



## ORDINANCE

### PROHIBITING THE DRESSING OF WILD GAME OR FOWL IN RESIDENTIAL ZONING DISTRICTS

#### *CITY OF NASHUA*

*In the Year Two Thousand and Twelve*

*The City of Nashua ordains* that Part II “General Legislation”, Chapter 225 “Peace and Good Order”, of the Nashua Revised Ordinances, as amended, is hereby further amended by adding the new underlined language as follows:

#### “ARTICLE IV

#### Dressing of wild game or fowl in residential zoning districts.

#### “§225-6. Limitation on dressing of wild game or fowl in residential zoning districts.

- A. It shall be unlawful in a residential zoning district for any person to slaughter, dress, or skin animals or fowl. This prohibition shall not apply to wild game or fowl legally taken for sport and not to be sold, or poultry and livestock permitted pursuant to NRO 190-15 (287), that are dressed in an enclosed area not open to public view.
- B. No wild game or fowl intended to be dressed as permitted by this section shall be delivered between the hours of 10:00 PM and 7:00 AM.”

This ordinance shall take effect following its passage.

## LEGISLATIVE YEAR 2012

**ORDINANCE:** O-12-019

**PURPOSE:** Prohibiting the dressing of wild game or fowl in residential zoning districts.

**ENDORSER(S):** Alderman Mark Cookson

**COMMITTEE ASSIGNMENT:**

**FISCAL NOTE:** None

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### ANALYSIS

This legislation prohibits the slaughter or dressing of animals and fowl except for wild game or fowl legally killed or caught and poultry and livestock permitted to be raised in residential areas when dressed in an enclosed area, not open to public view. In addition, this legislation prohibits the delivery of wild game or fowl between the hours of 10:00 PM and 7:00 AM for the purpose of having it dressed as permitted by this ordinance.

There are no state statutes which limit or control the dressing of game, fish or fowl legally obtained. The city has the authority to "make any other by-laws and regulations which may seem for the well-being of the City." RSA 47:17, XV.

Subsection B of this ordinance places a restraint on the freedom of travel which is protected by the federal and state constitutions. The New Hampshire Supreme Court requires that a city show that such a restriction on a constitutional right is "necessary to achieve a compelling State interest" and that the "regulation is reasonably related to its objective and does not unduly restrict the fundamental right in question." See *Seabrook Police Association v. Seabrook*, 138 NH 177, 179 (1993). In this instance, if the prohibition on travel is being enacted to prevent game from being dressed in public, part A addresses that directly, and a court could reasonably conclude that there is no compelling city interest or that the legislation is not reasonable related to preventing that activity. If the issue is that these deliveries disturb the neighbor(s) in this neighborhood, a court "balancing" the public benefit against the "seriousness of the restriction of the public right sought to be imposed," could determine that "the legislation is directed to a public interest of minor concern, while imposing serious restrictions in regulation or bar of guaranteed rights to accomplish the interest" and, therefore is "unreasonable." *Donnelly v. City of Manchester*, 111 NH 50, 51 (1971); see also *Powers v. Town of Hampton*, 125 NH 273, 276 (1984).


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**Approved as to form:**

**Office of Corporation Counsel**

**By:**

**Date:**

  
\_\_\_\_\_  
July 5, 2012

**ORDINANCE**

**O-12-019**

**Prohibiting the dressing of wild**

**game or fowl in residential**

**zoning districts**

**Endorsed by**

COOKSON

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING JULY 10, 2012

Referred to:

PERSONNEL/ADMINISTRATIVE AFFAIRS

2<sup>ND</sup> Reading SEPTEMBER 12, 2012

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

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

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

Passed \_\_\_\_\_

Indefinitely Postponed SEPTEMBER 12, 2012

Defeated \_\_\_\_\_

Attest: \_\_\_\_\_

City Clerk

President

Approved \_\_\_\_\_

Mayor's Signature

Date

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

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

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

Attest: \_\_\_\_\_

City Clerk

President