

SUNAPEE BOARD OF SELECTMEN

MEETING AGENDA

7:00PM Town Office Meeting Room

Monday, March 06, 2023

Join us on Zoom: <https://us06web.zoom.us/j/86066395397>

1. REVIEW OF ITEMS FOR SIGNATURE:

- CZC's:
Parcel ID: 00137-0017-0000 44 Harbor Hill Road, Michael & Laura Salvay
- DEMO PERMIT:
Parcel ID: 00106-0023-0000 4 Sunny Knoll Road, Marcos & Luciana Caixeta

2. APPOINTMENTS:

- 7:00 PM – Mrs. Warmington
- 7:05 PM – HEB Presentation, Scott Hazelton
- 7:20 PM – Health Officer, Doug Gamsby, Review and Adopt Septic Ordinance

3. PUBLIC COMMENT:

4. SELECTMEN ACTION:

- Authorization to Town Manager to Sign Lease Agreement for Police Cruiser
- Authorize Town Treasurer/Town Manager to open bank account for Permit and Registration Fees
- Authorize Abbott Library to utilize Town Tax ID
- Use of Facilities – Lake Sunapee Cruising Fleet – May 20, 2023
- Use of Facilities – SMHS Class of 2024 – May 13, 2023
- Certificate of Appointment – Sylvia Kellner, Conservation Commission
- Certificate of Appointment – Doug Hanson, Conservation Commission

5. TOWN MANAGER REPORT:

- Housing Board of Appeals – Decision and Appeal
- Policy Review/Approval – Sick Bank Leave, Vacation Policy
- Subpoena – Transfer Station
 - The State of New Hampshire has identified you as the owner, operator, and/or responsible party for the site identified in the enclosed subpoena due to alleged detections of certain per- and poly-fluoroalkyl substances (PF AS) in and/or near the site.
- Staffing Update: Highway Director Recruitment Closed, Code Compliance Officer Selected, Land Use and Assessing Coordinator, new part-time Administrative Assistant
- Short-Term Rentals: Registration and Decision Points
- Recreation Sponsored Event: April 8th, Saturday, at noon
- Expenditure/Revenue Reports

6. CHAIRMAN'S REPORT:

7. UPCOMING MEETINGS:

3/8-5:00PM-Energy Committee Meeting

3/9-10:00AM-Trustees of the Trust Fund

3/9-7:00PM-Planning Board Meeting

3/10-10:00AM-Community Conversation

3/14- 8 AM – 7 PM Town Election Day

3/14-7:00PM- Recreation Committee

3/16-7:00PM- Abbott Library Trustees

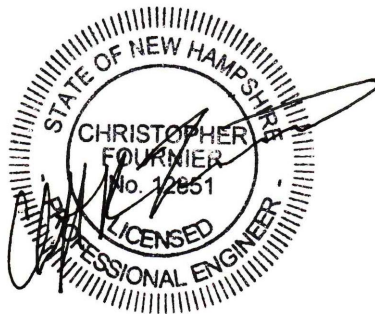
3/16-7:00PM- Planning Board Workshop

NONPUBLIC: The Board of Selectmen may enter a nonpublic session, if so voted, to discuss items listed under RSA 91-A:3, II

**BRIDGE ALTERNATIVES LETTER
for
SARGENT ROAD CROSSING
in
SUNAPEE, NEW HAMPSHIRE**

Prepared for:
Town of Sunapee

November 28, 2022

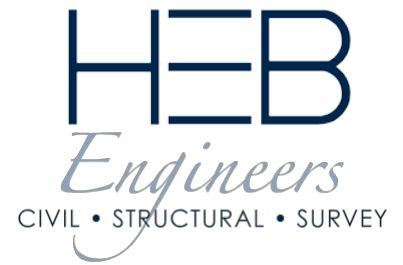


Prepared by:
HEB Engineers, Inc.

HEB Project #2022-088

November 28, 2022

Scott Hazelton, Highway Director
Town of Sunapee
621 Route 11
Sunapee, NH 03782



**Re: Sargent Road Crossing, Sunapee, NH
Bridge Alternatives Letter
HEB Project #2022-088**

Dear Scott,

We understand the Town of Sunapee would like to replace the existing Sargent Road crossing as it is undersized, aging, and structurally obsolete. The project will be fully funded by the Town and Sargent Road will be closed for construction, which is planned to occur during the 2024 construction season.

This letter has been prepared by HEB Engineers, Inc. (HEB) to (1) summarize the findings of the predesign phase and (2) present bridge alternatives for the Sargent Road crossing replacement. These services were performed in accordance with our Letter Agreement, dated July 18, 2022.

I. EXISTING CONDITIONS

The Sargent Road crossing over Tucker Brook is located approximately 0.5 miles west of the Sargent Road intersection with Route 11 in Sunapee, New Hampshire. The roadway is a two-lane gravel road, approximately 23 feet wide in the vicinity of the crossing, with vegetated shoulders. A gravel driveway exists adjacent to the crossing on the north-east corner of the crossing.

The existing crossing, which has a 6-foot clear span, consists of a concrete slab superstructure bearing on stone abutments. Voids exist in the stone abutments and you reported that scour of the abutments has been an issue during large storm events in the past. A small, W-beam guardrail is present on both sides of the crossing, but is not long enough, tall enough, or structurally sufficient.

HEB carried out a topographic survey of the site in September 2022. Based on our review of the survey, the horizontal and vertical alignment of the crossing and approaches is generally acceptable. The existing roadway is approximately 23 feet wide in the vicinity of the crossing, with an overall bridge width of 24 feet. There is a slight horizontal curve at the crossing, as well as a slight vertical sag curve. The right-of-way is 3 rods wide and centered on the existing roadway.

There is no New Hampshire Department of Transportation (NHDOT) Bridge Inspection Report for the existing crossing as it has a span of less than 10 feet, which is the length required to be classified as a bridge in New Hampshire. If the crossing is replaced with a span of greater than 10 feet, NHDOT will change the classification to a bridge, assign the bridge a number, and begin performing bridge inspections every 24 months.

Although geotechnical observations, environmental considerations, and hydrologic/hydraulic assessments are based on existing conditions, these topics require detailed investigation and/or modeling. For this reason, these topics are omitted from the "Existing Conditions" section of this report and instead are included in separate sections below.

II. UTILITIES

There are no known underground utilities in the project area; DigSafe was contacted during the geotechnical investigation and no utilities were located in the ground. Overhead electrical lines run along the north edge of the road. The electrical poles and wires are owned by the New Hampshire Electric Co-op. These lines will need to be accommodated during construction and will either be protected or relocated as part of this project.

III. RIGHT-OF-WAY

The proposed project would largely take place within the Town-owned right-of-way; however, small temporary and permanent easements would likely be necessary to complete the project. These easements would be relatively small in size compared to the overall adjacent properties. No significant or long-term adverse impacts to the affected properties are anticipated.

IV. DRAINAGE

The Town has reported high rates of sediment transport evidenced by brown, cloudy water in Tucker Brook during storm events. Much of this sediment is coming from the gravel surface of Sargent Road. The Town should consider paving Sargent Road to the tops of the hills, east and west of the crossing. Additionally, replacement of the existing crossing and restoration of the surrounding area should include mitigation of other unnatural sediment transport locally, and an investigation of potential upstream contributors to unnatural sediment transport which may not otherwise be associated with this project. At the site, sediment ponds/basins with stone outlet aprons should be installed where roadside ditches discharge to Tucker Brook. The site may also benefit from the improvement of roadside ditches in the area to include vegetative stabilization where possible based on slope and flow velocities, or stone lining where vegetative stabilization is impracticable. Subsurface drainage systems including underdrains and/or closed drainage by way of catch basins could further improve water quality, but would constitute increased costs for the project. Finally, potential sources of sediment upstream of the site should be investigated and addressed.

V. GEOTECHNICAL

The subsurface investigation was performed by New England Boring Contractors on September 22, 2022 with observation by HEB. The assessment included a total of two test borings, one on each side of the existing crossing. Boring B1, on the west side of the crossing, encountered glacial till and then refusal at approximately 30 feet, while boring B2, on the east side of the crossing, also encountered glacial till, but did not encounter refusal at its bottom of excavation (BOE) of 32 feet. (See the attached boring logs in Appendix A). HEB reviewed the blow counts at the proposed elevation of the bottom of abutment footings and has calculated a nominal bearing capacity of 4300 pounds per square foot. Based on the results of the assessment, HEB recommends installing either precast or cast-in-place concrete spread footings founded on crushed stone.

VI. HYDROLOGIC/HYDRAULIC

A hydrologic and hydraulic (H/H) analysis was carried out to understand existing conditions and develop appropriate spans for crossing replacement options. Peak flows for storm events ranging from the 2-year to the 500-year recurrence interval were calculated and applied to surveyed topography, LiDAR data, and bridge models within the Hydraulic Engineering Center River Analysis System (HEC-RAS). Models for existing conditions and the replacement alternatives produced hydraulic data, such as peak water surface elevation and flow velocities, for the range of storm events evaluated.

Based on our models, the existing 6-foot-wide opening is not appropriately sized for Tucker Brook and is likely a major contributor to conditions that have resulted in historic damages at the crossing. The existing conditions model suggests that backwatering (water impoundment upstream of the crossing) occurs for storms above the 25-year recurrence interval. Backwatering can result in flooding upstream, in addition to low velocities and associated sedimentation. Velocities through and downstream of the existing crossing are unnaturally high, reaching 8 feet per second or higher for storms beyond the 10-year recurrence interval. Velocities of this magnitude could result in significant erosion and damage to both the stream channel and the roadway above. These modeled conditions likely explain past damage reported by the Town and confirm that the existing crossing should be replaced.

In the project area, Tucker Brook appears to be a Rosgen Type A or Type B stream with a steep bed profile (averaging about 6%) and a relatively narrow floodplain. Both Type A and Type B streams can be accommodated by a single crossing given their tendency to maintain a single channel. As such, HEB proceeded with the development of two replacement span options: a 15-foot span bridge that provides sufficient hydraulic capacity for Tucker Brook by maintaining natural water surface and velocity profiles through the crossing, and a 23-foot span bridge that would meet the New Hampshire Stream Crossing Guidelines referenced by the New Hampshire Department of Environmental Services (NHDES).

The 15-foot-span bridge provides an opening of similar size to the estimated bankfull width (17 feet) of Tucker Brook in the project area. While a smaller span may meet the primary hydraulic metrics used by NHDES and NHDOT, reports and evidence of past damage necessitate a bridge span that addresses the unnaturally high velocities that likely caused such damage. A 15-foot span is the minimum span for which the model suggests that velocities through the crossing will be maintained near natural conditions for all storm events through the 100-year recurrence interval. While reported velocities are elevated through the crossing for the 500-year storm, appropriate scour protection measures would minimize the risk of failure during this event, as required by NHDES and NHDOT. Further, the 15-foot span would accommodate the 100-year water surface elevation (as required by NHDES) with no backwatering and provide greater than 1-foot of freeboard (the minimum required by NHDOT) over the 50-year storm.

The 23-foot-span bridge provides an opening of 1.2 times the channel bankfull width (17 feet) plus 2 feet, as recommended by the New Hampshire Stream Crossing Guidelines for Type A and Type B streams. These stream types are entrenched and typically maintain one channel with a relatively narrow floodplain that can be accommodated by a single opening. For this span, water surface elevations and velocities through the crossing are further reduced from those reported for the 15-foot span. The 23-foot span would also allow for terrestrial wildlife passage on both sides of the channel through the crossing and would provide some level of additional protection for the bridge abutments. This span would require careful stream channel simulation to ensure velocities are maintained to prevent unnatural sedimentation.

VII. DEVELOPMENT OF BRIDGE ALTERNATIVES:

The following options were considered during the development of the bridge design alternatives:

A. Clear Span:

The following lengths of spans were considered for replacement of the Sargent Road Crossing:

Span Length Option A: Minimum Recommended Span

A 15-foot-span bridge was considered to be the smallest practicable span. While a span smaller than 15 feet could meet the primary NHDES and NHDOT hydraulic requirements, the 15-foot span addresses the likely cause of past damage to the existing bridge (high flow velocities) by maintaining near-natural flow velocities through the crossing. This span meets NHDOT and NHDES minimum hydraulic design criteria: to accommodate the 50-year (Q50) storm event with a minimum of 1-foot of freeboard per the NHDOT Bridge Design Manual, and to accommodate the 100-year flood event per NHDES Wetland Rules for Stream Crossings (Env-Wt 900). However, this option does not meet the NHDES Stream Crossing Guidelines and would require an alternative design request. Additionally, it may require compensatory mitigation. This option will be further evaluated in the Alternatives section below.

Span Length Option B: Stream Crossing Compliant

A 23-foot span bridge meets all state hydraulic requirements and meets NHDES Stream Crossing Guidelines. The 23-foot span may reduce environmental impacts when compared with Option A because it provides additional floodplain capacity and ample space for terrestrial wildlife passage. This option will be further evaluated in the Alternatives section below.

B. Superstructure:

The following types of superstructures were considered for the replacement of the Sargent Road Crossing.

Superstructure Option A: Precast Concrete

A buried, concrete structure that is manufactured offsite and delivered to the site in multiple pieces which are joined together during installation. This type of structure can have either an open bottom in a rigid frame bridge, or a closed bottom in a box culvert. Precast concrete has been a very popular choice for short to medium span bridges within the last decade. While aesthetically plain, they are generally very economical, simple to install, and straightforward to maintain. This option will be further evaluated in the Alternatives section below.



Buffalo Road, Rumney, NH

Superstructure Option B: Prefabricated Multi Plate Arch

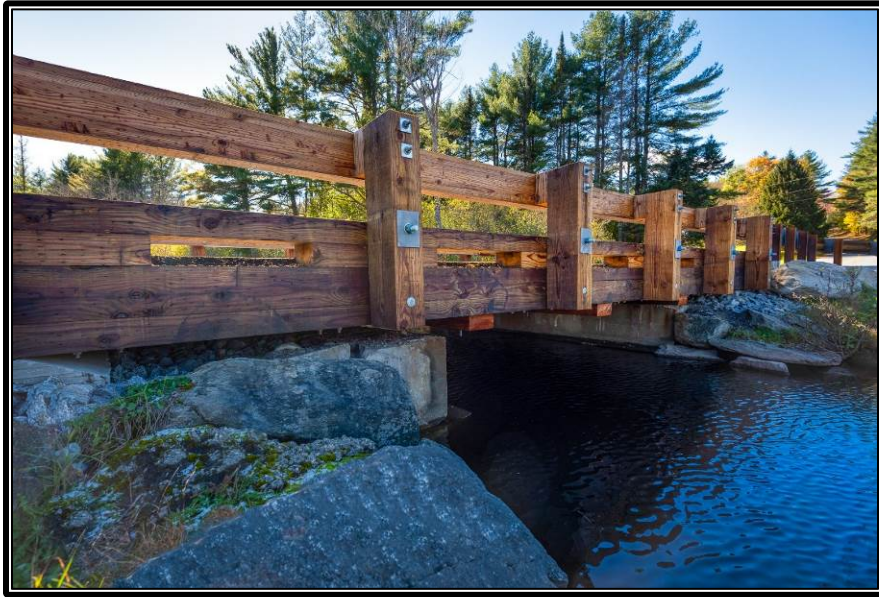
A buried, corrugated metal arch that is prefabricated and assembled on site. The arch is typically joined to a concrete substructure, similar to a concrete rigid frame. Prefabricated metal plate arches are a cost-effective alternative to precast concrete frames. However, their vulnerability to corrosion leads to a shorter lifecycle, making them less appealing than concrete in some circumstances. This option will not be further evaluated due to its shorter lifecycle.



Moose Pond Road, Denmark, ME

Superstructure Option C: Timber

A structure made up of glued-laminated (glulam) timber deck panels or stringers, which are joined together and run longitudinally between the abutments. Timber bridges offer an aesthetic, cost-effective alternative to concrete and steel bridges. They are often chosen to replace existing wooden bridges if the natural aesthetic is a priority and are often paired with glulam bridge rails. There are already several of this type of bridge in Sunapee. This option will be further evaluated in the Alternatives section below.



Bradford Road, Sunapee, NH

Superstructure Option D: Precast Concrete Girder

A structure comprised of concrete girders that are manufactured offsite and joined together on site. Concrete girders are a popular option for medium to long span bridges. They are economical, efficient, and built to last. This option will be further in the Alternatives section below.



Covered Road Bridge, Thornton, NH

Superstructure Option E: Steel Girder

A structure comprised of longitudinal steel beams supporting a timber or concrete deck. Steel girders have been used for long span bridges for a number of years. They can be fitted with a concrete deck if durability is a priority, or a timber deck if simplicity of construction and a natural aesthetic are priorities. They offer a competitive alternative to precast concrete bridges. This option will not be further evaluated because it is generally not economical for spans shorter than 30 feet.



Elm Street, Effingham, NH

C. Bridge Rail Type:

There are no sidewalks in the vicinity of the bridge and pedestrian traffic is assumed to be low. As such, a rail option with a 42-inch high pedestrian rail was not considered. There are a number of guardrail options available, including galvanized T101 (W-Beam), galvanized T2 (Steel Tube), concrete parapet, and timber. All of these options can be designed to withstand AASHTO requirements for crash testing. These options vary in cost, maintenance, and aesthetics. Timber guardrail was chosen for the timber deck alternatives, as this matches the natural aesthetic of the bridge and the other timber bridges in Sunapee. Galvanized T101 guardrail was chosen for all other bridge alternatives because it is the least expensive option, is easy to maintain, and offers a utilitarian design.

VIII. BRIDGE TYPE ALTERNATIVES:

The following alternatives were developed as the most feasible combinations of the options listed above. The two span options (15-foot and 23-foot) were combined with the three superstructure options (precast concrete, precast concrete slab, and timber) for a total of six alternatives. The alternatives were evaluated for constructability, environmental impact, cost, maintenance, aesthetics, and schedule. Specific characteristics with relatively insignificant differences between the alternatives will not be discussed. All alternatives are two-lane bridges with a 24-foot clear width and will utilize a road closure with detour for traffic control during construction. The following alternatives were considered:

- A. 15-foot span Precast Concrete Box Culvert
- B. 15-foot span Precast Concrete Slab
- C. 15-foot span Longitudinal Timber Deck
- D. 23-foot span Precast Concrete Rigid Frame
- E. 23-foot span Precast Concrete Slab
- F. 23-foot span Longitudinal Timber Deck

A. Alternative A: 15-foot span Precast Concrete Box Culvert

This proposed alternative includes the following options:

- Clear Span Option A: 15 feet
- Superstructure Option A: Precast Concrete (Box Culvert)
- Bridge Rail Option: T101

Based on the H/H analysis, a 15-foot span length provides a crossing that meets NHDOT and NHDES hydraulic design criteria but does fall short of compliance with the NHDES Stream Crossing Rules. At this span length, a precast concrete box culvert bridge is the most economical superstructure option. The bottom of the box culvert would be embedded to provide a simulated natural stream bottom. Precast concrete wingwalls are necessary at each corner of the bridge. Precast concrete headwalls would be attached above the inlet and outlet of the box culvert, and act as retaining walls for the soil topping. The headwalls include precast concrete curbs, with a 7-inch reveal above the wearing surface. Bridge mounted rails are attached to the curbs. Due to the minimal pedestrian traffic, crash-tested T101 bridge rails have been selected, as this is the most economical choice.

