

By: Rose

H.B. No. 2648

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of counties to regulate the use of outdoor  
3 lighting; providing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 232.003, Local Government Code, is  
6 amended to read as follows:

7 Sec. 232.003. SUBDIVISION REQUIREMENTS. By an order  
8 adopted and entered in the minutes of the commissioners court, and  
9 after a notice is published in a newspaper of general circulation in  
10 the county, the commissioners court may:

11 (1) require a right-of-way on a street or road that  
12 functions as a main artery in a subdivision, of a width of not less  
13 than 50 feet or more than 100 feet;

14 (2) require a right-of-way on any other street or road  
15 in a subdivision of not less than 40 feet or more than 70 feet;

16 (3) require that the shoulder-to-shoulder width on  
17 collectors or main arteries within the right-of-way be not less  
18 than 32 feet or more than 56 feet, and that the shoulder-to-shoulder  
19 width on any other street or road be not less than 25 feet or more  
20 than 35 feet;

21 (4) adopt, based on the amount and kind of travel over  
22 each street or road in a subdivision, reasonable specifications  
23 relating to the construction of each street or road;

24 (5) adopt reasonable specifications to provide

1 adequate drainage for each street or road in a subdivision in  
2 accordance with standard engineering practices;

3 (6) require that each purchase contract made between a  
4 subdivider and a purchaser of land in the subdivision contain a  
5 statement describing the extent to which water will be made  
6 available to the subdivision and, if it will be made available, how  
7 and when;

8 (7) require that the owner of the tract to be  
9 subdivided execute a good and sufficient bond in the manner  
10 provided by Section 232.004;

11 (8) adopt reasonable specifications that provide for  
12 drainage in the subdivision to:

13 (A) efficiently manage the flow of stormwater  
14 runoff in the subdivision; and

15 (B) coordinate subdivision drainage with the  
16 general storm drainage pattern for the area; ~~and~~

17 (9) require lot and block monumentation to be set by a  
18 registered professional surveyor before recordation of the plat;  
19 and

20 (10) adopt reasonable specifications applicable in  
21 the subdivision to minimize the negative effects of outdoor  
22 lighting.

23 SECTION 2. Chapter 240, Local Government Code, is amended  
24 by adding Subchapter D to read as follows:

25 SUBCHAPTER D. OUTDOOR LIGHTING GENERALLY

26 Sec. 240.061. DEFINITIONS. In this subchapter:

27 (1) "Outdoor lighting" and "person" have the meanings

1 assigned by Section 240.031.

2 (2) "Utility" means a person that provides to the  
3 public gas, light, power, telephone, sewage, or water service.

4 Sec. 240.062. COUNTY REGULATORY AUTHORITY; ADOPTION OF  
5 ORDERS. (a) The commissioners court of a county may adopt orders  
6 regulating the installation and use of outdoor lighting in any  
7 unincorporated territory of the county.

8 (b) The orders must be designed to protect against the use  
9 of outdoor lighting in a manner that causes excessive glare, light  
10 trespass, skyglow, environmental concerns, or any other negative  
11 effect on public safety or the ability of another person to use and  
12 enjoy the person's private property.

13 (c) In the orders, the commissioners court may:

14 (1) require that a permit be obtained from the county  
15 before the installation and use of certain types of outdoor  
16 lighting in a regulated area;

17 (2) establish a fee for the issuance of the permit;

18 (3) prohibit the use of certain types of outdoor  
19 lighting;

20 (4) establish requirements for the shielding of  
21 outdoor lighting; and

22 (5) regulate the times during which certain types of  
23 outdoor lighting may be used.

24 (d) The commissioners court may adopt orders that provide  
25 more stringent standards for certain areas of the county, as  
26 determined appropriate by the commissioners court.

27 (e) The commissioners court may adopt an order under this

1 subchapter only after conducting a public hearing on the proposed  
2 order. The court shall give at least two weeks' public notice of  
3 the hearing.

4 Sec. 240.063. ENFORCEMENT; PENALTY. (a) A county or  
5 district attorney may sue in the district court to enjoin a  
6 violation of this subchapter.

7 (b) A person who knowingly violates an order adopted under  
8 this subchapter commits an offense. An offense under this section  
9 is a Class C misdemeanor.

10 (c) Both civil and criminal enforcement may be used against  
11 the same conduct.

12 Sec. 240.064. APPLICABILITY OF SUBCHAPTER. (a) In this  
13 section, "agricultural use" has the meaning assigned by Section  
14 23.51, Tax Code.

15 (b) The commissioners court may not adopt an order under  
16 this subchapter regulating the installation and use of outdoor  
17 lighting that:

18 (1) was installed or used before the effective date of  
19 the order and is necessary for the operations of:

20 (A) an electric utility, power generation  
21 company, or transmission and distribution utility, as those terms  
22 are defined by Section 31.002, Utilities Code;

23 (B) a gas utility, as defined by Section 101.003  
24 or 121.001, Utilities Code;

25 (C) surface coal mining and reclamation  
26 operations, as defined by Section 134.004, Natural Resources Code;

27 or

1                    (D) a telecommunications provider, as defined by  
2 Section 51.002, Utilities Code, or its affiliates; or

3                    (2) is owned or maintained for the purpose of  
4 illuminating:

5                    (A) a tract of land that is maintained as a single  
6 family residence and that is located outside the boundaries of a  
7 platted subdivision;

8                    (B) a tract of land maintained for agricultural  
9 use;

10                   (C) an activity that takes place on a tract of  
11 land maintained for agricultural use;

12                   (D) structures or related improvements located  
13 on a tract of land maintained for agricultural use; or

14                   (E) a correctional facility operated by or under  
15 a contract with the Texas Department of Criminal Justice.

16                   (c) The commissioners court may not adopt an order under  
17 this subchapter regulating the installation and use of outdoor  
18 lighting that was installed or used before the effective date of the  
19 order and is owned or maintained by a utility. This subsection  
20 expires September 1, 2017.

21                   SECTION 3. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2007.