

PUBLIC HEARING OF CASCO TOWNSHIP
PLANNING COMMISSION
February 27, 2019; 6 PM

Members Present: Chairman David Campbell, Vice Chair Dian Liepe, ZBA Representative Dave Hughes and PC members Greg Knisley and Dan Fleming

Absent: Board Representative Judy Graff, Secretary Lewis Adamson

Staff Present: Janet Chambers, Recording Secretary and Zoning Administrator Tasha Smalley

Also Present: Clerk Cheri Brenner, Supervisor Allan Overhiser, Trustee Paul Macyauski and 5 interested citizens (Sign in Sheet Attachment #6)

- 1 **Call to order:** The meeting was called to order at 6 PM by Chairman Campbell.
- 2 **Review and Approve of Agenda:** The agenda (Attachment #1) was reviewed and there were no changes to the agenda.
- 3 **Reading of Public Hearing Notice and Special Meeting:** Chairman Campbell read the Public Notice (Attachment #2) that was in the South Haven Tribune on Feb. 10, 2019
- 4 **Open Public Hearing on Marijuana:** Chairperson Campbell opened the Public Hearing portion of the meeting at 6:07 PM. He read the Proposed Ordinance on Marijuana (Attachment #3).
 - A. **Public Comment on Marijuana:** Chairman Campbell invited public comment. There was none.
 - B. **Planning Commission discussion on Marijuana:** None
 - C. **Final Comments on Marijuana:** None
- 5 **Close Public Hearing on Marijuana:** 6:10 PM
- 6 **Discussion and decision for proposed text of Prohibition of Recreational Marijuana:**

A motion was made by Fleming, seconded by Knisley to approve Amendment 3.42 Prohibition of Recreational Marijuana Establishments.

Roll Call vote: Campbell – yes; Liepe – yes; Fleming – yes; Knisley – yes. (Hughes arrived at meeting at 6:12, after vote was taken). All in favor. MSC.
- 7 **Open Public Hearing on Building Height:** Chairman Campbell opened the Building Height Proposed Amendment at 6:12 PM. Campbell read the proposed ordinance (attachment #4).
 - A. **Public Comment on Building Height:** Invited public comments. There was none.
 - B. **Planning Commission discussion on Building Height:** Campbell invited PC comments. There was none.
 - C. **Final Comments on Building Height:** There was no comments.
- 8 **Close Public Hearing on Building Height:** The public portion of the meeting was close at 6:15 PM.
- 9 **Discussion and decision for proposed text of building Height:** A motion by Liepe, supported by Knisley to approve the Amendments to Sections 3.28, 5.03, 6.03, 7A.03, 7B.03, 8.03, 9.03, 11.03 and 12.03 concerning Building Height. Roll Call vote: Campbell – yes, Liepe – yes, Fleming – yes, Hughes – yes, Knisley – yes. All in favor. MSC.
- 10 **Open Public Hearing on Exterior Lighting:** Chairman Campbell opened the public meeting on Exterior Lighting at 6:17 PM. Campbell read the proposed Ordinance on Exterior Lighting.
 - A. **Public Comment on Exterior Lighting:** Chairman invited public comment.

Maureen Perideaux, 7258 Beach Street, had a couple of comments. Her first concern was in the Intent section 3.41 A. She said the current text on light trespass is good, but there is more to the intent. The other part of intent was to protect the night skies so we could see the stars, which is in line the Master Plan. The Master Plan states we want to preserve our rural character and preserve our natural beauty. Perideaux stated she would like to see protection of the night skies added to the intent of the ordinance. She said this would be a bigger broader vision, and in line with the Master Plan.

Perideaux's second comment was concerning Section 3.41 B Applicability, which states it only applies to lighting installed after the effective date of this ordinance. This whole thing would be more effective if we would say all properties and give a 3- or 5-year period for existing homes to comply. Her reason for this is to protect our skies, so that we don't turn into another Kalamazoo or Grand Rapids.

Perideaux expressed a 3rd concern with Section 3.41 E Exemptions, where it exempts residential decorative lighting. This is very vague. We have three story homes where the front door is on the second story and the front door light shines right down into neighbors' homes. The reason this was brought to the township initially was for the protection of residential areas. Exempting residential lighting defeats the purpose.

