ORDINANCE NO. 5 of 2013

Section 1. Title. This Ordinance shall be known as the "Foster Township Quality of Life Ordinance".

Section 2. Purpose. The Foster Township Supervisors find that regulating the activities described in this Ordinance are necessary to: (a) prevent the deterioration of property values; (b) promote the general order and development within the Township; (c) promote the overall physical appearance of the Township; (d) prohibit the interference with residents' quality of life; (e) allow for the residents' quiet use and enjoyment of their properties; (f) promote the health, safety and general welfare of the Township: and (g) create a safe and clean environment.

Section 3. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless the context clearly indicates otherwise:

CODE ENORCEMENT OFFICER - any police officer, authorized inspector, or public official designated by the Township to enforce the ordinances of the Township.

DEBRIS - any material upon the premises that is a residue of structural demolition, or any other material that is not neatly stored, stacked, or piled in such a manner so as not to create a nuisance or become a harboring place or food supply for insects and rodents.

DUMPING - includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, etc.) small appliances, furniture, carpets, tires, vehicles, vehicle parts and automotive products, and other such municipal waste, hazardous waste, residual waste and construction or demolition debris on public or private property, except as authorized by law.

GARBAGE - the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HAZARDOUS WASTE - any waste material or a combination of solid, liquid, semisolid, or contained gaseous material that because of its quantity, concentration, physical, chemical, or infectious characteristics may:

(1) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness.

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

HOUSEHOLD HAZARDOUS WASTE (HHW) - waste which would be chemically or physically classified as a hazardous waste, but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection, and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: toxic, flammable, reactive, or corrosive. HHW consists of numerous

products that are common to the average household such as: pesticides and herbicides, cleaners, automotive products, paints, and acids.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, etc.

JUNKED VEHICLE - any vehicle which presents a hazard or danger to the public or is a public nuisance by virtue of its state or condition of disrepair.

The following conditions, if present, are examples of a state or condition of disrepair:

(1) Rusted and /or jagged metal on or protruding from the body of the vehicle.

(2) Broken glass or windows on or in the vehicle.

(3) Leaking of any fluids from the vehicle or deflated or flat tire(s).

(4) Unsecured and /or unlocked doors, hood, or trunk.

(5) Storage or placement of the vehicle in an unbalanced condition, on concrete blocks, or other similar apparatus.

(6) Harboring of rodents, insects, or other pests.

The foregoing examples are not inclusive of all conditions which may constitute a state or condition of disrepair. See also "motor vehicle nuisance."

LITTER - includes, but is not limited to, all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, domestic animal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, and dirt, mud and yard waste that has been abandoned or improperly discarded, deposited, or disposed.

MOTOR VEHICLE - any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

MOTOR VEHICLE NUISANCE - a motor vehicle with one or more of the following defects:

(1) Broken windshields, mirrors, or other glass, with sharp edges.

(2) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.

(3) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.

(4) Protruding sharp objects from the chassis.

(5) Missing doors, windows, hood, trunks, or other body parts that could permit animal harborage.

(6) One or more open tires or tubes which could permit animal harborage.

(7) Any vehicle suspended by blocks, jacks, or other such materials in a location which may pose a danger to the public, property owners, visitors, or residents of the property on which said vehicle is found.

(8) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.

(9) Disassembled body or chassis parts stored in on or about the vehicle.

(10) Vehicles that do not display a current valid license and registration.

(11) Such other defects which the Fire Department determines to be a danger to the general public or property. (12) Motor vehicles parked, drifted, or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.

NUISANCE - any condition, structure, or improvement which constitutes a danger or potential danger to the health, safety, or welfare of residents of the Township, or causes a blighting effect in the Township. See also "public nuisance."

PERSON - every natural person, firm, corporation, partnership, association, institution, business, group, organization, or legal entity.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC NUISANCE - any conditions or premises which are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RECREATIONAL VEHICLE- any motorized wheeled or belt-driven vehicle powered by an internal combustion engine intended for off-road recreational use capable of cross-country travel on land, snow, ice, or other natural terrain. The term includes dirt bikes, motorbikes, trail bikes, mini-bikes, go-carts, motor scooters, snow mobiles, all-terrain vehicles (ATVs) etc. The term excludes properly licensed motor vehicles operated upon public highways, streets and roads in

accordance with law; agricultural equipment used in the course of farming operations; commercial equipment used in a trade or business such as construction machines and utility vehicles; equipment used for yard work, landscaping, snow removal or otherwise being used in the reasonable maintenance of a person's private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized governmental purposes.

