



**LEBANON TREE ADVISORY BOARD
NOVEMBER 6, 2023 - 5:30 PM
MEETING ROOM 2, CITY HALL OR
REMOTE VIA VIRTUAL PLATFORM
LEBANONNH.GOV/LIVE**

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- 1. Call to Order**
 - 2. Approval of Minutes**
 - A. October 9, 2023
 - 3. Old Business**
 - 4. New Business**
 - A. Discuss next steps to implement the Urban Forestry Grant.
 - B. Review and make recommendations regarding City Code Chapter 55 and feedback to the City Manager regarding the companion administrative policy.
 - C. Ethics Workshop that the City Council has asked all boards/committees/commissions to complete.
 - 5. Future Agenda Items**
 - 6. 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.

AGENDA
Tree Advisory Board
November 6, 2023

AGENDA ITEM 2
Approval of Minutes

A. OCTOBER 9, 2023

City of Lebanon
Tree Advisory Board

Draft* Minutes, Monday, October 9, 2023 at 5:30pm
Meeting Room 2, City Hall or remote via virtual platform lebanonnh.gov/live
(Questions in red.)

MEMBERS PRESENT (7/7): Charlie DePuy, Andrew Garthwaite, Kelsey Haigh,
Susan Johnson, Mary Maxfield, Sarah Riley

MEMBERS ABSENT: Kathleen Corrigan

STAFF ABSENT: Patrick McCarthy (DPW/TAB)

GUEST PRESENT: Shaun Mulholland (City Manager),

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- I. CALL TO ORDER: The meeting was called to order at 5:31pm
 - II. APPROVAL OF MINUTES: Minutes from 7/25/23, 9/11/23, and 9/25/23 were briefly reviewed and approved with minor corrections. *Our final minutes should be added to the city website.*
 - III. NEW BUSINESS:
 - A. Tree Warden update: A new person was hired but quit, overwhelmed, on their first day. Now what?
 - 1. In the grant narrative, an arborist was suggested, but this might present a conflict of interest.
 - 2. Perhaps Steve Wood from Poverty Lane Orchards or his son Otis Wood could look at the job description. The position is not open, though.
 - 3. Perhaps we could have some work with us contractually while we are looking.
 - B. School Street Cemetery update:
 - 1. Plan is for a row of trees along the sidewalk fence + internal trees.
 - 2. The total number of trees is not clear, though Andrew, Charlie, and Kelsey recommended 30.
 - 3. Fox was asked to make recommendations for plantings and will get back to us. Will look at salt-resistance variants. Fox will not be charging us.

4. Northern Nurseries would offer good rates if we order now rather than in the spring.
5. AJ Dupere offered to call for better prices on trees.
6. 1-2" trees are much less expensive.
7. Bare root small trees might be just right for the cemetery.
8. Trees along the road would have to be big ones planted by [Fox].
9. We could probably get volunteers to plant the small trees inside the cemetery.
10. Kelsey: a 2" caliper tree can catch up to a 5" tree within a few years.
11. The TAB could come up with a plan for this project and present it to Pat McCarthy.

C. Review of Tree Ordinance and Policies

1. Chapter 55 vs Policy vs Tree Master Plan: The Tree Master Plan would function as policy.
2. Definitions—I'm not sure where we went with these definitions:
 - a) Damages
 - b) Right of Way
 - c) Tree Rights
3. Role of the TAB in the draft ordinance/draft Chapter 55.
 - a) We expressed some concerns here about the nature of the role of the TAB or tree warden would have substantial roles according to the "laws" laid down in the draft ordinance. We are uncomfortable with the lack of authority conferred on the TAB.
 - b) Shaun said that TAB is to provide guidance to the DPW. DPW has only worked independently to date.
 - c) Everything has to be granted by statute.
 - d) TAB's role is to advise and educate; the tree warden's role is to advise.
 - e) Policy could address these concerns.
 - f) We discussed things that should go into the policies such as Kelsey's list and ANSI references.
4. In 55-6, if no tree warden, the DPW would notice or post (physical and digital) if a tree were to be removed. The TAB would be notified.
5. We decided that the draft ordinance looks good but needs some language changes by Shaun and the TAB.
6. The Easement Deed and Waiver:

- a) Legal protection to owners (re soil damage) cannot be in the ordinance/Chapter 55 because it is too squishy.
 - (1) The Easement Deed could be in city policy, however.
 - (2) The easement is something the city would give to the owner if we plant trees there. The owner would sign, and the city would try to **do its best not to drive on or otherwise damage the soil.**
 - b) The waiver requires a notary's signature.
 - (1) It would be provided for free for city business.
 - (2) The notary could go to the property owner.
 - 7. The Easement Deed and Waiver won't be changed (except for use of the word "surface" on the Easement Deed), but a cover letter would be attached to the forms when they are sent to a property owner.
 - a) Hyperlinks could be part of the cover letter.
 - b) A QR code to *Hard Road to Travel* could be on the cover letter.
 - c) The cover letter should have a reference to the free notary service.
- IV. NEW BUSINESS—We didn't get to New Business in this meeting which would have involved reviewing Planning submissions with landscape plans.
- V. ANNOUNCEMENT: Andrew will go to the City Council meeting Wed 10/18, but we are all invited.
- VI. FUTURE TAB AGENDA ITEMS:
 - A. Review planning submissions with landscape plans
 - B. Tree bathing
 - C. Mull grant budget narration
 - D. Have Steve and Otis Wood take a look at and discuss with us the tree warden job description**
 - E. If the next person doesn't work out, perhaps have both DPW and Parks and Rec interview.**
- VII. MEETING ADJOURNED at 7:39pm.
- VIII. NEXT MEETING will be held Monday November 6 at 5:30pm via remote and in person, as usual.

AGENDA ITEM 4
NEW BUSINESS

**B. REVIEW AND MAKE
RECOMMENDATIONS
REGARDING CITY CODE
CHAPTER 55 AND
FEEDBACK TO THE CITY
MANAGER REGARDING
THE COMPANION ADMIN.
POLICY.**

ORDINANCE 2023-**

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 55, Trees, to establish regulations for trees in public spaces.

Be it ordained by the Council of the City of Lebanon as follows:

Section 1.

The Code of the City of Lebanon is hereby amended by adding §55, Trees.

§ 55-1. PURPOSE/INTENT

To enhance the quality of life and the present and future health, safety, and welfare of all residents, and to ensure proper planting and care of trees on public property and within City rights-of-way, the City Council herein delegates the authority and responsibility for managing public trees.

§ 55-2. DEFINITIONS

Damages- Damages as referred to in RSA 231:154 relating to tree rights shall mean the taking of ownership rights to trees that are located within the City's rights of way or areas where the City has or acquires an easement. Damages equate to the dollar amount that is paid to the owner for the value of the trees taken and/or the property where the trees are planted.

Ornamental Tree- a tree planted or valued chiefly for its aesthetic value.

Shade Tree- a tree planted or valued chiefly for its shade from sunlight.

Street Tree- Trees located within the City's rights of way or provided by separate easement.

Right of Way- Shall mean the area of land which constitutes a public way under the provisions of RSA 229:1, Highways are only such as are laid out in the mode prescribed therefor by statute, or roads which have been constructed for or are currently used for motor vehicle, bicycle, or pedestrian public travel over land which has been conveyed to a city or town or to the state by deed of a fee or easement interest, or roads which have been dedicated to the public use and accepted by the city or town in which such roads are located, or roads which have been used as such for public travel, other than travel to and from a toll bridge or ferry, for 20 years prior to January 1, 1968, and shall include the bridges thereon. Highway does not include any bridge, trail, or path intended for use by off highway recreational vehicles, as defined in RSA 215-A:1, or snowmobiles, as defined in RSA 215-C:1.