Zoning Administrator Smalley said Zoning Ordinances are grandfathered. If you are predated when an ordinance goes in effect, you are grandfathered no matter what. That is how zoning ordinances work. When something new comes in, you can't change existing, but moving forward it applies.

Chairman Campbell made a clarifying statement. It is from this point forward. He said the Planning Commission is aware of that.

Zoning Administrator Smalley continued, some types of ordinances like policing ordinances that are not grandfathered, but zoning ordinances are grandfathered.

The public comment portion of the meeting was closed at 6:32.

B. Planning Commission discussion on Exterior Lighting:

Knisley recalled that Ellingsen said, when lighting was changed on an existing home, it would have to be brought into compliance.

Smalley agreed. Anything going forward would have to comply.

Knisley said he understood Perideaux's concern on the intent. It might be a matter of wording. We had lot of the dialog on where we are going with this. There is a statement in there (Section 3.41 A Intent) where we say light pollution is not necessarily just sky pollution but cannot go onto neighbor's property. Maybe that is not specific enough. At least that line whether it is "light pollution" or whether it is saying it is "Dark Sky Compliant" or something like that. The issue is interpreting it. "Light Pollution" is what we are chasing. We may not be specific enough or maybe we are. He does understand Perideaux's position, but it may be just a matter of wording. We have had discussion on decorative lighting and specifically where and

when. We talked about putting a timeframe on that. That might be a valid point. This leaves it wide open. What constitutes decorative lighting and what is the time frame for such decorative lighting?

Campbell asked for clarification on Knisley's comment "Wide Open".

Knisley recalled the discussion on decorative lighting, whether it was seasonal and whether we had time limits to it, or whether it fell outside of the bounds of something that was not the intent of what we are trying to do. There are a lot of properties that have seasonal light pretty much year around. It leaves us wide open. "Decorative Lighting" – What is "decorative lighting"? Did we specify "decorative lighting"? In our discussions we talked about whether it had a time frame for decorative lighting. Is it going to be seasonal?

Hughes said we discussed that and decided it would be pretty hard to enforce, and that was why they didn't include it.

Knisley said he remember the diagrams superseded our dialog with light not overshadowing property lines and are fully cut off.

Liepe said we also discussed lumens and how bright it should be. That helps with decorative lighting also. At one time we talked about decorative lighting having a length of time. We talked about Christmas lights being up for 30 days. I don't want someone to tell me I can't keep them up more than 30 days. That is hard to police. But I thought we had something about how bright they could be.

Knisley said we put in a comparative to "100 watt incandescent or equivalent".

Fleming said the Dark Sky Compliant definition is unnecessary. He said he is leery about that term because it may appear to have more meaning than the PC intends. He suggested just have "fully cut off". The definition of "Dark Sky Compliant" is "fully cut off". We define "fully cut off" below. The other thing is Fleming said he thinks this is way too comprehensive for the problem. We define this is a problem in a small area of the township. This potential amendment goes for the whole township. Fleming stated he does not think we have proved this is really a public health issue; safety, moral, prosperity, general welfare. We should not pass it. I know we have put a lot of work into it. Over the past months as he thought about it and said it is too much. He does not feel the PC has proved that we need to pass this on to the board.

Chairman Campbell question Fleming's statement "this is a small area of the township".

Fleming said it is where the close housing is.

Campbell said that is potentially everything west of Blue Star.

Fleming said the complaint was basically one neighborhood.

Campbell said the township has expressed the need to grow. That is for a number of reasons. One of our going forward responsibilities is to anticipate the issues. This is one of those issues when you get west of Blue Star where the density of the housing is clearly something that we need to be proactive on to keep complaints from rolling in. He disagreed with Flemings assessment, but they will have a chance to vote.

Maureen Perideaux said this is not just an immediate localized problem. As we build bigger it is for the next generation and the next. As we look at satellite images from space, people are not turning off. We need to protect the natural resources we have. That is why people want to live here. We like the skies, we like the trees, we like the atmosphere. It is not just for now, but for the future.

