discount through ExpressPass, partnerships with hospitals and universities, and also with the town we sponsor.



The Southern Advantage
Smart Communities are Switching to Southern and Renewing EAS Contracts

Coming Soon: Muskegon, Michigan and Quincy, Illinois!

Southern is the Proven and Preferred Choice in 2022!

All of the communities above have been selected or re-upped this year. We have given references to our SAE communities to the search committee, and they did their due diligence on us.

The Southern Advantage
The Cessna Grand Caravan

Dispelling the MYTH that Two Engines are Better than One

According to NTSB accident reports of commuter airlines going back to 1982, in the continental United States, there have been far more accidents involving twin engine piston aircraft than single turbine engine aircraft...and it is not even close.

**The Safest Plan for Quincy:
One Engine. Two Pilots.**

Make of Aircraft	Single Turbo Prop	Twin Piston
CESSNA 402C		18
PIPER PA-31-350		6
CESSNA 402B		3
PIPER PA-31		2
BEECH E185		1
BEECH G185		1
BRITTEN-NORMAN BN2A-2F		1
BRITTEN-NORMAN BN2A-MK3		1
CESSNA 310R		1
CESSNA 402		1
PIPER PA-23-250		1
PIPER PA-34-200		1
PIPER PA-31-310		1
PIPER PA31-350		1
CESSNA 208A	1	
de Havilland DHC-2	1	
de Havilland DHC-3T	1	
TOTAL	3	39

*Raw data available at NTSB.gov

Here are the statistics according to the NTSB (National Transportation Safety Board).

Councilor Liot Hill wanted to make sure she correctly heard that:

1. Southern does not currently provide Logan-based service, so this would be a new enterprise. Mr. Cesteri stated this was correct.
2. Was a Market Study done as part of the process to see whether there is any data supporting Newark airport's attractiveness to Lebanon's market, noting it was not clear to her that Newark was particularly attractive for our (Lebanon's) market. Mr. Cesteri said there was one done about 10-years ago.

1 Councilor Sykes was curious to hear about flights to/from Nantucket, etc. and where does Southern
2 Airways stand in terms of adding more flights if there is a market for it. Mr. Cesteri stated their air
3 service does not allow for that. You are limited to the number of flights per week in the contract.
4 Anything done above the contract, we would do on a market-based bases. However, in some markets
5 they did do this and gave examples (i.e., certain university alumni gatherings, flight from a small city to
6 New York for Christmas shopping, etc.)

7
8 In response to Councilor Sykes question about adding flights to/from Lebanon if there is a market for it,
9 Mr. Cesteri said yes, noting their model is 50% essential air service routes and 50% market-based routes.
10 If there is customer demand, and they will pay the freight, we have planes and pilots.

11
12 Mr. Bonney (Cape Air) noted the number of flights in Lebanon is specified by the USDOT and they are
13 able to operate additional planes depending on the market where this would work.

14
15 Councilor Sykes also wanted to confirm with Cape Air that their bid includes Tecnams and that the 40
16 year-old Cessna's will be going away, for at least Lebanon's Airport. Mr. Bonney confirmed.

17
18 Councilor Sykes question was directed to Cape Air, SAE, and the airport manager, noting it was not clear
19 to him why we would be willing to give up the right to have multiple engine aircraft to Lebanon's
20 Airport. The very fact that we are meaning to sign a waiver for this, gave him pause.

21
22 Mr. Carl Gross (Lebanon Airport Manager) stated that when essential air service was started, everyone
23 had certain rights under the essential air services (agreement), which was the ability to use two engine
24 aircraft as a sole designator for the reason for selecting your carrier. Another reason that the Lebanon
25 Airport has given up recently was the requirement to have a 30-seat aircraft. Under the SAE proposal,
26 that would have been two flights a day on a 30-seat airplane. This was a selection criteria, but does not
27 mean that it will remain so in the future. All it means is that we cannot make the sole selection criteria
28 based on a twin engine aircraft. He wanted to be very clear on this.

29
30 City Manager Mulholland noted that what this does is open up the market. In the past, the only ones who
31 could bid on this (airport) had to have twin engine aircraft. Now that we have a proposal for a single
32 engine aircraft, we can now consider this if we choose to do this. It does not exclude the ability to have a
33 twin engine aircraft.

34
35 Councilor Whittlesey emphasized that the Airport Selection Committee did look into this, noting this was
36 the proposal requirement. Part of why the Selection Committee did not focus on this requirement as a
37 necessity, was due to circumstances of Lebanon. Cape Air has been the sole proposal for prior years
38 without any competition. It seemed to him that if Lebanon could get more proposals with a broader array
39 of offerings it would be good for Lebanon. He also noted that once we waive that requirement (twin-
40 engine aircraft) through the FAA, we are waiving our rights to make that requirement.

41
42 Councilor Simon wanted to make sure that Lebanon was not giving up a right to services in the future by
43 going from two engines to one engine.

44
45 City Manager Mulholland again noted this would allow more airlines to participate in the process. Right
46 now, the only airlines who can participate (in this process) are twin engine aircraft. It does not allow
47 other carriers to be able to do this. The threat that we have is the loss of the essential air service funds,
48 which is more than \$1M. If we lose that, then the property taxpayer here will have to make up the
49 difference to run our airport.

1 Councilor Whittlesey stated that it is not we cannot go back to using twin engine aircraft. We can and
2 gave examples. We just cannot automatically opt out twin engine aircraft proposals exclusively on the
3 basis that they do not have two engines. He also reiterated that there is no competition with one provider,
4 so there is no real choice. By broadening our criteria, it allows us to have a broader pool we could
5 potentially select from, whether it is a single engine/twin engine/other type of aircraft in the future.
6

7 Councilor Sykes asked if Cape Air has the range to work out of Lebanon using their new electric airplane.
8 Mr. Bonney said yes.
9

10 Councilor Liot Hill noted that the issue of growth is a very sensitive topic in Lebanon, particularly at the
11 Lebanon Airport. While we have the need to protect the 10K enplanements and the financial subsidies
12 that come from the Federal Government, we also have a need to balance that with the communities mixed
13 feelings about growth. What she was hearing from Southern is to really leverage the Newark connections
14 as a strategy for growth. She recognized Cape Air's strategies about making sure we get a little bit higher
15 than the 10K enplanements, but not exceedingly so.
16

17 Mr. Bonney understands the importance of reaching the 10K enplanements, and Cape Air has been
18 constantly making that mark, and makes sure this happens every year. He assured the Council and the
19 community that they know the importance of doing this. For responsible growth, he felt the new airplane
20 would be a significant attraction. In addition, our marketing budget for this community is \$65K per year,
21 which is a significant increase from where we are today, and 2.5 times higher than the next largest
22 marketing budget. Cape Air would be delighted to roll out a marketing plan for Lebanon with the new
23 program. If you measure growth by enplanements, he cannot stress enough about the value of
24 connectivity at the hubs. With Cape Air you get Jet Blue and Delta, the two biggest airlines in Boston.
25 Without those two (airline) you would lose 52% of the connecting seats out of Boston.
26

27 Councilor Heistad brought up the subject of storage capacity and asked what the size was for storing skis
28 and if this was something that could be handled with an electric plane. Mr. Bonney (Cape Air) noted this
29 is still in the process. The battery pack goes low on the airplane and creates an opportunity to put long
30 things in the airplane. We serve a lot of communities and, as a practical matter, we do not get a lot of
31 skis, either inbound/outbound.
32

33 Assistant Mayor Below asked Mr. Bonney what the percentage was for coach flights in/out of Logan.
34 Mr. Bonney explained that 100% of their flights are coach air flights. Mr. John Nikolovski (Cape Air,
35 Lebanon) noted that since the connector in Boston has opened, coach flights have significantly increased.
36 On the Boston routes, we are looking at 75-80% and since the partnership with Delta has developed, we
37 have also seen a significant uptick in Delta bookings, including international service.
38

39 Mayor McNamara opened up the discussion to the public and the following came forth to express their
40 comments and viewpoints.
41

42 **Mr. Christopher Johnson (Quechee, VT):** Frequent flyer to NYC. He spoke about his reasons for
43 supporting Cape Air and spoke against flying into Newark (e.g., congestion/delays at Newark, which is
44 one of the least liked airports; no bathrooms on SAE, etc.).
45

46 **Kathleen Hebron (Lebanon, NH):** She spoke about her and her husband's reasons for supporting Cape
47 Air Cape Air: 1. Convenience; 2. Safety. 3. Logan to Jet Blue.
48

49 **Richard Adler (Lyme, NH):** He spoke about his reasons for supporting Cape Air, noting connectivity to
50 NYC, convenience, price, redundancy of having twin engines, and defining the consumer. People from
51 Cape Air are friendly and accommodating.

1
2 **Susan Crane (Hanover, NH):** She spoke about her and her husband's reasons for supporting Cape Air
3 and the benefits of having twin engines, noting that Cape Air is essential to their lives. They could not
4 get back and forth to New York with such convenience and effortless care if Cape Air was not in
5 Lebanon. Her husband has never had a cancellation due to pilot shortage in 12-years. She also spoke
6 about her reasons for not flying into Newark.
7

8 **Thomas Oppel (Canaan, NH):** He spoke about his reasons for supporting Cape Air, noting the
9 convenience for flight connections to Washington, DC. Cape Air has been committed to the kind of
10 values that are represented in the 2nd Resolution that the Council passed earlier this evening. He also
11 spoke about the importance of staying with a company based in New England as opposed to a company
12 that is not.
13

14 **Andrew Heining (Woodstock, VT):** He spoke about his and his wife's reasons for supporting Cape Air,
15 noting they have flown to a number of locations, including internationally from Boston. They are happy
16 with the way things are now, and strongly felt that if it is not broken, why fix it.
17

18 **Peter Spencer (Hanover, NH):** He spoke about his reasons for supporting Cape Air, noting he has flown
19 from Manhattan over 250 times, and his family has done it about 50 times. He also spoke about reasons
20 for not flying to/from Newark, noting the length of the journey will increase significantly due to delays,
21 which does not happen in Westchester. If we want to hit the 10K enplanements each year, we need to
22 look at the commuters who are taking that plane every week.
23

24 **John Benson (Central, VT):** He spoke about his reasons for supporting Cape Air. In addition to all the
25 positive things mentioned previously, he wanted to note that Cape Air has been a part of this community
26 for a long time. They have people who live/work in this community and if the decision is made to change
27 (carriers), you have now just disrupted a dozen or more lives and families that will now have to move and
28 find someplace else to go. These people have really pitched in and helped this City over the years. When
29 it gets towards the 10K enplanements, and they see that it might run a little short, they have run specials at
30 no benefit to them, but a great benefit to the City. He also spoke about his reasons for not flying into
31 Newark.
32

33 **Charles Freeman (Pilot for Cape Air):** He noted he was not speaking on behalf of Cape Air, but was
34 looking forward to joining their team later this year. He spoke about the pilots experience; their flight
35 hours; and, the challenges of flying into the Lebanon Airport, noting there is no substitute for experience.
36

37 **William Moscley (Lebanon, NH):** He spoke about his reasons for supporting Cape Air, and echoed the
38 comments made by others, noting he took over 40 flights last year to get to his second job in NYC. He
39 spoke about the horrors of Newark. He also noted that when he did some informal polling from people at
40 Dartmouth College, they had a look of horror when they heard about flying into Newark. He felt
41 Lebanon would get more Dartmouth kids from the Westchester area than from the Newark area.
42

43 **Rosemary Connelly (Lebanon, NH):** She spoke about her reasons for supporting Cape Air, and
44 questioned the problems that might occur in booking flights, care of baggage, connectivity issues, and if
45 SAE staff would be trained so the carrier could be up and running by the end of the year.
46

47 **Sean Cahill (Woodstock, VT):** He spoke about his reasons for supporting Cape Air, and noted that if
48 Lebanon was worried about enplanements, it would be a real mistake to switch to Southern because it is
49 the commuters who make up the enplanements.
50

1 **Peter Spencer (Hanover, NH):** He questioned if this body has the right to veto the one-engine service.
2 Mayor McNamara explained the Council has to authorize, to the FAA, our approval to go to a single
3 engine configuration, which is now a twin engine. Mr. Spencer then commented that if the community
4 wanted to keep Cape Air, and not surrender our two engine airplanes, then the USDOT actually does not
5 have a decision to make, noting it is fully in the power of this body to still make that decision in favor of
6 Cape Air.

7
8 Mr. Gross stated we can make a recommendation for Cape Air, but it is still up to the DOT to issue a
9 contract.

10
11 Mr. Spencer questioned if this body could say: We will not accept service with one engine planes, and
12 therefore, the only decision the DOT can make would be the Cape Air proposal.

13
14 After further discussions took place regarding the Council's response to the USDOT, it was noted that the
15 Council, on behalf of the community, does have the power to recommend Lebanon should stay with
16 Cape Air.

17
18 **Dale Eickelman (Hanover, NH):** He spoke about his reasons for supporting Cape Air and questioned the
19 discrepancies in ticket fares (\$63 for Cape Air and \$85 for SAE plus additional costs/discounts that are
20 not really specified). What he has not heard about is the changing ecology of airports in this region and
21 explained his reasoning.

22
23 **Rangi Keen (Meriden, NH):** He spoke about his reasons for supporting Cape Air, noting the
24 environmental impacts of Cape Air are much more efficient (i.e., solar energy use, and the Tecnam
25 aircraft).

26
27 **Barbara Hirai (Lebanon, NH):** She questioned what the difference would be regarding noise from the
28 Tecnam single engine plane and potentially the electric aircraft. Both airlines responded and noted the
29 hybrid electric airplanes will be quieter and more environmentally friendly.

30
31 **Daniel Bekele (Westchester, NY):** As a commuter to the Upper Valley, he spoke about his reasons for
32 supporting Cape Air.

33
34 In response to Mayor McNamara's request to summarize the FAA's requirement regarding the September
35 30, 2022, Mr. Carl Gross noted his final discussion with them was that they should be issuing a contract
36 by December 1, 2022, otherwise there would be a hold over with Cape Air. The DOT is looking for a
37 recommendation. If another carrier is selected, typically DOT prefers to have 60-90 days to let that new
38 contract establish their infrastructure. If someone is chosen, DOT will still need to filter this through
39 several different layers of review before the Secretariate of Public Transportation signs a new contract.
40 According to his conversation with DOT, if the decision was made to change carriers, they would keep
41 Cape Air on and provide subsidies for those flights until the incumbent is on.

42 Council Discussions:

43
44 Mayor McNamara provided the options to the Council, which were: Taking more time to make a
45 recommendation; use the option to not make a recommendation and let the FAA make their decision;
46 validate the recommendation of the Selection Committee; or, make another recommendation. The
47 motion provided in the Council's agenda packet can be changed, if the Council chooses to do so. His
48 preference was for the Council to make a recommendation.

49
50 Councilors Sykes, Heistad, Liot Hill, Simon and Zook felt the Council should make a recommendation
51 and each gave their reason.

1
2 Councilor Whittlesey: While he was not against making a recommendation, he felt the Council should
3 take more time to digest the comments made by the public and the Council.
4

5 Assistant Mayor Below wanted more clarity on the issue of (general information) twin engine planes vs.
6 single engine planes, noting that as he started to do research on his own, it appeared the literature on this
7 was not so clear. There seems to be some substantial arguments in the industry that the turbo prop single
8 engine can actually be safer than the two-piston engine. He tried to find statistics, but it was a little
9 confusing to him. He was uncertain if this was a pivotal issue here and could go for a either little more
10 time, or make a decision tonight.
11

12 Mayor McNamara: He agreed with Assistant Mayor Below's comments. He thought the difference
13 between a piston engine and a turbine engine has meaning to it, and knows a lot of places in the world,
14 including Hawaii, has a lot of single engine aircraft. He also understands this is a perception issue with
15 people, and that may have nothing to do with statistics.
16

17 Councilor Wilkie: He gave a non-answer, which is to say that while he would love to make a decision
18 based solely on the merits of the two proposals, he thought there were so many opinions and strong
19 preferences from the public, he would feel comfortable recommending we retain our current service. He
20 was uncertain if he would be prepared to support a recommendation to change service.
21

22 Councilor Liot Hill felt that if the Council takes more time, she was uncertain if we would get more data
23 (i.e., does Newark perform the same way that Westchester does). Mr. Cesteri (SAE) disagreed, noting the
24 customer base comments from those who fly out of Newark have not been taken into account.
25

26 Councilor Wilkie commented that we are hearing (testimonies) from primarily customers who currently
27 use Cape Air. However, those are our constituents. We are trying to determine service for our
28 constituents and for the people who are here.
29

30 Mayor McNamara noted he would not want to change something that was working for him, either, unless
31 he had a very good reason to want to change.
32

33 Councilor Sykes pointed out that he, and this community have made changes before, when it was the best
34 and right thing to do. In the last 12 years, Cape Air has done nothing but show him that the right decision
35 was made by this community and felt it would be appropriate for someone to make a motion.
36

37 **ACTION:**

38 ***Councilor Sykes MOVED, that the Lebanon City Council hereby recommends to the United States***
39 ***Department of Transportation that Cape Air be selected to provide Essential Air Service to the Lebanon***
40 ***Airport for a four-year term beginning December 1, 2022.***
41 ***Seconded by Councilor Liot Hill.***
42

43 Councilor Sykes spoke to his motion noting: 1. Our job is to speak for the people. We have heard from
44 the public and while there has been plenty of opportunity for the people, we have heard no comments
45 from the public and from our constituents, in support of changing (carrier). He also believes we should
46 not give up the use of the twin engine airplane, and 2. We should not be giving up a working route,
47 especially one that has shown to perform, for an unknown route. Cape Air has consistently continued to

1 reach the 10K enplanement goal, which is critical to us. The other thing important to him was that the
2 aircraft be changed out. It also seemed to him that there was a clear choice of connectivity and explained
3 his reasons.

4
5 Councilor Liot Hill thanked the administration for doing their due diligence; Southern for their
6 submission; Cape Air; and everyone who emailed the Council. She supported the motion and thought
7 that changing providers has too many risks and was in favor of moving forward with the status quo at this
8 time. She spoke about the concerns raised about Newark. Commuters who live between here (Upper
9 Valley) and Manhattan are an important part of our community and contribute to our quality of life.
10 Lebanon has a Lebanon First Policy, and we need to consider, not just those who use the airport, but also
11 the people of Lebanon. It is important for Cape Air, or any provider, to make sure Lebanon is meeting
12 the 10K enplanements and that we are doing it in a way that is most sensitive to our residents. Cape Air
13 has been a good community partner and she expects this to continue. She thanked Cape Air for doing
14 such a great job of taking care of people who thrive in our community.

