



## ORDINANCE

### AMENDING THE LAND USE CODE BY PROHIBITING THE PLACEMENT OF TELECOMMUNICATIONS TOWERS IN ZONING DISTRICTS R-40, R-30, R-18 AND R-9

### *CITY OF NASHUA*

*In the Year Two Thousand and Ten*

*The City of Nashua ordains* that Chapter 190 “Land Use” Part 2 “Zoning Districts and Supplemental Use Regulations”, is hereby amended as follows:

1. Article III “Base Districts”, Section 190-15 “Permitted uses”, Table 15-1 “Use Matrix” delete the struck-through language and add the language in underline as follows:

Use	Land Use Code			Zoning District														
	LBCS Function	LBCS Structure	NAICS	R-40 Rural Resident	R-30 Suburban Residence	R-18 Suburban	R-9 Suburban Residence	R-A Urban Residence	R-B Urban Residence	R-C urban Residence	LB Local Business	GB General Business	D-1 Downtown	D-3 Downtown	HB Highway Business	PI Park Industrial	AI Airport Industrial	GI General Industrial

...

276. Telecommunications towers	4230	6500	5133	<del>S</del>	<del>S</del>	<del>S</del>	<del>S</del>	S	S	S	S	S	S	S	S	S	S	S
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2. Article VI “Supplemental Use Regulations”, Section 190-38 “Communication towers and antennae”, Sections A and B delete the struck-through language and add the new language in underline as follows:

“A. City-wide tower and antenna location plan. A City-wide tower and antenna location plan for all communications towers and antennas anticipated by the applicant must be submitted by the applicant prior to or at the time of the application to the Planning Board. The planning staff shall review the proposed plan to ensure its

consistency with ~~the provisions of Ord. No. O 97-185, and specifically this subsection and the purpose statement recited above.~~ Said plan shall then be forwarded to the Planning Board with a recommendation from the staff. Upon approval of the Planning Board, all antennas shall be installed consistent with said plan. Any amendment to the plan shall be reviewed by the planning staff for consistency with the original plan, including but not limited to such factors as number, type, and location of antennas, and forwarded to the Planning Board with any future requests for exceptions based on the plan, along with the recommendation of the staff regarding the amendment to the plan.

- B. Standards. No ~~conditional use permits~~special exception application shall be approved by the ~~Planning Board~~Zoning Board of Adjustment unless the communications tower complies with the criteria established in Subsections C through L of this section. The ~~Planning Board~~Zoning Board of Adjustment may waive the requirements of Subsections C (location) and E (height) to the extent necessary to resolve any gap in service where required by the Federal Telecommunications Act of 1996. The Administrative Officer shall provide notification as required by RSA 12-K:7(I).”

**LEGISLATIVE YEAR 2010**

**ORDINANCE:**

**O-10-44**

**PURPOSE:**

**Amending the Land Use Code by prohibiting the placement of telecommunications towers in zoning districts R-40, R-30, R-18 and R-9**

**ENDORSERS:**

**Alderman Kathryn D. Vitale  
Alderman Diane Sheehan  
Alderman Mark S. Cookson  
ALDERMAN MARY ANN MELIZZI-GOLJA**

**COMMITTEE  
ASSIGNMENT:**

**PLANNING & ECONOMIC DEVELOPMENT COMMITTEE, NASHUA CITY PLANNING BOARD AND PUBLIC HEARING ON TUESDAY, JANUARY 18, 2011 @ 7:00 PM IN ALDERMANIC CHAMBERS**

**FISCAL NOTE:**

**No fiscal impact.**

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**ANALYSIS**

This ordinance prohibits the placement of telecommunications towers in R-40, R-30, R-18 and R-9 zoning districts. Telecommunications towers in all other zoning districts are allowed by special exception. Telecommunications providers would be required to obtain a variance for new telecommunication towers in rural and suburban residential zoning districts. Existing telecommunications towers in rural and suburban residential zoning districts would require approval of a special exception to expand those existing towers.

This legislation also corrects errors in NRO §190-38 by providing that special exception applications require approval by the zoning board of adjustment. The reference to Ord. #97-185 was also deleted as it referred to an ordinance no longer in effect.

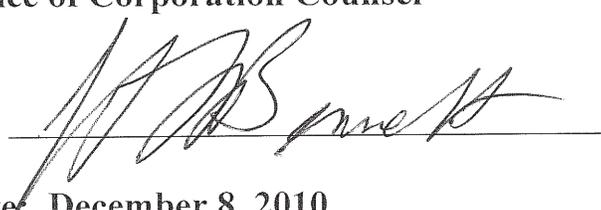
State statute (RSA 675:2, II) and local ordinance (NRO §190-132) require a public hearing and referral to the city planning board. The public hearing is conducted by the aldermanic planning and economic development committee with notice published in a newspaper of general circulation and posted in two 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 first legal notice of a proposed zoning ordinance or building code amendment that would justify denial of the permit. The restriction lapses 120 days after the first legal notice.

