

DRAFT 3-27-2006

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, By Creating A New Overlay Zoning District Called The Mixed Use Special Transit District; To Provide The General Goals Of The District; To Provide That The District Shall Be An Overlay On All Commercial Zoned Property Within 1500 Feet Of The Ardmore Train Station; To Provide For Permitted Uses In The District, Including Residential, Non-Residential And Commercial Uses; To Provide Definitions For Terms Used In The Ordinance; To Establish A Chart Setting Forth The Dimensional Criteria For Development Within The District, Including Lot Area, Impervious Surface Limitations, Building Height, Buffers And Setbacks; To Provide For Parking Requirements; To Provide Development And Design Regulations For Structures; To Provide For The Manner In Which Density Can Be Determined; To Provide Regulations Concerning Signage, Awnings And Canopies; To Provide Regulations Relating To Trees And Landscaping.

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 II, Definitions, 155-4, Terms defined, subsection B, shall be amended by the addition in alphabetical of the following words:

- B. Words and terms defined. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated in this article:

ACCESSWAY – a formalized path, walkway or other physical connection that allows pedestrians to directly reach destinations.

ARCADE – a covered walkway attached to a building and supported on the sides but not attached to the building by columns.

ARTICULATION – the visible expression of architectural or landscape elements through form, structure or materials that “break up” the scale of buildings and spaces to achieve “human scale.”

BUILDING SCALE - The relationship between the mass of a building and its surroundings, including the width of street, nearby open space, and the mass of buildings on adjacent properties. Mass is determined by the three-dimensional bulk of a structure: height, width and depth.

BUILD-TO LINE – The location along a property’s frontage where the building façade shall be placed. Build to lines are generally situated between the right of way and the front yard setback and are used to create a unified street wall.

CLEAR WINDOW – the amount of glass surface of a window that allows 100% visual permeability.

COMMERCIAL PARKING FACILITY – a parking structure operated for economic gain where 50% or more of its parking spaces are not accessory to a primary use and the spaces are available to the public on a first come first serve basis. This term does not include park-and-ride lot.

DRIVE-THROUGH FACILITY – facilities allowing transactions for goods or services without leaving a motor vehicle.

FAST FOOD ESTABLISHMENT – a food service business that offers relatively immediate service of semi-prepared or prepared foods for take-out or in-house consumption in disposable containers and serving walk-in and/or drive-through customers.

FITNESS CENTER – a place, building or portion of a building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. The activities shall be conducted entirely w/in an enclosed building and be operated for profit or not for profit and which can be open only to bona fide members and guests of the organization or open to the public for a fee.

FRONTAGE – the linear edge of a property adjacent to the property line abutting a street or public right of way.

GROCERY STORE – a food market with more than 4,000 square feet of Floor Area.

GROUND FLOOR – The first floor of a building other than a cellar or basement.

LINER RETAIL – a retail building adjacent to a street and serving pedestrian traffic. It is located at the front of a larger retail site that may also contain large retail uses or parking structure.

LIVE-WORK – a residential unit that is also used for commercial purposes for a time, with minimum of 25% of the total building area given to the nonresidential use within the same structure as the residential component.

LOGGIA – a roofed, but open arcade along the front or side of a building on an upper story.

MIXED-USE – development contained within a single parcel or within a master plan development (i.e. in one or more buildings), which contains different land use categories. No one use may utilize more than 80 % of the building area. Where there is more than one building on a lot, no one use may utilize more than 80 % of the total building area. For purposes of calculating the use limitation above, accessory parking shall not be included. Uses shall provide a variety of peak hour pedestrian and vehicular activity times.

OVERHANG – the architectural elements of a building that extends horizontally beyond the wall over a street or walkway.

PARKING STRUCTURE – a parking garage located above ground and/or underground consisting of one or more levels, not surface parking.

PARK-AND-RIDE LOT – a parking structure or surface parking lot intended primarily for use by persons riding transit or carpooling and that is owned or operated either by a transit agency or by another entity with the concurrence of the transit agency.

PARKING, OFF-STREET – marked or unmarked parking located within a parcel and outside a private or public right of way.

PARKING, ON-STREET – marked or unmarked parking located outside of a parcel and within a private or public right of way.

PEDESTRIAN ORIENTED DESIGN – the design of communities, neighborhoods, streetscapes, sites and buildings that emphasizes pedestrian access, comfort and visual interest. Transit-Oriented Design is a particular type of pedestrian oriented design that includes location efficiency, design and intensity of land use to support both transit and pedestrians.

PEDESTRIAN-ORIENTED STREET – a street where adjacent uses generate and encourage foot traffic.

PEDESTRIAN SCALE – the size and proportion of physical environmental elements that closely relate to the human body e.g., a 16-foot lamppost vs. a 30-foot lamppost, and a façade with vertically oriented framed windows vs. a façade with a continuous and unarticulated window wall.

PEDESTRIAN WAY – a linear space or an area where the primary users are pedestrians and that may also accommodate bicyclists.

PERGOLA – an arbor or passageway with a roof or trelliswork on which climbing plants can be trained to grow.

PORTICO – a porch or walkway with a roof supported by columns, often leading to the entrance of a building.

PRIMARY FRONT FAÇADE – the façade of a building facing onto a public or private street or pedestrian accessway.

PUBLIC GATHERING SPACE – Private outdoor space where the public is directly or indirectly invited to visit or permitted to congregate.

REDEVELOPMENT – The improvement of a building and/or parcel requiring Land Development approval.

SHARED PARKING – parking that is utilized by two or more uses taking into account the variable peak demand times of each use; the uses can be located on more than one parcel.

STORY – the distance in a structure between the upper surface of a floor and the upper surface of the floor or roof next above, generally between 10 and 16 feet.

VISUAL PERMEABILITY – the ability of vertical surfaces to allow viewers to see through to the other side e.g. windows and open fences.

WALKING RADIUS – the distance beyond a given point from which a person is willing to walk. This distance varies depending up existing barriers, the walking environment and the availability of destinations.