15
16 Assistant Mayor Below explained that he is not necessarily adverse to change, but in his mind there was
17 appeal to the idea of connecting to a real hub. Right now, he does not see that a twin engine vs. a single
18 engine weighs significantly in his decision because there does not seem to be a clear cut safety issue one
19 way or the other. With that said, he did think there was an argument that if we think of this not so much
20 as trying to connect us to more occasional travelers, but as a commuter service, then it makes sense to try
21 to retain the existing customer base and further explained his reasonings regarding connectivity hubs. He
22 also felt there was a risk factor in changing to Newark, and it was clear a significant portion of the
23 existing customer base might be lost. It makes sense to stick with what we know about the existing
24 customer base and not face that loss.

25
26 ***Councilor Liot Hill MOVED to extend the meeting to 10:15P***
27 ***Seconded by Councilor Sykes.***

28
29 **Roll Call Vote**

30 All voting Yea: Assistant Mayor Below, Councilors Heistad, Liot Hill, Sykes, Wilkie, Whittlesey,
31 Simon, Zook, and Mayor McNamara
32 None Voted Nay

33
34 ****The Vote on the Motion was approved (9-0)***

35
36 **Vote on Table Motion:**

37 **Roll Call Vote**

38 All voting Yea: Assistant Mayor Below, Councilors Heistad, Liot Hill, Sykes, Wilkie, Whittlesey,
39 Simon, Zook, and Mayor McNamara
40 None Voted Nay

41
42 ****The Vote on the Table Motion was approved (9-0)***

43
44 **11. City Manager Report:**

45 City Manager Mulholland updated the Council on the following:

- 46 • Reminders:
 - 47 ○ Braver Angel's Program, September 26, 2022, 10-12P, Council Chambers

- Joint meeting with the Hartford Selectboard regarding Housing Issues: September 27, 2022, 6:30P, at the SAU building, Auditorium
- Budget Hearing Change in December: Moved from December 21, 2022 to December 14, 2022.
- Westboro Yard Status: Memo sent to Council. City Manager Mulholland urged caution on expectations because a lot of things can go wrong. The City Manager and Mayor McNamara explained the process that still needs to be done.
- CIP Overview: For the October 19, 2022 City Council Meeting, the Council will be starting their regular meeting at 5:30 PM. Starting at 7:00 PM, the Council will review and discuss CIP projects.

Councilor Sykes questioned why Lebanon did not have an Airport Advisory Committee. He was asked to submit an agenda request form so this could be discussed at a future Council meeting.

12. COUNCIL REPRESENTATIVES TO OTHER BODIES:

Assistant Mayor Below informed the Council that the Joint Legislative Committee on Administrative Rules unanimously approved a conditional approval request by the PUC for Community Power Aggregations Administrative Rules.

13. FUTURE AGENDA ITEMS: None

14. NON-PUBLIC SESSION: None

15. ADJOURNMENT:

Assistant Mayor Below MOVED for adjournment.

Seconded by Councilor Whittlesey.

Roll Call Vote

All voting Yea: Assistant Mayor Below, Councilors Heistad, Liot Hill, Sykes, Wilkie, Whittlesey, Simon, Zook, and Mayor McNamara
None Voted Nay

**The Vote on the MOTION was unanimously approved (9-0)*

The meeting was adjourned at 10:10 PM.

Respectfully submitted,
Dona E. Gibson
Recording Secretary

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 5, 2022**

7. APPOINTMENTS:

APPOINTMENTS

Board/Committee Appointments as presented by City Clerk Kristin Kenniston

- Downtown Lebanon TIF Advisory Board, Victoria Smith (Reappointment as a property owner/occupant member)

Included in this Section:

1. Memo from City Clerk Kristin Kenniston dated September 28, 2022

OFFICE OF THE CITY CLERK

MEMORANDUM

DATE: September 28, 2022

TO: The Honorable Mayor & City Council

FROM: Kristin M. Kenniston, City Clerk

RE: **Appointments Proposed for Council Discussion/Action:**

If the Council wishes to proceed with action on the appointments below, a nomination should be made and voted on for each appointment. *Note: nominations do not need to be seconded.*

Downtown Lebanon TIF Advisory Board

- **Victoria Smith** – Reappointment as a property owner/occupant member for a three-year term.
Term: (9/22-9/25)
Interviewed by: Councilor Heistad

From: [cityclerk](#)
To: [Kristin Kenniston](#)
Subject: FW: [EXTERNAL] Online Form Submission #6473 for Board Member Application
Date: Tuesday, August 9, 2022 1:33:59 PM

From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Tuesday, August 9, 2022 12:46 PM
To: cityclerk <cityclerk@lebanonnh.gov>; webmaster <webmaster@lebcity.com>
Subject: [EXTERNAL] Online Form Submission #6473 for Board Member Application

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Board Member Application

Board Member Application
City of Lebanon board / committee member application.

Basic Requirements

- *Lebanon/West Lebanon resident (except for those boards whose membership makeup includes non-resident)*
- *Willingness to learn*
- *Commitment to attend meetings*
- *Treat people fairly*
- *Consider the best interest of the community as a whole when making decisions*
- *Must have attended one meeting of the board that you wish to apply to within the last six months to observe the process and function of the board.*

(Section Break)

First Name	Victoria
Last Name	Smith
Physical Address	10 Elm St
City	Lebanon
State	NH

Zip Code	03766
Is this your mailing address?	Yes
Home Phone Number	6034429332
Work Number	<i>Field not completed.</i>
Email Address	victoriahsmith@comcast.net
How long have you resided in Lebanon?	13 years
(Section Break)	
Is this an application for re-appointment?	This application is for re-appointment.
For which board, committee, or commission are you applying?	Downtown Lebanon TIF Advisory Board
Other Committee	<i>Field not completed.</i>
Why would you like to serve?	I've been a member of the Downtown Lebanon TIF Advisory Board since 2019 and have missed only one meeting (due to a family emergency) in those 3 years. I take seriously my responsibility to represent my fellow home owners while helping our small community grow and expand in a manner that benefits all who live, work, play and conduct business here. I regularly solicit input from others in the community-- owners, businesses and visitors--on issues before the TIF Board to inform my input and decisions.
State a few of what you feel your qualifications are or why you wish to be appointed to this board / committee.	I pride myself on my ability to listen with an open mind and to contribute soundly informed insights and decisions. I retired from Dartmouth where I had a long career in senior management, strategic planning and finance. I serve on the board of the owners association where I live (I'm the treasurer), am a Substitute Librarian for the Lebanon Libraries (12-15 hours/week), and am a member of the Lebanon Garden Club.
Certification	I hereby certify that I meet the basic requirements for applying to a Lebanon board / committee.

Email not displaying correctly? [View it in your browser.](#)

Councilor Interview Report Form

Councilor Name: Erling Heistad

Date of Interview: 8/21/2022

Applicant Name: Victoria Smith

Board(s) to Which Applied: Downtown Lebanon TIF Advisory Board

☒ Regular Seat

Has Applicant Attended Meeting of Board to Which Applying? ☒ Yes

(If yes, indicate date of meeting.) Date: Presently a board member

Recommend Appointment: ☒ Yes

☒ Regular Seat

General Comments:

It was my pleasure to have a wonderful conversation with Victoria Smith as she outlined her involvement with the TIF advisory board.

Victoria has lived in Lebanon for 32 years and is very committed to adding her voice to future development in downtown Lebanon. She sees the development potential around the Mascoma River front to have significant opportunities on many levels. Providing a connection to the river will increase the economic draw to downtown Lebanon as well as offering recreational and aesthetic value. She pointed out that Franklin NH cleaned up their riverfront and now has a bustling activity center in town which has stimulated business. Victoria feels that the board needs additional members to fulfill its role for the City. She is a very active member of this board and I highly recommend her reappointment.

(PLEASE NOTE: THIS FORM WILL BE INCLUDED IN THE AGENDA MATERIALS WHEN APPLICANT IS SCHEDULED TO APPEAR BEFORE THE CITY COUNCIL.)

AGENDA LEBANON CITY COUNCIL OCTOBER 5, 2022

8. PUBLIC HEARING ITEMS:

8.A – ORDINANCE #2022-04, REPEAL CITY CODE CHAPTER 117, PASSENGER VEHICLES FOR HIRE

A public hearing for the purpose of receiving public input and taking action to amend the Code of the City of Lebanon, by repealing Chapter 117, Passenger Vehicles for Hire.

The City Council scheduled this public hearing at their September 21, 2022 regular meeting. The public hearing was properly noticed in the *Valley News* on September 24, 2022 in accordance with City Code and State Law.

BACKGROUND

The City Council originally adopted City Code Chapter 157 in 2008 to regulate taxicabs. This chapter was repealed in 2017 and replaced with Chapter 117, Passenger Vehicles for Hire. The reasons for the change related to reducing the insurance requirements and expanding the types of services regulated relative to vehicles for hire.

Chapter 117 does not address Uber and similar digital network companies (which offer rides for a fee) as these are regulated and permitted through the State of New Hampshire under NH RSA 376-A – Transportation Network Company.

Presently there are no taxicab services that operate within the City. The broader definition of passenger vehicles for hire does include a limousine type service. The city administration does not see a compelling public need to regulate this industry. We have no means to determine the accuracy of taxicab meters. Vehicles operated by providers are already subject to vehicle inspection, as are all vehicles in the state under the state motor vehicle code. Additionally, the city does not have resources to adequately provide oversight of this industry. Services such as Uber and Lyft are now the major provider of what were traditional taxi services.

The City Administration recommends repeal of this chapter of the city code. If there is a compelling need for regulation of this industry by the city in the future, the Council could re-adopt the provisions of Chapter 117 at that time.

ACTION

If the Council decides to move forward, the following motion is offered for consideration:

MOVED, that the Lebanon City Council hereby adopts Ordinance #2022-04 to amend the Code of the City of Lebanon, by repealing Chapter 117, Passenger Vehicles for Hire.

Included in this Section:

1. Ordinance 2022-04
2. September 15, 2022 Legal Opinion by Attorney Christine Filmore RE: Ordinance #2022-04, Passenger Vehicles for Hire, Chapter 117
3. Notice of Public Hearing as Published in the September 24, 2022 Edition of the *Valley News*

**CITY OF LEBANON
ORDINANCE #2022-04**

AN ORDINANCE TO AMEND the Code of the City of Lebanon by deleting and repealing Chapter 117, Passenger Vehicles for Hire, in its entirety.

BE IT ORDAINED, by the City Council of the City of Lebanon, as follows:

Section 1

The Code of the City of Lebanon is hereby amended by deleting and repealing Chapter 117, Passenger Vehicles for Hire.

Section 2. Severability:

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses or part of this ordinance.

Section 3. Effective Date

This Ordinance shall become effective immediately upon its adoption.



C. Christine (Fillmore) Johnston 603.792.7417
Admitted in NH cfillmore@dwmlaw.com

670 N. Commercial Street, Suite 207
Manchester, NH 03101-1188
603.716.2895 Main
603.716.2899 Fax

September 15, 2022

Shaun Mulholland
City Manager
City of Lebanon, NH
51 N. Park Street
Lebanon, NH 03766

RELEASED TO THE PUBLIC
Lebanon City Manager's Office

Date: 09/15/2022

DS

RE: Ordinance #2022-04
Repeal Ch. 117 Passenger Vehicles for Hire

Mr. Mulholland:

This is a legal opinion as required by § 115-3 of the Lebanon City Code concerning the proposed Ordinance 2022-04, Repeal City Code Chapter 117, Passenger Vehicles for Hire, which your office forwarded to me today. The ordinance is being proposed, as I understand it, because the policy reasons for adopting Chapter 117 are not currently relevant to the prevailing types of passenger ride services operating within the City. Services such as Uber and Lyft (already regulated by the State) are now the primary providers of the service previously provided by taxicab services, of which there are currently none within the City. While Chapter 117 also covers limousine services, the City does not see a compelling reason to regulate this sort of service. In addition, the City does not have the resources to adequately oversee ridesharing services.

I have reviewed the proposed ordinance in detail. In my opinion, the ordinance is consistent with New Hampshire law and I discern no legal problems.

Please do not hesitate to contact me with additional questions or comments.

Sincerely,

C. Christine (Fillmore) Johnston

**LEBANON CITY COUNCIL
NOTICE OF PUBLIC HEARING**
Wednesday, October 5, 2022 - 7:00pm
Council Chambers, City Hall or
REMOTE VIA VIRTUAL PLATFORM
LebanonNH.gov/LIVE

The Lebanon City Council will hold a public hearing on October 5, 2022, beginning at 7:00pm for the following:

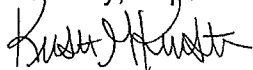
A. ORDINANCE 2022-04 TO REPEAL CITY CODE CHAPTER 117 – A public hearing for the purpose of receiving public input and taking action on proposed Ordinance 2022-04 to repeal City Code Chapter 117, Passenger Vehicles for Hire.

The October 5, 2022 City Council agenda packet and documents pertaining to the above-described public hearings will be available on the City's website beginning September 30, 2022: LebanonNH.gov/Agendas

Meetings are open for in-person and remote attendance. Members of the public that wish to attend remotely may do so by going to LebanonNH.gov/Live where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the City's virtual platform or by phone. Please note: Should technical difficulties occur during the meeting that disrupts virtual or phone connection(s), the meeting will continue without remote access capabilities.

NE-430732

The foregoing notice was published in the *Valley News*, a newspaper of general circulation in the City of Lebanon, in accordance with the Code of the City of Lebanon on Saturday, September 24, 2022.



Kristin M. Kenniston, City Clerk

**AGENDA
LEBANON CITY COUNCIL
OCTOBER 5, 2022**

10. NEW BUSINESS:

**10.A – REVIEW AND ADOPTION OF CITY COUNCIL
POLICY CC-103, PROCUREMENT**

BACKGROUND

City Charter provision § C419:35 requires the establishment of purchasing procedures. The City Council's current Purchasing Policy #06-02-C was adopted on July 5, 2006 and last amended on August 13, 2015.

Over the last couple of years, the City Manager has initiated a process of review and redevelopment of purchasing procedures, which has resulted in the creation of draft City Council Policy CC-103, Procurement Policy, which is now before the Council for consideration. The draft Council Policy will work in conjunction with a companion Administrative Policy ADM-110, Procurement Administration Policy, which is also being developed by the City Manager.

In developing the draft policy, the City Manager reviewed similar policies and code provisions from several New Hampshire jurisdictions, including the cities of Portsmouth, Rochester, Keene, Concord, and Manchester, and the Town of Derry. In addition, the following governmental entities have received awards from the Government Finance Officers Association (GFOA) and were also reviewed as part of this process:

Larimer County, Colorado
Davis County, Colorado
City of Thousand Oaks, California

Finally, the City Manager reviewed the model policies relative to purchasing developed by the GFOA. A review of applicable state law was conducted as a matter of normal process.

As proposed, City Council Policy CC-103 would streamline the existing procedures of Policy #06-02-C. It is important to consider Administrative Policy ADM-110, Procurement Administration, as a companion document which provides detailed guidance relative to procurement (purchasing procedures). A high-level summary of the changes incorporated in the new documents includes the following:

1. Recognizing the change to an electronic procurement process for RFPs, RFQs, RFI's and contracts.
2. Provisions for environmental sustainability considerations in purchasing.
3. Provisions for Disadvantaged Business Enterprises.
4. Provisions for protesting a bid process.

ACTION

The Council is requested to consider the following motion:

MOVED, that the Lebanon City Council hereby rescinds City Council Policy #06-02-C, Purchasing Policy, and replaces it by adopting City Council Policy CC-103, Procurement Policy, effective November 19, 2022.

Included in this Section:

1. City Council Policy #06-02-C, Purchasing Policy, effective July 5, 2006, last amended August 13, 2015
2. Draft Council Policy CC-103, Procurement Policy
3. Draft Administrative Policy ADM-110, Procurement Administration Policy



City of Lebanon - City Council Policy

Purchasing Policy

Policy Number: #06-02-C Effective Date: July 5, 2006

(Replaces Policy #99-04-C adopted April 7, 1999; Amended June 8, 2010 and August 13, 2015 – See Section 01-103)

PURPOSE:

To ensure the fair and equitable treatment of all persons who deal with the purchasing system of the City; to maximize to the fullest extent practicable the purchasing value of public funds; to obtain in a cost-effective and responsive manner the materials, services and construction required by the City in order to better serve the City's businesses and residents.

POLICY:

General Application. This Policy applies to the expenditure of public funds for public purchasing irrespective of the source of the funds. When purchasing involves the expenditure of federal or state assistance or contract funds, purchasing shall be conducted in accordance with any mandatory applicable federal and state law and regulations. This Policy also applies to the disposal of City supplies. Nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.

Exceptions. Certain purchases are not readily adaptable to the open market and formal competitive selection process. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager.

Competition. Fair and open competition reduces the opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. Since the marketplace is different for various supplies, services and construction items this Policy authorizes a variety of source selection techniques designed to provide the best competition for all types of purchasing. It also permits less formal competitive procedures where the amount of the contract does not warrant the expense and time otherwise involved.

Purchasing Methods. Unless otherwise deemed in the best interest of the City all City contracts shall be awarded by one of the following

methods: 02-202 Competitive Sealed Bidding; 02-203 Competitive Sealed Proposals; 02-204 Small Purchases; 02-205 Sole Source Purchasing; 02-206 Emergency Purchasing; 02-207 Special Purchases; and 02-208 Purchasing Consultative and Professional Services Including Legal, Architectural and Engineering Services.

PROCEDURE: Please refer to the following Policy.



CITY OF LEBANON, NEW HAMPSHIRE PURCHASING POLICY

Adopted:	July 5, 2006
Policy No.:	#06-02-C
Amended:	June 8, 2010
Amended:	August 13, 2015

PURCHASING POLICY

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[Reserved]

PURCHASING POLICY

01 GENERAL PROVISIONS

01-101 PURPOSE

To ensure the fair and equitable treatment of all persons who deal with the purchasing system of the City; to maximize to the fullest extent practicable the purchasing value of public funds; to obtain in a cost-effective and responsive manner the materials, services and construction required by the City in order to better serve the City's businesses and residents.

01-102 SCOPE

01-102.01 *General.* This Policy applies to the expenditure of public funds for public purchasing irrespective of the source of the funds. When purchasing involves the expenditure of federal or state assistance or contract funds, purchasing shall be conducted in accordance with any mandatory applicable federal and state law and regulations. This Policy also applies to the disposal of City supplies. Nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.

01-102.02 *Exceptions.* Certain purchases are not readily adaptable to the open market and formal competitive selection process. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager.

