AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, To Provide That Fences Erected In The Front Yard Setback Must Provide Either An Operable Gate Or An Opening For Access To The Area Between The Fence Or Wall And The Cartway; To Add Regulations Limiting The Height And Type Of Fence Permitted In The Floodway Fringe Of The Schuylkill River; And To Provide That Floodplain District Regulations Are Intended, In Part, To Retain And Encourage Scenic Viewsheds Of The Schuylkill River.

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 to revise subsection D thereof, and to add a new sub-section E, to provide as follows:

§155 -130. Regulation of fences and walls.

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D. All fences or walls 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 or wall and the cartway of the abutting street, and the property owner is responsible for maintaining this area. There shall be a minimum of one operable gate or opening for each street frontage and at least one operable gate or opening for every 500 feet of fencing along a street.

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

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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.

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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.

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Section 3. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article XXVII, Floodplain District, §155 -157, Permitted Uses, subsection M thereof, Accessory fences, shall be amended to provide as follows:

§155 -157. Permitted uses.

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

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M. Accessory fences. Within residential zones, accessory fences are only permitted if erected in the floodway fringe between the street right-of-way and the floodway of the Schuylkill River and shall be subject to the following:

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

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

(2) No chain link fence shall be erected in the floodway fringe of the Schuylkill River.

(3) Swimming pools and tennis courts. Fences for swimming facilities shall adhere to the standards specified in Chapter 143, Uniform Construction Code and shall also comply with 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 also comply with the opening requirements in Table 1 above.

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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 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 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.

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

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Daniel S. Bernheim, President

ATTEST:

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Jody L. Kelley, Township Secretary

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