

## **ORDINANCE #2015-XX OF DURHAM, NEW HAMPSHIRE**

**A COUNCIL-INITIATED ORDINANCE AMENDING CHAPTER 175 “ZONING”, ARTICLE XVII DURHAM HISTORIC OVERLAY DISTRICT”, SECTION 175-91(A)(3) “HISTORIC DISTRICT COMMISSION, MEMBERSHIP” OF THE DURHAM TOWN CODE TO REMOVE LANGUAGE LIMITING THE NUMBER OF TERMS MEMBERS CAN SERVE ON THE HISTORIC DISTRICT/HERITAGE COMMISSION**

**WHEREAS**, the Historic District/Heritage Commission Chair brought to the Town’s attention that Section 175-91(A)(3) of the Zoning Ordinance contains language restricting any HD/HC member from serving more than two (2) consecutive terms; and

**WHEREAS**, no similar language exists in the Town Charter, Administrative Code, or the New Hampshire Revised Statutes Annotated restricting terms in this fashion for other Town Boards, Commissions, or Committees; and

**WHEREAS**, the Historic District/Heritage Commission currently has a sitting member, appointed by the Town Council, that has been a member for more than the two consecutive terms allowed by the Zoning Ordinance; and

**WHEREAS**, there is concern that if a Commission member voted in the majority to deny an application the vote could be challenged in court if the vote was the deciding vote; and

**WHEREAS**, the Town Council may initiate Zoning Ordinance amendments in accordance with Section 175-14 (B) of the Durham Zoning Ordinance which states: "*The Town Council may, upon its own initiative, from time to time, consider changes to the Zoning Ordinance, including its overlay districts. All such Council-initiated changes shall be referred to the Planning Board for its review and study. The referral shall be made in writing by the chair of the Town Council. The Planning Board shall, after following the public notice and hearing requirements contained in Subsection D below, submit a recommendation regarding the changes to the Town Council members within sixty (60) days of their referral*"; and

**WHEREAS**, on March 16, 2015 the Durham Town Council voted to refer proposed Ordinance #2015-XX to the Durham Planning Board for its review and study relative to removing the language noted above; and

**WHEREAS**, on \_\_\_\_\_, 2015 the Durham Planning Board held a Public Hearing on proposed Ordinance #2015-XX and recommended \_\_\_\_\_;

**WHEREAS**, on \_\_\_\_\_ the Durham Town Council conducted a First Reading on Ordinance #2015-XX and scheduled a Public Hearing for its meeting on \_\_\_\_\_; and

**WHEREAS**, on \_\_\_\_\_ the Durham Town Council held a duly posted Public Hearing on proposed Ordinance #2015-XX,

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing body of the Town of Durham, does hereby adopt Ordinance #2015-XX, a Council-initiated Ordinance, and amends Chapter 175 "Zoning", Article XVII "Durham Historic District Overlay District", Section 175-91(A)(3) "Historic District Commission, Membership" of the Durham Town Code as indicated below. Wording to be deleted is annotated with **strikeout** type. New wording is annotated with underscoring.

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**ARTICLE XVII**  
**DURHAM HISTORIC OVERLAY DISTRICT**

**175-91. Historic District Commission.**

**A. Membership.**

1. Members of the Historic District Commission (HDC) shall be appointed by the Town Council.
2. The HDC shall consist of seven (7) members. All members shall be residents of the Town of Durham; one (1) shall be a member of the Town Council, and one (1) shall be a member of the Durham Planning Board. In determining the qualifications of a Commission member, consideration will be placed on her/his demonstrated interest and ability to understand, appreciate and promote the purpose of the HDC.
3. The Commission members shall be appointed for three-year terms, except that the initial appointments shall be staggered so that subsequent appointments shall not recur at the same time. Members shall serve without compensation, ~~and shall serve no more than two (2) successive terms.~~ In the event of a vacancy on the Commission, interim appointments may be made to complete the unexpired term of such position.
4. The HDC shall annually elect a Chairman, Vice Chairman, and Secretary from among its membership.

5. The HDC shall adopt and may from time to time amend such rules and regulations as are not inconsistent with the intention of this chapter and of state enabling legislation.
6. The HDC shall develop and submit an annual request for funds to the Town Council. Subject to appropriations or other income, the Commission may employ clerical and technical assistants or consultants and may accept gifts of money or services, or grants, and may hold or expend such gifts or grants for the purposes of this chapter.
7. The decisions of the Commission shall be by vote of the majority of the Commission members.

**PASSED AND ADOPTED** by the Town Council of the Town of Durham this \_\_\_\_\_ day of \_\_\_\_\_, **2015** by \_\_\_\_\_ affirmative votes, \_\_\_\_\_ negative votes, and \_\_\_\_\_ abstentions.

\_\_\_\_\_  
, Chair  
Durham Town Council

***ATTEST:***

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Lorrie Pitt, Town Clerk-Tax Collector