

ORDINANCE NO. 438

AN ORDINANCE AMENDING CHAPTER 3 BUILDING REGULATIONS OF THE BANDERA CODE OF ORDINANCES BY ENACTING ARTICLE 3.06 OUTDOOR LIGHTING AND PROVIDING FOR THE FOLLOWING: RULES; STANDARDS; PROCEDURES; CRIMINAL PENALTIES NOT TO EXCEED \$500 AND CIVIL FINES OF UP TO \$2000 PER VIOLATION; AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Bandera ("City Council") seeks to provide for the regulation of lighting within the city limits of the City of Bandera ("City"), and where applicable, in the extraterritorial jurisdiction (ETJ); and

WHEREAS, the City Council seeks to maintain the value of Bandera's scenic beauty and rural charm through comprehensive regulations and restrictions on lighting; and

WHEREAS, the City Council finds that unnecessary and improperly designed light fixtures cause glare, light pollution and wasted resources which can result in hazardous circulation conditions for all modes of transportation, the diminishing ability to view the night sky, light trespass, and an unattractive townscape; and

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

WHEREAS, the City desires to protect the health, safety and welfare of the general public, and to protect the night sky that adds to the quality of life and economic well-being of the City and lighting regulations will not sacrifice the safety of our citizens or visitors, or the security of property; and

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

WHEREAS, pursuant to Texas Local Government Code Chapters 211 and 214, the City 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, pursuant to Texas Local Government Code Section 51.001, the City 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

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Bandera, Texas:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and incorporated fully herein.

ARTICLE II. ADOPTION AND ENACTMENT

The City of Bandera Code of Ordinances Chapter 3 Building Regulations is hereby amended by adopting the "City of Bandera Outdoor Lighting Ordinance", to be known also as the "Lighting Ordinance", as Article 3.06 Outdoor Lighting, attached hereto as Figure A, B, C & D, and incorporated fully herein for all intents and purposes.

ARTICLE III. 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.

ARTICLE IV. 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.

ARTICLE V. CODIFICATION

The City Secretary is hereby directed to record and publish the Lighting Ordinance in the City's Code of Ordinances.

ARTICLE VI. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication in the City's official newspaper.

PASSED AND APPROVED ON THIS 10th DAY OF OCTOBER 2023

Rebeca Gibson, Mayor

Attest:

Jill Shelton, City Secretary

EXHIBIT A

AMEND CHAPTER 3 BUILDING REGULATIONS OF THE CITY OF BANDERA CODE OF ORDINANCES BY ADDING ARTICLE 3.06 AS FOLLOWS:

ARTICLE 3.06 OUTDOOR LIGHTING

Division 1. Generally

This Article shall be known as the “Outdoor Ordinance”.

ARTICLE III. OUTDOOR LIGHTING

Sec. 3.06.001 Purpose.

The purpose of these rules and regulations are to provide outdoor lighting standards and regulations to assure public safety, promote efficient and more cost-effective lighting, enhance the ability to view the night sky and promote health and a positive City image that aligns with Bandera’s goals as outlined in the comprehensive plan.

Sec. 3.06.002. Jurisdiction and Scope.

This Chapter applies to Outdoor lighting on all properties within the City limits and to all street lighting regardless of where located within the City. The City may apply this Chapter to properties through agreements with property owners, or as a term affixed to a developmental/regulatory approval (such as a variance or site plan), and in such event the provisions of this Chapter will be enforced against such properties and owners thereof as set forth herein. All properties and property owners not required to adhere to these requirements are strongly encouraged to do so.

Sec. 3.06.003. Definitions.

Words and phrases used in this Chapter shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth therein. Words and phrases not defined in the Code of 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 mandatory. Headings and captions are for reference purposes only.

Applicant means a person or entity who submits to the City an application for an approval for building or development, required by the Code of Ordinances. Any person or entity must have sufficiently documented legal authority or proprietary interests in the land to commence and maintain proceedings under the Code of Ordinances. Tenants and property owners are both liable for violations of this Chapter.