11 Close Public Hearing on Lighting: There being no additional public comment, Chairman Campbell closed the public portion of the meeting at 6:15.

12 Discussion and decision for proposed text of Exterior Lighting:

Fleming said, as he mentioned at other meetings, as he looks out his window, he can see lights from various houses ½ mile or a mile away. If the power goes out, he can look out and see where it is out. Also, Carter Automotive has a light and in a blizzard that light shining on the road is a safety issue. Fleming said this is going too far, too fast.

Hughes said he does not see where this ordinance would change that.

Fleming said if everybody has lights downward facing, that light would not go onto the road.

Hughes said the road would be public property. The ordinance is meant to keep light off private property.

Campbell said you will still be able to see lights. There is nothing you can do about that, but it is basically meant to keep it as the diagram shows, down.

Hughes added if everyone in his neighborhood had downward lighting, he could still see the lights, but it would not be shining on his property.

Knisley said you are eliminating the “nuisance glare”. You are basically saying you cannot have nuisance glare. Dark Sky Compliant is a term used nationwide. We don’t say everyone has to turn their lights onto the road. If there is a safety issue at an intersection, we should be talking to the county and saying we need street lights put in. There are areas where intersections just happen to have business signs or lights, that makes it nice, but is not something we want to encourage or discourage to have their lights on to light the road. Knisley said this (the lighting ordinance) is a good measure for the township.

C. Final Comments on Exterior Lighting:

Chairperson Campbell said we have had some good discussion on this and have folks, like Fleming, that have not been fully supportive of the full dark sky compliance.

Liepe said she supports what Fleming is saying because she personally doesn't feel we should be told what to do and sometimes it bothers her when we get to these points. However, she does know people who steps over the boundaries too. She said something needs to be done. There is some good stuff (in the proposed ordinance) and some maybe some not as far as it could be in some places. This is like a compromise and maybe something more will need to be done in the future, but she thinks this is a good step.

Fleming said there are a lot of good ideas in the ordinance. He just does not think it is our job to require it.

Campbell said we need to put it to a vote. Fleming has a right to express his feelings, but we should put it to a vote and vote our consciences.

A motion was made by Hughes, supported by Knisley to recommend the adoption of the Lighting Ordinance to the board. Roll call vote: Campbell – yes, Liepe – yes, Fleming – no, Hughes – yes, Knisley – yes. Vote of 4 to 1. MSC.

13 Adjournment of Special Meeting: Campbell said we have wrapped up the three items for the public hearing. He thanked everyone for the efforts they have put into all of these. Campbell adjourned the Public Hearing at 6:38.

Attachment #1: Agenda

Attachment #2: Public Notice

Attachment #3: Marijuana Proposed Ordinance

Attachment #4: Building Height Proposed Ordinance

Attachment #5: Exterior Lighting Proposed Ordinance

Attachment #6: Sign-in sheet

Next Meeting: March 20th Regular Meeting; 7 PM

March 27th Special Meeting; 6 PM

Minutes Prepared by Janet Chambers, Recording Secretary

**Public Hearing & Special Meeting
of Casco Township Planning Commission
Proposed Zoning Ordinance Text Amendment
February 27, 2019
6:00PM**

1. Call to order

2. Review and Approve agenda

3. Reading of the Public Hearing Notice and Special Meeting

Note: Each proposal will be discussed and decided on separately

4. Open Public Hearing

Read proposed text: Prohibition of Recreational Marihuana

Public Comment – Please keep comments to no more than
3 minutes per person

Planning Commission comments / questions

Final comments / questions

5. Close Public Hearing

6. Discussion and decision for proposed text of Prohibition of Recreational
Marihuana

7. Open Public Hearing

Read proposed text: Height, remove “or 2 ½ stories”