Section 2. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, shall be amended by the addition of a New Article XVIIB, Mixed Use Transportation District, to provide as follows:

ARTICLE XVIIB Mixed Use Special Transit District (MUST)

§ 155-87.20 -- PURPOSE AND APPLICABILITY

A. General Purpose

1. The Mixed Use Special Transit District (MUST) is established to encourage the development of transit-supportive Mixed-Use neighborhoods that foster economic viability, pedestrian activity and a sense of community. It recognizes the importance of public transit as a viable alternative to the automobile by permitting appropriate densities and a mix of land uses within walking distance of transit stops while, at the same time, providing sufficient off-street parking to uses both within and adjacent to the MUST.
2. The intent of this Article is to allow development that decreases auto dependency and mitigates the effects of congestion and pollution. The regulations create accessible neighborhoods and promote and protect the health, safety and general welfare of the citizens of Lower Merion Township. Further, this Article is designed to enhance the economic stability of the Township by promoting the attractiveness, convenience and stability of those areas of the Township to which the MUST applies.

B. These general goals and objectives include the following specific purposes:

1. Encourage Mixed-Use real estate development oriented to the rail station, transit stops, and that promotes transit ridership;
2. Promote well-integrated residential, commercial, office and civic development in close proximity to local and regional transit stations that have an urban scale development pattern;
3. Support new development that includes diverse pedestrian-compatible, higher density, transit friendly designs and expands economic development opportunities and minimizes distances between destinations by requiring linked sidewalks and pedestrian oriented access;
4. Provide incentives for the creation of mixed uses in keeping with the character scale and architecture of the neighborhood, while using development design guidelines to promote compatibility of uses and stimulate pedestrian activity;
5. Maintain a scale, balance and variety of commercial, institutional and residential uses;
6. Promote the livability and identity of the neighborhood by providing for dwellings, shops and workplaces in close proximity to each other.
7. Enhance the visual character and physical comfort of the district by minimizing pedestrian and vehicular conflicts and encouraging the renovation and erection of buildings and storefronts that provide direct connections to the street and sidewalk.
8. Discourage the dependence on automobile use, thereby reducing traffic congestion and promoting alternative modes of traffic.
9. Encourage the development of attractive, convenient off-street parking facilities to reduce on-street congestion and facilitate vehicular and pedestrian circulation.

C. Applicability

1. The Mixed Use Special Transit District (MUST) is defined and established to include and be an overlay upon all lots within the Ardmore Special Development District (ASDD) 1, C-1, C-2 and CL Commercial Districts that are located within a 1,500 feet radius of the Ardmore R5 commuter rail station. The 1,500 feet MUST boundary and all distances from a train station shall be measured from the center of the railroad tracks and centered on the train station building.
2. When an entire lot within the MUST District is zoned residential as of the effective date of this ordinance and is later rezoned to a C-1, C-2, CL or ASDD 1 commercial zoning district, the lot shall not be eligible to be developed under the MUST regulations.
3. The provisions of this article apply to the entire commercially zoned area on a lot at the edge of the overlay district provided at least ten percent (10%) of the area of the lot is within the MUST district boundary. This boundary tolerance provision may not be used in combination with the boundary tolerance provisions in Section 155-8.
4. The use regulations in Section 155-87.21 A and B and development design standards in Section 155-87.25 A, B and C of the MUST are mandatory.
5. The development design standards in the MUST overlay district shall apply to exterior building improvements requiring a Township building permit.
6. Authorization to develop a lot pursuant to the requirements of the underlying commercial district (conventional development), rather than the MUST, may be granted by the Board of Commissioners as a conditional use pursuant to Section 155-141.2A provided the applicant complies with the standards and criteria set forth in Section 155-141.2 B&C, and that the applicant has achieved the MUST development goals & standards set forth in Section (155-87.20 (A) and 155-87-25 (C))

§ 155-87.21 -- USE REGULATIONS

A building may be erected or used and a lot may be used or occupied only for the purposes listed below. The applicant is encouraged to create a Mixed-Use development. Developments shall adhere to the Development Design Standards in Section 155-87.25.

A. Residential Uses

1. Single Family Semi-detached Dwellings
2. Townhouses
3. Apartment houses, which shall include condominiums.
4. Upper story residential uses above non-residential uses.
5. Live/work units for artisans, professionals and service providers, provided the work area does not exceed 50% of the floor area of the dwelling unit.
6. Accessory uses on the same lot with and customarily incidental to any of the above permitted uses, including above- or below-ground parking structures and fitness centers, but specifically excluding off-track betting parlors.
7. Any use of the same general character as any of the uses hereinbefore specifically permitted, excluding off-track betting parlors.

B. Non-residential/Commercial Uses

1. Adult or child day care
2. Nursery school or similar nonresidential use for more than six (6) children

3. Bank and other financial institution, excluding drive-thru windows. Existing banks with drive-thru windows may be incorporated into a new mixed use development if the drive-thru window and the vehicle stacking area can not be seen from any street.
4. Professional offices or office building, medical offices or medical clinic building.
5. Full service restaurants, including walk up windows, but excluding drive-thru windows.
6. Bakery, confectionery or custom shop for the production of articles to be sold at retail on the premises.
7. Copy centers and job printing operating on a retail sales level.
8. Commercial parking facility that is pedestrian oriented in both design and scale.
9. Retail store with an area on each story equal to or less than 25,000 square feet.
10. Personal service shop, excluding Fitness Centers and massage parlors, but including tailor, barber, beauty salon, shoe repair or similar type use.
11. Grocery Store with a floor area less than 35,000 square feet.
12. Hand laundry, dry-cleaning or dyeing establishment operating on a retail sales level.
13. Hotels
14. Theatre
15. Indoor recreational facilities such as roller & skating rinks, skate board park and playgrounds
16. Real estate sales office
17. Municipal office building
18. Municipal parking structure
19. Accessory use on the same lot with and customarily incidental to any of the above permitted uses, including above ground or below ground Parking Structures and Fitness Centers but specifically excluding off-track betting parlors.
20. Any use of the same general character as any of the uses hereinbefore specifically permitted, but excluding off-track betting parlors.
21. Motor vehicle sales agency in a Mixed-Use building. A motor vehicle sales agency may include as an accessory use a service and repair shop, provided that the accessory services and repairs are conducted in the basement or the rear of the same building, or building accessory thereto. A motor vehicle sales agency, and any accessory uses to a sales agency shall not be considered a Mixed-Use building. Motor vehicle sales agencies in the MUST shall be separated from any other motor vehicle sales agency by a minimum of 1,500 feet.
22. Storage use, as an accessory use to any permitted use provided the storage area doesn't occupy more than 25% of the total floor area.