City means the City of Bandera.

City limits means the incorporated municipal boundary of the City, as may be expanded from time to time by annexation.

ETJ means the extraterritorial jurisdiction of the City. For the purpose of application of this ordinance to properties for which a development or non-annexation agreement is made with the City, properties will be determined as Residential or Non-residential (as defined below) according to the use of the property.

Fixture means the complete assembly that holds or contains a lamp, including any elements designed to provide light output control such as a reflector or refractor, the ballast and housing.

Fully shielded means an outdoor fixture constructed so that in its installed position, all of the light emitted from the light fixture is projected below the horizontal plane passing through the lowest light-emitting part of the fixture. For purposes of this ordinance, shielding may include natural vegetation and structures.

Holiday lighting means temporary lighting used for a specific celebration which consists only of traditional festoon-type low-output lamps, whether on strings or as part of a display.

Kelvins means the degree of measurement on a scale from 1,000 to 10,000 used to describe the appearance of light provided by a light bulb. (Illustrated in Figure D)

Lighting means any source of light that does not include natural light emitted from celestial objects or fire. The term includes, without limitation, any type of lighting, fixed or movable, designed or used for illumination of buildings or homes, including lighting for billboards, streetlights, canopies, gasoline station islands, searchlights used for advertising purposes, area-type lighting and luminous elements or fixtures attached to structures, poles, the earth, or any other location.

Light trespass means lighting emitted from fixtures designed or installed that causes light to fall on a property other than the one where the fixture is installed, drivers' eyes of passing motor vehicles, or upwards toward the sky.

Luminaire, or Luminous elements (of a light fixture) means individually or collectively: the lamp (light bulb), any diffusing elements and surfaces intended to reflect or refract light emitted from the lamp.

Outdoor lighting means lighting that is installed or located outside or on the exterior of any building or part thereof, structure, sign or other improvement or stand or lighting which is installed to project outdoors for the purpose of lighting outdoors. Lighting located under canopies, under building overhangs, under roof eaves, and string lighting are included in the definition of Outdoor lighting.

Person means an individual, corporation, agency, unincorporated association, partnership, sole sale proprietorship, or any other entity.

Temporary lighting means lighting intended for uses which by their nature are of limited duration provided the lights are positioned so they do not shine in the eyes of passing drivers. Examples of Temporary lighting are lighting for: emergencies, holiday decorations, festivals, civic events, construction areas, theatrical, television, or performance areas.

Up lighting means lighting that causes light rays to project above a horizontal plane running through the lowest point on the fixture where light is emitted.

Sec. 3.06.004. Lighting-Offense.

- (a) All Outdoor lighting shall be installed to comply with the standards, rules and regulations established by this Chapter.
- (b) It is an offense for any Person to install, permit the installation or to continue the existence of Outdoor lighting that does not comply with the standards, rules and regulations established by this Chapter.
- (c) A violation of this Chapter is hereby declared to be a prohibited public nuisance.

Sec. 3.06.005. Nonconforming existing lighting.

All existing Outdoor lighting that was legally installed before the effective date of this Article, and that does not comply with the standards, rules and regulations established by this Article shall be deemed nonconforming. Nonconforming existing Outdoor lighting shall be brought into compliance with this Article upon the earlier of:

- (a) All nonconforming existing Outdoor lighting located on a property for which an application for a subdivision approval, building permit for construction of a new building or site plan permit, is made shall be brought into compliance with this Article before final inspection, issuance of a certificate of occupancy, final plat recordation, or occupancy of the improvement, whichever is applicable.
- (b) All maintenance of nonconforming existing Outdoor lighting, such as repairs that do not include replacement of the fixture part of the light, changing bulbs and the like is exempt from the provisions of this ordinance. Any other repairs or replacements are required to comply with the provisions of this Article.
- (c) All existing nonconforming Outdoor Lighting, including City streetlights, shall be brought into compliance with the requirements of this Article on or before May 1, 2033. The City Administrator shall have discretion to grant exemptions for existing nonconforming Outdoor Lighting of historic facilities or landmarks after 05/01/2023, based upon preservation of the City's historic architecture and cityscape.

