

TOWN OF BATH
AN ORDINANCE TO REGULATE OUTDOOR LIGHTING

WHEREAS, The Town of Bath exercises its general authority, control and police power over lighting and the emission of light within its jurisdiction pursuant to Article 8 of Chapter 160A of the North Carolina General Statutes and N.C. Gen. Stat. § 160A-381 *et seq.*, and desires to provide for proper means for the government, regulation and policing of lighting and the emission of light within the jurisdiction of the Town of Bath; and

WHEREAS, The minimal provisions set out regarding authority and control over lighting and the emission of light within the jurisdiction of the Town of Bath are denoted in Section 7.03 Out Door Lighting under the Code of Ordinances for the Town of Bath; and

WHEREAS, The Town has safety and quiet enjoyment of property concerns about proper lighting within its jurisdiction, both in business, water and residential districts and wishes to minimize issues within the jurisdiction of the Town concerning lighting and emission of light; and

WHEREAS, the Board of Commissioners for the Town of Bath feel it necessary to pass an ordinance to more effectively eliminate or minimize glare, obtrusive light, light trespass, and light pollution; maintain nighttime safety, utility, security and productivity; and to curtail the degradation of the nighttime visual environment within the jurisdiction of the Town of Bath by the regulation of outdoor lighting within its jurisdiction; and to provide penalties for the violation of this ordinance and to have this Outdoor Lighting Ordinance control over any ordinances or parts of ordinances that conflict this Ordinance.

NOW, THEREFORE, upon Motion by Commissioner Jim Cotton, seconded by Commissioner John Taylor, and the vote of the following receiving 4 Ayes and 0 Nays,

BE IT ORDAINED BY THE TOWN BOARD OF COMMISSIONERS OF THE TOWN OF BATH, NORTH CAROLINA:

Section 7.03 Out Door Lighting under the Code of Ordinances for the Town of Bath is deleted in its entirety and replaced with the following:

Section 7.03 Outdoor Lighting

Part 1 – Purpose

The purpose of this ordinance is to eliminate or minimize nuisances created by glare, obtrusive light, light trespass, and light pollution; maintain nighttime safety, utility, security and productivity; and curtail the degradation of the nighttime visual environment. This ordinance has been enacted pursuant to the Town's police powers to regulate the public health, safety and

general welfare of persons and property as authorized by Article 8 of Chapter 160A of the North Carolina General Statutes and N.C. Gen. Stat. § 160A-381 *et seq.*

Part 2 – Definitions

Glare: The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility. In addition, glare is also light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Light Trespass: Any form of artificial illuminance emanating from a light fixture or illuminated sign that penetrates other property and creates a nuisance, as specified in Part 3. Light Trespass is also the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

Objectionable Direct Glare Source: Glare resulting from excessive levels of illumination or insufficiently shielded light sources emanating from light fixtures in the field of view where the lens, lamp or reflector is offensively visible above a height of five (5) feet at a property line or a public roadway.

Outdoor Light Fixture: An luminaire or electrically powered illuminating device containing a total light source of more than 2000 initial lumens per fixture or any spot or flood luminaire with a reflector contained in the lamp component such as a parabolic aluminized reflector (PAR) lamp, of more than 1000 initial lumens, which is permanently installed outdoors, including but not limited to, devices used to illuminate any site, architectural structure, or sign. It is often an assembly that houses the light, lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

Shielded Light Fixture: A light fixture with cutoff optics that allows no direct light emissions above a vertical cutoff angle of 90 degrees above nadir (straight down at perfect vertical), through the light fixture's lowest light emitting part. Any structural part of the light fixture providing this cutoff angle must be permanently affixed.

Direct Light or Glare: Light or Glare emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

Flood or Spot light: Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Fully-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.

Height of Outdoor Light Fixture or Luminaire: The height of an outdoor light fixture or luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct-light-emitting part of the luminaire.

Indirect Light: Direct light that has been reflected or has scattered off of other surfaces.