01-102.03 *Computer and Computer-Related Purchases.* Computer and computer-related purchases must be approved beforehand by the Information Services Division. Software programs installed on a local hard drive may interact negatively with existing programs. All employees must therefore consult with the Information Services Division before purchasing or installing any software. If during normal service/support activities unapproved software is found on a workstation the Information Services Division will remove the unapproved software and notify the department manager of the policy violation. Any software modifications or installation on City file servers will be modified or installed by the Information Services Division. If an employee desires to install personally acquired software on their assigned equipment they must obtain approval from the department manager and the Information Services Division. In addition, a copy of the license agreement must be kept on file with the Information Services Division.

01-103 AMENDMENT TO AND DEVIATION FROM POLICY

The City Manager may make amendments to, or approve deviations from, this Policy if deemed in the best interest of the City.

01-103.01 June 8, 2010 –

- ▶ Revised section 02-101.04 to reflect change in State law.

PURCHASING POLICY

- ▶ Added the following language to sections 02-202.03, 02-203.03, 02-204.01 and 02-301.02: "Reasonable steps shall be taken to ensure that local businesses (businesses that maintain their principal office and place of business in the City) qualified to provide required supplies, services and construction are notified of relevant solicitations."

01-103.02 August 13, 2015 –

- ▶ Section 204 SMALL PURCHASES indicates that the City Manager shall establish small purchase limits that are practicable, provide that competition is obtained and that the small purchase system is not abused. Reference is made to the Purchase Agreements Policy, an Administrative Policy. The following sections are therefore deleted as redundant: *Competition for Small Purchases of Supplies, Services or Construction Items*; 02-201.03 *Adequate and Reasonable Competition for Certain Small Purchases*; and 02-201.04 *Small Purchases of Consultative, Legal, Architectural, Engineering and Land Surveying*.

01-104 EFFECTIVE DATE

Adopted by the City Council July 5, 2006 as City Council policy #06-02-C, effective upon passage, replacing a previous policy #99-04-C adopted April 7, 1999.

01-201 AUTHORITY TO ENTER INTO PURCHASE AGREEMENTS

01-201.01 *NH RSA 31:3*. Towns may purchase and hold real and personal estate for the public uses of the inhabitants, and may sell and convey the same; may recognize unions of employees and make and enter into collective bargaining contracts with such unions; and may make any contracts which may be necessary and convenient for the transaction of the public business of the town.
Source. RS 31:3. CS 32:3. GS 34:3. GL 37:3. PS 40:3. PL 42:3. RL 51:3. RSA 31:3. 1955, 255:1, eff. July 14, 1955.

01-201.02 *NH RSA 44:2*. All provisions of statutes, now made or hereafter enacted relating to towns, shall be understood to apply to cities; and all provisions relating to the selectmen and town clerks of towns shall be construed to apply to the mayor and aldermen and clerks of cities, respectively, unless a different intention appears.
Source. GS 40:2. GL 44:2. PS 46:2. PL 50:2. RL 62:2.

01-301 FINANCIAL AND BUDGETARY CONTROL

01-301.01 *City Charter Section 419:37 Financial Control*. The department of finances shall maintain accounting control over the finances of the City, make financial reports and perform such other duties as may be required by the administrative code. No bill against the City shall be approved by the City Manager until the department of finance has audited and approved the same and certified that said bill was lawfully

PURCHASING POLICY

contracted, that the prices charged for all goods and materials are reasonable, that the goods or materials were actually received by the City and that it is in favor of a person legally entitled to receive payment for the same.

01-301.02 *City Charter Section 419:38 False Certification, Penalty.* If the Department of Finance or any member thereof provided for under Section 37 above, shall knowingly make a false certification in any case provided for in Section 37 or approve any bill when the appropriation, as provided for in Sections 42 and 43 of this chapter, for which the same should be paid is exhausted, such false certification shall constitute a misdemeanor, and he shall be fined not exceeding two hundred dollars or imprisoned not exceeding six months or both.

01-301.03 *City Charter Section 419:39 Unauthorized Payment, Penalty.* If the disbursing officer of the City shall pay out any money from the City treasury except on order of the City Manager after approval by the department of finance, such unauthorized payment shall constitute a misdemeanor and he shall be fined not exceeding two hundred dollars or imprisoned not exceeding six months, or both, and shall be personally bound to refund to the City any sum so paid.

01-401 RESTRICTIONS

01-401.01 *City Charter Section 419:20 Dealings of Council with City.* No councilor, or other official of the City, shall sell to or buy from the City any goods or commodities while in office other than by open competitive public bid.

01-401.02 *City Charter Section 419:63 Private Use of Public Property.* No officer or employee shall devote any City property or labor to private use except as may be provided by law or ordinance.

01-501 GLOSSARY

- (1) *Advantageous* connotes a judgmental assessment of what is in the City's best interest.
- (2) *Construction* means the process of building, altering, repairing, improving or demolishing any public infrastructure facility including any public structure, public building or other public improvements of any kind to real property. It does not include the routine operation, routine repair, or routine maintenance of any existing public infrastructure facility including structures, buildings or real property.
- (3) *Invitation for Bids* means all documents utilized for soliciting bids.
- (4) *Offer* means proposal and *offeror* means a person submitting a proposal when a purchase is made by a source selection method other than competitive sealed bidding.
- (5) *Practicable* denotes what may be accomplished or put into practical application.
- (6) *Purchase Description.* See *Specification*.

PURCHASING POLICY

- (7) *Request for Proposals* means all documents utilized for soliciting proposals.
- (8) *Responsible Bidder or Offeror* means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good fair performance.
- (9) *Responsive Bidder* means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.
- (10) *Services* means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.
- (11) *Solicitation* means an Invitation for Bids, a Request for Proposals, a Request for Quotations or any other document issued by the City for the purpose of soliciting bids or proposals to perform a City contract.
- (12) *Specification* means any description of the physical or functional characteristics or of the nature of a supply, service or construction item.
- (13) *Supplies* means all property, including but not limited to equipment, materials, printing, insurance and leases of real property, excluding land or a permanent interest in land.
- (14) *Technical Proposal* means solicited or unsolicited submission of information from a prospective contractor which states how that party intends to perform certain work; its technical and business qualifications; and its proposed delivery, warranty and other terms and conditions as those might differ from or supplement the City's solicitation requirements. It shall include such pricing information as may be required.

02 SOURCE SELECTION

02-101 GENERAL

- 02-101.01 *Cancellation of Invitation for Bids or Requests for Proposals* An Invitation for Bids, a Request for Proposals, or other solicitation may be cancelled, or any or all bids or proposals rejected in whole or in part as may be specified in the solicitation when it is in the best interest of the City.
- 02-101.02 *Extension of Time for Bid or Proposal Acceptance.* After opening bids or proposals the City may request bidders or offerors to extend the time during which the City may accept their bids or proposals.
- 02-101.03 *One Bid/Proposal Received.* If only one responsive bid is received in response to an Invitation for Bids an award may be made to the single bidder if the City finds that the price submitted is fair and reasonable and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. If the supply or service continues but the price of the one bid is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile the purchase may then be conducted as a Sole Source (02-205) or Emergency Purchase (02-206) as appropriate. If only one proposal is received in

PURCHASING POLICY

response to a Request for Proposals the City may either make an award or, if time permits, resolicit.

- 02-101.04 *Bid Security and Performance and Payment Bonds for Supply, Service or Construction Item Contracts.* Bid, performance and payment bonds or other security may be required for supply, service or construction item contracts when in the best interest of the City and as required by New Hampshire law including RSA 447:16:

Officers, public boards, agents or other persons who contract in behalf of the state or any political subdivision thereof for the construction, repair or rebuilding of public buildings, public highways, bridges or other public works shall if said contract involves an expenditure of \$35,000, and may if it involves an expenditure of less amount, obtain as a condition precedent to the execution of the contract, sufficient security, by bond or otherwise, in an amount equal to at least 100 percent of the contract price, or of the estimated cost of the work if no aggregate price is agreed upon, conditioned upon the payment by the contractors and subcontractors for all labor performed or furnished, for all equipment hired, including trucks, for all material used and for fuels, lubricants, power, tools, hardware and supplies purchased by said principal and used in carrying out said contract, and for labor and parts furnished upon the order of said contractor for the repair of equipment used in carrying out said contract.

Source. 1927, 88:2. RL 264:26. 1943, 182:1, par. 26. 1949, 71:1. 1953, 253:3. RSA 447:16. 1979, 28:1. 1981, 4:5, eff. Mar. 6, 1981. 2009, 8:1, eff. June 16, 2009.

- 02-101.05 *Conditioning Bids or Proposals Upon Other Awards Not Acceptable.* Any bid or proposals conditioned upon receiving award of both the particular contract being solicited and another City contract shall be deemed nonresponsive and not acceptable.
- 02-101.06 *Unsolicited Offers.* To be considered for evaluation an unsolicited offer must be in writing; must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the City; must be unique or innovative to City use; must demonstrate that the proprietary character of the offering warrants consideration of the use of Sole Source (02-205) purchasing method; and may be subject to testing under terms and conditions specified by the City.
- 02-101.07 *Novation.* No City contract is transferable, or otherwise assignable, without the written consent of the City.

02-201 METHODS OF SOURCE SELECTION

- 02-201.01 *Competition.* Fair and open competition reduces the opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically.

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Since the marketplace is different for various supplies, services and construction items this Policy authorizes a variety of source selection techniques designed to provide the best competition for all types of purchasing. It also permits less formal competitive procedures where the amount of the contract does not warrant the expense and time otherwise involved.

02-201.02 *Purchasing Methods.* Unless otherwise deemed in the best interest of the City all City contracts shall be awarded by one of the following methods: 02-202 Competitive Sealed Bidding; 02-203 Competitive Sealed Proposals; 02-204 Small Purchases; 02-205 Sole Source Purchasing; 02-206 Emergency Purchasing; 02-207 Special Purchases; and 02-208 Purchasing Consultative and Professional Services including Legal, Architectural and Engineering Services.

02-202 COMPETITIVE SEALED BIDDING

02-202.01 *General.* Competitive Sealed Bidding does not permit discussions with competing bidders and changes in their bids including price; and does not allow comparative judgmental evaluations to be made when selecting among acceptable bids for award of the contract. Alterations in the nature of a bid, and in prices, may not be made after bids are opened (except to the extent allowed in the first phase of multi-step sealed bidding). Unless it is anticipated that a contract can be awarded solely on the basis of information submitted by bidders at the time of opening, Competitive Sealed Bidding is not practicable or advantageous. Competitive Sealed Bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Competitive Sealed Proposals may be used if it is determined that it is not advantageous to the City, even though practicable, to use Competitive Sealed Bidding.

02-202.02 *Invitation for Bids.* Invitation for Bids shall include a purchase description and all contractual terms and conditions applicable to the purchase.

02-202.03 *Public Notice.* Adequate public notice of the Invitation for Bids shall be given a reasonable time prior to the date set for the opening of bids. Reasonable steps shall be taken to ensure that local businesses (businesses that maintain their principal office and place of business in the City) qualified to provide required supplies, services and construction are notified of relevant solicitations.

02-202.04 *Bid Opening.* Bids shall be opened publicly at the time and place designated in the Invitation for Bids.

02-202.05 *Bid Acceptance and Evaluation.* Bids shall be unconditionally accepted without alteration or correction except as otherwise authorized in this Policy. Bids shall be evaluated based on the requirements in the Invitation for Bids. The Invitation for Bids shall include the requirements and criteria which will be used to determine the

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lowest responsive bidder.

02-202.06 *Correction or Withdrawals of Bids: Cancellation of Awards.* Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted.

02-202.07 *Award.* The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria in the Invitation for Bids.

02-202.08 *Multi-Step Sealed Bidding.* When it is considered impractical to initially prepare a purchase description to support an award based on price, an Invitation for Bids may be issued requesting the submission of unpriced offers to be followed by an Invitation for Bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

02-203 COMPETITIVE SEALED PROPOSALS

02-203.01 *General.* Competitive Sealed Proposals permit discussions with competing offerors and changes in their proposals including price; and allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract. Competitive Sealed Proposals alterations in the nature of a proposal, and in prices, may be made after proposals are opened. Where evaluation factors involve the relative abilities of offerors to perform, including degrees of technical or professional experience or expertise, use of Competitive Sealed Proposals is the appropriate purchasing method. Where the types of supplies, services or construction item may require the use of comparative judgmental evaluations to evaluate them adequately, use of Competitive Sealed Proposals is the appropriate method.

02-203.02 *Requests for Proposals.* Proposals shall be solicited through a Request for Proposals.

02-203.03 *Public Notice.* Adequate public notice of the Request for Proposals shall be given in the same manner as for Competitive Sealed Bids. Reasonable steps shall be taken to ensure that local businesses (businesses that maintain their principal office and place of business in the City) qualified to provide required supplies, services and construction are notified of relevant solicitations.

02-203.04 *Receipt of Proposals and Evaluation.* Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.

02-203.05 *Discussions with Responsible Offerors and Revisions to Proposals.* Discussions

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may be conducted with responsible offerors who submit proposals that are acceptable or potentially acceptable for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. Auction techniques (revealing one offeror's price to another) and disclosure of any information derived from competing proposals are prohibited.

02-203.06 *Award.* Award shall be made to the responsible offeror whose proposal conforms to the solicitation and is determined to be the most advantageous to the City taking into consideration price and the evaluation factors in the Request for Proposals.

02-204 SMALL PURCHASES

02-204.01 *General.* The City Manager shall establish (see Purchase Agreements Policy) small purchase limits that are practicable, provide that competition is obtained and that the small purchase system is not abused. Purchase requirements shall not be artificially divided so as to constitute a small purchase. Reasonable steps shall be taken to ensure that local businesses (businesses that maintain their principal office and place of business in the City) qualified to provide required supplies, services and construction are notified of relevant solicitations.

02-205 SOLE SOURCE PURCHASES

Sole Source procurement is not permissible unless a requirement is available from only a single supplier. In cases of reasonable doubt, competition should be solicited. The City shall conduct negotiations, as appropriate, as to price, delivery, and terms.

02-206 EMERGENCY PURCHASES

An emergency condition is a situation which creates a threat to public health, welfare, or safety. The existence of such condition creates an immediate and serious need for supplies, services or construction items that cannot be met through normal purchasing methods and the lack of which would seriously threaten the functioning of City government; the preservation or protection of property; or the health or safety of any person. Emergency purchases shall be limited to those supplies, services and construction items necessary to meet the emergency. Such competition as is practicable shall be obtained.

02-207 SPECIAL PURCHASES

The City may initiate a purchase above the small purchase amount where it is determined that an unusual or unique situation exists that makes the application of all requirements of Competitive Sealed Bidding (02-202) or Competitive Sealed

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Proposals (02-203) contrary to the public interest. Any special purchase shall be made with such competition as is practicable under the circumstances.

02-208 PURCHASING CONSULTATIVE AND PROFESSIONAL SERVICES INCLUDING LEGAL, ARCHITECTURAL AND ENGINEERING SERVICES

02-208.01 *General.* It is the policy of the City to negotiate consultative and professional services including legal, architectural and engineering services contracts on the basis of demonstrated competence and qualification for the type of service required at fair and reasonable prices.

02-208.02 *Discussions and Selection of the Most Qualified Firms.* The City shall hold discussion with the firms selected regarding the proposed contract in order to: determine each firm's general capabilities and qualifications for performing the contract; and explore the scope and nature of the required services and the relative utility of alternative methods of approach. After discussions the City shall reevaluate and select, in order of preference, contractors which it deems to be the most highly qualified to provide the required services.

02-208.03 *Negotiation of Contract.* The City shall negotiate a contract with the most qualified firm for the required services at compensation determined to be fair and reasonable to the City. Contract negotiations shall be directed toward: making certain that the firm has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services; determining that the firm will make available the necessary personnel and facilities to perform the services within the required time; and agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services. If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon with the most qualified firm, the contract shall be awarded to that firm.

02-301 QUALIFICATIONS AND DUTIES

02-301.01 *Determination of Nonresponsibility.* A bidder or offeror shall supply information requested by the City in order to make a determination concerning their responsibility. If a bidder or offeror fails to supply the requested information, the City shall base the determination of responsibility upon any available information or may find the bidder or offeror nonresponsible.

02-301.02 *Prequalification of Suppliers.* Prospective contractors may be prequalified for particular types of supplies, services and construction items. Reasonable steps shall be taken to ensure that local businesses (businesses that maintain their principal office and place of business in the City) qualified to provide required supplies, services and construction are notified of relevant solicitations.

02-301.03 *Substantiation of Offered Prices.* The City may request factual information

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reasonably available to the bidder or offeror to substantiate that the price or cost offered, or some portion of it, is reasonable, if the price is not based on adequate price competition, based on established catalogue or market prices or set by law or regulation.

02-401 TYPES OF CONTRACTS

Any type of contract which will promote the best interests of the City may be used provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited.

03 SPECIFICATIONS

03-101 PURPOSE

03-101.01 *General.* The purpose of a specification is to serve as a basis for obtaining supplies, services and construction items that are adequate and suitable for the City's needs in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs. It is the policy of the City that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the City's requirements.

03-101.02 *Preference for Commercially Available Products.* It is the general policy of the City to purchase standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

03-201 REQUIREMENTS OF NONRESTRICTIVENESS

All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or construction item, or procurement from a sole source, unless no other manner of description will suffice.

04 SUPPLY MANAGEMENT

04-101 SUPPLY MANAGEMENT AND DISPOSITION

The objectives of supply and equipment management include preventing waste; continuing utilization of supplies and equipment; and obtaining a fair return of value upon disposal of supplies (tangible personal property owned by the City) and equipment.

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04-201 DISPOSITION OF SURPLUS SUPPLIES

04-201.01 *General.* Surplus supplies and equipment shall be offered through competitive sealed bids, public auction, established markets, or posted prices. It is recognized, however, that some types and classes of items can be sold or disposed of more readily and advantageously by other means, including barter.

04-201.02 *Transfer of Excess and Surplus Supplies.* Insofar as feasible and practical the City may transfer excess supplies to other units of government or charitable organizations as defined by existing law. The price of the supply transferred shall be the fair market price based, where possible, on previous sales of similar products in the open market or on an appraised value and shall be approved by the City Manager. When a supply is transferred the City may require the recipient to not transfer title or otherwise dispose of the supply within a specified period of time without prior approval of the City Manager.

05 INTERGOVERNMENTAL RELATIONS

The City may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more government entities.

06 ETHICS IN PUBLIC CONTRACTING

Public employment is a public trust. City employees must discharge their duties impartially so as to assure fair competitive access to City purchasing by responsible contractors. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of a City employee's duties is a breach of a public trust. Any effort to influence any City employee to breach the standards of ethical conduct is also a breach of ethical standards.



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SECTION 1.0: PURPOSE

This policy was created to establish purchasing procedures as required in § C419:35 **Purchasing Procedure**. The intent of this policy is to ensure the fair and equitable treatment of all persons who interact with the purchasing system of the City; to maximize fully practicable the purchasing value of public funds; to obtain in a cost-effective and responsive manner the materials, services and construction services required by the City to better serve the City's businesses and residents.

