

**MINUTES OF THE PUBLIC HEARING OF  
THE TOWN BOARD OF THE TOWN OF NEW LEBANON  
ON PROPOSED LOCAL LAW #2 OF 2020  
HELD ON OCTOBER 13, 2020**

**Present:** Tistrya Houghtling, Supervisor  
Jesse Newton, Councilmember  
Norman Rasmussen, Councilmember (online)  
Deborah Gordon, Councilmember (online)  
John Trainor, Councilmember

**Recording Secretary:** Marsha (Marcie) Robertson, Town Clerk

**Others Present:** Cynthia Creech, Deputy Court Clerk, CAC & ZRC Member  
Tammie Darcy, Tax Collector (online)  
Jim Carroll, ZRC, Planning Board Member (online)  
Ted Salem, ZBA Member & ZRC Chair  
David Farren, CAC Chair (online)  
Tony Murad, ZBC Chair  
Joe Ogilvie, Recreation Commission (online)  
Bob Gilson, CAC Member (online)  
Tegan Cook, Recreation Commission Chair (online)  
Several Members of the Public (online & in person)

**CALL TO ORDER:**

The public hearing was called to order at 6:00 PM by Supervisor Houghtling. The meeting was held in person at the New Lebanon Town Hall, 14755 State Route 22 North, New Lebanon, NY 12125 and online and via phone at:

[Join with Google Meet](#)

[meet.google.com/uqg-amsi-vnp](https://meet.google.com/uqg-amsi-vnp)

[Join by phone](#)

(US) +1 252-563-8601 PIN: 579 430 912#

**PUBLIC HEARING NOTICE:**

Town Clerk Robertson read the following public hearing notice aloud:

**NOTICE OF PUBLIC HEARING  
TOWN OF NEW LEBANON  
COUNTY OF COLUMBIA  
PROPOSED LOCAL LAW #2 OF 2020**

**PLEASE TAKE NOTICE** that a public hearing will be held by the Town Board of the Town of New Lebanon on October 13, 2020 at 6:00 p.m. at Shatford Park Pavilion, 170 Old Post Road, New Lebanon, New York, 12125 regarding the adoption of Introductory Local Law No. 2 of the Town of New Lebanon for the year 2020. Introductory Local Law No. 2 of the Town of New Lebanon for the year 2020 would update and amend Chapter 102, Chapter 179 and Chapter 205 of the Code of the Town of New Lebanon. Copies of said proposed Local Law are available for review at the Office of the Town Clerk of the Town of New Lebanon, 14755 Route 22 North, New Lebanon, New York, 12125 and the proposed local law can be viewed on the town website at [www.townofnewlebanon.com](http://www.townofnewlebanon.com).

Please note that people who do not wish to attend the public hearing at the pavilion in person may join the live stream link: [https://townhallstreams.com/towns/new\\_lebanon\\_ny](https://townhallstreams.com/towns/new_lebanon_ny)

If you do not want to attend in person and have any comments related to the Proposed Local Law #2 of 2020 you may email your comments to [supervisor@townofnewlebanon.com](mailto:supervisor@townofnewlebanon.com) in advance of the public hearing and your comments will be included in the record.

Marcie Robertson  
Town of New Lebanon Town Clerk  
9/14/2020

**PUBLIC HEARING CHANGE NOTICE:**

Due to the threat of bad weather the meeting location had to be changed. On October 9, 2020, Town Clerk Robertson sent out the following email blast, notice to the paper and posted on the Town website the location change for the Public Hearing on Local Law #2 of 2020.

Update: Tuesday, 10/13/2020 - Special Meeting @ 5:30pm / Public Hearing Changes

Due to the cancellation of Wednesday's meeting, there will be a special meeting for the purpose of interviewing cleaners for the town on Tuesday, 10/13 at 5:30pm. The meeting can be viewed by the public via live stream (link below). The interviewing of the engineer applicant has been rescheduled for the special meeting on 10/19 at 6pm (already scheduled and advertised for interviewing PB, CSC and Rec. Comm. applicants). Also, due to potential weather next Tuesday, the public hearings scheduled for 6pm and 6:45pm will no longer be at the Shatford Park Pavilion but instead can be joined and participated in by the public via google meets (link below) or if you cannot join online, can be attended in person at the New Lebanon Town Hall (we are limited to the number of people allowed in the building at one time so if you come in person to be heard, you may need to wait outside until it is your turn - we encourage everyone who can attend online to do so and everyone online will be given an opportunity to be

heard). You may also still submit comments regarding proposed LL#2 and/or proposed LL#3 in advance of the public hearings to [supervisor@townofnewlebanon.com](mailto:supervisor@townofnewlebanon.com) and they will be included in the record.

