FOSTER TOWNSHIP
SCHUYLKILL COUNTY, PENNSYLVANIA

ORDINANCE NO. 02-2021

AN ORDINANCE OF THE TOWNSHIP OF FOSTER, SCHUYLKILL COUNTY, PENNSYLVANIA, DEFINING AND REGULATING NOISE AND PROHIBITING UNNECESSARY NOISE OR OTHER SOUNDS TENDING TO DISTURB THE PEACE AND QUIET OF THE COMMUNITY AND CARRYING ON OF ANY BUSINESS, TRADE, TRANSPORTATION, RECREATION OR AMUSEMENT AT CERTAIN TIMES WHICH CAUSES UNNECESSARY NOISE OR DISTURBANCE.

The Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania (the "Township"), hereby enacts and ordains as follows:

WHEREAS, Section 1506 of the Second Class Township Code, Act of May 1, 1933, P.L. 103, No. 69, as amended by Section 1 of the Act of November 9, 1995, P.L. 350, No. 60, found at 53 P.S. 66506, entitled "General Powers", authorizes any board of township supervisors to make and adopt ordinances necessary for the proper management, care and control of the Township, and the maintenance of the health and welfare of the Township and its citizens; and

WHEREAS, Section 1527 of the Second Class Township Code, found at 53 P.S. 66527, entitled "Public Safety", authorizes the Board of Township Supervisors to adopt ordinances to secure the safety of persons or property within the Township.

NOW THEREFORE, it is hereby enacted and ordained by the Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania, in accordance with the general powers permitted by the Second Class Township Code (53 P.S. 65101, et seq.) and the statutes noted above, as follows:

Section 101. Title.

This Ordinance shall be known as the "Foster Township Noise Control Ordinance".

Section 102. Citation.

This Ordinance may be cited as the "Foster Township Noise Control Ordinance".

Section 103. Purpose.

The Board of Supervisors of the Township of Foster, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the people as well as to their comfort, living conditions, general welfare and safety and therefore a public health and welfare hazard, hereby declares it to be necessary to provide for greater control and more effective regulation of excessive sound and the sources of excessive sound within the Township of Foster.

Section 104. Definitions.

The following words, terms and phrases when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Construction Operation: The erection, repair, renovation, demolition or removal of any building or structure and the excavation, filling, grading and regulation of lots in connection therewith.

Disorderly Conduct: In addition to the definition contained in the Pennsylvania Crimes Code, 18 Pa.C.S.A. § 5503, disorderly conduct shall include any prohibited noise disturbance or excessive noise, as defined herein, unless subject to an exemption under Section 106, and shall be considered unreasonable noise conduct under 18 Pa.C.S.A. § 5503.

Emergency Work: Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Excessive Noise: Any noise or sound which is, (1) injurious or which unreasonably interferes with the comfortable enjoyment of life and property; or is (2) annoying to a person of ordinary sensibilities.

Fireworks: Devices capable of loud noise including, but not limited to, M-80, M-100, blockbuster, cherry bomb or quarter or half stick explosive devices.

Noise: Any sound emitted by a person, animal, appliance, equipment, instrument or other device.

Noise Disturbance: Any sound which:

A. Measured at a property line of the receiving land, is in excess of the limits set forth for the receiving land use category in Table 1 below.

Table 1

Permissible Maximum Sound Levels by Receiving Land Use

Receiving Land Use	**Sound Level Limit dB(A)**	
	7:00 a.m. to 9:00 p.m.	**9:00 p.m. to 7:00 a.m.**
Residential (land within the R-1, R-2, R-3 and R-4 Residential Districts)	57	52
Commercial (land within the MERC, O, ROA or HBO Districts)	67	62
Industrial (land within the I District)	77	77

B. Produces vibration which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line from which the sound or vibration originated; or

C. Produces any vibration in excess of 0.002g peak measured at or beyond the lot line from which the sound originated using either seismic or electronic vibration measuring equipment.

Person: Any individual, association, partnership, or corporation, including officers and managers of corporations.

Plainly Audible: Any noise which an enforcing authority can plainly hear a short distance from the source of said noise disturbance or excessive noise.

Public Right-of-Way: Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.

Public Space: Any real property or structures thereon which are owned or controlled by a governmental entity.

Vehicle: Any device, or combination of devices, used for or capable of being used for transporting persons or property. Vehicles include, but are not limited to, automobiles, trucks, motorcycles, motorized bicycles, snowmobiles, all-terrain vehicles, go-karts, and like devices.

Section 105. Unlawful Acts.

