

**ORDINANCE #18-02 Z**  
**AN ORDINANCE TO AMEND THE TEXT OF THE**  
**LEXINGTON TOWNSHIP ZONING ORDINANCE TO**  
**PROVIDE FOR THE PERMITTING OF PREFERRED CLASS**  
**NON-CONFORMING USES**

**THE TOWNSHIP OF LEXINGTON ORDAINS:**

**ARTICLE 1:**

CHAPTER 20, Non-Conformities, is hereby amended to add Section 20.5.0- Preferred Class Non-Conforming Uses, which shall read as follows:

**Section 20.5.0 — Preferred Class Non-Conforming Uses**

- .01 It is the intent of this Section to establish a “preferred class” designation that the Planning Commission may approve for certain nonconforming uses, subject to the following:
- A. **Procedure.** The procedure for considering all preferred class nonconforming designations shall be as follows:
    - 1. **Application.** Applications for consideration of a preferred class designation for a nonconforming use may be initiated by the owner, operator or person having beneficial use of the lot occupied by the nonconforming use. The application shall include a detailed description of the use and the reasons for the request.
    - 2. **Public hearing.** A public hearing shall be held for all requests for a preferred class nonconforming designation in accordance with the procedures set forth in section 22.2.0.
  - B. **Conditions for Approval of a Preferred Class Designation.** Subsequent to a public hearing, the Planning Commission may grant a preferred class designation upon finding that all of the following conditions exist:
    - 1. **Use standards.**
      - a. The nonconformity does not significantly depress the value of nearby properties.
      - b. The use does not adversely impact the public health, safety, and welfare.
      - c. The use does not adversely impact the purpose of the district where it is located.
      - d. No useful purpose would be served by the strict application of Ordinance requirements that apply to the nonconformity.
    - 2. **Signage.** The Planning Commission may require that signage associated with the use be brought into compliance with section 3.20.0

3. **Plan for site improvements.** The Planning Commission may require that a site plan be submitted for review per section 15.4.0.
  4. **Other conditions.** The Planning Commission may attach conditions to the approval to assure that the use does not become contrary to the purpose of this section and Ordinance; or to the public health, safety, and welfare.
- C. **Effect of Approval of a Preferred Class Designation.** Preferred class nonconformities may perpetuate and expand in accordance with an approved site plan, subject to the provisions of this Section, and any conditions of approval. Preferred class nonconforming structures may be perpetuated, expanded, improved or rebuilt if damaged or destroyed, in accordance with an approved site plan and subject to the provisions of this Section and any conditions of approval.
- D. **Effect of Denial of a Preferred Class Designation.** An application for a preferred class designation that has been denied by the Planning Commission may not be appealed to the Zoning Board of Appeals, but may be resubmitted for Planning Commission consideration after a minimum of 365 calendar days have elapsed from the date of denial.
- E. **Cessation of Preferred Class Nonconforming Uses.** The preferred class designation shall be deemed removed when the principal structure occupied by a preferred class nonconforming use is permanently removed or when a preferred class nonconforming use is replaced by a conforming use. All subsequent uses shall conform to the use provisions of this Ordinance.
- F. **Rescinding Approval of a Preferred Class Designation.** Failure of the owner, operator or person having beneficial use of a lot occupied by a preferred class nonconforming use to maintain or improve the site in accordance with the provisions of this Section, an approved site plan or any conditions of approval shall be grounds for the Planning Commission to rescind the preferred class designation. Such action shall be subject to the following:
1. **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in section 22.2.0, at which time the owner, operator or person having beneficial use occupied by a preferred class nonconforming use shall be given an opportunity to present evidence in opposition to rescission.
  2. **Determination.** Subsequent to the hearing, the decision of the Commission with regard to the rescinding of approval shall be made and written notification provided to said owner, operator or person having beneficial use occupied by a preferred class nonconforming use.
- G. **Existing Dwellings in Non-Residential Districts.** Single-family dwellings so existing and used in non-residential zoning districts before the effective date of adoption or amendment of this Ordinance are hereby designated as preferred class nonconforming uses. Such dwellings and accessory structures may be used, repaired, expanded, altered or replaced if destroyed, subject to the following:
1. Use, repair, expansion, alteration, or replacement of the dwelling or accessory structures shall conform to all applicable dimensional and use standards of section 3.23.0

2. The use, dwelling, and accessory structures shall be maintained in conformance with all other applicable federal, state, and local laws, ordinances, regulations, and rules.

## **ARTICLE 2 SEVERABILITY CLAUSE:**

The various parts of this ordinance shall be deemed severable. Should any section, paragraph, or provision hereof be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part held to be unconstitutional or invalid.

## **ARTICLE 3 REPEAL:**

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are repealed to the extent of such conflict, to the extent that this ordinance conflicts with any other ordinance this ordinance shall control (supersede).

## **ARTICLE 4 EFFECTIVE DATE:**

Public hearing having been held hereon, the provisions of this Ordinance shall take effect upon the expiration of seven days after publication, pursuant to the provision of Section 401 (6), Act 110 of the Public Acts of 2006, as amended.

## **ARTICLE 5 ADOPTION:**

Made and passed by the Township Board of Lexington Township, Sanilac County, Michigan, on this 24 day of May, 2018, A.D.

Date of Public Hearing: April 18, 2018

Date of Adoption by Township Board: May 24, 2018

Date of Publication: June 1, 2018

Date and Time Ordinance Shall Take Effect: June 8, 2018; at 12 noon.

### Certification

I, Katherine Calamita, Clerk of the Township of Lexington, do hereby certify that Ordinance No. 18-02 Z was adopted by the Township Board at a regular meeting of the Township Board held at the Township Hall on the 24th day of May 2018.

Vote on this Ordinance, 5 members being present, was as follows:

AYES: CALAMITA McALLISTER MILLETICS PARTAKA JAHN

NAYS: None

I further certify that said Ordinance No. 18-02 Z, adopted by the Township Board on the 24th day of May, 2018, was published once in The Jeffersonian, a newspaper published and circulated in the Township of Lexington, County of Sanilac, on the 1st day of June, 2018 is being the first and final day of publication of this ordinance.

Katherine Calamita, Clerk  
Township of Lexington