§ 155-87.22 -- DIMENSIONAL STANDARDS FOR DEVELOPMENT

A. Land Use Zoning Chart

Land Use	Lot Width Min.	Bldg. Area Max.	Front Yard ¹	Side Yard ²	Rear Yard ³ Min.	Imp. Cover ⁴ Min.	Buffer Min.
Single Use Bldgs.							
Townhouses	20 ft.	80%	0ft.	0-20 ft.	0-15 ft.	85%	20 ft.
Apts. & Condos.	50 ft.	80%	0 ft.	0-25 ft.	0-20 ft.	85%	20 ft.
Hotels	60 ft.	80%	0 ft.	0-25 ft.	0-25 ft.	85%	20 ft.
Other Commercial Uses	20 ft.	80%	0 ft.	0-25 ft.	0-25 ft.	85%	20 ft.
Office	20 ft.	80%	0 ft.	0-25 ft.	0-25 ft.	85%	20 ft.

Mixed Use Bldgs.							
Commercial/ Residential	-----	100%	0 ft	-----	0-15 ft.	100%	20 ft.
Other Commercial/ Non-Residential	-----	100%	0 ft.	-----	0-15 ft.	100%	20 ft.

- 1 See section C-2 for specific front yard requirements
- 2 See section C-3 for specific side yard requirements
- 3 See section C-4 for specific rear yard requirements
- 4 See section E for specific impervious cover requirements

B. Building Area

1. Single Use Buildings - Limited to 80% of the lot area, as per Section 155-87.22 (A) above, the Land Use Zoning Chart
2. Mixed Use Buildings - Permitted to cover up to 100% of the lot area, as per Section 155-87.22 (A) above, the Land Use Zoning Chart

C. Building Setbacks

1. Build-to-Line are used to maintain a strong sense of streetscape and encourage pedestrian activities:
 - a. Unless otherwise authorized by the Board of Commissioners as part of a land development plan, the Build-to-Line shall be located at the street right of way.
 - b. The primary pedestrian access point to buildings shall face onto the Build-to-Line, rather than onto rear or side parking lots or alleys. Secondary access points may be located along other facades.
 - c. Parking lots, driveways, loading zones and other auto-related areas do not qualify as structures, enhanced pedestrian spaces or amenities and are prohibited at or in front of the Build-to-Line. This section shall not prohibit a loading or unloading area along a street for a train station or a transit bus stop.
 - d. If the front façade is set back from the street right of way, the area between the front façade and the street right of way shall be used for enhanced pedestrian spaces and amenities, landscaped with shade trees and furnished with seating areas.
 - e. Features such as Overhangs, upper floor balconies, Loggias, Arcades, covered (non-enclosed) bicycle parking, Pergolas and similar architectural features placed on the front (street facing) side of the building may extend beyond the Build-to-Line and/or up to three (3) feet into the right of way, but no closer than five (5) feet to the curb line.
 - f. Projections into the right of way shall be subject to approval by the authority having jurisdiction.
 - g. The Build-To Line may be extended up to twenty (20) feet further from the street right of way if the additional area is used as a Public Gathering Space or for outdoor dining. If the outdoor dining use is discontinued, this outdoor area must be used for Public Gathering Space.
 - h. Where a street line separates the MUST district from a residential use in a Residential Zoning District, a ten (10) foot landscaped front yard setback in the MUST District along the Build-to-Line is required in accordance with the required Buffer provisions.
 - i. For properties larger than 10,000 square feet fronting on a primary street, any portion of a new building or building expansion above three stories or forty feet above grade shall be setback from the Build-to-Line a minimum of ten (10) feet.
2. Front Yards. There is no required minimum front yard setback.

3. Side Yards. New and redeveloped buildings in the MUST shall be subject to a range of minimum/maximum side yard setbacks in order to maintain a consistent sense of the streetscape and encourage pedestrian activity.
 - a. Minimum. There is no required minimum side yard setback. However, if a new or expanded structure is not built up to the side lot line, the new or expanded portion of the building must be setback a minimum of ten (10) feet from the side lot line. Where a building is located between a street and a train station or bus stop, direct egress shall be provided to the occupants of the building to the street and the public transportation stop.
 - b. Maximum. The maximum side yard setbacks shall be as set forth in the Land Use Zoning Chart above, or the width of any required Buffer, whichever is greater.
 - c. For a corner lot immediately contiguous to a residential use in a Residential Zoning District, the side yard on the residential street shall be at least equal in depth to the side yard requirement in such residential district.
4. Rear Yards. Depending on the proposed use and subject to the Buffer requirements set forth in Section 155-87.22 (G) below, all parcels subject to this overlay may have a required minimum rear yard setback.
 - a. When a new or redeveloped building complying with the MUST development design standards is on a lot that backs up to another commercially zoned lot, a rear yard setback is not required.
 - b. When a new or redeveloped building complying with the MUST development design standards is on a lot that backs up to a residentially zoned lot, then the rear yard setback is the maximum listed in Section 155-87.22 (A) above, the Land Use Zoning Chart. The lot must also comply with the minimum Buffer requirements.
 - c. When a railroad right of way separates a new or redeveloped building complying with the MUST development design standards from a residential zoning district, the rear yard setback provided for in Section 155-87.22 (A) above may be reduced by up to five (5) feet, but in no case may the setback be less than fifteen (15) feet.

D. Lot Width

1. Single Use Buildings - The minimum lot width is between 20 and 60 feet, depending upon use, as per Section 155-87.22 (A) above, the Land Use Zoning Chart.
2. Mixed Use Buildings - There is no minimum requirement.

E. Impervious Cover

1. Single Use Buildings- Impervious cover is limited to 85% of the net lot area, as per Section 155-87.22 (A) above, the Land Use Zoning Chart. This limit may be increased to 100% when the lot contains a Class 1 or Class 2 structure on the Township's Historic Inventory that is being preserved in compliance with the Secretary of the Interior Standards referenced in Chapter 88 of the Lower Merion Code.
2. Mixed Use Building - Impervious cover may go up to 100% of the net lot area.

