

CITY OF BROOKSHIRE ORDINANCE NO. 19-659-14

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES, CITY OF BROOKSHIRE, TEXAS "BUILDINGS BUILDING REGULATIONS", TO ADD A NEW ARTICLE IX, "OUTDOOR COMMERCIAL LIGHTING" THAT ESTABLISHES STANDARDS TO MINIMIZE LIGHT POLLUTION, GLARE, AND TRESPASS IN ORDER TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 PER DAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council (the "Council") of the City of Brookshire, Texas (the "City") desires to protect the health, safety, and welfare of the general public by promoting the effective and reasonable use of outdoor commercial lighting within the City; and

WHEREAS, the Council finds that some outdoor commercial lighting within the City causes light pollution, glare, and trespass, and interferes with the peaceful enjoyment of property by some residents of the City; and

WHEREAS, the Council finds that the restrictions and regulations on outdoor commercial lighting established through this Ordinance are reasonable, necessary, and proper for the health, safety, and welfare of the general public; now therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY:

Section 1. THAT Article IX of Chapter 10 of the Code of Ordinances, City of Brookshire, Texas is hereby created to read as follows:

"ARTICLE IX. – OUTDOOR COMMERCIAL LIGHTING

Sec. 10-250. – Definitions.

Adequately shielded shall mean the blocking, covering, fixing, installing, locating, positioning, or restricting of light emitted from a luminaire or outdoor light source in order to prevent light pollution.

Light source shall mean any electrical bulb, tube, diode, or other device that produces artificial light or illumination.

Light trespass shall mean the light emitted by a luminaire or an outdoor light source that falls, illuminates, shines, or otherwise affects the public right-of-way, the safe operation of a motor vehicle, or the real or personal property abutting or distinct from the real or personal property upon which such luminaire or outdoor light source is positioned, installed, fixed, or located, as determined in accordance with Section 10-251 herein.

Luminaire shall mean a unit composed of an outdoor light source together with any of its component parts or accessories.

Officer shall mean the city's chief code enforcement officer or his designee.

Sec. 28-251. – Outdoor Lighting Standard.

No luminaire or outdoor light source in the city shall create light trespass. Therefore, unless otherwise exempt from this Article, any luminaire or outdoor light source located within the city shall be adequately shielded. The Officer shall determine if an instance of light trespass has occurred or is occurring. The Officer shall determine that light trespass has occurred or is occurring if the light emitted or originating from a luminaire or outdoor light source reaches a height of more than three feet (3') or an intensity of more than five hundredths (0.05) foot candles at the boundary of the real property abutting the real property upon which such luminaire or outdoor light source is positioned, installed, fixed, or located.

Sec. 28-252. – Exemptions.

Exempt from the provisions of this Article shall be any luminaire or outdoor light source that:

- (a) is required or necessary for use by law enforcement or other emergency personnel;
- (b) illuminates publicly-owned property, including but not limited to, parks, recreation areas, schools, streets, street signs, monuments, and sidewalks;
- (c) is authorized by and conforms with State or Federal law;
- (d) is used as an annual holiday decoration from November 1 through January 10;
- (e) is used as security lighting that is temporary in nature and is motion activated;
- (f) is used for special events such as festivals, fairs, holiday celebrations, concerts, or sporting events that are either sponsored by the city or have received authorization from the city; or
- (g) is positioned, installed, fixed, or located on property used for residential purposes.

Sec. 28-253. – Violation, Remediation, and Penalty.

If the Officer discovers or is notified of an occurrence of light trespass caused by a luminaire or outdoor light source, then the officer or designee may require that the owner or occupant of the property on which such luminaire or outdoor light source is positioned, installed, fixed, or located to adequately shield the luminaire or outdoor light source within a reasonable time as specified by the Officer. If the property owner or occupant does not adequately shield the luminaire or outdoor light source within the time specified by the director, then the property owner or occupant shall be in violation of this Code and shall be subject to the penalties provided for in Article 1-13 of this Code.

Sec. 28-254. – Non-Conforming Luminaire or Outdoor Light Source.

A luminaire or outdoor light source in existence on the effective date of this Ordinance that would otherwise be in violation of this Ordinance shall become adequately shielded within three (3) months of the effective date of this Ordinance or the property owner or occupant of the property on which such luminaire or outdoor light source is positioned, installed, fixed, or located shall be in violation of this Code and shall be subject to the penalties provided for in Article 1-13 of this Code.”

SECTION 2. THAT a violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed two thousand dollars (\$2,000.00) as provided in Article 1-13 of the Code of Ordinances, City of Brookshire, Texas.

SECTION 3. THAT should any paragraph, section, sentence, phrase, clause, or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 4. THAT the City Secretary of the City of Brookshire is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance.

SECTION 5. THAT this Ordinance shall become effective, except as may otherwise be provided herein, from and after its publication as provided by law.

PASSED AND APPROVED this the ____ day of _____, 2019.

APPROVED:



Eric Scott, Mayor

ATTEST:



Claudia Harrison, City Secretary