



## ORDINANCE

### AMENDING THE LAND USE CODE WITH RESPECT TO MAJOR HOME OCCUPATIONS – DAY CARE USES

### *CITY OF NASHUA*

*In the Year Two Thousand and Eight*

*The City of Nashua ordains* that Part II “General Legislation”, Chapter 190 “Land Use”, Part 2 “Zoning Districts and Supplemental Use Regulations”, Article VI “Supplemental Use Regulations”, Section 190-47 “Home occupations” of the Nashua Revised Ordinances, as amended, be and hereby is further amended by adding the following new underlined language and deleting the struck-through language as follows:

**“§ 190-47. Home occupations.**

...

- B. Major home occupations. The purpose of this subsection is to permit the accessory use of a residence for business purposes which is clearly incidental to the principal residential use, provided that the use does not significantly change the residential character or function of the property to the extent that the use will be objectionable to other residential uses in the neighborhood. Specifically, the following special regulations must be met to the satisfaction of the ~~Planning Board~~Zoning Board of Adjustment as well as the conditions set forth in 190-133F 134 before a ~~conditional use permit~~special exception can be granted. In granting a ~~conditional use permit~~special exception, the ~~Planning Board~~Zoning Board of Adjustment may attach any reasonable conditions to the approval to ensure the protection of the residential character of the neighborhood:

...

- (2) No more than 30% of the gross floor area of the dwelling or 300 square feet, whichever is less, shall be devoted to such use. Except for child day-care facilities, which may use up to 420 square feet.”

**LEGISLATIVE YEAR 2008**

**ORDINANCE:** 0-08-38

**PURPOSE:** Amending the land use code with respect to Major Home Occupations – Day Care uses

**SPONSOR(S):** Alderman Jeffrey T. Cox

**COMMITTEE  
ASSIGNMENT:**

**FISCAL NOTE:** None.

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**ANALYSIS**

This ordinance amends § 190-47 B(2) by allowing day care facilities to use up to 420 square feet of the dwelling instead of 300, pursuant to state requirements. It also corrects the reviewing agency from the Planning Board to the Zoning Board of Adjustment.

State statute (RSA 675:2) and local ordinance (NRO § 190-132) require a public hearing and referral to the city planning board. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two public places at least ten (10) days prior to the date of the hearing. (RSA 675:7) This notice shall not include the day notice is posted or the day of the public hearing. A negative recommendation from the city planning board would require a 2/3 vote of the aldermen for passage of the legislation. Under RSA 676:12 and NRO § 105-3, no building permit may be issued after the legal notice has been posted if the proposed changes would, if adopted, justify refusal of the permit. This limitation applies for a period of 120 days.

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**Approved as to form:** Office of Corporation Counsel

By: Dowling Clarke

Date: October 6, 2008

**ORDINANCE** 0-08-38

**Amending the land use code**

**with respect to Major Home**

**Occupations - Day Care uses**

Endorsed by

*[Handwritten signature]* J. Col Cox

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING OCTOBER 14, 2008

Referred to:

**PLANNING & ECONOMIC DEVELOPMENT**

2<sup>nd</sup> Reading NOVEMBER 12, 2008

3<sup>rd</sup> Reading \_\_\_\_\_

4<sup>th</sup> Reading \_\_\_\_\_

Other Action P.H. NOVEMBER 3, 2008

Passed NOVEMBER 12, 2008

Indefinitely Postponed \_\_\_\_\_

Defeated \_\_\_\_\_

Attest: *[Handwritten signature]*  
City Clerk

*[Handwritten signature]*  
President

Approved *[Handwritten signature]*  
Mayor's Signature

11/17/08  
Date

Vetoed: \_\_\_\_\_

Veto Sustained: \_\_\_\_\_

Veto Overridden: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President