Public Comment – Please keep comments to no more than
3 minutes per person

Planning Commission comments / questions

Final comments / questions

8. Close Public Hearing

9. Discussion and decision for proposed text of Height

10. Open Public Hearing

Read proposed text: Exterior Lighting

Public Comment – Please keep comments to no more than
3 minutes per person

Planning Commission comments / questions

Final comments / questions

11. Close Public Hearing

12. Discussion and decision for proposed text of Exterior Lighting

13. Adjournment of Special Meeting

**CASCO TOWNSHIP PLANNING COMMISSION
ALLEGAN COUNTY, MICHIGAN**

Attachment #2

NOTICE OF PUBLIC HEARING

TO: THE RESIDENTS AND PROPERTY OWNERS OF CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN, AND ANY OTHER INTERESTED PERSONS:

PLEASE TAKE NOTICE that the Planning Commission of Casco Township will conduct a public hearing and special meeting concerning the following matters on Wednesday, February 27, 2019 at 6:00 p.m. at the Casco Township Hall, 7104 107th Ave, South Haven, MI 49090, within the Township.

PLEASE TAKE FURTHER NOTICE that the item(s) to be considered at said public hearing include the following:

1. Zoning Ordinance amendment to add Section 3.42, Prohibition of Recreational Marihuana Establishments.
2. Zoning Ordinance amendment to amend Sections 3.28, 5.03, 6.03, 7A.03, 7B.03, 8.03, 9.03, 11.03, and 12.03, to eliminate "or 2 ½ stories"; concerning Height.
3. Zoning Ordinance amendment to amend Section 3.34E 6, (add) 3.41, 15.03CC 5, 17.03 C, 18.03C, and definitions (2.31). The amendments are to add "exterior lighting" regulations.

PLEASE TAKE FURTHER NOTICE that the proposed Zoning Ordinance amendments can be reviewed at the Township Hall during regular business hours of regular business days at, 7104 107th Ave, South Haven, website www.cascotownship.info and will also be available at the time and place of the hearing.

PLEASE TAKE FURTHER NOTICE that written comments will be received from any interested person concerning the foregoing by the Township Clerk at the address set forth below, during regular business hours of regular business days or by mail to the Township Clerk at the address set forth below, up to the date of the hearing and will also be received by the Planning Commission at the hearing.

PLEASE TAKE FURTHER NOTICE that the Casco Township Planning Commission and Township Board reserve the right to make changes in the above mentioned proposed amendments at or following the public hearing. All interested persons are invited to be present at the aforesaid time and place.

Casco Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities at the hearing upon seven (7) days' notice to the Casco Township Clerk. Individuals with disabilities requiring auxiliary services should contact the Casco Township Clerk at the address or telephone number listed below.

Cheryl Brenner
Casco Township Clerk
7104 107th Ave, South Haven MI 49090
269-637-4441

Tasha Smalley
Zoning Administrator
1-800-626-5964

ORDINANCE NO. _____

ZONING TEXT AMENDMENT ORDINANCE

AN ORDINANCE TO AMEND THE CASCO TOWNSHIP ZONING ORDINANCE BY ADDING A PROHIBITION FOR MARIHUANA ESTABLISHMENTS; AND TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

THE TOWNSHIP OF CASCO, COUNTY OF ALLEGAN, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Marihuana Establishments. Section 3.42 of the Casco Township Zoning Ordinance (the "Zoning Ordinance") shall be added to state in its entirety as follows.

SECTION 3.42 PROHIBITION OF RECREATIONAL MARIHUANA ESTABLISHMENTS

- A. Marihuana establishments, as authorized by and defined in the Michigan Regulation and Taxation of Marihuana Act (the "Act"), are prohibited in all zoning districts, and shall not be permitted as home occupations under Section 3.18 of this Ordinance.
- B. No use that constitutes or purports to be a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter or any other type of marihuana related business authorized by the Act, that was engaged in prior to the enactment of this Ordinance or prior to the addition of this Section to the Ordinance, shall be deemed to have been a legally established use under the provisions of this Ordinance; that use shall not be entitled to claim legal nonconforming status.
- C. Violations of this Section are subject to the violations and penalties pursuant to Chapter 21 of this Ordinance and may be abated as nuisances.

