

# *Local Law Filing*

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**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County    City    Town    Village  
(select one:)

**of New Lebanon**

**Local Law No. \_\_\_ of the year 2018**

**A LOCAL LAW TO AMEND CHAPTER 40 OF THE CODE OF THE TOWN OF NEW  
LEBANON IN RELATION TO THE TOWN OF NEW LEBANON PROCUREMENT  
POLICY.**

**Be it enacted by the Town Board of the Town of New Lebanon as follows:**

See attached.

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**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

**TOWN OF NEW LEBANON**

**LOCAL LAW NO. \_\_ OF THE YEAR 2018**

**A LOCAL LAW TO AMEND CHAPTER 40 OF THE CODE OF THE TOWN OF NEW LEBANON IN RELATION TO THE TOWN OF NEW LEBANON PROCUREMENT POLICY.**

**SECTION 1**

This local law shall be referred to as “A Local Law to Amend Chapter 40 of the Code of the Town of New Lebanon in Relation to the Town of New Lebanon Procurement Policy”.

**SECTION 2**

Chapter 40, § 40-2 of the Code of the Town of New Lebanon is hereby amended to read in its entirety as follows:

**§ 40-2. Purchases governed by General Municipal Law § 103.**

All contracts for public work and all purchase contracts governed by General Municipal Law § 103 shall comply therewith.

**SECTION 3**

Chapter 40, § 40-3 of the Code of the Town of New Lebanon is hereby amended to read in its entirety as follows:

**§ 40-3. Purchases not governed by General Municipal Law § 103.**

Goods and services which are not governed by General Municipal Law § 103 must be procured in a manner so as to assure the prudent and economical use of public moneys in the best interests of the taxpayers of the Town, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud, and corruption. To further these objectives, all procurements of goods and services which are not governed by General Municipal Law § 103 shall comply with the applicable portions of this section.

- A. Purchase contracts not governed by General Municipal Law § 103 shall be secured as follows:

- (1) Contracts not governed by General Municipal Law § 103 involving expenditures greater than \$5,000 shall require a written request for proposals (RFP) and written/fax quotes from at least three vendors.
  - (2) Contracts not governed by General Municipal Law § 103 involving expenditures of \$5,000 or less, but greater than \$1,000 shall require an oral request for proposals and oral/fax quotes from at least two vendors.
  - (3) Contracts not governed by General Municipal Law § 103 involving expenditures of \$1,000 or less are left to the discretion of the purchaser.
- B. Public works contracts not governed by General Municipal Law § 103 shall be secured as follows:
- (1) Contracts not governed by General Municipal Law § 103 involving expenditures greater than \$10,000 shall require a written request for proposals (RFP) and written/fax quotes from at least three contractors.
  - (2) Contracts not governed by General Municipal Law § 103 involving expenditures of \$10,000 or less, but greater than \$1,000 shall require a written request for proposals (RFP) and written/fax quotes from at least two contractors.
  - (3) Contracts not governed by General Municipal Law § 103 involving expenditures of \$1,000 or less are left to the discretion of the purchaser.
- C. Any written RFP required under this section shall describe, as applicable, the desired goods and/or services to be provided, the quantity thereof, and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered. All information gathered in complying with the procedures of this guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.

#### **SECTION 4**

Chapter 40, § 40-6 of the Code of the Town of New Lebanon is hereby amended to read in its entirety as follows:

**§ 40-6. Circumstances not requiring solicitation of proposals.**

Except as otherwise directed by the Town Board, no solicitation of written proposals or quotations under § 40-3 shall be required under the following circumstances:

- A. Emergencies.
- B. Sole source situations.
- C. Goods purchased from agencies for the blind or severely handicapped.
- D. Goods purchased from correctional facilities.
- E. Goods purchased from another governmental agency, including but not limited to state or county bid.
- F. Goods purchased at an auction.
- G. Goods purchased for \$1,000 or less.
- H. Public works contracts for \$1,000 or less.

**SECTION 5**

Chapter 40, § 40-7 of the Code of the Town of New Lebanon is hereby amended to read in its entirety as follows:

**§ 40-7. Option to pursue competitive bids.**

No portion of this chapter shall be construed as preventing the competitive bidding for purchase contracts or public works contracts in accordance with the terms and procedures set forth therefor in General Municipal Law § 103 where such contracts are otherwise exempt or not subject to such competitive bidding requirements, if so desired by the Town Board.

**SECTION 6**

Chapter 40, § 40-8 of the Code of the Town of New Lebanon is hereby amended to read in its entirety as follows:

**§ 40-8. Exceptions.**

The solicitation of alternative proposals or quotations will not be required in the best interest of the municipality in the following circumstances, where proper qualifications are not necessarily found in the individual or company that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures:

- A. Professional services or services requiring special or technical skill, training or expertise. The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth.
- (1) In determining whether a service shall fit into this category, the Town Board shall take into consideration the following guidelines:
- (a) Whether the services are subject to state licensing or testing requirements.
  - (b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services.
  - (c) Whether the services require a personal relationship between the individual and municipal officials.
- (2) Professional and technical services shall include but not be limited to the following:
- (a) Service of an attorney.
  - (b) Services of a physician.
  - (c) Technical services of an engineer or architect engaged to prepare plans, maps and estimates.
  - (d) Securing insurance coverage and/or service of an insurance broker.
  - (e) Services of a certified public accountant.
  - (f) Investment management services.
  - (g) Printing services involving extensive writing, editing or artwork.
  - (h) Management of municipally owned property.
  - (i) Computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.
- B. Emergency purchases pursuant to § 103, Subdivision 4, of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately, and delay in order to seek

alternate proposals may threaten life, health, safety or welfare of the residents. This section does not preclude alternate proposals if time permits.

- C. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Town is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually contained. It is also difficult to try to compare prices of used goods, and a lower price may indicate an older product.
- D. Public works contracts and purchase contracts involving expenditures of \$1,000 or less. The time and documentation required to purchase through this policy may be more costly than the item itself and therefore not be in the best interest of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

## **SECTION 7**

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

## **SECTION 8**

This Law shall become effective upon filing with the New York State Secretary of State.

## **SECTION 9**

This Local Law is enacted pursuant to the New York Municipal Home Rule Law and Article 5-A of the General Municipal Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_ of 2018 of the (County)(City)(Town)(Village) of New Lebanon was duly passed by the Town Board of the Town of New Lebanon on \_\_\_\_\_, 2018, in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.~~

~~Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

\_\_\_\_\_  
Clerk Tistrya Houghtling, Town of New Lebanon Town  
Clerk of the county legislative body, City, Town or Village  
Clerk or officer designated by local legislative body

(Seal) Date: \_\_\_\_\_