

# **HISTORIC DISTRICT ORDINANCE**

An ordinance relating to the establishment of an historic district in the Town of Windham, New Hampshire.

## **SECTION I : LEGISLATIVE INTENT**

The purpose of this ordinance is to promote the educational, cultural, economic, and general welfare of the public for the protection, enhancement, perpetuation, and preservation of the historic district. It is hereby declared that it is a public purpose that the heritage of Windham will be safeguarded by:

- A) Preserving districts in Windham which reflect elements of a cultural, social, economic, political, and architectural history:
- B) Conserving property value in such districts:
- C) Fostering civic beauty:
- D) Strengthening the local economy:
- E) Promoting the use of an historic district for the education, pleasure, and welfare of the citizens of Windham.

## **SECTION II : DEFINITIONS**

- A) Historic District – The area of Windham as specifically delineated on the zoning map (on a map which is on file in the Town Clerk’s office of the Town of Windham and which:
  - 1. Has special character or special historic or aesthetic interest or value or
  - 2. Represents one of more areas of the history of Windham.
- B) Exterior Architectural Feature – The architectural style and general arrangement of such portions of the exterior of the structure as is designed to be open to view from the public way, including color, kind, and texture of the building material, type of wall, windows, dormers, lighting fixtures, walks, terraces, exterior walls, fencing, and other fixtures appurtenant to such portion.
- C) Commission or Historic Commission: As used in this ordinance shall mean the Windham Historic District Commission (added town meeting 1996)

## **SECTION III : HISTORIC DISTRICT COMMISSION**

- A) Membership: Qualifications; Term; Vacancies. The Commission shall consist of five (5) members and up to three (3) alternate members, all of whom shall be residents of the Town of Windham. One member shall be a member of the Board of Selectmen, designated by the Selectmen according to their rules. One member may be a member of the Windham Planning Board, designated by the Planning Board according to their rules. The remaining members shall be appointed by the Board of Selectmen. In determining the qualifications for appointment, the Board of Selectmen, shall take into consideration the appointee’s demonstrated interest and ability to understand, appreciate, and promote the purpose of the Historic

District Ordinance and Commission. The members of the Commission shall be appointed for three (3) year terms, except the initial appointments, which shall be staggered so no more than two Selectmen's appointments are made annually, except when required to fill vacancies. In addition, the Selectmen may appoint three (3) persons to serve as alternate members of the Commission. Alternate members shall be appointed for three (3) year terms, one (1) each year, except initial appointments, which shall be staggered such that only one term expires each year. Members (and alternates) of the Commission shall serve without compensation. In the event of a vacancy on the commission, interim appointments may be made by the Board of Selectmen to complete the unexpired terms of such position. (amended number of members from seven to five, added up to three alternates and removed restriction of serving no more than two consecutive terms at 1999 Town Meeting in replace of previous language)

B) Organization; Meetings; and Rules. The Commission shall elect a chairman, vice-chairman and a secretary from the appointed members and create and fill such offices as it may deem necessary for its work. The term of all officers shall be one year, but any officer may succeed himself. The commission shall meet at the call of the chairman and at such other in accordance with the provisions of the implementing ordinances of the municipality. All meetings and records of the commission shall be open to the public.

C) Powers and Duties:

1. It shall be the duty of the historic commission to develop a policy for the accomplishment of the purposes of this ordinance within said historic district and within the provisions of the ordinances and to relate said policy to the Master Plan for Windham.
2. The commission shall have the power to accept, review and act upon all building permits and the issuance of certificates of appropriateness for applications situated within the boundaries of any Historic District established, such power of review and approval or disapproval shall be limited to those considerations which affect the relationship of the applicant's proposal to its surroundings, to the locations and arrangement of structures, to the treatment of exterior architectural features and finish of structures, and the compatibility of the land use within the district as may be deemed to affect the character and integrity of said district to achieve the purpose of this ordinance. (amended at 1999 Town Meeting by removing references to "residential")
3. It shall be the duty of the Historic Commission to provide reports and recommendations regarding feasibility of the applicants proposal to the Planning Board and other administrative officials who may require information pertinent to the application. It shall be the duty of the commission to seek advice from such professional, educational, cultural, and other groups of persons that may be deemed necessary in the determination of a reasonable decision. The commission shall have the power to engage such technical assistance and consultants

as may be deemed necessary to appropriately review an application to assure its compatibility with the terms and purposes of this Ordinance. The costs of any such reviews shall be paid by the applicant.

4. The commission shall have the power to accept and use gifts, grants, as contributions for the exercise of its functions. It shall be the duty of the commission to file with the Building Inspector or other duly delegated authority either a certificate of approval or notice of disapproval following the review and determination of any residential applicant. It shall be the duty of the commission to file with the Planning Board or other duly designated authority either a certificate of appropriateness or notice of disapproval following the review and determination of any non-residential use applicant. Said certificate shall be filed with the Building Inspector, Planning Board, or other duly delegated authority within 30 days after filing of the application of said certificates unless the applicant shall agree to a longer period of time. No residential use building permit shall be issued until a certificate of approval has been filed with the building inspector, but in the case of disapproval such notice shall be binding upon the Building Inspector or other duly delegated authority and no permit shall be issued. Failure to file such certificate within the specified period of time shall be deemed to constitute approval by said commission.
5. In case of disapproval the Historic Commission shall state the reasons, thereof, in a written statement to the applicant and may give verbal advice and make recommendations in regard to the appropriateness of design, arrangement, texture, material, color, and the like of the property involved.
6. The Historic Commission may refuse to issue a certificate of approval or certificate of appropriateness for the erection, reconstruction, alteration, demolition, partial demolition or removal of any structure within the Historic District, which in the opinion of the Historic Commission would be detrimental to the interest of the Historic District and against the public interest of the Town.

