



Town of Nantucket



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May 6, 2023

TO WHOM IT MAY CONCERN:

I, Nancy L. Holmes, duly elected Clerk of the Town and County of Nantucket, hereby certify that the May 6, 2023 ANNUAL TOWN MEETING adopted **Article : 76** at the May 6, 2023 adjourned session when "...the adoption of all articles not heretofore acted upon as recommended by the Finance Committee, or as recommended by the Planning Board, was duly motioned, seconded, and voted in accordance with the motions recommended by the Finance Committee or, in the absence of a Finance Committee motion, then in accordance with the motions as recommended by the Planning Board, as printed in the Finance Committee Report, with technical amendments brought forward during the course of the meeting..."

ARTICLE 76

(Bylaw Amendment: Outdoor Lighting)

To see if the Town will vote to replace the existing outdoor lighting bylaw (Chapter 102 of the Code of the Town of Nantucket), adopted at Town Meeting in 2005, with the following updated bylaw to make the regulations consistent with current best practices for outdoor lighting and to strengthen enforcement; or otherwise act thereon. *[NOTE: Non-substantive changes to the numbering of this bylaw shall be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket.]*

Chapter 102 OUTDOOR LIGHTING

§ 102-1. **Purpose.** The purpose of this chapter is to establish regulations for outdoor lighting that:

- A. Minimize the unintended and/or adverse impact of the use of artificial light at night (commonly known as light pollution) to the greatest extent possible, in recognition of its negative effects on people as well as wildlife.
- B. Protect residents from light trespass that negatively affects the enjoyment of their own property and their property values.
- C. Control glare to increase the safety and security of residents and visitors.

- D. Minimize skyglow to preserve the ability to see the stars and Milky Way, thereby preserving humanity's connection with the night sky, fostering awe and wonder in current and future generations of children as well as adults, and preserving the ability of the Maria Mitchell Association to conduct astronomical research.
- E. Provide adequate light for the safe performance of outdoor tasks at night and to keep property free from harm.
- F. Promote efficient and cost-effective lighting to conserve energy.
- G. Preserve the historic and rural character of Nantucket.

§ 102-2. Applicability.

- A. The provisions of this chapter shall apply to all outdoor lighting, in all zoning districts, unless specifically exempted elsewhere in this chapter. This includes all privately owned lighting as well as all lighting owned, maintained, or controlled by the Town of Nantucket or another governmental body (including the Nantucket Public Schools).
- B. In case of a conflict between any of the provisions in this chapter or between any provision of this chapter and another provision of the Nantucket Code, the most restrictive provision shall control.
- C. **New installations.** All exterior luminaires installed after the effective date of this chapter shall conform with the requirements established by this chapter and any other applicable bylaws, regardless of the reason for the installation.
- D. **Nonconforming existing luminaires.**
 - a. All exterior lighting that was installed prior to the effective date of this chapter that does not conform with the requirements of this chapter may continue to be used and maintained for up to five years, except if any of the following occurs:
 - i. The official appointed to oversee the enforcement of this chapter determines that one or more luminaires constitutes a hazard to public safety or a lighting nuisance under § 102-6A of this chapter, in which case the nonconforming luminaire(s) must be brought into compliance within thirty (30) days of written notification being mailed or hand delivered.
 - ii. More than fifty percent (50%) of the total assessed value or square footage of a structure, as determined from the building permit application, is repaired, altered, reconstructed, or renovated, in which case the nonconforming luminaire(s) must be brought into compliance by the time the final building inspection occurs.
 - iii. A nonconforming luminaire owned by the Town of Nantucket is retrofitted, in which case the fixture must be brought into compliance at the time that work is done.

- b. Request for extension.** Private property owners may request an extension from the Town Manager to use and maintain a nonconforming luminaire, for up to a maximum of ten (10) years from the date a nonconforming fixture was installed, provided that the luminaire was compliant with the requirements that existed at the time of the installation and the date of installation can be verified via documents or date-stamped photographs; the nonconforming luminaire cost \$100 or more when purchased; and the nonconforming luminaire cannot be brought into compliance by changing the bulb or lighting element or by installing shielding.