F. Building Height

1. The provisions of Section 155-137 (setbacks, impervious cover 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 (2) stories or twenty-eight (28) feet above grade, over 90% of the building area.
3. Where a lot is split by the 650 foot and 1000 foot boundary lines listed below, the height regulations applicable to the less restricted district shall extend over the entire commercially zoned portion of the lot in the more restricted district.

4. The maximum height of any building in the MUST District shall be as follows:
 - a. The maximum height of any Mixed-Use building within 650 feet from the train station shall be five (5) Stories, exclusive of a basement, or sixty-five (65) feet above grade whichever is less unless the lot area exceeds 10,000 square feet, in which case the maximum height shall be six (6) stories, exclusive of a basement, or seventy-eight (78) feet above grade whichever is greater
 - b. The maximum height of any single use building within 650 feet from the train station shall be four (4) Stories, exclusive of a basement, or fifty-two (52) feet above grade whichever is less.
 - c. The maximum height of any mixed use building between 650 and 1000 feet from the train station shall be four (4) Stories, exclusive of a basement, or fifty-two (52) feet above grade whichever is greater unless the lot area exceeds 10,000 square feet, in which case the maximum height may be up to five (5) Stories, exclusive of a basement, or sixty-five (65) feet above grade whichever is less.
 - d. The maximum height of any single use building between 650 and 1000 feet from the train station shall be three (3) Stories, exclusive of a basement, or thirty-nine (39) feet above grade whichever is less.
 - e. The maximum height of any building more than 1000 feet from the train station shall be three (3) Stories, exclusive of basement, or thirty-nine (39) feet above grade whichever is greater.
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 setback a minimum of twenty (20) feet from the exterior walls of the building.
6. Exceptions to building height limitations. 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 seven Stories, or 91 feet, which is less.
 - a. The building height limits for Mixed-Use buildings may be increased by two (2) Stories or twenty-four (24) feet provided at least one of the following requirements are met:
 - i. A single or Mixed-Use development that provides affordable or moderate income housing units as described in Section 155-87.24. A. (1.) (a.) minimum of five (5) dwelling units or twenty percent (20%) of the dwelling units, whichever is greater shall be affordable or moderate income housing units.
 - ii. For Mixed-Use buildings, in addition to the parking required for the Mixed-Use building, a minimum of twenty-five (25) additional parking spaces are provided that are available for general public parking. If the additional height permitted by this section is utilized, public parking spaces shall not be counted to comply with the required parking spaces.
 - b. The building height limits for Mixed-Use buildings permitted in Sections F (4) (a), (c) and (e) above may be increased by one (1) Story or thirteen (13) feet provided at least one of the following requirements are met:
 - i. A minimum of one thousand (1,000) square feet of dedicated contiguous Public Gathering Space is provided for any lot with less than ten thousand (10,000) square feet of land area. A minimum of ten percent (10%) of the total lot area shall be dedicated to contiguous Public Gathering Space for lots over ten thousand (10,000) square feet; or
 - ii. The exterior of a Class I Historic building that can be seen from a public way is preserved and restored and a façade easement is recorded in a form approved by the Township Solicitor.
7. Notwithstanding the building height provisions noted above, any application for new construction or an expansion to an existing building shall also be subject to the following:
 - a. No building more than one-thousand (1000) feet from the center of the train station platform shall exceed by more than two (2) Stories or twenty-eight (28) feet, whichever is less, the height of the tallest building or buildings that front on the same street and are located within one-hundred and fifty (150) feet of such building. For a

corner lot, this provision shall be applied to buildings within one-hundred and fifty (150) feet on all street Frontages.

- b. No portion of a building located within fifty (50) feet of an existing one- or two-family dwelling in a residential zoning district shall be permitted to exceed three (3) stories or forty-two (42) feet whichever is less.
- c. No portion of a building located within one hundred and fifty (150) feet of an existing one- or two-family dwelling in a residential zoning district shall be permitted to exceed five (5) stories or sixty-five (65) feet whichever is less.

G. Buffer Area

1. Where a MUST commercial development abuts a residential use in a residential zoning district or a railroad right of way with a residential district on the opposite side of the railroad, there shall be a Buffer area along the district boundary line within the MUST.
 - a. Where the district boundary line abuts a residential use in a residential zoning district, the depth of this Buffer shall be at least twenty (20) feet.
 - b. Where the district boundary line is the center of a street or at a street line, there shall be a ten (10) foot wide planted landscape area along the Build- to-Line in the MUST district. Other than the required street trees, the plantings shall be low level and cannot obstruct a pedestrian's view of the first floor window or door openings.
 - c. Where the district boundary line is a railroad right of way, the depth of the Buffer area may be reduced to fifteen (15) feet from the railroad right of way.
2. The Buffer area shall be planted with a variety of high and low level plantings. Where the required Buffer is along a railroad right of way, a wall or a fence or a similar architectural detail that satisfies the purpose of the Buffer requirement may be used in addition to the plantings
3. There may not be more than one vehicular entrance and one vehicular exit through the buffer area to any street.
4. Any lot which becomes vacant through the removal of a structure for any reason must be screened from all abutting public streets by planting street trees and providing a six (6) foot wide landscaped area with a continuous row of two (2) foot high shrubs.

§ 155-87.23 -- PARKING AND LOADING REQUIREMENTS

A. On-site Parking

1. At-grade, above- or below-ground parking and loading facilities shall be permitted.
2. Surface parking lots and exterior loading areas shall be placed between the structure and a rear lot line
 - a. On a corner lot, if surface parking and exterior loading can not be behind the buildings and screened from view, then the parking shall be located:
 - i. along the street with the least amount of commercial activity
 - ii. along the street with the least amount of pedestrian activity if the lots is located along two or more commercial streets with equal amounts of commercial activity.
3. If surface parking and exterior loading areas are visible from the street Frontage, then a fence, wall or plantings shall be provided to maintain the street edge and Buffer views of parked cars:
 - a. In no case shall surface parking lots or exterior loading areas occupy more than one-third (1/3) of a lot's Frontage along a pedestrian street or street segment.
 - b. Parking and exterior loading areas shall be Buffered from any adjacent Pedestrian Way by planting street trees and providing a six (6) feet wide landscaped area with a

continuous row of two (2) feet high shrubs, or a fence or seating wall not less than two (2) feet and no more than 3 feet high. Shrubs shall be maintained at a height of two (2) to three (3) feet.

