



City of Lebanon
New Hampshire

COUNCIL POLICY			
Real Property Transactions			
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SECTION 1.0: PURPOSE

To provide guidance by clarifying the circumstances, procedures and processes for disposing of or transferring interests in CITY owned real estate.

SECTION 2.0: SCOPE

Authority to implement changes to this Policy is delegated to the CITY MANAGER without prior notice if it is deemed to be in the best interest of the City of Lebanon. This Policy is available for public review and inspection.

SECTION 3.0: DEFINITIONS

NOTICE OR NOTICE OF SALE: means a brief description of the property, the hour, date and place of sale or disposition, and the location of the property, as well as other such information considered relevant by the CITY MANAGER.

PUBLIC AGENCY: includes the federal government or any federal department or agency, the state and all departments, agencies, boards and commissions of the state, counties, school districts, cities, towns, municipal corporations and any other political subdivisions of the State of New Hampshire.

PUBLIC PROPERTY OR PROPERTY: means real property which is owned by the CITY.

REAL PROPERTY: means real estate, and appurtenances thereto, over which the CITY has oversight responsibilities as provided by City Charter and State law.

REDEVELOPMENT AREA: an area of the City that has been designated by the City Council as having redevelopment potential where City properties, regardless of whether they are deemed surplus or have current uses by the City, may be redeveloped in a manner that meets certain goals and objectives of the City as expressed in its Master Plan and other public policies. Public uses and parcels, including public ways, may be reconfigured in such areas, including, but not necessarily, in conjunction with private property.



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SURPLUS PROPERTY: any real property no longer having practical use to the City of Lebanon.

TAX DEEDED PROPERTY: property taken due to non-payment of property taxes in accordance with RSA 80:38.

SECTION 4.0: PROCEDURES

4.1 DISPOSITION OF PROPERTY:

1. DEEMING PROPERTIES AS SURPLUS TO CITY NEEDS OR SUITABLE FOR REDEVELOPMENT

When a property is being considered for disposition, it must first be deemed surplus to CITY needs or suitable for redevelopment as part of a redevelopment area. To determine whether a property is surplus to CITY needs or suitable for redevelopment, the following shall take place:

- A. If City property is being considered for redevelopment, the Council shall, by resolution, designate one or more specific redevelopment areas where the City may consider redevelopment proposals that may involve the reconfiguration of public and private property parcels and boundary lines and disposition of public property. The resolution may:
 1. Broadly indicate the parameters the Council may consider in deciding if redevelopment and disposition of public property is appropriate and in the public interest, including how any public uses of such property may be alternatively accommodated, and may be by reference to a draft REQUEST FOR PROPOSALS (RFP);
 2. Direct the City Manager to consider a public benefit determination pursuant to §4.1.2.A.4, "CONVEYANCE TO ADJOINING PROPERTY OWNER(S);" or
 3. Direct the City Manager to consider and propose a conveyance to a Development Authority pursuant to §4.1.2.A.9 "CONVEY TO A DEVELOPMENT AUTHORITY."



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- B. Review and comment shall be solicited by the City Manager or his/her designee from all CITY departments; relevant boards, committees and commissions; and the Lebanon School District.
- C. A report shall be prepared for review by the City Council which contains the full assessment information and property card for each property along with all comments received from departments, boards, committees, commissions, and the School District.
- D. Upon review of all information, the City Council shall consider, and act upon by resolution, authorization for the City Manager to:
1. retain such property or properties for future use by the CITY; or
 2. convey such property or properties by deed through public auction, by advertised sealed bids, by other means specified herein, or in a manner as justice may require.

Authority to convey property or properties shall continue in effect for one year from the date of the action by the City Council unless otherwise provided.