Here is a full schedule including links and options for next Tuesday's meetings:

5:30 p.m. Special Meeting for the purpose of interviewing for a town cleaner - can only be viewed by the public, no online or in person participation - when the board enters executive session for interviews, the screen will go blank but live streaming will continue - when the board exits executive session the screen will come on again.

To watch the meeting live streamed go  
to: [https://townhallstreams.com/towns/new\\_lebanon\\_ny](https://townhallstreams.com/towns/new_lebanon_ny)

6:00 p.m. Public Hearing on Proposed LL#2 of 2020 - can be joined and participated in online or attended in person at the Town Hall but you may need to wait outside for your turn if you come in person - can also be viewed at live stream link above.

To join the meeting go to:

[Join with Google Meet](#)  
[meet.google.com/uqg-amsi-vnp](https://meet.google.com/uqg-amsi-vnp)

[Join by phone](#)  
(US) +1 252-563-8601 PIN: 579 430 912#

6:45 p.m. Public Hearing on Proposed LL#3 of 2020 - can be joined and participated in online or attended in person at the Town Hall but may need to wait outside for your turn if you come in person - can also be viewed at live stream link above.

To join the meeting go to:

[Join with Google Meet](#)  
[meet.google.com/yka-eime-bbt](https://meet.google.com/yka-eime-bbt)

[Join by phone](#)  
(US) +1 585-491-9497 PIN: 775 646 634#

7:00 p.m. Regular Monthly Meeting - can only be viewed by the public, no online or in person participation unless you are on the agenda to present or discuss issues with the board - all privilege of the floor should be emailed to [supervisor@townofnewlebanon.com](mailto:supervisor@townofnewlebanon.com) in advance of the meeting or during the meeting and all received will be read aloud into the record.

To watch the meeting live streamed go  
to: [https://townhallstreams.com/towns/new\\_lebanon\\_ny](https://townhallstreams.com/towns/new_lebanon_ny)

**PUBLIC COMMENT:**

Supervisor Houghtling stated that she had received one email, the person who sent the email is in attendance so Supervisor Houghtling will let that person speak on his own. Supervisor Houghtling opened the floor to public comment for the people who are in attendance in person at the Town Hall and asked if there was anyone that wished to speak either in support of or against the Proposed Local Law or has any comments that they would like to put on the record.

**Tony Murad:** Tony stated that he will read the letter that he sent to the Town Board and the Town Clerk. He stated that he wanted all to know that he has been on the Zoning Rewrite Committee for the eight years in which it has existed and Ted Salem has been the Chairman and although they have disagreed on a number of things, Tony said that Ted has done a very admirable job in keeping the committee together and on point as much as he could as well as the minutes.

Tony stated that when they started on Local Law #2 of 2020 on short term rental, he had an opinion that was quite selfish. He looked at his own situation, he is primarily a landlord in terms of rental properties. He has one short term rental. As they started discussion about the Local Law, he came to realize that maybe this is not a good thing.

Tony read the following letter:

October 12, 2020

Tistrya  
Houghtlung,  
Supervisor  
Town Council  
Members

I am opposed to Local Law 2, regulating short term rentals. The zoning Rewrite Committee was charged with studying the issue by a previous Town Board, three of whose members have since left the Board. This is noted because two of those former members were the ones proposing the regulation.

The ZRC accomplished what it was asked to do. After several long meetings it became clear to me and, I believe others, that the proposed law in front of you was a solution in search of a problem.

To my knowledge there have been no problems with short term rentals. A short term rental is no different than long term rentals or owner occupied one and two family residences which are permitted without regulation.

Short term rentals are self-regulating. We use Airbnb, but there are other platforms that do the same thing. Our success (or failure) is dependent solely on required comments provided by our guests which are

published by Airbnb on our site and are not removable. We get to respond to both positive and negative comments, which ensures fair commentary on both sides.