Inclusion of a wildlife shelf will be investigated during the preliminary design phase of the project. Wildlife shelves provide animals easier and safer access to each side of the roadway, as they can travel through the span of the bridge rather than being forced to cross the roadway. As the wildlife shelf reduces the adverse environmental impact of the crossing, the addition of a wildlife shelf helps to avoid compensatory mitigation fees. It also helps with the approval of the alternative design request, which is required since the bridge does not meet NHDES Stream Crossing Rules.

With regards to aesthetics, the new bridge would appear to be a more significant structure than what is existing, with the addition of a longer span, concrete headwalls, concrete wingwalls, and bridge rails. It should be noted, that based on current codes and standards, most proposed structures would require these items.

It is anticipated that this alternative would have a minimum service life of 80 years and would require only minor annual maintenance. Minimal preservation activities are anticipated throughout its life, due to the simple nature of this structure type and the lack of expansion joints. Maintenance required for this structure includes:

- Annual removal of debris and cleaning/sealing of substructure
- Every 5 years: Crack seal pavement
- Every 10 years: Pavement inlay

Precast concrete components have experienced increasing popularity and therefore lead times (from ordering to delivery) can be quite long and are expected to be approximately four months. The anticipated construction duration (onsite) for this alternative is 8-12 weeks, and the conceptual engineer's opinion of probable cost for construction is \$525,000.

B. Alternative B: 15-foot span Precast Concrete Slab

This proposed alternative includes the following options:

- Clear Span Option A: 15 feet
- Superstructure Option D: Precast Concrete Girder (Concrete Slab)
- Bridge Rail Option: T101

This alternative is presented as a variation on Alternative A with a precast concrete slab superstructure. This type of superstructure has the advantage of being able to be rehabilitated and, therefore, having a lifecycle of 120 years if properly maintained. As this is a non-buried structure, a larger abutment is required, which is the primary driver of the increased cost over Alternative A. Due to its size and geometry, the abutment will likely be cast-in-place. All other aspects of this alternative, including clear span (15 feet), channel reconstruction, wildlife shelves, wingwalls, scour protection, and road reconstruction are identical to Alternative A.

With regards to aesthetics, the new bridge will appear to be a more significant structure than what is existing. Some consider the concrete slab structure to be more aesthetic than the box culvert structure due to its shallower superstructure.

It is anticipated that this alternative would have a minimum service life of 120 years and would require moderate maintenance. Regular preservation activities, as well as a full rehabilitation at 60 years, are required to ensure the bridge reaches its full serviceable life. Maintenance required for this structure includes:

- Annual removal of debris and cleaning/sealing of substructure
- Every 5 years: Crack seal pavement
- Every 10 years: Pavement inlay
- Every 20 years: Perform bridge preservation. Patch deck and superstructure; replace membrane and pavement; rehabilitate bearings.
- Every 60 years: Perform bridge rehabilitation. Replace railings, pavement, membrane, deck, and bearings; patch substructure.

Precast concrete lead times (from ordering to delivery) can be quite long and are expected to be approximately four months. The anticipated construction duration (onsite) for this alternative is 8-12 weeks, and the conceptual engineer's opinion of probable cost for construction is \$600,000.

C. Alternative C: 15-foot span Longitudinal Timber Deck

This proposed alternative includes the following options:

- Clear Span Option A: 15 feet
- Superstructure Option C: Timber (Longitudinal Glued-Laminated Timber Deck)
- Bridge Rail Option: Timber

This alternative is presented as a variation on Alternative B with a timber superstructure; all other aspects of this alternative are identical to Alternative B. Timber superstructures have a natural aesthetic, which some prefer to the concrete superstructures. This type of superstructure also has the benefit of being relatively simple to construct and maintain.

This alternative includes the installation of a longitudinal glued-laminated (glulam) timber deck that bears on the concrete substructure. The glulam deck would be approximately 12.25 inches thick to meet current timber design standards. A crash-tested timber railing system will be installed, with corresponding approach and terminal sections.

It is anticipated that this alternative would have a minimum service life of 120 years and would require moderate maintenance. Regular preservation activities, as well as a full deck replacement at 40 years, is required to ensure the bridge reaches its full serviceable life. Maintenance required for this structure includes:

- Annual removal of debris and cleaning/sealing of substructure
- Every 5 years: Crack seal pavement
- Every 10 years: Pavement inlay
- Every 20 years: Perform bridge preservation. Repair timber deck, replace membrane and pavement.
- Every 40 years: Perform bridge rehabilitation. Replace railings, pavement, membrane, and timber deck; patch substructure.

Timber has been in high demand recently; lead times are expected to be approximately four months. This has also led to unprecedented price increases, making timber bridges less economical than they have been in the past. The anticipated construction duration (onsite) for this alternative is 8-12 weeks, and the conceptual engineer's opinion of probable cost for construction is \$575,000

D. Alternative D: 23-foot span Precast Concrete Rigid Frame

This proposed alternative includes the following options:

- Clear Span Option B: 23 feet
- Superstructure Option A: Precast Concrete (Rigid Frame)
- Bridge Rail Option: T101

Based on the H/H analysis, a 23-foot span length provides a crossing that meets NHDOT and NHDES hydraulic design criteria and is also in compliance with the NHDES Stream Crossing Rules. At this span length, a precast concrete rigid frame bridge is the most economical superstructure option. Besides the increased span and modification from a box culvert to a rigid frame, this bridge alternative is very similar to Alternative A. This Alternative includes precast concrete wingwalls and headwalls with T101 bridge rails.

Due to the larger span length for this proposed bridge alternative, this would be a more visually significant structure than Alternative A, albeit with a similar overall appearance. The extents of the guardrail would be slightly longer; however, the majority of the guardrail is in the approach and terminal units. The length of these units is fixed for bridges of this size, so the guardrail would not appear to be significantly longer than Alternative A.

Although a larger construction project, and more impactful in the short term, the longer span of Alternative D will restore the stream to a near-natural condition. An NHDES stream crossing compliant bridge will attempt to match the river's natural upstream and downstream characteristics. The crossing will promote passage of both terrestrial and aquatic life, and be less impactful to the environment throughout the lifespan of the structure. Finally, the wider span has lower water velocities through the channel, which increases resiliency and makes the structure less susceptible to scour and storm damage. It should be noted that careful design of the streambed should be considered to ensure velocities do not become too slow and cause sedimentation at the bridge.

The service life and maintenance requirements for this Alternative are the same as Alternative A. It is anticipated that this alternative would have a minimum service life of 80 years and would require only minor annual maintenance. Minimal preservation activities are anticipated throughout its life, due to the simple nature of this structure type and the lack of expansion joints. Maintenance required for this structure includes:

- Annual removal of debris and cleaning/sealing of substructure
- Every 5 years: Crack seal pavement
- Every 10 years: Pavement inlay

Again, precast concrete rigid frame bridge components have experienced increasing popularity and lead times can be expected to be approximately four months. The anticipated construction duration (onsite) for this alternative is 8-12 weeks, and the conceptual engineer's opinion of probable cost for construction is \$600,000.

E. Alternative E: 23-foot span Precast Concrete Slab

This proposed alternative includes the following options:

- Clear Span Option B: 23 feet
- Superstructure Option D: Precast Concrete Girder (Concrete Slab)
- Bridge Rail Option: T101

This alternative is presented as a variation on Alternative B with the longer, 23-foot. Therefore, this Alternative has the advantages of the longer span, similar to Alternative D, as well as the increased lifecycle of 120 years, similar to Alternative B.

The service life and maintenance requirements for this Alternative are the same as Alternative B. It is anticipated that this alternative would have a minimum service life of 120 years and would require moderate maintenance. Regular preservation activities, as well as a full rehabilitation at 60 years, are required to ensure the bridge reaches its full serviceable life. Maintenance required for this structure includes:

- Annual removal of debris and cleaning/sealing of substructure
- Every 5 years: Crack seal pavement
- Every 10 years: Pavement inlay
- Every 20 years: Perform bridge preservation. Patch deck and superstructure; replace membrane and pavement; rehabilitate bearings.
- Every 60 years: Perform bridge rehabilitation. Replace railings, pavement, membrane, deck and bearings; patch substructure.

Again, precast concrete bridge components have experienced increasing popularity and lead times can be expected to be approximately four months. The anticipated construction duration (onsite) for this alternative is 8-12 weeks, and the conceptual engineer's opinion of probable cost for construction is \$700,000.

F. Alternative F: 23-foot span Longitudinal Timber Deck

This proposed alternative includes the following options:

- Clear Span Option B: 23 feet
- Superstructure Option C: Timber (Longitudinal Glued-Laminated Timber Deck)
- Bridge Rail Option: Timber

This alternative is presented as a variation on Alternative C with the longer, 23-foot span. Therefore, this Alternative has the advantages of the longer span, similar to Alternative D, as well as the natural aesthetic of the timber deck, similar to Alternative C.

The service life and maintenance requirements for this Alternative are the same as Alternative C. It is anticipated that this alternative would have a minimum service life of 120 years and would require moderate maintenance. Regular preservation activities, as well as a full deck replacement at 40 years and 80 years, are required to ensure the bridge reaches its full serviceable life. Maintenance required for this structure includes:

- Annual removal of debris and cleaning/sealing of substructure
- Every 5 years: Crack seal pavement
- Every 10 years: Pavement inlay
- Every 20 years: Perform bridge preservation. Repair timber deck, replace membrane and pavement.
- Every 40 years: Perform bridge rehabilitation. Replace railings, pavement, membrane, and timber deck; patch substructure.

Timber has been in high demand recently; lead times are expected to be approximately four months. This has also lead to unprecedented price increases, making timber bridges less economical than they have been in the past. The anticipated construction duration (onsite) for this alternative is 8-12 weeks, and the conceptual engineer's opinion of probable cost for construction is \$675,000.

IX. BRIDGE ALTERNATIVES SUMMARY

The following table summarizes the bridge alternatives:

Alternative	Span (feet)	Superstructure Type	Maintenance	Lifespan (years)	Construction Cost
A	15	Precast Concrete Box culvert	Low	80	\$ 575,000
B	15	Precast Concrete Slab	Medium	120	\$ 675,000
C	15	Timber	Medium	120	\$ 625,000
D	23	Precast Concrete Rigid Frame	Low	80	\$ 650,000
E	23	Precast Concrete Slab	Medium	120	\$ 775,000
F	23	Timber	Medium	120	\$ 725,000

Table 1: Bridge Alternatives Summary


All proposed alternatives were evaluated for constructability, environmental considerations, aesthetics, schedule, cost, and maintenance. With respect to constructability, each alternative is common to local bridge contractors. The longer span of Alternative D – F provides less significant long-term environmental impacts and provide more storm resiliency. Alternative A – C do not meet the NHDES Stream Crossing Guidelines; however, the Town can seek acceptance of an Alternative Design. Aesthetically, all alternatives will appear to be a more significant structure than the existing crossing due to the longer span. The timber superstructure of Alternatives C and F provide a more natural aesthetic. All alternatives have the same anticipated construction duration of 8-12 weeks. Alternative A has the lowest projected up-front cost (\$525,000) and requires the least maintenance.

As always, we are more than willing to discuss the findings of this letter with the Town; as you review the bridge alternatives, please do not hesitate to contact us.

Sincerely,
HEB Engineers, Inc.



Christopher R. Fournier, PE, SE
Vice President / Lead Structural Engineer



Trevor S. Ricker, EIT
Staff Structural Engineer

Enclosures: Appendix A – Boring Logs

Copy: File

APPENDIX A

Boring Logs

(603) 437-1610		New England Boring Contractors P.O. Box 165 Derry, NH 03038 E-Mail: nebc@neboring.com			Fax: (603) 437-0034			
Boring # B-1		Project: Sargent Rd			Project # 185082			
Project Address: Sargent Rd.			City: Sunapee		State: NH Zip: 03782			
Date Start: 9/22/2022		Date End: 9/22/2022			Location: See Plan			
Casing Type & size: HW 4"ID Hammer wt.: 300lb. Hammer fall: 30".		Sampler: SS 1 3/8 Hammer wt.: 140lb. Hammer fall: 30".		Core Barrel: Size:				
G R O U N D W A T E R O B S E R V A T I O N								
Date:	Depth: 9'			Casing:		Stabilization Period		
DP	S#	DEPTH	PEN	REC	BLOWS/6"	S/C SAMPLE DESCRIPTION		
-	S-1	0' – 2'	24"	16"	14-22-13-15	3'6"	Dry, dense, gray, fine to coarse SAND, some fine to coarse Gravel, trace Silt, road base.	
-	S-2	4' – 6'	24"	17"	3-2-5-4		Dry, loose, brown, fine to medium SAND, some Silt.	
-							5'0"	
-						9'		
-	S-3	10' – 12'	24"	14"	14-23-28-25	13'	Wet, very dense, brown, fine SAND and SILT, trace fine Gravel.	
-								
-								
-	S-4	15' – 17'	24"	17"	13-12-15-17		Wet, medium dense, gray, fine SAND and SILT.	
-								
-								
-	S-5	20' – 22'	18"	13"	20-20-100/6"		Wet, very dense, gray, fine SAND and SILT, trace fine to coarse Gravel. (advance roller bit)	
-								
-								
-	S-6	25' – 27'	24"	19"	24-30-47-53	29'6"	Wet, very dense, gray, fine SAND and SILT, trace fine Gravel.	
-								
-								
-	S-7	30' – 30'3"	3"	3"	100/3"	30'3"	Very dense, white and gray possible rock chips.	
-								
Driller: Mark D'Ambrosio		Helpers: Cody Richards			Inspector: Jason Ross			
Remarks:								
S/#: Sample		PEN: Penetration		REC: Recovery		S/C: Strata Change		

(603) 437-1610		New England Boring Contractors P.O. Box 165 Derry, NH 03038 E-Mail: nebc@neboring.com			Fax: (603) 437-0034	
Boring # B-2		Project: Sargent Rd			Project # 185082	
Project Address: Sargent Rd.			City: Sunapee		State: NH Zip: 03782	
Date Start: 9/22/2022		Date End: 9/22/2022			Location: See Plan	
Casing Type & size: FJ 4"ID Hammer wt.: 300lb. Hammer fall: 30".		Sampler: SS 1 3/8 Hammer wt.: 140lb. Hammer fall: 30".		Core Barrel: NQ Size: 1 7/8 dia		
G R O U N D W A T E R O B S E R V A T I O N						
Date:	Depth: 12'		Casing:			Stabilization Period
DP	S#	DEPTH	PEN	REC	BLOWS/6"	S/C SAMPLE DESCRIPTION
-	S-1	0' – 2'	24"	16"	16-20-24-28	Dry, dense, gray, fine to coarse SAND and GRAVEL, trace Silt fill. Rock stuck in tip of spoon, possible fill. Note: hitting cobble, advancing casing.
-	S-2	4' – 6'	24"	0"	6-2-4-4	
-						
5'0"						
-						
-	S-3	10' – 12'	24"	4"	3-3-7-25	10'
10'0"						
-						
-						
-						
15'0"	S-4	16' – 17'6"	18"	15"	34-48-82	13'6"
-						
-						
-						
-						
20'0"	S-5	20' – 21'6"	18"	13"	39-82-84	Note: cobble at 15' took sample at 16' Wet, very dense, gray, fine SAND and SILT, some fine Gravel, trace Cobbles.
-						
-						
-						
-						
25'0"	S-6	25' – 27'	24"	24"	15-18-29-38	Wet, very dense, gray, fine SAND and SILT, some fine to medium Gravel.
-						
-						
-						
-						
30'0"	S-7	30' – 32'	24"	24"	20-20-32-24	Wet, dense, gray, fine SAND and SILT. Trace fine Gravel.
-						
-						Wet, very dense, gray, fine SAND and SILT, trace fine Gravel, trace Clay. B.O.E 32'
Driller: Mark D'Ambrosio		Helpers: Cody Richards			Inspector: Jason Ross	
Remarks:						
S/#: Sample		PEN: Penetration		REC: Recovery		S/C: Strata Change

Proposed Septic Rules for the Town of Sunapee
Final 1-25-23

Authority: Health Officers

NH RSA 147:10 grants municipal health officers, with the approval of the Board of Selectmen (NH RSA 147:1), authority to adopt regulations that will ensure that wastewater disposal systems shall not be a nuisance or injurious to public health.

General Purpose and Intent

- 1) Protect the quality of the surface waters of Lake Sunapee, which is the major public water supply for the Town of Sunapee
- 2) Protect the quality of ground water in the lakes, ponds and Sugar River in the Town of Sunapee
- 3) Protect public health through prevention of human contact with sewage and related pathogens
- 4) Prevent increased nitrogen and phosphorus accumulations and related pathogens from entering the lakes, ponds, rivers, streams and aquifer recharge areas
- 5) Provide a proactive approach towards septic systems posing higher risk and significance of failure within the Shoreland Overlay District.

Reference & Definitions

All terms used herein shall have the same definitions as found in State regulations and references based on Chapter Env-Wq 1000 “Subdivisions; Individual Sewage Disposal Systems” with Statutory Authority RSA 485-A:6, latest effective date Oct. 1, 2016 or most recent.

Applicability

These regulations apply to all sewage disposal systems on private septic system located wholly, or part within the Shoreline Overlay District, (within 250 feet of lakes & ponds over 10 acres in size and fourth order streams) as well as all commercial food preparation facilities within the entire Town of Sunapee on a septic system.

Septic Tank Pumping

All septic tanks to be pumped on the following schedule:

All developed properties with septic systems in the Shoreline Overlay District in the Town of Sunapee shall be pumped a minimum of once every three years.

In cases where a septic tank or pump chamber has not been pumped out in the three years prior to the adoption of this regulation, such systems shall be pumped out within one year of the effective date of this regulation.

Exceptions

Exceptions to these regulations are to be determined by the Town Selectboard or its designee.

Holding Tank Exception: Properties that have a 'holding tank' system, shall abide by the NHDES regulations, which currently require the holding tank to be pumped when the tank is at 80% capacity.

Grease Trap Exception: All commercial Food preparation facilities within the Town of Sunapee, on a septic system are required to have a grease trap system installed. All grease trap systems must be pumped per manufacturer's or service providers recommendation but no less than twice a year.

Owners of Residential properties occupied by 2 or fewer persons and owners of properties used on a strictly seasonal use may apply to the Board of Selectmen, or designee, for a waiver of the 3 year requirement. In no case shall a septic tank be pumped less often than once every 6 years.

Waivers shall not be granted for commercial or any type of Short Term Rental (STR) properties.