Section 2. Effective Date. The foregoing amendment to the Casco Township Zoning Ordinance was approved and adopted by the Township Board of Casco Township, Allegan County, Michigan on _____, 2019, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on _____, 2019, which date is eight days after publication of the Ordinance as is required by Section 401 of Act 110, as amended, provided that this effective date shall be

extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

Allan Overhuser, Township Supervisor

Cheri Brenner, Township Clerk

CASCO TOWNSHIP
ALLEGAN COUNTY, MICHIGAN
Ordinance # _____

AN ORDINANCE TO AMEND THE CASCO TOWNSHIP ZONING ORDINANCE; TO AMEND SECTION 3.28 NONCONFORMING LOTS USES OR STRUCTURES, SECTION 5.03 DISTRICT REGULATIONS, SECTION 6.03 DISTRICT REGULATIONS, SECTION 7A.03, DISTRICT REGULATIONS, SECTION 7B.03 DISTRICT REGULATIONS, SECTION 8.03 DISTRICT REGULATIONS, SECTION 9.03 DISTRICT REGULATIONS, SECTION 11.03 DISTRICT REGULATIONS, SECTION 12.03 DISTRICT REGULATIONS REGULATION

CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN HEREBY ORDAINS:

Section 1. Amendment of Section 3.28. Section 3.28, Section B, is amended to add item 4: The maximum height of all buildings shall be 35'.

Section 2. Amend Section 5.03. Remove reference to 2 ½ stories.

Section 3. Amend Section 6.03. Remove reference to 2 ½ stories.

Section 4. Amend Section 7A.03. Remove reference to 2 ½ stories.

Section 5. Amend Section 7B.03. Remove reference to 2 ½ stories.

Section 6. Amend Section 8.03. Remove reference to 2 ½ stories.

Section 7. Amend Section 9.03. Remove reference to 2 ½ stories.

Section 8. Amend Section 11.03. Remove reference to 2 ½ stories.

Section 9. Amend Section 12.03. Remove reference to 2 ½ stories.

Section 10. Effective Date. The foregoing amendment to the Casco Township Zoning Ordinance was approved and adopted by the Township Board of Casco Township, Allegan County, Michigan on _____, 2019, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on _____, 2019, which date is eight days after publication of the Ordinance as is required by Section 401 of Act 110, as amended, provided that this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

Allan Overhiser,
Township Supervisor

Cheryl Brenner,
Township Clerk

**CASCO TOWNSHIP
ALLEGAN COUNTY, MICHIGAN
Ordinance # _____**

AN ORDINANCE TO AMEND THE CASCO TOWNSHIP ZONING ORDINANCE; TO AMEND SECTION 2.31 DEFINITIONS (L), AMEND SECTION 3.34 E, 6 TO REFER TO LIGHTING SECTION, ADD SECTION 3.41 EXTERIOR LIGHTING, AMEND SECTION 15.03 CC, 5, AMEND SECTION 17.03 C, LINE 16, AMEND SECTION 18.03 C.

CASCO TOWNSHIP, ALLEGAN COUNTY, MICHIGAN HEREBY ORDAINS:

Section 1. Amendment of Section 2.31. Section 2.31 – Definitions – L is amended to add the following defined term to read as follows:

LIGHTING: The illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

DARK SKY COMPLIANT

Light fixtures which are fully cut off.

GLARE

The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GLARE, DISABLING

Glare that impairs visibility to the extent that it creates a potentially hazardous situation for either pedestrians or motorists.

GLARE, NUISANCE

Glare that creates an annoyance, aggravation, or discomfort but does not create a potentially hazardous situation.

FOOT CANDLE

A unit of measurement referring to illumination of a surface that is one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

FULL CUT-OFF

A light fixture with elements such as shields, reflectors, or refractor angles that direct and cut off the light at an angle less than 90 degrees.

LIGHTING, RESIDENTIAL DECORATIVE

Residential decorative lighting includes porch lights, sconce lights, and low level lawn or landscape lights under 100 watt incandescent or equivalent, seasonal decorative lighting, etc.

LUMEN

Unit used to measure the actual amount of visible light which is produced by a lamp as specified by the manufacturer.

