

VILLAGE OF WEBBERVILLE

ORDINANCE No. 2013-___

LIGHTING ORDINANCE

AN ORDINANCE OF WEBBERVILLE, TEXAS (“VILLAGE”), ESTABLISHING REGULATIONS FOR LIGHTING; PROVIDING FOR THE FOLLOWING: RULES; STANDARDS; PROCEDURES; CRIMINAL PENALTIES NOT TO EXCEED \$2,000 OR CIVIL PENALTIES OF UP TO \$500 PER VIOLATION; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE & MEETING.

WHEREAS, the Commission of the Village of Webberville (“Commission”) seeks to provide for the regulation of lighting within the Village limits of the Village of Webberville (“Village”), and when possible through contracts, the extraterritorial jurisdiction (ETJ); and

WHEREAS, the Commission seeks to maintain the value of Webberville’s scenic beauty and rural charm, which are the keystones of the Village’s quality of life, through a comprehensive regulatory program that includes zoning, landscaping, subdivision control, and restrictions on signs and lighting; and

WHEREAS, the Village was presented with scientific studies on the health and safety risks of certain lighting devices; and

WHEREAS, the Commission finds that unnecessary and improperly designed light fixtures cause glare, skyglow, light trespass, obtrusive light and waste resources; and

WHEREAS, glare and light pollution can result in: hazardous circulation conditions for all modes of transportation; the diminishing ability to view the night sky; light trespass; negative effects to nocturnal habitat; and an unattractive townscape; and

WHEREAS, the people who live in and near the Village value the natural environment, including the beauty of the natural landscape and high quality of the night sky; and

WHEREAS, the Village desires to establish lighting thresholds for night-time safety, utility, security, productivity, enjoyment, and commerce.; and

WHEREAS, these lighting regulations will not sacrifice the safety of our citizens or visitors, or the security of property, but instead will result in safer, efficient and more cost-effective lighting; and

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

WHEREAS, pursuant to Texas Local Government Chapter 217, the Village has specific authority to adopt an ordinance or police regulation declaring, prohibiting and abating public nuisances; and

WHEREAS, pursuant to Texas Local Government Chapters 211 and 214, the Village has general authority to adopt an ordinance or police regulation regarding the use of land, improvements upon land, and construction or building upon land; and

WHEREAS, the Commission finds that it is necessary and proper for the good government, peace or order of the Village to adopt an ordinance regulating lighting.

NOW, THEREFORE, BE IT ORDAINED by the Webberville Commission:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

The Village of Webberville Lighting Ordinance is hereby approved and enacted, and shall read in

accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

6. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Ordinance.

PASSED & APPROVED this, the ___ day of _____ 2013, by a vote of ___ (*ayes*) to ___ (*nays*) to ___ (*abstentions*) of the Commission of the Village of Webberville, Texas.

VILLAGE OF WEBBERVILLE:

by: _____

Mayor Hector Gonzales

ATTEST:

Carissa Cannaday, Village Clerk

Outdoor Lighting

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OUTDOOR LIGHTING

SECTION 1. ENACTMENT PROVISIONS

1.1. Popular Name

This Section shall be known as the "Lighting Ordinance".

1.2. Purpose

The purpose of this Section is provide for the preservation of night skies, protect property rights by preventing Light Trespass, save energy by eliminating waste, and increase safety by eliminating glare.

1.3 Scope

1.3.1 This Ordinance applies to all new **Non-Residential and Multi-Family** development requiring Site Plan approval subject to zoning requirements. Any Non-Residential (e.g. businesses) or Multi-Family property already in existence on the effective date of this Ordinance shall be exempt from this Ordinance except, all **Non-Residential and Multi-Family** properties going through re-development through extension, reconstruction, resurfacing, or structural alteration of at least fifty (50) percent increase in size or value, whichever is less, must come into compliance with this Ordinance. Site plan approval shall be conditioned on compliance with this Ordinance.

1.3.2 Nothing herein shall be construed as preventing or limiting the Village from applying this Section to the ETJ through agreements with property owners, or as a term affixed to a conditional approval (such as a variance).

