

**TOWNSHIP OF LOWER FREDERICK  
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO.: 2021-04

**AN ORDINANCE OF THE TOWNSHIP OF LOWER FREDERICK,  
MONTGOMERY COUNTY, PENNSYLVANIA; AMENDING CHAPTERS  
145, SUBDIVISION AND LAND DEVELOPMENT, AND 170, ZONING, OF  
THE TOWNSHIP CODE TO ALLOW FOR THE ACCEPTANCE OF FEES-  
IN-LIEU OF RECREATIONAL FACILITIES REQUIREMENTS AND TO  
REVISE OPEN SPACE, OPEN LAND, RECREATIONAL AREA,  
COMMON FACILITIES REQUIREMENTS.**

**NOW THEREFORE**, be it, and it is hereby **ORDAINED** by the Board of Supervisors of the Township of Lower Frederick, Montgomery County, Commonwealth of Pennsylvania, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

**ARTICLE I.            Ownership of Common Facilities**

Subsection 145-51.C of Chapter 145, Subdivision and Land Development, of the Lower Frederick Township Code is deleted in its entirety.

**ARTICLE II.           Fees-in-Lieu Of**

Chapter 145, Subdivision and Land Development, of the Lower Frederick Township Code is hereby amended by adding a new Section 145-51.1, Fees-in-Lieu Of, which shall read as follows:

**§145-51.1. Fees-in-Lieu Of.**

- A. When the Board of Supervisors determines that due to the size, shape, location, access, topography, or other features of the land or any other need of the Township, it is impractical or does not meet a valid public purpose to install/construct recreational facilities within open land, open space, or recreation lands, as required by Chapter 170, Zoning, or this Chapter 145, the Supervisors may require a payment of a fee-in-lieu of all or some of such facilities. The developer shall pay such fee to the Township prior to the recording of the approved subdivision/land development plan. The amount and/or calculation of this fee shall be set forth in the Township's schedule of fees, as may be modified from time to time by the Board of Supervisors. All fees paid to the Township, pursuant to this

Section, shall be used only for the purpose of providing, acquiring, operating, or maintaining park and/or recreational land and/or facilities within the Township.

- B. When agreed to by the developer and the Board of Supervisors, some or all of the fees paid under the provisions of this Section may be used throughout the Township for providing, acquiring, operating, or maintaining park and/or recreational land and/or facilities.
- C. When agreed to by the developer and the Board of Supervisors, the developer may provide lands or other improvements instead of the fees required under the provisions of this Section.

**ARTICLE III.        Definitions**

Section 145-8, Definitions, of Chapter 145, Subdivision and Land Development, of the Lower Frederick Township Code is hereby amended by adding new definitions of “Common Facilities” and “Recreational Facilities” which shall read as follows:

**COMMON FACILITIES**

All portions of a community, development, and/or subdivision which are to be publicly owned; owned, leased, and/or managed by a community association, homeowners association, condominium association, or other similar entity; or intended and held for use by members of the community, development, subdivision, or the public as a whole; including, but not limited to, recreational areas and facilities, playgrounds and play fields, trails, benches and picnic tables, gardens and planting beds, stormwater management facilities, entrance signage/features, and mailbox clusters.

**RECREATIONAL FACILITIES**

Improvements and/or equipment located within a community, development, and/or subdivision which are to be publicly owned; owned, leased, and/or managed by a community association, homeowners association, condominium association, or other similar entity; or intended and held for recreational use by members of the community, development, subdivision, or the public as a whole; including, but not limited to: playgrounds and tot lots; recreational/play fields; sports fields (soccer, baseball, lacrosse, football, etc.); recreational and fitness trails; courts (basketball, volleyball, tennis, shuffleboard, bocce, etc.); skate parks; swimming pools; and other similar facilities.

**ARTICLE IV.        Definitions**

Section 170-8, Definitions, of Chapter 170, Zoning, of the Lower Frederick Township Code is hereby amended by adding new definitions of “Common Facilities” and “Recreational Facilities” which shall read as follows:

**COMMON FACILITIES**

All portions of a community, development, and/or subdivision which are to be publicly owned; owned, leased, and/or managed by a community association, homeowners association, condominium association, or other similar entity; or intended and held for use by members of the community, development, subdivision, or the public as a whole; including, but not limited to, recreational areas and facilities, playgrounds and play fields, trails, benches and picnic tables, gardens and planting beds, stormwater management facilities, entrance signage/features, and mailbox clusters.

