AN ORDINANCE

NO. ____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 101, Natural Features Conservation, §101-11, Site Maintenance And Guaranty, To Provide That Landscape Improvements Required For Commercial, Institutional, Townhouse, And/Or Multi-Family Residential Subdivisions and Land Developments Shall Be Perpetually Maintained in a Healthy and/or Sound Condition And Guaranteed By A Covenant Running With The Land; To Provide That Landscape Improvements Required For All Other Projects Must Be Guaranteed For A Period Of Eighteen Months; To Provide For Inspection Of Landscape Improvements By The Township Arborist; And To Provide Minimum Fines And Penalties For The Failure To Replace Landscape Materials As Required By The Township Arborist.

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

Section 1. The Code of the Township of Lower Merion, Chapter 101, entitled Natural Features Conservation, Article III, Site maintenance and guaranty, §101-11, subsection B, shall be amended to provide as follows:

Article III, Landscaping, Buffering and Screening

§101-11. Site maintenance and guarantee

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B. The applicant shall make arrangements acceptable to the Township that all landscape improvements installed in accordance with this chapter shall be guaranteed and maintained in a healthy and/or sound condition, or replaced by improvements deemed equivalent by staff. ~~or otherwise be replaced once by equivalent improvements, for a period of at least 18 months following their installation, except as otherwise required by Chapter 135, Subdivision and Land Development.~~

(1) Landscape improvements approved for commercial, institutional, townhouse and/or multi-family residential subdivisions and land developments shall be perpetually maintained in a healthy and/or sound condition. Applicants shall record a covenant on the property in a form acceptable to the Township Solicitor to guarantee this requirement.

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(2) Landscape improvements approved for all other projects including one and two-family dwellings shall be maintained in a healthy and/or sound condition for a period of 18 months, or shall be replaced once by equivalent improvements, except as otherwise provided by Chapter 135, Subdivision and Land Development. Upon completion of the project ~~After installation~~ and prior to commencement of the eighteen-month guarantee period ~~required~~ set forth above, the Township Arborist shall perform an inspection of the finished site for compliance with the approved planting plan. Provided that the finished site is found to be acceptable, the eighteen-month guaranty period shall commence five days from the date of inspection. During or immediately following the eighteen-month guarantee period, ~~P~~plants found to be in poor health or lacking normal growth habit shall be replaced with a substitute plant material determined by the Township to be more suitable for the planting scheme. Replacement plants shall be inspected by the Township Arborist after installation. All plants shall be in a vigorous and thriving condition at the end of the eighteen-month period, as determined above. Final inspection of the site following the eighteen-month period will be made by the Township Arborist and final approval given.

(3) Replacement plant material shall be installed within 20 days of notification by the Township Arborist to do so. Such notification shall give deference to weather conditions adverse to new planting. Failure to replace plant material as required shall subject the person(s) responsible for such replacement to the fines and penalties provided in §101-19 below, except the minimum fine shall be $50 per day, per site.

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Section 2. Nothing in this Ordinance or in Chapter 101 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 101 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 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 effect 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

_____
Daniel S. Bernheim, President

ATTEST:

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Jody L. Kelley, Township Secretary

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