Sec. 3.06.006. General Outdoor Lighting Standards.

- (a) Streetlights installed, repaired, or replaced on and after the effective date shall be fully shielded fixtures in order to limit light trespass (See Figure A) and shall have a correlated color temperature of 3000K or less. City streetlights installed before the effective date of this Ordinance shall be brought into compliance with the requirements of this Article on or before May 1, 2029, including but not limited to the installation of fully shielded fixtures in order to limit light trespass (See Figure A) and having a correlated color temperature of 3000K or less.
- (b) All Outdoor lighting, except streetlights and as otherwise specifically permitted by this Article, shall be (1) Fully shielded fixtures (2) the Luminous elements of the fixture shall not be visible above the horizontal plane. (See Figure C for examples of acceptable light

fixtures. See Figure B for examples of unacceptable light fixtures. See Figure A for shielding illustration.)

- (c) Outdoor lighting fixtures with a maximum output of 300 lumens per fixture, regardless of the number of bulbs, may be left unshielded, provided that the fixture has an opaque top to prevent light from shining directly up and the source of the light is not visible from any other property. Outdoor lighting fixtures with a maximum output of 600 lumens per fixture, regardless of the number of bulbs, may be shielded with a colored lens, provided such lens reduces the lumen output in half, the fixture has an opaque top to prevent light from shining directly up, and the source of the light is not visible from any other property.
- (d) String lighting that does not exceed 50 lumens per strand may remain illuminated from dusk until dawn. String lighting that exceeds 50 lumens per strand should abide by the lighting curfew established in Section 3.06.008.
- (e) Outdoor lighting at public and private outdoor recreational facilities, including but not limited to playing fields, arenas, tracks, and swimming pools
 - 1 shall comply with the levels of illumination consistent with the IESNA "Recommended Practice for Sports and Recreational Area Lighting" (IESNA RP-6-10) or successor recommendations for the class of play appropriate for the kinds of facilities in the City.

Sec. 3.06.007. Flag Poles.

Property owners are encouraged to not illuminate flagpoles at night, but rather to hoist flags after dawn and lower flags before sunset. If flags are illuminated at night, lighting of up to a total of two (2) flags per property is permitted with the following conditions:

- (a) Flagpoles may be illuminated from below. If ground-level illumination is used, flagpoles may be illuminated with up to two (2) spotlight type luminaires, utilizing shields or diffusers to reduce glare. Luminaires are to be mounted so that their lenses are perpendicular to the flagpole and the light output points directly toward the flag(s).

Sec. 3.06.008. Lighting curfews.

- (a) Lighting for outdoor recreational facilities is allowed until 11:00 p.m., or until such time as necessary to complete a specific organized activity or event already in progress at 11:00 p.m.
- (b) Unless otherwise stated herein, all Outdoor lighting is encouraged to be turned off when no one is present to use the light and it is deemed safe to do so.
- (c) The City Administrator shall have discretion to determine when and under what circumstances new public outdoor lighting is warranted and will be permitted, based upon public safety hazards or concerns that can only be mitigated by additional public outdoor lighting. The City Administrator shall have discretion to determine the adaptive controls or curfews to be employed in all future installations of public outdoor lighting, considering the circumstances indicating the need for said public outdoor lighting based on the presence or absence of citizens on public property or rights-of-way. For the purposes of this subsection,

"public outdoor lighting" shall be defined as all City public street lighting and outdoor lighting on other City property and City owned rights-of-way.

Sec. 3.06.009 Prohibitions.

