

ORDINANCE NO. 430

**PARKESBURG BOROUGH
CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE OF PARKESBURG BOROUGH, CHESTER COUNTY, PENNSYLVANIA REQUIRING DEVELOPERS OF RESIDENTIAL REAL PROPERTY AND/OR REAL ESTATE TO DISPLAY THE FINAL APPROVED SUBDIVISION PLAN, TO REVIEW THIS FINAL SUBDIVISION PLAN WITH PROSPECTIVE PURCHASERS OF RESIDENTIAL REAL ESTATE, TO SECURE A STATEMENT FROM THOSE PROSPECTIVE PURCHASERS THAT THEY HAVE SEEN AND REVIEWED THE FINAL APPROVED SUBDIVISION PLAN, REQUIRING THE DEVELOPERS TO PRESENT TO PROSPECTIVE PURCHASERS OF RESIDENTIAL REAL ESTATE A PLAN FOR THE LOT BEING PURCHASED, PROVIDING FOR THE SUBMISSION TO PROSPECTIVE PURCHASERS OF RESIDENTIAL REAL ESTATE OF A "DISCLOSURE STATEMENT", PRESCRIBING PENALTIES FOR VIOLATION, ETC.

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF PARKESBURG, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF THE SAME AS FOLLOWS:

ARTICLE I

§1.01 TITLE

- A.** This Ordinance shall be known and may be cited as the "Parkesburg Borough Residential Real Estate Disclosure Ordinance".

§1.02 PURPOSES

The purposes of this Ordinance include but are not limited to:

- A. Providing to persons (as defined herein) who may be prospective purchasers of certain improved or unimproved residential property accurate information about any limitations, easements, restrictions, etc. on the property which they may acquire.
- B. Describing the general nature of the Residential Subdivision and/or Residential Land Development in which residential property offered for sale is located.
- C. Providing a procedure to persons who are or may be prospective purchasers of residential property located within a Residential Subdivision and/or Residential Land Development through which that prospective purchaser can acknowledge that they understand the nature and extent of limitations, easements, restrictions, etc. are located on their property and the ramifications of their acquiring the property subject to the foregoing.

§1.03 DEFINITIONS

- A. Unless otherwise expressly stated, the following words used in this Ordinance shall have the following meanings. The present tense includes the future tense, the singular number includes the plural number, the plural number the singular, and the masculine gender includes the feminine and neuter genders.
 - 1. **Agreement of Sale:** An instrument through which legal title to residential real property will be transferred from one person to another.
 - 2. **Approved Final Plan:** A Subdivision and/or Land Development Plan prepared, reviewed, submitted and duly approved by the Parkesburg Borough Council in accordance with the requirements of the Pennsylvania Municipalities Planning Code and recorded in the Office of the Recorder of Deeds of Chester County, Pennsylvania, showing the Plan Number thereon as given by the Office of the Recorder of Deeds of Chester County.

3. **Borough:** The Borough of Parkesburg, Chester County, Pennsylvania.
4. **Borough Council:** The duly elected Council of the Borough of Parkesburg, Chester County, Pennsylvania.
5. **Developer:** The Landowner (or any agent of the Landowner) who subdivides land for a Residential Subdivision or Residential Land Development.
6. **Landowner:** The legal or beneficial owner of land including the holder of an option or contract to purchase.
7. **Lot:** A designated parcel, tract or area of land created by an approved Subdivision or Land Development Plan (or as otherwise permitted by law) on which is to be erected a structure of any nature to be used for residential purposes.
8. **Pennsylvania Municipalities Planning Code:** Act 247 of 1968, as amended to the effective date of this Ordinance, and as may be amended from time to time thereafter.
9. **Person:** An individual, partnership, company, corporation, association, corporate political body, joint ownership or any other entity capable of functioning in the context used in this Ordinance; the term "Person" shall include a "Landowner" and "Prospective Purchaser" as used in this Ordinance.
10. **Residential Building:** Any structure having a roof, self-supported or supported by walls, columns or air pressure, which is fixed to the ground, whether permanently or otherwise, used or occupied or intended to be used or occupied for residential purposes.

11. **Residential Development:** Any Residential Subdivisions or Residential Land Developments, as defined in this Ordinance.
12. **Residential Land Development:** The improvement of one lot or two or more contiguous lots, tracts or parcels of land for the purpose of constructing a group of two or more structures to be used as residences, whether proposed initially or cumulatively, or the division or allocation of land and/or space, whether initially or cumulatively, between or among two or more existing or prospective occupants for the purpose of constructing residential buildings, residential leaseholds, residential condominiums, residential building groups, streets, common areas or other features.
13. **Residential Subdivision:** The division or re-division of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land (including changes in existing lot lines) for the purpose - whether immediate or future - of lease, partitioned by the court for distribution to heirs or devisees, transfer of ownership or residential building or residential lot development. The term "Residential Subdivision" shall include a "Residential Land Development", as defined herein.
14. **Structure:** Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land; all "buildings" or other improvements to real property are hereby declared to be structures for purposes of this Ordinance.