I encourage Board members to go on any of our sites and see for yourselves how much people enjoy coming to New Lebanon. They comment on the beautiful scenery, the friendly people, the restaurants, points of interest in the area and many vow to return and to tell their friends.

Before you move to put unnecessary regulation on us, please consider that we are the Town's true Chamber of Commerce, and that our short term rentals do more than anyone to promote our Town and businesses.

Sincerely,

Tony Murad

**Steve Clark:** Steve stated that he agrees with Tony a hundred percent. This is a solution looking for a problem. He has been doing the Air B&B for approximately four years now and Tony is right it does self-regulate itself along with the website. In those four years he has had zero problems with any of his guests, no parking, no loud parties, no nothing. He was invited to a meeting with the committee to ask his opinion. He was there with a group of ten or fifteen people. The meeting didn't last as long as it should have, it was supposed to be about an hour and a half. They were hit with a sales pitch for about thirty minutes, then after that there was a horse accident, so they only got about thirty minutes of them hearing their input. Nobody that was there that does Air B&B is for this, nobody agreed to it, nobody was in favor of it. Steve stated that he asked them why is this happening, there haven't been any problems. Steve stated that Councilmember Newton brought up that there has been a parking problem, that's the only problem that they brought up. There are other agencies to take care of parking problems. When you start regulating something you are opening yourself up to liability. Let me tell you what, you start regulating this you open yourself up to a lot of liability that you don't have right now. I don't know anyone that went to that meeting to give their opinion that agreed to this. I don't care, I'm going to go along with whatever, I just don't think it's right. I bring a lot of people to this area. I have someone that's in there for three months now, so she's in there for a while. I can just make it thirty-one days; it doesn't really matter to me. This law doesn't need to happen. I hope you guys think about what we are saying and take that into consideration. We bring a lot of revenue to this town. I've been doing it for four years, I'm booked up almost all summer long and when my people come to stay with me, they visit the local businesses. I hope you guys see that it's not a good law, it's not a good change.

**Cynthia Creech:** Cynthia stated that she is a member of the Zoning Rewrite Committee and she hadn't planned on saying anything about short term rental. She thinks Mr. Salem will perhaps defend the focus group that was held at the meeting

that everyone that was there was given the opportunity to speak, no one was cut short.

**Steve Clark:** Steve commented that he was cut short.

**Cynthia Creech:** Cynthia continued to state that she is actually here to speak about the proposal concerning farming. At her request, the committee decided to align the language in our code that deals with farming with the language that is provide by NY State Ag & Markets law, that is what's been done here for the most part. If you look at the first thing in Local Law #2, page 2, section 1, section 2, article 1, right to farm commercial and non-commercial, that is a little misleading to her. If she wasn't a member of this committee and didn't know the background, she would think that, below that the text that's quoted 102.1, 102.2, etc. below that it applies to commercial and non-commercial. She understands that a couple of pages down there is a paragraph 4 specifically non-commercial farm activity on 102.8 which falls on the top of page 6. It looks a little bit like everything that follows from page 2 forward applies to commercial and non-commercial. If you have to do it that way which is fine but then perhaps above 102.1, we should say commercial and then on page 6 then where it says 102.8 say non-commercial farm activity. We had come up with some different language for non-commercial farm activity. Councilmember Newton and her were both hopeful that they might come up with some protection for non-commercial folks, whether they may be homesteaders or backyard farmers or hobby farmers, whatever the language might be, they don't make a living doing this but they might be feeding their family or they might be selling. They had hoped to provide some protection but the committee didn't agree with them on this. Ag & Markets which does not regulate anything but commercial farming sent them a recommendation on this that had been created by Cornell to give some parameters for non-commercial farming. They thought that perhaps they would insert some language about that so that people could go to that recommendation for some guidance. She believes that the attorney didn't care for inserting that language in the actual law. She isn't sure where the language came from that is in there now, she knows a lot about farming law and she doesn't have the vaguest idea what it says but maybe someone else can figure that out. That is her biggest concern is the way it is headed is a little misleading.

**Councilmember Newton:** Jesse asked Cynthia if she is suggesting a strike through on the non-commercial section and article 1 right to farm at the top and leaving the 102.8 provisions for....