- (a) The installation of any mercury vapor fixture or lamp for use as Outdoor lighting is prohibited.
- (b) The installation of any wall pack style fixture for use as Outdoor lighting is prohibited unless the fixture is rated by the manufacturer as Fully shielded. Examples of acceptable wall packs, when mounted with light directed downward only are shown in Figure C.
- (c) 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 and otherwise complies with the shielding requirements of this Article. Examples of barn-light style fixtures with and without the required opaque reflectors are shown in Figure C and Figure B, respectively.
- (d) The operation of searchlights except by governmental authorities is prohibited.

Sec. 3.06.110. Submission of plans and evidence of compliance.

- (a) All site plan, subdivision, building permit or other development applications must include an outdoor lighting plan which includes the following information:
 - (1) The location of all existing and proposed light fixtures; and
 - (2) Specification sheets for all existing and proposed light fixtures.
- (b) Verification that a project covered hereby has complied with the provisions of this Chapter shall occur during the final step in the applicable application process, for example, during the final inspection for a certificate of occupancy by the City building inspector.

Sec. 3.06.011. Exemptions.

The following lighting is exempt from this Chapter:

- (a) Outdoor lighting for which light is produced directly by the combustion of fossil fuels.
- (b) Holiday lighting.
- (c) Lighting required by law to be installed on motor vehicles.
- (d) Lighting needed during activities of law enforcement, fire, and other emergency services.
- (e) Lighting employed during repairs of roads and utilities and such lighting may be unshielded provided the lights are positioned so they do not shine in the eyes of passing drivers.
- (f) Lighting required for the safe operation of aircraft.
- (g) Temporary lighting, provided that the exemption applies only during the hours of the event or work.
- (h) Temporary lighting required to save life, limb, or property from imminent peril, provided that the exemption applies only during the hours of the peril.

Sec. 3.06.012. Materials and methods of installation.

This Chapter is not intended to prohibit the use of any design, material or method of prescribed installation not specifically prescribed by this Chapter, provided such alternative produces the result which would be produced by use of the fixtures and requirements described herein.

Sec. 3.09.013 Compliance with building code.

All lighting installations commenced in accordance with this Chapter must otherwise be in compliance the City's Building Codes.

Sec. 3.09.014 Administrative guidance.

The City's Administrator is authorized to promulgate one or more interpretive documents to aid in the administration of, and compliance with, this Chapter. (e)Lighting employed during repairs of roads and utilities and such lighting may be unshielded provided the lights are positioned so they do not shine in the eyes of passing drivers.

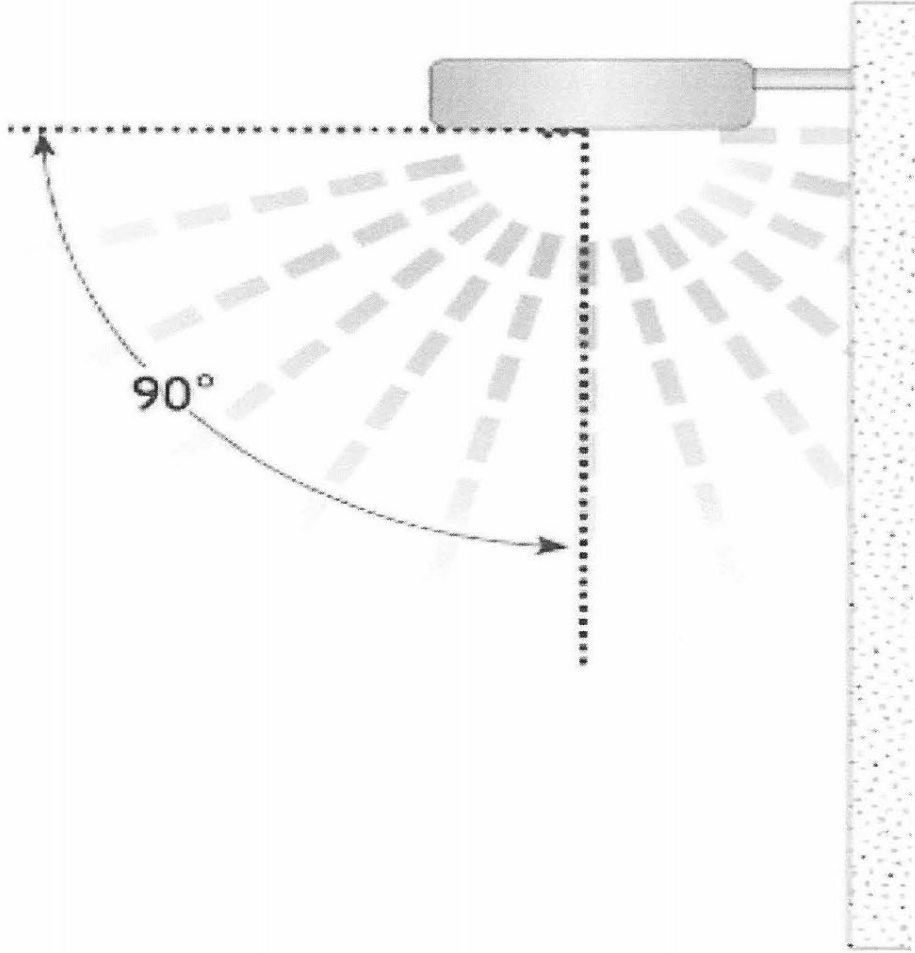
Sec. 3.09.015 Enforcement.