4. The Primary Front Façade of a Parking Structure visible from a public or private street or Pedestrian Way shall be pedestrian oriented and scaled. Building design shall be complementary to nearby active commercial facades, in terms of building materials and architectural pattern. Residential and/or useable commercial floor space shall occupy eighty percent (80%) of the Ground Floor façade.
5. Ground level parking beneath buildings shall be permitted provided 80% of the Primary Front Façade is pedestrian oriented and scaled, and shall be used for commercial and/or residential use.
6. Changing a non-residential use in an existing building to another use or uses permitted in the MUST does not require additional on-site parking provided that:
 - a. The existing structure will be a Mixed-Use building; and
 - b. The new use requires a maximum of fifteen (15) additional parking spaces above that required by the existing use; and
 - c. Any exterior changes to the building comply with the MUST development design standards.
7. Parking shall not be required for commercial or Mixed-Use buildings if the development complies with the MUST development design standards and the lot is less than three thousand (3,000) square feet with an improved road Frontage of thirty (30) feet or less.
8. Any façade of a parking structure that can be seen from a residential zoning district shall comply with the architectural design standards.
9. Off street surface parking shall not extend more than seventy feet (70) in width along any pedestrian street frontage without an outdoor café, landscaped garden or public plaza with seating.

B. Parking for Single Use Structures

1. Required parking for new and redeveloped structures within the MUST shall be calculated by using the Single Peak Hour Demand values noted in TABLE 1.

C. Parking for Mixed Use Structures

1. Parking required for new and redeveloped mixed-use structures within the MUST shall be calculated by using the following process and the percentages provided in TABLE 1.
 - a. First, determine the number of parking spaces required for each individual use within the Mixed-Use structure by using the Single Use Peak Hour Demand values in TABLE 1. That number serves as the base for calculating the Percentages of Peak Demand for Key Times values.
 - b. Next, calculate the number of spaces needed for each use for each peak hour by multiplying the base number (the Single Use Peak Hour Demand value) by the percentage of Peak Demand for Key Times values.
 - c. Next, add the columns for each Peak Demand Time to determine the number of spaces required for the mixed-use structure for each peak hour.
 - d. The required number of parking spaces for the development is the highest total hour figure for the mixed use development
2. If a minimum of fifty percent (50%) of the parking required by the parking table is below grade, the required parking for non-residential uses may be reduced by ten percent (10%) and required parking for residential uses may be reduced to one space per unit.

TABLE 1: Required Parking

Land Use	Single Use Peak Hour Demand (spaces)	Percentage of Peak Demand for Key Times ¹									
		Weekdays					Saturday				
		10am	1pm	5pm	8pm	10pm	10am	1pm	5pm	8pm	10pm
Retail	4/1000 sq.ft.	50	75	75	65	25	50	100	90	65	35
Office	4/1000 sq.ft.	100	90	50	5	5	15	15	5	0	0
Restaurant	8/1000 sq.ft.	20	70	70	100	95	5	45	60	100	95
Theatre	1/5 seats	0	60	60	85	85	0	70	70	100	100
Fitness Center	5/1000 sq.ft.	10	80	100	30	10	60	80	60	30	10
Indoor Recreational Facility and other permitted uses	5/1000 sq. ft.	70	75	100	100	40	100	100	100	100	90
Motor vehicle Sales Agency	4/1000 sq. ft.	100	100	100	75	50	100	100	100	40	0
Hotel	1/room	45	30	60	90	100	40	30	60	90	100
Residential	1.5/units*	85	80	85	95	100	70	65	75	95	100

1. Source of peak demand percentages is the Urban Land Institute's Shared Parking Standards.
* Moderate-income dwelling units require ½ (.5) parking spaces/unit

Example: An existing commercial building is renovated according to the MUST design standards and now contains: 3,500 sq.ft. retail; 1,500 sq.ft. restaurant and 10 residential units. The MUST number required parking spaces is 40. Calculations are shown in TABLE 2:

TABLE 2: Mixed Use Building Example

Land Use	Single Use	Percentage of Peak Demand for Key Times ¹									
		Weekdays					Saturday				
		10am	1pm	5pm	8pm	10pm	10am	1pm	5pm	8pm	10pm
3,500 sq.ft. retail	14	7	10.5	10.5	9.1	3.5	7	14	12.6	9.1	4.9
1,500 sq.ft restaurant	12	2.4	8.4	8.4	12	11.4	.6	5.4	7.2	12	12
13 market rate dwelling units	19.5	16.6	15.6	16.6	18.5	19.5	13.7	12.7	14.6	18.5	19.5
Totals	N/A	26	34.5	34.5	39.6	36.5	21.3	32.1	34.4	39.6	36.6

D. Off-Site Parking

1. Off-site parking is permitted in the MUST District, except for new and used automobile dealerships, subject to the regulations set forth below.
2. When land uses on adjacent parcels within the MUST create shared parking areas with circulation paths and access points that are under common ownership or controlled by a reciprocal easement agreement, the collective parking requirements for development on those properties may comply with the Required Parking values listed in TABLE 1.
 - a. Documentation confirming the ownership and/or management arrangement shall be submitted prior to the Board of Commissioners approving a Tentative Sketch Plan application and shall be subject to the Board's approval. The agreement must demonstrate a permanent commitment for the use of the off site parking.

