



ORDINANCE

AMENDING THE LAND USE CODE REGARDING MINOR SITE PLAN AMENDMENTS TO PERMIT SEASONAL OUTDOOR DINING APPROVALS

CITY OF NASHUA

In the Year Two Thousand and Twenty-Three

The City of Nashua ordains that Part II “General Legislation”, Chapter 190 “Land Use”, Part 3 “Procedures”, Article XIV “Administrative Procedures”, Section 190-131 “Minor site plan amendments” of the Nashua Revised Ordinances, as amended, be hereby further amended by adding the new underlined language as follows:

“§ 190-131. Minor site plan amendments.

- A. Applicability. No changes may be made to any approved site plan or preexisting as-built plan prior to the Site Plan Ordinance[1] adoption except upon application as follows:
- (1) Major amendments. If it is determined by the Planning Director that the proposed change is not a minor amendment as defined below, the applicant's amendment shall follow the procedures for site plans prescribed in § 190-146.
 - (2) Minor amendments. The Planning Department shall review minor amendments for overall consistency with the approved site plan or as-built site for all zoning districts including overlay districts and for compliance with the standards below. For the purposes of this section, a minor amendment by definition is an administrative decision and does not constitute a site plan. The Planning Director or his authorized designee shall approve, conditionally approve, disapprove, or refer the request to the Planning Board. The applicant may appeal the Planning Director's decision to the Planning Board. The procedures and standards for minor amendments are as follows:
 - (a) Minor changes in the color, exterior appearance, lot coverage, location, siting and height of buildings and structures or divisional walls may be authorized by the Planning Director if required for

reasons or other circumstances not foreseen at the time the site plan was approved. No change authorized by this subsection may increase the dimensions of any building or structure by more 10% in the aggregate, or permit an accessory structure whose size is greater than 10% of the area of the principal building or structure. Changes in landscaping such as plant materials, minor alterations in the location of plantings, changes in plant quantities or sizes, changes to the location of internal sidewalks, or changes in location or number of parking spaces may be authorized by the Planning Director.

- (b) The Planning Director may require a revised site plan or as-built plan delineating all approved changes.
- (c) Temporary structures may be approved by the Planning Director upon the issuance of a temporary certificate of use for a period not to exceed 24 months. The structures must be promptly removed at the conclusion of the approval period, and the site returned to the approved final development plan requirements. In no event shall any property owner acquire a vested right to maintain such temporary structure beyond the twenty-four-month period provided in this section. This requirement is in addition to those of the Building Code. The Planning Director may approve an extension for an additional 24 months.
- (d) Changes in uses depicted and permitted on the approved site plan or approved as-built plan may be approved by the Planning Director provided it is a permitted use within the zoning district, or where a special a special exception or use variance is granted by the Zoning Board of Adjustment.
- (e) Seasonal Outdoor Dining associated with Restaurant uses may be approved as a Minor Site Plan amendment. Outdoor dining areas approved for seasonal use may not create any land use code non-conformities and shall comply with all applicable codes. Approvals shall be renewed annually for each calendar year via a new minor site plan amendment application. Outdoor dining minor site plan amendment applications shall be exempt from the fees required by § 190-267(A)(3), with the exception of a \$25 annual permitting fee.

B. Appeals. The applicant may appeal the Planning Director’s decision to the Planning Board.”

All other ordinances or parts of ordinances inconsistent herewith are hereby repealed.

This ordinance shall become effective immediately upon passage.

PASSED BY THE BOARD OF ALDERMEN – MAY 9, 2023
APPROVED BY THE MAYOR – MAY 11, 2023
ATTEST: DANIEL R. HEALEY, CITY CLERK