SECTION 2.0: SCOPE

This Policy applies to all departments and functional areas of the City.

SECTION 3.0: DEFINITIONS

Responsible Bidder or Offeror means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good fair performance.

Responsive Bidder means a person who has submitted a bid which conforms in all material respects to the Invitation for Bids.

Services means the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific product other than reports which are merely incidental to the required performance.

SECTION 4.0: POLICY DETAIL

4.1 General Application

This Policy applies to the expenditure of public funds for public purchasing irrespective of the source of the funds. When purchasing involves the expenditure of federal or state grant or contract funds, purchasing shall be conducted in accordance with any mandatory applicable federal and state law and regulations. This Policy also applies to the disposal of City supplies. Nothing in this Policy shall prevent the City from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.



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4.2 Exceptions

Certain purchases are not readily adaptable to the open market and formal competitive selection process. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager.

4.3 Competition

Fair and open competition reduces the opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically. Since the marketplace is different for various supplies, services and construction items this Policy authorizes a variety of source selection techniques designed to provide the best competition for all types of purchasing. It also permits less formal competitive procedures where the amount of the contract does not warrant the expense and time otherwise involved.

4.4 Purchasing Methods

Unless otherwise deemed in the best interest of the City all City contracts shall be awarded by one of the following methods: Competitive Sealed Bidding; Sole Source Purchasing; Emergency Purchasing; Special Purchases; and Purchasing Consultative and Professional Services Including Legal, Architectural and Engineering Services.

SECTION 5.0: PROCEDURES

5.2 City Manager Authority

The City Manager may make amendments to, or approve deviations from, this Policy if deemed in the best interest of the City. Certain purchases are not readily adaptable to the open market and formal competitive selection process. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager.

5.3 City Manager Duties



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The City Manager shall develop, implement and maintain a purchasing system which shall be consistent with the provisions of the City Charter, City Code of Ordinances and City Council Policy which shall meet the following objectives:

- A. To procure materials, supplies, equipment and services other than professional, at the lowest cost consistent with the quality and service rendered.
- B. To establish clearly the responsibility for the purchasing functions as being vested in the City Manager.
- C. To exercise positive financial control over purchases.
- D. To provide an efficient means for procurement of materials, supplies, or equipment which avoids duplication and overstocking.
- E. To establish and maintain standards of quality in materials, supplies, equipment and services other than professional, based on suitability for use.

5.4 Competitive Sealed Bidding

Purchasing by the City shall be made on the basis of competitive bids where practical. Competitive bidding is deemed generally impractical for the following sorts of purchases:

- A. Goods or services valued at less than \$50,000.
- B. Professional or other services involving special skills, training, experience, and/or discretion;
- C. Goods or services required in an emergency;
- D. Goods or services available from a single source.

5.5 Bidding Process

- A. For purchases by competitive bidding, a notice inviting bids shall be added to the City's procurement portal at least seven days preceding the last day set for the receipt of bids. Other forms of notice likely to come to the attention of prospective bidders may also be given.



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B. The notice shall generally describe the goods to be purchased and shall state how to obtain bid forms, specifications and other available information, the period for submitting bids, and the time and place for the opening of the bids.

C. All bids shall be submitted to the City through the City's procurement portal.

D. No bids shall be opened until the appointed time.

E. At the time and place stated in the public notice all bids shall be opened by the appropriate City staff member. All bid openings shall be open to the public and all bids shall be available for examination.

5.6 Awards

Awarding of bids shall be best on the lowest and most qualified responsible bidder. In determining the lowest and most qualified bidder the City Manager may consider;

A. Price, quantity and quality of the goods or services offered;

B. The capacity, skill, financial resources of the bidder to perform fully and properly;

C. The character, integrity, reputation, judgement, experience and efficiency of the bidder;

D. The quality of the bidder's performance on previous contracts with the City and others;

E. Any conditions attached to the bid.

5.7 Protested Solicitations and Awards

A. Right to Protest. Any actual or prospective bidder who is allegedly aggrieved in connection with the solicitation or pending award of a contract may protest to the City Manager.

B. Notice. A notice of protest must be submitted no later than 5:00 p.m., on the fifth full business day after posting of the award recommendation. The protest must be in writing and must identify the protesting party and the project



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number and title and shall include a factual summary of the basis of the protest.

The formal written protest shall; identify the protesting party and the solicitation involved; include a clear statement of the grounds on which the protest is based; refer to the statutes, laws, ordinances or other legal authorities which the protesting party deems applicable to such grounds; and specifically request the relief to which the protesting party deems itself entitled by application of such authorities to such grounds.

A formal written protest is considered filed with the City when it is received by the City Manager's Office. Accordingly, a protest is not timely filed unless it is received within the times specified above. Failure to file a formal written protest within the time period specified shall result in relinquishment of all rights of protest by the vendor and abrogation of any further bid protest proceedings.

These procedures shall be the sole remedy for challenging an award of bid. Bidders are prohibited from attempts to influence, persuade or promote through any other channels or means.

The time limits in which protests must be filed as specified herein may be altered by specific provisions in the RFP/RFQ.

C. Authority to Resolve. The City Manager shall attempt to resolve the protest in a fair and equitable manner and shall render a written decision to the protestant.

D. Stay of procurement during protests. In the event of a timely protest, the City Manager shall not proceed further with the solicitation or with the pending award of the contract until a determination that the award of the contract without delay is necessary to protect substantial interests of the City.

5.8 Sustainability Objectives

The City is a large consumer of goods and services, and our purchasing decisions have a substantial impact on the environment, both locally and globally. By including environmental considerations in our procurement decisions, along with the traditional concerns with price, performance, and availability, we will remain fiscally responsible while promoting practices that improve employee and public health and safety, reduce pollution, and conserve natural resources. The City Manager shall establish a



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framework to maximize environmental benefits and minimize the environmental impact resulting from the City's activities.

5.9 Disadvantaged Business Enterprises

The City will take the following steps to enhance the opportunities for local, small, veteran, minority, LGBTQ+ and women's owned business enterprises by taking the following steps;

- A. Allowing local, small, veteran, minority, LGBT and women's owned business enterprises to be placed on solicitation lists which will notify them of opportunities to bid on City projects.
- B. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- C. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above.
- D. Ensure bidding and solicitation processes are in compliance with CO 185 Welcoming Lebanon.

5.10 Purchasing Authorization Limits

The City Manager shall establish (see Purchasing Administration Policy ADM-110) purchase limits that are practicable, provide that competition is obtained and that the small purchase system is not abused. Reasonable steps shall be taken to ensure that local businesses (businesses that maintain their principal office and place of business in the City) qualified to provide required supplies, services and construction are notified of relevant solicitations.

5.11 Purchasing Consultative And Professional Services Including Legal, Architectural And Engineering Services



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General. It is the policy of the City to negotiate consultative and professional services contracts including legal, architectural, engineering, human resources, cyber services, data processing, planning, auditing, public relations services, etc., based on demonstrated competence and qualification for the type of service required at fair and reasonable prices.

Discussions and Selection of the Most Qualified Firms. The City shall hold discussion with the firms selected regarding the proposed contract to: determine each firm's general capabilities and qualifications for performing the contract; and explore the scope and nature of the required services and the relative utility of alternative methods of approach. After discussions the City shall reevaluate and select, in order of preference, contractors which it deems to be the most highly qualified to provide the required services. The procurement of Engineering, Architectural and Survey services shall generally follow procedures outlined by the American Council of Engineering Companies of New Hampshire, Qualification Based Selection Process <https://www.acec-nh.org/?s=QBS+Process> . Additionally, the provisions of RSA 21-I:22 *Selection of Engineers, Architects and Surveyors* should be used as a guideline. These guidelines may also be used for selection of other consultative and professional services.

Negotiation of Contract. The City shall negotiate a contract with the most qualified firm for the required services at compensation determined to be fair and reasonable to the City. Contract negotiations shall be directed toward: making certain that the firm has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services; determining that the firm will make available the necessary personnel and facilities to perform the services within the required time; and agreeing upon compensation which is fair and reasonable, taking into account the estimated value, scope, complexity, and nature of the required services. If fair and reasonable compensation, contract requirements, and contract documents can be agreed upon with the most qualified firm, the contract shall be awarded to that firm.

5.12 Emergency Purchasing



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The City Manager may suspend provisions of this policy and implement streamlined purchasing provisions when an emergency is declared by the City Manager in accordance with the City's Emergency Operations Plan.

SECTION 6.0: REFERENCES (Charter/Code/State Statues)

1. NH RSA 31:3 General Powers and Duties of Towns
2. NH RSA 44:2 Cities and Wards, Provisions Applicable
3. NH RSA 447:16 Bond Required
4. NH RSA 21-I:22 (Used as a guideline only) Selection of Engineers, Architects and Surveyors
5. City Charter Section 419:35 Purchasing Procedure
6. City Charter Section 419:37 Financial Control
7. City Charter Section 419:38 False Certification, Penalty
8. City Charter Section 419:39 Unauthorized Payment, Penalty
9. City Charter Section 419:20 Dealings of Council and City
10. City Charter Section 419:63 Private Use of Public Property
11. American Council of Engineering Companies of New Hampshire, QBS Process
12. Purchasing Administration Policy ADM-110
13. US Department of Commerce, Economics and Statistics Administration US Census Bureau
14. 42 USC 1741 Office of Minority Economic Impact

SECTION 7.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption		99-04-C	4/7/99
Amendment		06-02-C	4/5/06
Amendment		06-02-C	8/13/15
Amendment	All	CC-103	
Amendment			



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ADMINISTRATIVE POLICIES & PROCEDURES

PROCUREMENT ADMINISTRATION POLICY

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SECTION 1.0: PURPOSE

To establish additional administrative procedures and dollar thresholds and guides the methods of source selection in accordance with the City Council's Purchasing Policy; and to establish a consistent procedure for the orderly and expeditious processing of contracts, agreements or other instruments of obligation binding the City in the purchase of supplies, services and construction items.

SECTION 2.0: SCOPE

This Policy applies to all departments and functional areas of the City.

SECTION 3.0: DEFINITIONS

Contract is a written agreement, relative to services, products, tenancy, that is intended to be enforceable by law.

Change Order is a written alteration to a contract or purchase order in accordance with the terms of the contract unilaterally directing the contractor to make changes.

Modification is a written alteration to a provision of any contract accomplished by mutual agreement of the parties to the contract.

Memorandum of Agreement (MOA): An MOA is a document written between parties to cooperatively work together on an agreed upon project or meet an agreed upon objective. The purpose of an MOA is to have a written formal understanding of the agreement between parties.

Memorandum of Understanding (MOU) is a document describing the broad outlines of an agreement that two or more parties have reached.

Purchase Agreements are contracts, agreements or other instruments of obligation binding the city in the purchasing of supplies, services and construction items that are formal documents and not price quotations or purchase orders.

Purchase Orders authorize a vendor to release goods or services to the City and informs him/her that funds are available to pay for the goods or services. A purchase order becomes a binding obligation when the vendor demonstrates his/her acceptance through initiation of some action to fill the order.



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ADMINISTRATIVE POLICIES & PROCEDURES

PROCUREMENT ADMINISTRATION POLICY

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Purchase Requisitions establish the need and provide justification for any supplies, services and construction items and should be completed, with appropriate substantiating documentation attached, in its entirety to include justification, suggested suppliers and/or contractors, quantity, specifications, account code for funding, vendor number when applicable, shipping, delivery and production timetables and details, and pricing.

RFI-Request For Information- is a formal process for gathering information from a potential suppliers of a good or service.

RFP-Request For Proposals- is a formal process to announce a project, describes it, and solicits bids from qualified contractors/vendors to complete the project.

RFQ-Request For Qualifications- is a formal process for requesting and receiving information from learned experts to determine their ability and demonstrated competence to provide services to the City.

LGBT Owned Business Enterprise means a business enterprise that is 51 percent owned, managed, operated, and controlled by one or more lesbian, gay, bisexual, or transgender (LGBT) individuals.

Local Owned Business Enterprise means a business principally located within the City of Lebanon and whose management and daily operation is controlled by the qualifying party(s).

Minority Owned Business Enterprise is a business which is at least fifty-one percent (51%) owned by one or more persons who is a member of a minority group and whose management and daily operation is controlled by the qualifying party(s). Minority groups are defined 42 USC 7141 as Asian Americans, Native Hawaiians, a Pacific Islander, African American, Hispanic, Puerto Rican, Native Americans and Alaska Natives.

Small Owned Business Enterprise is a business which (a) is at least fifty-one percent (51%) owned by one but not more than 10 persons (b) the owner has a personal net worth less than \$10 million a year; (c) is located within the Claremont-Lebanon, NH-VT micropolitan statistical area and finally (d) has been in business a minimum of 1 year.

Veteran Owned Business Enterprise is a business which is at least fifty-one percent (51%) owned by one or more veterans and whose management and daily operation is controlled by the qualifying party(s).



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Women Owned Business Enterprise is a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(s).

SECTION 4.0: POLICY DETAIL

As the principal contracting officer of the City, all purchase agreements require City Manager approval; are subject to and contingent on City Manager approval; and shall be entered into subject to the provisions of this policy and the City's Purchasing Policy CC-103 as revised.

SECTION 5.0: PROCEDURES

5.1 Duties and Authority

The City Manager or Deputy City Manager in the absence of the City Manager shall approve purchase agreements equal to or greater than \$5,000; department heads have authority to commit the City in purchasing-related agreements of less than \$5,000 unless otherwise authorized in this policy. Department heads may authorize their personnel to make retail and other purchases via credit card as long as those purchases are less than \$5,000 and in conformance with the provisions of the Credit Card Policy, ADM-106 as revised.

5.2 Purchasing Thresholds

Use of purchase orders are required for purchases of \$5,000 or more. Purchase orders must be issued for purchases equal to or greater than \$5,000; City Manager or in the absence of the City Manager, Deputy City Manager approval is required. Purchase orders may be issued for purchases of less than \$5,000 without City Manager or Deputy City Manager approval. Certain purchases are not readily adaptable to the use of purchase orders. Exceptions from this Policy shall be considered on a case-by-case basis by the City Manager and incorporated as part of this policy by reference.

Purchasing Type	Approval Levels	Approving Authority
Small Purchases	< or =\$5,000	Dept Heads



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Medium Purchases	\$5,000-\$50,000	City Manager
Large Purchases	> or=\$50,000	City Manager
Software Purchases	All software programs	Software Review Committee

5.3 Purchasing Types

There are four levels of purchasing requirements. Small purchases, medium purchases, large purchases and software purchases.

5.3.1 Small Level Purchases

Small purchases are considered informal procurement actions. Procurement requirements shall not be artificially divided so as to constitute a small purchase.

Total price is \$5,000 or less, it shall be made after adequate inquiry based on the department head or his/her designee's knowledge of a reasonable price and satisfactory quality.

5.3.2 Medium Level Purchases

Products and services that have a total price more than \$5,000 but less than \$50,000. When the total price is greater than \$5,000, and not more than \$50,000, purchases shall be made using written price or rate quotations from an adequate number of suppliers/providers. If available, a minimum of three quotations from qualified suppliers/providers shall be obtained. Such price and rate quotations, the date of such quotations and the names of suppliers shall be documented.

5.3.3 Large Level Purchases

Large purchases are considered formal procurement actions and shall be solicited in a formal bid process unless the product or service is on a formal bid contract such as a state bid list. Large purchases involve products, projects or services that exceed \$50,000.

5.3.4 Purchasing of Software or Software as a Service



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Computer and cyber-related purchases must be approved beforehand by the Cyber Services Dept. Software programs installed on a local hard drive may interact negatively with existing programs. All employees must therefore consult with the Cyber Services Dept. before purchasing or installing any software. The Software Review Committee shall review and approve all requests for the purchase of software or software as a service. This requirement is an additional requirement to the other requirements for purchasing.

5.3.5 Emergency Purchasing

The City Manager may suspend provisions of this policy and implement streamlined purchasing provisions when an emergency is declared by the City Manager in accordance with the City's Emergency Operations Plan.

5.4 Development of Specifications for a Quote, Bid or RFP

5.5 Bond Requirements

The City has three types of bond requirements for contractors of services or products procured by the City.

5.5.1 Payment Bonds

Contracts entered into with the City for the construction, repair or rebuilding of public buildings, public highways, bridges or other public works shall if said contract involves an expenditure of \$125,000 or may if it involves an expenditure of less amount, obtain as a condition precedent to the execution of the contract, sufficient security, by bond or otherwise, in an amount equal to at least 100 percent of the contract price, or of the estimated cost of the work if no aggregate price is agreed upon, conditioned upon the payment by the contractors and subcontractors for all labor performed or furnished, for all equipment hired, including trucks, for all material used and for fuels, lubricants, power, tools, hardware and supplies purchased by said principal and used in carrying out said contract, and for labor and parts furnished upon the order of said contractor for the repair of equipment used in carrying out said contract.

5.5.2 Performance Bonds

The liens given by RSA 447:5-14, inclusive, shall attach to any money due or to become due from the City virtue of any contract for any public work or



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construction, alteration, or repair, in the performance of which contract the lienor participated by performing labor, providing professional design services, or furnishing materials or supplies. Such liens shall not attach, however, unless filed within 90 days after the completion and acceptance of the project by the contracting party, whether such contracting party is the City.

5.5.3 Bid Bond

A bid bond protects the City in a construction bidding process. It is a guarantee that the bidder, provide to the City to ensure that if the bidder fails to honor the terms of the bid, the City will be compensated. A bid bond is typically obtained through a surety agency, such as an insurance company or bank, and it helps guarantee that a contractor is financially stable and has the necessary resources to take on a project. Bid bonds are generally 5% to 20% depending upon the project.

5.6 Insurance Requirements

Insurance requirements will vary depending upon the types and dollar value of services being provided. There are several key components that must be considered and where appropriate added to contract language.

1. Listing the City as an additional insured party. The Certificate of Insurance (COI) must clearly indicate the City is an additional insured party for the particular coverage area.
2. Some services or products may should have language that indemnifies the City for liability and legal representation regarding claims that might be filed against the City as a result of the actions or omissions of the contractor.
3. Environmental insurance coverage is an important coverage area for work that poses a risk of contamination or the need to for environmental cleanup.
4. Cyber breach or cyber security coverage for providers providing software as a service, those collecting and retaining personal identifying information or other private/sensitive information.
5. Workers Compensation insurance coverage for contractors providing services to the City. WC coverage only required for contractors that have employees. If the contractor is the sole employee and the owner of a company WC coverage is not required under present state statutes.
6. Coverage limits for liability insurance and other coverage areas must be considered. The City has templated language which includes standard insurance coverage limits. The City Manager may waive some of the



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templated limits at the request of a department director when appropriate depending upon the project or service provided.