3. Code required parking for Mixed-Use structures may be provided off-site, provided:
 - a. Off site parking must be within 900 feet of the Mixed-Use development using a pedestrian route continually accessible to the public, measured from lot line to lot line; and
 - b. Both the Mixed-Use development and the parking facility comply with the MUST Development Design Standards in Section 155-87.25; and
 - c. Documentation that the private parking facility owner agrees to make the spaces available to the proposed off-site Mixed-Use development shall be submitted to the Township prior to the Board of Commissioner's consideration of the Tentative Sketch Plan application. The off-site parking spaces may not be designated as required parking for some other use.
 - d. If adequate on-site parking is not available, the parking requirements may be met by designating public parking spaces within nine hundred (900) feet of the proposed use. Each public parking space may only be counted once when this parking provision is utilized. A maximum of seventy five (75) parking spaces in public parking lots may be designated under this section for new buildings or buildings being expanded. If public parking spaces are designated for dwelling units, the parking required on the lot where the residential units are located shall not be reduced to less than one space per unit.
4. Code required parking for Single-Use structures may be provided off-site when:
 - a. The development lot is less than 8,000 square feet and improved street Frontage is less than 40 feet; and
 - b. Parking must be within nine-hundred (900) feet of the single-use development using a pedestrian route continually accessible to the public, measured from lot line to lot line; and
 - c. Both the Single-Use development and the parking facility comply with the MUST Development Design Standards in Section 155-87.25; and
 - d. (d.) Documentation that the parking facility owner agrees to make the spaces available to the proposed off-site Single-Use development within the MUST shall be submitted prior to the Board of Commissioner's approval of a Tentative Sketch Plan application. The off-site parking spaces may not be designated as required parking for some other use.

E. On-Street Parking

1. Provided the new or rehabilitated building or buildings complies with the MUST Development Design Standards in Section 155-87.25, legal on-street parking along the lot's street Frontage may be counted toward the development's minimum parking requirements. Each such on-street public parking space may only be counted once.

F. Bicycle Parking

1. Convenient bicycle facilities shall be provided up to a maximum of twenty (20) spaces, as follows:
 - a. For Residential uses there shall be one bicycle space or locker for each three dwelling units or portion thereof.
 - b. For Commercial uses, there shall be one bicycle space or locker for every twenty (20) automobile parking spaces or fraction thereof.
 - c. The Board of Commissioners, may, by conditional use, hold in reserve or reduce the number of required bicycle parking spaces if the applicant demonstrates that there are ample facilities available for use nearby.

G. Loading

1. To the greatest extent feasible, areas used for loading or trash receptacle purposes shall not be located adjacent to residential uses and residential zoning districts.
 - a. If these areas must be located adjacent to residential uses or zoning districts then they shall be screened from view. Noise, sound and odors associated with these uses shall not be discernable at the lot line.

§ 155-87.24 -- Density

A. Providing Housing

1. The total number of residential units and/or the amount of commercial space may be increased when an application provides on-site housing opportunities for a mix of household incomes, including both market-rate housing and housing that is affordable to moderate-income households, and provides that such units shall be so maintained by a covenant running with the land. Price and income guidelines for moderate-income households shall be as defined by the Pennsylvania Housing Finance Agency (PHFA) Keystone Home Loan Program income guidelines in effect at time of application. Developers and subsequent transferees shall provide documentation showing compliance with these family incomes and rental/purchase price limits. The amount of the density increase shall be noted on the plan and recorded in the deed. The bonus shall be calculated as follows:
 - a. Moderate-income dwelling units created as part of a qualified MUST development require $\frac{1}{2}$ (.5) parking space per unit rather than the 1.5 spaces per unit required for market-rate housing.
 - b. Building area may be increased to 85% and impervious surface may be increased to 90% for single-use developments complying with Section 155-87.25, Development Design Standards, provided housing for a mix of household incomes is provided. To qualify for the increase, the new building must be three (3) stories or higher and at least 10% of the dwellings units, but no less than two (2) units, shall be affordable to moderate-income families.
 - c. Any additional residential units created under the provisions of this sub-section are not required to be included in the minimum parking calculations, provided that no less than one residential parking space per unit is constructed.

B. Public Gathering Space

1. If an applicant offers to provide and maintain Public Gathering Space on the lot, the Board of Commissioners may authorize a density bonus by conditional use upon finding that the Space provides a public benefit. Public Gathering Space may include ornamental fountains, stairways, waterfalls, sculptures, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies and similar structures. The Township's Land Development Committee and the Planning Commission shall provide recommendations. The amount of bonus shall be noted on the plan and recorded in the deed. The bonus shall be calculated as follows:
 - a. If a minimum of 500 square feet of Public Gathering Space is provided and maintained by the lot owner, the building area may be increased to 85% and impervious surface may be increased to 90% for single-use developments complying with Section 155-87.25, Development Design Standards.
 - b. Any additional residential units and/or commercial space created under the provisions of this sub-section are not required to be included in the minimum parking calculations, provided that no less than one (1) residential parking space per unit is provided on the lot.
2. The public gathering space shall be located where it is visible and accessible from either a public sidewalk or pedestrian connection.

3. Between 25% and 30% of the space shall be landscaped with trees, shrubs, and mixed plantings with year round interest.
4. The hard surfaced section of the floor of the space shall be paving materials, including unit pavers, paving stones, or concrete. No more than 20% of the plaza shall be concrete.
5. One (1) seating space shall be provided for each thirty (30) square feet of the Public Gathering Space.
6. The space shall not be used for parking, loading, or vehicular access.
7. Public art and fountains are encouraged.

§ 155-87.25 -- Development Design Standards

A. Purpose

1. The purpose of this section is to require pedestrian oriented buildings and to require building entrances to be oriented toward the streets, sidewalks and/or public access ways. Windows must facilitate views into and out of buildings. Requirements for orientation and primary entrances are intended to:
 - a. Provide for convenient, direct and accessible pedestrian access to and from public sidewalks, transit facilities, residential and commercial users;
 - b. Provide a safe, pleasant and enjoyable pedestrian experience by connecting activities between buildings in the MUST and within a structure to the adjacent sidewalk and/or transit stop; and
 - c. Promote use of pedestrian and mass transit modes of transportation to access residential and commercial facilities.
2. New and renovated buildings may be either traditional in their architectural character or be a contemporary expression of traditional styles and forms, respecting the scale, proportion, character and materials of structures within a five hundred (500) foot radius.
3. The preservation and rehabilitation of existing buildings and structures is strongly encouraged in order to create diversity of development, accent pedestrian-scale activity, and to preserve the character of Lower Merion's existing commercial districts in the vicinity of the train stations.