Tree - a woody perennial plant having a single usually elongated main stem generally with few or no branches on its lower part.

Tree Advisory Board - The City Manager established a Tree Advisory Board in 2021 to facilitate the goals of educating the public and working in an advisory capacity to DPW, the City Manager and the other boards/committees/commissions of the City.

Tree Warden - The City Manager may appoint a Tree Warden to manage trees in the City's rights of way and City properties. The Tree Warden position is established pursuant to RSA 231:139, I. The duties of the Tree Warden are detailed in the job description created for the position by the

City Manager. In the absence of a Tree Warden the duties of this position shall fall to the Public Works Director.

Tree Rights- relative to RSA 231:154 refers to owner of trees whether they are located in the City's ROW or on private property.

Urban Compact- As defined by RSA 229:5, IV and V. Class IV highways shall consist of all highways within the compact sections of cities and towns listed in RSA 229:5, V. The compact section of any such city or town shall be the territory within such city or town where the frontage on any highway, in the opinion of the commissioner of transportation, is mainly occupied by dwellings or buildings in which people live or business is conducted, throughout the year and not for a season only.

§ 55-3. AUTHORITY AND RESPONSIBILITIES

- A.** The Public Works Director is responsible for planting, care and maintenance of trees located within the City's public rights of way as well as other City-owned properties under the management of the Department of Public Works. All other trees located on City property or to be planted on City property shall be the responsibility of the director of the department which manages the property the tree is located on, except subject to provisions regarding the removal of trees as detailed in § 55-5, A, unless otherwise proscribed in the Code of the City of Lebanon or applicable State law.
- B.** The City shall have control of all shade trees, ornamental trees and shrubs situated within the limits of the City's public ways, village commons, parks, cemeteries, and other public grounds, which have been or may be acquired by gift or purchase, or planting by or with the advice of the Public Works Director, or by condemnation by the Public Works Director as provided in RSA 231:140.
- C.** Trees located within the City's right-of-way but located on private property are controlled by the property owner not the City other than the exceptions discussed below and as interpreted by the Courtsⁱ

§ 55-4. PLANTING OF TREES

- A. Taking Tree Rights.** – In accordance with the provisions of RSA 231:154, when any highway shall be laid out damages may be assessed to the abutting owners to provide for the maintenance or planting, from time to time, within the limits of such highway, of such shade and ornamental trees as may be necessary for the preservation and improvement of such highway. Damages may be assessed to abutting owners on any existing highway upon petition therefor, and such proceedings had as in the laying out of highways by the City Council to provide for the maintenance and planting from time to time, of such trees within the limits of such highways as may be necessary for the preservation and improvement of the same. When such damage shall be assessed and paid there shall be, in addition to the right of travel over such highway, a public easement to protect, preserve and renew the growth thereon for the purposes aforesaid.
- B. Public Ownership.** – in accordance with RSA 231:149, Any young shade or ornamental tree planted within the limits of a public highway by the tree wardens or by any other person or persons, with the approval of the governing body, or any young seedling tree

or sprout left within the limits of the highway as specified in RSA 231:150 and designated by the tree warden to be preserved for its future value as a shade tree, shall become the property of the municipality; provided, that the abutting landowner, having been notified of the intention of the municipality to take and preserve such young tree, shall make no written objection to the tree warden within 30 days from the date of such notification