ARTICLE II

§2.01 DISCLOSURE REQUIREMENTS

- A. After the effective date of this Ordinance, any Developer selling or intending to sell a lot in

any new Residential Development, Residential Subdivision or Residential Land Development, whether such lot is improved or unimproved shall prominently display in the office or other place where property sales are or may be transacted the Approved Final Plan for the Residential Development, Residential Subdivision or Residential Land Development.

- B.** The Approved Final Plan shall be plainly visible to any prospective purchaser of a residential lot, and shall include the Record Plan and all other accompanying sheets approved with the Record Plan.

§2.02 DISCLOSURE INFORMATION REQUIRED

A. The information listed below shall be summarized by the Developer of a lot in a Residential Subdivision or Residential Land Development. This information shall be accurately summarized in a written narrative, and a copy of the narrative shall be given by the Developer to the prospective purchaser. The conclusory paragraph of the written narrative shall contain a statement - in capitalized bold-faced 12 point typewritten print - that if requested by the prospective purchaser, the Developer shall also provide to the prospective purchaser a copy of all sheets or plats comprising the Approved Final Subdivision or Land Development Plan.

- 1.** A description of all common areas, including but not limited to park lands, streets, open space, etc., which are part of the subdivision or which are adjacent to the lot to be sold.
- 2.** All lot lines within the subdivision.
- 3.** The uses (including accessory uses) permitted within the subdivision by the Borough's then current Zoning Ordinance, and all limitations, easements, deed restrictions, or other restrictions which affect development of the lots and/or their use.

4. Whether a Homeowners Association (or any functional equivalent) exists and membership therein is required, in which event a copy of the Homeowners Agreement shall be provided.
5. All applicable dimensional requirements for the uses and structures permitted on each lot, including by way of example but not by way of limitation, building setback requirements, building coverage limitations, impervious surface limitations, height limitations, etc.
6. All applicable dimensional requirements for accessory uses and structures permitted on each lot, including by way of example and not by way of limitation size, setback requirements, height limitations, fencing requirements, etc.
7. The location of all easements in the Residential Development and a description of the nature of the easements, including by way of example and not by way of limitation easements for sanitary sewers, storm sewers, water lines, gas lines, underground pipes, detention basins, retention basins, swales, etc. This description shall also include a narrative of specific lots affected by the foregoing easements, and the limitations which these easements impose upon any lot.
8. The location of all areas within the Residential Development and on each lot therein which are classified as "Wetlands" under the then-current definition of "Wetlands" with reference to Federal, Commonwealth of Pennsylvania and local requirements governing wetlands and the limitation which any such definition imposes on the lot or the development; the location of Wetlands shall be highlighted by the cross-hatching of all affected areas on the Approved Final Plan.
9. The location within the Residential Development and on each lot of Floodplain Areas as defined by the Borough Zoning Ordinance, and the limitations which govern

floodplains on any lot.

10. The location of stormwater drainage facilities, including by way of example but not by way of limitation, detention and retention basins, stormwater runoff paths, and the prospective purchaser's responsibility therefor.

ARTICLE III

§3.01 RESIDENTIAL DISCLOSURE STATEMENTS

- A. Before signing any Agreement of Sale, any individual person who is or may be the initial retail purchaser of an improved or unimproved lot in a Residential Development, Residential Subdivision or Residential Land Development shall complete the "Residential Disclosure Statement" attached to this Ordinance as Exhibit "A". For purposes of this sub-section, the term "person" shall mean a natural person or persons who may acquire legal title to the lot through any form of tenancy, including but not limited to fee simple, tenancy by the entireties, tenancy in common, joint tenancy with right of survivorship, etc.
- B. The Developer shall give to the person who signs an Agreement of sale one (1) duplicate original of the Residential Disclosure Statement.
- C. Within five (5) days after its execution by the prospective purchaser, the Developer shall provide to the Borough Secretary one (1) duplicate original signed Residential Disclosure Statement, and the Developer shall maintain an additional duplicate original signed Residential Disclosure Statement for a period of not less than five (5) years after its execution.

ARTICLE IV

§4.01 PENALTIES

- A. Any person who fails to comply with the provisions of this Ordinance shall be subject to proceedings before a District Justice, and upon a determination of that person's failure to

comply with the provisions of this Ordinance, that person shall be subject to a civil penalty not exceeding Six Hundred Dollars (\$600.00), together with costs, including attorneys' fees.

§4.02 SEVERABILITY

- A. If any section or provision of this Ordinance is declared by any Court of competent jurisdiction to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect the constitutionality, legality, or validity of this Ordinance as a whole, nor the constitutionality, legality or validity of any other section or provision of this Ordinance other than the one so declared to be unconstitutional, illegal, or invalid.

§4.03 REPEAL OF CONFLICTING ORDINANCES

- A. All existing Ordinances of the Borough of Parkesburg or parts thereof which are inconsistent with the provisions of this Ordinance are hereby repealed.

§4.04 EFFECTIVE DATE

- A. This Ordinance shall become effective immediately upon enactment.

Ordained and enacted by the Council of the Borough of Parkesburg in a public meeting held on this 14TH day of December, 1998.

