

## AN ORDINANCE

No. \_\_\_\_\_

**AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, Article XVIIB, Mixed-Use Special Transportation District, Section 155-87.22, Dimensional Standards For Development, Section C, Entitled Building Setbacks, By Increasing The Required Stepback In Subsection (1)(i); And To Amend Section F, Entitled Building Height, By The Establishment Of A 39 Feet Maximum Building Height And The Deletion Of Mixed-Use Height Incentives In Subsection (4); By The Deletion Of The Penthouse Height Exception In Subsection (5); By Limiting The Maximum Height Exception To 52 Feet, And Amending The Height Exception Criteria In Subsection (6); And By Amending The Building Height Limitations In Subsection (7); And To Amend Section 155-87.25 Development Design Standards, Section D, Entitled Parking Structures By Deleting The Required Height For Vertical Articulation.**

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 XVIIB, The Mixed-Use Special Transportation District, Section 155-87.22, Dimensional Standards for Development, Section C, entitled Building Setbacks, shall be amended by increasing the required stepback in subsection (1)(i); and Section F, entitled Building Height, shall be amended by the establishment of a 39 feet maximum building height, and the deletion of mixed-use height incentives in subsection (4), and by the deletion of the penthouse height exception in Subsection (5), and by limiting the maximum height exception to 52 feet and amending the height exception criteria in Subsection (6), and by amending the Building Height Limitations in Subsection (7), and to amend Section 155-87.25 Development Design Standards, Section D, entitled Parking Structures by deleting the required height for vertical articulation, to provide as follows:

### **Article XVIIB – Mixed-Use Special Transportation District**

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#### **§ 155-87.22 Dimensional standards for development.**

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#### **C. Building setbacks.**

##### **(1) Build-to lines.**

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- (i) For properties larger than 10,000 square feet, any portion of a new building above three stories or ~~40~~39 feet above grade shall be set back from the build-to-line a minimum of ~~10~~15 feet.

F. Building height.

- (1) The provisions of § **155-137** (setbacks, impervious surface and building area) hereof shall not apply to new and redeveloped structures developed in accordance with this article.
- (2) The minimum height of any building shall be two stories and no less than 28 feet above grade. The second-story floor area shall be equal to or greater than 75% of the grade level building area.
- (3) Where a lot is split by the six-hundred-fifty-foot and one-thousand-foot boundary lines listed below, the height regulations applicable to the ~~less-more~~ restricted district shall extend over the entire commercially zoned portion of the lot in the ~~more-less~~ restricted district.
- (4) The maximum height of any building in the MUST District shall be 39 feet above grade. as follows:
  - ~~(a) — The maximum height of any mixed-use building within 650 feet from the midpoint of the in-bound station platform shall be no more than 65 feet above grade. If the lot area exceeds 10,000 square feet, the maximum height shall be no more than 78 feet above grade.~~
  - ~~(b) — The maximum height of any single-use building within 650 feet from the midpoint of the in-bound station platform shall be no more than 52 feet above grade.~~
  - ~~(c) — The maximum height of any mixed-use building between 650 and 1,000 feet from the midpoint of the in-bound station platform shall be no more than 52 feet above grade unless the lot area exceeds 10,000 square feet, in which case the maximum height may be up to 65 feet above grade.~~
  - ~~(d) — The maximum height of any single-use building between 650 and 1,000 feet from the midpoint of the in-bound station platform shall be no more than 39 feet above grade.~~
  - ~~(e) — The maximum height of any building more than 1,000 feet from the midpoint of the in-bound station platform shall be no more than 39 feet above grade.~~
- (5) ~~Penthouses. A penthouse shall not be included in measuring the height of a mixed-use building if the enclosed area occupies less than 25% of the floor area of the story below and is set back a minimum of 20 feet from the exterior walls of the building.~~  
RESERVED
- (6) Exceptions to building height limitations. The maximum height of any building may be extended increased to 52 feet provided the building complies with b and c below. Section a below shall also apply if the building includes residential dwelling units: Building heights may be increased as set forth below, except that in no event may the height of a building in the MUST District exceed 91 feet.
  - ~~(a) The building height limits may be increased by 24 feet, provided at least one of~~

~~the following requirements is met:-~~

~~[4](a) Buildings with residential units: A single- or mixed-use development that provides either must include all dwelling units up to~~ five dwelling units or 20% of the total number of dwelling units (whichever is greater) of moderate-income housing units as described in § 155-87.24A.

~~[2] The developer shall contribute a sum of money equal to 5% of the construction costs of the building. This fund shall be controlled by the Township and be dedicated to use for moderate-income housing units as described in § 155-87.24A. The method of payment of this contribution shall be established during the land-development approval process.~~

~~[3] A mixed-use development that includes a parking structure with a minimum of 100 municipal or public parking spaces in addition to the required parking spaces.~~

~~(b) A front façade setback of 15 feet is provided above the third-story or the height of 39 feet, whichever occurs first. The building height limits for mixed-use buildings permitted in Subsection F(4)(a), (c) and (e) above may be increased by an additional 13 feet, provided at least one of the following requirements is met:-~~

~~[1] A minimum of 1,000 square feet of dedicated contiguous public gathering space is provided for any lot with less than 10,000 square feet of land area. A minimum of 5% of the total lot area shall be dedicated to contiguous public-gathering space for lots over 10,000 square feet. Land area dedicated to public-ingress/egress easements shall not be included in the total lot area calculation for demonstrating compliance with the 5% of public gathering space requirement; or~~

~~(c)[2]~~ The exterior of a Class I historic building that can be seen from a public way is preserved and restored in accordance with the requirements of the Secretary of the Interior's Standards for Rehabilitation of Historic Structures and a facade easement is recorded in a form approved by the Township Solicitor.

~~(7) Notwithstanding the building height provisions noted above, a~~Any application for new construction or an expansion to an existing building shall also be subject to the following:

~~(a) No building more than 1,000 feet from the midpoint of the in-bound station-platform shall exceed by more than 28 feet the height of the tallest building or buildings that front on the same street and are located within 150 feet of such building. For a corner lot, this provision shall be applied to buildings within 150 feet on all street frontages.~~

~~(ab)~~ No portion of a building located within 50 feet of an existing one- or two-family dwelling in a residential zoning district shall be permitted to exceed 42 feet.

~~(c) No portion of a building located within 150 feet of an existing one- or two-family dwelling in a residential zoning district shall be permitted to exceed 65 feet.~~

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**§ 155-87.25 Development design standards.**

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**D. Parking structures.**

- (1) Vertical articulation of the parking structure facade, including changes in building plane and materials, shall be used to create a pedestrian scale. ~~and occur at a maximum interval of 65 feet.~~

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**Section 2.** Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be constructed 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 3.** 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 of Commissioners 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 4.** This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board of Commissioners on this \_\_\_\_ day of \_\_\_\_\_, 2019.

BOARD OF COMMISSIONER OF THE  
TOWNSHIP OF LOWER MERION

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Daniel S. Bernheim, President

ATTEST:

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Jody L. Kelley, Secretary