

TOWNSHIP OF LOWER FREDERICK
MONTGOMERY COUNTY, PENNSYLVANIA

ORDINANCE NO.: 2021-03

AN ORDINANCE OF THE TOWNSHIP OF LOWER FREDERICK, MONTGOMERY COUNTY, PENNSYLVANIA; PROVIDING FOR THE AMENDMENT OF THE LOWER FREDERICK TOWNSHIP CODE BY CREATING A NEW CHAPTER 120 RELATING TO RESIDENTIAL DISCLOSURES REQUIRING DEVELOPERS OR BUILDERS OF NEW RESIDENTIAL PROPERTY TO DISPLAY THE FINAL APPROVED SUBDIVISION PLAN, TO SPECIFICALLY SHOW THIS PLAN TO ALL PROSPECTIVE PURCHASERS, TO SECURE A STATEMENT FROM PROPOSED PURCHASERS THAT THEY HAVE SEEN AND REVIEWED THE FINAL APPROVED SUBDIVISION PLAN, AND REQUIRING THE DEVELOPER TO PRESENT TO PROSPECTIVE PURCHASERS A PLAN FOR THE LOT BEING PURCHASED AND A DISCLOSURE STATEMENT, AND INCLUDING PENALTIES AND REMEDIES FOR VIOLATIONS.

IT IS HEREBY ORDAINED AND ENACTED, by the Board of Supervisors of Lower Frederick Township, Montgomery County, Pennsylvania, as follows:

ARTICLE I. Residential Disclosure Ordinance

The Lower Frederick Township Code is hereby amended by creating a new Chapter 120 entitled "Residential Disclosures" and which shall read as follows:

Chapter 120 Residential Disclosures

§120-1 Applicability.

The requirements of this Chapter shall apply to all developers, builders, owners, and/or owner's agents, (hereinafter referred to as the "**seller**") who are selling property or lot(s) (improved or unimproved) for residential building purposes or newly constructed residence(s) or dwelling(s) (hereinafter jointly referred to as a "**new residence**") to a prospective buyer (hereinafter referred to as the "**buyer**"). This Chapter does not apply to existing buildings previously occupied as a residence or dwelling.

§120-2 Intent.

These requirements are intended to inform buyers about limitations, easements, and restrictions on the new residence the buyers are purchasing, and the general nature of the subdivision and/or land development in which the new residence is located. This Ordinance is enacted under

General Police Power of Lower Frederick Township to protect health, safety and welfare of the Township and its citizens.

§120-3 Disclosure Requirements.

- A. Not less than seventy-two (72) hours before signing a sales agreement for any new residence, the buyer shall sign a Residential Disclosure Statement (hereinafter referred to as the "**Statement**") that verifies that the seller has provided and explained to the buyer all the information that is required by this Chapter.
- B. The seller of any new residence shall prominently display the approved subdivision, land development, lot grading, and/or permit plans for all phases of the project in the office or other place where property sales are transacted, so that the plans are plainly visible to all buyers. The approved subdivision and/or land development plan shall include the record plan and all other accompanying plans approved with the record plan.
- C. In conjunction with the execution of the Statement by a buyer, seller shall create a narrative text document that summarizes all of the information required to be provided to a buyer in Subsection D. below.
- D. In addition, a copy of the record plans (if any), lot grading and permit plans, narrative text, and any other applicable documents shall be given to the buyer in conjunction with the Statement and prior to buyer's execution of the Statement. Such provided plans, narrative text, and other documents shall clearly show, describe, and include the following:
 - (1) Common areas and facilities, including, but not limited to, as park lands, streets, open space, trails, playgrounds, playfields, and recreational areas and courts that are part of the project or adjacent to the new residence being marketed to the buyers;
 - (2) Public amenities or special improvements (trash enclosures, community mailboxes, community parking facilities, etc.) constructed/installed as a part of the project and/or adjacent to the new residence;
 - (3) All lot lines within the project and of the new residence;
 - (4) All covenants, limitations, easements, deed restrictions, and other restrictions/prohibitions upon the project and the new residence which limit, impact, or affect the development and use of the lots within the project and the new residence; the size, location, and purpose of all easements throughout the project and upon the new residence shall be specifically shown and described to highlight which lots are affected by these easements and the limitations being imposed by these easements;
 - (5) If applicable, all documents concerning membership in a homeowner's or condominium association or similar entity, including, but not limited to, copies of the declaration, by-laws, and regulations, along with a written summary of the buyer's responsibilities concerning this association;