A. Noise disturbance and excessive noise prohibited. No person shall make, continue or cause to be made or continued any noise disturbance. No person shall make, continue or cause to be made or continued any excessive noise which is plainly audible.

B. Permitted hours of construction and yard work. No person shall operate or permit the operation of any tools or equipment used in construction operations, landscaping, leaf removal, lawn care, drilling or demolition work or in the sweeping of parking lots in areas adjacent to residential districts or within 1,000 feet of residential districts between the hours of 8:00 p.m. and 7:00 a.m. the following day on weekdays and Saturdays or at any time on Sundays or legal holidays, such that the sound therefrom is audible across a residential real property line (boundary), except for emergency work.

C. Permitted hours of loading and unloading. No person shall load, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 8:00 p.m. and 7:00 a.m. the following day in such a manner as to be audible across a residential property line (boundary). The subsection shall not apply to municipal or utility services in or about the public right-of-way.

D. Disorderly Conduct. No person shall engage in disorderly conduct by making, creating or allowing on the premises owned or controlled by them, any noise disturbance or excessive noise, as defined herein, unless subject to an exemption under Section 106 or a special variance under Section 107.

Section 106. Exemptions.

The following sounds are exempted from the provisions of this Ordinance:

A. Blasting: blasting, under permit obtained from the Code Enforcement Officer. Such blasting may occur only between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, unless specifically authorized by permit.

B. Concerts, etc.: band concerts, block parties, church carnivals or other performances or similar activities publicly or privately sponsored and presented in any public or private space outdoors, provided that such activities do not occur between the hours of 10:00 p.m. and 7:00 a.m.

C. Emergency work: sounds caused by the performance of emergency work or by the ordinary and accepted use of emergency apparatus and equipment.

D. Municipal and utility services: sounds resulting from the repair or replacement of any municipal or utility installation in or about the public right-of-way or all municipal collections.

E. School and public activities: sounds, not electronically amplified, created by organized school-related programs, activities and athletic and entertainment events or other public programs, activities or events, other than motor vehicle racing events.

F. Warning devices: sounds may be warning devices operating continuously for three minutes or less, except that in the event of an actual emergency the time limitation shall not apply.

Section 107. Special Variances.

The Board of Supervisors may, upon application and guided by the standards hereinabove set forth, grant special variances for infrequent events or activities which do not exceed 24 hours in duration.

Section 108. Violations and Penalties.

For the first offense, an enforcing authority, police officer or code official can, in their sole discretion, issue a written warning to the person responsible for violation of this Ordinance. Any warning issued shall be in effect for thirty (30) days.

Any person violating any provision of this Ordinance shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than $600.00, plus costs of prosecution, for each and every offense and, in default of payment of such fine and costs, shall be imprisoned for not more than 30 days. Each day during which any person violates any provision of this Ordinance shall constitute a separate offense. This Ordinance may be enforced by the Foster Township Police Department or the Foster Township Code Enforcement Officer.

Section 109. Severability.

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Foster Township Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 110. Repealer/Savings.

The provisions of any prior ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. Nothing contained in this Ordinance shall be construed to affect any suit or proceeding in any court, or any rights acquired or liability incurred, or any cause of action existing prior the enactment of this Ordinance.

Section 111. Effective Date.

This Ordinance shall become effective immediately after the adoption hereof.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania, this _____ day of _____, 2021, in lawful session duly assembled.

ATTEST:

Secretary

(SEAL)

FOSTER TOWNSHIP BOARD OF SUPERVISORS, FOSTER TOWNSHIP, SCHUYLKILL COUNTY, PENNSYLVANIA

Chairperson

IN RE: AN ORDINANCE OF THE TOWNSHIP OF FOSTER, SCHUYLKILL COUNTY, PENNSYLVANIA, DEFINING AND REGULATING NOISE AND PROHIBITING UNNECESSARY NOISE OR OTHER SOUNDS TENDING TO DISTURB THE PEACE AND QUIET OF THE COMMUNITY AND CARRYING ON OF ANY BUSINESS, TRADE, TRANSPORTATION, RECREATION OR AMUSEMENT AT CERTAIN TIMES WHICH CAUSES UNNECESSARY NOISE OR DISTURBANCE.

CERTIFICATION

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance enacted by the Board of Supervisors of Foster Township, Schuylkill County, Pennsylvania, on the 3rd day of November, 2021.

TOWNSHIP SEAL

JANET MITCHELL, Secretary
Foster Township
1540 Sunbury Road
Pottsville, PA 17901
Telephone No. (570) 544-4137