§ 55-5. REMOVAL OF TREES

- A. **Shade and Ornamental Trees-** Whoever desires the cutting and removal in whole or in part of any public shade or ornamental tree owned by the City may apply to the Public Works Director, who shall give a public hearing, upon the application, at some suitable time and place, after publishing and posting notices of the hearing in 2 or more public places and also upon the tree or trees which it is desired to cut and removed. No tree shall be cut, except to trim it, or removed by the City staff, without such hearing. The decision of the Public Works Director shall be subject to review by the City Manager.
- B. **Hazardous Trees-** Notwithstanding the provisions of other sections of this Chapter and subject to the provisions of RSA 231:157 and RSA 231:158, the Public Works Director on class IV, V, and VI highways and City maintained portions of class II highways may declare any tree, either alive or dead, situated within the limits of City property, highways, roads, or streets to be a public nuisance by reason of danger to the general or traveling public, spread of tree disease, or the reliability of equipment installed at or upon utility facilities authorized under RSA 231:160 or RSA 231:160-a. After such declaration by the Public Works Director and notice to the abutting landowner on whose property such tree is located the said authority shall within a reasonable time remove the same without compensation or cost to the abutter. However, no such declaration and notice shall be required when the delay entailed by such declaration and notice would pose an imminent threat to safety or property, including electric transmission and distribution lines. Nothing in this subdivision shall be construed to relieve the public utility companies of their accepted responsibility of tree trimming and tree removal for the protection of their lines, or for the construction of new lines, or to alter the provisions of RSA 231:150-182 in any manner. The Public Works Director may require of the public utilities owning lines which pass through or near a tree or trees which are condemned for removal as a public nuisance to assist in their removal at their expense by either the temporary removal of their lines or by causing to be removed at their expense the top portion of said tree or trees from a point below their lines.
- C. **Notice-** as detailed in RSA 231:146, notice to the abutting landowner of a tree declared a public nuisance shall be given by delivery at their place of residence or by sending by registered mail to their last known address and it shall clearly state the intention of removal of such tree. The landowner may appeal to the superior court as to the validity of such declaration within 30 days of delivery or mailing of said notice, and shall be entitled to a speedy hearing. The final judgment upon every appeal shall be a decree dismissing the appeal, or vacating the declaration complained of in whole or in part, as the case may be; but in case such declaration is wholly or partly vacated the court may also, at its discretion, remand the matter to the City for such further proceedings, not inconsistent with the decree, as justice may require. Following expiration of the aforesaid 30-day period of appeal, or following waiver of said right of appeal, the abutting landowner is relieved of any liability or responsibility in connection with the tree or trees

declared a public nuisance and similarly is relieved of any liability or responsibility in connection with any stump or stumps left remaining.

- D. **Clearing Highways** – In accordance with the provisions of RSA 231:150, the Public Works Director shall annually, and at other times when advisable, cause to be cut and disposed of, from within the limits of City maintained highways, all trees and bushes that may cause damage or pose a safety hazard to such highways or to the traveling public; provided however that no tree which has a circumference of 15 inches or more at a point 4 feet from the ground shall be removed in the absence of notice to the abutter in the same manner as provided above, except when the delay entailed by such notice would pose an imminent threat to safety or property. Shade and fruit trees that have been set out or marked by the abutting landowners or by the Public Works Director, and young trees standing at a proper distance from the highway and from each other, shall be preserved, as well as banks and hedges of bushes that serve as a protection of the highway, or that add to the beauty of the roadside.
- E. **Scenic Roads-** The management of trees along scenic roads shall be conducted in accordance with the provisions of RSA 231:158 except that, only with the written permission of the Public Works Director, the removal of trees or portions of trees which have been declared a public nuisance pursuant to RSA 231:145 and 231:146, when such trees or portions of such trees pose an imminent threat to safety or property, and provided, further, that a public utility when involved in the emergency restoration of service, may without such hearing or permission of the Public Works Director, perform such work as is necessary for the prompt restoration of utility service which has been interrupted by facility damage and when requested, shall thereafter inform the Public Works Director of the nature of the emergency and the work performed, in such manner as the Public Works Director may require.