2. DISPOSING OF PROPERTY

The City Council shall have the power to establish a minimum amount for which a property is to be sold and the terms and conditions of the sale. The disposal of any property or properties shall not be contrary to the public interest. The permanent disposition of property may be by SALE OR EXCHANGE and the partial or temporary disposition of property may be by EASEMENTS, LICENSES, AND LEASES. The sale of public property for redevelopment within a Tax Increment Financing District (TIFD) shall comply with any applicable Tax Increment Financing Plan (TIFP) adopted by the City pursuant to RSA 162-K:9.



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A. SALE OR EXCHANGE – Disposition through sale or exchange of property or properties shall be by Competitive Sealed Bids, Public Auctions, Request for Proposal (RFP), Conveyance to Adjoining Property Owner(s), Trade-in or Exchange, Conveyance to Another Public Agency, Conveyance to a Development Authority, or in a manner as justice may require, as follows:

1. COMPETITIVE SEALED BIDS

- a. A Request for Sale Bid Package shall be created that lists the property or properties offered for sale; designate location; and state the terms and conditions of sale and instructions to bidders including the place, date, and time set for bid opening.
- b. Notice of the sale should be given at least 10 days before the date set for opening bids.
- c. Notice shall be given by making the Request for Sale Bids publicly available through posting notice to the City’s website and by newspaper advertisement. Notice may also be given by mailing a Request for Sale Bid Package to prospective bidders, including those bidders on lists that may be maintained for this purpose.
- d. Bids shall be opened publicly.
- e. Award shall be made in accordance with the provisions of the Request for Sale Bids to the highest responsive and responsible bidder, if the price offered by such bidder is acceptable to the City Council. Where such price is not acceptable, the City Council may reject the bids in whole or in part and negotiate the sale provided the negotiated sales price is higher than the highest responsive and responsible bidder’s price, or bids may be resolicited.
- f. The sale shall be binding upon the CITY only upon award of the bid and delivery of the deed to the successful bidder after adoption of a City Council resolution approving the sale, and no other action of



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the CITY or its representatives shall be construed to vest any right, title or interest to or in the property in any person prior to the adoption of the resolution and delivery of the deed.

2. PUBLIC AUCTION

When appropriate, an experienced auctioneer should be used to cry the sale and assist in preparation of the sale. The solicitation to bidders should stipulate, at a minimum, all the terms and conditions of any sale; that a deposit may be required to participate in the bidding; that the purchaser must consummate the purchase within a stated time; and that the CITY retains the right to reject any and all bids.

3. REQUEST FOR PROPOSALS (RFPs)

The City may issue requests for proposals for the development or redevelopment of City property deemed surplus and/or suitable for redevelopment within Redevelopment Areas designated by the City Council. Such RFP process shall include the following:

- a. The RFP shall specify the criteria on which proposals will be evaluated and scored. Such criteria may include, but not be limited to, proposed purchase price or other consideration for the property interests to be conveyed, the proposed extent of redevelopment including the expected assessed property value upon completion, conformity with specified public policy goals consistent with the City's Master Plan and other guidance documents, the time frame for development, the experience and management and financial capability of the proposed development team.
- b. The Council shall designate an RFP review committee that shall score all complete and qualified RFP responses. The Council may designate itself as such review committee or may appoint such City Councilors, staff, other board and committee representatives, and citizens as it deems appropriate to such review committee. The



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review committee may recommend that the City Council proceed with a planned sale to the top scoring respondent that is deemed to provide the City with the best overall value to the City.

- c. The Council may accept the recommendation of the review committee or reject it and make no sale or start the process over.
- d. The Council may authorize the City Manager to negotiate certain terms and enter into a Purchase and Sale Agreement with the selected redeveloper that may specify certain milestones to be achieved prior to closing on a sale.

4. CONVEYANCE TO ADJOINING PROPERTY OWNER(S)

Upon recommendation of the City Manager, by resolution of the City Council, the City may sell or exchange any real property or interest therein to any person who owns an interest in the same real property or who owns an interest in adjoining real property. Sale or exchange shall require a determination by the City Manager that the public benefit will be served by uniting ownership of the CITY'S real property or real property interest with the adjoining property. Such determination may consider, without limitation:

- a. The range of possible uses for the real property or interests;
- b. The proposed uses for the real property or interests by the proposed grantee;
- c. The size, configuration and other characteristics of the real property or interests;
- d. Existing or proposed restrictions upon the development or use of the real property or interests; and
- e. The value of the real property or interests.



