

## **ARTICLE A: INTRODUCTION**

### **Sec. XX-1-1 Authority**

The provisions of this Ordinance are adopted by the Town of Empire pursuant to the authority granted by Sections 60.62, 61.35 and 62.23(7), Wisconsin Statutes. The Board of Supervisors of the Town of Empire, Fond du Lac County, Wisconsin does Ordain as follows:

### **Sec. XX-1-2 Title**

This Chapter shall be known as, referred to, or cited as the Exterior Lighting Ordinance or Dark Sky Ordinance.

### **Sec. XX-1-3 Purpose and Intent**

It is the intent of this 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 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 and glare resulting from over-lighting and poorly shielded or inappropriately directed lighting fixtures.

### **Sec. XX-1-4 Conformance with Applicable Ordinances**

All outdoor illuminating devices shall be installed in conformance with all other provisions of the Empire Town Code.

### **Sec. XX-1-5 Applicability**

1. **New Uses, Buildings and Major Additions or Modifications.** For all proposed new land uses, developments, buildings, and structures that require any Town permit, all outdoor lighting fixtures shall meet the requirements of this Ordinance. Whenever any building additions or modifications of twenty-five (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, occurs subsequent to the effective date of this Ordinance, the entire property shall be required to comply with the requirements of this Ordinance. Cumulative modification or replacement of outdoor lighting constituting twenty-five (25) percent or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a non-conforming site, shall constitute a major addition for purposes of this section.
2. **Minor Additions.** Additions or modifications of less than twenty-five (25) percent of the existing uses ("Minor Addition"), as defined in Section (1) above, and that require any permit, shall also require the submission of a complete inventory and site plan detailing all existing and any proposed new outdoor lighting. Any new lighting on the site shall meet the requirements of this Ordinance with regard to shielding and lamp type. The total outdoor light output after the modifications are complete shall not exceed that on the site before the modification, or that permitted by this Ordinance, whichever is larger.
3. **Residential Fixtures.** Any light fixtures 2000 lumens and over, any outdoor light fixtures above the eave, or any light fixture attached to buildings or poles separate from the residence must comply with the provisions of this Ordinance. Outdoor light fixtures that are attached to residential buildings, located below the eave, and less than 2000 lumens are exempt from the provisions of this Ordinance. Residential spot or flood lights shall be fully shielded and directed no more than 45 degrees above straight down.

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:

- a. 100 Watt Standard Incandescent
  - b. 15 Watt Cool White Fluorescent
  - c. 15 Watt Compact Fluorescent
  - d. 18 Watt Low Pressure Sodium
4. **Resumption of Use After Abandonment.** If a property or use with nonconforming lighting is abandoned as defined below, then all outdoor lighting shall be reviewed and brought into compliance with this Ordinance before the use is resumed.
  5. **Existing Uses and Buildings; Nonconformance and Compliance.** Unless otherwise provided in this Ordinance, after a period of three years from the date of enactment of this Ordinance, any lighting in place prior to the enactment date shall be brought into full compliance with the requirements of this Ordinance. If any lighting or light fixture changes use, lamp type, lamps, or bulbs or there is any replacement or structural alteration made to the lighting or light fixture prior to the three year compliance deadline, then such lighting or light fixtures shall immediately be brought into full compliance with the requirements of this Ordinance.
  6. **Roadways.** Lighting for public roadways is exempt from the provisions of this Ordinance except that:
    - a. Any outdoor lighting for newly constructed Town roads or private roads shall comply with this Ordinance;
    - b. Any existing outdoor road lighting on Town roads that is repaired or replaced shall comply with this Ordinance.
    - c. The lumen limit and preferred lighting equipment for public roadways shall be established by resolution of the Town Board, and public roadway lighting shall comply with such resolution requirements.