RECYCLABLE MATERIAL - material which would otherwise become municipal waste, which can be collected, separated, or processed, and returned to the economic main-stream in the form of raw materials or products. These materials may include, but not be limited to, aluminium cans, ferrous and bi -metal cans, glass containers, plastic bottles and containers, mixed paper, white goods, major appliances, televisions, tires, and large auto parts.

RUBBISH - combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

SIDEWALK - the public right-of-way between the property line and the curb line or the established edge of the roadway.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials.

STORAGE - the containment of any waste on a temporary basis in such a manner as not to constitute disposal as such waste, and it shall be presumed that the containment of any waste in excess of one month constitutes disposal.

TRAILER- a mobile home, trailer, open cart or platform that is towed by another vehicle for use of storing or transporting persons or property boat; part of truck.

VEGETATION - any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

VIOLATION TICKET - a form issued by a police officer or code enforcement officer to a person who violates a provision of this Ordinance. The violation ticket is an offer by the Township extended to a person to settle a violation by paying the fine in lieu of a citation being issued or civil complaint being filed against the violator.

WEEDS - shall be defined as all grasses, annual plants, and vegetation, which meet any of the following criteria: (1) Exceed six (6) inches in height. (2) Exhale unpleasant noxious odors or pollen such as ragweed, dandelion, and miscellaneous other vegetation commonly referred to as weeds or brush. (3) May conceal filthy deposits or serve as breeding places for mosquitoes, other insects, or vermin. (4) Encroaches onto neighboring properties by way of leaders or roots without property owners consent. (5) May cause a public nuisance. Weeds shall not include cultivated and managed vegetation planted for edible or ornamental purposes such as vegetable gardens, trees, shrubs, flowers, etc.

YARD - an open space on the same lot with a structure.

Section 4. Violations. The following activities shall constitute a violation of this Ordinance:

1. Solicitation. It shall be unlawful for any person to solicit business or sell merchandise door to door; from a truck or motor vehicle; or by use of a vending or food cart without first obtaining a permit.

2. Storing of Hazardous Material. It shall be unlawful for any person to store combustible, flammable, explosive, or other hazardous materials including, but not limited to, paints, volatile oils and cleaning fluids, or combustible rubbish including, but not limited to, wastepaper, boxes, or rags unless the storage of the materials is in compliance with the local, state and federal laws, rules and regulations including, but not limited to all applicable Building and Property Maintenance Ordinances.

3. Placement or Use of Waste Container. No person shall use or store a waste container, receptacle, or dumpster on any public property or within a public right-of-way unless approval has first been obtained from the Township Supervisors.

4. Accumulation of Garbage, Refuse and Junk. All exterior property and the interior of every structure shall be free from any accumulation of garbage, refuse, junk, waste, trash, or rubbish.

5. Animal Maintenance, Control, and Clean-up. Any person owning, harboring or keeping any animal within Township may not permit any animal waste or feces to remain on the person's property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. All animal waste shall be cleaned up regularly. A person owning, harboring, keeping, caring for, or feeding any animal must keep the animal under the person's control and supervision at all times and shall not permit the animal to leave the property of the person owning, harboring, keeping, caring for, or feeding the animal unless securely leashed.

6. Dumping or Littering. No person shall dispose of garbage, refuse, junk, rubbish, garbage, or debris on vacant, unoccupied, or public or private property of another. No person shall throw, dump, place, litter, scatter, sweep, or dispose of any waste, trash, garbage, or rubbish upon any private property of another or upon any public property, including, but not limited to any sidewalk, alley, road, street, bridge, passageway, recreational park, or public parking area.

7. High Weeds, Grass or Plant Growth. All premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches. All noxious weeds shall be prohibited.

8. Motor Vehicles. It shall be unlawful to store, park, or place any unregistered, uninspected, inoperative, unlicensed, or nuisance motor vehicle on any premises. No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth

9. Storage of Trailers. No person shall store a trailer or other vehicle upon any public property or within any public right-of-way unless temporarily parked and attached to a licensed, inspected and registered vehicle capable of towing the trailer.

10. Outside Placement of Indoor Appliances/Furniture. No person shall store or place any appliances or furniture including, but not limited to ranges, refrigerators, air conditioners, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property for the purpose of sale or any other reason, except when being sold as part of a temporary yard sale or for the temporary purpose to perform maintenance on the item of property. The appliance or furniture shall not be left unattended during the yard sale or while being maintained or repaired.