- (6) The zoning district the new residence is located in and neighboring zoning districts;
- (7) All uses permitted within the project and the new residence by Lower Frederick Township's current zoning ordinance, including accessory uses, and all limitations, easements, deed restrictions, and other restrictions which affect the development and use of the lots within the project; copies of the applicable sections of the zoning ordinance shall be attached;
- (8) All current dimensional requirements for the primary and accessory uses permitted on each lot within the project and/or the new residence, such as setbacks, building coverage, impervious coverage, and size/height limits; copies of the applicable sections of the zoning ordinance shall be attached;
- (9) Information concerning ground water and the water table within the project and the new residence; the existence of a high water table upon the new residence; the proposed placement of sump pumps or other treatments/improvements/equipment to address known or anticipated ground water issues with the new residence;
- (10) The location and dimensions of all areas within the project and on the new residence which are classified as wetlands, under the currently-used definition, with a reference to Federal, State, and Local requirements which govern wetlands and the limitation imposed on the new residence and project by any wetlands; location of wetlands shall be highlighted by crosshatching all affected areas on the plan; copies of the applicable sections of the zoning ordinance shall be attached;
- (11) The location and dimensions of floodplain areas within the project and on the new residence, as defined by the Township Code; the requirements which govern floodplains; and the limitation such areas impose on the new residential property; copies of the applicable sections of the zoning ordinance shall be attached;
- (12) The location and dimensions of stormwater management facilities, including detention/retention basins, BMPs, swales, pipes, and any other paths of stormwater runoff or transmission; the responsibilities of the buyer of the new residence concerning such facilities, if any, shall be described in writing and attached;
- (13) The location and dimensions of any slopes on the new residence that meet or exceed a 3:1 maximum grade;
- (14) The location of all underground pipes and conduit (i.e., sanitary, water, stormwater, gas, electric, phone) within the project and the new residence.;
- (15) The type and location of sanitary sewage and potable water facilities, such as sewer and water lines, clean outs, shut-off valves, septic systems, drain fields, pumps, and wells; the responsibilities of the buyer of the new residence concerning such facilities, if any, shall be described in writing and attached;

- (16) The location of any natural gas transmission lines within the project, the new residence, and/or two hundred twenty (220) yards of the perimeter of the project and/or the new residence, together with the gas line's owner's name, address, and the telephone number; and any limitations on the use of land within the project or the new residence as a result of the existence of these transmission lines;
 - (17) Any fire safety improvements within the project or adjacent to the new residence which would affect emergency vehicle accessibility and response to the new residence, including, but not limited to, fire lanes, emergency accessways, fire hydrants, and restricted parking areas;
 - (18) A note stating that the amount of topsoil covering the new residence must exceed six (6) inches in depth; and
 - (19) Any and all information, documents, and/or plans required by, referred to, and/or referenced within the Statement.
- E. The seller of any new residence shall notify and inform, both verbally and in writing, all buyers of the new residence of any and all known biological, chemical, radioactive, and/or environmental contamination currently or previously located in, on, above, or under the new residence and/or the project. Contamination is the presence of any substance, material, element, compound, biological entity, or other waste/pollutant in a quantity, ratio, density, or amount that exceeds the safe levels for human exposure established by the Federal Government or the Commonwealth of Pennsylvania. Such notification of contamination shall include, at a minimum, a description of the contaminate(s); a plan showing where the contamination is or was located upon the project and the new residence; the levels of contamination; a description of the corrective or remedial actions taken to correct, remove, or resolve the contamination or a statement that no corrective or remedial actions have been undertaken; the health risks posed by the contamination; and governmental investigations, reports, and other documentation concerning the contamination and any corrective/remedial actions taken in response to this contamination.

§120-4 Residential Disclosure Statement.

- A. The initial retail buyers of a new residence shall complete the Residential Disclosure Statement attached hereto and incorporated herein as "**Exhibit A**," prior to the signing of any agreement of sale. The seller shall provide a Statement, executed by the buyer, to the Township in conjunction with any application for a zoning, building, or occupancy permit concerning the new residence, and no such application will be considered complete until such a Statement is provided. The seller shall maintain an originally signed copy of such Statement for a period of not less than ten (10) years and provide the buyer with another originally signed copy prior to closing on the new residence.
- B. It is the intent of this Chapter that information regarding the nature of any property to be sold as a new residence be conveyed to all buyers of such property. Any attempt to bypass the intent of this Chapter by transfer of title of a new residence

to a middleman or straw party who does not intend to permanently occupy the new residence will be considered a violation of this Chapter and shall not exempt the seller from complying with its terms when the new residence is sold on a retail basis to a party intending to occupy it as a residence.