The Health Officer shall maintain a list of approved proprietary Innovative/Alternative Technology (ITA) septic systems as defined in NHDES Env-Wq1024. Such systems shall be pumped out, inspected and maintained at a frequency specified by the ITA manufacturer. The Health Officer may also request inspection records from the manufacturers of the ITA systems.

Sale of property within Shoreland Overlay District

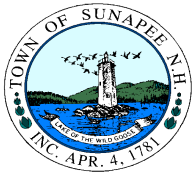
When a developed waterfront property is sold or transferred, a copy of the **Waterfront Property Site Assessment Study required by NHDES Env-Wq 1025 regulations** must be submitted to the Town either by the seller or their Agent within 10 days of the sale of property.

Adoption

- A) These regulations shall be administered by the Code Enforcement Officer and/or Health Officer or by such person as the Board of Selectmen may designate. Any person willfully violating these regulations shall be guilty of a violation.

- B) Prior to the effective date of this regulation, the owners of all affected properties shall be provided with a written notice of the requirements of these regulations.
- C) Property owners who have had their septic tanks pumped within 3 years prior to the effective date of this regulation shall provide the Health Officer, or designee, with documentation of such pumping, failing which it, shall be presumed that the septic tank pumped has not been pumped within 3 years prior to the effective date of this regulation.
- D) Property owners who have had their septic tank/ holding tank/ grease trap pumped out after the effective date of this regulation shall provide the Health Officer or designee with documentation of the pumping, including receipts from the Company that did the pumping, and the approximate gallons of septage pumped. Such information shall be provided within 10 days of the pumping.

Douglas Gamsby
Health Officer, Town of Sunapee



TOWN OF SUNAPEE

Post Office Box 717
23 Edgemont Road
Sunapee, New Hampshire 03782-0717
Phone: (603) 763-2212 Fax: (603) 763-4925

CERTIFICATE OF APPOINTMENT TOWN OF SUNAPEE, NEW HAMPSHIRE

To, **Sylvia Kellner**, of Sunapee, NH in the
County of Sullivan

Whereas, there is a vacancy on the **Conservation Commission Committee** in said town and whereas we, the subscribers, have confidence in your ability and integrity to perform the duties of said office, we do hereby appoint you **Sylvia Kellner** as a member of the **Conservation Commission Committee** of said town; and upon your taking the oath of office, and having this appointment and the certificate of said oath of office recorded by the town clerk, you shall have the powers, perform the duties, and be subject to the liabilities of such office, until another person shall be chosen and qualified in your stead. This term expires April 12, 2026.

Given under our hands this the 6th day of March 2023

I, **Sylvia Kellner**, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent on me as a member of the **Conservation Commission Committee** according to the best of my abilities, agreeably to the rules and regulations of the constitution and laws of the State of New Hampshire. So Help Me God.

STATE OF NEW HAMPSHIRE, ss.
SULLIVAN COUNTY

Personally, appeared the above named **Sylvia Kellner** who took and subscribed the foregoing oath.
Before me,

Date _____ 20

Received and Recorded

Town Clerk

APPLICATION FOR USE OF TOWN OF SUNAPEE FACILITIES

Area (Circle One): BenMere/Bandstand – Coffin Park - Dewey Beach - Georges Mills Harbor – Safety Services Building--Sunapee Harbor-Tilton Park

Name of Organization:

SMHS Class of 2024
This Organization is: Non-Profit - Political - Private (N/A for profit companies)

Sean Moynihan / Son Reed
Name of Duly Authorized:

Mailing Address: SMHS 10 North Rd Sunapee NH

Daytime Phone: 603-763-5615 Evening Phone: _____

I/We hereby apply for permission to use the above circled Town facility on:

Event Date: May 13, 2023 Time: From: 7am To: 12pm

Please describe the complete details of the event: (If advertising please include ad or flyer)

*include a list of outside vendors that will be part of your event.

2023 Live Free or Dye Color Run to benefit the
SMHS class of 2024. 5K run beginning & ending
at Dewey Beach. Run loop around Hill & Grandlinden
We would like to park on Tobie Creek road

I/We acknowledge understanding the following restrictions:

- (1) If this event will likely bring more than 50 people or 20 cars to the area, the applicant must first submit this application to the Chief of Police. The Chief of Police may require the applicant to hire police officer(s) for crowd or traffic control.
- (2) I/We agree to abide by the Town of Sunapee's Recreation Area Ordinance, which controls conduct and uses of this area.
- (3) The applicant shall indemnify and hold the Town of Sunapee, its employees, agents, and representatives harmless from any and all suits, actions, claims, in equity or at law, for damages asserted by any attendees at such function, or other third parties, resulting from the use of the premises, or from

the food and beverages served at the above-described function. In addition, in the event that the town is required to respond to any claims of any nature arising in connection with the function or the applicant's use of the premises, the applicant agrees to pay to the Town all costs, fees, charges and attorney's fees which may be incurred by the Town concerning such claims.

I/We plan on 100 # of people and 40 # of vehicles attending our event.

Signature of Responsible Individual

Date

2/11/23

Approved by Chief of Police

Date

2/8/23

0 # of Officer(s) will be assigned to event at applicant's expense.

Approved by Recreation Director (if applicable)

Date

Approved by Fire Chief (if applicable)

Date

2/8/23

Approved by Highway Director (if applicable)

Date

2-8-23

Signature of Approving/Denying Authority (Chairman of the Board of Selectmen)

Date

Insurance: At least ten (10) days prior to such scheduled function, the applicant shall furnish to the Office of the Sunapee Board of Selectmen written confirmation that the applicant has secured adequate liability insurance covering the event in an amount not less than \$300,000.

***Suggested \$50 contribution for non-residents**

**NO ALCOHOL ALLOWED ON TOWN PROPERTIES WITHOUT A
ALCOHOLIC CONSUMPTION ON TOWN PROPERTY PERMIT**

APPLICATION FOR USE OF TOWN OF SUNAPEE FACILITIES

Area (Circle One): BenMere/Bandstand – Coffin Park - Dewey Beach - Georges Mills Harbor
Safety Services Building--Sunapee Harbor-Tilton Park

Name of Organization:

LAKE SUNAPEE CRUISING FLEET

This Organization is: Non-Profit – Political –Private (N/A for profit companies)

STEVE BERNIER SECRETARY LSCF

Name of Duly Authorized:

Mailing Address:

P.O. Box 779

SUNAPEE NH 03782

Daytime Phone:

603-533-4738

Evening Phone:

SAME

I/We hereby apply for permission to use the above circled Town facility on:

Event Date:

MAY 20, 2023

Time: From:

8:00 AM
9:30

To:

NOON

Please describe the complete details of the event:(If advertising please include ad or flyer)

*include a list of outside vendors that will be part of your event.

ANNUAL MEETING OF THE LSCF MEMBERSHIP

I/We acknowledge understanding the following restrictions:

(1) If this event will likely bring more than 50 people or 20 cars to the area, the applicant must first submit this application to the Chief of Police. The Chief of Police may require the applicant to hire police officer(s) for crowd or traffic control.

(2) I/We agree to abide by the Town of Sunapee's Recreation Area Ordinance, which controls conduct and uses of this area.

(3) The applicant shall indemnify and hold the Town of Sunapee, its employees, agents, and representatives harmless from any and all suits, actions, claims, in equity or at law, for damages asserted by any attendees at such function, or other third parties, resulting from the use of the premises, or from



the food and beverages served at the above-described function. In addition, in the event that the town is required to respond to any claims of any nature arising in connection with the function or the applicant's use of the premises, the applicant agrees to pay to the Town all costs, fees, charges and attorney's fees which may be incurred by the Town concerning such claims.

I/We plan on 20 # of people and 10 # of vehicles attending our event.

Signature of Responsible Individual Sh Berner Date 1/30/23

[Signature] Date 2/8/23
Approved by Chief of Police

0 # of Officer(s) will be assigned to event at applicant's expense.

Approved by Recreation Director (if applicable) Date

[Signature] Date 2/8/23
Approved by Fire Chief (if applicable)

Approved by Highway Director (if applicable) Date

Signature of Approving/Denying Authority (Chairman of the Board of Selectmen) Date

Insurance: At least ten (10) days prior to such scheduled function, the applicant shall furnish to the Office of the Sunapee Board of Selectmen written confirmation that the applicant has secured adequate liability insurance covering the event in an amount not less than \$300,000.

***Suggested \$50 contribution for non-residents**

**NO ALCOHOL ALLOWED ON TOWN PROPERTIES WITHOUT A
ALCOHOLIC CONSUMPTION ON TOWN PROPERTY PERMIT**

MCLANE MIDDLETON

MARK C. ROUVALIS
Admitted in NH and MA
900 Elm Street, 10th Floor
Manchester, NH 03105
T 603.625.6464

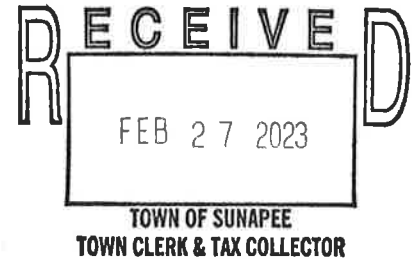
February 21, 2023

HAND-DELIVERED

To: Recipient of the Enclosed Subpoena

From: Mark C. Rouvalis
Viggo C. Fish
McLane Middleton, Professional Association

Re: Subpoena for Documents
State of New Hampshire v. 3M Company, et al.
United States District Court, District of New Hampshire
Docket No.: 1:22-CV-00145



To Recipient of the Enclosed Subpoena:

This firm represents 3M Company in the above-referenced litigation. The enclosed subpoena for documents is being served upon you in connection with, and as a non-party to, this case. The State of New Hampshire has identified you as the owner, operator, and/or responsible party for the site identified in the enclosed subpoena due to alleged detections of certain per- and poly-fluoroalkyl substances (PFAS) in and/or near the site.

You are required to produce any and all documents as more specifically described in Attachment A to the enclosed subpoena to the law offices of McLane Middleton, Professional Association, 900 Elm Street, 10th Floor, Manchester, New Hampshire, on or before March 22, 2023, at 9:30 a.m. Documents may be produced in an agreed-upon electronic format (see the attached Production Specifications) or, for hard copy documents, in paper form.

Should you have any questions or concerns about the enclosed subpoena or Production Specifications, or if you would like to receive a copy of the State of New Hampshire's Second Amended Complaint in this suit, or other pleadings in this case, please do not hesitate to contact (or if you have legal counsel, have counsel contact) Attorney Viggo Fish as follows:

Viggo C. Fish, Esq.
viggo.fish@mclane.com
(603) 230-4412

Thank you in advance for your attention to and compliance with the enclosed subpoena.

Enclosures: Subpoena Duces Tecum
Attachment A
Ex. 1 NHDES Letters from May 18, 2017, and October 19, 2017
Production Specifications

UNITED STATES DISTRICT COURT

for the

District of New Hampshire

State of New Hampshire

Plaintiff

v.

3M Company, et al.

Defendant

Civil Action No. 1:22-cv-00145-LM

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Town of Sunapee c/o Keeper of the Records, 23 Edgemont Road, Sunapee, NH 03782
Re: Sunapee Landfill (NHDES Site No. 199103006)

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Any and all documents described in Attachment A, attached hereto.

Place: McLane Middleton, Professional Association, 900 Elm Street, 10th Floor, Manchester, NH	Date and Time: 03/22/2023 9:30 am
---	--------------------------------------

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 02/21/2023

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

s/ Mark C. Rouvalis

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) 3M Company, who issues or requests this subpoena, are:

Mark C. Rouvalis, McLane Middleton, 900 Elm Street, 10th Floor, Manchester, NH 03105, mark.rouvalis@mcclane.com, 603-625-6464

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:22-cv-00145-LM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.: _____

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) **For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) **For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) **Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) **Command to Produce Materials or Permit Inspection.**

(A) **Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) **Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) **Quashing or Modifying a Subpoena.**

(A) **When Required.** On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) **When Permitted.** To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) **Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) **Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) **Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) **Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) **Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

(D) **Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) **Claiming Privilege or Protection.**

(A) **Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) **Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) **Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

SUBPOENA ATTACHMENT A

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply:

1. The “Action” means the matter captioned *State of New Hampshire v. 3M Company, et al.*, Civil Action No. 1:22-cv-00145-LM, pending in the United States District Court for the District of New Hampshire.
2. “Communication,” “communicate,” and “communicated” mean the transmittal of information, in the form of facts, ideas, inquiries, or otherwise.
3. “Complaint” means the Second Amended Complaint filed by Plaintiff in the Action on August 25, 2021.
4. “Concerning,” “Regarding,” “Referring,” or “Relating” mean analyzing, commenting on, concerning, considering, consisting of, constituting, containing, describing, discussing, evidencing, forecasting, involving, mentioning, pertaining to, recommending, referring to, reflecting, regarding, relating to, reporting on, setting forth, studying, supporting, rebutting, or having any legal, logical, evidential, or factual connection with (whether to support or to rebut, and whether in whole or in part) the subject matter designated in the requests.
5. The “Defendants” are 3M Company; E.I. DuPont de Nemours & Co.; The Chemours Co. f/k/a The Chemours Co., LLC; Corteva, Inc.; and DuPont de Nemours, Inc.
6. “Document(s)” shall be construed to the broadest extent possible under Federal Rule of Civil Procedure 34.
7. “Environmental Audit” means an environmental, operational, or other audit intended to identify compliance or non-compliance with environmental regulatory requirements, implementation gaps, related corrective actions, or other environmental performance.
8. “Environmental Media” means soil, groundwater, surface water, potable water, sediment, fill, landfill leachate, unconsolidated aquifer materials, aquitard materials, consolidated rock materials (e.g., bedrock), air, sludge, biosolids, and biota.
9. “Hazardous Substances” means any material, substance, petroleum product, or waste that is listed, regulated, or defined under any law or regulation as a hazardous material, hazardous substance, toxic waste, contaminant or pollutant, including, without limitation, under 40 C.F.R. part 302.4, N.H. RSA 147-A, N.H. RSA 146-A, and all implementing regulations.
10. “Including” or “Includes” means including but not limited to.
11. “PFAS at Issue” is defined for purposes of these requests using the definition provided by Plaintiff in the Complaint, which is any and all of the following synthetic per- and polyfluoroalkyl substances: perfluorooctanesulfonic acid (“PFOS”), perfluorooctanoic acid (“PFOA”), perfluorononanoic acid (“PFNA”), and perfluorohexanesulfonic acid (“PFHxS”), including any and all of those compounds themselves (including any and all of their salts and ionic states as well as the acid forms of the molecules); and including any and all of their

SUBPOENA ATTACHMENT A

chemical precursors including compounds and products that can transform or degrade to PFAS at Issue in the environment.

12. “PFAS-containing products” means any and all products known or suspected to contain any PFAS at Issue as defined herein, including but not limited to products used or intended for use in operations at the Site and firefighting foam or AFFF (aqueous film-forming foam).

13. “Other PFAS” means any and all of the following substances: Perfluoropropionic Acid (PFPrA), Perfluorobutanoic acid (PFBA), Perfluoropentanoic acid (PFPA), Perfluorohexanoic acid (PFHxA), Perfluoroheptanoic acid (PFHpA), Perfluorodecanoic acid (PFDA), Perfluorodecanoic acid (PFUnDA), Perfluorododecanoic acid (PFDoDA), Perfluorotridecanoic acid (PFTrDA), Perfluorotetradecanoic acid (PFTeDA), Perfluoro-n-hexadecanoic acid (PFHxDA), Perfluoro-n-octadecanoic acid (PFODA), 1H,1H, 2H, 2H-Perfluorohexane sulfonic acid (4:2 FTS), 1H,1H, 2H, 2H-Perfluorooctane sulfonic acid (6:2 FTS), 1H,1H, 2H, 2H-Perfluorodecane sulfonic acid (8:2 FTS), 1H,1H, 2H, 2H-Perfluorododecane sulfonic acid (10:2 FTS), 3-Perfluoropropyl propanoic acid (3:3 FTCA), 2H,2H,3H,3H-Perfluorooctanoic acid (5:3 FTCA), 3-Perfluoroheptyl propanoic acid (7:3 FTCA), 6:2 Fluorotelomer carboxylic acid (6:2 FTCA), 8:2 Fluorotelomer carboxylic acid (8:2 FTCA), 10:2 Fluorotelomer carboxylic acid (10:2 FTCA), 6:2 Fluorotelomer unsaturated carboxylic acid (6:2 FTUCA), 8:2 Fluorotelomer unsaturated carboxylic acid (8:2 FTUCA), 10:2 Fluorotelomer unsaturated carboxylic acid (10:2 FTUCA), 4:2 Fluorotelomer alcohol (4:2 FTOH), 6:2 Fluorotelomer alcohol (6:2 FTOH), 8:2 Fluorotelomer alcohol (8:2 FTOH), 10:2 Fluorotelomer alcohol (10:2 FTOH), 6:2 Fluorotelomer acrylate (6:2 FTAc), 8:2 Fluorotelomer acrylate (8:2 FTAc), 10:2 Fluorotelomer acrylate (10:2 FTAc), 6:2 Fluorotelomer methacrylate (6:2 FTMAc), 8:2 Fluorotelomer methacrylate (8:2 FTMAc), 10:2 Fluorotelomer methacrylate (10:2 FTMAc), and any other fluorotelomer precursors.

14. “Other Contaminants” means physical, chemical, biological or radiological substances that are not PFAS at Issue, Other PFAS, or Hazardous Substances, including but not limited to petroleum and petroleum-based products.

15. The “Plaintiff” is the State of New Hampshire, including any and all of its agencies and their personnel, officers, representatives, attorneys, consultants, and other persons acting for or on the State’s behalf.

16. “Site” means Sunapee Landfill (NHDES Site No. 199103006).

17. “Trade Association” means any industry trade group, business association, sector association, or industry body, whether local, regional, statewide, national, or international, that is funded by and/or constituted of businesses that operate in a specific industry.

18. “Waste” means any matter consisting of garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other spent, discarded, or abandoned material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations, and from

SUBPOENA ATTACHMENT A

community activities, including without limitation as defined in N.H. R.S.A. 147-M and all implementing regulations.

19. "You" means the person or entity commonly known as Town of Sunapee, New Hampshire and/or Keeper of the Records, Town of Sunapee, New Hampshire.

20. The terms "and" and "or" shall be construed either conjunctively or disjunctively, as necessary, to bring within the scope of the request all responses that might otherwise fall outside the scope of the request.

21. The terms "all," "any," and "each" encompass any and all of the matters discussed.

INSTRUCTIONS

1. The use of singular form includes the plural, and vice versa.

2. The use of present tense includes past tense, and vice versa.

3. Unless otherwise stated, the relevant time period applicable to these requests is 1950 through the present.

4. In answering the requests, you are requested to conform the format of hard copy and electronic documents to the Production Specifications attached hereto.

5. If a portion of an otherwise responsive document contains information subject to a claim of privilege or immunity, those portions of the document subject to the claim of privilege are to be redacted from the document, and the rest of the document is to be produced. If a document is withheld in its entirety, please provide a privilege log detailing the nature of the document as well as the basis for privilege.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Documents and communications regarding the use, release, or disposal of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site.