**Cynthia Creech:** Cynthia responded you could do it either way, either insert commercial right above 102.1 or you could take out the non-commercial header. Just as long it doesn't indicate that the language that follows applies to both, because right now that is the way it looks.

**Supervisor Houghtling:** Tistrya stated that she agrees and thinks that is an easy

fix.

**Councilmember Newton:** Jesse asked, will that have to go to the attorney for revision?

**Ted Salem:** Ted stated that he suspects that it doesn't have to go to the attorney.

**Fiona Lally and Joe Ogilvie:** Fiona stated that there are four things that they looked at that came to mind. One is that the law doesn't seem to address noise, which would appear to be one of the major reasons for complaint. The second is, she takes Steve's point that thirty days is not different enough from thirty-one days. She does believe from a stand point of managing risk that when you have things that are materially the same you really can't apply different standards. So even though they are making provision for also looking at longer term rentals to implement for this for one and not for the other is where liability gets set up. The third thing is that from what she can see most regulation of this nature is designed to deal with two things, one is competition and the other is impending taxation. There isn't a lot of competition in town here. We do know that this is the way that people like to come visit. This is the way that people come into town by their own choice. She doesn't know of any desire that the town has to impose taxes on this, that's the majority reason that she can see that towns do this. She doesn't know that enough is gained visa vie the problems and issues that it brings if neither of those is the towns intent. The fourth question is, how would you manage existing operations like theirs? There was some discussion at the meeting about a form of site review that took in mind that these were existing operations. Could you speak tonight to how you will do that to accommodate the fact that they are already up and running and have already put a great deal into these businesses already?

**Ted Salem:** Ted stated that the short answer he has for that question is that it's really the building department's purview. The regulation does not grandfather existing operations and we did not specify a time limit in the proposed law and we probably should have. He assumes that the building department will allow a reasonable period of time for existing operators to comply with the requirement to obtain special permit where special permit is applicable which would be in every residential zone. The standards by which the special permit will be granted, it will go before the ZBA as appropriate. The standards will be applicable to existing operations or any new operations that come forward.

**Jim Carroll:** Jim stated that following the initial discussion at the pavilion with Joe, Fiona, Tony and Steve Clark and others we did go back and we did remove a lot of the requirement. A site plan review is not required anymore. We also made it so that if you only have one bedroom in your owner-occupied residence that doesn't apply in the oversight, that's not part of this ruling for long. We also removed a lot of the information about signage and off-street parking because there are already laws in place in town that covers those issues. He thinks there is a noise

requirement in town also that is not addressed in short term rental specifically but it is in the main body of the law. We did listen to the people and the discussion at the pavilion and they did take into consideration a lot of the information presented and they did go back and reduce the oversight and regulation in the law for short term rentals.

**Councilmember Rasmussen:** Norman asked if he was right then to understand that the regulation of short-term rentals that is in Local Law #2 is just the requirement to have and identify a property manager? Are there other new regulations on short term rentals? He didn't see them.

**Supervisor Houghtling:** Tistrya responded that there is a requirement for a special use permit for some zones and then it's not allowed in some zones. If you look at the use table towards the end of proposed LL#2 205 attachment 2.2 and you look at short term rental. Sorry page 3, so 205 attachment 2:3 right before the signature page and it lists out each of the zones. So, a lot of the site plan review was taken out but the special use permit remains.

**Councilmember Rasmussen:** Norman stated okay so a special use permit plus identification of a site manager.

**Ted Salem:** Ted stated that Norman was correct.

**Tegan Cook:** Tegan stated that Joe and Fiona brought up initial points that they have as Air B&B properties. She would say that one of the things she agrees with Tony from the beginning is we are here talking about a new law for our town, the majority of the people that this is affecting are here and it doesn't seem like any one here representing a desire to see this law come about. So, she would say to the board as they decide on this, think about that, if there is no one there saying that they need this law. And with regard to what Tony said earlier that this came from a "previous administration", she thinks that it is something that the current town board should think about when they make the decision in passing this because it is going to affect smaller business that are filtering revenue to our town. She doesn't necessarily see that it needs to be there yet, we have a lot of regulation. It has been said that some of the issues like noise regardless of Air B&B it is already a law within the town. She would like the board to think about the decision that they are making with regards to who is here representing the people of the town that this is affecting and what we are asking for as opposed to a random law.

