

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, To Amend Article XXV, General Regulations, §155 -130, Regulations Of Fences And Walls By Adding A New Section §155-130 E, And To Amend Article XXVII, Floodplain District, §155 -154.1 By Amending §155 -154.1 F To Preserve The Scenic Corridor Along The Schuylkill River, And To Amend Article XXVII, Floodplain District, §155 -157, Permitted Uses By Amending §155-157 G And Adding A New Section §155-157 M To Allow Accessory Fencing For Residential Properties In The Floodway Fringe.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXV, General Regulations, §155 -130, Regulation of fences and walls, is hereby amended by the addition of a new section §155 -130 E to provide as follows:

§155 -130. Regulation of fences and walls.

E. All fences erected in the floodway fringe of the Schuylkill River shall conform to §155-157 M.

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXVII, Floodplain District, §155 -154.1 Legislative intent, is hereby amended by the amendment of §155 -154.1 F to provide as follows:

§155 -154.1. Legislative intent.

F. To permit and encourage the retention of open space land uses and scenic viewsheds of the Schuylkill River. which will be so located and utilized as to constitute an appropriate and harmonious part of the physical development of the Township as provided for in the Comprehensive Plan.

Section 3. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXVII, Floodplain District, §155 -157, Permitted Uses is hereby amended by the amendment of §155-157 G and the addition a new section §155 -157 M to provide as follows:

§155 -157. Permitted uses.

The following uses and no other shall be permitted in the Floodplain District:

- G. Normal accessory uses (except enclosed by fencing, or otherwise enclosed; freestanding structures) permitted within residential zones. Fencing specifically authorized by §155 -157.M. shall not be subject to the fencing prohibition listed above.

M. Accessory fences for residential properties in the floodway fringe of the Schuylkill River, subject to the following:

(1) The fence shall comply with Table 1: Fence in Floodway Fringe.

<u>Table 1: Fence in Floodway Fringe</u>		
<u>Location</u>	<u>Height of Fence</u>	<u>Permitted Fence Type</u>
<u>Street Right-of-Way to front most wall of principal building or the required front yard setback, whichever is closest to the street</u>	<u>Fences up to 4 feet in height</u>	<u>OPTION 1: Contains openings equal to 20% or more of fence</u> <u>OPTION 2: Solid fence or fence with openings, provided the fence is not attached to the dwelling and the fence is installed parallel to the river</u>
	<u>Fences 4 feet to 6 feet in height</u>	<u>The entire fence in this area shall contain openings equal to 75% or more of fence (e.g. estate fence)</u>
<u>Front most wall to rearmost wall of principal building</u>	<u>Fences up to 6 feet in height</u>	<u>OPTION 1: Contains openings equal to 20% or more of fence, provided the fence is not attached to the dwelling</u>
		<u>OPTION 2: Solid fence or fence with openings, provided the fence is not attached to the dwelling</u>
<u>Rearmost wall of principal building to the floodway</u>	<u>Fences up to 4 feet in height</u>	<u>The entire fence in this area shall contain openings equal to 50% or more of fence (e.g. picket fence, estate, post and rail)</u>

(2) A fence shall not be erected in the floodway of the Schuylkill River.

(3) No chain link fence shall be erected in the floodway fringe of the Schuylkill River. All fences shall be erected with the finished side of the fence facing adjacent properties. The finished side shall be considered the side without the structural supporting members.

(4) All fences erected within the front yard setback shall provide an operable gate or opening with a minimum width of 36 inches to provide access to the area between any fence and the cartway of the abutting street, and the property owner is responsible for maintaining this area.

(5) Swimming pools and tennis courts. Fences for swimming facilities shall adhere to the standards specified in Chapter 143, Uniform Construction Code but shall also meet the opening requirements in Table 1 above. Height standards for fences surrounding tennis courts shall be determined by the Zoning Hearing Board. Tennis court fences shall comply with the opening requirements in Table 1 above.

Section 4. Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 155 prior to the adoption of this amendment.

Section 5. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

Section 6. This Ordinance shall take effect and be in force from and after its approval as required by law.

Enacted by the Board of Commissioners of the Township of Lower Merion this _____ day of _____, 2017.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Daniel S. Bernheim, President

ATTEST:

Jody L. Kelley, Township Secretary