11. Ownership Presumption of Waste, Trash, and/or Recyclables for Illegal Dumping and Illegal Hauling. It shall be the responsibility of every owner and/or occupant to dispose of their waste, trash, or recyclables in a proper manner. Any business or person who is unable to show proof that they have legally disposed of any waste, trash, or recyclables will be in violation of this Part. Should any person or business use an unlicensed hauler to dispose of their waste, trash, or recyclables, said person or business shall be in violation of this Part. Upon request of the Code Enforcement Officer, any owner or occupant must show proof of their appropriate trash and/or recyclable hauler. Any parts found within a municipal waste container, recycling container, garbage bag, or loose trash/waste displaying the name and/or address of a person and/or persons, that trash or waste shall be presumed to be the property of such person and/or persons. It shall be unlawful for any person, business, partnership, or entity to remove or haul waste, trash, or recyclables without the proper approval or license. Any waste, trash, or recyclables found not to be disposed of in accordance with this Part will be a violation of this Part.

12. Placement of Private Advertising Signs. No person shall hang, place, display, or advertise on any public property in any manner. No person shall hang, place, or advertise on any private property that they do not have any ownership rights to without the written approval of the owner and then only in accordance with all Township Codes, including the applicable Building Code and Zoning Ordinance.

13. Snow and Ice Removal from Sidewalks. Every owner, tenant, occupant, lessee, property agent, or any other person who is responsible for any property within the Township, is required to remove any snow or ice from their sidewalk within twenty-four (24) hours of the cessation of the snow and ice falling. Furthermore, all persons must create a path, free from any snow or ice, of three (3) feet on the sidewalk. Should any property be a place of business within the Township, all snow and ice must be removed within four (4) hours of the cessation of the snow and ice falling. Any property that is deemed a business must have the entire sidewalk free from any snow and ice. When the snow or ice cessation happens during the hours of darkness, the time limit of removal of all snow and ice begins at daybreak.

14. Storage Containers for Waste or Trash. The owner of every premises shall supply approved containers for waste /trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable, water tight, and made of metal or plastic. Containers must have tight fitting covers, and must be kept clean and odor free at all times. All

containers must be stored in the rear of every property so the containers are not visible from the public right-of-way. Waste/trash containers may only be placed in front of any property when darkness occurs the night before the day of the scheduled waste/trash pick -up. Once the licensed hauler removes the waste/trash from any property, all containers must be returned to the rear of any property before daybreak on the day following pick-up.

15. Storing of Recyclables. It shall be the responsibility of every owner of property to ensure storage, collection, and disposal of all recyclables from their property in such a manner not to create a public nuisance. Storage of recyclables is only allowed in approved containers, which must be kept clean and sanitary at all times.

16. Maintenance of Above-Ground Swimming Pools Not Covered by the Building Code or Zoning Ordinance. Above-ground swimming pools not deep enough to be covered by the Zoning Ordinance or Building Code shall be maintained in good repair in a clean, safe, and sanitary condition. They shall be covered when not in use.

17. Operation of Recreational Vehicles. No person shall operate a Recreational Vehicle on or over the private property of another without the written permission of the property owner, which written permission shall be carried on the operator. No person shall operate, cause to be operated or to participate in the operation of any Recreational Vehicle upon any public roads, streets, highways, sidewalks or alleys within the Township, except on highways, roads or streets: (a) for a short distance when necessary to cross a bridge or culvert; (b) during periods of emergency when so declared by the Township; (c) for special motorized vehicle events of limited duration that are conducted according to a prearranged schedule under permit from the Township; (d) at an angle of approximately 90° to the direction and at a place where no obstruction prevents a quick and safe crossing; provided that the Recreational Vehicle is brought to a complete stop before crossing the highway, road or street, and the operator yields the right-of-way to all oncoming traffic that constitutes an immediate hazard.

Section 5. Enforcement. A violation of this Ordinance may be enforced by the Foster Township Code Enforcement Officer or a police officer by the issuance of a violation ticket to the owner a property; the occupant of a property; or the person found to be violating any provision of this Ordinance.

Section 6. Service. A violation ticket shall be served upon a violator by any of the following means or methods: (a) personally handing it to the violator, or an adult individual at the residence or place of business of the person to be served: (b) by posting the violation ticket on the property where the violation exists; or (c) by mailing the notice by regular U.S. Mail postage prepaid to the violator's address as listed in the public records of the Township.

Section 7. Fines and Penalties.