- (a) General Penalties provided in Section 1.1.009 of the City of Bandera Code of Ordinances shall apply to violations hereof.
- (b) The City shall also have the right to bring a civil action to enforce the provisions of this Chapter and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief,
 - (2) Monetary damages, and
 - (3) Other relief as directed by a court with jurisdiction over the matter.

Secs. 3.06.015 – 3.06.100 Reserved.

FIGURES AND ILLUSTRATIONS

FIGURE A



Examples of Acceptable & Unacceptable Lighting Fixtures

Unacceptable/Not Compliant

Fixtures that produce glare and light trespass

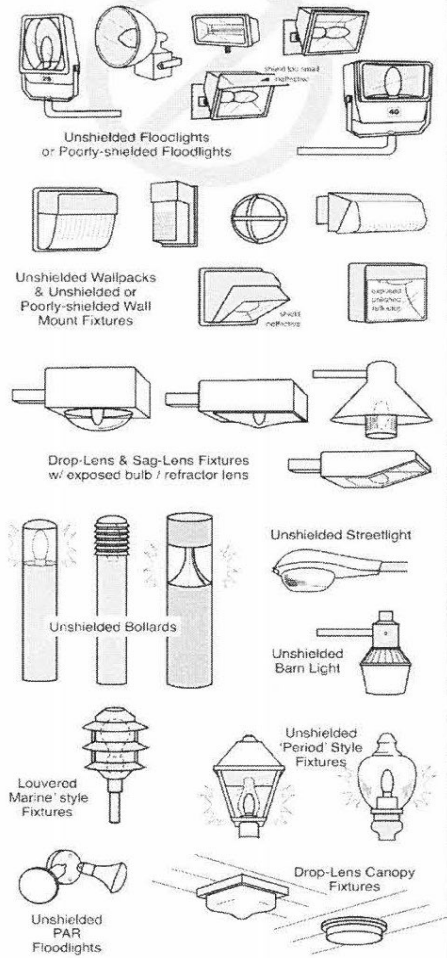


FIGURE B






Acceptable/Compliant

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night:



FIGURE C

Figure D

	COLOR TEMP	LIGHT SOURCE
	10,000-15,000 K	CLEAR SKY
	6,500-8,000 K	CLOUDY SKY/SHADE
	6,000-7,000 K	HIGH NOON SUNLIGHT
	5,500-6,500 K	AVERAGE DAYLIGHT
	5,000- 5,500 K	ELECTRONIC FLASH
	4,000-5,000 K	FLUORESCENT LIGHT
	3,000-4,000 K	EARLY AM/LATE PM
	2,500-3,000 K	DOMESTIC LIGHTING
	1,000-2,000 K	CANDLE FLAME