

CITY OF HORSESHOE BAY

ORDINANCE NO. ORD 07-09-18B

OUTDOOR LIGHTING ORDINANCE

AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS, REGULATING OUTDOOR LIGHTING AND PROVIDING FOR FINDINGS OF FACT; DEFINITIONS; OUTDOOR LIGHTING REGULATIONS; EXCEPTIONS; ENFORCEMENT; CIVIL FINES NOT TO EXCEED \$1,000 AND CRIMINAL PENALTIES NOT TO EXCEED \$500; SEVERABILITY; REPEALER; AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Horseshoe Bay (City Council) seeks to provide for the safe and attractive lighting of property within its corporate limits; and

WHEREAS, the City Council desires to preserve property values, protect the community, and maintain a high quality of life; and

WHEREAS, the City Council seeks to provide for the health, safety, and welfare of those living in, working in, and visiting the City; and

WHEREAS, the City Council finds that the public will be well-served by the enactment of rules and regulations that govern the size and type of lighting; the intensity of lighting; the duration of lighting; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City Council has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, the City of Horseshoe Bay contains established subdivisions with established declarations of reservations, restrictive covenants, and deed restrictions that the City Council believes should be preserved and continued to the maximum extent possible within this Outdoor Lighting Ordinance; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Horseshoe Bay to adopt an ordinance regulating outdoor lighting;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. OUTDOOR LIGHTING REGULATIONS

(a) Definitions

For the purposes of this Ordinance, terms used shall be defined as follows:

Area lighting means light fixtures located on public or private property that are designed to light spaces including but not limited to parks, parking lots, and sales lots.

Axis of illumination means the midline of the beam emitted by a light fixture.

Candela (cd) means the unit of measurement of the intensity of a point source of light (approximately equal to one candlepower).

Candlepower means a measurement of light at its source.

Existing light fixtures means those outdoor light fixtures already installed on the date this ordinance is effective.

Floodlight means a light fixture having a wide beam.

Full cutoff means a shielded light fixture that emits no light above a horizontal plane touching the lowest part of the fixture.

Foot-candle means a unit of light measurement equal to one lumen per square foot.

Fully Shielded means a lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane as determined by photometric test or certified by the manufacturer. A fully shielded fixture is not necessarily full cutoff.

Glare means a luminance produced by bright sources in the field-of-view superimposed on the image in the eye reducing contrast and hence visibility.

Illuminance means the quantity of light arriving at a surface measured in lux or foot-candles.

Lamp or bulb means a source of light.

Light fixture means the assembly that holds or contains a lamp or bulb.

Light pollution means the sky glow caused by scattered light emitted upward from unshielded or poorly aimed light fixtures.

Light trespass means unwanted light falling on public or private property from an external location.

Lumen means a unit of luminous flux. One foot-candle is one lumen per square foot. For the purposes of this regulation, the lumen output values shall be the initial lumen output ratings of a lamp. The lumen rating associated with a given lamp is generally indicated on its packaging or may be obtained from the manufacturer.

Luminary means a complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

Outdoor lighting means night-time illumination of an outside area or object by any man-made device that is located outdoors and produces light.

Private lighting means outdoor light fixtures located on property owned or controlled by individual persons, including but not limited to families, partnerships, corporations, and other entities engaged in the conduct of business or other non-governmental activities.

Public lighting means outdoor light fixtures located on property owned, leased, or controlled by the city or other governmental entity or entities, including but not limited to streets, highways, alleys, easements, parking lots, parks, playing fields, schools, institutions of higher learning, and meeting places, and all entities completely or partly funded by grants obtained by the city or its agents from federal, state or private sources.

Sag-lens or drop-lens means a clear or prismatic refracting lens that extends below the lowest opaque portion of a light fixture.

Searchlight means a light fixture having a narrow beam intended to be seen in the sky.

Spotlight means a light fixture having a narrow beam.

Temporary outdoor lighting means lighting for a specific unique purpose of an outside area or object by any man-made device that produces light for a period of less than 7 days, with at least 30 days passing before being used again.

Trespass lighting means light emitted by a luminary which falls outside the boundaries of the property on which the luminary is sited.

Uplighting means the most commonly used technique to illuminate trees, walls, waterfalls, fountains, and other objects. Light fixtures are ground-mounted and directed upwards, away from the viewer to prevent glare. Normally these fixtures are easily adjustable.

Wallpack means a floodlight mounted on the wall of a building or other structure.