§ 55-6. ROLE OF THE TREE ADVISORY BOARD AND TREE WARDEN

- A. The Tree Advisory Board in accordance with the provisions of its charge may provide guidance to the Public Works Director regarding the planting, care, maintenance and removal of trees on public property or within public rights of way. Notices of public hearings shall be provided to the Tree Advisory Board on or before the time of posting under section § 55-5, or in the case of Section § 55-5, B and C, on or before the time of notice. The Public Works Director shall take into consideration recommendations made by the Tree Advisory Board relative to the tree(s) that are under consideration for removal.
- B. The Tree Warden shall provide guidance and recommendations to the Public Works Director relative to the planting, care, maintenance and removal of trees on public property.

§ 55-6 INJURY OR DEFACEMENT OF TREES

As detailed in the provisions of RSA 231:147, It shall be unlawful to cut, destroy, injure, deface, or break any public shade or ornamental tree; or to affix to any such tree a play bill, picture, announcement, notice, advertisement, political or otherwise, or other device or thing, or to paint

or mark such tree, except for the purpose of protecting it and under a written permit from the Public Works Director. Additionally, persons responsible for the injury or defacement of trees shall make restitution for the replacement and/or mitigation of trees injured or defaced.

§ 55-7. 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 jurisdictions, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses, or part of this ordinance.

§ 55-8. EFFECTIVE DATE

This ordinance shall become effective *****, 2023.

ⁱ *Graves vs. Shattuck*, 35 N.H. 257 (1857); *Laconia vs. Morin*, 92 N.H. 314 (1943)



City of Lebanon
New Hampshire

ADMINISTRATIVE POLICIES & PROCEDURES

Urban Tree Management Policy

<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
DPW-501			Page 1 of 4
<i>Approved by:</i>			

SECTION 1.0: PURPOSE

Urban trees enhance the quality of life and the present and future health, safety, and welfare of all residents. Trees are critical to the protection of our environment. This policy provides guidance regarding the planting and care of trees on public property, including City rights-of-way. Chapter 55 of the City Code provides the authority and responsibility for managing public trees.

SECTION 2.0: SCOPE

This policy applies to all departments that are responsible for managing trees on City property as well as the interaction with the Tree Advisory Board and the role of the Tree Warden.

SECTION 3.0: DEFINITIONS

SECTION 4.0: POLICY DETAIL

4.1 Benefits of Urban Trees

Urban and Street Trees are an important aspect of the City's urban infrastructure. Trees and greenspace contribute significantly to reducing heat in areas with concrete and asphalt surfaces of the City and the character of its neighborhoods. Trees are a critical tool in reducing urban heat islands, as they cool their surroundings through transpiration and provide shade; they contribute to the health of our residents as extreme heat events become more common.

Trees provide environmental and economic benefits. They:

- reduce pollutants in the air and water
- provide wind breaks
- provide shelter and food for wildlife and pollinators
- enhance property values
- and attract visitors for recreational activities

4.2 Goals and Objectives



City of Lebanon
New Hampshire

ADMINISTRATIVE POLICIES & PROCEDURES

Urban Tree Management Policy

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The following procedures and guidelines focus on maintaining and enhancing the City's valuable public trees so they remain a prominent part of the community's identity, culture, and history, while also providing shade, habitat, ecosystem services, and beauty. This policy is intended to improve care and management of ornamental and shade trees in the City. The policy outlines the procedures for tree-planting on City property, supporting tree planting in areas that directly involve pedestrians, especially vulnerable populations: sidewalks, streets with no sidewalks, bus stops, and parking lots. Saving and creating parks and green spaces in the urban core areas of the City will help to preserve the health of our community.

SECTION 5.0: PROCEDURES

5.1 Tree Species

The City will utilize professional guidance from federal and state agencies as well as from private or non-profit organizations regarding the appropriate species of trees to plant on City property. The objective is to avoid planting invasive species and trees that are less likely to survive in some of the harsher urban locations. See the links in Section 6.0 for the UNH Cooperative Ext List of NH Native Trees, and Tree Advisory Board Guide for Trees to Consider When Planting.