7. Builder's Risk insurance must be provided with an insurance certificate to the City naming the City as the payee for building construction projects.
8. Contractors utilizing vehicles as a component of the service provided must show proof of automobile insurance.
9. Professional liability insurance for architects, engineers, surveyors, or other industry professionals must be provide, naming the City as an additional insured.

The City's insurer provides templated language for indemnification and insurance requirements. It is incumbent upon departments to ensure contractors working for the City have updated certificates of insurance that are active, not expired, when the contractor is performing work for the City.

5.7 Contracts

Contracts and other agreements are important documents to ensure the City and the supplier/provider are clear as to that the responsibilities are of each of the parties involved in the agreement.

5.7.1 Signatory for Contracts, Agreements and Memorandums of Understanding relative to purchasing

The City Manager is the only official authorized to execute contracts or agreements regarding the purchasing of services or other agreements which create a financial liability on the City short or long term (beyond the present budget year).

5.7.2 Change Orders

Change orders to contracts may be executed according to change order clauses provided for in the original contract provided the change order does not materially change the scope of the original procurement. All change orders must be approved by the City Manager or designee.

5.8 Conflicts of Interest



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No employee, officer or agent (E/O/A) operating on behalf of the City shall participate in the selection, award, and/or administration of a contract if a conflict of interest with regards to tangible personal benefit, real or reputed, would be involved (references F and H). In addition to an E/O/A, this further includes his/herspouse/partner, and family members.

It is a violation of this policy for any person identified above to;

1. Sell goods and/or services, regardless of the amount, to any customer department without participating in a competitive quote process solicited by the City.
2. Knowingly misrepresent a vendor's prices, quality, or services to obtain concessions.
3. Participate in the evaluation or recommendation of a solicitation process if the person holds an interest in any business or undertaking which maybe directly and substantially affected to its' economic benefit by an official action to be taken.
4. Assist a vendor in:
 - a. preparing their response to a Bid, RFP, Quote, or Statement of Qualifications, or
 - b. to share procurement-sensitive information related to a competitive procurement with vendors without providing it to all vendors through an addendum process. Procurement-sensitive information includes, but is not limited to, Requirements, Specifications, Statements of Work, or Evaluation Criteria.
5. Participate in the evaluation or recommendation of a solicitation process if a vendor would be perceived as having an unfair advantage because of activities or relationships with a member of the evaluation team or decision-maker.
6. Fail to adhere to ADM-108 Ethics Policy or Council Ethics Policy CC-108 as applicable.

5.9 Waivers of Purchasing Procedures

There are occasions in which departments may request a waiver of the purchasing process, described below. A purchase order, approved insurance and a contract if for services greater than \$50,000, are required for all waivers of the purchasing process. Note: Unless an alternate period of time is identified in the waiver approval, a waiver may be used once.

5.9.1 Quote Waiver (for goods or services ranging between \$5,000.01 - \$50,000).



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A waiver of the Informal (quotation) process (\$5,000.01 - \$50,000.00, three (3) quotes), which may be requested by a department when they have compelling reasons. Such a request must be requested in writing to the City Manager, and must include all details of the requested purchase, including scope of work /pricing document (quotation, proposal) from the vendor for which the waiver is sought, and a thorough fact-based explanation as to why the City Manager should consider waiving the informal solicitation process. If approval is obtained, both the department's written request, including any referenced documents and the City Manager's approval, must be attached to the requisition for a purchase order.

5.9.2 Bid Waiver (for goods or services \$50,000.01 or greater)

A waiver of the formal solicitation process (\$50,000.01 or greater, Bids and RFPs) may be requested by the department when they have compelling reasons. Such a request must be made in writing to the City Manager, and must include all details of the requested purchase, including a scope of work /pricing document (quotation, proposal) from the vendor for which a waiver is sought and a thorough fact-based explanation as to why the City Manager should consider waiving the formal solicitation process. If approval is obtained, both the department's written request, including any referenced documents and the City Manager's approval, must be attached to the requisition for a purchase order.

5.9.3 Sole Source (greater than \$5,000)

A waiver of the informal or formal solicitation process (quotes, bids and RFPs, anything greater than \$5,000) in the form of a Sole Source may be requested by the department when there is only one vendor able to provide the good or service. Such a request must be requested of the City Manager, in writing, and must include all details of the requested purchase, including a scope of work /pricing document (quotation, proposal) from the vendor for which a Sole Source is sought, documentation of Sole Source justification including a thorough explanation and documentation detailing the nature and proof of the Sole Source. If approval is obtained, both the department's written request, including any referenced documents and the City Manager's approval, must be attached to the requisition for a purchase order.

5.10 Debarred or Suspended Vendors



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The City will not award a solicitation to a vendor that has been debarred or suspended by the federal, state or the City. The City Manager may suspend or debar a vendor from providing goods or services to the City for violations of law.

5.11 Equipment Leasing and/or Purchases

Leasing of vehicles or equipment must be approved in advance by the City Manager. The City Manager or Deputy City Manager when designated is the only official authorized to enter into a lease agreement. Contractual language for lease or lease to own must either contain a non-appropriation clause or require approval from the City Council with a supermajority vote.

5.12 Sustainability Preferences

Staff will work to reduce or eliminate the negative environmental effects of all purchasing decisions to the degree feasible. This includes the following:

1. Consult and use green purchasing authorities – Energy Star, LEED, etc.
2. Base purchasing decisions on life-cycle costs of products and services
3. Evaluate the environmental performance of vendors and products
4. Require that contractors minimize waste and maximize recycling
5. Inform contractors and service providers about the City's Environmental Purchasing Policy
6. Understand the toxicity and environmental harm of products to be purchased and seek to find benign alternatives
7. Maximize recycled content and recyclability of purchased materials
8. Include relevant Environmental Purchasing language in the City's procurement software

A separate Environmentally Preferable Procurement Guidelines will be created to help City staff to achieve these objectives.

5.13 Cooperative Purchasing

This section details the use of piggybacking and cooperative purchasing.

5.13.1 Piggybacking

Piggybacking is defined as a form of intergovernmental cooperative purchasing in which a governmental entity has completed a solicitation (RFQ, RFI, RFP) with a



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competitive process similar to the City's, and identifies that the same pricing and terms of contract may be extended to other governmental entities. If agreeable to the originating governmental entity(either identified in their solicitation or obtained in writing from their Purchasing Director/Manager) and the award vendor, another governmental entity may use the same pricing and contract terms.

1. The City may piggyback on another governmental entity's competitively procured solicitation to obtain goods or services, providing the following requirements are met:

- Proof of competitive procurement
- Agreement from both the governmental entity and the vendor to piggyback
- Vendor agrees to provide Larimer County the pricing they originally bid
- More than one (1) vendor responded to the solicitation
- Contract / Contract Renewal occurred within the last 12 months
- Award vendor agrees to meet our insurance requirements
- If any portion of the City purchase is Federally funded, or if your purchase is funded by any other type of grant, contact the City Manager's Office first, as it may not be allowable to piggyback.

2. Other governmental entities may piggyback on the City's solicitations to acquire goods and services, providing the following requirements are met:

- The City Manager agrees; either as identified by the presence of piggyback/cooperative language in the solicitation, or obtained in writing from the City Manager;
- The governmental agency shall deal directly with any vendor concerning the placement of Purchase Orders, freight charges, contracting and disputes, invoicing, and payment; and
- The City shall not be held liable or responsible for any liability, claims, costs, damages, demands, actions, losses, judgments or expenses incurred by the vendor or any government entity relating to such use.

5.13.2 Cooperative Purchasing

Cooperative Purchasing is defined as a Formal Procurement conducted by a government Purchasing Cooperative on behalf of a governmental group with a common need, to aggregate demand and obtain lower prices. Some cooperatives cater only to specific forms of government, such as school



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districts or local government, so the cooperative's regulations must be reviewed thoroughly to ensure a City can utilize the contract. If any portion of the City purchase is Federally-funded, or if your purchase is funded by any other type of grant, contact the City Manager's Office first, as it may not be allowable to use a cooperative.

5.14 Requisition and Purchase Orders

5.15 Purchase Order Exceptions

The following purchases do not require a purchase order;

Utility Bills	Principal & Interest Payments on Bonds
Advertising	Welfare Payments
Travel	Legal & Audit Fees
Vehicle Allowance	Insurance Premiums
Subsistence & Support to Persons	Postage
Rents & Leases (after initial approval)	Designated Budgetary Transfers between Funds including to CRFs
Payroll Related Payments	Maintenance Agreements and Service Contracts for their 2 nd and subsequent payments
Judgements & Claims	Subscription Renewals
Budgeted payments to Outside Human Service Agencies, Outside Recreation Organizations, Advance Transit, etc...	Remittance of Property Taxes Levied and Collected on Behalf of the School District, County or State
Annual Dues	Salt & Winter Sand

5.16 Procurement Records

All determinations and other written records pertaining to the solicitation, award or performance of a contract shall be maintained for the City in procurement software or appropriate records database. All procurement records shall be retained and disposed of by the City according to RSA 33-A, the records retention guidelines,



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Internal Revenue requirements, applicable grant requirements and schedules of the City.

5.17 Procurement Software System

All RFPs, RFQs and RFIs processes shall be conducted within the procurement software system.

1. Proposals must be submitted through the software system.
2. All contracts will be entered into the procurement software system to include insurance certificates and bonds.
3. Proposals, awards and contracts shall be available for public inspection through the procurement software program on the City's website unless they are exempted under applicable provisions of federal, state or local law.

5.18 Bulk Purchases

Whenever feasible, procurements shall be done in bulk to take full advantage of discounts. Purchasing departments shall be responsible for anticipating their needs in a timely fashion in order to consolidate and expedite procurement of the same type of items. A lead purchasing department(s) shall be identified for procurement of commodities or services that are most common in the City. The lead purchasing department shall accomplish the bulk citywide procurement action based on requirements identified by other departments. Capital outlay requirements shall be planned and scheduled for periodic bulk procurement actions based on approved budget quantities.

SECTION 6.0: REFERENCES (Charter/Code/State Statues)

1. NH RSA 31:3 General Powers and Duties of Towns
2. NH RSA 44:2 Cities and Wards, Provisions Applicable
3. City Charter Section 419:35 Purchasing Procedure
4. City Charter Section 419:37 Financial Control
5. City Charter Section 419:38 False Certification, Penalty
6. City Charter Section 419:39 Unauthorized Payment, Penalty



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7. City Charter Section 419:20 Dealings of Council and City
8. City Charter Section 419:63 Private Use of Public Property
9. City Council Procurement Policy CC-103
10. Credit Card Policy ADM-106
11. Ethics Policy ADM-108
12. City Council Ethics Policy CC-108

SECTION 7.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption		06-01-A	6/10/2006
Amendment		08-02-A	7/5/2008
Amendment	All	ADM-110	
Amendment			

AGENDA LEBANON CITY COUNCIL OCTOBER 5, 2022

10. NEW BUSINESS:

10.B – REVIEW OF 2023 PROPOSED ZONING AMENDMENTS

BACKGROUND

It is staff's practice to present a set of proposed zoning amendments to the Council each fall for review and consideration. Presenting the amendments in the fall allows them to move through the required review process in time for placement on the ballot the following March, when necessary.

Several of the amendments being proposed this year stem from the City Council's April 21, 2022 directive to the City Manager to take steps to enable, incentivize, and partner in the development of housing needs not currently being addressed by the market. It is anticipated that some of the proposed amendments will require a referendum vote in March 2023 pursuant to Section 1000.4.A of the Zoning Ordinance.

Please see the attached September 27, 2022 memorandum from the Planning & Development Department, which describes the amendments in detail and outlines the process to amend the Ordinance.

ACTION

If the Council decides to move forward with the proposed amendments, the following motion is offered for consideration:

MOVED, that the Lebanon City Council in accordance with the City of Lebanon Zoning Ordinance, Article X, Section 1000.3, Amendment Procedures, submits the Zoning Ordinance amendments as described in the Planning & Development Department memorandum titled, "2022-2023 Proposed Zoning Amendments", dated September 27, 2022 and including the accompanying red-line excerpt of amendments, to the Planning Board, Conservation Commission, and Zoning Board of Adjustment for their review and comment. The City Council hereby sets the following tentative review schedule:

Zoning Board of Adjustment – November 7, 2022

Conservation Commission – November 10, 2022

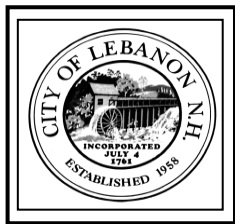
Planning Board – November 21, 2022

City Council Final Review – January 4, 2023

City Council Public Hearing – January 18, 2023

Included in this Section:

1. September 27, 2022 Memo from Planning & Development Department, including 2022-2023 Proposed Zoning Amendments



CITY OF LEBANON ~ PLANNING & DEVELOPMENT

MEMORANDUM

TO: Lebanon City Council

CC: Shaun Mulholland, City Manager
David Brooks, Deputy City Manager

FROM: Planning and Development Department Staff

RE: 2022-2023 Proposed Zoning Amendments

DATE: September 27, 2022

Honorable Mayor and City Councilors,

The Planning and Development Department has prepared draft amendments to the Zoning Ordinance for consideration by the City Council, and requests that the proposed amendments be placed on the October 5, 2022 meeting agenda for discussion.

It is staff's practice to present a set of proposed zoning amendments to the Council each fall for review and consideration. Presenting in the fall allows the amendments to move through the required review process in time for placement on the ballot the following March, when necessary.

The current set of proposed amendments are summarized below and are highlighted in the attached redlined excerpt of the Zoning Ordinance. The new or revised text is blue and underlined. The text to be deleted is shown as ~~red with a strike-out~~.

If the Council chooses to move forward with staff's proposal, the draft amendments will be sent to the City's legal counsel and land use boards for further review. Once the review process is complete, the amendments will be scheduled for a public hearing before the City Council.

OVERVIEW OF AMENDMENTS

The proposed amendments are grouped into three general categories: amendments that require or may require placement on the March 2023 ballot for approval by the voters, text amendments that can be approved by the City Council, and a Zoning Map amendment that can be approved by the City Council.

A. BALLOT AMENDMENTS

The following amendments either directly or indirectly impact the residential district tables of uses and dimensional requirements. Consequently, the City's legal counsel will review to determine whether approval by the voters is required per Section 1000.4.A of the Zoning Ordinance. In some cases, only portions of an amendment will require placement on the ballot. Prior to the public hearing in January, the Council will need to determine whether the entirety of such amendments should be placed on the ballot or only those portions that require voter approval.

1. **Adopt proposed Section 509 (“Cottage Developments”)** (see p. 12-13 of the redline). As specifically requested by the City Council in the April 21, 2022 directive to the City Manager, the purpose of this new section is to provide opportunities for single family housing that is small, energy efficient, and affordable, while promoting projects that ensure compatibility with surrounding land uses. Cottage developments are proposed to be allowed by conditional use on lots of at least one-half acre in size in the R-1, R-2, R-3, R-O, and R-O-1 Districts subject to the availability of appropriate utilities. To incentivize cottage development and help ensure economic viability, a higher density of 2,500 sq. ft. per unit is permitted. In return, the development must comply with the standards set forth in Section 509, which include limitations on building footprint and gross floor area for each unit, building design standards, minimum requirements with respect to common open space, and the screening of parking areas.

Adoption of the proposed cottage development section is specifically identified in the Master Plan as a strategy to help meet the Master Plan’s goal of providing a range of housing options that will support the City’s continued economic vitality and a diverse population. See 7.1.S15 (“Explore cottage or bungalow development strategies to promote, smaller, more energy-efficient, more affordable dwellings with limited size and footprint.”). Enabling cottage housing developments would help implement multiple additional strategies identified in the Master Plan including the following:

- Allow for appropriate infill and increased density within existing neighborhoods while preserving neighborhood character. (2.3.S1; 2.3.A1)
- Encourage diversification in neighborhoods. (7.1.S13; 7.1.S14; 7.1.S16; 7.2.S8)
- Encourage new housing to be located close to urban centers, employment areas, infrastructure, services, and transit and to positively contribute to existing neighborhoods. (2.2.S1; 7.1.A8; 7.1.S23; 7.1.S24)
- Identify neighborhoods that have the characteristics suitable as redevelopment areas or pods and assess whether zoning changes are needed to allow for infill or redevelopment. (2.3.A1)
- Review and amend the City’s Zoning Ordinance as needed to encourage more intensive redevelopment of existing residential and non-residential areas and to discourage development in undeveloped areas. (6.1.A7)
- Promote balanced land use that preserves the City’s outlying rural character and directs development toward its urban and densely settled residential cores. (2.1.S1; 2.2.S1; 2.2.S2)
- Guide development into existing areas as designated in the Land Use chapter to protect outlying rural areas and open space lands. (5.1.S1; 7.2.A7)

Related amendments include:

- **Section 205** to allow more than one principal building on a lot when proposed as part of a cottage development (see p. 1 of the redline).
- **Section 500** to add cottage development to the Planned Development table (see p. 7 of the redline).
- **Appendix A** to add definitions of cottage and cottage development (see p. 20 of the redline).

2. **Revise the manufactured housing regulations, Sections 503 and 504** (see p. 9-10 of the redline). The Zoning Ordinance allows manufactured housing only when located within a manufactured housing park, a manufactured housing PURD, or a manufactured housing subdivision. Recognizing that manufactured housing is an avenue to affordable home ownership opportunities, the purpose of the proposed amendments to Sections 503 and 504 is to enable additional manufactured housing development within the City that is

comparable to the manufactured housing projects that already exist. To that end, the amendments:

- Increase the permitted density of a manufactured housing development to 5,000 sq. ft. per unit, which is approximately the average density of the City's three existing manufactured home parks; and
- Revise the manufactured housing park regulations and standards to more closely reflect existing conditions at the City's three existing manufactured housing parks, which were otherwise substantially out of compliance with the requirements of Section 503.

Also, since there is no discernible benefit to either the property owner or to the City in allowing manufactured housing subdivisions that aren't also PURDs, the proposed amendments streamline the manufactured housing regulations by removing the manufactured housing subdivision option.

