

ORDINANCE NO. 05-15

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING CHAPTER 30, SECTION 30-36 OF THE CITY OF DEBARY CODE OF ORDINANCES CONCERNING CERTAIN NUISANCES RELATED TO LIGHT OBSTRUCTION AND INTERFERENCE ON NEIGHBORING RESIDENTIAL PROPERTIES; PROVIDING FOR AN OBJECTIVE STANDARD FOR DETERMINATION OF UNREASONABLE INTERFERENCE AND ANNOYANCE CAUSED BY EXCESSIVE LIGHTING; PROVIDING FOR OBJECTIVE CRITERIA AND EXCEPTIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of DeBary (the “City”) has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the state of Florida and Chapters 163 and 166, Florida Statutes; and

WHEREAS, the City Council desires to prevent and prohibit certain nuisances and unduly intrusive or obstructive lighting conditions from affecting the quality of life, repose, and quiet enjoyment of the owners, occupants, and guests located on or about residential properties within the City; and

WHEREAS, the City Council finds that unreasonable lighting directed at or otherwise encroaching upon adjacent or proximate residential properties may create adverse impacts, including but not limited to, public safety, medical conditions, and distressing conditions, which are not currently recognized or classified as a nuisance under the City’s Code of Ordinances; and

WHEREAS, the City Council recognizes recent increases in complaints within residential areas of unreasonable and unduly intrusive lighting conditions caused by neighboring properties located within the City’s jurisdictional limits; and

WHEREAS, the City Council acknowledges that modern methods of measuring and evaluating light or ambiance levels may require the utilization of expensive and delicate equipment, inefficient sharing of measurement devices with other jurisdictions, dependency on the availability of such measurement devices, and required calibration protocols; and

WHEREAS, the City Council has determined that objectively unreasonable or harmful lighting intrusions, obstructions, and conditions often occur intermittently and at such times that make it impractical or impossible to implement or conduct technical measurement or monitoring of such lighting; and

WHEREAS, the City Council desires to implement an objective, reasonable person standard in certain circumstances with specified criteria to determine violations of the provisions provided herein.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. Recitals. The City Council hereby ratifies, approves, and adopts all of the preceding “Whereas” clauses, which constitute the legislative findings of the City Council.

SECTION 2. Adoption. Chapter 30, Section 30-36 of the City Code of Ordinances is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Sec. 30-36. – Declaration of nuisance.

It is hereby declared and determined by the city council that the following shall each individually or any combination be considered a nuisance when they exist upon any lot, lots or adjacent lots, as the case may be, in the city:

* * *

(5) Intersection sight distance obstructions as defined in section 30-31.

(6) Lighting located on privately owned property that results in beams, rays, reflections or diffusions of light spilling out, over, upon, or onto adjacent or surrounding residential properties; provided that such lighting unreasonably disturbs, annoys, or interferes with the comfortable enjoyment of any occupant of any adjacent or surrounding residential properties, or such lighting unreasonably interferes with, endangers, or injures the health or safety of any occupant of any adjacent or surrounding residential properties. For purposes of this subsection, an unreasonable disturbance, annoyance, and interference shall be determined with regard to whether such lighting is so excessive or intrusive as it would unreasonably disturb, annoy, and interfere with a reasonably prudent person of ordinary sensibilities’ comfortable enjoyment of life and the affected residential property. In assessing whether lighting constitutes a violation of this subsection, the City may consider the following, non-exclusive factors: (1) observations of any City investigative agents; (2) witness statements; (3) perceived intensity of the light; (4) duration of the light; (5) the relationship of the light to the intensity of other or background ambient light; (6) the uses permitted within the zoning district in which the light emanates or emanated and the uses permitted within zoning districts that are proximate thereto; (7) the time of day or night at which the light is perceived; (8) the proximity of the light to facilities customarily utilized for sleeping purposes; (9) whether the light is continuous, pulsating, constant, or intermittent; (10) the existence of additional complaints concerning the light from additional persons who claim to be affected by the light; and (11) any other evidence available.

Notwithstanding the preceding, the provisions of this subsection shall not apply to the following specific uses, activities, and circumstances:

(a) Any lighting located on or emanating from government or City-owned property;

- (b) Approved streetlights, illuminated signage, or traffic signals and lights located within public or private rights-of-way or easements, or to any lighting required or installed by city, county, state, or federal governments or agencies;
- (c) Any temporary lighting used for the construction or repair of roadways, utilities, and other related public infrastructure;
- (d) Temporary emergency lights required by the police department, fire department, and other emergency services.

All other provisions remain the same.

SECTION 3. Conflicts. This Ordinance shall control over any other ordinances or parts of ordinances in conflict herewith.

SECTION 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, paragraph, sentence, word, clause, or phrase of this Ordinance or the application thereto to any person or in any circumstance is held invalid, illegal, void, or unconstitutional, then such invalidity or determination shall not affect other sections, words, or application of this Ordinance. If any part of this Ordinance is found or determined to be preempted or otherwise superseded by appropriate federal or Florida law, then the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

SECTION 5. Codification. It is the intention of the City Council and it is hereby ordained that Section 2 of this Ordinance shall become and be made a part of the City Code of Ordinances, and the City staff is directed to cause the codification of the amendments set forth herein. The provisions of this Ordinance may be renumbered or relettered to accomplish such intention, and the word “Ordinance” may be changed to “Section,” “Article,” or other appropriate word. The City Clerk is given liberal authority to correct scribes’ errors, such as incorrect code cross-references, typographical, and similar or like errors when codifying this Ordinance.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

First reading and public hearing was held on the ____ day of _____, 2015.

Second reading, public hearing, and adoption was held on the ___ day of _____, 2015.

**CITY OF DEBARY
CITY COUNCIL**

Clint Johnson, Mayor

ATTEST:

Dan Parrott, Acting City Clerk