#### **Sec. XX-1-6 General Outdoor Lighting Standards**

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. Flood or spot lamps must be aimed no higher than 45 degrees above straight down (halfway between straight down and straight to the side) when the source is visible from any off-site residential property or public roadway.
5. All lighting for commercial, industrial and any other non-residential use, shall be extinguished between 11:00 p.m. (or when the business closes, whichever is later) and sunrise.
6. Any lamp installed on a residential property must be shielded such that the lamp is not directly visible from any other residential property.
7. Each residential single-family detached home or duplex is allowed up to 5,500 total lumens per property. Commercial/industrial or business uses shall not exceed 70,000 lumens per property.
8. 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 herein for fully-shielded fixtures.
9. Beyond the shielding requirements of this Ordinance, all light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries. Particularly, any lamp installed on a residential property and visible from

any other residential property must be shielded such that it is not directly visible from that property.

10. Multi-use lighting must conform to the shielding and timing restrictions, if any, that apply to the most restrictive included use.

### **Sec. XX-1-7 Outdoor Advertising Signs**

1. **Externally illuminated and neon signs.** External illumination for signs shall conform to all provisions of this Ordinance. All upward-directed sign lighting, meaning lighting directed above the horizontal plan of the luminary, is prohibited.
2. **Internally illuminated and neon signs.**
  - a. Outdoor internally-illuminated advertising signs must either be constructed with an opaque background and translucent text and symbols, or with a colored (not white, off-white, light gray, cream or yellow) background and generally lighter text and symbols. Lamps used for internal illumination of such signs shall not be counted toward the lumen cap.
  - b. Neon signs shall be treated as internally illuminated signs for the purposes of this Ordinance, and shall not have their luminous outputs counted toward the lumen cap. Neon lighting extending beyond the area considered to be the sign area shall conform to all provisions of this Ordinance, be treated as decorative lighting, and shall conform to the lumen cap.
  - c. Other internally-illuminated panels or decorations not considered to be signage, shall be considered decorative lighting, and shall be subject to the standards applicable for such lighting, including but not limited to the lamp source, shielding standards and lumens per property cap.
3. **Illuminated Sign Curfews.** Illumination for all advertising signs, both externally and internally illuminated, shall be turned off at the curfew times listed herein or when the business closes, whichever is later. Signs subject to curfews are required to have functioning and properly adjusted automatic shut-off timers. Light background (white, off-white, light gray, cream or yellow) internally illuminated signs, installed legally before enactment of this Ordinance, may continue to be used and illuminated but must conform to the curfews as indicated below.
  - a. **SIGN TYPE AND LAND USE ZONE TIME**
    1. Business (BD) District and Industrial (ID) District
      - a. Opaque background 12:00 a.m.
      - b. Colored background 12:00 a.m.
      - c. Light background 10:00 p.m.
    2. Residential District (R-1)
      - a. Opaque background 11:00 p.m.
      - b. Colored background 11:00 p.m.
      - c. Light background 8:00 p.m.
    3. Agricultural Transition (AT) and General Agriculture (A-1) Districts
      - a. Exempt
4. **Nonconformance of Existing Outdoor Advertising Signs.**
  - a. Bottom-mounted or unshielded outdoor advertising sign lighting shall not be used beginning three years after enactment of this Ordinance.
  - b. All other outdoor advertising sign light fixtures lawfully installed prior to and operable on the effective date of this Ordinance shall be brought into full compliance with the requirements of this Ordinance within three years of its enactment.
  - c. If any outdoor advertising sign or light fixture thereon changes its use, lamp type, fixtures, lamps, or bulbs, or there is any replacement or structural alteration made

prior to the compliance deadline set forth in subsection (b) above, the advertising sign and light fixtures thereon shall immediately be brought into full compliance with the 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.

