TOWNSHIP OF FOSTER
COUNTY OF LUZERNE, PENNSYLVANIA

ORD. NO. 5 of 2022

AN ORDINANCE TO APPROVE, ADOPT AND ENACT AN ORDINANCE CODIFICATION FOR THE TOWNSHIP OF FOSTER, COUNTY OF LUZERNE, COMMONWEALTH OF PENNSYLVANIA; TO PROVIDE FOR THE REPEAL OF CERTAIN LEGISLATION NOT INCLUDED THEREIN; TO SAVE FROM REPEAL CERTAIN OTHER LEGISLATION NOT INCLUDED THEREIN; AND TO PROVIDE PENALTIES FOR TAMPERING WITH THE CODE

Be it enacted and ordained by the Board of Supervisors of the Township of Foster, County of Luzerne, Commonwealth of Pennsylvania, and it is enacted and ordained as follows:

ARTICLE I
Adoption of Code

§ 1-1. Approval, adoption and enactment of Code.

Pursuant to Section 1601(d) of the Second Class Township Code [53 P.S. § 66601(d)], the codification of a complete body of legislation for the Township of Foster, County of Luzerne, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 255, together with an Appendix, is hereby approved, adopted, ordained and enacted as a single ordinance of the Township of Foster, which shall be known and is hereby designated as the "Code of the Township of Foster," hereinafter referred to as the "Code."

§ 1-2. Effect of Code on previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Board of Supervisors of the Township of Foster, and it is the intention of said Board of Supervisors that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only new or changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

§ 1-3. Inconsistent legislation repealed.

Repeal of inconsistent ordinances. Except as provided in § 1-4, Legislation saved from repeal; matters not affected by repeal, below, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed as of the effective

date given in § 1-15; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Township of Foster which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-4. Legislation saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

A. Any ordinance adopted subsequent to March 10, 2021.

B. Any right or liability established, accrued or incurred under any legislative provision of the Township prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.

C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the Township or any penalty, punishment or forfeiture which may result therefrom.

D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the Township.

E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Township or any lawful contract, obligation or agreement.

F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Township or other instruments or evidence of the Township's indebtedness.

G. Any ordinance adopting an annual budget or establishing an annual tax rate.

H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.

I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.

J. Any ordinance annexing land to the Township.

K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.

L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.

M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.

N. Any ordinance providing for the making of public improvements.

O. Any ordinance providing for the salaries and compensation of officers and employees of the Township or setting the bond of any officer or employee.

P. Any ordinance concerning changes and amendments to the Zoning Map.

Q. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.

R. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the Township.

S. Any currently effective ordinance providing for intergovernmental cooperation or establishing an intermunicipal agreement.

§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes and revisions in previously adopted legislation; new provisions.

A. Nonsubstantive changes. In compiling and preparing the ordinances of the Township for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances. It is the intention of the Board of Supervisors that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.

B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the Board of Supervisors, and it is the intent of the Board of Supervisors that all such changes be adopted as part of the Code as if the legislation so changed had been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.

§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general

welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

§ 1-8. Titles and headings; editor's notes.

A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Filing of copy of Code.

At least one copy of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the Township Secretary-Treasurer and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the Township Secretary-Treasurer, as provided by law, and such certified copy or copies shall remain on file in the office of the Township Secretary-Treasurer, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto.

§ 1-11. Code books to be kept up-to-date.

It shall be the duty of the Township Secretary-Treasurer or someone authorized and directed by him or her to keep up-to-date the certified copy or copies of the book containing the Code required to be filed in the office of the Township Secretary-Treasurer for the use of the public. All changes in said Code and all legislation adopted by the Board of Supervisors subsequent to the effective date of this codification which the Board of Supervisors shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new legislation are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

§ 1-12. Publication of notices.

The Township Secretary-Treasurer, pursuant to law, shall cause to be published in the manner required a notice of the introduction of the Code in a newspaper of general circulation in the Township. The enactment and application of this ordinance, coupled with the publication of the notice of introduction, the availability of a copy or copies of the Code for inspection by the public and the filing of an attested copy of this ordinance with the county, as required by law, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13. Altering or tampering with Code; violations and penalties.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code or any part or portion thereof in any manner whatsoever which will cause the law of the Township to be misrepresented thereby. Any person who violates or permits a violation of this section of this ordinance shall, upon being found liable therefor in a civil enforcement proceeding, pay a fine of not more than $600, plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this ordinance. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

§ 1-14. Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the Board of Supervisors that this ordinance and the Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

§ 1-15. Effective date.

All provisions of this ordinance and of the Code shall be in force and effect five days after adoption of this ordinance.

ENACTED AND ORDAINED by the Board of Supervisors of the Township of Foster this 8th day of June 2022.

Attest: TOWNSHIP OF FOSTER

Township Secretary-Treasurer

BY: Chairman