1. Any person who violates this Ordinance shall pay a fine of Fifty ($50.00) Dollars for a first offense; One Hundred ($100.00) Dollars for a second offense; and Two Hundred ($200.00) Dollars for a third and subsequent offense.

2. Failure of the person to make payment within twenty (20) days of the date of a violation ticket shall result in the filing of a citation with the Magisterial District Judge. In the event that a citation is issued for a violation of this Ordinance, any person who is found by the Magisterial District Judge to have violated this Ordinance, shall, upon conviction before the Magisterial District Judge, be ordered to pay a fine of not less than three hundred ($300.00) dollars, and not more than one thousand ($1,000.00) dollars on each offense, or imprisonment for a term of not more than ninety (90) days, or both.

3. Each day a violation continues under this Ordinance shall constitute a separate offense for which a separate fine or citation may be imposed. If violations are continuous, a police officer or code enforcement officer shall have the right to issue citations without first issuing a violation ticket.

4. The Magisterial District Judge may order the violator to make restitution where appropriate.

5. A violator shall also be responsible for court costs, reasonable attorney fees and any costs incurred by the Township with clean-up or abatement of the violation.

Section 8. Abatement of Violation.

1. The Township reserves the right to perform any necessary work to abate any violation seventy-two (72) hours from the date of issuance of the quality of life ticket. Should the violation at the discretion of the Code Enforcement Officer present imminent danger or pose a health or safety hazard, the Township reserves the right to perform the abatement work immediately. The Township will perform this work at its prevailing labor wage costs together with the costs of any material necessary for the abatement. In the event that the Township hires a contractor or third party to perform the abatement work, the violator shall be responsible for the contractor's costs together with a thirty (30%) percent processing or administration fee to the Township. This fee shall be in addition to the cost of the contractor.

Section 9. Appeals. Any violator issued a violation ticket shall have the right to appeal that violation ticket to the Foster Township Board of Supervisors or anyone of the Supervisors designated by a majority of the Board to hear the appeal provided that the violator first completes the appeal form; pays the fines imposed; and does so within ten (10) days from the date the violation ticket is issued. In the event that the appeal is decided in favor of the person appealing, the Township shall refund the fine paid. If the appeal is decided in favour of the Code Enforcement Officer, then the violator shall have the right to appeal to the Court of Common Pleas of Luzerne County within 30 days from the date of receipt of the decision.

Section 10. Severability. If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect.

Section 11. Conflict. All relevant ordinances, regulations, and policies of the Township not amended shall remain in full force and effect. Any ordinance or part of an ordinance conflicting

with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict.

Section 12. Effective Date. This Ordinance shall be effective immediately upon its adoption.

ENACTED AND ORDAINED by the Foster Township Board of Supervisors, this 9 day of October, 2013.

ATTEST:

Secretary

FOSTER TOWNSHIP BOARD OF SUPERVISORS:

Chairperson

Vice Chairperson

Supervisor

FOSTER TOWNSHIP CODE ENFORCEMENT OFFICE
1000 WYOMING AVENUE
P.O. BOX 465
FREELAND, PA 18224

FOSTER TOWNSHIP QUALITY OF LIFE APPEAL FORM

NAME: _____

MAILING ADDRESS: _____

_____

PHONE NUMBER: (_____) _____-_____

VIOLATION TICKET NUMBER: _____

VIOLATION TICKET ISSUANCE DATE: _____

PROPERTY SUBJECT TO VIOLATION TICKET: _____

_____

_____

GROUNDS FOR APPEAL: _____

_____

_____

_____

DATE: _____ **SIGNATURE:** _____

ALL APPEALS MUST BE FILED IN WRITING ON THIS FORM WITHIN TEN (10) CALENDAR DAYS OF THE DATE THE VIOLATION TICKET WAS ISSUED. ALL FINES MUST BE PAID AT THE TIME THE APPEAL IS FILED. FAILURE TO FILE THE APPEAL IN TIME AND PAY THE FINE WILL RESULT IN YOUR APPEAL BEING DENIED WITHOUT A HEARING. IF TIMELY FILED AND THE FINE PAID AT THE TIME OF FILING, THE TOWNSHIP WILL SEND YOU NOTICE OF THE SCHEDULED APPEAL HEARING DATE AND TIME.

THE DENIAL OF AN APPEAL ENTITLES YOU TO FILE AN APPEAL WITH THE COURT OF COMMON PLEAS OF LUZERNE COUNTY, PENNSYLVANIA WITHIN THIRTY (30) DAYS FROM THE MAILING DATE OF THE WRITTEN DECISION DENYING YOUR APPEAL.