### **Sec. XX-1-8 Special Uses**

1. **Recreational Facilities.** [Reserved for Future Use]
2. **Outdoor Display Lots.**
  - a. Lumens Exemption. Lighting for display lots shall be exempt from the lumens per property limits of this Ordinance.
  - b. Shielding. All display lot lighting shall utilize fully shielded luminaires that are installed in a fashion that maintains the fully shielded characteristics.
  - c. Illuminance. The display lot shall be designed to achieve no greater than the minimal illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
  - d. Off-Site Spill. The display lot shall limit off-site spill (off the parcel containing the display lot) to a maximum of 5 lux (0.5 fc) at any location on any nonresidential property, and 0.5 lux (0.05 fc) at any location on any residential property, as measurable from any orientation of the measuring device.
  - e. Certification. Every display lot lighting system design and installation shall be certified by a registered engineer as conforming to all applicable restrictions of this Ordinance.
  - f. Curfew. Display lot lighting exceeding the lumens per property cap of this Ordinance shall be turned off no later than 11:00 p.m., or within thirty minutes after closing of the business, whichever is later. Lighting in the display lot after this time shall conform to all applicable restrictions of this Ordinance, including the lumens cap in this Ordinance.
3. **Service Station Canopies.**
  - a. Shielding. All luminaires mounted on or recessed into the lower surface of service station canopies shall be fully shielded and utilize flat lenses.
  - b. Total Under-Canopy Output. The total light output used for illuminating service station canopies, defined as the sum of all under-canopy initial bare-lamp outputs in lumens, shall not exceed 215 lumens per square meter (twenty lumens per square foot). Any luminaries mounted on the lower surface or recessed into the lower surface of the canopy and any lighting within signage or illuminated panels over the pumps, is to be included toward the total at full initial lumen output. Other lighting located under a canopy but not mounted on or within the lower surface is also included toward the lumen caps at full initial lumen output.
  - c. Certification. Every service station canopy lighting system design and installation shall be certified by a registered engineer as conforming to all applicable restrictions of this Ordinance.
  - d. Off-Site Spill. [Reserved for Future Use]
4. **Generally.** All lighting not directly associated with the special use areas above shall conform to the lighting standards described in this Ordinance, including but not limited to the lamp type and shielding requirements and the lumens limits.

### **Sec. XX-1-9 Submission of Plans and Evidence of Compliance with Ordinance, Subdivision Plats.**

1. **Submission Contents.** The applicant for any building permit required by the Town shall submit (as part of the application for permit) evidence that the proposed work

will comply with this Ordinance. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in the Town Code:

- a. Plans indicating the location on the premises of each illuminating device, both proposed and any already existing on the site;
  - b. Description of all illuminating devices, fixtures, lamps, supports, reflectors, both proposed and existing. The description may include, but is not limited to catalog cuts and illustrations by manufacturers (including sections where required);
  - c. Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off of light emissions.
  - d. A lighting plan review fee, which fee shall be set by resolution of the Town Board.
2. **Additional Submission.** The above required plans, descriptions and data shall be sufficiently complete to enable the building inspector to readily determine whether compliance with the requirements of this Ordinance will be secured. If such plans, descriptions and data cannot enable this ready determination, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.
  3. **Subdivision Plats.** If any subdivision proposes to have installed street or other common or public area outdoor lighting, submission of the information as described herein shall be required for all such lighting.
  4. **Lamp or Fixture Substitution.** Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the building inspector for approval, together with adequate information to assure compliance with this Ordinance, which must be received prior to substitution.
  5. **Plan Review.** The plans shall be reviewed by the building inspector. If the building inspector determines that the proposed lighting does not comply with this Ordinance, the permit shall not be issued or the plan approved.
  6. **Certification.** For all projects where the total initial output of the proposed lighting equals or exceeds 50,000 lamp lumens, certification that the lighting, as installed, conforms to the approved plans shall be provided by a certified engineer, or other professional acceptable to the Town, before the certificate of occupancy is issued. Until this certification is submitted, approval for use of a Certificate of Occupancy shall not be issued for the project.

#### **Sec. XX-1-10 Prohibitions**

1. **Laser Source Light.** The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.
2. **Searchlights.** The operation of searchlights for advertising purposes is prohibited.
3. **Outdoor Advertising Off-Site Signs.** Illumination of outdoor advertising off-site signs is prohibited.