2. Documents and communications regarding any action you have taken, authorized, or planned with regard to New Hampshire Department of Environmental Services communications dated May 18, 2017 and October 19, 2017 (Exhibit 1 hereto) regarding "Inclusion of Per- and Polyfluoroalkyl Substances (PFAS) as Contaminants of Concern at New Hampshire Waste Sites."

3. Documents and communications regarding any Environmental Audits related to your use, handling, storage, clean-up, or disposal of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

SUBPOENA ATTACHMENT A

4. Documents and communications regarding any communication, notification, or report to any local, state, or federal governmental or other regulatory agency of any release, discharge and/or disposal from the Site of any PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.
5. Documents and communications regarding any fires at the Site.
6. Documents and communications regarding any actions taken with respect to the Site regarding N.H. R.S.A. 147-B or any rules or regulations promulgated thereunder.
7. Documents and communications regarding any actions taken with respect to the Site regarding N.H. R.S.A. 147-A or any rules or regulations promulgated thereunder.
8. Documents and communications received from any Trade Association concerning PFAS at Issue (or PFAS-containing products) or Other PFAS.
9. Your submissions under the Toxic Substances Control Act, "Right to Know" Notices, and any similar documents or submissions required under federal, state, or other applicable law or regulations to identify chemicals and other products used at the Site.
10. Documents and communications regarding the storage, handling, use, disposal, discharge, or presence of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media.
11. Documents and communications regarding the processing or transport of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances off-site.
12. Documents and communications regarding the manufacturers, sellers, suppliers, providers, distributors and/or sources of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances purchased, handled, stored, and/or used by you at the Site or elsewhere in New Hampshire.
13. Documents and communications between you and any entity or individual regarding PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.
14. Documents and communications regarding any PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances that were released, discharged deposited, or disposed of onto the Site or any property owned or operated by you or on your behalf elsewhere in New Hampshire.
15. Documents and communications regarding your procurement and inventories of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

SUBPOENA ATTACHMENT A

16. Documents and communications regarding your purchase or other acquisition of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

17. Warnings, product labels, product literature (including Safety Data Sheets), instructions, data sheets, bulletins, sales brochures, and other similar documents or communications provided to or otherwise obtained by you regarding PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

18. Warnings, product labels, product literature (including Safety Data Sheets), instructions, data sheets, bulletins, sales brochures, and other similar documents or communications provided by you to customers or neighboring property owners regarding PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

19. Documents and communications regarding your disposal of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances, including byproducts of your operations and Waste from the Site.

20. Documents and communications sufficient to identify persons other than you involved in the disposal of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances, including byproducts of your operations and Waste, from the Site.

21. Documents and communications sufficient to identify the locations and methods of disposal, by you or on your behalf, of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances, including byproducts of your operations and Waste, from the Site.

22. Documents and communications regarding training by you to your employees and others working at the Site regarding how to use, apply, handle, clean-up, and dispose of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

23. Documents and communications regarding your policies or procedures applicable to the Site regarding how to use, apply, handle, store, clean-up, and dispose of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

24. Documents and communications regarding your policies and procedures applicable to the Site regarding environmental management, including management of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances, such as sampling or testing for, and clean-up of, PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media.

25. Documents and communications regarding all measurements or quantifications of PFAS at Issue, Other PFAS, Other Contaminants, or Hazardous Substances in any Environmental Media, Waste, or elsewhere at the Site or potentially attributable to the Site.

SUBPOENA ATTACHMENT A

26. Documents and communications regarding any action you have taken, authorized, or contemplated to identify, clean, remove, remediate, study, contain, or otherwise eliminate PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media.

27. Documents and communications regarding PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances between you and the Plaintiff, any political subdivision of the State of New Hampshire, or any Defendant.

28. Non-privileged documents and communications between you and any party in any litigation regarding PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, other than this Action.

29. Documents and communications regarding allegations by anyone of injury due to PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media.

30. Documents and communications regarding PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances between you and any governmental or other regulatory agency, including regarding permits (and applications for permits), inspections, alleged violations of regulatory standards, investigation of the Site or your facilities on the Site, regulatory action regarding the Site, remediation of the Site, and any other interactions with such governmental or other regulatory agency, including regarding the use, handling, and disposal of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

31. Documents and communications regarding any tests, studies, or other analyses conducted by or on behalf of you regarding the potential or actual ecological or environmental effects of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances.

32. Documents and communications regarding your knowledge of, research into, or receipt of information relating to potential or human health, ecological, or environmental effects of PFAS at Issue (or PFAS-containing products).

33. Documents and communications regarding the actual or potential discharge, spill, disposal, emission, migration, or leaching of Waste or any constituent(s) of Waste from your operations at the Site into, or contamination of, Environmental Media (whether located on or off-Site).

34. Documents and communications regarding your retention of, work with, or reporting from any consultant or contractor or other third-party regarding PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media.

35. Documents and communications regarding investigations, evaluations, audits, and other analyses or monitoring of industrial hygiene conditions, operations, and other practices at the Site by you; by any local, state, or federal governmental agency or authority; by your

SUBPOENA ATTACHMENT A

consultants, contractors, or insurers; or by any third party, including but not limited to reports made, citations issued, or corrective actions undertaken or recommended as a result.

36. Documents and communications regarding any actions taken with respect to the Site regarding CERCLA or any rules or regulations promulgated thereunder.

37. All insurance policies that would cover any liability relating to PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media.

38. Documents and communications regarding any actions taken with respect to the Site regarding RCRA or any rules or regulations promulgated thereunder.

39. Photographs, films, video and other recordings, maps, schematics, surveys, blueprints, and other documents sufficient to show the Site and changes of the Site over time.

40. Maps, schematics, surveys, blueprints, reports, and other documents sufficient to show the surface water and groundwater at and around the Site, including the location and flow direction of surface water and groundwater, and the subsurface conditions, hydrogeology, or Environmental Media at and around the Site.

41. Documents and communications regarding the design, permitting, and construction of the Site, including but not limited to analysis or consideration of the presence or potential presence of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media.

42. Documents and communications regarding monitoring, testing, management, and other regulatory compliance measures and activities at the Site regarding N.H. R.S.A. 149-M or any rules or regulations promulgated thereunder.

43. Documents and communications regarding the treatment, processing, disposal, and existence of PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including in Environmental Media, such as logs, inventories, and waste manifests.

44. Documents and communications regarding particular methods for treatment, processing, disposal, and existence of biosolids or any Waste containing PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site, including but not limited to incineration, land application, and disposal in landfills, sanitary waste facilities, on-site landfills, or other facilities.

45. Documents and communications sufficient to identify all persons and entities that disposed of Waste containing or potentially containing PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants, or Hazardous Substances at the Site.

46. Documents and communications regarding wastewater discharges from the Site that contained PFAS at Issue (or PFAS-containing products), Other PFAS, Other Contaminants,

SUBPOENA ATTACHMENT A

or Hazardous Substances, including applications for discharge, waste manifests, waste profiles, Safety Data Sheets, permitting, approvals, and analytical testing.

47. Documents and communications regarding your interactions with, and oversight of you by, any city, local, state, or federal governmental or other regulatory agencies with respect to your waste treatment, processing, disposal, and management at the Site.

48. Documents and communications regarding your records retention policy regarding documents and communications requested in any and all of the foregoing requests.



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

EXHIBIT 1



Robert R. Scott, Commissioner

EMAIL ONLY

October 19, 2017

**Subject: Inclusion of Per- and Polyfluoroalkyl Substances (PFAS) as Contaminants of Concern at New Hampshire Waste Sites
Clarification to May 18, 2017 Letter**

Dear Responsible Party / Site Owner / Permittee:

In 2016, the New Hampshire Department of Environmental Services (NHDES) established Ambient Groundwater Quality Standards (AGQS) of 70 nanograms per liter (ng/L, equivalent to parts per trillion [ppt]) for perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS), and for both PFOA and PFOS combined where these chemicals are present together. The AGQS are based on USEPA's Drinking Water Health Advisories for PFOA and PFOS issued in May 2016. PFOA and PFOS are members of a large class of synthetic fluorochemicals referred to as per- and polyfluoroalkyl substances (PFAS).

On May 18, 2017, the New Hampshire Department of Environmental Services (NHDES) issued a letter to stakeholders (copy attached) outlining that it would require waste sites to complete an initial screening for the presence of PFAS, per the provisions of the NH Code of Administrative Rules, Chapters Env-Or 600 and Env-Or 700 (Rules), as applicable. NHDES appreciates the efforts of many stakeholders who have already performed this work or have shared their plans to do so. However, some stakeholders have expressed concerns that the scope of the requirements outlined in the letter was too expansive and not consistent with the Rules. Following discussion with those stakeholders and further review, NHDES is issuing the following clarifications to the May 18th letter:

1. NHDES will require the following waste sites to conduct an initial screening for the presence of PFAS:
 - a. All sites that are subject to New Hampshire Groundwater Release Detection Permits;
 - b. All landfills (lined, unlined, active, and/or closed) that are subject to groundwater monitoring requirements;
 - c. All active hazardous waste sites managed by the NHDES Hazardous Waste Remediation Bureau (HWRB) (including, but not limited to, sites with active New Hampshire Groundwater Management Permits), where either of the following is true:
 - i. a thorough review of site history reveals that past or present site activities have involved the use of PFAS-containing products, and releases have occurred from one or more of those activities; or
 - ii. Class B firefighting foam [e.g., aqueous film forming foam (AFFF)] has been used or released (for example, to extinguish a fire, in training exercises, or in the cleaning of firefighting equipment); and

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- d. All sites undergoing required environmental site assessment activities for which the results will be reported and submitted to the Waste Management Division (WMD) for review, where either of the following is true:
 - i. a thorough review of site history reveals that past or present site activities have involved the use of PFAS-containing products; or
 - ii. Class B firefighting foam [e.g., aqueous film forming foam (AFFF)] has been used or released (for example, to extinguish a fire, in training exercises, or in the cleaning of firefighting equipment).
2. For waste sites that do not fall into the categories outlined above based on a documented review of present and past site activities and product usage, NHDES recommends and encourages that stakeholders voluntarily conduct PFAS testing. At this time, sampling and analysis for PFAS at sites impacted only with petroleum-related constituents that are managed by the NHDES Oil Remediation and Compliance Bureau (ORCB) is not required, unless otherwise instructed by the ORCB Project Manager.
3. With regard to the sampling/analysis regimen, NHDES strongly encourages stakeholders to sample and analyze, at a minimum, for the expanded list of nine PFAS analytes outlined in the guidance at the following link: <https://www.des.nh.gov/organization/commissioner/pfas.htm>. However, if desired, stakeholders may elect to test for, or report data only for the regulated contaminants, PFOA and PFOS. Please note that ongoing research may result in establishment of AGQS for additional PFAS compounds. Acquiring data regarding additional PFAS compounds may eliminate the need for additional monitoring and related costs as AGQS are established.

The guidance at the link above includes information about the following:

- Selection of representative sampling locations for the initial screening efforts;
- Sampling protocols;
- Laboratory and analytical considerations;
- Reporting deadlines and format;
- Uploads to the NHDES Environmental Monitoring Database (EMD);
- Immediate response conditions; and
- Future assessment considerations.

NHDES appreciates the feedback provided by stakeholders and trusts that this letter will serve to clarify the scope of the required activities and address the concerns that have been expressed. The purpose of this sampling requirement is to determine whether any drinking water sources may be at risk and to gain a better understanding of the presence of PFAS in groundwater in New Hampshire. We appreciate your cooperation, and we welcome further comments as we work to better understand and address the impacts of PFAS to human health and the environment in New Hampshire. Please check the [PFOA Investigation page](#) on the NHDES website for updates relative to PFAS and related emerging regulatory and technical issues.

October 19, 2017
Page 3 of 3

If you have questions or comments, please contact your site-specific HWRB or ORCB Project Manager. If your HWRB site is currently unassigned, please contact the HWRB Administrator, Karlee Kenison (Karlee.Kenison@des.nh.gov, 603-271-3744) or Keith DuBois, Assistant Director (keith.dubois@des.nh.gov, 603-271-4978).

Sincerely,



Michael J. Wimsatt, P.G., Director
Waste Management Division
Tel: (603) 271-4978
Email: michael.wimsatt@des.nh.gov

Attn: May 18, 2017 NHDES PFAS Sampling Letter

cc: Keith DuBois, P.G., Assistant Director, NHDES WMD
Karlee Kenison, P.G., Administrator, NHDES HWRB
Sarah Yuhas Kirn, P.G., Administrator, NHDES ORCB
Pamela Hoyt-Denison, P.E., Administrator, NHDES SWMB
Sarah Pillsbury, P.G., NHDES Water Division
Brandon Kernen, P.G., NHDES Water Division
Mitchell Locker, P.G., NHDES Water Division
Clark B. Freise, Assistant Commissioner, NHDES



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

EXHIBIT 1



Clark B. Freise, Assistant Commissioner

EMAIL ONLY

May 18, 2017

Subject: Inclusion of Per- and Polyfluoroalkyl Substances (PFAS) as Contaminants of Concern at New Hampshire Waste Sites

Dear Responsible Party / Site Owner / Permittee:

In 2016, the New Hampshire Department of Environmental Services (NHDES) established Ambient Groundwater Quality Standards (AGQS) of 70 nanograms per liter (ng/L, equivalent to parts per trillion [ppt]) for perfluorooctanoic acid (PFOA), perfluorooctane sulfonate (PFOS), and for both PFOA and PFOS combined where these chemicals are present together. The AGQS are based on USEPA's Drinking Water Health Advisories for PFOA and PFOS issued in May 2016.

PFOA and PFOS are members of a large class of synthetic fluorochemicals referred to as per- and polyfluoroalkyl substances (PFAS), which are sometimes referred to as PFCs.¹ PFAS have been widely used since the 1940s in industrial applications and in consumer products because of their properties to resist heat, oil, grease, stains, and water. In the environment, PFAS are stable, persistent, and bioaccumulative.

Recently PFAS impacts to groundwater used as drinking water have been identified in several communities in New Hampshire, and NHDES has conducted sampling and analysis of drinking water wells in many locations. However, the full nature and extent of PFAS impacts to groundwater throughout New Hampshire are unknown.

With this letter, NHDES is announcing that it will require waste sites to complete an initial screening for the presence of PFAS per the provisions of the NH Code of Administrative Rules, Chapters Env-Or 600 and Env-Or 700, as applicable. This requirement follows the notice provided by NHDES in a letter regarding "Sampling for Per- and Polyfluoroalkyl Substances/Perfluorinated Chemicals (PFASs/PFCs) at Contaminated Sites" dated November 22, 2016. Affected waste sites include:

- All active hazardous waste sites managed by the NHDES Hazardous Waste Remediation Bureau (HWRB) (including, but not limited to, sites with active New Hampshire Groundwater Management Permits and New Hampshire Groundwater Release Detection Permits, and federal Superfund sites);
- All sites undergoing environmental site assessment activities for which the results will be reported and submitted to the Waste Management Division (WMD) for review, such as Brownfields sites, including, but not limited to, sites with a history indicating that industrial processes may have used PFAS-containing products, and sites where Class B firefighting foam [e.g., aqueous film forming foam (AFFF)] may have been used for training exercises or to extinguish a fire; and
- All landfills (lined, unlined, active, and/or closed) that are subject to groundwater monitoring requirements.

¹ "EPA is now trying to use "per- and polyfluoroalkyl substances (PFASs)" rather than "perfluorinated chemicals (PFCs)" consistently to collectively describe PFOA, PFOS and the other chemicals in this group."
(<https://www.epa.gov/pfas/what-are-pfcs-and-how-do-they-relate-and-polyfluoroalkyl-substances-pfass>)

May 18, 2017
Page 2 of 2

Owners of operating solid waste landfills should have already received a letter from NHDES requiring sampling in July 2017. In addition, the Groundwater Discharge permit program in the NHDES Water Division has also directed all permit holders to sample for PFAS. At this time, sampling and analysis for PFAS at sites impacted only with petroleum-related constituents that are managed by the NHDES Oil Remediation and Compliance Bureau (ORCB) is not required, unless otherwise instructed by the ORCB Project Manager.

Please incorporate groundwater sampling and analysis in one of your sampling rounds to be completed in 2017. For municipal sites (e.g., closed landfills) or sites not required to be sampled in 2017, the deadline for sampling is extended to December 31, 2018.

Guidance for these testing efforts, as discussed during a Stakeholder Outreach held on April 11, 2017, is available at the following link: <https://www.des.nh.gov/organization/commissioner/pfas.htm>. The guidance includes:

- Selection of representative sampling locations for the initial screening efforts;
- Sampling protocols;
- Laboratory and analytical considerations;
- Reporting deadlines and format;
- Uploads to the NHDES Environmental Monitoring Database (EMD);
- Immediate response conditions; and
- Future assessment considerations.

The purpose of this sampling requirement is to determine whether any drinking water sources may be at risk and to gain a better understanding of the presence of PFAS in groundwater in New Hampshire. We appreciate your cooperation, and we welcome your comments as we work to better understand and address the impacts of PFAS to human health and the environment in New Hampshire. Please check the [PFOA Investigation page](#) on the NHDES website for updates relative to PFAS and related emerging regulatory and technical issues.

If you have questions or comments, please contact your site-specific HWRB or ORCB Project Manager. If your HWRB site is currently unassigned, please contact the HWRB Administrator, Karlee Kenison (karlee.kenison@des.nh.gov, 603-271-3744) or Keith DuBois, Assistant Director (keith.dubois@des.nh.gov, 603-271-4978).

Sincerely,



Michael J. Wimsatt, P.G., Director
Waste Management Division
Tel: (603) 271-1997
Email: michael.wimsatt@des.nh.gov

ec: Keith DuBois, P.G., Assistant Director, NHDES WMD
Karlee Kenison, P.G., Administrator, NHDES HWRB
Mike Juranty, P.E., Acting Administrator, NHDES ORCB
Pamela Hoyt-Denison, P.E., Administrator, NHDES SWMB
Sarah Pillsbury, P.G., NHDES Water Division
Brandon Kernen, P.G., NHDES Water Division
Mitchell Locker, P.G., NHDES Water Division
Sarah Yuhas Kirn, P.G., Acting Assistant Commissioner, NHDES

PRODUCTION SPECIFICATIONS

In responding to the Subpoena, documents are to be produced as follows:

Paper/Hard Copy Documents. Documents that exist in hardcopy will be scanned to *.tiff image format and produced in accordance with the specifications set forth on Exhibit A. Hard copy documents that are not text-searchable shall be made searchable by Optical Character Recognition (OCR) prior to production. In scanning paper documents, distinct documents should not be merged into a single record, and single documents should not be split into multiple records (*i.e.*, paper documents should be logically unitized). In the case of an organized compilation of separate documents (for example, a binder containing several separate documents behind numbered tabs), the document behind each tab should be scanned separately, but the relationship among the documents in the compilation should be maintained, recorded, and provided. All documents should be stamped with a page-level Bates number as described in Sections 1 and 4 below.