(b) Existing Light Fixtures

(1) To reduce glare, safety hazards for drivers and pedestrians, light trespass, and light pollution, all existing spotlights, floodlights, and wallpacks shall be adjusted in accordance with the following provisions:

(A) For spotlights and floodlights mounted overhead on poles and used for area lighting, the axis of illumination shall be adjusted to an angle not more than 20 degrees from the vertical line between the fixture and the ground.

(B) For spotlights and floodlights mounted at or near ground level and used to light a building, billboard, or other structure, the axis of illumination shall be adjusted to minimize the amount of light escaping above, below, and to the sides of the illuminated object.

(C) Wallpacks shall be adjusted where possible to minimize the amount of light emitted above the horizontal.

(2) It shall be the responsibility of the City to publish sections (b)(1) and (b)(3)-(b)(5) of this Ordinance in the newspaper of record and to disseminate the ordinance by other appropriate means; to identify those spotlights, floodlights, and wallpacks requiring adjustment; and to inform their owners of these provisions.

(3) Any required adjustments shall be completed within six months from the date of adoption of this ordinance. Any owner who fails to comply with these provisions shall be issued a warning notice. Any owner who further fails to comply after 30 days from the issuance of such warning notice shall be subject to a fine of \$25 for each day of noncompliance.

(4) It is not the intent of this section to require an additional investment in order to comply with these provisions.

(5) Existing light fixtures, other than spotlights, floodlights, and wallpacks, already installed at the time this Ordinance is enacted may continue in service without adjustment or modification through the remainder of their useful lives but thereafter must be brought into compliance with this ordinance.

(c) General Outdoor Lighting Restrictions

(1) This section applies to all new private lighting installed after the date of adoption of this ordinance, including replacements for existing fixtures.

(2) Lighting at public and private outdoor sports facilities, including but not limited to playing fields, arenas, tracks, and swimming pools, shall be shielded as well as is practicable to reduce glare, safety hazards, light trespass, and light pollution; shall provide levels of

illuminance consistent with nationally recognized standards; and shall be operated to coincide with scheduled events.

(3) Strobe lights on communication towers and other hazards to aerial navigation, that are required by the Federal Aviation Administration (FAA) during daytime hours and are permitted but not required to be operational at night, may not be used at night. Other lights used at night on such structures shall not be brighter than the minimum required by the FAA.

(4) All other outdoor lighting fixtures using lamps or bulbs having outputs greater than 1,800 lumens must be full cutoff fixtures.

(5) New streetlights shall be full cutoff fixtures using high pressure sodium lamps, or of approved historical design, utilizing a minimum output consistent with the safety of drivers and pedestrians.

(6) Sag-lens or drop lens fixtures are prohibited.

(7) In the interest of conserving energy and protecting the environment, mercury vapor fixtures are prohibited.

(8) Each flag to be lighted shall be lighted by one spotlight emitting no more than 1,800 lumens.

(d) Residential Outdoor Lighting Restrictions

The following restrictions are applicable to all private lighting within residential areas within the City Limits of the City of Horseshoe Bay:

(1) For residences in Zones 3 and 4 the following shall apply.

(A) Residential structures must have a decorative yard light no less than 5 feet from the edge of the road or more than 15 feet from the front property line. Such light shall not exceed 6 ½ feet in height and shall be controlled by a light sensitive switch.

(B) Corner lots shall have a yard light facing each street, evenly spaced from the corner.

(C) Re-platted lots shall have at least one yard light for each 100 feet of street **length**.

(D) When more than one light is required, lights shall be evenly spaced.

(E) The base of a light in a residential neighborhood shall be no less than 4 feet above ground

(2) Each light and light sensitive switch for same shall be kept in good working order and maintained by the owner.. All glass should be kept in good condition.

- (3) Any yard light that was neither recommended by a Property Owners' Association within the city limits of the City, nor approved by the Architectural Control Committee prior to its installation is prohibited.
- (4) No exterior lighting on a lot shall be directed outside the boundaries of such lot or produce a glare visible from outside the boundaries of such lot except as otherwise approved by the Architectural Control Committee.
- (5) Security lighting (area floodlighting) is generally prohibited. Garage bay light bulb wattage may not exceed 100 watts per fixture.
- (6) Sodium vapor or mercury type lights are prohibited in all residential areas.
- (7) Nonworking yard lights shall be reported to the City Development Services Department who will notify the homeowner, and if not corrected within 10 days, the City will repair the fixture or replace the light bulb(s) and charge the homeowner \$50, plus the cost of any materials for this service
- (8) Lighting a lot or the exterior of a building as an accent or for any other reason is prohibited unless approved by the governing architectural control committee and City Development Services Department.
- (9) Up lighting of any kind is prohibited if it pollutes the night sky. However, if specifically permitted by the POA of a Subdivision, up lighting may be acceptable.
- (10) All lighting shall be shielded so that no lighting source will be visible from the street by neighboring residences.

