

1-1 By: Gallego (Senate Sponsor - Uresti) H.B. No. 2857
1-2 (In the Senate - Received from the House April 26, 2011;
1-3 May 2, 2011, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 13, 2011, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 3,
1-6 Nays 2; May 13, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2857 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to regulation of outdoor lighting in certain areas;
1-11 providing a criminal penalty and for injunctive relief.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 229, Local Government Code, is amended
1-14 by adding Subchapter B to read as follows:

1-15 SUBCHAPTER B. REGULATION OF OUTDOOR LIGHTING

1-16 Sec. 229.051. DEFINITIONS. In this subchapter, "major
1-17 astronomical observatory" and "outdoor lighting" have the meanings
1-18 assigned by Section 240.031.

1-19 Sec. 229.052. APPLICABILITY. (a) This subchapter applies
1-20 to a municipality located in a county any part of which is located
1-21 within 57 miles of a major astronomical observatory at the McDonald
1-22 Observatory.

1-23 (b) This subchapter does not apply to:

1-24 (1) outdoor lighting in existence or under
1-25 construction on January 1, 2012; or

1-26 (2) the installation, maintenance, repair, or
1-27 replacement of outdoor lighting owned or operated by an electric
1-28 utility as defined by Section 31.002, Utilities Code.

1-29 Sec. 229.053. REGULATION OF OUTDOOR LIGHTING. (a) The
1-30 governing body of a municipality by ordinance shall regulate the
1-31 installation and use of outdoor lighting.

1-32 (b) An ordinance adopted under this section must be designed
1-33 to protect against the use of outdoor lighting in a way that
1-34 interferes with scientific astronomical research of an
1-35 observatory.

1-36 (c) In the ordinance, the governing body may:

1-37 (1) require that a permit be obtained from the
1-38 municipality before the installation and use of certain types of
1-39 outdoor lighting in a regulated area;

1-40 (2) establish a fee in an amount to cover the costs of
1-41 administering the issuance of the permit;

1-42 (3) prohibit the use of a type of outdoor lighting that
1-43 is incompatible with the effective use of an observatory;

1-44 (4) establish requirements for the shielding of
1-45 outdoor lighting; and

1-46 (5) regulate the times during which certain types of
1-47 outdoor lighting may be used.

1-48 (d) The governing body may apply more stringent standards
1-49 for areas in which the use of outdoor lighting has a greater impact
1-50 on observatory activities.

1-51 (e) The governing body may adopt an ordinance under this
1-52 section only after conducting a public hearing on the proposed
1-53 ordinance. The governing body shall give at least two weeks' public
1-54 notice of the hearing.

1-55 Sec. 229.054. REGULATION OF SUBDIVISIONS. (a) The
1-56 governing body of a municipality by ordinance shall establish
1-57 standards relating to proposed subdivisions to minimize the
1-58 interference with observatory activities caused by outdoor
1-59 lighting.

1-60 (b) The governing body may not approve a subdivision plat
1-61 unless the plat provides that outdoor lighting will comply with
1-62 standards adopted under this section.

1-63 Sec. 229.055. ENFORCEMENT; PENALTY. (a) A municipality

2-1 may sue in any court to enjoin a violation of this subchapter.
2-2 (b) A person who violates an ordinance adopted under this
2-3 subchapter commits an offense. An offense under this section is a
2-4 Class C misdemeanor.

2-5 SECTION 2. Section 240.032(a), Local Government Code, is
2-6 amended to read as follows:

2-7 (a) The [~~On the request of the director of McDonald~~
2-8 ~~Observatory, the~~] commissioners court of a county, any part of
2-9 which is located within 57 miles of a major astronomical
2-10 observatory at the McDonald Observatory, shall [~~may~~] adopt orders
2-11 regulating the installation and use of outdoor lighting in any
2-12 unincorporated territory of the county.

2-13 SECTION 3. Section 240.033, Local Government Code, is
2-14 amended by amending Subsection (b) and adding Subsections (c) and
2-15 (d) to read as follows:

2-16 (b) The commissioners court of a county, any part of which
2-17 is located within 57 miles of a major astronomical observatory at
2-18 the McDonald Observatory, shall adopt orders establishing
2-19 standards relating to proposed subdivisions to minimize the
2-20 interference with observatory activities caused by outdoor
2-21 lighting.

2-22 (c) The commissioners court of a county, any part of which
2-23 is located [~~or~~] within five miles of a major astronomical
2-24 observatory at the George Observatory or the Stephen F. Austin
2-25 State University Observatory, may adopt orders establishing
2-26 standards relating to proposed subdivisions [~~in order~~] to minimize
2-27 the interference with observatory activities caused by outdoor
2-28 lighting.

2-29 (d) A [~~The~~] commissioners court that adopts orders under
2-30 this section may not approve a plat of a proposed subdivision that
2-31 does not meet the standards established in the orders.

2-32 SECTION 4. Chapter 229, Local Government Code, is amended
2-33 by designating Sections 229.001, 229.002, and 229.003 as Subchapter
2-34 A and adding a heading for Subchapter A to read as follows:

2-35 SUBCHAPTER A. REGULATION OF FIREARMS AND EXPLOSIVES

2-36 SECTION 5. Section 240.031(3), Local Government Code, is
2-37 repealed.

2-38 SECTION 6. This Act takes effect January 1, 2012.

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