Electronic Documents: electronically stored information (ESI) should be produced in one of two ways: (A) in their native format with complete, unaltered metadata; or (B) as single-page TIFF images accompanied by a load file of all available corresponding metadata, including text files.

Should the you elect the second option, then the following specifications apply:

1. Documents should be produced with TIFF images and named according to the Bates number of the corresponding TIFF image. Each *.tiff file should be assigned a unique name matching the Bates number of the corresponding image. All images should be provided in single-page, Group IV TIFF with a resolution of 300 DPI. Bates numbers and confidentiality designations should be electronically branded on each produced *.tiff image.

2. Document Text. All unredacted documents should be provided with complete document-level extracted text files. In the event a document contains text that is to be redacted, OCR text files should be provided for any un-redacted portions of the documents. The extracted full text and/or OCR text for all deliverables should be in separate document-level, UTF-8 encoded TXT files provided in a separate folder.

3. Parent-Child Relationships. For email collections, the parent-child relationships (the association between emails and attachments) should be preserved. Email attachments should be consecutively produced with the parent email record.

4. Bates Numbering. Files will be named according to the Bates number of the corresponding *.tiff image. Attachments to documents will be assigned Bates numbers that directly follow the Bates numbers on the documents to which they were attached. If a Bates number or set of Bates numbers is skipped, the skipped number or set of numbers will be noted. The Bates number will: be consistent across the production; contain no special characters; and be numerically sequential within a given document.

5. Metadata to be Produced. The metadata fields detailed in Exhibit A should be produced for each document to the extent that such information is available at the time of collection and processing, except that if a field contains privileged information, that privileged information may be redacted and noted in a corresponding privilege log.

EXHIBIT A

The metadata fields detailed in this Exhibit A should be produced for each document to the extent that such information is available at the time of collection and processing, except that if a field contains privileged information, that privileged information may be redacted and noted in a corresponding privilege log as detailed in the Order Regarding Document Discovery.

Field Name	Field Description	Hard Copy	Email	Other ESI	Calendar Items	Sample Data
Prod Beg	Start Bates (including prefix) -- No spaces or special characters	X	X	X	X	EDC0000001
Prod End	End Bates (including prefix) - No spaces or special characters; Last Bates number of native file document/email **The LASTBATES field should be populated for single page documents/emails.	X	X	X	X	EDC0000015
Prod Beg Attach	First Bates number of attachment range					EDC00000001
Prod End Attach	Last Bates number of attachment range	X	X	X	X	EDC0000015
Custodian	Custodian(s) / source(s) - format: <i>Last, First</i> or <i>ABC Dept</i>	X	X	X	X	Last, First or ABC Dept
File Name	Native: Name of the original native file, including extension		X	X	X	BoardMeeting Minutes.docx
File Path	File path to native file as it existed in original environment		X	X	X	Personal Folders\Delete dItems\BoardMeetingMinutes.msg
Document Author	Email: (empty) Native: Author of the document/Author field value extracted from the metadata of a native file			X		John Smith

Email Subject	Email or calendar subject		X		X	
Email To	Main recipient(s) of the e- mail message.		X		X	Coffman, Janice; LeeW[mailto: LeeW@MSN. com]
Page Count	Number of pages in native file document/email	X	X	X	X	1
Email BCC	Names of the individuals who were blind-copied on the Email (as formatted on the original)		X		X	EDC0000001
Email From	Author of the Email or Calendar item (as formatted on the original)		X		X	
Email CC	Names of the individuals who were copied on the Email (as formatted on the original)		X		X	Frank Thompson [mailto: frank_Thompson@cdt.com]
Date Sent	Email: Date the email was sent Native: (empty)		X		X	10/12/2010
Standardized Time Sent	Time Email was sent -- Format: HH:MM:SS (use 24 hour times, e.g., 13:32 for 1:32 pm; timezone indicators cannot be included) / Time the e-mail message was sent. Must be separate from DateSent field. Will be standardized [to UST.		X		X	
Non-standardized time sent	[This field will be provided if technologically feasible] Time Email was sent -- Format:		X		X	

	HH:MM:SS (use 24 hour times, e.g., 13:32 for 1:32 pm; timezone indicators cannot be included) / Time the e-mail message was sent. Must be separate from DateSent field.					
Date Created	Email: (empty) Native: Date the document was created			X		10/10/2010
MD5H ASH	MD5 Hash value of the document.		X	X	X	d131dd02c5e6 eec4693d9a06 98aff95c2fcab 58712467eab4 004583eb8fb7f 89
Doc Link	File path location to the current native file location on the delivery medium; linked file must be named per the FIRSTBATES number			X		D:\001\ EDC0000001. msg
OCR Path	Path to extracted text of the native file					TEXT/001/ED C0000001.txt
Attachment IDs	Child document list: BEGDOC# of each child (populated ONLY in parent records)	X	X	X	X	EDC0000002; EDC0000014
File Extension	File extension of native file		X	X	X	MSG
Conversation Index	Email Thread Identification		X		X	
Attach Range	Bates number of the first page of the parent document to the Bates number of the last page of the last attachment "child" document	X	X	X	X	EDC0000001 - EDC0000015

Num Attach	Total number of records attached to the document. The value will always be 0 (zero) for the actual attachment records.					
Record Type	Displays the record type for each entry in the load file.					Hard Copy; Email; Attachment
File Size	Size of native file document/email in KB; File size in Bytes (integer value only - do not include unit of measure or decimal places - e.g., 568)		X	X	X	5,952
Date Received	Date Email was received.		X		X	
Time Received	Time Email was received. Format: HH:MM:SS (use 24 hour times, e.g., 13:32 for 1:32 pm; timezone indicators cannot be included)		X		X	
Time Zone	The TimeZone from which the native file was collected.		X	X	X	
SHA1 HASH	Document SHA1 hash value (used for deduplication or other processing)		X	X	X	
Parent ID	Parent record's BEGDOC#, including prefix (populated ONLY in child records)					
Application	Application used to create native file		X	X	X	Excel
Folder Label	Email folder path (sample: Inbox\Active); or Hard Copy	X	X		X	

	folder/binder title/label					
Date Hard Copy	Date of hard copy documents, if coded.	X				
Doc Date	This is a multipurpose date field. Populate with: DATESAVED for E-Docs; DATESENT for Emails; DATEAPPTSTART for calendar appointments; DATE_HC for hard copy documents, if available.	X	X	X	X	

THE STATE OF NEW HAMPSHIRE HOUSING APPEALS BOARD

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Case Name: Peter Hoekstra and Elizabeth Hoekstra v. Town of Sunapee
Case Number: ZBA-2022-21

ORDER

This matter concerns the appeal filed by Peter Hoekstra and Elizabeth Hoekstra (together, the “Applicant”) of a decision by the Town of Sunapee (“Town” or “Sunapee”) Zoning Board of Adjustment (“ZBA”) denying the Applicant’s administrative appeal concerning their use of a travel trailer on their property in Sunapee.

FACTS

The Applicant owns certain property located at 25 Maple Street in Sunapee, also known in the Town’s tax records as Parcel ID: 0133-0104-0000 (“Property”). Certified Record (“CR”) at pp. 1, 10. The Property is located in the Town’s Village-Residential (“VR”) district, CR 10, and is currently improved with a single-family dwelling unit that is used as the Applicant’s primary residence. CR 10. The Applicant also maintains a single travel trailer (“Trailer”) on the Property, which they use as a short-term rental.¹ CR 10, 32, 46-61. See also Applicant’s Appeal of Zoning Board Decision, ¶¶ 4, 7.

By letter dated April 19, 2022, the Town’s zoning administrator notified the Applicant that their use of the Trailer violated the Town’s Zoning Ordinance (“Ordinance”) in that it “cannot be used as a dwelling, it must be hooked up to an approved water & sewer system.” CR 1. Subsequently, as indicated in correspondence dated June 13, 2022, the zoning administrator determined that the use of the travel trailer did not violate water or sewer requirements. CR 30. At the same time, however, the zoning administrator determined that the Applicant’s use of the

¹ The record reflects that the Applicant lists the Trailer on Airbnb for nightly (i.e., transient) rentals, for a fee. CR 10, 46-61. The Airbnb listing refers to the Trailer as a “camper/rv” and is advertised as a “Sunapee Harbor Minimalist Retreat.” CR 46. House rules reflect the existence of check-in and checkout times. CR 59.

Trailer for short-term rental use was prohibited under Section 4.20 of the Ordinance, CR 31, which states that “[a]ny use not specifically permitted is prohibited.” CR 213.

On June 30, 2022, the Applicant filed its administrative appeal of the zoning administrator’s June 13th determination. CR 36. The ZBA heard the Applicant’s appeal at its meeting on July 19, 2022. CR 83. At the conclusion of such hearing, by a 4-1 margin, the ZBA voted to uphold the zoning administrator’s decision and to deny the Applicant’s appeal. CR 87. A written decision dated July 19, 2022 followed. CR 89. On August 11, 2022, the Applicant filed its request for rehearing with the Town, CR 90, which was denied by the ZBA at its meeting on September 1, 2022, CR 185, with a written decision issued on September 6, 2022. CR 191.

The Applicant filed its appeal with the Housing Appeals Board (“Board”) on September 27, 2022. A prehearing conference was held on November 14, 2022, and a hearing on the merits was held on November 29, 2022. This decision follows.

LEGAL STANDARDS

The Housing Appeals Board’s review of any Zoning Board of Adjustment decision is limited. It will consider the Zoning Board’s factual findings *prima facie*, lawful, and reasonable. Those findings will not be set aside unless, by a balance of the probabilities upon the evidence before it, the Housing Appeals Board finds that the Zoning Board decision was unlawful or unreasonable. See RSA 679:9. See also, Lone Pine Hunters Club v. Town of Hollis, 149 N.H. 668 (2003) and Saturley v. Town of Hollis Zoning Board of Adjustment, 129 N.H. 757 (1987). The party seeking to set aside a Zoning Board decision bears the burden of proof to show that the order or decision was unlawful or unreasonable. RSA 677:6.

DISCUSSION

This issue in this case is discrete. It involves a straightforward interpretation of the Ordinance. Specifically, at issue is whether the Applicant’s use of the Trailer as a short-term rental is permitted under the Ordinance. As such, a review of the applicable provisions of the Ordinance is necessary.

I. The Ordinance

To begin, Section 4.20 of the Ordinance establishes a “permissive” ordinance, meaning

that all uses that are not expressly allowed are prohibited. See Working Stiff Partners v. City of Portsmouth, 172 N.H. 611, 616 (2019). Section 4.10 of the Ordinance lists permitted uses in each zoning district. Its introduction states:

The following uses are permitted in each zoning district, subject to the other provisions of this ordinance. Whenever a use is permitted by right or special exception in any district, it may be used in conjunction with any other permitted or special exception use in that district. All uses are subject to other provisions of this ordinance[.]

Pursuant to Section 4.10, the following uses are permitted within the VR district:

Permitted by Right:

Accessory Uses	Municipal Buildings & Facilities
Assembly Halls	Museums & Galleries
Banks	Nursing & Convalescent Homes
Bed & Breakfast, Tourist Homes, Inns, Lodging & Boarding Services	Playhouse/Performing Arts/Theatre
Churches	Post Offices
Day Care	Professional Offices & Clinics
Food Vendor Cart (Adopted 3/08/2022)	Restaurants (excluding Drive-in Restaurants)
Funeral Homes	Retail (up to 15,000 SF)
Home Business	Schools (Public & Private)
Home Occupation Services	Shopping Centers (up to 15,000 SF)
Laundromat & Dry Cleaners	Single-Family Dwellings
Motels & Hotels	Two-Family Dwellings
Multi-Family Dwellings (3 to 5 Units)	

Permitted by Special Exception:

Accessory use/wind generation systems (Adopted 3/10/09)
Auto, Boat & Engine Repair Shops
Marinas
Veterinarians
Yards, (Lumber, Etc.)

Finally, Section 3.40(m) relates to travel trailers. It states:

Travel Trailers, which include, but are not limited to, camper trailers, motor homes, recreational vehicles, tent trailers and truck campers, are permitted subject to the following restrictions:

- 1) The owner of a travel trailer may store up to two (2) such trailers on his/her property in as inconspicuous a location as possible;
- 2) A travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period unless a Certificate of Compliance is issued. Sewage disposal must be in compliance with New Hampshire Water Supply and Pollution Control regulations or approved by the Sunapee Water and Sewer Department if on municipal sewer;

- 3) All travel trailers used for temporary sleeping quarters must be in compliance with all other provisions of this ordinance including building setbacks;
- 4) If three (3) or more travel trailers are to be placed on an individual lot and used as sleeping quarters, a Site Plan Review approval must be granted by the Planning Board. (Adopted 3/9/2004)

(Emphasis added.)²

II. Canons of Statutory Construction

Interpreting a zoning ordinance is legal exercise that requires the application of rules of statutory construction. As summarized in Working Stiff, 172 N.H. at 616:

The interpretation of an ordinance is a question of law and requires us to determine the intent of the enacting body. We use the traditional rules of statutory construction when interpreting zoning ordinances. We construe the words and phrases of an ordinance according to the common and approved usage of the language, but where the ordinance defines the terms in issue, those definitions will govern. Furthermore, we determine the meaning of a zoning ordinance from its construction as a whole, not by construing isolated words or phrases. When the language of an ordinance is plain and unambiguous, we need not look beyond the ordinance itself for further indications of legislative intent.

(internal citations omitted).

III. Arguments

The Applicant contends that the ZBA erred in upholding the zoning administrator's determination because the Ordinance permits the occupancy of travel trailers. The Applicant's primary argument relies upon Section 3.40(m) of the Ordinance, which provides that "a travel trailer may be used for temporary sleeping quarters for not more than 90 days per 12-month period[.]" The Applicant asserts that this language, together with the fact that rentals are permitted throughout the Town, confers them with the authority to use the Trailer for short-term rentals. The Town responds by pointing to the permissive nature of the Ordinance, as set up in Section 4.20, and contends that the Applicant's use of the Trailer for short-term rental is prohibited as it does not fall within any of the permitted uses listed in Section 4.10.

Here, the Applicant's argument relies on the language of Section 3.40, which arguably supports the Applicant's position when viewed in isolation. However, it does so at the exclusion of the plain language contained within Sections 4.10 and 4.20. Critically, the Applicant does not

² The record does not reveal the legislative intent behind the passage of Section 3.40(m).

purport to use the Trailer as any of the allowed uses, which include accessory uses. Rather, the Applicant's position altogether bypasses Sections 4.10 and 4.20 of the Ordinance, which list those uses that are allowed in the Town and prohibit all others. Such a position runs counter to the above-referenced rules of statutory construction, which require that attention must be paid to the ordinance as a whole, and not select provisions in isolation. See Working Stiff, 172 N.H. at 616.

The introductory language within Section 4.10 provides additional evidence that any inquiry into permitted uses in the Town must include its consideration. Section 4.10 states that the listed uses are permitted "subject to the other provisions of [the Ordinance]," and that "[a]ll uses are subject to other provisions of this ordinance[.]" Here, the use of the phrase "subject to" is telling as it indicates that the primary uses may be dependent upon, or affected by, other provisions within the Ordinance. See Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/subject%20to> (defining "subject to," in relevant part as "affected by or possibly affected by (something)" (last visited January 27, 2023). Regardless of precisely how one defines "subject to," the phrase indicates a link between the permitted uses and the remaining provisions within the Ordinance. By ignoring Sections 4.10 and 4.20 of the Ordinance, the Applicant's argument severs such link, unreasonably.

Furthermore, the location of Section 3.40(m) within the structure of the Ordinance provides additional context in this case. Whereas Article IV of the Ordinance is titled "use regulations," Article III of the Ordinance is titled "dimensional controls." Article III includes standard requirements for lot size, frontage, setbacks, etc. Specifically, Section 3.40 is titled "additional requirements," and contains miscellaneous provisions, most of which primarily relate to aspects of dimensional requirements in the Ordinance. See, e.g., § 3.40(c), (d), (f), (h), (i), (j), (l), (n), and (o). It is here – in the Article of the Ordinance titled "dimensional controls," in a section titled "additional requirements" – where Section 3.40(m) resides. In light of this organization, it is difficult to envision that the intent of Section 3.40(m) was to create a new, independent permitted use untethered from Section 4.10.

The Applicant also asserts that the Trailer falls under the definition of a "dwelling unit," which, under the Ordinance, may be rented. See Article XI (definitions). However, even if a travel trailer can be a rentable dwelling unit in theory, that fact does not automatically mean that the Applicant's particular use of its travel trailer is allowed under the Ordinance. The Town's

objection is not to the rental aspect, necessarily, but the use of the Trailer as a short-term vacation rental for transient use. The distinction may be subtle, but reference to Section 4.20's list of permitted uses provides some clarity. There, it is evident that the Town's list of permitted uses does not concern itself with the ability for one to rent property. Rather, it regulates how property can be used.

Section 4.20 also shows that the Ordinance does, in fact, allow for certain short-term sleeping accommodations in the VR district. It does so by allowing "Bed & Breakfast, Tourist Homes, Inns, Lodging & Boarding Services[.]" which Article XI defines as "[a]n owner occupied single family dwelling in which no more than ten (10) rooms are used to provide transient sleeping accommodations, with meals served to guests only."³ Thus, the Ordinance reflects a clear intent to regulate short-term transient use in the VR district, under certain conditions, including that such use take place in an owner occupied, single-family dwelling. Here, the Applicant's propose a variant of short-term transient use that is not specifically allowed under the Ordinance. As discussed previously, under the Ordinance, any use that is not specifically allowed is prohibited.

Moreover, on its face, Section 3.40(m) does not provide for "transient" sleeping accommodations, as is permitted at times under the Ordinance. "Transient" sleeping accommodations are allowed in certain districts when a property is used as a "Bed & Breakfast, Tourist Homes, Inns, Lodging & Boarding Services" or a "Hotel & Motel." See Article XI (definitions). Rather, Section 3.40(m) allows a trailer to be used for "temporary sleeping quarters." As noted by the Town, there is a material distinction between transient sleeping accommodations and temporary sleeping quarters. Based on standard dictionary definitions,⁴ the former implies brief lodging for visitors, while the latter suggests that the lodging itself is

³ The Applicant originally argued that the Trailer fell under this definition as a tourist home, CR 32, but does not present such argument on appeal.

⁴ None of these terms are defined in the Ordinance, so common dictionary definitions provide instruction. "Transient" is defined as "passing especially quickly into and out of existence" or "passing through or by a place with only a brief stay or sojourn." Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/transient> (last visited January 27, 2023). "Accommodation" is defined as "lodging, food, and services or traveling space and related services" Id. at <https://www.merriam-webster.com/dictionary/accommodation> (last visited January 27, 2023). "Temporary" is defined as "lasting for a limited time" Id. at <https://www.merriam-webster.com/dictionary/temporary> (last visited January 27, 2023). "Quarters" is defined as "to provide with lodging or shelter" Id. at <https://www.merriam-webster.com/dictionary/quarters> (last visited January 27, 2023).

somehow limited. The use of two different terms indicates a legislative intent for two different meanings. See City of Concord v. State of N.H., 164 N.H. 130, 141 (2012). The fact that the Ordinance does not allow travel trailers to be used for transient sleeping accommodations further supports the ZBA's denial of the Applicant's administrative appeal.