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**Approved as to form:**

**Office of Corporation Counsel**

By: 

**Date: December 8, 2010**



## ORDINANCE

### AMENDING THE LAND USE CODE AND THE COMMUNICATIONS TOWERS AND ANTENNAS ORDINANCE TO PROVIDE FOR GREATER SETBACK REQUIREMENTS IN RESIDENTIAL DISTRICTS

### *CITY OF NASHUA*

*In the Year Two Thousand and Ten*

*The City of Nashua ordains* that Part II “General Legislation”, of the Nashua Revised Ordinances, as amended, be hereby further amended as follows:

1. In Chapter 190 “Land Use” Part 2 “Zoning Districts and Supplemental Use Regulations”, Article VI “Supplemental Use Regulations”, Section 190-38 “Communication towers and antennae”, delete the struck-through language and add the new underlined language as follows:

**“§ 190-38. Communications towers and antenna.**

...

- A. City-wide tower and antenna location plan. A City-wide tower and antenna location plan for all communications towers and antennas anticipated by the applicant must be submitted by the applicant prior to or at the time of the application to the Planning Board. The planning staff shall review the proposed plan to ensure its consistency with ~~the provisions of Ord. No. O-97-185, and specifically~~ this subsection and the purpose statement recited above. Said plan shall then be forwarded to the Planning Board with a recommendation from the staff. Upon approval of the Planning Board, all antennas shall be installed consistent with said plan. Any amendment to the plan shall be reviewed by the planning staff for consistency with the original plan, including but not limited to such factors as number, type, and location of antennas, and forwarded to the Planning Board with any future requests for exceptions based on the plan, along with the recommendation of the staff regarding the amendment to the plan.
- B. Standards. No ~~conditional use permits~~ special exception application shall be approved by the ~~Planning Board~~ Zoning Board of Adjustment unless the communications tower complies with the criteria established in Subsections C through L of this section. The ~~Planning Board~~ Zoning Board of Adjustment may

waive the requirements of Subsections C (location) and E (height) to the extent necessary to resolve any gap in service where required by the Federal Telecommunications Act of 1996. The Administrative Officer shall provide notification as required by RSA 12-K:7(I).”

C. Tower locations.

...

(2) All communications towers must be located the greater of ~~100~~ 400 feet from all lot lines or the towers' height from all lot lines of abutting residential properties.

...

E. Height. The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower shall be used in determining compliance with the tower location requirements set forth in Subsection ~~D~~ C above.”

2. In Chapter 123 “Communication Towers and Antennas”, Section 123-1 “Definitions”, delete the struck-through language and add the new underlined language as follows:

**“§ 123-1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

...

COMMUNICATIONS TOWER – Any ground- or roof-mounted pole, spire, structure, or combination thereof higher than 50 feet free standing or ~~15~~ 20 feet from the towers point of contact with a roof or water tank, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade. Television and radio reception antennas, amateur radio transmission antennas, and municipal, state, or federal emergency services antennas are excluded.”

3. In Chapter 123 “Communication Towers and Antennas”, Section 123-4 “Construction requirements”, delete the struck-through language and add the new underlined language as follows:

**“§ 123-4. Construction requirements.**

All communications towers and antennas erected, constructed, or located within the City, and all wiring thereof, shall comply with the following requirements:

...

I. Communications towers and antennas shall not be erected in any residentially classed district in violation of the following restrictions:

- (1) Notwithstanding any other provisions of the Nashua City Code, the required setback from all lot lines for communications towers and antennas ~~not rigidly attached to a building shall be equal to the height of the communications tower and antenna equal to the height of the communications tower and antenna~~ shall be the greater of 400 feet from all lot lines or the towers' height, as defined in NRO § 190-38 E. ~~Those communications towers and antennas rigidly attached to a building, whose base is on the ground, may exceed this required setback by the amount equal to the distance from the point of attachment to the ground.”~~

**ORDINANCE**

**0-10-44**

**AMENDING THE LAND USE CODE AND THE COMMUNICATIONS TOWERS AND ANTENNAS ORDINANCE TO PROVIDE FOR GREATER SETBACK REQUIREMENTS IN RESIDENTIAL DISTRICTS**

Endorsed by

*[Handwritten signatures]*

VITALE

SHEEHAN

COOKSON

MELIZZI-GOLJA

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING DECEMBER 14, 2010

Referred to:

PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

NASHUA CITY PLANNING BOARD AND PUBLIC HEARING ON TUESDAY, JANUARY 18, 2011 AT 7:00 PM IN ALDERMANIC CHAMBERS

2<sup>nd</sup> Reading AUGUST 9, 2011

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

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

Other Action \_\_\_\_\_

Passed AUGUST 9, 2011

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

Defeated \_\_\_\_\_

Attest *[Signature]* City Clerk

*[Signature]* President

Approved *[Signature]* (Date)

August 12, 2011  
Mayor's Signature

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

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

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

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

\_\_\_\_\_  
President