

TITLE 11
OFFENSES AND NUISANCES
CHAPTER 6
PUBLIC NUISANCES
X X X

SEC. 11-6-8 OUTDOOR LIGHTING ORDINANCE

(a) **Purpose and Intent.**

(1) It is the intent of this Section 11-6-8 (herein the "Ordinance") to define practical and effective measures by which the obtrusive aspects of excessive and/or careless outdoor light usage can be minimized, while preserving safety, security and the nighttime use and enjoyment of property. These measures will reasonably curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the wastage of light, sky glow, and glare resulting from over-lighting and poorly shielded or inappropriately directed lighting fixtures.

(2) In adopting this Ordinance, credit is hereby given to the International Darksky Association for its assistance in providing valuable information and guidance.

(b) **Conformance with Applicable Codes.** All outdoor illuminating devices shall be installed and maintained in conformance with the provisions of this Ordinance, the Town of Koshkonong Building Code, the Electrical Code, and the Sign Code of the jurisdictions as applicable and under appropriate permit and inspection.

(c) **Applicability.**

(1) **New Uses, Buildings and Major Additions or Modifications.** For all proposed new land uses, developments, buildings, and structures that require a building permit or other authorization from the Town, all outdoor lighting fixtures shall meet the requirements of this Ordinance. All building additions or modifications of twenty (25) percent or more in terms of additional dwelling units, gross floor area, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this

provision, shall be subject to the requirements of this Ordinance for the entire property, including previously installed and any new outdoor lighting.

(2) **Existing Uses**. Existing uses shall be exempted from the provisions of this Ordinance in the circumstances as described in Sec. 11-6-8(h) below. Existing uses and lighting which substantially deviate from the **Purpose and Intent** set forth above, and which are brought to the attention of the Town Board by an aggrieved party, may constitute a public nuisance under Sec. 11-6-2(a) above, and subject to abatement or other relief.

(3) **Resumption of Use after Abandonment**. If a property or use with non-conforming lighting is abandoned as defined below, then all outdoor lighting shall be reviewed and brought into compliance with this Ordinance before any use is resumed.

(4) **Roadways**. Lighting for public roadways is exempt from the provisions of this Ordinance.

(d) **Definitions**. As used in this Ordinance unless the context clearly indicates otherwise, certain words and phrases shall mean the following:

(1) **Development project**. Any residential, commercial, industrial or mixed use subdivision plan of development plan which is submitted to the Town for approval.

(2) **Diffuse**. To spread or scatter widely, or thinly.

(3) **Direct illumination**. Illumination resulting from light emitted directly from a lamp or luminaire, not light diffused through translucent signs or reflected from other surfaces such as the ground or building surfaces.

(4) **Fully Shielded Light Fixture**. 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 as determined by a photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

(5) **Glare**. The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes have adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes have become adapted.

(6) **Installed**. The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.

(7) **Light Pollution**. Any adverse effect of manmade light.

(8) **Light Trespass**. Light from an outdoor luminaire falling on an adjacent property as observed at four (4) feet above ground at the property line.

(9) **Lumen per Acre Cap**. The upper limit, or most light allowed. Lower lighting levels are encouraged.

(10) **Luminaire**. The complete lighting assembly, less the support assembly.

(11) **Outdoor Light Fixture**. An outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination or advertisement. Such devices shall include, but are not limited to lights used for:

- Parking lot lighting;
- Buildings and structures;
- Recreational areas;
- Landscape lighting;
- Billboards and other signs (advertising or other);
- Product display area lighting;
- Illuminating building overhangs and open canopies.

(12) **Outdoor Recreation Facility**. An area designed for active recreation, whether publicly or privately owned, including, but not limited to, baseball diamonds, soccer and football fields, golf courses, tennis courts and swimming pools.

(13) **Person**. Any individual, tenant, lessee, owner, or any commercial entity including but not limited to firm, business, partnership, joint venture, corporation, or limited liability company.

(14) **Sign, Externally Illuminated**. A sign illuminated by light sources from outside the sign surface.

(15) **Sign, Internally Illuminated**. A sign illuminated by light sources enclosed entirely within the sign cabinet and not directly visible from outside the sign.

(16) **Sign, Neon.** A sign including luminous gas-filled tubes formed into text, symbols or decorative elements and directly visible from the outside of the sign cabinet.

(17) **Sky Glow.** The brightening of the night sky that results from the scattering of artificial visible radiation by the constituents of the atmosphere.

(18) **Temporary Lighting.** Lighting which does not conform to the provisions of this Ordinance and which will not be used for more than one consecutive thirty day period within a calendar year, with one consecutive thirty-day extension. Temporary lighting is intended for uses which by their nature are of a limited duration; for example holiday lighting decorations, civic events, or construction projects.

(19) **Translucent.** Permitting light to pass through but diffusing it so that persons, objects, etc., on the opposite side are not clearly visible.

(20) **Use, Abandonment of.** The relinquishment of a property, or the cessation of a use or activity by the owner or tenant for a continuous period of twelve months, excluding temporary or short term interruptions for the purpose of remodeling, maintaining or rearranging a facility. A use shall be deemed abandoned when such use is suspended as evidenced by the cessation of activities or conditions which constitute the principal use of the property.

(e) **Shielding and Outdoor Lighting Standards.** The following lighting standards are hereby imposed:

(1) All nonexempt outdoor lighting fixtures shall be fully shielded.