5.2 Procedures for Planting

The City will utilize professional guidance as indicated above in **5.1** regarding the planting of trees. Techniques regarding planting, mulching, watering, staking are available through these resources. Tree placement must also be carefully considered. The use of the links below may be helpful in this regard. See the links below as a source of information. There may be additional sources of information available that may be utilized.

5.3 Care of Trees

The DPW shall be responsible for planting, pruning, and maintaining trees, plants, and shrubs along public rights-of-way, cemeteries and all other DPW managed



City of Lebanon
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ADMINISTRATIVE POLICIES & PROCEDURES

Urban Tree Management Policy

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properties/facilities as needed to ensure public safety, and to preserve or enhance the beauty of such public spaces and the health of the vegetation. All trimming shall be done in accordance with professional guidelines as established by federal, state, private or non-profit organizations. Trees on City property managed by other departments shall be managed in accordance with this policy.

5.4 Inventory of Urban Trees

Trees planted or existing in the Rights of Way of the City's urban core areas, cemeteries, public parks and those that are a component of the landscaping of City buildings shall be inventoried in the City's fixed asset management system. This shall include the species of tree, its location and condition. Maintenance conducted on the trees shall be updated in the system as well as inspections conducted.

5.5 Training

All volunteers/personnel with a role in the design, installation, and maintenance of street trees, as well as those involved with drafting bids or RFPs that involve work around or with street trees, shall be provided with training or have licensing or certifications relative to the work being conducted.

5.6 Tree Warden

The Public Works Director may employ a Tree Warden who shall carry out their duties as detailed in the job description and as assigned by the Public Works Director. In the absence of a Tree Warden the Public Works Director may utilize the services of licensed foresters, arborists or appropriate officials from other governmental organizations for guidance. The purpose of the Tree Warden is the following;

1. Provide training and guidance to City Staff.
2. Provide guidance to the Tree Advisory Board as well as other boards/committees/commissions of the City.
3. Assist in educating the general public regarding the care and maintenance of trees.
4. Assist or lead tasks as assigned by the Public Works Director to achieve the goals and objectives of this policy and City Code 55 Trees.



City of Lebanon
New Hampshire

ADMINISTRATIVE POLICIES & PROCEDURES

Urban Tree Management Policy

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5.7 Tree Advisory Board

The Tree Advisory Board was created by the City Manager to provide support to City staff regarding trees in general. This includes public trees and those on private property as well. See the TAB charter for further delineation of those duties. DPW will provide staff liaison support to TAB.

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

1. Tree Advisory Board Charter created on 8/19/2021 and revised on 6/1/2023.
2. RSA Chapter 231, subsections 139-158, 172
3. Chapter 134 Scenic Roads of the City Code
4. NH Administrative Rule, Chapter Agr. 3800 Invasive Species
5. Tree Care Industry Association, ANSI A300 Standards
6. Guide to Local Tree Bylaws for Communities in Massachusetts
7. Guidelines for Developing and Evaluating Tree Ordinances, International Society of Arboriculture
8. UNH Cooperative Extension List of Native Trees [List of New Hampshire Native Trees | Extension \(unh.edu\)](#)
9. UNH Cooperative Extension, Landscape Trees and their Susceptibility to Invasive Insects. [brocfinal.indd \(unh.edu\)](#)

SECTION 7.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption			
Amendment			
Amendment			
Amendment			

AGENDA ITEM 4
NEW BUSINESS

**C. ETHICS WORKSHOP THAT
THE CITY COUNCIL HAS
ASKED ALL
BOARDS/COMMITTEES/
COMMISSIONS TO COMPLETE**



City of Lebanon
New Hampshire

CITY COUNCIL POLICY

ETHICS AND CONFLICT-OF-INTEREST FOR ELECTED AND APPOINTED CITY OFFICIALS

<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
CC-108 <i>Formally 12-02-C</i>	05/02/2012	08/04/2021	Page 1 of 6
<i>Approved by:</i>	City Council DocuSigned by: <i>Timothy J. McNamara</i> F08A405F81504ED...		