§ 102-3. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed:

BUG RATING SYSTEM

A lighting classification system created by the Illuminating Engineering Society (IES) and the International Dark-Sky Association (IDA) to describe the light pollution contributions from outdoor luminaires. “B” relates to backlight, which often contributes to light trespass. “U” relates to uplight, which contributes to skyglow and limits the ability to see the stars. “G” relates to glare, which makes it difficult to see.

CORRELATED COLOR TEMPERATURE (CCT)

A specification of the color appearance of the light emitted by a lamp, measured in units called Kelvin (K). Correlated color temperature (CCT) values are typically provided in lighting manufacturer data sheets.

EMERGENCY LIGHTING

Temporary lighting required for public safety in the reasonable determination of public safety officials.

ENVIRONMENTALLY SENSITIVE AREA

Any land that contains threatened or endangered species habitats, is used for agricultural purposes, or is subject to a conservation restriction.

EXTERNALLY ILLUMINATED SIGN

Any sign or display whose information content is made visible at night by means of a luminaire mounted at some distance above, below, or otherwise away from the surface containing the information or message intended to be seen.

FLOODLIGHT

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

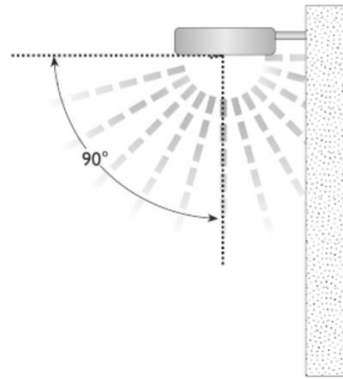
FOOT-CANDLE

A measurement of illuminance equivalent to one lumen per square foot.

FULLY SHIELDED LUMINAIRE

A luminaire that is constructed so that, in its properly installed position, all the light emitted shines below the horizontal plane at the point where the light is emitted. See Figure 1 (below). Luminaires with adjustable aiming are not fully shielded unless they are aimed and shielded so that no light is emitted above the horizontal plane at the point where the light is emitted.

Figure 1. Fully Shielded Luminaire



GLARE

Intense light emitted by a lamp or luminaire that reduces visibility and creates visual discomfort and/or momentary visual impairment.

HOLIDAY LIGHTING

Temporary decorative lighting installed in connection with a national, state, local or religious holiday.

ILLUMINATING ENGINEERING SOCIETY (IES)

The professional society of lighting engineers and other lighting professionals that is recognized as an authoritative body on the science and application of lighting and which publishes and promotes recommended practices for a variety of specific lighting applications.

ILLUMINANCE

The amount of light falling onto a given surface area, often measured in units called foot-candles.

KELVIN

A unit of measurement used for the correlated color temperature of light. Often denoted with the symbol K.

LAMP

The component of a luminaire that is the light source, not inclusive of any reflective or refractive optics used to direct light. This refers to bulbs that are easily removable and replaceable as well as integrated systems like light emitting diodes (LEDs).

LANDSCAPE LIGHTING

Any lighting used to illuminate trees, shrubs, or other plant material, as well as water features and decorative objects, in a yard, garden, park, or pool deck.

LIGHT POLLUTION

Any unintended and/or adverse impact of the use of artificial light at night.

LIGHT TRESPASS

Any light emitted by a luminaire that shines beyond the property on which the luminaire is installed and increases the illuminance at the property boundary line.

LUMEN

A unit of measurement of the amount of light emitted by a luminaire or lamp, typically displayed by the manufacturer as part of the product specification. Distinct from watts, which measures the amount of power consumed by a luminaire or lamp rather than the amount of light emitted. When used in this chapter, “lumens” refers to the number of lumens of light emitted by a luminaire when the lamp is new, not accounting for any depreciation over time, known as initial lumens.

LUMINAIRE

A complete lighting unit, consisting of one or more lamps, housing, lenses, reflectors, and other structural elements, but not including any mounting pole or surface. This includes what is commonly referred to as a light fixture as well as other types of lighting units such as string lights and rope lights.

LUMINANCE

A measure of light emitted by or from a surface. Measured in candelas per square meter (cd/m^2).

SAFETY AND SECURITY LIGHTING

Lighting that is intended to prevent accidents and/or deter or detect intrusions or other criminal activity occurring on a property or site. For the purposes of this chapter, this shall include lighting for entrances, walkways, roadways, parking lots, equipment yards, and building security, but shall not include landscape lighting, string lighting, rope lighting, decorative, and accent lighting.