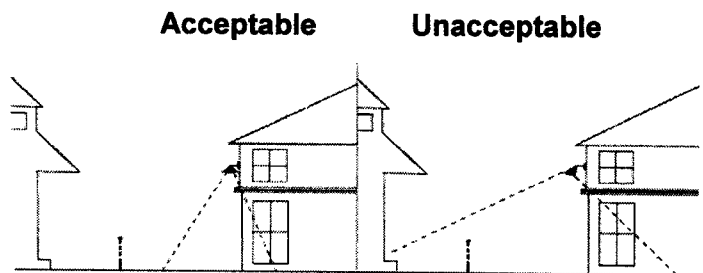
Section 2. Amend Section 3.34 E, 6. Replace with: Lighting shall conform to Section 3.41, Exterior Lighting.

Section 3. Add Section 3.41. Section 3.41 Exterior Lighting is added to the Zoning Ordinance to include the following:

SECTION 3.41 EXTERIOR LIGHTING

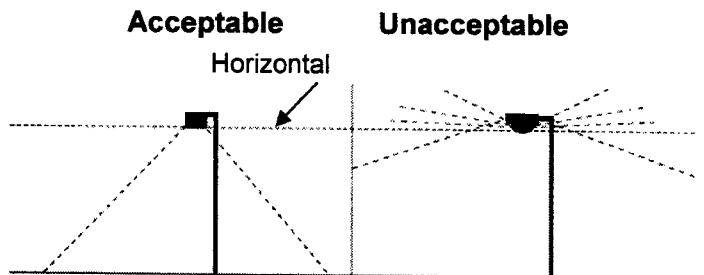
- A. **Intent.** It is the intent of the exterior lighting provisions to prevent direct light trespass across property lines and prevent light pollution that result in light glare, including nuisance glare or disabling glare.
- B. **Applicability.** All outdoor lighting fixtures installed on private property and public property after the effective date of this section shall comply with the standards herein.
- C. **Regulated Lighting.** The following types of lighting shall be regulated by this Ordinance:
 - 1. Parking lot lighting, building-mounted lighting, site lighting for commercial, industrial, multiple-family, institutional developments, and residential lighting including, but not limited to, sodium vapor lights and high powered dusk to dawn lighting.
 - 2. Publicly and privately owned roadway lighting.
- D. **Standards.** Lighting shall be designed and constructed in such a manner as to:
 - 1. Ensure that direct light is confined to the subject property per Figure 3-4.

Figure 3-4



- 2. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way.
- 3. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot candle.
- 4. Lighting fixtures shall have 100% cut off above the horizontal plane at the lowest part of the light source per Figure 3-5.

Figure 3-5



5. No light fixture shall be mounted higher than 20 feet above the average grade of the site, except for approved outdoor recreation area lighting.
 6. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color.
 7. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- E. Exemptions. The following types of outdoor lighting shall not be covered by this Ordinance:
1. Residential decorative lighting.
 2. Sign lighting as regulated by Chapter 19 herein.
 3. Lighting affiliated with a farm or farm operation.

Section 4. Amend Section 15.03 CC, 5. Replace with: Lighting shall conform to Section 3.41, Exterior Lighting.

Section 5. Amend Section 17.03 C, Line 16. Amend to read as follows: Specific location and design of exterior lighting, including a photometric plan, light fixture details, and manufacturer cut sheets, curbing, parking areas (including the dimensions of a typical parking space and the total number of parking spaces to be provided), fire lanes, and unloading areas

Section 6. Amend Section 18.03 C. Replace Section C with the following: Lighting shall conform to Section 3.41, Exterior Lighting.

Section 7. Effective Date. The foregoing amendment to the Casco Township Zoning Ordinance was approved and adopted by the Township Board of Casco Township, Allegan County, Michigan on _____, 2019, after a public hearing as required pursuant to Michigan Act 110 of 2006, as amended. This Ordinance shall be effective on _____, 2019, which date is eight days after publication of the Ordinance as is required by Section 401 of Act 110, as amended, provided that this effective date shall be extended as necessary to comply with the requirements of Section 402 of Act 110, as amended.

Allan Overhiser,
Township Supervisor

Cheryl Brenner,
Township Clerk