**Supervisor Houghtling:** Tistrya stated that she wanted to make a point of clarification. Site plan review is talked about in Local Law #2 but it's not actually relating to short term rentals. So, the site plan review that is talked about is not in relation to short term rentals.

**Ted Salem:** Ted stated that Tistrya was correct. He also stated that the farming



and driveway in this local law have nothing to do with short term rentals.

**Steve Clark:** Steve stated that he is beginning a lavender farm on his property and he wants it included as a farm stay. Where would that fall into this law?

**Ted Salem:** Ted responded that Steve should talk to the building department about that.

**Tony Murad:** Tony wanted to mention again as he did in his letter that the previous board had suggested we do this local law and two of those members who were proposing it are no longer on the board.

**Ted Salem:** Ted stated that they were asked by the previous board to look into it. The committee doesn't always take its direction from the town board.

**Councilmember Trainor:** John stated that they are suggesting that their membership to Air B&B does all the things that this section does.

**Tony Murad:** Tony stated that the way it works through Air B&B is that that is the only way you can get Air B&B guests. It provides a screening process of renters and the B&B's.

**Supervisor Houghtling:** Tistrya asked Tony Murad if it was a requirement to go through a platform like Air B&B to rent your place?

**Tony Murad:** Tony responded to Tistrya that it is not a requirement but it is the best way to do it and it is worth the money.

**Steve Clark:** Steve stated that Air B&B provides safety for B&B 's.

**Joe Ogilvie:** Joe asked if the short-term rental section of this law could be tabled for a year and see if there is anything that comes up that needs to be regulated? He stated that right now he thinks they are self-regulating very effectively and there will be one less law on the books to worry about. He just feels like the places they are concerned about are very, very well established and they would not be in business unless they were providing a positive service to the town and to visitors. Joe stated in terms of people coming to town and spending money at restaurants and enjoying our rural community, he really feels like they don't need to do anything to regulate that. He thinks people are coming because they are curious about New Lebanon and want to enjoy this part of New York State and Massachusetts. If it could be tabled for a year and see what happens, if nothing happens maybe bring it up again and see if anyone is interested or needs to have a new law. Right now, he doesn't think there is a need for this.

**Supervisor Houghtling:** Tistrya stated that it is on the agenda for the 7:00pm

regular meeting for the Town Board to discuss if they are adopting, tabling or otherwise.

**Cynthia Creech:** Cynthia stated that the Air B&B has basically taken the place of B&B's.

**Jim Carroll:** Jim stated that he thinks it is better to put a regulation in place that is preemptive. If you look at the regulation, all it is is a special permit and a manager available in case there is an issue. That is all it is.

**Tegan Cook:** Tegan stated that the fact there are people on the board and others in here that are asking questions about Air B&B being self-regulating, that simply states to her that those that are about to make the decision have not done the full amount of research that they need to do into their business and what they do to be able to create a regulation. Tegan stated that she agrees at some point some regulation needs to be made, we have to have rules so that people understand, but let's address those rules when they happen. Not make a rule right now that's going to affect their business.

**Supervisor Houghtling:** Tistrya stated just to clarify, she completely understands the law, she talked to the attorney and Ted about it. Tistrya stated that she understands what it is that the town's regulating. She thinks the fact that she didn't quite understand how an Air B&B operates from the payment and background check perspective really doesn't relate to how this local law is going to regulate those businesses, but she does appreciate everyone's input and insight.

**Fiona Lally:** Fiona stated that there is some advantage to using this mechanism, which is worth having the board consider. Air B&B does require that in order to operate you have to have smoke detectors and CO2 detectors, you have to put up a sign to indicate where your exits are and where those tools can be found. While that may not apply to all short-term rentals, these are things that are already being addressed under this system.

**CLOSING OF PUBLIC HEARING:**

All persons desiring to be heard, having been heard, a motion was made by Supervisor Houghtling, seconded by Councilmember Trainor and approved unanimously to close the public hearing at 6:46 PM.

Respectfully submitted,

Marcie Robertson  
New Lebanon Town Clerk