ORDINANCE NO. 1 of 2014

FOSTER TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

CHAPTER 61
CONDUCT
Outdoor Music Events

§61-1. Title. This Ordinance shall be known as the "Outdoor Music Event Ordinance".

§61-2. Purpose. The Foster Township Supervisors find that the regulating of outdoor music events within the Township is necessary to: (a) prohibit nuisances; (b) protect the public health, safety, morals and welfare; and (c) protect the quiet use and enjoyment of one's property free from unreasonable interference and disturbance.

§61-3. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless the context clearly indicates otherwise:

APPLICANT- means the promoter who has the right of control of the conduct of an outdoor music event who applies to the Township Code Enforcement Officer for a license to hold an outdoor music event.

CODE ENFORCEMENT OFFICER- includes the Foster Township Code Enforcement Officer, or other public official designated by the Township to administer and enforce this Ordinance.

OUTDOOR MUSIC EVENT or MUSIC EVENT or EVENT-means an assembly of persons gathered primarily for outdoor, live or recorded musical entertainment, where the attendance of persons are forty or more and where the duration of the program is one hour or longer. This term shall not include any regularly established permanent place of worship, Public Park, stadium, athletic field, auditorium, non-profit social club, or residences where an occasional party is held to commemorate a special event such as a graduation or birthday party, or any government sponsored event.

PARTICIPANT- means any person who knowingly provides or delivers to the event site supplies, materials, food, lumber, beverages, sound equipment, generators, or musical instruments, equipment or entertainment or to attend a music event.

PERSON - includes a 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.

PROMOTER-means any person issued a permit to conduct an outdoor music festival.

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.

§61-4. Permit Required. No person shall conduct, hold, maintain, permit, or cause to be held, maintained, or permit an outdoor music event or the advertising of an outdoor music event unless a permit has first been obtained from the Code Enforcement Officer. A permit shall be required for each outdoor music event. Any permit issued shall be granted for a period of not more than three consecutive days and an event may only be operated during the days for which a permit is issued. Any permit granted under this Ordinance shall be posted in a conspicuous place on the private property where the event is to be held and such permit shall be not transferable or assignable. Any person failing to comply with this Ordinance shall be subject to the penalties prescribed by this Ordinance.

§61-5. Permit Application. An application for an outdoor music event permit shall be in writing and filed with the Code Enforcement Officer. The application shall be filed not less than thirty (30) days prior to the first scheduled day of the event and shall be accompanied with a permit fee in the amount of twenty-five ($25.00) dollars. The application shall include the following:

(a) The name and address of the person whom the application is made, who must be eighteen (18) years of age or older;

(b) The nature of the business organization of the applicant;

(c) Names and addresses of all persons having a proprietary interest in the event;

(d) The address of the private property upon which the event will be conducted, including a legal description of the land to be occupied, the name and address of the title owner thereof, together with a copy of the deed to the property and a document showing the consent of the owner(s) of the private property to the issuance of a permit, if the private property is owned by a person other than the applicant;

(e) The dates and times of the scheduled music event including the names and addresses of the persons' performing at the music event;

(f) Written documentation that the private property upon which the event will be held has at a minimum all of the following: (1) sufficient, sanitary and functional toilet facilities for attendees of the event; (2) lighting that has been directed away from other private properties and public right-of-ways; (3) adequate number of parking spaces under the Foster Township Zoning Ordinance for the use, including sufficient vehicle and pedestrian access for attendees and emergency personnel; and (4) proper dust control measures.

(g) Written documentation showing that law enforcement and emergency organizations (fire and ambulance) within the Township are aware of the location, date and time of the event and that they will have free access to the site of the outdoor music event.

(h) A statement that the applicant will abide by the provisions of this Ordinance, and understands that a permit issued under this Ordinance is issued as a measure to protect and preserve the public health, safety, morals and welfare, and that the Code Enforcement Officer has the right to revoke the permit after issuance.

(i) A signed verification of the applicant indicating that the matters set forth in the application are true and correct to the best of the applicant's knowledge and belief under the penalty of perjury.

§61-6. Requirements of Permit. In addition to the requirements of a permit as set forth in Section 5 above, an applicant, promoter and participant shall comply with the following as a condition of any permit issued by the Code Enforcement Officer:

(a) The hours of the outdoor music event shall be between 10 AM and 11 PM Monday through Saturday and Sunday between 12 PM and 5 PM.

(b) Outdoor music events shall be held for no more than three days in any week.

(c) The outdoor music event shall be held on private property only on property zoned for recreational purposes.

(d) Proof of liability insurance in an amount of not less than one hundred thousand dollars for bodily injury coverage per person covering any bodily injury, and one hundred thousand dollar liability property damage insurance covering any property damaged.

§61-7. Approval or Denial of Permit. Within thirty (30) days after the filing of a permit application, the Code Enforcement Officer shall either approve or deny the permit to the applicant. Any denial shall specify the grounds for the denial.

§61-8. Revocation of Permit. Revocation of any permit granted under this Ordinance shall not preclude the imposition of penalties as provided for in this Ordinance. Any permit granted under this Ordinance maybe revoked by the Code Enforcement Officer when the Code Enforcement Officer finds that by reason of emergency the public health, safety, morals or welfare can only be preserved and protected by such revocation. Any permit granted under this Ordinance may also be revoked for any violation of this Ordinance or violation of state or local laws by written notice issued by the Code Enforcement Officer to the applicant and promoter.

§61-9. Appeals. Whenever the Code Enforcement Officer has denied a permit application or revoked a permit, the applicant or permit holder shall have the right to appeal that action 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 applicant or permit holder does so in writing within ten (10) days from the date the denial or revocation. In the event that the appeal is decided

in favor of the person appealing, the Township shall direct the Code Enforcement Officer to issue or reinstate the permit. If the appeal is decided in favor of the Code Enforcement Officer, then the person appealing shall have the right to appeal the decision of the Board of Supervisors to the Court of Common Pleas of Luzerne County within 30 days from the date of receipt of the decision. The pendency of an appeal shall not stay the enforcement of a continued violation of the Ordinance.

§61-10. Enforcement. A violation of this Ordinance may be enforced by the Foster Township Code Enforcement Officer or any police officer.

§61-11. Fines and Penalties. Any person who violates 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 thirty (30) days, or both. Each day a violation continues under this Ordinance shall constitute a separate offense for which a separate fine may be imposed. The Magisterial District Judge may order the violator to make restitution where appropriate. A violator shall also be responsible for court costs, reasonable attorney fees, and any costs incurred by the Township.

§61-12. 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.

§61-13. **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

§61-14. **Effective Date.** This Ordinance shall be effective immediately upon its adoption.

ENACTED this 9th day of July, 2014.

ATTEST:

FOSTER TOWNSHIP BOARD
OF SUPERVISORS:

Secretary

Chairperson

Vice Chairperson

Supervisor