SKYGLOW

A glow in the night sky deriving from an artificial source (or sources) of light.

SPORTS LIGHTING

Lighting to illuminate outdoor fields and other surfaces used for the practice and/or play of any outdoor sport or athletic activity. This term refers only to lighting intended to facilitate play on outdoor surfaces, or to illuminate spectator viewing stands, but not for illumination of any other part of a connected or adjacent property such as a parking area.

SPOTLIGHT

A type of luminaire designed to project a narrow, intense beam of light on a small area.

STRING LIGHTS

A type of luminaire consisting of small white or differently colored electric lights spaced evenly along a cable and used for decoration, including but not limited to “bistro” lights, “fairy” lights, and “festoon” lights.

VERTICAL ILLUMINANCE

The amount of light falling on a vertical surface or plane. When measuring vertical illuminance, the illuminance meter is held vertically rather than horizontally.

UPLIGHTING

Lighting placed or designed to shine the light above the horizontal plane at the point where the light is emitted.

§ 102-4. General requirements for all outdoor lighting.

All luminaires not specifically exempted in § 102-7 of this chapter shall comply with the following requirements:

- A. **Shielding.** All luminaires with a lumen output greater than 600 lumens shall be fully shielded except as follows:
 - a. String lights, provided they comply with § 102-5A of this chapter.
 - b. Temporary holiday lights, provided they comply with § 102-5C of this chapter.
 - c. Luminaires for the lighting of flags, provided they comply with § 102-5D of this chapter.
 - d. Sports lighting on nonresidential properties, provided it complies with § 102-5F of this chapter.
- B. **Correlated color temperature.** The correlated color temperature (CCT) of the light emitted by luminaires shall not exceed 2700 Kelvin, except as follows:
 - a. If a 2700 Kelvin (or lower) luminaire is not commercially available for the application in question, a luminaire with a CCT of up to 3000 Kelvin may be used unless otherwise provided by this chapter.
 - b. Temporary holiday lighting is exempt from this requirement, provided it complies with the requirements stated in § 102-5C of this chapter.
 - c. Sports lighting on nonresidential properties is exempt from this requirement, provided it complies with the requirements stated in § 102-5F of this chapter.
- C. **Lumen limits.**
 - a. **Total lumens allowed per site.** On no parcel or property shall the total lumen output of all luminaires exceed twenty thousand (20,000) total lumens per acre for residential properties or forty thousand (40,000) total lumens per acre for

nonresidential properties, regardless of shielding.

- i. Temporary holiday lighting and nonresidential sports lighting may be excluded when determining total lumens.
 - ii. For lighting within or mounted on external canopies at vehicle fueling stations and drive-through bank tellers or automated teller machines, an additional ten (10) lumens per square foot of canopy area shall be allowed.
- b. **Total lumens allowed for unshielded luminaires.** On no parcel or property shall the total lumen output of the luminaires that are not fully shielded (excluding temporary holiday lighting) exceed a value of five thousand (5,000) lumens multiplied by the number of acres, or a total of two thousand (2,000) lumens, whichever is greater. Any luminaire that is either not fully shielded by design or is installed so that light shines above the horizontal plane at the point where the light is emitted shall be counted as an unshielded luminaire for the purpose of this limitation.
- c. **Maximum lumen allowed for a luminaire.** The lumen output of any luminaire on a residential property shall not exceed fifteen hundred (1,500) lumens and the lumen output of any luminaire on a nonresidential property shall not exceed five thousand (5,000) lumens.

D. Hours of illumination.

- a. All lighting, with the exceptions listed below, shall be turned off by 11:00 pm or, in the case of nonresidential properties, within one (1) hour of the end of normal business or operating hours. Lighting may not be turned on earlier than 6:00 am or, in the case of nonresidential properties, earlier than one (1) hour prior to the start of business or operations.
- b. The following exceptions shall apply:
 - i. Safety and security lighting: On residential properties, safety and security lighting may be used throughout the night. On nonresidential properties, safety and security lighting may be used throughout the night only if it is controlled by motion sensor or other automatic controls so that the light output is automatically turned off or dimmed by at least fifty (50) percent when activity has not been detected for fifteen (15) minutes or more. This requirement does not apply to streetlights, which may be used throughout the night provided they comply with § 102-5G of this chapter.
 - ii. Lighting of flags may be used throughout the night, provided it complies with the requirements of § 102-5D of this chapter.
 - iii. Sports lighting on nonresidential properties shall be turned off by 10:00 pm or within one hour of the end of active play, whichever is later.

