

## AN ORDINANCE

NO. \_\_\_\_\_

**AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Zoning, Article XXVII, Floodplain District, To Permit Development In The Floodway Fringe Of The Schuylkill River By Conditional Use Where Land Development Approval Is Required; And To Permit Non-Residential Structures In The Floodway Fringe If The Property Is In The M Manufacturing And Industrial District And All Portions Of All Rooms, Including Basements, Are At Or, Alternatively, No Less Than 12 Inches Above The Base Flood Level.**

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 XXVII, Floodplain District, Section 155-158, Prohibited uses, subsection A thereof, shall be amended to provide as follows:

§ 155-158. Prohibited uses.

Notwithstanding the rule that any use not permitted is prohibited, for the guidance of the Zoning Hearing Board and administrative officers, it is deemed appropriate to state that certain specific uses are so repugnant to the purpose of establishing and maintaining the Floodplain District that such uses listed below are specifically prohibited in said district:

- A. All freestanding structures and buildings and retaining walls or substantial improvements, which shall include but not be limited to generators, mechanical equipment and transformers (with the exception of flood retention dams, culverts and bridges as approved by the Pennsylvania Department of Environmental ~~Protection Resources~~ for those watercourses which drain an area of more than 1/2 square mile), except as permitted under §§ [155-159](#); ~~and 155-160 and 155-160.1~~ as a variance ~~or a~~ special exception [or conditional use](#).

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**Section 2.** The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXVII, Floodplain District, Section 155-160, Special exceptions, shall be amended to delete subsection D thereof, and to amend it to provide as follows:

§155-160. Special Exceptions

~~D. Development in the floodway fringe of the Schuylkill River, subject to the following restrictions to be met in a manner satisfactory to the Township Engineer. Development is not permitted in the floodway fringe of streams, creeks, lakes or ponds. [Amended 4-18-1984 by Ord. No. 2050]~~

~~(1) Structures shall not be located in the floodway.~~

~~(2) Structures shall be constructed and located on the lot so as to offer a minimum of obstruction to flow of water.~~

~~(3) Sewer, water and electric lines shall be floodproofed to a height of 24 inches above the base flood level, and a professional engineer or architect registered in the Commonwealth of Pennsylvania and employed by the developer shall certify to the Township that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood, and a record of such certificates indicating the specific elevation (in relation to mean sea level) to which all such sewer, water and electric lines are floodproofed shall be maintained with the Director of Building and Planning. [Amended 1-19-2002 by Ord. No. 3631]~~

~~(4) Structures shall be constructed with all portions of all rooms, including basements, at least 24 inches above the base flood level.~~

~~(5) Structures shall be permanently anchored so as to prevent flotation or lateral movement.~~

~~(6) Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties. [Added 11-20-1996 by Ord. No. 3433]~~

~~(7) Where an existing building is being altered or expanded and the alterations or expansion qualifies as a substantial improvement, the entire building must comply with all of the provisions above. [Added 2-20-2013 by Ord. No. 3995]~~

~~(8) Upon completion of the framing of the first occupied floor level, an as-built certificate verifying compliance with the provisions above shall be submitted to the Zoning Officer. [Added 2-20-2013 by Ord. No. 3995]~~

~~(9) Hospitals, nursing homes, jails, new mobile home parks, subdivision or substantial additions to mobile home parks or subdivisions shall also be required to obtain approval from the Department of Community and Economic Development in accordance with the administrative regulations of the Pennsylvania Flood Plain Management Act No. 166.<sup>141</sup>~~

~~[Added 2-20-2013 by Ord. No. 3995]~~

~~[1] Editor's Note: See 32 P.S. § 679.101 et seq.~~

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D. Reserved

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**Section 3.** The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXVII, Floodplain District, shall be amended by the addition of a new Section 155-160.1, Schuylkill River Floodway Fringe, to provide as follows:

§155-160.1 Schuylkill River Floodway Fringe

Buildings, structures, paved roads, driveways, parking areas, swimming facilities, tennis courts and grading associated therewith may be permitted within the floodway fringe of the Schuylkill River by special exception, pursuant to this section and § 155-114. If the use proposed requires land development approval, it may be permitted by conditional use, pursuant to this section and § 155-141.2. In either case, there must be a specific finding that such use does not conflict with the stated intent of this chapter, nor will the use result in any increase in flood levels during the base flood discharge.

A. Structures shall not be located in the floodway.

B. Structures shall be constructed and located on the lot so as to offer a minimum of obstruction to flow of water.

C. Sewer, water and electric lines shall be floodproofed to a height of 24 inches above the base flood level. A professional engineer or architect registered in the Commonwealth of Pennsylvania and employed by the developer shall certify to the Township that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. A record of such certificates indicating the specific elevation (in relation to mean sea level) to which all such sewer, water and electric lines are floodproofed shall be maintained with the Director of Building and Planning.

D. Structures shall be constructed with all portions of all rooms, including basements, at least 24 inches above the base flood level, provided however, that in the M Manufacturing and Industrial District, non-residential structures may be constructed if all portions of all rooms, including basements, are constructed at or above the base flood level, and their associated sewer, water and electric lines are floodproofed to the base flood level.

*[NOTE: The Board of Commissioners may decide upon enactment that portions of all rooms, including basements, be constructed at a level that is between the base flood level and a height which is between the base flood level and up to 12 inches above the base flood level.]*

E. Structures shall be permanently anchored so as to prevent flotation or lateral movement.

F. Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall ensure proper drainage along streets and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

G. Where an existing building is being altered or expanded and the alterations or expansion qualifies as a substantial improvement, the entire building must comply with all of the provisions above.

H. Upon completion of the framing of the first occupied floor level, an as-built certificate verifying compliance with the provisions above shall be submitted to the Zoning Officer.

I. Hospitals, nursing homes, jails, new mobile home parks, subdivision or substantial additions to mobile home parks or subdivisions shall also be required to obtain approval from the Department of Community and Economic Development in accordance with the administrative regulations of the Pennsylvania Flood Plain Management Act No. 166.<sup>[1]</sup>–[1]  
*Editor's Note: See 32 P.S. § 679.101 et seq.*

**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, and 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 affect and be in force from and after its approval as required by law.

Approved by the Board this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

BOARD OF COMMISSIONERS OF THE  
TOWNSHIP OF LOWER MERION

ATTEST:

\_\_\_\_\_  
Daniel S. Bernheim, President

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Jody L. Kelley, Secretary