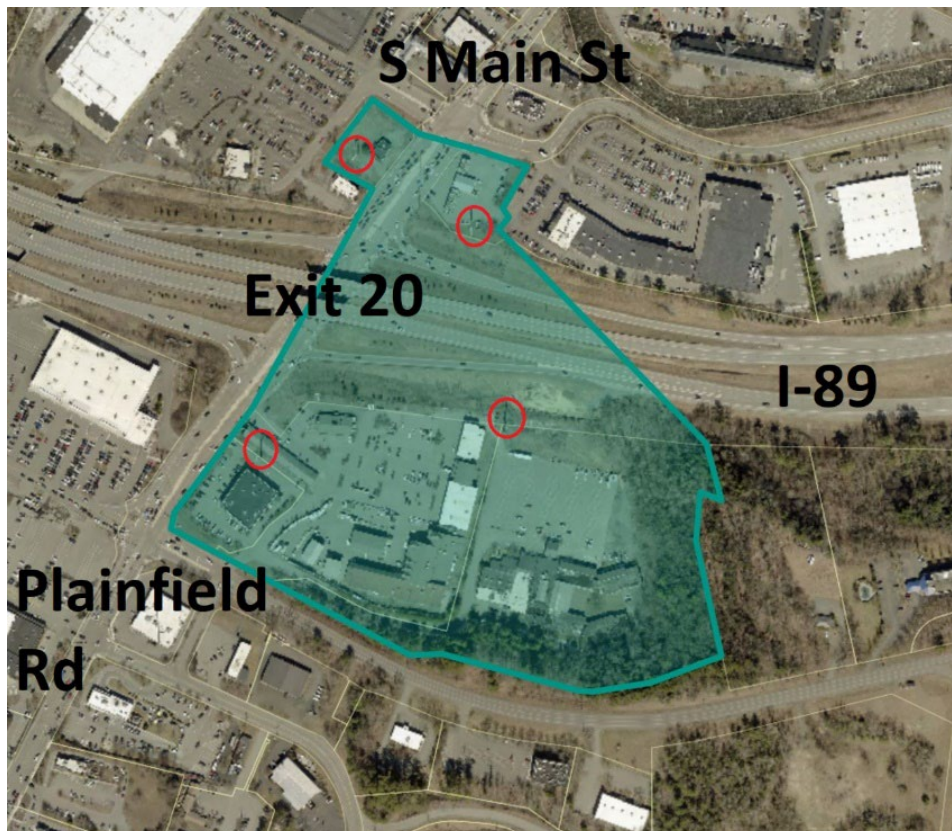
Finally, to further encourage the development of manufactured PURDs (which provide a substantial benefit to the development and the community by requiring that 50% of the lot is protected as open space), the proposed amendment to Section 507 allows the Planning Board to approve a density bonus for the use of that option (see Council amendment #3 below).

Related amendments include:

- **Sections 209, 308.2, 312.2 and 313.2** to update the names of the manufactured housing use categories and remove references to "manufactured home subdivision".
 - **Section 500** to update the Planned Development table (*see p. 7 of the redline*).
 - **Section 501.2.C** to clarify the permitted uses within a manufactured housing PURD (*see p. 8 of the redline*).
 - **Appendix A** to amend the definitions of, "centralized sewer system," "classification of lots," "dwelling," "dwelling unit," "manufactured housing park," "manufactured housing PURD," and "traditional subdivision," and to remove "manufactured housing subdivision" (*see p. 20-23 of the redline*).
3. **Amend Section 314.2, the RL-3 District Table of Uses** to change "accessory use to any one-family dwelling" from a use allowed by Special Exception to a permitted use. Currently, a Special Exception from the Zoning Board of Adjustment is required to construct or install accessory structures for one-family dwellings located in the RL-3 District. This includes sheds, detached garages, and pools. The proposed amendment would allow such accessory uses and structures "by right" rather than requiring approval from the Zoning Board. The RL-3 District dimensional regulations - including setback and building coverage requirements - would continue to apply and a zoning and building permit would still be required for any such structures (*see p. 6 of the redline*).
4. **Amend Section 610 ("Accessory Dwelling Unit (ADU)")** to allow an accessory dwelling unit for an owner-occupied two-family dwelling. Since adoption of Section 610 in 2013, only a modest number of ADUs have been constructed. To make ADUs more viable for the City's property owners, the ADU regulations have been modified over the past several years to minimize regulatory hurdles and to provide more flexibility. As part of its ongoing efforts to encourage ADUs and to provide additional opportunities for affordable housing, and in response to multiple inquiries the Planning & Development Department has received over the past year, staff proposes to expand Section 610 to allow ADUs for owner-occupied two family-dwellings, in addition to allowing ADUs for owner-occupied one-family dwellings (*see p. 17-18 of the redline*).

B. COUNCIL TEXT AMENDMENTS

1. **Add “equipment and machinery sales, rental and service,” as a new use category.**
A developer has expressed interest in developing property located near the Airport for an equipment rental business, which is not currently a use identified in the Zoning Ordinance. Staff proposes to create such a category and to allow it as a permitted use in the Light Industrial District which includes similar and compatible uses. The proposal is to:
 - Amend Section 303.2 to allow “equipment and machinery sales, rental and service,” as a permitted use in the IND-L District, and amend Section 303.4 to require screening for any related outdoor storage (*see p. 2 of the redline*).
 - Amend Appendix A to provide a definition for “equipment and machinery sales, rental and service.” (*see p. 21 of the redline*).
2. **Add proposed Section 411 (“Highway Commercial District”)** (*see p. 6-7 of the redline*). Within the vicinity of I-89 Exit 20 there are four freestanding signs that range in height from 55 ft. to 75 ft. and, as such, they are non-conforming to the current requirements of Section 608 (“Signs”). The height and size of these signs is conducive to attracting customers from I-89, but cannot be practically utilized to provide necessary signage at street level. Recognizing that these signs are legal non-conforming and are permitted to remain, the proposed amendment would allow a second freestanding on each property within the district whereas each property is otherwise permitted to have only one freestanding sign. The purpose of the amendment is to allow these select properties to have a second freestanding to serve street-level customers, in addition to any existing freestanding sign that is non-conforming to the 25 ft. height limitation applicable in the GC District. The extent of the district is roughly outlined in the image below, and the locations of each of the four non-conforming freestanding signs are circled in red (note that a draft zoning district map to be attached as an Appendix is forthcoming).



3. **Amend Section 507 (“Bonuses for Certain Planned Development”) and Appendix A (definition of “workforce housing”)** (see p. 11-12 and 23 of the redline). In another effort to encourage affordable housing opportunities within the City, this amendment would allow the Planning Board to grant a density bonus for any PURD or PRec that provides “workforce housing,” which is defined in RSA 674:58, IV as:

[H]ousing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. “Workforce housing” also means rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.

Note that the Planning & Development Department intends to commission an inclusionary zoning study to evaluate the feasibility of requiring affordable, workforce housing to be included as part of all multi-family developments of a certain size. The findings of the inclusionary zoning study – which the Department anticipates undertaking in 2023 – may result in future recommended changes to the workforce housing density bonus provisions.

Staff also proposes to authorize the Planning Board to approve up to a 10% bonus for any PURD, PRec, or manufactured housing PURD that incorporates a renewable energy system (as defined in Appendix A) into the design of the development or that commits to energy efficient design by obtaining LEED certification. The remaining columns – which were added to the Zoning Ordinance as placeholders at least 25 years ago – are proposed to be removed (note that with respect to the “sensitivity to environment” category, it is staff’s view that this concept has been substantially addressed through the PUD regulations).

4. **Amend Section 603 (“Senior Housing Complexes”)** (see p. 14 of the redline). HB 1661 from the 2022 legislative session was signed into law over the summer and includes the following amendment to RSA 674:17, IV:

[I]f a municipality allows an increased density, reduced lot size, expedited approval, or other dimensional or procedural incentive [...] for the development of housing for older persons, as defined and regulated pursuant to RSA 354-A:15, VIII, it may allow the same incentive for the development of workforce housing as defined in RSA 674:58, IV. Beginning July 1, 2023, incentives established for housing for older persons shall be deemed applicable to workforce housing development.

The only incentive in the Lebanon Zoning Ordinance that specifically applies to housing for older persons is Section 603, which authorizes the Zoning Board to grant a Special Exception to allow a senior housing complex to have a greater density than that specified for the applicable zoning district. Per the recent amendment to RSA 674:17, the Zoning Board’s ability to grant a Special Exception to allow greater density for a senior housing complex will automatically extend to workforce housing developments as of July 1, 2023. In response to HB 1661, staff has preliminarily suggested that the language of Section 603 be updated to reflect the forthcoming statutory mandate. If amended as proposed, note that a Special Exception granted under Section 603 for a workforce housing PURD or PRec would establish the baseline permitted density for the development, from which

a “second” bonus could be added by Planning Board per Section 507 (“Bonuses for Certain Planned Development”). One alternative to adopting staff’s proposed language would be to remove Section 603 pending the completion of the inclusionary zoning study which, as noted above, the City anticipates undertaking in the coming year.

5. **Add Section 607.8 (“Electric Vehicles”)** (see p. 14-15 of the redline). This amendment is proposed in response to the rapidly changing regulatory and market landscape, which is transitioning to an electrified transportation future. The amendment also implements the City of Lebanon Sustainability Principles, Master Plan, and associated commitments to cleaner energy, greenhouse gas reduction, and equity as relates to supporting diverse and affordable transportation options in the face of rising fuel prices. For example, real estate research suggests that EV charging is among the top three desired convenience amenities for multi-family developments.

The amendment applies to all off-street vehicle parking in all zoning districts, and creates requirements for EV-installed, EV-ready, and EV-capable off-street vehicle parking spaces across three use categories: one- and two-family dwellings, multi-family dwellings, and non-residential, and also adds related definitions. The tiered thresholds for the required EV infrastructure allow a gradual transition to EV charging capacity in the City; developments will install a minimum of fully operational chargers and also install the electrical capacity to install future chargers.

Preparedness of building and site utilities saves property owners from the cost of future retrofits that would be significantly greater than the upfront costs and potentially a barrier to EV implementation in the community as a result. The installation of EV charging infrastructure is four to six times less expensive when included during the initial construction phase as opposed to a retrofit.

Members of the LEAC and the LEAC EV sub-committee reviewed and assisted with edits to the amendment, with specific attention to technical and threshold requirements. References reviewed for development of the requirements include the International Energy Conservation Code 2021 and benchmarking of similar regulations across the U.S.

Related amendments include removing **Section 607.3.B.1.c** and amending **Appendix A** to add EV-related definitions. (see p. 14 and 20-22 of the redline)

6. **Amend Section 608.7 (“Signs Allowed Without a Building Permit”)** (see p. 16-17 of the redline). The sign regulations set forth in Section 608 substantially limit Dartmouth Health’s ability to provide adequate signage. The Medical Center is uniquely hampered by Section 608 regulations which are unduly burdensome when applied to a property the size of DHMC. Moreover, adequate and abundant signage is arguably a unique necessity for hospitals in order to facilitate safe and efficient emergency access and wayfinding.

The purpose of the proposed amendment is to provide flexibility for the Medical Center in adding and replacing signage by exempting from Section 608 any medical center complex sign that is not visible from a public street. For example, the exemption would allow Dartmouth Health to add additional freestanding directional signs along its access drive without having to obtain a Variance to allow more than one freestanding sign on the property. Signs visible from a public street would still be subject to the requirements of Section 608.

7. **Amend Section 306.1, the Central Business purpose statement** (see p. 3 of the redline). The proposed amendment is a recommendation from the West Lebanon

Revitalization Advisory Committee (WLRAC) that was made last year, but too late to be included in the set of zoning amendments approved by the Council in January 2022. The WLRAC's recommendation is to expand the CB District purpose statement by incorporating language from the Master Plan and from the West Lebanon Village Visioning Charrette Final Report.

8. **Group Day Care Facilities, Sections 303.2, 303A.2, Section 306.2, Section 307.2, Section 311, Section 311A, and Section 311B.** To help facilitate the development of needed childcare facilities, staff proposes to allow day care facilities as permitted uses in non-residential and mixed-use districts (IND-L, IND-RA, CB, LD, R-O, R-O-1, and PB). The amendment would help ease unnecessary regulatory hurdles by eliminating the requirement to obtain either a Conditional Use permit from the Planning Board or Special Exception from the Zoning Board.

9. **Miscellaneous minor amendments:**

- **Amend Section 501.1.H** to permit existing non-conforming buildings to be included as part of a PUD (*see p. 8 of the redline*).
- **Section 611.A ("Keeping of Chickens")** to increase the number of chickens permitted for one- and two-family dwellings (*see p. 18 of the redline*).
- To clarify existing language and to make certain editorial changes to Section 302.4.B ("Enhanced Performance Standards - Authorization"), the Section 500 planned development table, Section 608 ("Signs"), Section 703.2 (discontinuance of non-conforming structures), Section 702.5 (expansion of non-conforming uses), and Appendix A (revise "health club" definition, "vehicular sales" definition, and sign-related definitions, and add definition for "sign structure").

C. **COUNCIL ZONING MAP AMENDMENT**



10. 18 Bridge Street (Tax Map 58, Lot 2): The property at 18 Bridge Street is a +/-2.9 acre lot that is split-zoned CB and R-3. The CB zoning designation extends 200 feet from the centerline of Bridge Street. However, the improved and developable portion of the lot already extends well past the existing CB District boundary line, and the land use of the entire property is identified as “Central Business District” on the Master Plan Future Land Use Map. The proposed zoning map amendment would extend the CB zoning an additional 225 ft. so that the front half of the property can be redeveloped for uses allowed in the CB District, consistent with the desired land use of the property as reflected on the Future Land Use Map. The recommendation to adjust the zoning boundary on this parcel is also among the key recommendations of the West Lebanon Revitalization Advisory Committee’s Action Plan for West Lebanon. As a gateway to West Lebanon, the redevelopment of this property could serve as a catalyst for future redevelopment and financial investment in downtown West Lebanon.

SCHEDULE

The procedure to adopt zoning amendments is set forth in Section 1000 of the Zoning Ordinance and is summarized below:

1. Staff presents amendments to City Council for initial consideration - *scheduled for the October 5, 2022 Council meeting*. Section 1000.2.A.
2. If Council decides to move forward with the amendments, they will set a tentative schedule including review by legal counsel, review before the City’s land use boards, and a public hearing before the Council. Section 1000.3.A.
3. The amendments will be forwarded to the City’s attorney for review. *Legal opinion expected to be received by the end of October*. Section 1000.3.B.2.
4. The amendments are forwarded to the City’s land use boards for review. Sections 1000.3.B.1 and C.
 - a. Zoning Board – *expected to be scheduled for the November 7, 2022 meeting*.
 - b. Conservation Commission – *expected to be scheduled for the November 10, 2022 meeting*.
 - c. Planning Board - *expected to be scheduled for the November 21, 2022 meeting*.
5. The Council will then hold a work session to review the amendments as modified based on legal input and land use board feedback – *expected to be scheduled for the January 4, 2023 Council meeting*.
6. Finally, the Council will hold a public hearing followed by a vote on whether to adopt the amendments and/or to place amendments on the March ballot for voter consideration - *expected to be scheduled for January 18, 2023 Council meeting*. Section 1000.3.D.

Please note that amendments to the Article III Tables of Use for the R-1, R-2, R-3, RL-1, RL-2, and/or RL-3 Districts require approval by referendum vote per Section 1000.4 of the Zoning Ordinance. The remainder require adoption by City Council per Section 1000.4.B of the Zoning Ordinance (keeping in mind that the Council has the ability to place any proposed amendment on the March ballot for voter approval).

ATTACHMENT

- Redline excerpt of current Zoning Ordinance (redline last revised 9/27/22)

DRAFT AMENDMENTS TO THE CITY OF LEBANON ZONING ORDINANCE

ARTICLE II GENERAL PROVISIONS

[...]

SECTION 205 ONE PRINCIPAL STRUCTURE PER RESIDENTIAL LOT.

There shall be only one **principal structure** on a **lot** in the **residential districts**, R-O district, and R-O-1 district, except when:

205.1 Approved pursuant to the PUD provisions of this Ordinance or as a cottage development per Section 509; or

[...]

SECTION 209 MANUFACTURED ~~HOMES~~HOUSING.

Manufactured ~~homes~~housing units are permitted only in **manufactured ~~home~~housing parks** or in ~~manufactured home subdivisions or manufactured home Planned Unit Residential Developments (housing PURDs)~~. See ~~Sections:~~ Section 503 ("MANUFACTURED HOUSING PARKS") and Section 504 ("MANUFACTURED HOUSING PURDs").

[...]

ARTICLE III USE DISTRICTS

SECTION 302 USES.

[...]

302.4 Enhanced Performance Standards.

[...]

- B. Authorization. Pursuant to RSA 674:21, II, the Planning Board is hereby authorized to grant a **conditional use** permit for uses identified in Article III as permitted by **conditional use** permit, or as otherwise specified herein, if the application is found to be in compliance with the enhanced performance standards set forth in Section 302.4.D.

[...]

SECTION 303 LIGHT INDUSTRIAL DISTRICT (IND-L).

[...]

303.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> [...] <u>Equipment and machinery sales, rental and service</u> <u>Group day care facility per Section 604</u> [...] 1.	<u>Commercial/Non-Residential</u> [...] 1. Group day care facility per Section 604 [...]

[...]

303.4 Outdoor Storage.

Outdoor storage shall be permitted as an **accessory use** to a permitted use if it occupies an area of 20 percent or less of the footprint area of the **principal building**. Otherwise, outdoor storage shall require a **conditional use** permit from the Planning Board pursuant to Section 302.4. The 20% limitation shall not apply to cContractor's yYards and equipment and machinery sales, rental and service. All outdoor storage, including outdoor storage for a cContractor's yYard and equipment and machinery sales, rental and service, shall be appropriately screened from view from abutting **parcels** and shall not occupy required yard areas.

[...]

SECTION 303A INDUSTRIAL - RAIL ACCESS DISTRICT (IND-RA).

[...]

303A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
<u>Commercial/Non-Residential</u> [...] <u>Group day care facility per Section 604</u>	<u>Commercial/Non-Residential</u> [...] 1. Group day care facility per Section 604

[...]

SECTION 306 CENTRAL BUSINESS DISTRICT (CB).

306.1 Purpose.

The purpose of the CB District is to facilitate smart growth and mixed-use development, other related commercial activities, and higher density residential uses that provide more life and opportunities for recreational and cultural offerings with a mix of uses in new or redeveloped properties. These CB District regulations are flexible in order to invite reinvestment on existing parcels and simultaneously attract new developments to enable opportunities for economic development by capitalizing on the attractiveness of the Connecticut River. The CB District is intended to promote an environment that is safe for walking and biking and provide for uses that are compatible and which would tend to retain and enhance the existing character of the area~~provide in town areas for retail and service businesses, banks, offices and government facilities in West Lebanon. Other related commercial activities and higher density residential uses should be encouraged.~~

306.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] <u>Commercial/Non-Residential</u> [...] 1. <u>Group day care facility per Section 604</u> 4. [...]	<u>Commercial/Non-Residential</u> [...] 1. Group day care facility per Section 604

[...]

SECTION 307 LEBANON DOWNTOWN DISTRICT (LD).

[...]

307.2 Table of Uses.

<u>Permitted Uses</u>	<u>Uses by Conditional Use Permit</u> (see Section 302.4)
[...] <u>Commercial/Non-Residential</u> [...] 1. <u>Group day care facility per Section 604</u>	<u>Commercial/Non-Residential</u> [...] 1. 2. Group day care facility per Section 604

[...]