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5. TRADE-IN, EXCHANGE, OR GRANT OUTRIGHT

By resolution of the City Council, the City may trade-in, exchange or grant outright real property after a determination is made that the trade-in or grant outright value is expected to exceed the value estimated to be obtained through the sale or other disposition of such property as evidenced by an appraisal.

6. CONVEY TO A PUBLIC AGENCY

By resolution of the City Council, the City may sell to a public agency any real property or interest therein. In the event of a real property interest other than a lease, the CITY shall obtain an appraisal of the property to be sold.

7. CONVEY TO A DEVELOPMENT AUTHORITY

By resolution of the City Council, the City may sell property within a development or redevelopment area to a developer or redeveloper pursuant to a development or redevelopment agreement (pursuant to NH RSA 205). The development or redevelopment agreement shall provide such covenants, conditions, and restrictions upon the property and other terms and requirements as the CITY COUNCIL determines to be in the public interest or necessary to carry out the purposes of the development or redevelopment plan.

8. AS JUSTICE MAY REQUIRE

By resolution of the City Council that the public interest would be served, disposal of property may be achieved by engaging a real estate agent or broker to list and sell the property, including a condition on the sale that the Buyer's obtain development approvals in advance.



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B. EASEMENTS, LICENSES, AND LEASES – Disposition through Easements, Licenses, and Leases shall be as follows:

1. UTILITY EASEMENTS

The City may grant to any utility company a nonexclusive easement upon, under or across public property (other than street right-of-way) for such utility company's facilities. Such easement shall be subject to such payments, provisions, and limitations as the CITY may impose.

a. Conditions: Grant shall be made by resolution of the City Council provided that:

- i. The easement will not substantially interfere with CITY use of the property;
- ii. That the benefit to the public of increasing availability of utilities by granting the easement outweighs any detriment to the CITY of imposing the easement upon the public property;
- iii. That granting the easement is otherwise consistent with the interests of the CITY.

b. Along with other appropriate provisions, the instrument granting the easement shall specify the facility to be installed by the easement holder within the easement and shall provide that:

- i. The acceptance of the easement shall impose upon the grantee the obligation to indemnify, defend, pay and hold the CITY harmless against any loss, claims, injury or other liabilities of any description arising out of the easement or use or misuse of the property pursuant to the easement; and
- ii. The CITY shall have the right to require the easement holder to relocate any and all facilities from time to time to avoid conflicts or potential conflicts with existing or proposed improvements to



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CITY land. In the case of an easement which is described in this subsection and which is limited in use to providing utilities to CITY property, the easement may be granted administratively by the City Manager without resolution or other action by the City Council if the required findings are made by the City Manager, and if the easement document is approved as to form by an attorney for the CITY.

- iii. The conveyance of interest in abandoned or discontinued rights-of-way shall be governed by New Hampshire RSA Chapter 231 and/or any other appropriate and applicable State statute.

2. TEMPORARY LICENSES

The City Manager shall have the authority to enter into temporary licenses or similar agreements for the use of CITY owned property, including but not limited to, land, buildings, office space, rooms and other interior and exterior space, but not CITY rights-of-way. Such agreements shall be in a form approved by the attorney for the CITY and shall have a term of one (1) year or less. Such agreements shall contain a unilateral termination clause in favor of the CITY that does not require the CITY to give more than thirty (30) days' notice of cancellation.

3. LEASES

Any lease of CITY owned real property shall be reviewed and approved by the City Manager followed by a recommendation to the CITY COUNCIL accompanied by a determination that such action is consistent with adopted CITY plans and policies.