§ 102-5. Requirements for specific applications.

- A. String lights.** String lights shall be limited to products with a lumen level that does not exceed fifty (50) lumens per linear foot and no installation of such lighting shall exceed, in the aggregate, two thousand (2,000) lumens for residential properties and four thousand (4,000) for nonresidential properties.
- B. Landscape lighting.** Uplighting of landscape features shall be limited to luminaires with a lumen output no greater than two hundred and fifty (250) lumens per luminaire that are aimed and oriented so that the light output points directly towards the landscape feature to be lighted.
- C. Holiday lighting.**
- a. Decorative lighting for holidays shall not be installed more than six (6) weeks prior to the holiday and shall be removed within two weeks (2) following it. Any lighting installed outside of that time frame shall not be considered temporary holiday lighting and shall not qualify for the exemptions for such lighting under this chapter.
 - b. Lighting for holidays shall be limited to low-intensity string lights, whose lumen level does not exceed fifty (50) lumens per linear foot; floodlights and spotlights, whose lumen level shall not exceed twelve hundred (1,200) lumens per luminaire; and projector lights.
 - c. Any floodlights, spotlights, or projector lights used for holiday lighting shall be aimed and oriented in such a way as to not directly emit any light into the night sky or onto adjacent properties or public rights-of-way.
- D. Illumination of flags.** If flags are illuminated at night rather than lowered before sunset (as preferred), the lighting must comply with the following requirements:
- a. Flagpoles with a height greater than twenty (20) feet above ground level shall be illuminated only from above. This may be achieved by using a luminaire attached to the top of the flagpole or a luminaire mounted above the flagpole on a structure within fifteen (15) feet of the flagpole. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed eight hundred (800) lumens.
 - b. Flagpoles with a height equal to or less than twenty (20) feet above ground level may be illuminated from below. If ground-level illumination is used, no more than two (2) spotlight luminaires may be used per flagpole, the lumen output shall not exceed six hundred (600) lumens per luminaire, and the luminaire(s) shall be mounted so that the light output points directly towards the flag(s).
 - c. Flagpoles shall only be illuminated when a flag is hoisted.
- E. Illumination of signs.**
- a. Externally illuminated signs shall be lit only from the top of the sign, with fully shielded luminaires designed and installed to prevent light from spilling beyond the

physical edges of the sign.

- b. Luminance levels during permitted hours of illumination shall not exceed 100 candelas per square meter (cd/m^2) as measured under conditions of full white display.
- c. The illuminated surface area of an individual sign shall not exceed 200 square feet.

F. Sports lighting (nonresidential). Lighting installed on nonresidential properties for the practice or play of outdoor sports shall:

- a. Comply with the lighting guidelines established by the Illuminating Engineering Society for the applicable class of play (IES RP-6). This shall be established by a certification letter from the International Dark Sky Association issued under its program for community-friendly sports lighting program, verifying that the design as well as the installation meets the IES criteria.
- b. Only illuminate the surface of play and adjacent viewing stands and shall not be used for any other application, such as lighting a parking area.
- c. Have adjustable illuminance levels so that the illuminance level can be lowered when there is no active play (e.g., for field maintenance).
- d. Be extinguished by 10:00 pm or within one hour of the end of active play, whichever is later.
- e. Be equipped with mechanical or electronic timers to prevent lights from being left on accidentally overnight.
- f. Be designed and installed to limit the impact of the lighting on other properties to the greatest extent possible.

G. Streetlights. The following requirements apply to streetlights, regardless of ownership.

- a. **Backlight, uplight and glare:** The BUG rating of street light luminaires shall not exceed B1-U0-G1.
- b. **Add-on shields:** Add-on shields shall be added to luminaires whenever requested by a resident to eliminate light trespass and commercially available for the type of luminaire in question.
- c. **Adaptive controls:** New or replacement streetlight luminaires shall be provided with controls that, at a minimum, are capable of automatically reducing the output of the luminaire at a programmed time by at least fifty (50) percent.
- d. **Community input.** If a municipal or utility company lighting project is proposed that involves the retrofit or replacement of streetlights, the Town of Nantucket shall undertake a pilot demonstration with multiple options (including 2200K and 2400K

luminaires) and solicit public comment before making a final decision on what to purchase and install.