B. Building Orientation and Primary Entrance

1. General Standards.
All new and rehabilitated buildings shall comply with the following standards:
 - a. Buildings shall be designed with window space, public access points and signage facing the street and sidewalk.
 - b. The façade treatment of walls facing residential uses or residential zoning districts shall be similar to the Primary Front Façade along the Pedestrian Oriented Street.
 - c. All buildings shall provide Clear Windows along the Ground Floor of the Primary Front Facades.
 - i. Required window areas must be either windows that allow views into working areas or lobbies, pedestrian entrances or merchandise display windows.
 - d. Primary building entrances shall be articulated and visible from the street.
 - i. Building entrances shall incorporate arcades, roofs, porches, alcoves and awnings that protect pedestrians from the sun and rain.
 - ii. If the building has Frontage on more than one street, the building shall provide primary entrances oriented toward both streets, or a single entrance on the corner where the two streets intersect.

- e. To the greatest extent feasible, if a single lot is redeveloped any new vehicular access point shall be located on a side lot line and shared with adjacent lots. (See Section 155-87.25(C))
- f. Driveways, parking areas and traffic circulation patterns shall be designed as shared facilities whenever feasible. The design of these elements shall create a unified site plan between the lots. The goal is to gain parking efficiencies, reduce the number of access points and improve internal and external vehicular circulation patterns.
- g. When one or more lot(s) is redeveloped such that one-hundred and fifty (150) feet or more of new building façade is constructed along the Primary Front Facade, an Accessway shall be provided (i.e. through a lobby or alley) to reach available Shared Parking facilities.

C. Architectural Design Standards

1. The architectural design standards have been incorporated into this district to ensure that the size and proportions of new buildings relate to the scale of the existing structures, especially at the street level. The first three (3) stories of new buildings must relate to the street level heights of existing buildings. The architectural features of the vertical and horizontal façade character of new buildings must relate to adjacent structures (especially at the street level). The setback of the new buildings must relate to the setback established by the surrounding existing buildings.
2. Buildings
 - a. If the subject property is listed on the Lower Merion Township historic inventory or within a local and/or national historic district, the new construction and any changes to the exterior of the building that can be seen from a public way shall reflect and be an example of the character of that building/district in compliance with Chapter 88 of the Lower Merion Code and the Secretary of the Interior Standards for Rehabilitation.
 - b. All buildings shall articulate the line between the ground and upper levels with a cornice, canopy, balcony, Arcade or other visual device.
 - c. The massing of all buildings shall be de-emphasized in a variety of ways, including the use of projecting and recessed elements such as porches, windows, and roof dormers, to reduce their apparent overall bulk and volume, to enhance visual quality and contribute to human-scale development. Such breaks in the facades and roof lines shall occur not more frequently than the width of two historic shop fronts (generally about 25 feet each) nor less frequently than 100 feet.
 - d. The ground floor of Primary Front Façade shall contain an average of 65% to 70% clear windows and doors. Smoked, reflective, tinted or black glass in windows is prohibited.
 - e. Any walls with less than 25% of clear windows shall be articulated by two or more of the following:
 - i. details in masonry courses
 - ii. the provisions of blank window openings trimmed with frames, sills and lintels
 - iii. if the building is occupied by a commercial use, recessed or projecting display window cases.
 - f. The Ground Floor design shall be based upon historic examples in the district, with commercial uses having large, Clear Window displays.
 - i. The maximum sill height above the adjacent sidewalk elevation shall be two feet or lower.
 - ii. Window heads shall be nine (9) to twelve (12) feet above sidewalk level;
 - iii. The top of the display window shall be at least as high as door height.
 - g. Second Story and above of Primary Front Facades, shall contain a minimum of 50% of the horizontal width of the facade as Clear Windows.

- i. Clear Window openings shall be vertical, at least twice as high as the width of those openings.
 - ii. To the extent possible, individual window units in the upper stories shall be vertically aligned with the location of window and doors on the ground level, including storefront or display windows.
 - h. Buildings shall be topped with either pitched roofs with overhanging eaves or flat roofs with articulated parapets and cornices. Pitched roofs shall have a minimum slope of 4:12.
 - i. Pitched roof material may include slate (either natural or manmade), shingle (either wood or asphalt composition) and metal formed to resemble "standing seams" or other similar materials. Specifically prohibited are white, tan or blue shingles and corrugated plastic or metal. Fascias, dormers and gables or similar architectural features shall be employed to provide visual interest. All gables shall be functional.
 - j. Exterior wall materials may include stucco, wood clapboard (including aluminum imitation clapboard siding) native stone, or brick of a shape, color and texture as that found within the adjacent neighborhood. Specifically prohibited shall be white, tan or any type painted brick or T-111 or other similar plywood siding, or exterior insulation and finishing system (EIFS). Except on side or rear walls, not visible from any public way, all forms of concrete block shall be prohibited. Metal buildings shall be prohibited. The Board of Commissioners may approve a prohibited material if it can be demonstrated that the material can be installed to have the same appearance and texture as any of the approved materials. Stucco or artificial materials, except fire clay products such as brick, shall not occupy more than 50% of the building façade unless the Board of Commissioners make a specific finding that more than 50% is appropriate, and similar to the architectural features on other similar buildings in the district.
 - k. All roof-top mechanical equipment, including antennas, shall be screened visually and acoustically. Such screening shall be an integral to the architectural design of the building.
 - l. Grade level exterior doors that swing onto a public walkway that is less than six (6) foot wide, shall be set into the building to avoid conflict with pedestrians. Doors swinging out that do not project into a required public walkway shall include a barrier to prohibit doors from swinging into pedestrians.
3. The Board of Commissioners may, by conditional use, approve the use of architectural concepts and designs which differ from those set forth above, if the applicant demonstrates to the satisfaction of the Board that such concepts and designs are in furtherance of the legislative intent of this article and of this subsection.
4. Public walkways shall:
- a. Be constructed of brick, concrete pavers, stamped colored concrete or integral colored concrete with brick borders
 - b. Have a minimum unobstructed width of eight (8) feet. Where an existing building is being preserved with a sidewalk that is less than eight (8) feet, the existing sidewalk width must be maintained. The existing sidewalk may be reduced in width for the installation of street trees when shown on the approved development plan.
 - c. Create a completely linked network of walkways connecting transit stops. Commercial centers, institutional facilities and residential uses including parks and other open space areas.
 - d. Not be used for exterior storage.
 - e. Outdoor seating for food and drink establishments and pedestrian-oriented accessory uses, such as sales display for flowers, small shops, and food or drink stands are permitted, provided the minimum unobstructed walkway is maintained.