1.4. Exemption

The following are exempt from the application of the regulations of this Section: lighting equipment required by law to be installed on motor vehicles or lighting required for the safe take-off and landing of aircraft.

1.5 Prohibition

- 1.5.1 It shall be unlawful and an offense for any person/entity to do the following:
- (a) Install lighting contrary to this Section; and/or
 - (b) Fail to comply with any terms or conditions set forth in a permit issued under this Section.

SECTION 2. DEFINITIONS

2.1. General

Words and phrases used in this Section shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Village's ordinances, shall be given the meanings set forth in the ordinances. Words and phrases not defined in the Village's ordinances shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and *vice versa*); and words in the masculine gender shall include the feminine gender (and *vice versa*). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2. Specific

Applicant: A person or entity who submits to the Village an application for an approval required by this Ordinance. To be qualified as an Applicant under this Section, the person or entity must have sufficiently documented legal authority or proprietary interests in the land to commence and maintain proceedings under this Ordinance. To avoid confusion, the term will not include anyone other than the property owner(s), tenant(s), or a duly authorized agent and representative of the Property Owner. As to enforcement between tenant(s) and Property Owner(s) of a particular piece of property, the Property Owner(s) shall have ultimate liability for violations of this Ordinance.

Full Cut-Off Fixtures: Fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

Shielded Lights: Outdoor light fixtures shielded or construction so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. This light is also considered a Full Cut-Off Fixture.

Glare: Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

Holiday Lighting: Lighting used for a specific celebration which may be one of the following types:

- (a) Festoon type low-output lamps, limited to small individual bulbs on a string.
- (b) Low-output lamps used to internally illuminate yard art.
- (c) Flood or spot lights producing less than 2000 lumens each, whose light source is not visible from any other property, and which are used only as temporary lighting.

IESNA: The Illuminating Engineering Society of North America.

Lighting: Any source of light that does not include natural light emitted from celestial objects or fire. The term includes any type of lighting, fixed or movable, designed or used for outdoor illumination of buildings or homes, including lighting for billboards, streetlights, canopies, gasoline station islands, searchlights used for advertising purposes, externally or internally illuminated on- or off-premises advertising signs, and area-type lighting. The term includes luminous elements or lighting attached to structures, poles, the earth, or any other location.

Light Trespass: Light emitted from fixtures designed or installed in a manner that unreasonably causes light to fall on a property other than the one where the light is installed, in a motor vehicle driver's eyes, or upwards toward the sky.

LZ1: Light Zone 1 is the IESNA's recommended default zone for rural and low density residential areas for low ambient lighting levels.

Logo: A representation or symbol adopted by a business, organization, or an individual used to promote instant public recognition.

Lumen: The unit of measurement used to quantify the amount of light produced by a bulb or emitted from a fixture (as distinct from "watt," a measure of power consumption). For the purposes of this Section, 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. (Abbreviated lm).

Luminaire: The complete lighting unit (fixture) consisting of a lamp, or lamps and ballasts, together with the parts designed to distribute the light (reflector, lens, diffuser), to position and protect the lamps, and to connect the lamps to the power supply.

Luminous Elements (of a Light Fixture): The lamp (light bulb), any diffusing elements, and surfaces intended to reflect or refract light emitted from the lamp individually or collectively comprise the luminous elements of a light fixture (luminaire).

Major Addition: Enlargement of fifty percent (50%) or more of the building's gross floor area, seating capacity, or parking spaces, either with a single construction project or cumulative series of construction projects, after the enactment of this Section. The term also includes replacement of twenty-five percent (25%) or more of installed outdoor lighting.

Multi-Family Dwelling: Three or more dwelling units on a single lot designed to be occupied by three or more families living independently of one another, exclusive of hotels or motels.

Multi-Family Dwellings include three-family units (triplex) and four-family units (quadruplex), as well as traditional apartments.

Non-Residential: Property designated as Non-Residential under the Village’s Zoning Ordinance.