#### **Sec. XX-1-11 Temporary Exemption**

1. **Request; Renewal; Information Required.** Any person may submit, on a form prepared by the Town, to the Town Clerk, a temporary exemption request. The request shall contain the following information:
  - a. Specific Ordinance exemption(s) requested;
  - b. Duration of requested exemption(s);

- c. Proposed location on premises of the proposed light fixture(s);
  - d. Purpose of the proposed lighting;
  - e. Information for each luminaire and lamp combination as required herein;
  - f. Previous temporary exemptions, if any, and addresses of premises thereunder;
  - g. Such other data and information as may be required by the designated official.
2. **Approval; Duration.** The designated official shall have five (5) business days from the date of submission of the request for temporary exemption to act, in writing, on the request. If approved, the exemption shall be valid for not more than thirty (30) days from the date of issuance of the approval. The approval shall be renewable upon further written request, at the discretion of the designated official, for a maximum of one (1) additional thirty (30) day period. The designated official is not authorized to grant more than one (1) temporary permit and one (1) renewal for a thirty (30) day period for the same property within one (1) calendar year.
  3. **Disapproval; Appeal.** If the request for temporary exemption or its extension is disapproved, the person making the request may appeal to the Zoning Board of Appeals.

#### **Sec. XX-1-12 Other Exemptions**

1. **State and Federal Facilities.** Compliance with the intent of this Ordinance at all State and Federal facilities is encouraged, but not required.
2. **Emergency Lighting.** Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this Ordinance for as long as the emergency exists.
3. **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 provided herein, though it must conform to all other provisions of this Ordinance.
4. **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.
5. **Holiday Lighting.** Holiday lighting is exempt from the provisions of this Ordinance from November 10 until January 30 of the following year.
6. **Towers.** Legally required safety lighting for towers shall be exempt from this Ordinance.
7. **Airfields and Airports.** These facilities, both commercial and noncommercial, 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.

#### **Sec. XX-1-13 Enforcement, Penalties, and remedies: Severability.**

1. **Violations.** It shall be unlawful for any person to violate any provision of this Ordinance. Each and every day or night during which the violation continues shall constitute a separate offense. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance or applicable Wisconsin Statutes. The Town Department of Public Works and Police Department personnel are required and authorized to enforce all provisions of this Ordinance including the power to issue municipal citations for any violations.
2. **Penalties.** Any person who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit no less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), and also pay the costs of prosecution

for each violation, including the Town's reasonable and actual attorney fees and disbursements incurred in the prosecution of such violations.

3. **Severability.** If any section, provision or portion of this Ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

#### **Sec. XX-1-14 Definitions**

As used in this Ordinance, unless the context clearly indicates otherwise, certain words and phrases used in this Ordinance shall mean the following:

1. **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 of building faces.
2. **Display Lot or Area.** Outdoor areas where active nighttime sales activity occurs, and where accurate color perception of merchandise by customers is required. To qualify as a display lot, one of the following specific uses must occur: automobile sales, boat sales, tractor sales, building supply sales, gardening or nursery sales, assembly lots, swap meets. Uses not on this list must be approved as display lot uses by the Plan Commission.
3. **Flood Light.** A specific form of lamp designed to direct its output in a specific direction (a beam) but with a diffusing glass envelope: Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.
4. **Footcandle.** One lumen per square foot. Unit of illuminance. It is the luminous flux per unit area in the Imperial system. One footcandle equals approximately 0.1 (0.093) lux.
5. **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 photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.
6. **Glare.** The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are 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 this brightness level to which the eyes are adapted.
7. **Installed.** The attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture.
8. **Light Trespass.** Light falling across property boundaries.
9. **Lumen.** Unit of luminous flux; used to measure the amount of light emitted by lamps.
10. **Luminaire.** The complete lighting assembly, less the support assembly. For purposes of determining total light output from a luminaire, lighting assemblies which include multiple unshielded or partially shielded lamps on a single pole or standard shall be considered as a single unit.
11. **Lux.** One lumen per square meter. Unit of illuminance. It is the luminous flux per unit area in the metric system. One lux equals approximately 10 (10.8) footcandles.
12. **Multi-class or Multi-use Lighting.** Any outdoor lighting used for more than one purpose, such as security and decoration.
13. **Opaque.** Opaque means that a material does not transmit light from an internal illumination source. Applied to sign backgrounds, means that the area surrounding