D. Signage

1. The sign regulations applicable to the underlying zoning district shall be applied in the MUST district. If these provisions are in conflict, the sign provisions in the MUST district shall apply.
2. Pedestrian scaled signage, which may include projecting signs or wall signs:
 - a. No portions of a projecting sign or its supports are to be higher than twelve (12) inches below the bottom of second Story windows.
 - b. The maximum sign area of any projecting sign that projects more than twelve (12) inches from the building wall is five (5) square feet.
 - c. Projecting signs on a single lot shall not be placed within fifty (50) feet of each other. There shall be no more than one (1) projecting sign per storefront.
 - d. A clear space of not less than eight (8) feet shall be provided below all parts of a projecting sign.
 - e. Be affixed to a building facade, canopy or arcade and shall not obstruct upper story windows or openings in any way.
 - f. Projecting and wall signs shall not be internally illuminated.
 - g. Projecting signs shall not project more than five (5) feet from the building and shall not project closer than three (3) feet to the curb line.
3. Freestanding signage:
 - a. No more than one freestanding sign shall be permitted for each property's street frontage.
 - b. Freestanding signs shall not be internally illuminated.
 - c. The maximum height of a freestanding sign shall be six (6) feet above grade.
4. General Standards for all signs:
 - a. The total sign area for a lot shall be a maximum of ½ square feet of signage for each lineal foot of building frontage.
 - b. No single sign shall exceed a maximum of forty (40) square feet.
 - c. Have applied, carved or painted letters no larger than twelve (12) inches in height for signs located thirty (30) or less feet above grade; eighteen (18) inches in height for signs located thirty (30) to sixty (60) feet above grade and twenty-four (24) inches in height for signs located sixty (60) or more feet above grade.
 - d. Extend no closer than one-half (½) the vertical height of the letters employed to the vertical edge of a building corner, or to the fascia, roofline or parapet, whichever is lower.
 - e. Signs shall be constructed only from wood, metal, stone or other similar material with dark background colors and light colored lettering. The Board of Commissioners may approve an alternative material if it can be demonstrated that the material will have the same appearance and texture as any of the approved materials.
 - f. If signs are illuminated, only external lighting shall be permitted, except as set forth in this section. External lighting shall be shielded from adjacent properties by the use of either cutoff or full cutoff luminaires, or the use of external shields if necessary.
 - g. Non-flashing neon signs may be used inside windows, provided the sign area occupies no more than 15% of the window where they are displayed.
 - h. Only traditional canvas awnings without interior illumination shall be permitted
5. All signs within MUST district shall be complimentary in their use of color, shape, similar themes or logos.
6. Signage shall not reduce visual permeability of street facing windows to less than the minimum clear window requirement.
7. Portable signs are prohibited
8. Wall signs may project up to ten (10) inches maximum and may not exceed forty (40) square feet.

9. Temporary window graphics shall not exceed 10% of the clear window surface, provided the minimum clear window requirement is met.
10. Permanent window graphics shall not exceed 30% of the clear window surface, provided the minimum clear window requirement is met.
11. Awnings and Canopies
 - a. Awnings and canopies shall be made of fire resistant canvas and may not be backlit.
 - b. The furthest extension of a Ground Floor awning and/or canopy shall be no less than three (3) feet and no more than seven (7) feet. The furthest edge of the awning may be no closer than twenty-four (24) inches to the curb and may cover no more than two-thirds (?) of the sidewalk width.
 - c. Ground floor awnings and canopies shall terminate no less than eighteen (18) inches below the second floor windowsills.
 - d. Ground floor awning and canopy height shall not exceed fifteen (15) feet above pavement and shall be below the cornice or frieze.
 - e. All Ground Floor awnings and/or canopies shall be retractable. The minimum height from the bottom of the frame and valance to the sidewalk is seven (7) feet.
 - f. Fixed awnings may be used above the first Story provided they project no more than four (4) feet maximum.
 - g. Side flaps on awnings are encouraged.
 - h. Business logos or emblems are permitted on the top or angled portion of the awning up to a maximum of three (3) square feet. No more than one (1) emblem or logo is permitted on an awning.
 - i. Any awning that projects into a street right of way must be retractable, or the applicant must enter into an agreement with the Township (or the government entity having jurisdiction) to remove the awning if the entity having jurisdiction requires access to the right of way for maintenance, repairs and any other purpose.

E. Street/Shade Trees

1. Street trees shall be planted by the developer along all public rights-of-way in compliance with Chapter 101 and 128 of the Lower Merion Code. In locations where healthy and mature trees exist that comply with the street tree requirements, additional plantings are not required.
2. Street trees shall be at least two and one-half (2½) to three (3) inches in diameter, measured at chest height, when planted and shall be spaced at intervals no greater than forty (40) feet along the public/pedestrian right of way.
3. Mature street trees shall be limbed up from the sidewalk to six (6) feet to enhance pedestrian safety.
4. The property owner shall have the responsibility to replace any street trees on or in front of their property that die.
5. Trees located under utility lines shall not be of a species that is expected to grow into the utility lines.
6. Tree species are to be selected according to the following criteria:
 - a. Cast moderate to dense shade in the summer;
 - b. Survive more than sixty (60) years;
 - c. Mature height of at least fifty (50) feet, unless beneath utility lines.
 - d. Street trees shall be deciduous, branching above six (6) feet to facilitate viewing storefront and signage;
 - e. Tolerant of pollution and direct or reflected heat
 - f. Require little maintenance by being mechanically strong (not brittle) and insect and disease resistant;

- g. Be able to survive two (2) years with no irrigation after establishment; and
 - h. Be of native origin, provided they meet the above criteria
7. Street trees shall be planted in Township approved tree grates, or in planter areas at least four (4) feet long by four (4) feet wide.

Section 3. 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 4. 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 5. This Ordinance shall take effect and be in force from and after its approval as required by law.