



ORDINANCE

RELATIVE TO THE LOCATION OF ESTABLISHMENTS WITH LICENSES PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES ON PREMISES

CITY OF NASHUA

In the Year Two Thousand and Thirteen

The City of Nashua ordains that Part II “General Legislation”, Chapter 190 “Land Use”, Article VI “Supplemental Use Regulations”, of the Nashua Revised Ordinances, as amended, be and hereby is further amended by adding the following new section:

“§190-37.1. Establishments with licenses permitting consumption of alcoholic beverage on premises.

Purpose and findings: In order to insure that elementary and secondary school students are safe and that they are not subject to harm resulting from the actions of intoxicated individuals, the City finds that establishments, including bars, restaurants serving alcohol and cocktail lounges, should not be located in close proximity to schools. The City further finds that prohibiting the location of such establishments within a five hundred (500’) foot radius of schools will provide the required degree of safety for students and is neither arbitrary nor unreasonable so as to unnecessarily impact the rights of property owners.

A. Applicability.

This section applies to all public, private and chartered schools for elementary and secondary school students.

B. Prohibition.

No establishment, including but not limited to bars, restaurants serving alcoholic beverages, cocktails lounges or private social clubs that have obtained a license from the State of New Hampshire permitting the consumption of alcoholic beverages on the premises shall be located within five hundred (500’) feet of any public, private or chartered elementary or secondary school.

C. Calculation of distances.

The measurement of distances between the establishment with a license permitting the consumption of alcoholic beverages and a school shall be in a direct line from the property lines of the school to the property lines of the establishment.

D. Exempt property.

City-owned Holman Stadium shall not be subject to this section.”

LEGISLATIVE YEAR 2013

ORDINANCE: O-13-043

PURPOSE: Relative to the location of establishments with licenses permitting consumption of alcoholic beverages on premises

ENDORSERS: Alderman-at-Large Lori Wilshire
Alderman-at-Large Mark S. Cookson
Alderman Diane Sheehan

COMMITTEE ASSIGNMENT:

FISCAL NOTE: No fiscal impact.

ANALYSIS

This ordinance amends the City's Land Use ordinances by adding a new section which prohibits the location of any establishment, including bars, restaurants and social clubs with licenses permitting on premises alcohol consumption to be located within five hundred (500') feet of any public, private or chartered elementary and secondary school.

The purpose of this ordinance is to protect elementary and secondary students from harm caused by the actions, deliberate or not, of intoxicated individuals. The City has the authority to enact zoning ordinances designed "to secure safety from fires, panic and other dangerous" and "to promote health and the general welfare" of the public. RSA 674:17, 1 (b), (c). To be constitutional, the restriction on property rights must be rationally related to the city's legitimate goal. See *Asselin v. Town of Conway*, 130 N.H. 368, 372 (1993). Nor can the zoning ordinance be arbitrary and unreasonable in that the danger to the public is slight but the harm to any individual citizen and his or her property is great. See *Dow v. Town of Effingham*, 148 N.H. 121, 126 (2002). This ordinance will not apply to existing establishments. RSA 674:19.

State statute (RSA 65:2, II) 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 (2) public places at least ten (10) days prior to the date of the hearing.

RSA 676:12, I and NRO §105-3 provide that building permits shall be withheld if application is made after the first legal notice of a proposed zoning ordinance or building code amendment that would justify denial of the permit. The restriction lasts one hundred twenty (120) days after the first legal notice.

Approved as to form:

Office of Corporation Counsel

By:

Date: May 24, 2013