§120-5 Enforcement.

Any person who violates or permits the violation of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a fine not exceeding One Thousand Dollars (\$1,000.00) for each offense, plus all court costs, including reasonable attorney's fees, incurred by the Township in enforcing this Chapter. Each provision of this Chapter being violated, each day that a violation of this Chapter continues, and each victim of a violation shall constitute a separate offense.

ARTICLE II. Repealer

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

ARTICLE III. Severability

If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

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LOWER FREDERICK TOWNSHIP - RESIDENTIAL DISCLOSURE ORDINANCE

Ordinance No. 2021-03

ARTICLE IV. Effective Date

This Ordinance shall become effective five (5) days after final enactment.

ENACTED and *ORDAINED* this 6th day of July, 2021.

**LOWER FREDERICK TOWNSHIP
BOARD OF SUPERVISORS**

Chuck Yeiser, Chair

Marla J. Hexter

Marla Hexter, Vice Chair

X

~~Terry Bird, Supervisor~~

Daniel Orfe

Dan Orfe, Supervisor

Noelle Halter

Noelle Halter, Supervisor

EXHIBIT A
RESIDENTIAL DISCLOSURE STATEMENT

THIS DOCUMENT IS FOR YOUR PROTECTION.
READ IT CAREFULLY BEFORE SIGNING.

Lower Frederick Township provides that the sellers of property for residential building purposes or sellers of newly constructed residences are solely responsible for providing all prospective buyers with certain specific information regarding the property to be sold prior to the signing of any agreement of sale. This information is intended to benefit the purchaser by clearly delineating the nature of the subject property, inclusive of any restrictions or conditions that may affect its desirability, suitability, and/or current or future value.

The checklist below is required by Lower Frederick Township to make certain that the seller has shown you the information required by the Township Code. It is your obligation to evaluate that information and to consider its implications relative to your situation. The importance of understanding the material presented to you cannot be overemphasized.

If you have any questions, you would be well advised to seek the assistance of an unbiased professional before signing any sales agreement.

Please initial next to each of the following paragraphs to verify that the information listed in that paragraph was presented and explained fully to you with regard to property you are considering purchasing ("*new residence*") and the project/development it is located within:

- _____ (1) Common areas and facilities, including, but not limited to, as park lands, streets, open space, trails, playgrounds, playfields, and recreational areas and courts that are part of the project or adjacent to the new residence.
- _____ (2) Public amenities or special improvements (trash enclosures, community mailboxes, community parking facilities, etc.) constructed/installed as a part of the project and/or adjacent to the new residence.
- _____ (3) All lot lines within the project and of the new residence.
- _____ (4) All covenants, limitations, easements, deed restrictions, and other restrictions/prohibitions upon the project and the new residence which limit, impact, or affect the development and use of the lots within the project and the new residence. The size, location, and purpose of all easements throughout the project and upon the new residence were specifically shown and described. We/I understand which lots are affected by these easements and the limitations being imposed by these easements.

- (5) If applicable, all documents concerning membership in a homeowner's or condominium association or similar entity, including, but not limited to, copies of the declaration, by-laws, and regulations, along with a written summary of the buyer's responsibilities concerning this association, were provided and explained.
- (6) The zoning district the new residence is located in and neighboring zoning districts.
- (7) All uses permitted within the project and the new residence by Lower Frederick Township's current zoning ordinance, including accessory uses, and all limitations, easements, deed restrictions, and other restrictions which affect the development and use of the lots within the project. Copies of the applicable sections of the zoning ordinance were provided.
- (8) All current dimensional requirements for the primary and accessory uses permitted on each lot within the project and/or the new residence, such as setbacks, building coverage, impervious coverage, and size/height limits. Copies of the applicable sections of the zoning ordinance were provided.
- (9) Information concerning ground water and the water table within the project and the new residence; the existence of a high water table upon the new residence; the proposed placement of sump pumps or other treatments/improvements/equipment to address known or anticipated ground water issues with the new residence.
- (10) The location and dimensions of all areas within the project and on the new residence which are classified as wetlands, with a reference to federal, state, and local requirements which govern wetlands and the limitation imposed on the new residence and project by any wetlands. Copies of the applicable sections of the zoning ordinance were provided.
- (11) The location and dimensions of floodplain areas within the project and on the new residence, as defined by the Township Code. The requirements which govern floodplains and the limitation such areas impose on the new residential property were explained. Copies of the applicable sections of the zoning ordinance were provided.
- (12) The location and dimensions of stormwater management facilities, including detention/retention basins, BMPs, swales, pipes, and any other paths of stormwater runoff or transmission. My/our responsibilities concerning such facilities, as the buyer of the subject property, if any, were described and provided.
- (13) The location of all underground pipes and conduit (i.e., sanitary, water, stormwater, gas, electric, phone) within the project and the new residence.