Finally, the Applicant contends that the ZBA's decision was unlawful because (1) the Town has previously approved an unrelated travel trailer in Town as a dwelling unit for use as a rental, see CR 93, and (2) many other short-term rentals are allowed throughout the Town. CR 94-182. Thus, the Applicant reasons, it was arbitrary and unlawful for the Town to deny its request to use the Trailer for short-term rentals.

However, the specific example cited to by the Applicant at page 93 of the record shows that the Town permitted the structure for occupancy for more than three months per year. Regardless of how the Trailer is currently being used, the face of the certificate of zoning compliance does not indicate that the structure was approved for use as a short-term rental. Likewise, with respect to the various other instances of unenforced short-term renters, the record does not address whether or not such uses violate the Ordinance. Moreover, the Applicant fails to articulate a specific legal theory that would justify its position on this issue. For example, it is unclear if the underlying theory is grounded in constitutional principles, whether the doctrine of administrative gloss should apply, or whether the Applicant is the subject of selective enforcement. Merely asserting arbitrary treatment, without specific and credible evidence, does not satisfy the Applicant's burden to demonstrate that the ZBA acted unreasonably or unlawfully in denying the Applicant's administrative appeal.

CONCLUSION

Based on the foregoing, upon a balancing of the probabilities, the Housing Appeals Board ORDERS as follows:

1. The decision of the Town of Sunapee Zoning Board of Adjustment denying the Applicant's administrative appeal is AFFIRMED, consistent with this Order;
2. The Applicant's appeal is DENIED; and

3. The Town's requests for findings of fact and rulings of law which are consistent with this Order are APPROVED; the balance are DENIED.

**HOUSING APPEALS BOARD
ALL MEMBERS CONCURRED
SO ORDERED:**

Elizabeth Menard

Elizabeth Menard, Clerk

Date: January 30, 2023

**STATE OF NEW HAMPSHIRE
HOUSING APPEALS BOARD**

**PETER & ELIZABETH HOEKSTRA
v.
TOWN OF SUNAPEE**

DOCKET #ZBA-2022-21

MOTION FOR RECONSIDERATION

NOW COME Peter Hoekstra and Elizabeth Hoekstra, by and through their attorneys, and respectfully request pursuant to Rule Hab 201.32(a) that the Housing Appeals Board reconsider its Order issued on January 30, 2023, and state as follows:

The Board's Order states that "the Applicant does not purport to use the Trailer as any of the allowed uses." Order, page 4-5. None of the uses listed in Sections 4.10 are appropriate in a travel trailer. Section 4.20 prohibits any use not specifically permitted but Section 4.20 does not restrict that word "permitted" to only those uses in 4.10. Regardless of its placement in the Ordinance, the language of Section 3.40(m) of the Ordinance unambiguously permits temporary sleeping use of a travel trailer.

The Order fails to describe what the Applicants' proposed use is, but proceeds to define the applicants' use for "transient" sleeping accommodations in a travel trailer. Order, p. 6.

Although the Hoekstras never used the word "transient" to describe their proposed use of the travel trailer, the Order does so and, having defined Appellants' use as transient, finds that transient use is not permitted. The finding that the Hoekstras' intended use is "transient" rather

than “temporary,” which is specifically permitted under Section 3.40(m), is not supported in the Record or reasonable.

The Board referred to the on-line dictionary *Merriam-Webster.com*, to explain how “temporary” differs from “transient.” Order, p. 6, fn. 4. However, a review of the on-line dictionary *Merriam-Webster.com* cited by the Order lists “temporary” as synonymous with “transient” along with the other following words: brief, deciduous, ephemeral, evanescent, flash, fleeting, fugacious, fugitive, impermanent, momentary, passing, short-lived, temporary, transitory. The on-line dictionary also provides synonyms for “temporary” which include: impermanent, interim, provisional, provisionary, provisory, short-term. Both temporary and transient describe the same short-term use. The attached pages from Roget’s Thesaurus further demonstrate that the two words are synonymous.

While the use of different words in an ordinance may indicate different intents, “transient” and “temporary” are synonyms. The activity of one sleeping in a travel trailer for a night, or a week, or a month - so long as not for longer than 90 days per year - is temporary and transient. The activity of sleeping in a travel trailer - whether by a friend, relative or stranger - results in that same activity, namely “sleeping.” Although the Ordinance specifically permits a travel trailer to be used for temporary sleeping quarters, the result of the Board’s Order is to prohibit any such use and eliminate Section 3.40(m)(2) from the Ordinance. Now, no one may use a travel trailer for any sleeping accommodations since any temporary use will be deemed

transient.¹

The conclusion of the Board's Order results in an inconsistent and contradictory interpretation of the literal words of the Ordinance. The Board's Order is in error and the Hoekstras respectfully request that the Board reconsider its Order.

February 21, 2023

Respectfully submitted,
Peter & Elizabeth Hoekstra
By their attorneys
Schuster, Buttrey & Wing, P.A.

By: /s/ Barry C. Schuster, Bar #2280
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Certification

I hereby certify that a copy of this Motion for Reconsideration has this day, February 21, 2023, been mailed and e-mailed to Cordell A. Johnston, Esq., counsel for the Town of Sunapee, NH.

By: /s/ Barry C. Schuster
Barry C. Schuster, Esq. - #2280

¹ The reference to the other travel trailer in Sunapee was only intended to demonstrate that the Town had already interpreted the Ordinance to permit a travel trailer to be used "per Sunapee Zoning Ordinance 3.40(m)2" ... "as a rental property" for sleeping accommodation. Additionally, the Town acknowledged at the hearing that "renting" *per se* was not a violation.

transact

[578]

transact, *v.* negotiate, deal; CONDUCT. bring about, do, perform, execute. See BUSINESS. ACTION.
transaction, *n.* deal, proceeding, ACTION, affair; CONDUCT, act, deed. See BARTER, OCCURRENCE.
transcend, *v.* exceed, overpass, sur-

transientness

pass, excel, outstrip, outdo. See SUPERIORITY. OVERRUNNING.
transcribe, *v.* COPY. write, reproduce, engross; decode, decipher; trans-literate, RECORD. See INTERPRETA-TION.

TRANSFER

Nouns—1, transfer, transference, transmission, transmittal, transmittance, consignment; transfusion, DISPLACEMENT, dislodgment; metastasis; shift, CHANGE, removing, removal, remotion, relegation, deportation, extradition; convection, conduction; contagion, infection. See TRANSPORTATION.
 2, conveyance, assignment, assignation, alienation; enfefment, cession, grant, deed, quitclaim; conveyancing, bargain and sale, lease and release; exchange, INTERCHANGE, BARTER, SUBSTITUTION, delegation; succession, accession, REVERSION; demise, devise, bequest, legacy, gift.
Verbs—transfer, convey, assign, alienate; grant, cede, deed, confer (see GIVING); consign, enfeoff, sequester; sell, rent, let, lease, charter (see SALE); carry over; make or sign over, hand down, pass (on or down), transmit, negotiate, change hands; hand, turn, fork, or give over; demise, devise, bequeath, will, leave, give; devolve, succeed, come into possession, acquire (see ACQUISITION); rub off; substitute (see SUBSTITUTION). *Colloq.*, wish off on.
Adjectives—transferable, transmittable, assignable, conveyable; negotiable; contagious, catching, infectious, communicable; metathetic[al], metastatic.
Antonyms, see POSSESSION.

transfigure, *v.t.* transform, transmute; exalt. See CHANGE, ELEVATION.
transfix, *v.* pierce, fasten, impale. See OPENING, STABILITY.
transformation, *n.* CHANGE, alteration, transmutation; conversion, trans-figuration; metamorphosis; wig, switch.

transfuse, *v.t.* set into, insert, infuse, instill; pour, inject. See MIXTURE.
TRANSFER.
transgression, *n.* trespass, sin, viola-tion, fault, offense, crime, mis-deed, slip, misdemeanor; infraction, infringement. See ILLEGALITY, GUILT, WRONG.

TRANSIENTNESS

Nouns—transientness, transience, evanescence, impermanence, fugacity, mortality, span; nine days' wonder, bubble, ephemerality; short term; spurt; temporary arrangement, interregnum; brevity, SHORTNESS; suddenness (see INSTANTANETTY); CHANGEABLENESS. *Slang*, flash in the pan.
Verbs—be transient, flit, pass away, fly, gallop, vanish, evanesce, fade, evaporate; blow over; one's days are numbered.
Adjectives—transient, transitory, transitive; passing, evanescent, volatile, fleeting, elusive, elusory; flying; fugacious, fugitive; shifting, slippery, spasmodic; temporal, temporary; provisional, provisory; cursory, short-lived, meteoric, ephemeral, deciduous; perishable, mortal, precarious; impermanent; brief, quick, extemporaneous, summary; sudden, momen-tary, short and sweet.

transit

[579]

transit, *n.* passage, change, transition, conveyance, TRANSPORTATION, MO-TION.
transition, *n.* passage, passing; CHANGE, development, flux, modu-lation; break, graduation, rise, fall; metastasis, metabasis.
transitory, *adj.* See TRANSIENTNESS.
translate, *n.* transfer; decipher, de-code, render; construe, [re]interpret;
transform, *v.* transmute, CHANGE.
translucent, *adj.* lucid, clear, di-

transportation

aphanous, hyalescent, semi-opaque, frosty. See TRANSPARENCY.
transmission, *n.* conveyance, trans-ference, sending, communication, conductance; gearshift, gears, torque converter. See PASSAGE. INSTRU-MENTALITY. TRANSFER.
transmit, *v.* send, TRANSFER, convey, forward, post, mail, wire, telegraph; impart, hand down; admit, conduct; emit, broadcast, communicate. See TRANSPORTATION.

TRANSPARENCY

Nouns—1, transparency, translucency, transpucuity, diaphaneity, lucidity, pellucidity, limpidity, clearness, sheerness, thinness. See INVISIBILITY.
 2, glass, crystal, lucite, cellophane, [window]pane, prism, water, lymph, gauze, veil. *Colloq.*, goldfish bowl.
 3, see COHERENCE, SIMPLENESS.
Verbs—show through; be transparent, diaphanous, etc.
Adjectives—transparent, translucent, transpucuous, diaphanous, lucid, pellu-cid, lucent, limpid; glassy, hyaline, hyaloid, vitreous, crystal[line], clear as crystal, crystal-clear; gauzy, flimsy, see-through, thin, sheer, gossamer; serene, unclouded.

Antonyms, see OBSCURITY

transpire, *n.* transude, exhale, pass through, ooze or leak out, sweat, perspire; come to light, issue, un-fold, crop up; occur, happen, come to pass, take place. See DISCLO-SURE, OCCURRENCE, EXCRETION.
transplant, *v.t.* replant, repot, graft; relocate, resettle; colonize. See

TRANSFER. AGRICULTURE.
transport, *n.* transformation, convey-ance, movement; emotion, ecstasy, rapture; troopship; airplane, carrier. —*v.* convey, carry, move, ship; transfer; delight, overjoy. See TRANS-PORTATION, PLEASURE.

TRANSPORTATION

Nouns—1, transportation, transport, TRANSFER, transference, transmission, conveyance; movement, PASSAGE, transit, removal, delivery; carriage, portage, cartage, etc., shipment, postage, express, messenger service; mass or public transportation. See TRAVEL, COMMUNICATION.
 2, common carrier, mass transit, commuter transport; cart, wagon, stagecoach; [omni]bus, coach, jitney, charabanc; car pool; taxicab, taxi, cab, hack, gypsy cab; truck, van; railroad, railway, train; local, express, limited, freight [train]; streetcar, trolley [car], tram, subway, tube, el, elevated line, interurban, rapid transit; monorail; airline, air shuttle, airliner, transport,

out. see, recognize; count, number, reckon, rally; speak, state, declare. See INFORMATION, DESCRIPTION, DISCLOSURE, SPEECH, INFLUENCE.

teller, *n.* bank clerk, cashier. See STORE.

telling, *adj.* effective, striking. See EFFECT, POWER, IMPORTANCE.

telltale, *adj.* significant, revealing. —*n.* tattler, talebearer. See INFORMATION.

temerity, *n.* RASHNESS, boldness, audacity, recklessness, daring. *Slang*, nerve, gall, brass, cheek.

temper, *n.* temperament, nature, disposition; mood, humor, tone; tantrum, passion, rage; mettle, quality; calmness, composure, equanimity. See IRASCIBILITY, FEELING, INTRINSIC. —*v.t.* moderate, soften; harden,

anneal, toughen. See HARDNESS, SOFTNESS, CHANGE.

temperament, *n.* constitution, disposition, nature, humor. See FEELING, SENSIBILITY.

temperamental, *adj.* irritable, sensitive; constitutional, innate. See IRASCIBILITY, INTRINSIC.

temperance, *n.* See MODERATION.

temperate, *adj.* moderate, ascetic, cautious, mild, sober, abstemious, abstinent, continent; Pythagorean; vegetarian. See MODERATION.

tempest, *n.* storm, gale, hurricane, squall, blizzard; excitement, tumult, disturbance; maelstrom. See WIND, VIOLENCE.

tempestuous, *adj.* stormy, raging, furious; gusty, blowy, squally; violent, tumultuous, turbulent. See WIND, VIOLENCE.

TEMPLE

Nouns—1, temple, place of worship; house of God, house of prayer; cathedral, minister, church, kirk, chapel, meetinghouse, tabernacle, basilica, holy place, chantry, oratory; synagogue; mosque; marabout; pantheon; pagoda. See ABODE.

2, altar, shrine, sanctuary, Holy of Holies, *sanctum sanctorum*, communion table; pyx; baptistery, font; sedilia; reredos; rood-loft, rood-screen; chancel, nave, aisle, transept, vestry, sacristy, crypt, cloisters, churchyard, golgotha, calvary; stall, pew; pulpit, ambo, lectern, reading-desk, confessional; apse, oriel, belfry, steeple.

3, parsonage, parish house, rectory, vicarage, manse, deanery, presbytery, Vatican, bishop's palace.

4, monastery, priory, abbey, friary, convent, nunnery, cloister; sanctuary.

Adjectives—churchly, claustral, cloistral, cloistered; monastic, conventual.

tempo, *n.* time, beat, rate, pace, rhythm. See MUSIC.

temporal, *adj.* worldly, mundane, secular; civil, political, profane, unsacred; temporary, ephemeral, impermanent. See TRANSIENTNESS.

temporary, *adj.* impermanent, irregular, seasonal, provisional, momentary, brief, fleeting, transitory; stopgap, makeshift, ersatz. See TRANSIENTNESS.

temporize, *v.i.* adapt oneself, ma-

neuver; vacillate, procrastinate, stall, delay, hedge. *Colloq.*, blow hot and cold, play for time. See LATENCY, DURABILITY.

tempt, *v.t.* entice, cajole, fascinate, lure, decoy, seduce; provoke, defy, incite, appeal, attract. See DESIRE, ATTRACTION.

temptation, *n.* ATTRACTION, enticement, allurements; bait; siren song; provocativeness. See DESIRE.

TENACITY

Nouns—tenacity, cohesion, COHERENCE; holding, STRENGTH; viscosity, pertinacity, perseverance, persistence, RESOLUTION, patience; OBSTINACY, RESISTANCE, constancy, RETENTION. *Colloq.*, stick-to-itiveness.

Verbs—adhere (to), stick (to), cling (to); persevere, persist, hold on or out, never say die, fight to the last ditch, be in at the death, stick to one's guns; keep on, hold one's course or ground, bear or keep up, continue, plod, follow through or up. *Colloq.*, stick it out, muddle through, see it through, hang on for dear life, keep a stiff upper lip, keep one's chin up.

Adjectives—tenacious, cohesive, adhesive, clinging, holding, fast, resisting, strong; sticky, gummy, tacky, waxy, glutinous, viscous, viscid; pertinacious, persistent, persevering, dogged, determined, unyielding, uncompromising, unwavering, unfaltering; obstinate, stubborn, intransigent, opinionated, positive, single-minded; steady, steadfast, firm, resolute, constant, purposeful, relentless; retentive. *Colloq.*, pigheaded, never-say-die.

Adverbs—tenaciously, etc.; through thick and thin, rain or shine.

Antonyms, see WEAKNESS, SUBMISSION.

tenant, *n.* occupant, occupier, resident, INHABITANT, renter; inmate. See POSSESSION, ABODE.

tend, *v.* mind, watch, care for, guard,

keep; attend, serve, wait on, incline, bend, bear toward, lean, gravitate. See SERVANT, TENDENCY, UTILITY.

TENDENCY

Nouns—tendency; aptness, aptitude; proneness, proclivity, predilection, bent, turn, tone, tenor, bias, set, leaning, penchant, [pre]disposition, inclination, propensity, susceptibility; likelihood, LIABILITY; nature, temperament; idiosyncrasy; cast, vein, grain; humor, mood; trend, drift, the way the wind blows; conduciveness, conducement; applicability. See SPECIALITY, INTRINSIC, DIRECTION.

Verbs—tend, contribute, conduce, lead, dispose, incline, verge, lean, bend to, trend, affect, carry, redound to, bid fair to, gravitate toward; be liable.

Adjectives—tending, conducive, working toward, in a fair way to, calculated to; liable, prone; useful, subsidiary.