**RECREATIONAL FACILITIES**

Improvements and/or equipment located within a community, development, and/or subdivision which are to be publicly owned; owned, leased, and/or managed by a community association, homeowners association, condominium association, or other similar entity; or intended and held for recreational use by members of the community, development, subdivision, or the public as a whole; including, but not limited to: playgrounds and tot lots; recreational/play fields; sports fields (soccer, baseball, lacrosse, football, etc.); recreational and fitness trails; courts (basketball, volleyball, tennis, shuffleboard, bocce, etc.); skate parks; swimming pools; and other similar facilities.

**ARTICLE V.           Open Space**

Subsection E of Section 170-16, Open space regulations, of Chapter 170, Zoning, of the Lower Frederick Township Code is hereby amended to read as follows:

- E. Requirements of this Chapter that recreational facilities be set aside or otherwise provided may be modified and/or waived by the Board of Supervisors in accordance with the provisions of Chapter 145, Subdivision and Land Development, concerning fees-in-lieu of.

**ARTICLE VI.           Open Space**

Subsection A of Section 170-17, Open space regulations, of Chapter 170, Zoning, of the Lower Frederick Township Code is hereby amended to read as follows:

- A. Access to and use of these common elements may be restricted to the property owners or tenants within the development and their guests, unless the Board of

Supervisors determines that public access to some or all of these elements is necessary for the public's health, safety, and welfare.

**ARTICLE VII. Environmental Adjustment Factors**

Subsection F(1) of Section 170-41, Environmental adjustment factors, of Chapter 170, Zoning, of the Lower Frederick Township Code is hereby amended to read as follows:

- (1) The presence, location, sizes, and boundaries of any natural feature(s) shall be determined by the applicant through on-site survey, reference to the natural features maps contained in the Township's currently adopted Open Space Preservation Plan and/or other similar Township planning document, and/or other resources acceptable to the Township Engineer.

**ARTICLE VIII. Neighborhood Lotting**

Subsection F(1)(f) of Section 170-46, Development regulations for neighborhood lotting, of Chapter 170, Zoning, of the Lower Frederick Township Code is hereby amended to read as follows:

- (f) On-lot water supply and sewage disposal systems for individual estate lots when located entirely within the lot being served; and underground piping and facilities for the public water supply, the public sanitary sewer, and the stormwater sewer systems, necessary to service the neighborhood lotting development on the tract.

**ARTICLE IX. Neighborhood Lotting**

Section 170-46, Development regulations for neighborhood lotting, of Chapter 170, Zoning, of the Lower Frederick Township Code is hereby amended by adding a new Subsection F(7) which shall read as follows:

- (7) Requirements of this Section, that recreation facilities be set aside or otherwise provided in conjunction with the creation of a neighborhood lotting development, may be modified and/or waived by the Board of Supervisors in accordance with the provisions of Chapter 145, Subdivision and Land Development, concerning fees-in-lieu of.

**ARTICLE X.        Neighborhood Lotting**

Subsection G(1) of Section 170-46, Development regulations for neighborhood lotting, of Chapter 170, Zoning, of the Lower Frederick Township Code is hereby amended to read as follows:

- (1) Ownership and maintenance of common facilities and open land shall be provided for in accordance with the regulations in §170-17 of this chapter. In addition, all open land shall be permanently restricted from future subdivision and development that is inconsistent with the standards of Subsection F, Open Land Standards, of this section. All open land shall be further restricted by the placement of restrictive covenants and easements upon such land, enforcing the open land requirements of this Chapter, to be held by at least two parties consisting of Lower Frederick Township, the development's homeowners' association, and/or one or more conservation and open space oriented organizations in the business of and having experience with holding these types of covenants and easements, such as land trusts and conservancies, and appropriately accredited by a national organization such as the Land Trust Alliance. The choice of such holders of these covenants and easements shall be subject to the prior approval of the Board of Supervisors.

**ARTICLE XI.        Repealer**

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

**ARTICLE XII.        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.

**ARTICLE XIII.        Effective Date**

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

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**LOWER FREDERICK TOWNSHIP**  
**FEE-IN-LIEU OF AMENDMENT**  
Ordinance No. 2021-04

*ENACTED* and *ORDAINED* this 3<sup>rd</sup> day of November, 2021.

**LOWER FREDERICK TOWNSHIP**  
**BOARD OF SUPERVISORS**

  
\_\_\_\_\_  
Charles W. Yeiser, Chair

  
\_\_\_\_\_  
Marla Hexter, Vice Chair

  
\_\_\_\_\_  
Terry Bird

  
\_\_\_\_\_  
Noelle Halter

  
\_\_\_\_\_  
Dan Orfe

ATTEST:

  
\_\_\_\_\_  
Mark Hudson, Manager