

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

**A COUNCIL-INITIATED ORDINANCE AMENDING CHAPTER 175 “ZONING”, SECTION 175-53 “USE STANDARDS” “TABLE OF LAND USES”, OF THE DURHAM TOWN CODE TO CHANGE “MIXED USE WITH RESIDENTIAL (OFFICE/RETAIL DOWN, MULTIUNIT RESIDENTIAL UP)” FROM CONDITIONAL USE TO NOT PERMITTED IN THE PROFESSIONAL OFFICE AND CHURCH HILL DISTRICTS**

**WHEREAS**, the purpose of the Professional Office District is to provide an area for the growth of professional services and offices adjacent to the downtown, with the intent to maintain the existing character of the neighborhood and retain open space not used for parking; and

**WHEREAS**, the purpose of the Church Hill District is to preserve and enhance the historic character of this area by allowing for multiple land uses including professional offices, limited retail uses, and apartments; and

**WHEREAS**, the privately owned lots in these districts range from 5,200 to 152,460 square feet and the current primary commercial activity in the district is student housing; and

**WHEREAS**, Mixed Use housing built in Durham’s Commercial Core and in proximity to the University are typically built with features and characteristics attractive to the student housing market; and

**WHEREAS**, the supply of student housing has become better alignment with demand. (Behrendt, Student Housing Tally, 2014. Master Plan Economic Development Chapter Draft, 2014; and

**WHEREAS**, this zoning amendment is expected to achieve the following:

1. Make Mixed Use Residential an unpermitted use in the Professional Office and Church Hill Districts.
2. Target economic activity associated with any new Mixed Used Residential Development into other more appropriate districts, such as the Central Business District.
3. Eliminate the potential problems that would occur if large Mixed Use Residential Development occurred in districts with its proximity to family neighborhoods, the Oyster River Middle School and Durham Public Library; 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 August 3, 2015 the Durham Town Council voted to refer the proposed Zoning Ordinance amendment to the Durham Planning Board for its review and study; and

**WHEREAS**, on \_\_\_\_\_, 2015 the Planning Board held a duly posted Public Hearing on the proposed ordinance; and

**WHEREAS**, on \_\_\_\_\_, 2015 the Durham Town Council conducted a First Reading on Ordinance #2015-XX; and

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

**NOW, THEREFORE BE IT RESOLVED** that the Durham Town Council, the governing and legislative body of the Town of Durham, does hereby adopt Ordinance #2015-XX, a Council-initiated Ordinance, and amends Chapter 175 "Zoning", Section 175-53 "Use Standards" "Table of Land Uses" of the Durham Town Code to change "Mixed Use with residential (office/retail down, multiunit residential up)" from Conditional Use to Not Permitted in the Professional Office and Church Hill Districts **as indicated within the attachment accompanying this ordinance.** Wording to be deleted is annotated with ~~strikeout~~ type. New wording is annotated with underscoring.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, **2015** by a majority vote of the Durham Town Council with \_\_\_\_\_ voting in favor, \_\_\_\_\_ voting against, and \_\_\_\_\_ abstaining.

\_\_\_\_\_  
Jay B. Gooze, Chair  
Durham Town Council

**ATTEST:**

\_\_\_\_\_  
Lorrie Pitt, Town Clerk-Tax Collector