In addition to the aforementioned powers the historical commission may conduct surveys of buildings for the purposes of determining those of historic and/or architectural significance and pertinent acts about them, formulate recommendations concerning the preparation of maps, brochures, and historic markers for selected historic and/or architectural sites and buildings, cooperate with and advise the governing body, the planning board and other municipal agencies involving historic and/or architectural sites and buildings; advise owners of the store buildings of the problem of preservation and restoration.

#### **SECTION IV : INTERPRETATION**

Nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of any structure or place within any historic district nor to prevent the construction, alteration, repair, moving or demolition of any structure under a permit issued by the Building Inspector or any duly delegated authority prior to the establishment of such district.

#### **SECTION V : MATTERS TO BE CONSIDERED IN PASSING UPON APPROPRIATENESS OF ERECTION, RECONSTRUCTION OR RESTORATION OF STRUCTURES**

The Historic Commission shall not consider interior arrangement or features not subject to any public view. The Historical Commission shall consider the following criteria in passing upon the appropriateness of architectural features.

- A) General design and arrangement. (Density, scale, unity in composition).
- B) Exterior architectural features and the extent to which they harmonize with existing features found within the Historic District.
  - 1. All signs which are subject to view from a public street, way or place.
  - 2. The type or types of material to be used on the structure (Board and batten, clapboard, brick, fieldstone, granite, wood-shakes).
  - 3. The type of roof: (Within the area there are several types of roof, depending on the era of construction: Gable salt box, hip, gambrel).
  - 4. Architectural Detail: The relationship of detail may include cornices, lintels, arches, balustrades, railing, entrance, doors, windows, dormers, chimney, etc.).
  - 5. The type or types of material used to construct or install paving, walks, walls steps, etc (Asphalt, stonedust, cobbles, granite, bluestone, fieldstone, etc.)
  - 6. The type or types of material used to construct fencing or screening.
  - 7. The placement of and type of lighting fixtures, lights, poles, and trash receptacles.
  - 8. Color: The predominant color may be a natural material or a painted one. This allows considerable latitude for variation within a single color spectral grouping.
  - 9. Height shall not be more than 2-<sup>1</sup>/<sub>2</sub> stories or a maximum of 35 feet.

#### **SECTION VI : PROCEDURE**

- A) Certificate of Approval. Notwithstanding any inconsistence ordinance, local law, code rule or regulation concerning the issuing of building permits, no change in any architectural feature, in the district shall be commenced without a certificate of approval from the Historic Commission nor shall any building permit for such change be granted without such a certificate of approval having first been issued. The certificate of approval required by this section shall be in addition to and not in lieu of any building permit

that may be required by any ordinance, local law, code, rule or regulation of the Town of Windham.

- B) Pre-Application Review Procedure. Prior to the preparation of working drawings and specifications or calling for proposals or bid from contractors, prospective property developers, owners, agents, may prepare preliminary scale drawings and outline specifications, including color samples for outside work, for review and informal discussion with the Historic Commission. The purpose of this review shall be to acquaint the developer, owner, or agent with standards of appropriateness of design that are required for his proposed development.

In case of very minor projects involving repair or alterations to existing buildings and other data are sufficiently clear and explicit, may grant preliminary and final approval at one session. Should said data indicate alterations, remodeling, or repairs not changing the exterior appearance, the Historic Commission may exempt the application from the provisions of Section VI and approve permit.

- C) Data to be Submitted with Application. Application for a certificate of approval or appropriateness shall be made in writing in duplicate upon forms prescribed by the Historic Commission and shall contain the following information:

1. Name, address, telephone number of applicant.
2. Location of building, structure, or land, the exterior architectural features of which are proposed to be changed.
3. Drawings for the proposed alterations, additions, or changes and for new construction of building or property use. As used herein, drawings shall mean plans and exterior elevations drawn to scale with sufficient detail to show the architectural design of the building. Plans and drawing not necessary drawn by an architect.
4. Samples of materials, texture, and color.
5. Site Plan including all improvements affecting appearances such as walls, walks, steps, terraces, lighting, fencing, accessory buildings, sign and other elements.
6. Sign: Any proposed sign or existing sign to be changed either in size, color, or lettering, shall be shown on a detailed scale drawing showing the type of lettering, all dimensions and colors, a description of materials to be used and methods of illumination, if any, and a plan showing the location on building or property.

All of the above mentioned data shall be filed with the Historic Commission.

## **SECTION VII : VIOLATIONS**

Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not more than ten dollars, each day of violation shall constitute a separate violation.

**SECTION VIII : ALLOWED USES**

The following are land uses allowed in the Historic District: municipal uses, professional uses, meeting halls, religious facilities, and single family residences. (added in 1999 Town Meeting.

**SECTION IX : APPEAL**

Any person or persons jointly or severely aggrieved by a decision of the Historic Commission shall have the right to appeal concerning such decision to the Zoning Board of Adjustment.

**SECTION X : SEPARABILITY**

If any section, subsection, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION XI : ENFORCMENT**

The enforcement of this ordinance shall be in accordance with procedure as set forth in the Windham Zoning Ordinance.

**SECTION XII : EFFECTIVE DATE**

This ordinance shall take effect March, 1980.

**Amended at Town Meeting:** March 1996, March 1999.