- _____ (14) The type and location of sanitary sewage and potable water facilities, such as sewer and water lines, clean outs, shut-off valves, septic systems, drain fields, pumps, and wells. My/our responsibilities concerning such facilities, as the buyer of the subject property, if any, were described and provided.
- _____ (15) The location of any natural gas transmission lines within the project, the new residence, and/or two hundred twenty (220) yards of the perimeter of the project and/or the new residence. Any limitations on the use of land within the project or the new residence as a result of the existence of these transmission lines was described, and the gas line's owner's name, address, and the telephone number was provided.
- _____ (16) Any fire safety improvements within the project or adjacent to the new residence which would affect emergency vehicle accessibility and response to the new residence, including, but not limited to, fire lanes, emergency accessways, fire hydrants, and restricted parking areas; and.
- _____ (17) I/We have been made aware of any slopes on the new residence that meet or exceed a 3:1 maximum grade.
- _____ (18) I/We are aware that Lower Frederick Township requires the property we are considering buying to be covered with a minimum of six (6) inches of topsoil in depth.
- _____ (19) I/We understand that substantial use restrictions apply to resource protected areas and to Township open space, whether Township-owned or deed restricted in favor of Lower Frederick Township, and these restrictions can be enforced by the appropriate local, state, and federal agencies. These restrictions were described to me/us. I/We understand that substantial penalties exist for the violation of these restrictions.
- _____ (20) I/We are aware that the existing zoning regulations are subject to change.
- _____ (21) I/We are aware of the type of water or sewage facilities that serve the development and the new residence and my/our responsibilities with respect to such water and sewage facilities. I/we are aware that auxiliary water pressure pumps and/or sewage grinder pumps may be necessary to provide adequate water and sewer to the subject property.
- _____ (22) If the project and/or the new residence is developed under or in conjunction with a zoning hearing board decision, board of supervisors decision, court ruling/opinion, and/or stipulation or other type of settlement agreement, such decision, ruling, opinion, stipulation, agreement, etc. was fully explained and a complete copy was provided.

If the development or the new residence is less than 220 yards from the right-of-way of a gas transmission line, the following section must be completed:

_____ I/We have received the name, address and telephone number of the owner of the gas transmission line.

If the development or the new residence is known to have been contaminated, as applicably defined by the Township Code, the following section must be completed:

_____ I/We have been notified and informed, both verbally and in writing, of any and all known biological, chemical, radioactive, and/or environmental contamination currently or previously located in, on, above, or under the project and/or the new residence. Such notification of contamination included a description of the contaminate(s); a plan showing where the contamination is or was located upon the project and/or the new residence; a description of any corrective or remedial actions taken to correct, remove, or resolve the contamination or a statement that no corrective or remedial actions have been undertaken; the health risks posed by the contamination; and any governmental investigations, reports, and other documentation concerning the contamination and any corrective/remedial actions taken in response to this contamination.

By signing below, I/we acknowledge receipt from the seller of full sized (1" = 30' scale) copies of the record plans (if any) for the project which the new residence is a part of and/or the lot grading and permit plans for the new residence. I/We understand and agree to the constraints imposed therein with regards to the new residence. I/We also understand that signing this Disclosure Statement does not release me/us from meeting any requirements of the Township Code.

We hereby acknowledge that we reviewed and signed this Disclosure Statement at least 72 hours prior to signing an agreement of sale for the new residence.

PURCHASER(S)

SELLER

(name)

(name & title)

(signature)

(signature)

(name)

(name & title)

(signature)

(signature)

If you have any questions concerning this form, please call the Township administration offices at 610-287-8857.