Any lease of CITY owned airport real property shall be reviewed and recommended by the Airport Manager and reviewed and approved by the City Manager followed by a recommendation to the City Council accompanied by a determination that such action is consistent with



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adopted CITY plans and policies including the Airport Master Plan and compliance with FAA regulations/requirements.

Any lease of CITY owned real property shall be approved by the City Council. The City Council may take one of three actions:

- a. Reject the lease as proposed and recommended by the City Manager;
- b. Grant preliminary approval and request that it be brought back before the City Council after the necessary land-use permits have been obtained; or
- c. Approve the lease as proposed and recommended by the City Manager with authorization for the City Manager to execute the necessary documents when all required land-use permits have been duly obtained. Land-use permits shall include appropriate review and action by all applicable land use boards (i.e. the Conservation Commission, Zoning Board, Planning Board, or Heritage Commission).
- d. After the execution of the lease documents, zoning/building permits are applied for and issued to the CITY with the lessee as the co-applicant. The lessee is responsible for the construction of the buildings in accordance with the CITY's adopted Site Plan Review and Building Code Regulations. When construction is completed in accordance with the Site Plan Review approval, and the Building Code/Permit, a Certificate of Occupancy is issued.
- e. In accordance with New Hampshire RSA Chapter 72:23, I(b), Real Estate and Personal Property Tax Exemption: *All leases and other agreements, the terms of which provide for the use or occupation by others of real or personal property owned by the state or a city, town, school district, or village district, entered into after July 1, 1979, shall provide for the payment of properly assessed real and*



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personal property taxes by the party using or occupying said property no later than the due date. All such leases and agreements shall include a provision that "failure of the lessee to pay the duly assessed personal and real estate taxes when due shall be cause to terminate said lease or agreement by the lessor." All such leases and agreements entered into on or after January 1, 1994, shall clearly state the lessee's obligations regarding the payment of both current and potential real and personal property taxes, and shall also state whether the lessee has an obligation to pay real and personal property taxes on structures or improvements added by the lessee. If the lessee using or occupying the property fails to pay the duly assessed personal and real estate taxes on the due date, the tax collector of the taxing district involved shall notify the lessor that the same remains unpaid. Upon receipt of said notification from the tax collector, the lessor shall terminate said lease or agreement and pay over to the tax collector from amounts received from said lease such sums as are necessary to satisfy the tax due.

3. Sale or lease proceeds in connection with the disposal of interest of CITY owned real property shall inure without restriction to the benefit of the Fund from which original acquisition was financed or upon which operational control and responsibility resides.
4. Net proceeds from the disposal or conveyance of interest in Airport real property acquired through Federal or State grants shall inure exclusively to the benefit of the Airport Fund for dedication to Airport operations, activities and capital requirements.
5. In the absence of City Council direction to the contrary, proceeds from the sale of Airport land shall be so reserved and accounted for to ensure that the corpus remains intact and that only interest accruing on such proceeds shall be utilized to finance Airport operations.



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4.2. TAX DEEDED PROPERTIES

It shall be the intent of the CITY to return all parcels acquired through the tax deeding process to the tax rolls except where the public's interest may be better served through retention of specific parcels.

Unless a former owner gives notice of intent to repurchase a tax deeded property in accordance with RSA 80:89, disposition of those properties acquired through tax deeding will take place when recommended by the City Manager after approval from the Council in accordance with this policy.

SECTION 5.0: REFERENCES (Charter/Code/State Statues)

C419:23 General Powers (Council)
C419:30 Powers and Duties of Manager
RSA 47:5 City Property
RSA 80:80 Transfer of Tax Lien

SECTION 6.0: POLICY & PROCEDURE REVISION HISTORY

	Section	Revisions	Date
Original Adoption			2/2/2000
Amendment	All	Re-Write of Policy	8/1/2018
Amendment	4.1.2.A	Amended Section	10/3/2018
Amendment	4.1.2.A.8	Added Section	10/3/2018
Amendment	5.0	Amended Reference	10/3/2018