Antonyms, see OPPOSITION.

tender, *v.t.* present, OFFER, proffer, hold out; propose, suggest; volunteer. —*adj.* gentle, kind; sentimental; affectionate, tenderhearted, loving, amorous; immature; sympathetic; soft; humane, merciful; young; fragile, delicate; pathetic, touching; painful, sore. See BENEVOLENCE, LOVE, SOFTNESS, FEELING, PITY, YOUTH. —*n.* MONEY; supply ship; supply car, coal car. See SHIP, VEHICLE.

tenderfoot, *n.* newcomer, recruit,

novice. *Colloq.*, greenhorn. See BEGINNING.

tenebrous, *adj.* dark, gloomy. See DARKNESS.

tenement, *n.* apartment house; flat, dwelling, ABODE; slum.

tenet, *n.* dogma, BELIEF, opinion, creed, doctrine.

tenor, *n.* drift, purport, TENDENCY, import, MEANING, significance; gist, sense; course, manner, nature, mood; DIRECTION. See MUSIC.

tense, *adj.* taut, rigid; intent; excited;

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Revenue Report Monthly BOS

ALL FUNDS Periods: 2023-02 thru 2023-02 [16.67% of Year] Include: Revenues -

Account #	Account Title	Est. Revenue	PTD Rev.	YTD Rev.	Uncollected	% Coll.	Prior YTD Rev.
01 - GENERAL FUND							
3190 - PENALTIES AND INTEREST							
01-3190-01-902	INTEREST & COSTS	0.00	6,353.46	9,819.22	(9,819.22)	0.00	0.00
3190	- PENALTIES AND INTEREST	0.00	6,353.46	9,819.22	(9,819.22)	0.00	0.00
3220 - MOTOR VEHICLE PERMIT FEES							
01-3220-01-906	AUTO REGISTRATIONS	0.00	56,057.00	125,558.50	(125,558.50)	0.00	0.00
01-3220-01-907	SNOWMOBILE AND ATV FEES	0.00	16.00	124.00	(124.00)	0.00	0.00
3220	- MOTOR VEHICLE PERMIT FEES	0.00	56,073.00	125,682.50	(125,682.50)	0.00	0.00
3230 - BUILDING PERMITS							
01-3230-01-909	SITE PLAN REVIEW FEES	0.00	150.00	300.00	(300.00)	0.00	0.00
01-3230-01-910	CERTIFICATE OF COMPLIANCE FEES	0.00	862.50	3,525.00	(3,525.00)	0.00	0.00
3230	- BUILDING PERMITS	0.00	1,012.50	3,825.00	(3,825.00)	0.00	0.00
3290 - OTHER LICENSSES, PERMITS AND FEES							
01-3290-01-907	BOAT REGISTRATIONS/FEES	0.00	152.60	724.20	(724.20)	0.00	0.00
01-3290-01-912	DOG LICENSES/FEES	0.00	130.00	533.50	(533.50)	0.00	0.00
01-3290-01-915	VITALS-BIRTH & DEATH	0.00	71.00	335.00	(335.00)	0.00	0.00
01-3290-01-917	TOWN CLERK FEES	0.00	3.50	11.50	(11.50)	0.00	0.00
01-3290-01-918	MISC. TC/TC OVERAGES	0.00	125.70	(261.50)	261.50	0.00	0.00
3290	- OTHER LICENSSES, PERMITS AND FEES	0.00	482.80	1,342.70	(1,342.70)	0.00	0.00
3354 - STATE - WATER POLLUTION GRANTS							
01-3354-01-795	STATE OF NH - WATER GRANT	0.00	0.00	7,376.77	(7,376.77)	0.00	0.00
3354	- STATE - WATER POLLUTION GRANTS	0.00	0.00	7,376.77	(7,376.77)	0.00	0.00
3401 - INCOME FROM DEPARTMENTS							
01-3401-01-321	PHOTOCOPY INCOME	0.00	0.00	9.25	(9.25)	0.00	0.00
01-3401-01-586	RECYCLING INCOME-ALUMINUM	0.00	1,217.70	2,759.07	(2,759.07)	0.00	0.00
01-3401-01-588	RECYCLING NEWSPAPER	0.00	0.00	281.75	(281.75)	0.00	0.00
01-3401-01-937	MISC. GENERAL GOV'T INCOME	0.00	0.00	100.00	(100.00)	0.00	0.00
01-3401-01-950	ZBA INCOME	0.00	150.00	600.00	(600.00)	0.00	0.00
01-3401-01-959	[IA] HWY-MATERIALS SOLD	0.00	0.00	400.00	(400.00)	0.00	0.00
3401	- INCOME FROM DEPARTMENTS	0.00	1,367.70	4,150.07	(4,150.07)	0.00	0.00
3404 - GARBAGE - REFUSE CHARGES							
01-3404-01-940	SUNAPEE T/S TICKET SALES	0.00	200.00	3,205.00	(3,205.00)	0.00	0.00
3404	- GARBAGE - REFUSE CHARGES	0.00	200.00	3,205.00	(3,205.00)	0.00	0.00
3501 - SALES OF MUNICIPAL PROPERTY							
01-3501-01-970	CHECKING ACCOUNT INTEREST EARNED	0.00	(6.94)	6,120.52	(6,120.52)	0.00	0.00

Revenue Report Monthly BOS

ALL FUNDS Periods: 2023-02 thru 2023-02 [16.67% of Year] Include: Revenues -

Account #	Account Title	Est. Revenue	PTD Rev.	YTD Rev.	Uncollected	% Coll.	Prior YTD Rev.
3501 - SALES OF MUNICIPAL PROPERTY		<u>0.00</u>	<u>(6.94)</u>	<u>6,120.52</u>	<u>(6,120.52)</u>	<u>0.00</u>	<u>0.00</u>
01 - GENERAL FUND		<u>0.00</u>	<u>65,482.52</u>	<u>161,521.78</u>	<u>(161,521.78)</u>	<u>0.00</u>	<u>0.00</u>
02 - HYDRO FUND							
3409 - OTHER CHARGES FOR SERVICES							
02-3409-99-000 HYDRO - SALE OF ELECTRICITY		0.00	91,419.65	150,310.99	(150,310.99)	0.00	0.00
3409 - OTHER CHARGES FOR SERVICES		<u>0.00</u>	<u>91,419.65</u>	<u>150,310.99</u>	<u>(150,310.99)</u>	<u>0.00</u>	<u>0.00</u>
3501 - SALES OF MUNICIPAL PROPERTY							
02-3501-99-971 HYDRO INTEREST EARNED		0.00	0.00	130.62	(130.62)	0.00	0.00
3501 - SALES OF MUNICIPAL PROPERTY		<u>0.00</u>	<u>0.00</u>	<u>130.62</u>	<u>(130.62)</u>	<u>0.00</u>	<u>0.00</u>
02 - HYDRO FUND		<u>0.00</u>	<u>91,419.65</u>	<u>150,441.61</u>	<u>(150,441.61)</u>	<u>0.00</u>	<u>0.00</u>
04 - WATER DEPT							
3401 - INCOME FROM DEPARTMENTS							
04-3401-99-000 DUE FROM WATER FOR MONTHLY EXPENSES		0.00	63,595.76	63,595.76	(63,595.76)	0.00	0.00
3401 - INCOME FROM DEPARTMENTS		<u>0.00</u>	<u>63,595.76</u>	<u>63,595.76</u>	<u>(63,595.76)</u>	<u>0.00</u>	<u>0.00</u>
04 - WATER DEPT		<u>0.00</u>	<u>63,595.76</u>	<u>63,595.76</u>	<u>(63,595.76)</u>	<u>0.00</u>	<u>0.00</u>
07 - SPECIAL RECREATION FUND							
3401 - INCOME FROM DEPARTMENTS							
07-3401-07-151 SPEC REC - Basketball		0.00	3,955.00	3,955.00	(3,955.00)	0.00	0.00
07-3401-99-700 SPEC REC - Baseball, Softball, Babe Ruth		0.00	1,305.00	4,160.00	(4,160.00)	0.00	0.00
07-3401-99-708 SPEC REC - Track & Field		0.00	35.00	70.00	(70.00)	0.00	0.00
07-3401-99-717 SPEC REC - SUMMER CAMP		0.00	20,795.00	20,795.00	(20,795.00)	0.00	0.00
07-3401-99-902 SPEC REC - Boot Camp		0.00	600.00	800.00	(800.00)	0.00	0.00
3401 - INCOME FROM DEPARTMENTS		<u>0.00</u>	<u>26,690.00</u>	<u>29,780.00</u>	<u>(29,780.00)</u>	<u>0.00</u>	<u>0.00</u>
3503 - RENTS OF PROPERTY							
07-3503-00-000 SPEC REC - ONLINE PAYMENT CASH DISCREPANCIES		0.00	0.00	(0.01)	0.01	0.00	0.00
3503 - RENTS OF PROPERTY		<u>0.00</u>	<u>0.00</u>	<u>(0.01)</u>	<u>0.01</u>	<u>0.00</u>	<u>0.00</u>
07 - SPECIAL RECREATION FUND		<u>0.00</u>	<u>26,690.00</u>	<u>29,779.99</u>	<u>(29,779.99)</u>	<u>0.00</u>	<u>0.00</u>
08 - LAND DISTURBANCE ESCROW ACCOUNT							
3509 - OTHER MISCELLANEOUS REVENUE							
08-3509-00-000 INTEREST REVENUE ON LAND BONDS		0.00	0.00	0.08	(0.08)	0.00	0.00
3509 - OTHER MISCELLANEOUS REVENUE		<u>0.00</u>	<u>0.00</u>	<u>0.08</u>	<u>(0.08)</u>	<u>0.00</u>	<u>0.00</u>
08 - LAND DISTURBANCE ESCROW ACCOUNT		<u>0.00</u>	<u>0.00</u>	<u>0.08</u>	<u>(0.08)</u>	<u>0.00</u>	<u>0.00</u>
09 - PLANNING AND ZONING ESCROW FUND							

Revenue Report Monthly BOS

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Account #	Account Title	Est. Revenue	PTD Rev.	YTD Rev.	Uncollected	% Coll.	Prior YTD Rev.
3401 - INCOME FROM DEPARTMENTS							
09-3401-21-801	Bell Construction Oversight Bond	0.00	254.61	254.61	(254.61)	0.00	0.00
09-3401-21-802	AUBUCHON REALTY COMPANY CASH BOND	0.00	1,153.50	1,153.50	(1,153.50)	0.00	0.00
3401 - INCOME FROM DEPARTMENTS		0.00	1,408.11	1,408.11	(1,408.11)	0.00	0.00
09 - PLANNING AND ZONING ESCROW FUND		0.00	1,408.11	1,408.11	(1,408.11)	0.00	0.00
11 - SPECIAL REC - SPECIAL REVENUE - DONATIONS							
3501 - SALES OF MUNICIPAL PROPERTY							
11-3501-00-000	SPEC REC DONATION ACCOUNT - INTEREST EARNED	0.00	0.00	47.54	(47.54)	0.00	0.00
3501 - SALES OF MUNICIPAL PROPERTY		0.00	0.00	47.54	(47.54)	0.00	0.00
3508 - CONTRIBUTIONS AND DONATIONS							
11-3508-00-001	SPEC REC - SPECIAL REVENUE - DONATION REVENUE	0.00	1,000.00	2,000.00	(2,000.00)	0.00	0.00
3508 - CONTRIBUTIONS AND DONATIONS		0.00	1,000.00	2,000.00	(2,000.00)	0.00	0.00
11 - SPECIAL REC - SPECIAL REVENUE - DONATIONS		0.00	1,000.00	2,047.54	(2,047.54)	0.00	0.00
15 - CONSERVATION COMISSION FUND							
3501 - SALES OF MUNICIPAL PROPERTY							
15-3501-99-971	CONSERVATION COMMISSION FUND INTEREST EARNED	0.00	0.00	5.55	(5.55)	0.00	0.00
3501 - SALES OF MUNICIPAL PROPERTY		0.00	0.00	5.55	(5.55)	0.00	0.00
15 - CONSERVATION COMISSION FUND		0.00	0.00	5.55	(5.55)	0.00	0.00
16 - DEWEY WOODS							
3501 - SALES OF MUNICIPAL PROPERTY							
16-3501-99-340	DEWEY WOODS INTEREST EARNED	0.00	0.00	0.35	(0.35)	0.00	0.00
3501 - SALES OF MUNICIPAL PROPERTY		0.00	0.00	0.35	(0.35)	0.00	0.00
16 - DEWEY WOODS		0.00	0.00	0.35	(0.35)	0.00	0.00
19 - TOWN FOREST FUND							
3501 - SALES OF MUNICIPAL PROPERTY							
19-3501-99-971	TOWN FOREST FUND INTEREST EARNED	0.00	0.00	3.66	(3.66)	0.00	0.00
3501 - SALES OF MUNICIPAL PROPERTY		0.00	0.00	3.66	(3.66)	0.00	0.00
19 - TOWN FOREST FUND		0.00	0.00	3.66	(3.66)	0.00	0.00
22 - SPECIAL DETAIL							
3409 - OTHER CHARGES FOR SERVICES							
22-3409-99-140	POLICE SPECIAL DETAIL INCOME	0.00	0.00	1,159.65	(1,159.65)	0.00	0.00
3409 - OTHER CHARGES FOR SERVICES		0.00	0.00	1,159.65	(1,159.65)	0.00	0.00
22 - SPECIAL DETAIL		0.00	0.00	1,159.65	(1,159.65)	0.00	0.00

Revenue Report Monthly BOS

ALL FUNDS Periods: 2023-02 thru 2023-02 [16.67% of Year] Include: Revenues -

Account #	Account Title	Est. Revenue	PTD Rev.	YTD Rev.	Uncollected	% Coll.	Prior YTD Rev.
		<u>0.00</u>	<u>249,596.04</u>	<u>409,964.08</u>	<u>(409,964.08)</u>	<u>0.00</u>	<u>0.00</u>

Expenditure Report Monthly BOS

ALL FUNDS Periods: 2023-02 thru 2023-02 [16.67% of Year] Include: - Expenditures

(Seg1-FUND - Seg2-PRIMARY)	Total Budget	PTD Expended	YTD Expended	Encumbered	Available	% Exp.
01 - GENERAL FUND						
4130 - GENERAL GOVERNMENT: EXECUTIVE	0.00	21,463.02	56,366.78	0.00	(56,366.78)	0.00
4140 - TOWN CLERK TAX COLLECTOR	0.00	24,994.06	43,903.77	0.00	(43,903.77)	0.00
4141 - ELECTIONS	0.00	0.00	176.70	0.00	(176.70)	0.00
4150 - FINANCIAL ADMINISTRATION	0.00	51,152.36	118,188.88	0.00	(118,188.88)	0.00
4152 - REVALUATION OF PROPERTY	0.00	224.52	482.89	0.00	(482.89)	0.00
4153 - LEGAL EXPENSES	0.00	3,311.50	8,752.57	0.00	(8,752.57)	0.00
4155 - PERSONNEL ADMINISTRATION	0.00	102.29	105.04	0.00	(105.04)	0.00
4191 - PLANNING AND ZONING	0.00	11,097.88	24,465.82	0.00	(24,465.82)	0.00
4194 - GENERAL GOVERNMENT BUILDINGS	0.00	25,119.19	51,028.13	0.00	(51,028.13)	0.00
4195 - CEMETERIES	0.00	0.00	254.24	0.00	(254.24)	0.00
4196 - INSURANCE NOT OTHERWISE ALLOCATED	0.00	0.00	11,697.01	0.00	(11,697.01)	0.00
4197 - ADVERTISING AND REGIONAL ASSOCIATION	0.00	766.26	963.34	0.00	(963.34)	0.00
4199 - OTHER GENERAL GOVERNMENT	0.00	382.30	1,346.75	0.00	(1,346.75)	0.00
4210 - PUBLIC SAFETY: POLICE	0.00	59,971.89	133,220.90	0.00	(133,220.90)	0.00
4215 - AMBULANCE	0.00	0.00	0.00	0.00	0.00	0.00
4220 - FIRE	0.00	16,447.01	37,033.64	0.00	(37,033.64)	0.00
4229 - SAFETY SERVICES BUILDING	0.00	7,858.70	10,312.44	0.00	(10,312.44)	0.00
4290 - EMERGENCY MANAGEMENT	0.00	0.00	0.00	0.00	0.00	0.00
4312 - HIGHWAY AND STREETS	0.00	149,698.74	289,765.40	0.00	(289,765.40)	0.00
4316 - STREET LIGHTS	0.00	995.30	1,028.43	0.00	(1,028.43)	0.00
4324 - SOLID WASTE DISPOSAL	0.00	37,812.94	86,386.44	0.00	(86,386.44)	0.00
4411 - HEALTH: ADMINISTRATION	0.00	0.00	74.35	0.00	(74.35)	0.00
4414 - PEST CONTROL	0.00	0.00	0.00	0.00	0.00	0.00
4415 - HEALTH AGENCIES AND HOSPITALS	0.00	0.00	0.00	0.00	0.00	0.00
4442 - DIRECT ASSISTANCE	0.00	2,394.23	3,485.29	0.00	(3,485.29)	0.00
4520 - PARKS AND RECREATION	0.00	4,544.39	15,417.01	0.00	(15,417.01)	0.00
4550 - LIBRARY	0.00	40,828.49	85,956.74	0.00	(85,956.74)	0.00
4583 - PATRIOTIC PURPOSES	0.00	0.00	0.00	0.00	0.00	0.00
4589 - OTHER CULTURE AND RECREATION	0.00	5,000.00	5,000.00	0.00	(5,000.00)	0.00
4611 - CONSERVATION: ADMINISTRATION	0.00	285.54	285.54	0.00	(285.54)	0.00
4711 - DEBIT SERVICE: PRINCIPAL - LONG-TERM BONDS AND NOTES	0.00	0.00	33,733.30	0.00	(33,733.30)	0.00
4721 - INTEREST - LONG-TERM BONDS AND NOTES	0.00	0.00	12,206.48	0.00	(12,206.48)	0.00
4723 - INTEREST ON TAX AND REVENUE ANTICIPATION NOTES	0.00	0.00	0.00	0.00	0.00	0.00
4900 - WARRANT ARTICLES	0.00	0.00	1,597.50	0.00	(1,597.50)	0.00
4931 - TAXES ASSESSED FOR COUNTY	0.00	0.00	0.00	0.00	0.00	0.00
01 - GENERAL FUND	0.00	464,450.61	1,033,235.38	0.00	(1,033,235.38)	0.00
02 - HYDRO FUND						
4339 - OTHER WATER	0.00	11,427.33	18,061.83	0.00	(18,061.83)	0.00
4912 - TRANSFERS TO THE SPECIAL REVENUE FUNDS	0.00	0.00	0.00	0.00	0.00	0.00
02 - HYDRO FUND	0.00	11,427.33	18,061.83	0.00	(18,061.83)	0.00
04 - WATER DEPT						
4335 - WATER TREATMENT	0.00	61,765.83	285,481.24	0.00	(285,481.24)	0.00
04 - WATER DEPT	0.00	61,765.83	285,481.24	0.00	(285,481.24)	0.00
05 - ARPA						

Expenditure Report Monthly BOS

ALL FUNDS Periods: 2023-02 thru 2023-02 [16.67% of Year] Include: - Expenditures

(Seg1-FUND - Seg2-PRIMARY)	Total Budget	PTD Expended	YTD Expended	Encumbered	Available	% Exp.
4130 - GENERAL GOVERNMENT: EXECUTIVE	0.00	5,886.77	5,886.77	0.00	(5,886.77)	0.00
05 - ARPA	0.00	5,886.77	5,886.77	0.00	(5,886.77)	0.00
06 - SCHOOL						
4800 -	0.00	1,737.32	2,461.77	0.00	(2,461.77)	0.00
06 - SCHOOL	0.00	1,737.32	2,461.77	0.00	(2,461.77)	0.00
07 - SPECIAL RECREATION FUND						
4520 - PARKS AND RECREATION	0.00	1,285.09	2,274.46	0.00	(2,274.46)	0.00
07 - SPECIAL RECREATION FUND	0.00	1,285.09	2,274.46	0.00	(2,274.46)	0.00
12 - PISTOL PERMIT FUND						
4210 - PUBLIC SAFETY: POLICE	0.00	0.00	0.00	0.00	0.00	0.00
12 - PISTOL PERMIT FUND	0.00	0.00	0.00	0.00	0.00	0.00
15 - CONSERVATION COMISSION FUND						
4611 - CONSERVATION: ADMINISTRATION	0.00	3,811.25	3,811.25	0.00	(3,811.25)	0.00
15 - CONSERVATION COMISSION FUND	0.00	3,811.25	3,811.25	0.00	(3,811.25)	0.00
19 - TOWN FOREST FUND						
4520 - PARKS AND RECREATION	0.00	0.00	0.00	0.00	0.00	0.00
19 - TOWN FOREST FUND	0.00	0.00	0.00	0.00	0.00	0.00
22 - SPECIAL DETAIL						
4216 -	0.00	514.69	514.69	0.00	(514.69)	0.00
22 - SPECIAL DETAIL	0.00	514.69	514.69	0.00	(514.69)	0.00
30 - GRANTS						
4220 - FIRE	0.00	0.00	0.00	0.00	0.00	0.00
30 - GRANTS	0.00	0.00	0.00	0.00	0.00	0.00
	0.00	550,878.89	1,351,727.39	0.00	(1,351,727.39)	0.00

FW: [EXTERNAL]Short term rental discussion - Amendment #7

Town Manager <manager@town.sunapee.nh.us>

Tue 2/7/2023 12:04 PM

To: Scott Hazelton <Scotth@town.sunapee.nh.us>; Allyson Traeger <allyson@town.sunapee.nh.us>

Allyson,

Can you please make sure this makes it to the BOS agenda packet and the Planning Board agenda packet?