Section 1.0: PURPOSE

This policy is to set forth standards of ethical conduct to assist elected and appointed City officials when they are in the performance of their duties, so as to maintain and enhance a tradition of responsible and effective public service. As such, the City of Lebanon expects our elected and appointed City officials to:

- Act in the best interest of the City and not for any private or personal gain.
- Disclose any potential conflicts of interest— personal or pecuniary—in City matters that come before them for action.
- Recuse themselves from decision-making if they have a conflict of interest.
- Be honest, independent, impartial, and responsible in their actions.
- Make decisions and policies through the proper channels and procedures of government.
- Openly conduct the public's business, unless legally confidential under New Hampshire statute (RSA 91-A:3), in a respectful and civil atmosphere with due care, competence, and diligence.

Section 2.0: SCOPE

This policy applies to all City officials elected by the voters or appointed by the City Council.

Section 3.0: DEFINITIONS

Elected and Appointed City Official – City Councilors and Members of City Boards, Committees, and Commissions, when acting in a position other than as a member of the general public.

Body - A formal group of elected or appointed municipal officials, such as the City Council and any City Board, Committee, or Commission.



City of Lebanon
New Hampshire

CITY COUNCIL POLICY

ETHICS AND CONFLICT-OF-INTEREST FOR ELECTED AND APPOINTED CITY OFFICIALS

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<i>Approved by:</i>	City Council		

Conflict of Interest – A situation or circumstance in which one’s personal or pecuniary interest has the potential to interfere with the proper exercise of one’s public duty, particularly when deliberating or voting as a member of the City Council or any City Board, Committee or Commission. That interest must be “immediate, definite and capable of demonstration; not remote, uncertain, contingent or speculative” (*Atherton v. Concord*, 109 N.H. 164 (1968)).

Pecuniary Interest – Any private financial advantage (whether in the form of money, property, commercial or other interest), the primary significance of which is economic gain from the outcome of one’s official actions. Financial advantage applicable to the public at large, such as reduced taxes or increased general prosperity, does not constitute a pecuniary interest, for the purpose of this Ethics and Conflict-of-Interest Policy.

Personal Interest – Any direct benefit or non-financial interest in the outcome of a matter, when such benefit or interest could influence one’s official actions. Examples of direct personal benefit include family (by blood or marriage), employment, and/or business relationships that would bias one’s official decision-making against the public interest. Official interest as a function of one’s elected or appointed position does not constitute a personal interest, for the purpose of this Ethics and Conflict-of-Interest Policy.

Recuse – To remove or excuse oneself from participating in an official action due to an actual or potential conflict of interest. Recusal means removing oneself completely from all further participation as a public official in the matter in question. Elected or appointed City officials who are recused shall immediately leave the table of deliberation and sit in the audience with the other members of the general public. Recused officials shall not participate in further discussions unless they clearly state for the record that they are doing so only as a member of the general public.

Section 4.0: POLICY DETAIL



City of Lebanon
New Hampshire

CITY COUNCIL POLICY

ETHICS AND CONFLICT-OF-INTEREST FOR ELECTED AND APPOINTED CITY OFFICIALS

<i>Policy Number</i>	<i>Effective Date</i>	<i>Last Revision</i>	<i>Page No.</i>
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The proper operation of democratic government requires that elected and appointed public officials be independent, impartial, and responsible to the people; that government decisions and public policy be made through the proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government officials to perform their duties free from private influence upon the public interest.

Section 5.0: PROCEDURES

1. Elected and appointed City officials shall avoid conflicts of interest and shall strive to recognize them.
2. When an elected or appointed City official recognizes a conflict of interest, he or she shall publicly disclose the reason(s) for the conflict at the earliest possible opportunity and shall recuse himself or herself from any and all official activity on the matter to which the conflict pertains.

