

AMEND ZONING BYLAW

ARTICLE 37 TECHNICAL CORRECTIONS

Town Meeting adopted the following motion at the March 23, 2016 session of the 2016 Annual Town Meeting.

MOTION

That Chapter 135 of the Code of the Town of Lexington, the Zoning Bylaw, be amended as follows:

1. Correct internal references within Section 5.2 of the Zoning Bylaw, Signs:

§ 5.2.8.2.a. In particular instances the SPGA may issue special permits for projecting signs in accordance with § 5.2.410, if it is determined that...

§ 5.2.8.2.3. In particular instances the SPGA may issue special permits for standing signs in accordance with § 5.2.410, if it is determined that...

2. Correct and update Section 10, Definitions:

Delete unused definitions: DBM, indirect light, lowest floor, new construction, radio-frequency radiation, substantial damage, and substantial improvement.

Add definition for “Telecommunications Act:

Telecommunications Act: The Federal Telecommunications Act of 1996

Delete the definition of “Development Regulations” and replace with “Subdivision Regulations” and “Zoning Regulations,” in alphabetical order, as detailed below:

Subdivision Regulations: Chapter 175 of the Code of Lexington is the document adopted and amended from time to time by the Planning Board, containing various regulations, procedures, standards, and fees for actions used in dealing with subdivision control and other matters relative to residential and commercial development in Lexington.

Zoning Regulations: Chapter 176 of the Code of Lexington is the document adopted and amended from time to time by the Planning Board, containing various regulations, procedures, standards, and fees for actions that the Planning Board uses in dealing with special permits, site plan review, and other matters relative to residential and commercial development in Lexington.

Amend the definition of “funeral home or parlor” to “funeral parlor” as all references to the term in the Bylaw are to “funeral parlors.”

3. Correct internal references related to the above proposed edits:

Add a reference to the “Telecommunications Act” in §6.4.13, and to “Channel” and “Wireless Communication Services” to “Telecommunications Act” in Definitions.

Replace the term “Development Regulations” with “Subdivision Regulations,” in §§ 5.3.14, 6.9.12, 6.9.13, and in the definition of Proof Plan in Section 10.

Replace the term “rules and regulations” in §§ 7.3.5.2, 7.3.5.5.b, and 9.5.4.2 with “Zoning Regulations.”

4. Reformat section 8.7, Nonconforming Off-Street Parking and Loading to reflect the format structure it had before the Bylaw was recodified by Town Meeting in 2014, as summarized below:

8.7 NONCONFORMING OFF-STREET PARKING AND LOADING (CURRENT)

8.7.1 Existing Nonconforming Parking Spaces or Loading Bays. Any off-street parking spaces or loading bays in existence on the effective date of this bylaw or thereafter established, which serve a building or use, may not be reduced in number, or changed in location or design contrary to the requirements of § 5.1 so as to increase the degree of nonconformity with the requirements of § 5.1.

8.7.2 Change of Use. A use of an existing structure or lot which does not have sufficient parking or loading, including a use which has no off-street parking or loading, may be expanded or changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in § 5.1.4 only if the net increase in the number of required parking spaces or loading bays is provided in conformity with § 5.1.

8.7.3 Increase in Floor Area. If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading bays, full compliance with § 5.1 for the entire building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.

8.7.4 Parking Spaces or Loading Bays in Existence. Parking spaces or loading bays lawfully in existence which serve existing uses, are no longer required for those uses under § 5.1, and comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.

8.7.5 Parking Spaces or Loading Bays in Existence. Existing parking spaces or loading bays that comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, that are no longer required for existing uses under § 5.1, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.

8.7.6 Credit. An applicant seeking credit for existing parking spaces or loading bays shall first submit an off-street parking and loading plan, as provided in § 5.1.3, certified by a registered land surveyor or professional engineer. If the existing paved area is not marked off into parking spaces or loading bays, such spaces or bays, complying with § 5.1.13 shall be delineated on the plan. To qualify, an existing parking space or loading bay shall be entirely on the lot.

8.7.7 Casualty to Building.

1. If a building, for which sufficient off-street parking or loading is not provided, is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced if otherwise permitted by this bylaw, without providing additional parking spaces or loading bays provided the new building has the same or less net floor area and the new uses require the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage or demolition, at least the same number of spaces or bays shall be provided.
2. If the uses require a greater number of parking spaces or loading bays, or if more net floor area is to be constructed than previously existed, full compliance with § 5.1 for the entire building shall be a condition of the issuance of any building permit for the reconstruction or replacement of the building.

8.7 NONCONFORMING OFF-STREET PARKING AND LOADING (PROPOSED)

8.7.1 Existing Nonconforming Parking Spaces or Loading Bays. Any off-street parking spaces or loading bays in existence on the effective date of this bylaw or thereafter established, which serve a building or use, may not be reduced in number, or changed in location or design contrary to the requirements of § 5.1 so as to increase the degree of nonconformity with the requirements of § 5.1.

1. **Change of Use.** A use of an existing structure or lot which does not have sufficient parking or loading, including a use which has no off-street parking or loading, may be expanded or changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in § 5.1.4 only if the net increase in the number of required parking spaces or loading bays is provided in conformity with § 5.1.
2. **Increase in Floor Area.** If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading bays, full compliance with § 5.1 for the entire building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.
3. **Parking Spaces or Loading Bays in Existence.** Parking spaces or loading bays lawfully in existence which serve existing uses, are no longer required for those uses under § 5.1, and comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.
4. **Parking Spaces or Loading Bays in Existence.** Existing parking spaces or loading bays that comply with the design standards of § 5.1.13, as to dimensions, loading bays, surfacing, and grade, that are no longer required for existing uses under § 5.1, may be transferred to a new, changed, or expanded use in an existing structure, even if they do not conform to the requirements of § 5.1.13 as to setbacks, snow storage, access for a parking lot, and landscaping.

5. Credit. An applicant seeking credit for existing parking spaces or loading bays shall first submit an off-street parking and loading plan, as provided in § 5.1.3, certified by a registered land surveyor or professional engineer. If the existing paved area is not marked off into parking spaces or loading bays, such spaces or bays, complying with § 5.1.13 shall be delineated on the plan. To qualify, an existing parking space or loading bay shall be entirely on the lot.

8.7.2 Reconstruction or Replacement of a Building.

1. If a building, for which sufficient off-street parking or loading is not provided, is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced if otherwise permitted by this bylaw, without providing additional parking spaces or loading bays provided the new building has the same or less net floor area and the new uses require the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage or demolition, at least the same number of spaces or bays shall be provided.
2. If the uses require a greater number of parking spaces or loading bays, or if more net floor area is to be constructed than previously existed, full compliance with § 5.1 for the entire building shall be a condition of the issuance of any building permit for the reconstruction or replacement of the building.