Shannon Martinez

Town Manager

23 Edgemont Rd, Sunapee, NH 03782

Office Phone: 603-763-2212

Email: manager@town.sunapee.nh.us

<https://www.town.sunapee.nh.us/>

From: Linda Goehle Drohan <lindagdrohan2@gmail.com>

Sent: Tuesday, February 7, 2023 10:20 AM

To: josh.trow@gmail.com

Cc: Town Manager <manager@town.sunapee.nh.us>; Michael Marquise <Michael@town.sunapee.nh.us>

Subject: [EXTERNAL]Short term rental discussion - Amendment #7

Some people who received this message don't often get email from lindagdrohan2@gmail.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning to you all..

I request that our email please be added to the permanent record.

'The Town of Sunapee Chamber of Commerce markets the town by stating that "For more than two centuries, visitors from all over the world have chosen New Hampshire's Lake Sunapee Region as their ideal year-round vacation destination." And property owners have been renting out their homes, without government interference, to those visitors for as long as they have been coming here. If we are going to overturn hundreds of years of precedent, then I hope we take our time.'

I read this and felt prompted to write to you..

Our community is a resort community with gorgeous Sunapee Mountain and Lake in our backyard.. If we hope to invite guests from all over to experience the beauty and activities it has to offer, how does it make sense to remove availability for guests to come stay.. Families flock to Short term rentals so they and their families can be together in a comfortable home enjoying their time together.. If Sunapee removes the availability of so many that now welcome them, they will just go stay in another town that does provide vacation housing for them. This will hurt us all..

I am writing to add my perspective to this very important issue that will impact everyone owning homes, living in, visiting, and doing business in our beautiful town of Sunapee..

My name is Linda Goehle Drohan. Our family lives full time in Massachusetts but comes up to New Hampshire as often as possible.

Our family bought a camp on Perkins Pond back in 1996.. We loved our 'little slice of heaven' so much that we remodeled, put an addition on, and made our little camp into a lovely full time home in 2003.. We are located in the Rural Residential District..

Many many friends have come up to enjoy our camp and then our new year round home thru out the years.. My husband Bob and I believed that if we couldn't be up enjoying our amazing home, others should.. Nothing bothered us more than seeing beautiful homes sit empty and dark for all but 2-3 weeks out of the year.

We had always been a couple that believed in sharing our blessings with others and nothing gave us more joy than hearing of the memories made by families enjoying our cabin as we did and exploring the gorgeous Sunapee area..

In 2004 my husband Bob died suddenly and tragically in a car accident.. As a widow caring for our home in Massachusetts and cabin in NH, I made the decision to start charging friends for their stays at our cabin.. We had been blessed financially and never charged a dime before but life changed and I had to change with it..

It was a hardship to pay for all the bills associated with a second home as well as our full time home.. Rising taxes, utilities and upkeep on our property and home became a burden of love..

We love our Perkins Pond home and pray we will own it forever and pass it to down our children and grandchildren..

I remarried a wonderful man in 2013 and we became a blended family with 8 young adults..

We saw the need for more room for our ever growing family and he, being a builder, finished off the large space over our garage as a second cabin addition to house our family.. Its a beautiful space and we all love it! He, like me, believes in sharing our blessings and, our cabins are our favorites!!

We began renting our 2 cabins on Airbnb in 2016 and have the enjoyed the experience immensely :) It's been a fabulous 7 year experience and we have over 267 wonderful reviews..

We block out a lot of weekends and weeks for us and our family to enjoy in each season and then screen our guests heavily as they are staying in our cabins which are not just rentals but our home away from home.. We screen, ask a lot of questions of our potential renters, we've denied quite a few (just intuition) and we have had a most positive time renting thru Airbnb.. I love interacting with guests as much as possible, recommending restaurants, shops, local tourist spots, hikes etc..

Many come to Sunapee for the first time and leave having fallen in love with our beautiful town and community!!

Others return already knowing what a special place it is..

We have many many returning guests whose kids consider our cabins as their own and Sunapee too!

****We have had quite a few guests who grew up vacationing at rental homes on our Pond and now return bringing their families to experience the joy they remembered as children.. So many comment that it hasn't changed and still feels magical..

The huge majority of our guests are families who just love every minute staying at the Pond, enjoying the sunrises and sunsets over the water and exploring the whole area.. The comments in our guests books and in our Airbnb reviews bring such joy to my heart as we were able to facilitate family vacation memories for so many!!

We pray that you will consider the benefit to our beautiful resort town of Sunapee and allow us to continue renting our cabins to others when we can't be up enjoying them.. The income benefits the town as many spend a substantial amount at the market, restaurants and shops.. It definitely helps us pay our taxes and bills as well as those we hire to help landscape, plow, and clean inside after each guest and to generally maintain the property in all seasons..

Because caring for our property and cabins is made easier with this income source, we have been able to consistently update and care for our cabins inside and out keeping them beautifully maintained..

We had to take down 8-10 trees over the years that either died, were diseased or grew to threaten power poles or neighbors homes.. Because of this income we were able to take them down using reputable and licensed companies.. All of these things would not be possible if we did not have this blessing of additional income to care for our beloved home.. In closing, I would like to please request that we be allowed to continue doing this thing we love.. Enjoying our cabins as a family and sharing it with guests who rent thru Airbnb..

Its a WIN WIN for all :)

As for our future, my husband Doug and I plan to retire at our cabin in 5 years and so look forward to that time in our lives.. We pray that until then, we can continue sharing 'our little slice of heaven' with others too!!

All the best,

Linda and Doug Drohan

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[EXTERNAL]Short term Rentals

Monica Rooney <tcvmdoc@gmail.com>

Wed 2/15/2023 5:48 AM

To: Town Manager <manager@town.sunapee.nh.us>

You don't often get email from tcvmdoc@gmail.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing to appeal to the town of Sunapee to allow existing short term rentals to remain in place and NOT have to seek special exception from the Zoning Board to continue

Monica Rooney

16 Trow Hill Rd

Sunapee

--

Sent from Gmail Mobile

SUNAPEE BOARD OF SELECTMEN, JANUARY 2023

ALLOW ALL CURRENT STRS TO “STAY IN PLACE” (SIP)

(Those operating at any point between 1/1/22 and 12/1/22)

WHY / HOW:

- 1) SIP based on current definition of “dwelling unit” which allows “for rent or lease” of a dwelling unit.
- 2) SIP based on NH court STR decisions – a residence used as a residence remains a residence (not a business) regardless of how long it is rented for or if money exchanges hands.
- 3) SIP based on minimal evidence that current Sunapee STRs are the cause of issues: STRs should be treated as innocent unless proven guilty.

POTENTIAL OUTCOMES:

- 1) Higher compliance with the registration process.
- 2) Decreased workload on town administration.
- 3) Removes ZBA from multiple special exception cases (approx 70-80 STRs in RR and RL districts).
- 4) Continued positive impact on tourism economy.
- 5) Possible legal challenge from anti-STRers.

DO NOT ALLOW ALL CURRENT STRS TO “STAY IN PLACE”

(Non-SIP)

WHY / HOW:

- 1) Non-SIP based on ordinance interpretation of only “tourist homes” are permissible.
- 2) Non-SIP based on ordinance interpretation requiring a special exception for STRs in rural residential districts.
- 3) Possibly based on legal counsel.

POTENTIAL OUTCOMES:

- 1) Low compliance to registration process due to no protections in place for STRs in rural residential or rural lands districts.
- 2) Increased workload for town administration.
- 3) Increased workload for ZBA to process special exceptions (for approx 70-80 STRs in RR districts).
- 4) Negative impact on tourism economy.
- 5) Probable legal challenge from pro-STRers.

PLEASE SAVE SUNAPEE’S TOURISM TRADITIONS!

SUNAPEE BOARD OF SELECTMEN, JANUARY 2023

ARTICLE 8 – AMENDMENT #7 *DOESN'T* PASS

What Happens:

If BoS has decided All STRs can Stay In Place (SIP)

- 1) Higher registration compliance rate likely.
- 2) Fees to register will be better received by STR owners.
- 3) Special exceptions not required from ZBA because BoS has pre-determined SIP.
- 4) June-December, 2023 write new STR amendment.

If BoS has decided STRs can **not** SIP

- 1) Lower registration compliance rate likely, due to the need for a special exception for STRs in rural residential district.
- 2) STR owners in rural residential district resistant to registration fees without knowing first if they will be granted a special exception.
- 3) June-December, 2023 write new STR amendment.

ARTICLE 8 – AMENDMENT #7 *DOES* PASS

What Happens:

If BoS has decided All STRs can Stay in Place (SIP)

- 1) All STRs in Rural Residential districts from January 1, 2023, onward will require a special exception from the ZBA.
- 2) Lower workload for town administration and ZBA.
- 3) Registration process for all current and future STRs with a fee structure.
- 4) Inspections start with ONIR STRs.

If BoS has decided STRs can **not** SIP

- 1) Special exceptions via ZBA application required by all current STRs and future STRs in Rural Residential districts.
- 2) Increased workload on town administration and ZBA.
- 3) Registration process delayed for STRs in rural residential districts until special exceptions granted.

PLEASE SAVE SUNAPEE'S TOURISM TRADITIONS!

SUNAPEE BOARD OF SELECTMEN, JANUARY 2023

Cautions / Please Consider:

- 1) STR owner-voters don't know the details of what the BoS will require for the registration process. Owners need to know these details prior to March 14, 2023.
- 2) If the BoS decides to allow current STRs to stay in place **prior to** March vote, it creates a much smoother and equitable process for town administration and STR owners, regardless of the vote outcome.
- 3) The ZBA has spent numerous hours and legal fees on two STR-related cases, so far. If each of the 70-80ish current STRs in RR districts must seek a special exception, the question needs to be asked, "at what cost?" of time, skilled resources, and money.
- 4) Current STR owners in rural residential districts will not register or pay fees until they know they will be granted a special exception. Why would they pay to register before they know if they would be allowed to continue to operate?
- 5) Some current STR owners already have bookings up to 18 months out - into the summer of 2024. Will rural residential STR owners be required to "pause" bookings, or worse, cancel reservations, until their special exception has been granted?
- 6) Evidence of enforcement bias and ordinance misinterpretation already exists in the ZBA. How will this be addressed?
- 7) Article 8 – Amendment #7 is discriminatory against STRs in several ways; if this passes, the restrictions are not universal to all Sunapee residents or their guests. (Such as: occupancy based on bedrooms, number of permitted cars, and application to operate via "Home Business"; yet, STRs are not considered businesses as determined by precedents set by NH courts regarding STRs.)
- 8) The very real negative economic impact on the town's tourism culture if multiple STRs are forced to close, including boat cruises and rentals, retail markets, restaurants, and snack shops, as well as the non-profits of the LSPA, Sunapee Historical Society, and The Livery, etc.

Lake Sunapee Short Term Rental Association www.LSSTRA.org

PLEASE SAVE SUNAPEE'S TOURISM TRADITIONS!

February 15, 2023

Dear Sunapee Board of Selectmen:

As you are aware, we have owned and operated a very successful STR in our home on Maple Street for over 4 years. We utilize Airbnb as our platform for managing guests' stays. We qualify as a "tourist home" under the town's current ordinances as we are "owner-occupied".

We founded the Lake Sunapee Short Term Rental Association (LSSTRA) in the fall of 2022 when we recognized the need for a united voice of Sunapee STR owners; especially for those who may not live in town year-round. Our core values are: Education, Advocacy, and Resource Stewardship. The LSSTRA has always been in support of a town retained STR platform management company and a STR registration process.

Perhaps you have wondered why we are advocating so strongly for all STRs, when we could just sit back, knowing our STR space is safe as a grandfathered use. There are 3 basic reasons why:

- 1) Sunapee is a tourist town, a **destination community**. Most of us came here as visitors ourselves first. To deny or ignore this is like turning our backs on our inherent personality.
- 2) Owners of STRs are **hard-working, middle income people**, earning money through the side-hustle of renting our homes to help off-set increasing costs of living. Further, the support services we utilize in the form of local businesses helps spread around the dollars we earn from guest stays.
- 3) Sunapee STR owners and pro-STR businesses are a community unto ourselves. In kinship we are seeking to be welcomed as a **valuable asset** to the town.

The warrant Article 8 – Amendment 7, pending for the March vote, if it passes, will create a very difficult process for the town and STR owners in rural residential districts as special exceptions will need to be heard and processed through the Zoning Board. If the Article fails, and we continue with our current ordinances, some STR owners will still seek special exceptions. Either way, pass or fail, the burden on town administration and the ZBA will be predictably overwhelming. Two STR-related cases that have come before the ZBA have already cost multiple hours and thousands in legal fees. Multiply this by the 80+ish STRs in RR districts if they have to seek special exceptions. This would not be good resource stewardship.

This burden of time, money and skilled work can be avoided by allowing the current STRs to "stay in place." There are means within Sunapee's current ordinances as well as NH legal precedent that would allow the BoS to make the decision to let current STRs continue to operate.

The reason it is important for this decision to be made prior to March 14th is to provide a clear pathway forward for the town and STRs owners. Agreeing now to let current STRs stay in place will begin building the necessary relationship with STR owners as we move into the registration process. In short, it will build trust.

Please consider the positive outcomes of allowing STRs to stay in place when making this important decision. These positives include, but are not limited to: saying "yes" to our tourism traditions and contributing to the economic stability for homeowners and the town itself.

Thank you for all you each do for the town and the Board of Selectmen,

Peter and Lisa Hoekstra

25 Maple St

Sunapee, NH

Airbnb hosts x 4+ years

Sunapee STR Regulation Requests

Hi Shannon and Allyson,

Please consider my requests for items to be included in the BOS registration/permit questionnaire. Many of these were agreed upon by the Task Force:

1. Permit Violation Penalties and Fee Statement:

- a. First Offence: Warning
- b. Second Offence: \$250 Fee
- c. Third Offence: Permit revoked for 1 year immediately following the 3rd violation. This was approved with the Senate Bill 249.

\$25/day fine per day for continuing to run the STR 1 week after STR shutdown.
Re-registration after 1 year suspension is required.

The town has the right to revoke the permit of any STR that becomes a nuisance or illegal activities/arrests take place.

All violations and offenses are documented by letter from Town or State official to property owner.

2. Tax compliance:

As required by the state of NH, all transient lodging is taxed and paid to the State. VRBO and AirBnB pay the state for these bookings, all other bookings must be paid by the property owner or their agent.

Please check which applies:

_____ 100% of STR bookings go through AirBnB and/or VRBO*

_____ Some or all of my bookings are not through AirBnB and VRBO**

* Does not require a Rooms and Meals tax license

** Requires a State of NH rooms and meals tax license

State of NH Rooms and Meals License # _____

Date of license issuance _____

(State website with the list of licensed Meals and Rooms Tax businesses in Sunapee

<https://qtc.revenue.nh.gov/TAP/#1>

All rentals that are not booked through AirBnB and VRBO must pay taxes directly from owner to the state. Most rentals are a combination of VRBO/AirBnB and direct bookings.

Attached to this document is the list of current tax licenses for rooms and meals taxpayers in Sunapee. Notice date on top indicates all businesses who have licenses to date. Very few STRs and tourist homes are registered to pay taxes.

AirBnB, VRBO and some of the local rental agencies (Sunapee Vacation Rentals) pay the taxes on behalf of the owner, as their agent. All rentals that are not booked through AirBnB and VRBO must pay taxes directly from owner to the state. Most rentals are a combination of VRBO/AirBnB and direct bookings.)

3. Boat registration

Do you allow your renters to use boats at your STR? Yes or No

If yes, I understand the renter needs to get a certificate of pass inspection from the Lake Host at the harbor ramp prior to putting it in all waterbodies in Sunapee. The certificate will be kept in the boat and shown to officials as requested. _____(initials)

(Is this possible to protect our waterbodies from transient boats this way?)

4. Building Safety Codes – Sign affidavit that the building complies with local and state safety codes, list each code. *(No need to do inspections. Put responsibility and liability on the homeowner.)*

5. I live in the zone as checked off and understand the regulations of my zone:

_____ Rural

_____ Rural Residential

_____ Commercial

_____ Village Residential

_____ Etc.....

(Have STR owner check off what zone they live in and that they are aware of the STR zoning requirements of their zone.)

6. Require an emergency contact that is available to:

- Respond by phone in 10 minutes
- Respond in person within 30 minutes

7. Have STR owner check off that they are aware of each town ordinance:

a. Noise

b. Fireworks

c. Leash Law

d. Burning/firepits

e. Etc.....

8. Require GIS Parcel/Tax card attached. *(confirmation on # of bedroom, etc.)*

9. Require confirmation receipt from Sunapee tax office that all property taxes are paid up to date
10. 2 people per bedroom plus 1. Maximum of 14 people per dwelling. Not more than 5 unrelated people per STR per current zoning ordinance.
11. Maximum of 1 car per bedroom, parking limited to number of spaces in driveway. No parking on road or lawn
12. Rural Residential – require registration notification to abutters for their input.
13. Submit garbage storage (must be secure and hidden from road view) and removal plan.
14. No additional overnight sleeping quarters shall be used. Only the number of bedrooms, per town tax record are approved for sleeping. Eliminating sleeping in garages, basements, sheds, attics, trailers, campers, tents, etc.

Thank you for your consideration of my requests.

Ovid Bordeianu, participant in the Sunapee Sort Term Rental Task Force
(978) 809-0314
15 Maple Street
Sunapee Resident

Included: Sunapee Tax Registry/Sunapee