When an uncertainty arises as to whether an elected or appointed City official has a conflict of interest in a particular circumstance, the body shall, at the request of that official or of another member of that body, vote on the question. Such vote shall be advisory and non-binding. Any member of the public may voice an objection to a body officials' participation, setting forth specific reasons, and may also request such a vote, but such a request shall be non-binding. Any such request or objection shall be made either prior to or at the commencement of the body's discussion or public hearing on that matter, or at such later time as the facts claimed to warrant disqualification first become known. No vote on disqualification shall be taken if the body's official steps down voluntarily.

The mayor, chair or presiding officer of the meeting shall ensure that the reason(s) for recusal are clearly stated (as stated by the member in person) and are recorded into the minutes of the meeting. Members of the Planning Board, Zoning Board of Adjustment, Building



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Code Board of Appeals, and Heritage Commission are further bound by the provisions of New Hampshire RSA 673:14.

3. Elected and appointed City officials shall not directly or indirectly solicit gifts, nor accept or receive any gift (whether money, services, loans, travel, entertainment, hospitality, equipment, premises or in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.
4. Elected and appointed City officials shall not disclose nor improperly use confidential information obtained in the course of their official duties.
5. Elected and appointed City officials shall not use City letterhead or stationery for any purpose other than official City business. Under the City Charter, official City business is determined by formal action of the City Council and not by individual City Councilors. Members of Boards, Committees, and Commissions may use City letterhead only for purposes approved by their respective Board, Committee, or Commission.
6. Elected and appointed City officials shall not speak on behalf of their respective Council, Board, Committee, or Commission unless authorized to do so by said Council, Board, Committee, or Commission. Individual members speaking publicly shall clearly state that they are speaking only as an individual and not on behalf of the Council, Board, Committee, or Commission.
7. No member of the City Council, nor any member of a Board, Committee, or Commission, shall appear before his or her own public body on behalf of the private interests of third parties.

5.1 Distribution



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The City Clerk shall be responsible for providing a copy of this Ethics and Conflict-of-Interest Policy to all elected and appointed City officials, as defined in this Policy, upon its issuance and upon the subsequent appointment or re-appointment of any said official. The City Clerk shall have each elected and appointed City official sign a statement that he or she has read this Policy and shall comply with all requirements set forth in this Policy. This signed statement shall be available for public review.

5.2 Complaints

Complaints shall be addressed by the City Council in a manner to be determined by the body in accordance with the provisions of ADM-126.1. Boards, Committees, and Commissions are expected to govern themselves. If the complaint cannot be resolved at that level, it may be brought to the City Council for resolution.

The City Council shall consider compliance with this Ethics and Conflict-of-Interest Policy during the reappointment process for members of Boards, Committees, and Commissions.

Section 6.0: REFERENCES

1. ADM-126.1 Complaints & Investigations Policy
2. NH RSA 673:14 Disqualification of Member
3. NH RSA 95:1 Public Officials barred from certain private dealings
4. NH RSA 640:2 Bribery in official and political matters
5. NH RSA 640:3 Improper Influence
6. NH RSA 640:4 Compensation for Past Action
7. NH RSA 640:5 Gifts to Public Servants
8. NH RSA 640:6 Compensation for Services
9. NH RSA 640:7 Purchase of Public Office
10. City of Lebanon, Charter C419:20 Dealings of Council with City.
11. City of Lebanon, Charter C419:29 Non-Interference by the Council.
12. City of Lebanon, Charter C419:62 Disqualification of Councilor, Board Member or Employee.
13. City of Lebanon, Charter C419:63 Private Use of Public Property.



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14. NH RSA 49-C:33 Optional Provisions: Limitations, Section I(c).

Section 7.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption		Initially adopted 12-02-C	5/2/2012
Amendment		Reformatted, references added, renumbered	8/4/2021