(2) All nonexempt outdoor lighting fixtures shall be placed so as to not cause light trespass, or light glare.

(3) All nonexempt outdoor lighting fixtures shall be of a type and placed so as to not allow any light above the horizontal, as measured at the luminaire.

(4) All light fixtures that are required to be shielded shall be installed and maintained in such a manner that the shielding is effective as described in Section 11-6-8(d)(4) for fully shielded fixtures.

(5) Residential, and all other uses except commercial or business shall not exceed 5500 lumens per acre. Commercial or business zoned uses shall not exceed 70,000 lumens per property.

(f) **Outdoor Advertising Signs.** External illumination for signs shall conform to all provisions of this Ordinance. All upward directed lighting is prohibited.

(g) **Special Uses.**

(1) **Recreational facilities.** Lighting for outdoor athletic fields, courts or tracks shall conform to the provisions of this Ordinance, except that they are exempted. Field lighting for these facilities shall be turned off within one-half hour after the last game or event of the night.

(2) **Temporary Exemptions.** Any person may request of the Town Board of the Town a temporary exemption from the provisions of this Ordinance.

(h) **Exemptions.**

(1) **Nonconformance.** For any lighting in existence as of the effective date of this Ordinance is subject to the following:

- (i) Bottom-mounted or unshielded outdoor advertising sign lighting shall not be used beginning five years after enactment of this Ordinance.
- (ii) All other outdoor light fixtures lawfully installed prior to and operable on the effective date of this Ordinance are exempt from all requirements of this Ordinance. There shall be no change in use or lamp type, or any replacement (except for same-type and same-output lamp replacement), or structural alteration made, without conforming to all applicable requirements of this Ordinance. Further, if the property is abandoned, or if there is a change in use of the property, the provisions of this Ordinance will apply when the abandonment ceases or the new use commences.

(2) **State and Federal Facilities.** Compliance with the intent of this Ordinance at all State and Federal Facilities is encouraged, but is not mandatory.

(3) **Emergency Lighting.** Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this Ordinance as long as the emergency exists.

(4) **Swimming Pool and Fountain Lighting.** Underwater lighting used for the illumination of swimming pools and fountains is exempt from the lamp type and shielding standards, though it must conform to all other provisions of this Ordinance.

(5) **Residential Fixtures.** Outdoor light fixtures attached to residential buildings and located below the eave and less than 2000 lumens are exempt from the provisions of this Ordinance. Light fixtures 2000 lumens and over are not exempt. Outdoor fixtures above the eave, or attached to buildings or poles separate from the residence are not exempt. Spot or flood lights shall be fully shielded and directed no more than 45 degrees above straight down.

Examples of lamps with 2000 Lumens and Less

The acceptability and shielding restrictions applicable to a particular lamp are decided by its initial lumen output, not wattage; check manufacturer's specifications. Examples of lamp types of 2000 lumens and less are:

- 100 Watt Standard Incandescent
- 15 Watt Cool White Fluorescent
- 15 Watt Compact Fluorescent
- 18 Watt Low Pressure Sodium

(6) **Flags, Lighted.** United States, and State of Wisconsin flags are exempt from the provisions of this Ordinance. All other outdoor lighted flags, such as, but not limited to, decorative and commercial flags shall conform to the provisions of this Ordinance.

(7) **Holiday lighting** is exempt from the provisions of this Ordinance from the day before Thanksgiving until January 30 of the following year.

(8) **Internally illuminated** and neon lighted outdoor signs are exempt from the provisions of this Ordinance.

(9) **Laser and search lights** are exempt from the provisions of this Ordinance when used for temporary purposes of not more than five (5) consecutive days in a six-month period. This restriction shall apply to either the same person or same property.

(10) **Towers.** Legally required safety lighting for towers shall be exempt from this Ordinance.

(11) **Airfields and Airports.** These facilities, both commercial and non-commercial, shall be exempt from the provisions of this Ordinance where lighting is used for air safety reasons. All other lighting shall conform to this Ordinance.

(i) **Special Considerations.** When an existing light would be in violation of this Ordinance, but is exempted, the exemption may be withdrawn if the Town Board finds the lighting to be:

- (i) Substantially aggravating or constitutes a nuisance to affected properties; or
- (ii) The lighting serves no useful purpose, upon finding of the Town Board.

(j) **Appeals.** Any person substantially aggrieved by any decision of the designated official made in administration of this Ordinance has the right and responsibilities of appeal to the Town Board.

(k) **Law Governing Conflicts.** Where any provision of federal, state, county, township, or city statutes, codes, or laws conflict with any provision of this Ordinance, the more restrictive shall govern unless otherwise regulated by law.

(l) **Violation and Penalty.** It shall be a civil infraction for any person to violate any of the provisions of this Ordinance. Each and every day or night during which the violation continues shall constitute a separate offense. A fine shall be imposed of not less than fifty dollars nor more than seven hundred dollars for any individual or not less than 100 dollars nor more than ten thousand dollars for any corporation, association, or other legal entity for each offense. The imposition of a fine under this Ordinance shall not be suspended.

(m) **Severability.** If any of the provisions of this Ordinance or the application thereof are held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

(n) **Effective Date.** This Section 11-6-8 shall become effective as of August 10, 2001.