Outdoor Lighting: Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outdoors. Non-residential fixtures that are installed indoors that cause light to shine outside are considered outdoor lighting for the intent of this Section. (See Figure A). Residential fixtures installed indoors generating more than 6200 lumens (approximately equal to a 300 watt incandescent bulb) that cause light to shine outside are also considered outdoor lighting for the intent of this Section. Figure A is an elevation view showing a non-residential application of indoor lighting, labeled FS, which will be subject to this Ordinance and indoor lighting, labeled A, which is installed so that it is not subject to this Ordinance.

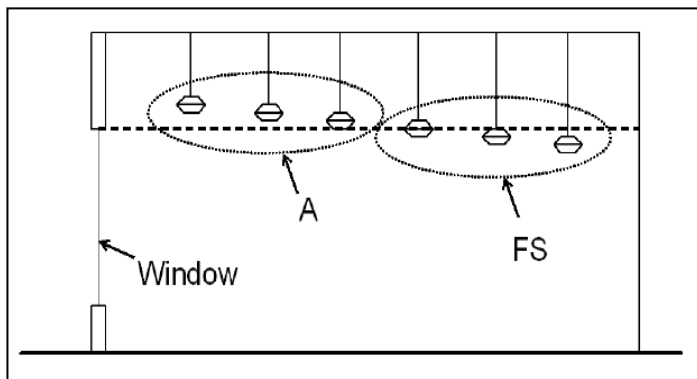


Figure A

Person: A human individual, corporation, agency, unincorporated association, partnership, or sole proprietorship.

Property Line: The boundary line between two pieces of property.

Residential: Property designated as Residential under the Village’s Zoning Ordinance.

Shielded Lights: Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. This light is also considered a Full Cut-Off Fixture.

Sky Glow: The brightening of the nighttime sky that results from scattering and reflection of artificial light by moisture and dust particles in the atmosphere. Sky Glow is caused by light directed or reflected upwards or sideways and reduces one’s ability to view the night sky.

Temporary Lighting: Lighting intended for uses which by their nature are of limited duration. For example: holiday decorations, civic events, or construction projects.

Uplighting: Lighting that is directed in such a manner as to shine light rays above the horizontal plane.

Village: The Village of Webberville, an incorporated municipality located in Travis County, Texas.

SECTION 3. NEW LIGHTING

3.1. General

All outdoor lighting shall be installed in conformance with the provisions of this Section, applicable Village electrical, energy, and building ordinances, except as provided herein.

3.2. Prohibition

It is an offense to install outdoor lighting that does not comply with the standards established by this Section.

3.3. Non-Residential and Multi-Family

All outdoor lighting installed on Non-Residential and Multi-Family properties shall conform to the standards by this Section, except as provided herein.

SECTION 4. NONCONFORMING EXISTING LIGHTING

4.1 General

All existing outdoor lighting that was legally installed before the enactment of this Ordinance, that does not conform with the standards specified and imposed by this Ordinance shall be considered nonconforming. Nonconforming outdoor lighting is allowed to remain until required to be replaced pursuant to the terms of this Section.

4.2 Conformance Required

4.2.1 **Destruction.** If more than fifty percent (50%) of the total appraised value of a structure (as determined from the records of the Travis County Appraisal District), has been destroyed, the nonconforming status expires and the structure's previously nonconforming outdoor lighting must be removed and may only be replaced in conformity with the standards of this Ordinance.

4.2.2 **New Uses or structures, or Change of Use.** Whenever there is a new use of a property (zoning or variance change) or the use on the property is changed, all outdoor lighting on the property shall be brought into compliance with this Ordinance before the new or

changed use commences.

- 4.2.3 **Major Addition.** All existing outdoor lighting located on a subject property that is part of an application for a rezoning application, conditional use permit, subdivision approval, or a building permit for a Major Addition is required to be brought into conformance with this Ordinance before final inspection, issuance of a Certificate of Occupancy, or final plat recordation, when applicable. For the following permits issued by the Village, the Applicant shall have a maximum of 90 days from date of permit issuance to bring the lighting into conformance: site development permit, sign permit for an externally or internally-illuminated outdoor sign, initial alcoholic beverage permit, initial food establishment permit, and on-site sewage facility permit.
- 4.2.4 **Abandonment of Nonconforming.** A nonconforming structure shall be deemed abandoned if the structure remains vacant for a continuous period of six (6) months. In that instance, the nonconforming status expires and the structure's previously nonconforming outdoor lighting must be removed and may only be replaced in conformity with the standards of this Ordinance.