- any letters or symbols on the sign either is not lighted from within, or allows no light from an internal source to shine through it.
14. **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:
    - a. Parking lot lighting;
    - b. Roadway lighting;
    - c. Buildings and structures;
    - d. Recreational areas;
    - e. Landscape lighting;
    - f. Billboards and other signs (advertising or other);
    - g. Product display area lighting;
    - h. Building overhangs and open canopies.
  15. **Outdoor Light Output, Total.** The maximum total amount of light, measured in lumens, from all outdoor light fixtures. For lamp types that vary in their output as they age (such as high pressure sodium, fluorescent and metal halide), the initial output, as defined by the manufacturer, is the value to be considered. For determining compliance with the total Outdoor Light Output of this Ordinance, the light emitted from outdoor light fixtures is to be included in the total output as follows:
    - a. Outdoor light fixtures installed on poles (such as parking lot luminaires) and light fixtures installed on the side of buildings or other structures, when not shielded from above by the structure itself as defined below, are to be included in the total outdoor light output by simply adding the initial lumen outputs of the lamps used;
    - b. Outdoor light fixtures installed under canopies, buildings (including parking garage decks), overhangs or roof eaves where all parts of the lamp or luminaire are located at least five (5) feet but less than ten (10) feet from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-quarter (0.25) of the lamp's rated initial lumen output;
    - c. Outdoor light fixtures installed under canopies, buildings (including parking garage decks), overhangs or roof eaves where all parts of the lamp or luminaire are located at least ten (10) feet but less than thirty (30) feet from the nearest edge of the canopy or overhang are to be included in the total outdoor light output as though they produced only one-tenth (0.10) of the lamp's rated initial lumen output.
    - d. Outdoor light fixtures installed under canopies, buildings (including parking garage decks), overhangs or roof eaves where all parts of the lamp or luminaire are located thirty (30) or more feet from the nearest edge of the canopy or overhang are not to be included in the total outdoor light output. Such lamps must, however, conform to the lamp source and shielding requirements of this Ordinance.
  16. **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.
  17. **Person.** Any individual, tenant, lessee, owner, or any commercial entity including, but not limited to firm, business, partnership, joint venture or corporation.
  18. **Sign, Externally Illuminated.** A sign illuminated by light sources from the outside.
  19. **Sign, Internally Illuminated.** A sign illuminated by light sources entirely within the sign cabinet and not directly visible from outside the sign.

20. **Sign, Neon.** A sign including luminous gas-filled tubes formed into text, symbols or decorative elements and directly visible from outside the sign cabinet.
21. **Spot Light.** A specific form of lamp designed to direct its output in a specific direction (a beam) and with a clear or nearly clear glass envelope; such lamps are so designated by the manufacturers, and typically used in residential outdoor area lighting.
22. **Temporary Lighting.** Lighting which does not conform to the provisions of this Ordinance and which will not be used for more than one thirty (30) day period within a calendar year, with one thirty (30) day extension. Temporary lighting is intended for uses which by their nature are of limited duration, for example, holiday decorations, civic events or construction projects.
23. **Translucent.** Permitting light to pass through but diffusing it so that persons, objects, etc., on the opposite side are not clearly visible.
24. **Use, Abandonment of.** The relinquishment of a property, or the cessation of a use or activity by the owner or tenant for a period of six months, excluding temporary or short term interruptions for the purpose of remodeling, maintaining, or otherwise improving 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 principle use of the property.