SECTION 308 RESIDENTIAL ONE DISTRICT (R-1).

[...]

308.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] <u>Planned Developments</u> 1. Manufactured home-housing park per Section 503 2. Manufactured home subdivision per Section 504 (or Manufactured home-housing PURD per Section 504	[...]

[...]

SECTION 311 RESIDENTIAL-OFFICE DISTRICT (R-O). [...]

311.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] <u>Commercial/Non-Residential</u> [...] <u>1. Group day care facility per Section 604</u> [...] 1.2.	[...] <u>Commercial/Non-Residential</u> [...] 1. Group day care facility per Section 604 [...] 2.

[...]

SECTION 311A RESIDENTIAL-OFFICE-ONE DISTRICT (R-O-1).

[...]

311A.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] <u>Commercial/Non-Residential</u> [...] <u>1. Group day care facility per Section 604</u> [...] 1.2.	[...] 1. Group day care facility per Section 604 [...] 2.

[...]

SECTION 311B PROFESSIONAL BUSINESS DISTRICT (PB).

[...]

311B.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] Commercial/Non-Residential 1. <u>Group day care facility per Section 604</u> [...] 4.2.	Commercial/Non-Residential [...] 1. Group day care facility per Section 604 [...] 2.

[...]

SECTION 312 RURAL LANDS ONE DISTRICT (RL-1).

[...]

312.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] Planned Developments 1. Manufactured home parkhousing per Section 503 2. Manufactured home subdivision per Section 504 (or Mmanufactured home PURD) per Section 504 3. [...]	1. [...]

[...]

SECTION 313 RURAL LANDS TWO DISTRICT (RL-2).

[...]

313.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] Planned Developments 1. Manufactured home parkhousing per Section 503 2. Manufactured home subdivision per Section 504 (or Mmanufactured home housing PURD) per Section 504 [...] 3.	[...] 1.

[...]

SECTION 314 RURAL LANDS THREE DISTRICT (RL-3).

[...]

314.2 Table of Uses.

<u>Permitted Uses</u>	<u>Special Exception Uses</u> (see Section 801.3)
[...] <u>Planned Developments</u> [...] 1. <u>Accessory use to any one-family dwelling</u>	[...] 1.

[...]

ARTICLE IV OVERLAY DISTRICTS

SECTION 400 ESTABLISHMENT OF OVERLAY DISTRICTS.

The following overlay districts are hereby established:

- Wetlands Conservation District
- Floodplain District
- Steep Slope District
- Airport Protection District
- Historic District
- Landfill Reclamation District
- Riverbank Protection District
- Highway Commercial District

In the areas of the City which are included in an overlay district, the regulations of the overlay district shall apply in addition to the regulations of the applicable use district. Where regulations in a use district and an overlay district conflict, the regulation of the most restrictive district shall apply.

[...]

SECTION 411 HIGHWAY COMMERCIAL DISTRICT.

411.1 Delineation of District.

The area and boundaries of the Highway Commercial District are shown on the Highway Commercial District Map of the City of Lebanon and is made a part of this Ordinance and the Official Zoning Map of the City of Lebanon. The Highway Commercial District Map is attached hereto as Appendix D.

411.2 Existing Non-Conforming Freestanding Signs.

For lots in the Highway Commercial District, notwithstanding any provision to the contrary set forth in Section 608 ("Signs"), the utilization of any legal non-conforming freestanding sign in existence as of (insert date of adoption) that is non-conforming due to its height shall not prohibit the installation or use of a second freestanding sign provided that the second freestanding satisfies all applicable requirements under Section 608.4.A.4 (other than the limitation on one (1) freestanding sign per lot).

[...]

ARTICLE V SUBDIVISIONS AND PLANNED DEVELOPMENTS

SECTION 500 GENERAL.

[...]

Planned developments shall be permitted in accordance with the following table:

District	PURD per Section 501.2	PRec per Section 501.3	Industrial PUD per Section 501.4	Commercial PUD per Section 501.4	<u>Manufactured Housing PURD per Section 501.2 / Manufactured Home Housing Park per Section 503 and Manufactured Home Subdivision per Section 504</u>	Recreational Camping Parks per Section 505	Medical Center Complexes per Section 506	Planned Business Park per Section 508	<u>Cottage Development</u>
IND-L			<u>CUP</u> P					<u>CUP</u> P	
IND-RA			<u>CUP</u> P					<u>CUP</u> P	
GC				<u>CUP</u> P					
GC-1				<u>CUP</u> P					
CB				<u>CUP</u> P					
LD									
R-1	<u>CUP</u> P				<u>CUP / P</u>				<u>CUP</u>
R-2	<u>CUP</u> P								<u>CUP</u>
R-3	<u>CUP</u> P*								<u>CUP</u>
R-O	<u>CUP</u> P								<u>CUP</u>
R-O-1	<u>CUP</u> P								<u>CUP</u>
PB						SE			
RL-1	<u>CUP</u> P*	<u>CUP</u> P			<u>CUP / P</u>	SE			
RL-2	<u>CUP</u> P*	<u>CUP</u> P			<u>CUP / P</u>	SE			
RL-3	<u>CUP</u> P*	<u>CUP</u> P							
MC				P <u>CUP</u>			P		

P = permitted

SE = **special exception** required

CUP = **conditional use** permit required

*Subject to Section 501.2.B.1.

SECTION 501 PLANNED UNIT DEVELOPMENT (PUD).

501.1 General Requirements.

[...]

H. Dimensional Requirements.

[...]

4. Existing buildings. An existing **building** on a site proposed to be developed as a PUD may be incorporated into a PUD even if the **building** is nonconforming with respect to the requirements of Section 501.1. However, the extent of the nonconformity may not be increased unless the proposed change to the existing **building** is determined by the Planning Board to be consistent in character, scale and design with the proposed PUD.

[...]

501.2 Planned Unit Residential Development (PURD).

[...]

C. Uses Allowed in a PURD.

1. Residential Uses. A PURD may include **dwelling units** in **one-family**, **two-family** and **multi-family dwellings**. A mix of **dwelling** types may be permitted at the reasonable discretion of the Planning Board. In a **manufactured home-housing PURD** only **manufactured housing unit** homes are permitted and shall be on individual lots.
2. Non-Residential Uses. Certain non-residential uses may be established within a PURD, subject to the following provisions:

[...]

This provision shall not apply to a **manufactured housing PURD**.

3. All Other Uses in Underlying Zoning District. Any use permitted in the zoning district in which the PURD is located may be permitted within the PURD. Uses allowed by **special exception** or by **conditional use** permit in the underlying zoning district where the PURD is located may also be permitted within the PURD, and shall not require a **special exception** from the Zoning Board or a separate **conditional use** permit from the Planning Board. This provision shall not apply to a **manufactured housing PURD**.

SECTION 503 MANUFACTURED ~~HOME~~-HOUSING PARKS.

503.1 Area.

A manufactured ~~home~~-housing park shall have an area not less than 10 acres ~~not more than 50 acres~~.

503.2 Layout.

A. A manufactured ~~home~~-housing park shall provide:

1. Individually designated spaces for each manufactured ~~home~~housing unit.
2. Interior access streets for all spaces. Such streets shall have a ~~right-of-way at least 40 feet in width and a~~ surface travel way at least 20 feet in width built on 12 inches of compacted gravel. All interior streets shall be named in accordance with emergency 911 provisions, and shall provide adequate interior circulation with no dead ends unless otherwise approved by the Fire Department.
- ~~3. All weather walkways along streets.~~
43. At least ~~20~~-15 percent of the total area for common open space or recreation, ~~exclusive of wetlands and slopes of 25% or more~~. This area shall not include roads, streets, **parking areas**, **service areas**, non-recreation **accessory buildings** or similar facilities. This area may include facilities for recreation and/or playgrounds.
54. A **buffer** at least ~~50~~-25 feet in width maintained as a landscape area abutting all manufactured home property lines.
- ~~6. Adequate facilities for recreation and/or playgrounds.~~

B. A manufactured ~~home~~-housing park shall have Site Plan Review approval from the Planning Board.

503.3 Manufactured ~~Home~~-Housing Spaces.

- A. Each manufactured ~~home space~~housing unit shall be at least ~~105~~,000 sq. ft. in area and shall front on an interior access street.
- B. Each space shall have a separate **driveway**.
- C. Each space shall include a **parking area** built on 12 inches of compacted gravel. Said **parking area** shall be large enough to accommodate two parking spaces, ~~each 10 feet wide by 22 feet long~~.
- ~~D. At least 100 sq. ft. of indoor storage.~~

- ~~E~~D. Manufactured ~~home~~housing unit spaces shall not be located on slopes having a natural grade of ~~45~~10% or greater.

503.4 Utilities and Services.

For each manufactured housing unit:

- A. ~~An attachment for water supply.~~—The water supply source must meet all local and state regulations.
- B. ~~An attachment for sewage disposal.~~—The method of sewage disposal must be in compliance with all local and state regulations. ~~It shall not be located on the manufactured home space or any adjacent manufactured home space unless the manufactured home space is at least 1-1/2 acres in size.~~
- C. An electrical source supplying at least 60 amps, 120/240 volts. The installation shall comply with all applicable state and city electrical laws and regulations. ~~Such electrical outlets shall be weatherproof.~~ All electrical, television and other wired services shall be installed underground.
- D. Provisions for disposal of household garbage and rubbish.

503.5 Siting Manufactured ~~Homes~~Housing Units.

- A. A nonporous pad shall be provided for each manufactured ~~home~~housing unit.
- B. No manufactured ~~home~~housing unit shall be closer than ~~50~~25 feet to a public street right-of-way or to a property line of the manufactured ~~home~~housing park.
- C. A manufactured ~~home~~housing unit shall be located so that it is at least 20 feet from the ~~right-of-way~~surface of the interior road and ~~ten~~10 feet from any other manufactured ~~home~~housing unit space.

503.6 Density.

One (1) ~~manufactured housing~~ unit per 5,000 sq. ft. of ~~lot area~~ is permitted.

SECTION 504 MANUFACTURED ~~HOME~~HOUSING
~~SUBDIVISIONS~~PURDS.

Manufactured housing ~~PURDs~~ are allowed by ~~conditional use~~ permit per Section 501.1 and shall satisfy all requirements of Section 501.1 and Section 501.2. Notwithstanding the applicability standards set forth in Section 501.2.B.1, the minimum lot size for a ~~manufactured housing PURD~~ shall be 20 acres, and notwithstanding the density requirements of Section 501.2.D.2, one (1) ~~manufactured housing~~ unit per 5,000 sq. ft. of ~~lot area~~ is permitted. The number of dwelling units may be increased by up to 12 percent at the discretion of the Planning Board, per Section 507. Manufactured home subdivisions shall be at least 20 acres in size and shall have at least six (6) lots. Each ~~lot~~ shall have at least two (2) parking spaces. Manufactured Home ~~PURDs~~ are allowed, in accordance with Section 501.2.

[...]

SECTION 507 BONUSES FOR CERTAIN PLANNED DEVELOPMENT.

PUD's and ~~manufactured home housing parks and subdivisions~~ may receive an increased density bonus pursuant to Table 507.1 and the provisions of this section.

507.1 Increased Density Bonuses.

Maximum Amount of Bonus Available

Type of Development	For Use of Technique	For Sensitivity to Environment	For Creating Affordable Workforce Housing	For Reducing Fiscal Impact	For Energy Efficient Design	For Renewable Energy Systems Facilities
PURD or PRec	12%	---	10%	---	10%	10%
Manufactured housing PURD MH Park (or subdivision)	NONE 12%	---	---	---	10%	10%
Subdivision	NONE	---	---	---		

507.2 Criteria for Award of Bonus.

The Planning Board may allow a gross density of development greater than allowed under Article III of this Ordinance for PURD's, manufactured housing PURDs, (or PRec's) ~~(or subdivisions)~~ or ~~traditional subdivisions~~ up to a maximum bonus allowed by Table 507.1. The Planning Board may approve a density bonus for any one or more of the categories identified in Section 507.1. Density bonuses granted pursuant to this section shall be cumulative. The following guidelines shall be used in determining whether a bonus shall be awarded.

A. Use of Technique. An applicant may receive a bonus not exceeding 12% for using either the PURD or PRec form of development.

~~B. Sensitivity to Environment. (Reserved)~~

~~B.C. Affordable Workforce Housing. (Reserved)~~
For every dwelling unit which qualifies as **workforce housing**, one (1) market rate dwelling unit may be added as a density bonus, to a maximum of 20 bonus units or 10%, whichever is greater, as approved by the Planning Board.

D. Energy Efficient Design. The Planning Board may award a density bonus of up to 10% for any development that proposes to participate in the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) certification program. In evaluating the requested density bonus, the Planning Board shall take into account the proposed level of LEED certification, the extent of buildings

proposed to be LEED certified, and any other relevant factors and considerations related to the proposed development and the LEED certification program.

C. Renewable Energy Systems. The Planning Board may award a density bonus of up to 10% when one or more non-accessory **renewable energy systems** are incorporated into the design of the development. The bonus awarded shall be commensurate with the amount of energy produced for the development by the proposed **renewable energy system(s)**.

~~D. Reduced Fiscal Impact. (Reserved)~~

The decision of the Planning Board in awarding such a bonus and the amount thereof is hereby declared to be a discretionary administrative decision of the Planning Board. In no case shall the Planning Board award a bonus if it determines that the limitations of a site cannot accommodate the increase.

[...]

Section 509 COTTAGE DEVELOPMENTS.

509.1 Purpose. The purpose of this section is to provide opportunities for single family housing that is small, energy-efficient, and affordable; to allow flexibility in site and design standards while promoting projects that ensure compatibility with surrounding land uses and existing neighborhoods; and to promote sustainability and neighborhood interaction through integrated design.

Cottage developments are intended to serve as part of the City's overall housing strategy to encourage affordability, innovation and variety in housing design and site development while ensuring compatibility with existing neighborhoods, and to promote a variety of housing choices to meet the needs of a population diverse in age, income, household composition and individual needs.

509.2 Applicable Use Districts. **Cottage developments** are allowed by **conditional use** on Class 1 lots in the R-1, R-2, R-3, R-O, and R-O-1 Districts, in accordance with Section 302.4.D and the requirements of this section.

509.3 Number and Arrangement of Units. **Cottage developments** shall contain a minimum of four (4) and a maximum of sixteen (16) **cottages**, located in one or more clusters to maximize efficiency of land use and to encourage a sense of community among the residents. Each cluster shall include a minimum of four (4) units.

509.4 Lot Size. All **cottage developments** shall have a minimum lot area of one-half acre.

509.4 Density and Building Coverage. Permitted density shall be based on 2,500 sq. ft. of lot area per each **cottage**. The maximum permitted building coverage shall be 30%.

509.5 Design Standards. The following design standards are intended to define design parameters to create a small community of cottages oriented around open space and to achieve compatibility with adjacent uses.

A. Individual Cottage Spaces. For each detached cottage, the site plan approved by the Planning Board shall delineate a building site for each detached cottage of no less than 1,500 sq. ft.

B. Detached Cottages. At least 50% of the **cottages** in the development shall be detached units.

C. Interior Setbacks. The minimum setback between units within a cottage development shall be 10 feet, measured from the nearest point of the exterior walls.

D. Common Open Space. A minimum of 400 square feet of common open space shall be provided per **cottage** and per cluster. The common open space area for each cluster shall be contiguous and shall abut all of the **cottages** in the cluster. **Cottages** shall be oriented around and have their main entry from the common open space.

E. Roofs.

1. The highest point of the roof of the **cottage** shall not exceed 24 feet.

2. **Cottages** shall have an unenclosed, covered front primary entry and porch of at least 60 square feet in size. The front porch shall be oriented toward a common open space. The intent of this porch requirement is to create outdoor space in each **cottage** that is visually and physically connected to the common open space and to other cottages.

F. Parking Location and Screening Requirements. The **cottage** development shall provide a minimum number of off-street parking spaces equal to one (1) parking space per **cottage** and a maximum number of off-street parking spaces equal to one and a half (1.5) spaces per cottage. In addition:

1. Parking areas and driveways shall comply with applicable minimum yard requirements for the underlying zone.

2. Parking areas shall be screened from public streets and adjacent residential uses by landscaping or architectural screening.

3. Parking areas shall be prohibited in the minimum required front yard.

4. Parking areas shall be separated from the common open space by landscaping or an architectural screen.

G. Existing Dwellings. An existing detached or attached one-family dwelling that is incorporated into a cottage development and is nonconforming with respect to the standards of this section shall be permitted to remain on a site used for a cottage

development and shall be considered a **cottage** for purposes of this section. However, the extent of the noncompliance may not be increased except unless the proposed change is determined by the Planning Board to be consistent in character, scale and design with the cottage housing development.

- H. Street Facing Facades. All **cottages** within 50 feet of a public street shall have street facing facades that avoid blank walls in order to avoid the appearance of “turning their backs” to the street. For all such **cottages**, a minimum of 25 percent of the street facing façade shall be comprised of windows and/or glass doors.

509.7 Illustrations of Cottage Development Design.

[Note: proposed illustrations are forthcoming]

[...]

SECTION 603 SENIOR HOUSING COMPLEXES AND WORKFORCE HOUSING.

The Board of Adjustment may grant a **special exception** to allow a **senior housing complex** or a development with **workforce housing** to have a greater density than that specified for the applicable zoning district. **Senior housing complexes** may include **congregate living facilities**, subject to granting of a **special exception** by the Board of Adjustment.

[...]

SECTION 607 PARKING.

[...]

607.3 Maximum Off-Street Parking Requirement.

[...]

- B. Off-street parking in excess of 120% but not more than 150% of the minimum requirement set forth in Section 607.2 may be permitted as set forth below.

- 1) The following categories of parking spaces shall not be counted towards the 120% maximum set forth in subsection A, but shall be subject to the 150% cap set forth in subsection B:

- a. Spaces provided within a **parking structure**.
- b. Spaces dedicated for vehicles participating in a carpool, vanpool, or car-share program. Such spaces shall be reserved and used only for carpool, vanpool, or car-share program parking, and shall be signed or marked accordingly.
- c. ~~Parking spaces dedicated for vehicles operating on primarily alternative fuels including but not limited to electric, natural gas, and hydrogen. Such spaces shall be reserved and used only for~~

~~alternative fueled vehicles and shall be signed accordingly and/or the spaces shall be painted with the words "Alternative Fueled Vehicles Only."~~

[...]