(e) Levels of Illuminance Required or Permitted at Specific Facilities

- (1) Maximum, average, and minimum levels of illuminance for different facilities are listed below in horizontal foot-candles. Unless otherwise specified, minimum levels shall be the lowest consistent with safety and security. Lighting requirements are as follows:
 - (A) Parking lots and parking areas: average 2.0 fc; minimum 0.5 fc.
 - (B) Entry areas near buildings: maximum 5.0 fc.
 - (C) Service stations and other fueling facilities: maximum 10.0 fc in the area surrounding pump islands; parking areas and entry areas shall be lighted as required above; drop lens fixtures are prohibited, whether mounted under canopies or on poles.
 - (D) Sales lots where merchandise, including automobiles, are displayed at night: maximum 20.0 fc.

(2) For locations and facilities not specified herein, the Development Services Department shall set acceptable levels of illuminance upon request based on guidelines established by the Illuminating Engineering Society of North America.

(3) The use of searchlights and spotlights is prohibited for advertising, attracting attention to any event, and for any other use except for emergency purposes.

(f) Large Outdoor Lighting Projects

(1) An outdoor lighting project reasonably expected to utilize 100,000 lumens or more in the aggregate shall file a lighting plan with the City Development Services Department. A lighting plan shall be filed at the same time as any other plans required by the city and shall specify the following:

(A) Number and type of light fixtures to be used;

(B) Their output in lumens; and

(C) Photometric data from the manufacturer(s) showing the spatial distribution of the output of the proposed fixtures.

(2) The City Development Services Department shall review the lighting plan taking into account factors including but not limited to levels of luminance, glare, safety hazards, light trespass, and light pollution. The City Development Services Department shall approve or reject the plan within 30 days of submission, returning it to the applicant with an explanation for the decision. The applicant shall not undertake the outdoor lighting project until the lighting plan is approved. The decision of the City Development Services Department may be appealed to the City Council.

III. EXCEPTIONS

(a) This Ordinance shall not apply to the following:

(1) Decorative holiday lighting from the Friday following Thanksgiving through January 8 of the following year, so long as:

(A) The decorative lighting is not excessive or unsightly. A determination that decorative lighting is excessive or unsightly may be made by the City Development Services Department. This determination may not be appealed.

(2) Lighting required by local, state or federal law to be installed on surface vehicles and aircraft;

(3) Airport lighting required by law;

(4) Temporary emergency lighting;

- (5) Temporary lighting other than security lighting at construction projects; and
- (6) Governmental facilities where compelling needs for safety and security are demonstrated.
- (7) Low voltage lighting for walkways, flower bed borders, trees etc.

(b) This Ordinance may be amended from time to time as local conditions change, and as changes occur in the recommendations of nationally recognized organizations such as the Illuminating Engineering Society of North America and the International Dark-Sky Association.

(c) Nothing in this Ordinance shall be construed as limiting the right of any person or entity to pursue legal action against any other person or entity under any applicable law, including the doctrine of light trespass.

(d) The City Council shall have the power to grant variances in the application of the provisions of this Ordinance and to hear and adjudicate appeals from Architectural Control Committees and City Development Services Department decisions.

IV. ENFORCEMENT

(a) Enforcement

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

(b) Criminal Prosecution

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500), except as may be otherwise expressly provided by state law. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

(c) Civil Remedies

Nothing in this Ordinance shall be construed as preempting or waiving the rights of third parties from instituting any action for remedies against site operators or permittees. Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (1) Injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance;

- (2) a civil penalty up to one thousand dollars (\$1,000) for each day a violation occurs, when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
- (3) other available relief.

V. EFFECTIVE DATE

This Ordinance shall be and become effective immediately upon and after its passage and publication as may be required by governing law.

VI. REPEALER

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

VII. SEVERABILITY

Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

ADOPTED AND APPROVED on this 18th day of September, 2007 by a vote of the City Council of the City of Horseshoe Bay, Texas.

CITY OF HORSESHOE BAY, TEXAS

Robert W. Lambert, Mayor

ATTEST:

Toni Vanderburg, City Secretary