Lamp: The component of a luminaire that produces the actual light.

Lumen: A unit of luminous flux. One footcandle is one lumen per square foot. For the purposes of this Ordinance, the lumen-output values shall be the INITIAL lumen output ratings of a lamp.

Luminaire: This is a complete lighting system, and includes a lamp or lamps and a fixture. Luminaires not conforming to this code that were in place at the time this code was voted into effect must be removed or changed within thirty (30) days of the date of execution of this Ordinance.

Outdoor Lighting: The evening and/or night-time illumination of an outside area or object by any man-made device located outdoors that produces light by any means.

Part 3 – Regulations

A. All Outdoor Lighting or Luminaires, whether for illuminating sites, landscaping, trees, walkways, parking areas, buildings, signs, and/or other structures, shall be fully shielded, shaded, directed downward, designed and directed away from the sky, as well as all adjacent property and uses; and further shall not shine upon the right of way of any public road or shine upon any body of water. Any Luminaire with a lamp or lamps rated at a total of MORE than 2000 lumens, and all Flood or Spot Light or Luminaires with a lamp or lamps rated at a total of MORE than 1000 Lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the Luminaire.

B. Mounting Heights – The maximum height for Outdoor Light Fixtures shall be twenty five (25) feet measured from final grade to the top of the Outdoor Light Fixture. For Outdoor Light Fixtures in the interior of development projects, the Planning Board for the Town of Bath may, subject to a public hearing and notification of all property owners of record within 300 feet of the subject parcel, approve greater mounting heights when **all** of the following conditions are met:

- a. Fewer luminaries will be required for the site; and
- b. The greater mounting height will not cause light trespass and/or glare beyond the property line for reasons of topography, screening, or similar circumstances; and
- c. The greater mounting height will contribute less artificial sky glow by reducing the intensity of the lighting beneath the light fixture.

C. Modifications

Subject to a public hearing and notification of all property owners of record within 300 feet of the subject parcel, the Board of Adjustment may grant a modification of the requirements of this Ordinance, except for standards regarding shielding, if all of the standards, described below, are met. Conditions may be imposed on any modification. Any conditions shall relate to compliance with the purpose or requirements of this Ordinance. If a modification is based, in part, on a medical condition or physical limitation, then the modification shall terminate when the person, who has the medical condition or physical limitation, no longer habitually resides on the property or habitually visits the property. All of the following standards must be met before a modification may be granted:

a. Neighboring properties or a public road will not be adversely affected; and
b. Compliance with this ordinance would constitute an undue hardship. In determining whether an undue hardship exists, the Board of Adjustment shall apply the following standards and all of these standards must be met:

(i) The need for the modification is due to unique physical conditions of the subject site or a medical condition or physical limitation of a person, who habitually resides on the property or habitually visits the property;

(ii) The need for the modification is not due merely to the desires of the applicant or an economic hardship; and

(iii) The need for the modification is not a self-created hardship due to the actions of the current or prior property owners or a guest or invitee of the current or prior property owners.

D. Recreational Facilities

Any light source permitted by this Code may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball fields, softball fields, tennis courts, or show areas, provided all of the following conditions are met:

a. All fixtures used for event lighting shall be fully shielded as defined in Part 3 of this Ordinance, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light, and glare onto neighboring properties.

b. All sporting or recreational events shall be scheduled so as to complete all activity before or as near to 9:00 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 9:30 p.m. except to conclude a scheduled event that was in progress before 9:00 p.m. and acceptable circumstances prevented concluding before 9:00 p.m.

E. Exempt Lighting

The following types of lighting are exempt from the standards of this Ordinance as may be stated:

a. Holiday/Winter lighting for residential and commercial properties. The lighting associated with any national, state, local, or religious holiday or celebration is recommended to be lit for no more than six weeks prior and two weeks following the holiday.