ATTEST:

PARKESBURG BOROUGH COUNCIL


BRIAN C. SHELLER, Borough Secretary

By: 
JAMES B. NORTON, III, President

APPROVED THIS 14TH DAY OF DECEMBER, 1998.


ALAN M. WOLFE, Mayor

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

Parkeburg Borough Ordinance No. 430 requires that Developers and Sellers of residential real estate located in a Residential Subdivision or Residential Land Development in Parkeburg give you, as a prospective purchaser, certain specific information about the lot or property which you may purchase before you sign any Agreement of Sale. The information set out below is intended to benefit you by clearly showing many things, including lot size, lot area upon which you can build, any restrictions or conditions which may affect your use of the property, and/or its current or future value.

The following checklist is required by the Borough to make sure that you have been shown the information about the property required by the Ordinance.

IT IS YOUR OBLIGATION TO EVALUATE THE INFORMATION SHOWN BELOW AND TO CONSIDER THE IMPLICATION OF THIS INFORMATION RELATIVE TO YOUR PARTICULAR SITUATION.

THE IMPORTANCE OF UNDERSTANDING THE MATERIAL SHOWN BELOW CANNOT BE OVER-STRESSED.

IF YOU HAVE ANY QUESTIONS, YOU ARE ADVISED TO SEEK THE ASSISTANCE OF AN UNBIASED PROFESSIONAL BEFORE SIGNING ANY AGREEMENT OF SALE.

EXHIBIT "A"

RESIDENTIAL DISCLOSURE STATEMENT

Please initial next to each of the following to verify that information about each of the following was presented and explained fully with regard to your property:

- _____ (1) Public or private common areas, such as park lands, streets, stub streets and open space;
- _____ (2) All lot lines within the development;
- _____ (3) The current zoning district in which property is located and all uses presently permitted within the development by the Zoning Ordinance (including accessory uses) and all deed restrictions and other restrictions which affect development of the lots;
- _____ (4) The existence of a Homeowner's Association or its equivalent, if applicable; a copy of the Homeowner's Association Agreement (or other similar agreement) has been provided;
- _____ (5) All current dimensional requirements for uses permitted on each lot, such as setback requirements, building coverage, impervious coverage, and height limits;
- _____ (6) All current dimensional requirements for any accessory uses (such as decks, pools, sheds, etc.) permitted on each lot, such as size, setback requirements, and height limits;
- _____ (7) The location of all easements through the development, describing the uses of the easements (i.e.; sanitary, water, gaslines) showing which lots are affected by these easements. A copy of the application section of the Township's ordinances was provided;
- _____ (8) The location of all areas within the development and on each lot which are classified as "Wetlands" under the currently used definition, with a reference to Federal, State and Local requirements which govern Wetlands. Location shall be highlighted by crosshatching all affected areas on the plan. A copy of the applicable section of the Township's ordinances was provided;
- _____ (9) The location in the development and on each lot of floodplain areas, as defined by the Township's Ordinances, and a reference to requirements which govern Flood Plains. A copy of the applicable section of the Township's Ordinances was provided;

- _____ (10) The location of stormwater drainage facilities, and the paths of stormwater runoff, and a reference to Township requirements which govern stormwater facilities and the homeowner's responsibility for these, if any. A copy of the applicable section of the Township Ordinances was provided;
- _____ (11) The date of the Zoning Ordinance and Subdivision & Land Development Ordinance the particular plan is being developed under shall be provided to prospective Purchaser. If plan is developed by Stipulation, such copy including all amendments shall also be included in its entirety.
- _____ (12) The property being considered is _____ square feet (_____ acres) in size.
- _____ (13) The property being considered has _____ square feet of resource protected areas which equal _____% of the total lot. The property includes:
- _____ square feet of wetlands which equals _____% of the total lot.
- _____ square feet of floodplains which equals _____% of the total lot.
- _____ square feet of steep slopes which equals _____% of the total lot.
- _____ (14) I/We understand that substantial use restrictions apply to resource protected areas and that these restrictions will be enforced by the appropriate Local, State, and Federal agencies. I/We understand that substantial penalties exist for the violations of those restrictions.
- _____ (15) I/We are aware that the existing zoning regulations within the Township are subject to change.
- _____ (16) 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 dwelling.
- _____ (17) The property which I/we and/are considering purchasing is:
- _____ yards from the right-of-way from a natural gas/gasoline/petroleum product carrying transmission line.
- _____ (18) I/We understand that there are certain stormwater facilities which are either located on the lot which we may purchase or which may affect the lot which

we may purchase, and I/we understand that the maintenance for these facilities is our responsibility if we purchase the lot.

I/We, the undersigned, acknowledge that I/we have received a full-sized copy of the cover sheet detailing the scope of the subdivision and/or land development plan of which the considered property is a part as well as a separate lot plan of my/our property from the seller and understand and agree to the constraints imposed therein with regard to my/our property. I/We also understand that signing this disclosure statement does not release me/us from meeting requirements of the Borough of Parkesburg.

DEVELOPER:

Prospective Purchaser
Date: _____

BY: _____
Date: _____

Prospective Purchaser
Date: _____

Prospective Purchaser
Date: _____

Prospective Purchaser
Date: _____