

ORDINANCE NO. 420

AN ORDINANCE TEMPORARILY SUSPENDING THE ENFORCEMENT OF CERTAIN SECTIONS OF THE CITY OF BANDERA CODE OF ORDINANCES CHAPTER 3 BUILDING REGULATIONS ARTICLE 3.08 OUTDOOR LIGHTING; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Bandera (City) has previously adopted an ordinance to provide for the regulation of outdoor lighting; and,

WHEREAS, since the adoption of the outdoor lighting ordinance, legislative amendments have been made to certain statutes that may impact the enforceability of certain adopted provisions; and,

WHEREAS, the City Council has determined that suspending enforcement of certain provisions of the adopted regulations while the City Council and staff review the entire ordinance and formulate possible repeal or amendments to the ordinance is in the best interest of the City and the citizens.

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

SECTION 1. AMENDMENT.

This Ordinance abates the enforcement of certain portions of Chapter 3 Building Regulations Article 3.08 Outdoor Lighting, of the City of Bandera Code of Ordinances, as set forth in the attached Exhibit A

SECTION 2. EFFECTIVE DATE AND EXPIRATION DATE.

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law and shall expire with no further action required by the City Council, in 180 days from the effective date; codification is not required.

SECTION 3. CUMULATIVE.

The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 4. SEVERABILITY.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

SECTION 5. PROPER NOTICE AND MEETING

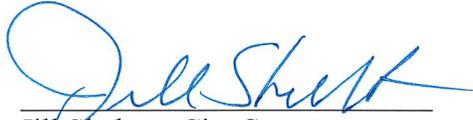
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided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

PASSED AND APPROVED, this, the 3rd day of January, 2023.



Rebeca Gibson, Mayor

ATTEST:



Jill Shelton, City Secretary



EXHIBIT A

The City Council of the City of Bandera Texas hereby abates the enforcement of the following portions of Chapter 3 Building Regulations Article 3.08 Outdoor Lighting, of the City of Bandera Code of Ordinances for a period of 180 days from the effective date of this ordinance.

Sec. 3.08.004 Nonconforming existing lighting

- (a) All existing outdoor lighting that was legally installed before the enactment of this article and that does not conform to the standards specified and imposed by this article shall be considered nonconforming.
- (b) If more than fifty percent (50%) of the total value of a lighting structure has been destroyed, the nonconforming status expires and the structure's previously nonconforming outdoor lighting is removed. Replacement lighting is allowed only in accordance with the standards of this article.
- (c) Nonconforming outdoor lighting shall be brought into conformance with this article as follows:
- (1) Nonresidential-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 article before final inspection, issuance of a certificate of occupancy, or final plat recordation, when applicable. For the following permits issued by the city, the applicant shall have a maximum of ninety (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.
 - (2) Residential addition or remodel. Nothing herein shall be construed to terminate a residential property's nonconforming status as a result of an addition or remodel.
 - (3) 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 lighting may only be replaced in conformity with the standards of this article.
- (d) 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.
- (e) All other nonconforming existing outdoor lighting on property used for nonresidential purposes, not otherwise in compliance, shall be brought into compliance with this article within five years from the date of adoption of this article.

(f) All other nonconforming existing outdoor lighting on property used for residential purposes, not otherwise in compliance, shall be brought into compliance with this article within five years from the date of this article.

Sec. 3.08.015 Enforcement

(a) Building inspector. In case any lighting fixture or structure is erected, constructed or reconstructed, altered, repaired or converted is found to be in violation of this article, the building inspector or designated city official shall institute any appropriate action to put an end to such violation.

(b) Right of entry. Upon presentation of proper credentials at the request of the land occupier or owner, the building inspector or designated city official may enter upon any property, vacant lots, or premises in the city to perform any duty imposed by this article.

(c) Stop-work. The building inspector or designated city official may issue a stop-work order to immediately halt work on a property that is in violation of this article. Such order may permit limited work to occur that is necessary to stabilize and secure the site.

(d) Notice of violation.

(1) If the building inspector or designated city official has reason to believe that any of the provisions of this article are being violated, he/she shall provide or send a written notice of violation to the person responsible for such violation(s). Such notice shall state the nature of the violation(s) and provide a thirty (30) day grace period to correct the violation(s).

(2) Notice of violation shall be given by certified mail addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located. A notice returned "refused" or "unclaimed" does not affect the validity of the notice and notice is considered delivered.

(e) Penalties. If at the end of the 30-day grace period the violation has not, in the judgment of the building inspector or designated city official, been satisfactorily corrected, then civil and/or criminal penalties and other remedies available by law shall be sought.

Sec. 3.08.016 Violation

(a) It shall be unlawful for a person to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any light structure or fixture which emits light onto the property of another in violation of this article.

(b) Any violation of this article is hereby declared to be a nuisance.

(c) An offense under this article is a misdemeanor.

Sec. 3.08.017 Penalties

(a) Civil and criminal penalties. Any person violating this article is subject to suit for injunctive relief as well as prosecution for civil and criminal violations.

(1) Criminal prosecution. Any person violating any provision of this article shall, upon conviction, be fined a sum not exceeding \$500.00. Each day that a provision of this article is violated shall constitute a separate offense.

(2) Civil remedies. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article, and to seek remedies as allowed by law, including, but not limited to the following:

(A) Injunctive relief to prevent specific conduct that violates the article or to require specific conduct that is necessary for compliance with the article;

(B) A civil penalty of up to \$500.00 a day or, up to \$1,000.00 a day when it is shown that the defendant was actually notified of the provisions of the article and after receiving notice committed acts in violation of the article or failed to take action necessary for compliance with the article. Each day constitutes a separate offense and separate violation; and

(C) Other available relief.

(b) Costs for suit and enforcement. In any civil action commenced by the city under this article, the city shall be entitled to recover from the defendant reasonable attorney's fees, costs of suit, and any other costs of enforcement, including but not limited to, inspection costs.