4.3 Prohibitions

It is unlawful to expand, repair, or replace outdoor lighting that was previously nonconforming, but for which the prior nonconforming status has expired, been forfeited, or otherwise abandoned.

SECTION 5. SHIELDING AND TOTAL LIGHT TRESPASS STANDARDS

5.1 Parking

All parking lot lighting shall have no light emitted above an angle of 90 degrees (i.e., light shall not shine above the horizon).

5.2 Shielding

All outdoor lighting, except governmental owned street lights, shall be shielded so that the luminous elements of the fixture are not visible from any other property. Mounting height or proximity to property lines may cause the luminous elements of a light fixture to need additional shielding. The following are examples of shielding and lack of shielding: (See Figures B and C).



Figure B (Typical *Shielded* Outdoor Lighting)

In Figure C (below), the lights on the left are non-conforming. Those on the right can be used in most cases. However, the mounting height and proximity to the property line may cause them to need additional shielding to prevent the luminous elements from being visible from any other property.



Figure C (Examples of Prohibited and Permitted Outdoor Lighting)

5.3 Public Lighting

Governmental owned street lights shall meet the qualifications to be full cut-off fixtures in order to limit Light Trespass. (See Figure D).

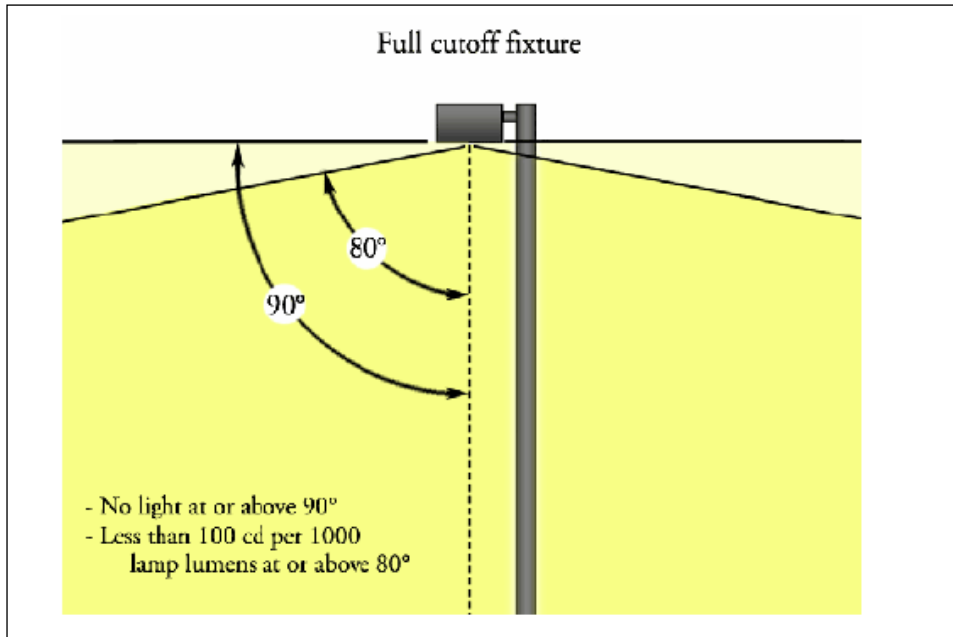


Figure D (Full Cut-Off Fixture that Limits Light Trespass)

5.4 Prohibitions

- 5.4.1 Outdoor **Uplighting** is prohibited, except in cases where the fixture is shielded by a roof overhang or similar structural shield and a licensed architect or engineer has stamped a prepared lighting plan that ensures that the light fixtures(s) will not cause light to extend beyond the structural shield, and except as specifically permitted in this Section.
- 5.4.2 Outdoor lighting fixtures, except Uplighting covered in this Section, are not allowed to have **light escape** above a horizontal plane running through the lowest point of the luminous elements. (See Figures E and F).