- b. Lighting maintained and controlled by governmental agencies, including the Town and the County of Beaufort.
- c. Lighting of the U.S. or State Flag as it relates to directional lighting, but the same must still comply with the maximum amount of allowable lumens under this Ordinance.
- d. Emergency lighting as used by law enforcement, firefighters and other public safety agencies.
- e. Temporary construction lighting when used for periods up to 75 days and which meet the intent of this Ordinance.
- f. Any luminaire with a lamp or lamps rated at a total of 200 lumens or LESS, and all flood or spot luminaires with a lamp or lamps rated at 1000 lumens or LESS, may be used without restriction to light distribution or mounting height, except that if any Spot or Flood Light or luminaire rated at 1000 lumens or LESS is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.
- g. All temporary emergency lighting need by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.
- h. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the Federally required minimum lumen output requirement for the specific task.
- i. Law Governing Conflicts. Where any provision of federal, state, county, or town statutes, codes, or laws conflicts with any provision of this code, the most restrictive shall govern unless otherwise regulated by law.

F. Prohibited Lighting

The following types of lighting are prohibited under this Ordinance:

- a. Unshielded light sources of any type.
- b. Unshielded lighting sources when used outdoors for building/landscape lighting or general outdoor lighting
- c. Light fixtures designed such that the light source is visible from another property owner or that is visible from a public road or a body of water.
- d. Laser source lights, strobe lights and neon lights in all residential districts.
- e. Luminaires placed on top of fences or walls located along property boundary lines.

Part 4 - Violation as a Civil Infraction/Penalty

A. A violation of this Ordinance, or any provision thereof, shall be punishable by a civil penalties as stated in paragraph C. of this Part 4 for any individual or entity for each violation. The imposition of a fine under this Code shall not be suspended. Each day of violation after the expiration of the ten day period provided in paragraph B of this Part 4 shall constitute a separate offense for the purpose of calculating the civil penalty.

B. Any alleged violation of this Ordinance may be reported to the Town Clerk or Town Administrator. If, after investigation, the Town Administrator finds that any provision of the

Ordinance is being violated, he shall give notice by hand delivery or by certified mail, return-receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that violation be abated within ten (10) days of the date of hand delivery or of the date of mailing of the notice. If the violation is not abated within the ten day period, the Town Administrator may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this Ordinance and to collect the penalties for such violations.

C. The following fines shall be applicable:

<u>Offense</u>	<u>Fine</u>
-First offense	No fine/receipt of notice stated in B. above
-Second Offense after expiration of time stated in B. above	\$100.00 per day
-Third or subsequent offense	\$250.00 per day

D. The Town Administrator or an officer with the County Sheriff's office may issue a civil infraction citation or an appearance ticket for a violation of this ordinance.

Part 5 - Violation as a Nuisance Per Se

A violation of this ordinance shall also be a nuisance per se. The township shall have the authority to seek injunctive relief to seek compliance with this ordinance. This remedy shall be cumulative to any other remedy granted by this ordinance or by law.

Part 6 – Severability

If any part, section, clause, or provision of this ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of this ordinance. The Township Board declares that it would have passed this ordinance and each part, section, subsection, phrase, sentence and clause, irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses are declared invalid.

Part 7 – Inconsistent Ordinances

If the provisions of any Town of Bath Ordinance conflict with this Outdoor Lighting Ordinance, then the provisions of this Outdoor Lighting Ordinance shall take precedence and control.

Part 8 - Effective Date

This Ordinance shall become effective upon the date signed hereinbelow.

This the 11th day of November, 2019.

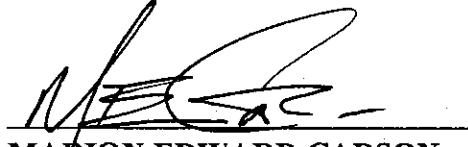
THE TOWN OF BATH

By:



JAMES G. LATHAM, MAYOR

ATTEST:



**MARION EDWARD CARSON
TOWN ADMINISTRATOR**