607.8 Electric Vehicles.

- A. Purpose. The purpose of this section is to facilitate the transition to **electric vehicle** use and to expedite the establishment of convenient, cost-effective **electric vehicle infrastructure** that such a transition necessitates.
- B. Applicability. **EV charging stations** are allowed as an **accessory use** in all zoning districts. When the retail charging of **electric vehicles** is proposed to be the principal use of a **lot**, then the proposed **EV charging station** shall be considered a **service station** for zoning purposes.
- C. EV Infrastructure Requirements / Off-Street EV Parking Requirements. **EVSE-installed spaces**, **EV-ready spaces**, and **EV-capable spaces** shall be provided as follows:
1. One- and Two-Family Dwellings. All new **one-** and **two-family dwellings** shall provide at least one (1) **EV-ready** space per **dwelling unit**.
 2. Multi-Family Dwellings. Parking for **multi-family dwellings** shall include:
 - a. **EVSE-installed spaces** for a minimum of 5% of proposed **off-street parking spaces**.
 - b. **EV-ready spaces** for a minimum of 20% of proposed **off-street parking spaces**.
 - c. **EV-capable spaces** for a minimum of 65% of proposed **off-street parking spaces**.
 3. Non-Residential Uses. Parking for uses requiring or proposing to provide 50 or more **off-street parking spaces** shall include:
 - a. **EVSE-installed spaces** for a minimum of 2% of proposed **off-street parking spaces**, with a minimum of two **EVSE-installed spaces**.
 - b. **EV-ready spaces** for a minimum of 10% of proposed **off-street parking spaces**.
 - c. **EV-capable spaces** for a minimum of 50% of proposed **off-street parking spaces**.
 4. Where the calculations above result in a fractional parking space, it shall round up to the next whole number.
 5. Where the number of **EVSE-installed spaces** provided exceeds the minimum required, the excess spaces shall be deducted from the total number of required **EV-ready spaces**.

6. Where the number of **EV-ready spaces** provided exceeds the minimum required, the excess **EV-ready spaces** shall be deducted from the total number of required **EV-capable spaces**.
7. Up to five (5) **Level 2 EV-installed spaces** may be substituted with one (1) **Level 3 EV-installed space** (minimum 50kW).
8. **EVSE-installed spaces, EV-ready spaces, and EV-capable spaces** are to be included in the calculation for both the number of minimum required and maximum permitted off-street parking spaces.
 - a. Every two (2) **EVSE-installed spaces** provided in addition to the required minimum may be counted as four (4) **off-street parking spaces** as relates to Section 607.1 (Minimum Off-Street Parking Requirements), for reduction of total required parking not greater than 10 percent of the total amount of required parking.

SECTION 608 SIGNS.

[...]

608.3 Prohibited Signs.

The following are prohibited:

- A. **Off-premise signs**, except as may be permitted per Sections 608.6.A.1 and 2. A **sign advertising** an on-site use that has ceased operation or vacated the **lot** shall be considered an **off-premise sign** after a period of 180 consecutive days following the discontinuance of the use and shall be removed as required by Section 608.8.C.3. [...]

608.4 Non-Residential Uses.

A. Non-Residential Uses in Commercial and Industrial Districts. [...]

4. **Freestanding Signs.** A **lot** in the **commercial** and **industrial districts** may display one **freestanding sign** subject to the following regulations:
 - a. **Sign Area and Height Regulations.**
 - i. **Freestanding signs** must comply with the dimensions set forth in the following table:

	Zoning District					
Maximum	<u>GC & GC-1</u>	<u>CB</u>	<u>LD</u>	<u>IND-L</u>	<u>IND-RA</u>	<u>IND-H</u>
height	25 ft.	12 ft.	12 ft.	12 ft.	12 ft.	12 ft.
sign area	64 sq. ft.	32 sq. ft.	24 sq. ft.	64 sq. ft.	64 sq. ft.	64 sq. ft.

~~The size of any **freestanding sign** shall be deducted from the maximum **sign area** permitted on a **lot** under Section 608.4.A.1.a ("Maximum Sign Area"), except as set forth in Section 608.4.A.4.a.ii below.~~

- ii. Strip Plazas and Multi-Tenant Buildings. A **freestanding sign** for a property improved with a **strip plaza** or **multi-tenant building** may exceed the maximum **sign area** set forth in Section 608.4.A.4.a.i by up to 50 percent, except in the CB and LD Districts. ~~Such additional sign area shall not be deducted from the maximum sign area permitted on a lot under Section 608.4.A.1.a ("Maximum Sign Area").~~ [...]

608.7 Signs Allowed Without a Building Permit.

The following **signs** (1) are allowed in addition to any other **sign** permitted by this Section, (2) do not require a building permit, and (3) are exempt from the requirements of this Section except for the prohibition of **non-static signs** set forth in Section 608.3.C, the requirements of Section 608.2.D ("Clear Vision & Movement"), and the requirements of Section 608.2.E ("Maintenance"):

[...]

- J. Medical Center Complexes. On-premise **signs** for **medical center complexes** located in the Medical Center District, unless such signs are visible from a **public street**.

[...]

SECTION 610 ACCESSORY DWELLING UNIT (ADU).

[...]

An **accessory dwelling unit** shall comply with the following criteria:

- A. An **ADU** is ~~only~~ allowed on any lots in any zoning district with a ~~detached one-family dwelling~~. For lots in any zoning district with a two-family dwelling, a detached ADU is allowed. and only Only one such **ADU** is permitted per **lot**.
- B. The appearance and character of the existing or proposed **ADU** shall remain single family in nature if converting a one-family dwelling to a one-family dwelling with an ADU, and shall remain two-family in nature if converting a two-family dwelling to a two-family dwelling with an ADU.
- C. The property owner must occupy ~~either the principal dwelling unit or the ADU~~ one of the dwelling units as their permanent residence. A temporary leave of absence by the property owner is allowed, provided the owner-occupied unit is not rented or occupied by anyone other than the property owner during the temporary leave or absence.
- D. The **ADU** must be located in the same **building** as the principal **dwelling unit(s)** unless the **lot** meets or exceeds the minimum required lot size for the respective zoning district.

[...]

[...]

- E. If the **ADU** is located within or by an addition to the existing principal building~~one-family dwelling~~, an interior door shall be provided between the ADU and the principal dwelling unit ~~and the ADU~~ or between the ADU and one of the principal dwelling units if the principal building is a two-family dwelling.

[...]

- G. Size of ADU.

1. Conversion of one-family dwelling. If the **gross living area** of the principal **dwelling unit** is 1,500 square feet or less, the **gross living area** of the **ADU** may be no greater than 50% of the **gross living area** of the principal **dwelling unit**. If the **gross living area** of the principal **dwelling unit** is greater than 1,500 square feet, but less than 3,000 square feet, the **gross living area** of the **ADU** shall not exceed 750 square feet. If the principal **dwelling unit** is greater than 3,000 square feet, the **gross living area** of the **ADU** can exceed 750 square feet provided the **ADU** is no greater than 25% of the **gross living area** of the principal **dwelling unit**.

2. Conversion of two-family dwelling. If the **gross living area** of the smaller of the two principal **dwelling units** is 1,500 square feet or less, the **gross living area** of the **ADU** may be no greater than 50% of the **gross living area** of the smaller of the two principal **dwelling units**. If the **gross living area** of the smaller of the two principal **dwelling units** is greater than 1,500 square feet, but less than 3,000 square feet, the **gross living area** of the **ADU** shall not exceed 750 square feet. If the smaller of the two principal **dwelling units** is greater than 3,000 square feet, the **gross living area** of the **ADU** can exceed 750 square feet provided the **ADU** is no greater than 25% of the **gross living area** of the smaller of the two principal **dwelling units**.

[...]

- J. In addition to the two (2) parking spaces required for ~~the principal residence~~ each principal dwelling unit, one (1) additional parking space for the **ADU** must be provided.

[...]

SECTION 611 KEEPING OF CHICKENS. [...]

The keeping of chickens shall be permitted for all **one-** and/or **two-family dwellings**, provided the following standards are met (these standards do not apply to chickens kept in the rural lands zoning districts where **agriculture** is a permitted use):

- A. It shall be unlawful to keep more than the following number of chickens on any **lot**:
- | | |
|---------------------------------------|---|
| Up to 2 <u>1</u> acres | up to a total of 4 <u>5</u> hens |
| <u>Up to 2 to 5</u> acres | up to a total of 10 hens |
| More than 5 <u>2</u> acres | <u>up to 15 hens plus</u> up to 2 hens per acre. |

[...]

ARTICLE VII NON-CONFORMITIES

[...]

SECTION 702 NON-CONFORMING USES.

[...]

702.5 Expansion of Use.

- A. The Zoning Board of Adjustment may, by **special exception**, permit a legal **non-conforming use** pursuant to Section 700 to be expanded, provided that the following tests are met in lieu of Section 801.3:

[...]

- B. As part of a proposed expansion under subsection A, the Board of Adjustment may allow a legal **non-conforming use** to expand into an addition to an existing **building** occupied by the **non-conforming use** provided that the gross footprint floor area of the addition is no greater than ten percent (10%) of the size of the footprint-gross floor area of the existing **building** measured as of January 22, 2020.

[...]

SECTION 703 NON-CONFORMING BUILDINGS AND STRUCTURES.

[...]

703.2 Abandonment, Discontinuance, Destruction.

Any **non-conforming building** or **non-conforming structure** which is partially or wholly destroyed by reason of any cause whatsoever, including obsolescence, fire, explosion, storm, floods, or other acts of God, may be resumed or restored and operated in its former non-conformity if same is done within two (2) years; thereafter, any **non-conforming building** or **structure** shall not be re-established if such **building** or **structure** has been discontinued for a period of two (2) years or more; provided, however, that the Zoning Board of Adjustment, upon an appeal from the Zoning Administrator's decision concerning such resumption or restoration, may permit the resumption or restoration of the same **building** or **structure** if it finds: (a) that no action incorporating an intent to abandon the **non-conforming building** or **structure** has been taken by the owner or occupant, including but not limited to a change in **non-conforming use** to razing or remodeling the **building** or structure; and (b) that the failure to resume or restore the use during the two-year period was due to economic, regulatory, or other forces beyond the control of the owner or occupant.

Non-conforming signs shall be subject to Section 608.8 in lieu of Section 703.2. Non-conforming sign structures shall be subject to Section 703.2.

[...]

APPENDIX A DEFINITIONS

[...]

CENTRALIZED SEWER SYSTEMS: A wastewater disposal system that does not connect to the municipal wastewater disposal system and that is designed to serve as the wastewater disposal system for an entire development. Such a system shall be approved by the [New Hampshire Department of Environmental Services \("NHDES"\)](#) ~~NHWSPCD and the City of Lebanon~~. Such systems, if approved, are permitted in the RL Districts only.

[...]

CLASSIFICATION (CLASSES) OF LOTS: Whether a *lot* is classified as "1", "2", or "3" depends on the provisions for water supply and sewage disposal, as follows:

CLASSIFICATION	DESCRIPTION
CLASS 1	Municipal water and municipal sewerage, or community water system and centralized sewer system approved by NHDES
CLASS 2	Municipal sewerage or centralized sewer system approved by NHDES
CLASS 3	Water and sewerage service that is neither Class 1 or Class 2

[...]

COTTAGE: A detached one-family dwelling unit with a maximum footprint of seven hundred and fifty square feet (750 sq. ft.), and a maximum floor area of one thousand two hundred and fifty square feet (1,250 sq. ft.). Spaces with a ceiling height of six feet or less measured to the exterior walls, such as in a second-floor area under the slope of the roof, shall be excluded when calculating the total floor area of a cottage. Cottages may also be attached horizontally in blocks of no more than three (3) units.

COTTAGE DEVELOPMENT: A development on a single lot having shared open space intended to serve [cottages](#) that interact together as a small community.

[...]

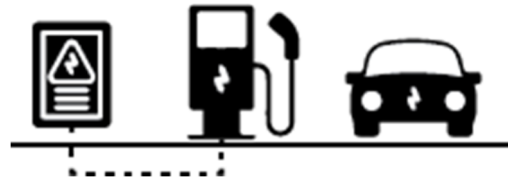
DWELLING: A *building* designed for and used primarily by one or more families for living quarters, but not including [recreational vehicles \(RVs\)](#), ~~manufactured homes~~ [housing](#), trailers of any kind, *hotels*, *motels*, *group residences*, *lodging houses*, institutional homes, residential clubs, or other commercial accommodations offered for occupancy.

[...]

DWELLING UNIT: One or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease, and physically separated from

any other rooms or **dwelling units** which may be in the same structure, and containing independent cooking, sanitary and sleeping facilities. The term includes sectional homes and modular units but does not include **manufactured homehousing**, **motel**, **hotel**, **lodging house** or similar structures.

[...]



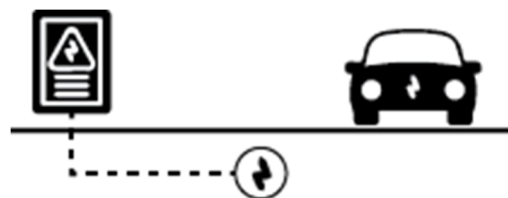
ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE) / EV charging station: The apparatus installed specifically for the purpose of transferring energy between the site or building wiring and the Electric Vehicle. EVSE does not include any equipment affixed to the electric vehicle.

ELECTRIC VEHICLE INFRASTRUCTURE: Structures, machinery, and equipment necessary and integral to support an **electric vehicle**, including **EV charging stations** and electrical outlets.

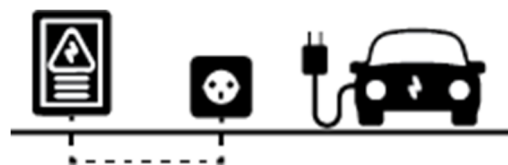
ELECTRIC VEHICLE (EV): An automotive-type vehicle for on-road use primarily powered by an electric motor, including any battery electric vehicle, fuel cell electric vehicle, or plug-in hybrid electric vehicle, that draws current from an onboard battery charged through a building or site electrical service, **EVSE**, or other source of electric current.

EQUIPMENT AND MACHINERY SALES, RENTAL AND SERVICE: The sale and/or rental of new or used construction, concrete, building and/or agricultural equipment and/or machinery. The outdoor storage and display, maintenance, and servicing of such equipment and machinery is permitted, provided that no retail sale of gasoline or oil is allowed.

EV-CAPABLE SPACE: An **off-street parking space** with electrical panel capacity and space for a branch circuit dedicated to the parking space that is not less than 40-ampere and 208/240-volt and equipped with raceways, both underground and surface mounted, to enable the future installation of **EVSE**. For two adjacent EV-capable spaces, a single branch circuit is permitted.



EV-READY SPACE: An **off-street parking space** which is provided with a dedicated branch circuit that is not less than 40-ampere and 208/240-volt assigned for **EVSE** terminating in a receptacle or junction box located in close proximity to the location of the parking space. For two adjacent EV-ready spaces, a single branch circuit is permitted.



EVSE-INSTALLED SPACE: An off-street parking space with a dedicated branch circuit and EVSE for Level 2 EV charging stations, at minimum.

[...]

HEALTH CLUB: An establishment that provides indoor and/or outdoor exercise facilities, programs, instruction and/or training related to fitness, wellness, aerobics, weight lifting, court sports, and/or swimming, as well as locker rooms, showers, massage rooms, saunas, and/or related **accessory uses**. This shall not include any **local government use**.

[...]

LEVEL 2: Charging level for EVs that operates on a dedicated 40-100 amp breaker (same kind used by a clothes dryer or stove) on a 208 or 240 volt AC circuit while drawing 6.2+ kW to supply 19+ miles of range gained per hour of charging.

LEVEL 3: Fast or rapid charging level for EVs that operates on a 60 amp or higher breaker on a 480 volt AC electric circuit or higher three phase circuit with special grounding equipment and mounting on an equipment pad.

[...]

MANUFACTURED ~~HOME~~-HOUSING PARK: Any tract of land on which two or more **manufactured ~~homes~~-housing units** are parked and occupied for living purposes. A manufactured housing park may also include in whole or in part modular homes of any size up to 1,400 sq. ft. in size.

MANUFACTURED ~~HOME~~-HOUSING PURD: A Planned Unit Residential Development (PURD) for two or more **manufactured ~~home~~-housing units** and consisting exclusively of **manufactured ~~housing~~** subdivision which meets all applicable requirements of Section 504. A manufactured housing PURD may also include in whole or in part modular homes of any size up to 1,400 sq. ft. in size.

~~MANUFACTURED HOME SUBDIVISION:~~ ~~A subdivision of land which allows individual ownership of lots on which can be located only a manufactured home.~~

MANUFACTURED HOUSING: This term shall have the meaning as set out in RSA 674:31, as may be amended.

[...]

SIGN: A structure or an image, display, or illustration which is affixed to, painted or represented directly or indirectly upon a **building, structure or parcel** of land, which is (a) visible from a **public street**, private street, or an adjoining property, and (b) designed to communicate a non-artistic message. "Sign" does not include the **sign structure** unless the sign structure forms an integral part of the sign display or is used to differentiate the sign from the background against which it is placed.

SIGN AREA: **Sign area** means the entire area within a geometric form enclosing the extreme limits of writing, representation, emblem or any other figure of similar character, together with any frame, structure, or other material or color forming an integral part of the display or used to differentiate the **sign** from the background against which it is placed; ~~excluding the necessary~~

~~supports or uprights on which such sign is placed.~~ The geometric form shall be limited to a circle, triangle or parallelogram.

Where a **sign** has two or more faces, the area of all faces shall be included in determining the area of the **sign**, except where two such faces are placed back to back and are at no point more than two feet from one another, the area of the **sign** shall be taken either as the area of one face ~~—~~ if the two faces are of equal area, or the area of the larger face ~~—~~ if the two faces are of unequal area.

[...]

SIGN STRUCTURE: The necessary supports or uprights on which a sign is placed.

[...]

STRUCTURE: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. The term includes, but is not limited to, buildings, swimming pools, tennis courts, manufactured homes, ~~billboards, poster panels~~, wind and solar energy facilities, satellite dishes and antenna. The term does not include minor installations such as fences less than three and a half feet high, agricultural and safety fences, mail boxes, flagpoles and children's play equipment, nor does it include subsurface waste disposal systems.

[...]

TRADITIONAL SUBDIVISION: Any subdivision of land which meets all applicable dimensional requirements of the zoning district in which it is located and is not approved as either a PUD per Section 501, ~~a manufactured home subdivision per Section 504~~, or a **planned business park** per Section 508.

[...]

VEHICULAR SALES: The display and sales of new or used motor vehicles, motorcycles, recreational vehicles, manufactured homes, ~~and boats, heavy equipment and farm machinery.~~ No retail sale of gasoline or oil is permitted. Vehicular sales shall include facilities for the short term leasing of automobiles and trucks to the end consumer.

[...]

WORKFORCE HOUSING: This term shall have the meaning as set forth in RSA 674:58, IV, as amended.

[...]