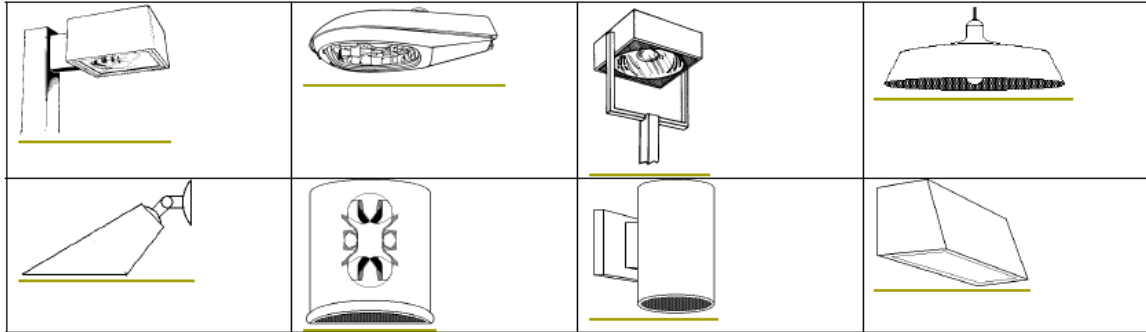


Figure E (Permitted Fixtures with Zero Light Escape above Horizontal Plane)

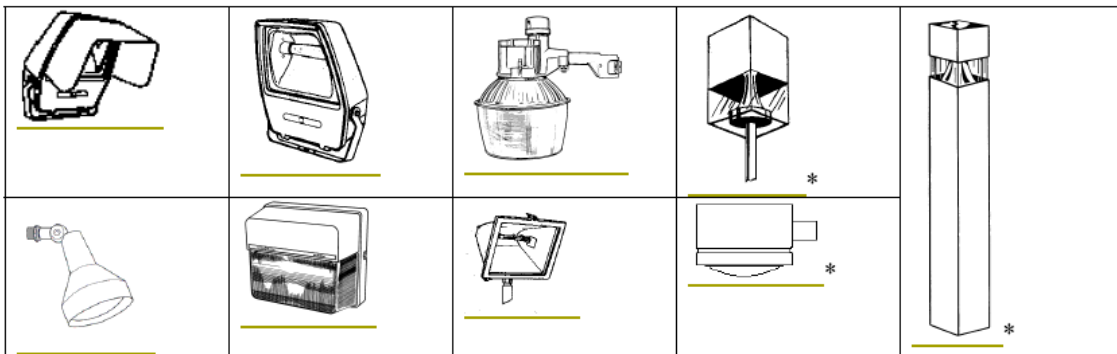


Figure F (Prohibited Fixtures with Light Escape above Horizontal Plane)

5.4.3 There shall be no **Light Trespass** across property lines. The photometric measurement shall be zero (0) at all locations three (3) feet past the property perimeter.

5.5 Outdoor Recreational Facilities

Outdoor recreational facilities are subject to the shielding requirements in this Section. Where fully shielded fixtures are not available, lighting fixtures using external louvers or shields that, in the final installed configuration, extend to within 3 inches on the lowest portion of the light fixture opening are required. (See Figure G). The fixtures shall be installed and maintained with aiming angles that permit no greater than 1% of the light emitted by each fixture to project above the horizontal line.

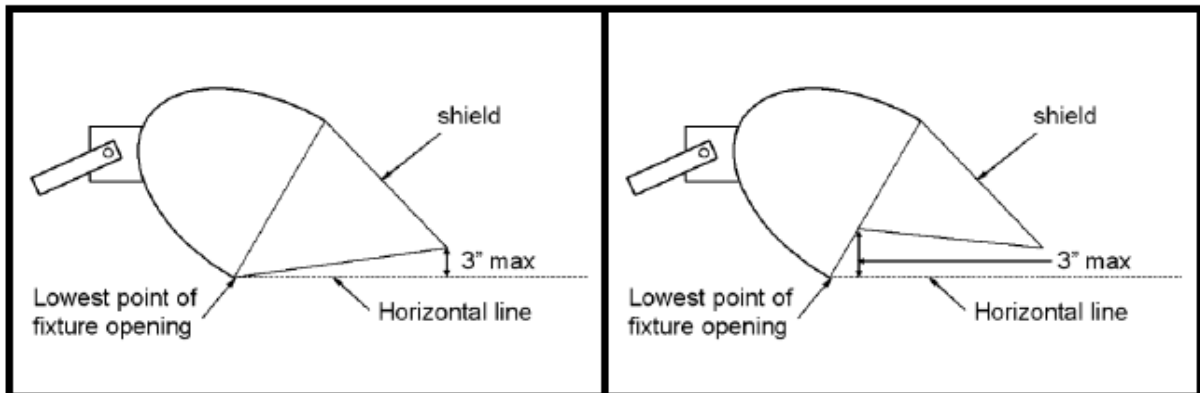


Figure G (Sports Lighting where Fully Shielded Fixtures are Not Available)

SECTION 6. LIGHTING FOR OUTDOOR SIGNS AND PANELS

Refer to the Village of Webberville Sign Ordinance for sign lighting regulations.

SECTION 7. LIGHTING UNDER CANOPIES, BUILDING OVERHANGS, OR ROOF EAVES

All Outdoor light fixtures located under canopies, building overhangs, or roof eaves must conform to all provisions of this Ordinance.

SECTION 8. NEON LIGHTING

Neon lighting is permitted. Such lighting shall be subject to the shielding requirements of this Ordinance unless exempted under Section 12.

SECTION 9. LIGHTING CURFEWS

9.1 Outdoor Lighting

Outdoor lighting intended to be illuminated for more than 30 minutes after closing, or for the completion of activities after closing, must be reduced to 25% or less of the normal lumen

output. Motion sensor activation may be allowed to cause the light to resume normal lumen output only when activated and to be reduced back to 25% or less of normal lumen output within 5 minutes after activation has ceased, and the light shall not be triggered by activity off the property.

9.2 Sign Illumination

Illumination for all advertising signs, both externally and internally illuminated, shall be turned off by the later of closing time or 11:00 P.M.; provided, however, that such signs may be turned back on prior to sunrise, but no more than one hour prior to opening.

9.3 Street lighting

Street Lighting, other than at the intersection of roadways, shall utilize half-night photocells or timers to turn off the lights half way between dusk and dawn.

9.4 Outdoor Recreational Facilities

Lighting for outdoor recreational facilities is allowed between one hour prior to sunset and 11:00 p.m., unless it is needed to complete a specific organized activity or event already in progress at 11:00 p.m.

SECTION 10. PROHIBITIONS

10.1 Fixtures

10.1.1 The installation of any **mercury vapor** fixture or lamp for use as outdoor lighting is prohibited.

10.1.2 The installation of any **wall pack style** fixture for use as outdoor lighting is prohibited unless the fixture is rated by the manufacturer as full cut-off. Examples of acceptable wall packs, when mounted with light directed downward only are shown in Figure I.



Figure I (Examples of Acceptable Wall Packs)

10.1.3 The installation of any **barn-light style** fixture for use as outdoor lighting is prohibited unless the fixture includes a full opaque reflector instead of the standard translucent lens.

An example of barn-light style with and without the required opaque reflector is shown in



Figure J.

Figure J (Prohibited Fixture (left) vs. Acceptable Fixture (right))

10.1.4 The operation of searchlights for advertising purposes is prohibited.

SECTION 11 SUBMISSION OF PLANS AND EVIDENCE OF COMPLIANCE

11.1 Plan Requirements

All Non-Residential and Multi-Family building permit applications must include an outdoor lighting plan which includes the following information:

- 11.1.1 The location of all existing and proposed light fixtures (may be included on site plan).
- 11.1.2 A lighting fixture table that includes the total area to be illuminated, the fixture descriptions, lamp types (i.e., incandescent, low pressure sodium, compact fluorescent, LED, etc.), number of lamps, and mounting height of all existing and proposed lamps.
- 11.1.3 Specification sheets for all existing and proposed light fixtures.
- 11.1.4 A statement signed by the property owner(s) and acknowledged before a Notary Public that the Applicant has received notification of the provisions of this Ordinance and that the photometric measurement shall be zero (0) at all locations three (3) feet past the property line perimeter.

11.2 Inspection

Verification that a **Non-Residential and Multi-Family** construction project requiring a building permit application has complied with the provisions of this Ordinance shall occur during the final electrical inspection by the Village Building Inspector.

SECTION 12. EXEMPTIONS

The following lighting instances are exempt from this Ordinance:

- 12.1. Holiday lights as defined in this Ordinance are exempt from the requirements of this Ordinance from November 15 to January 15 during the hours from 6:00 A.M. to midnight each day, annually, except that flashing holiday lights are prohibited on Non-Residential and Multi-Family properties.
- 12.2 Lighting required by law to be installed on motor vehicles.
- 12.3 Lighting needed during activities of law enforcement, fire and other emergency services.
- 12.4 Lighting employed during emergency repairs of roads and utilities may be unshielded provided the lights are positioned so they do not shine in the eyes of passing drivers.
- 12.5 Lighting required for the safe operation of aircraft.
- 12.6 Temporary lighting required to save life or property from imminent peril provided the lights are positioned so they do not shine in the eyes of passing drivers.

SECTION 13. VARIANCES

The Village shall review each variance application. A variance permit may be granted if, upon review, the Village confirms that the lighting design minimizes Glare, minimizes Sky Glow, and minimizes Light Trespass and meets the Illuminating Engineering Society of North America's (IESNA) Zone 1 (Low Ambient Lighting) lighting levels as certified by a certified lighting professional.

SECTION 14. METHODS OF INSTALLATION

This Ordinance is not intended to prohibit the use of any design, material or method of prescribed installation not specifically proscribed by this Ordinance, provided such alternative meets the legislative intent of this Ordinance.

SECTION 15. COMPLIANCE WITH BUILDING ORDINANCE

All lighting installations commenced in accordance with this Ordinance must be in compliance with the International Building Code.

SECTION 16. CIVIL & CRIMINAL PENALTIES

The Village 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.

SECTION 17. CRIMINAL PROSECUTION

It shall be an offense for a person/entity to fail to comply with the standards set forth in this Ordinance within 15 days after notice is mailed to them. Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding five hundred dollars (\$500.00). Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Section is a Class C misdemeanor. The culpable mental state to incur criminal liability under this Ordinance is Criminal Negligence.

SECTION 18. CIVIL REMEDIES

18.1 General

Nothing in this Section shall be construed as a waiver of the Village's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law and equity, including, but not limited to the following:

18.1.1 Injunctive relief,

18.1.2 Monetary damages, and

18.1.3 Other relief as directed by a court with jurisdiction over the matter.

SECTION 19. ALTERNATIVE RELIEF

To prevent specific conduct that violates this Ordinance or to require specific conduct that is

necessary for compliance with this Ordinance; and

19.1 Penalty

In lieu of criminal prosecution, a civil penalty up to five hundred dollars (\$500.00) a day to be deposited in the Landscaping Fund, when it is shown that the defendant was actually notified of the provisions of this Ordinance and committed acts in violation of this Ordinance or failed to take action necessary for compliance with this Ordinance ; and other available relief.

19.2 Stop Work Order

In the event work is not being performed in accordance with this Ordinance , the Village may issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

SECTION 20. PUBLIC NUISANCE

20.1 General

Any violation of this Ordinance that results in Light Trespass or an unreasonable interference with the common and usual use of neighboring property is hereby declared to be a public nuisance, which is prohibited by this Ordinance

20.2 Offense

It is an offense under this Ordinance for a person to emit light onto the property of another unreasonably interfering with the neighboring property owner's use and enjoyment of their property