H. Public lighting. The following requirements shall apply to luminaires that are owned, leased, operated, maintained, or controlled by the Town of Nantucket or another governmental entity or entities completely or partly funded by grants obtained by the Town or its agents, including but not limited to streetlights, luminaires to light municipal facilities, parking lots, parks, and playing fields.

- a. New installations of outdoor lighting shall only be installed upon a determination by the Town Manager that a public safety hazard exists in the area to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting and not through some other passive means, such as reflectorized roadway paint or markers.
- b. If a municipal lighting project is proposed that involves the addition of more than ten (10) elevated luminaires with two thousand (2,000) or more lumens per luminaire, the Town of Nantucket or its designee must seek public comment prior to the purchase and installation to help mitigate unforeseen negative impacts.

§ 102-6. Prohibitions.

A. Public safety hazard or nuisance. No outdoor lighting may create a public safety hazard or public nuisance in the form of light trespass or glare, regardless of when it was installed. Notwithstanding the other provisions of this chapter, the modification, removal, or limited operation of luminaires may be required if a public safety hazard or public nuisance is found based on the following criteria.

- a. **Light Trespass.** Failure to comply with the illuminance level requirements stated below will be deemed a public nuisance unless in the judgment of the official charged with enforcing this chapter there are extenuating circumstances related to safety and security that justify an exception.
 - i. The maximum vertical illuminance level at a property line that is adjacent to a residential property, or an environmentally sensitive area, shall not exceed 0.05 foot-candle.
 - ii. The maximum vertical illuminance level at a property line that is adjacent to any other property shall not exceed 0.1 foot-candle.
 - iii. The measurement for compliance shall be made using a light meter designed to measure illuminance levels, and vertical illuminance shall be measured at the property line five (5) feet above grade with the meter aimed towards the subject property and perpendicular to the property line.
- b. **Glare.** The glare from exterior lighting will be deemed a public safety hazard or public nuisance when, in the judgment of the officer charged with enforcing this chapter, it could interfere with the safe movement of motor vehicles on publicly traveled ways or when it interferes with the usual and reasonable use and

enjoyment of property. This determination will be made through a site visit and visual inspection.

- B. Other prohibitions.** The use of the following types of outdoor lighting is prohibited unless specifically exempted in § 102-7 of this chapter.
- a. Highlighting or illumination of building facades and walls by use of uplighting.
 - b. Searchlights, sky beams, and similar lighting except as required by public safety personnel during emergency conditions.
 - c. Any light, other than temporary holiday lighting, that dynamically varies its output by intermittently fading, flashing, blinking, or rotating.
 - d. Lighting on publicly owned property subject to a conservation restriction under Massachusetts law.

§ 102-7. Exemptions.

The following types of lighting shall be exempt from the requirements and prohibitions of this chapter:

- a. Lighting required by law to be installed on motor vehicles.
- b. Emergency lighting, for as long as emergency conditions identified by public safety personnel continue to exist. This includes the activities of law enforcement, fire, and other emergency services.
- c. Temporary lighting required to save life, limb, or property from imminent peril, provided that the use of this lighting continues only during the hours of the peril.
- d. Lighting employed during repairs of roads, utilities, and similar infrastructure, provided that such lighting is deployed, positioned, and aimed such that the resulting glare is not directed beyond the work area.
- e. Any form of lighting whose use is mandated by any legal jurisdiction with broader authority than that of the Town of Nantucket, provided that the lighting does not exceed the minimum requirements of that legal mandate.
- f. Lighthouse beacons owned by the United States Coast Guard.
- g. Temporary lighting for events sponsored by the Town of Nantucket.
- h. Temporary lighting approved by the Select Board in conjunction with a special event permit, such as for concerts, fairs, and festivals, provided that the impact of the lighting is required to be mitigated to the greatest extent possible.
- i. Lighting produced by the combustion of fossil fuels (such as natural gas and propane) so long as the light source is completely enclosed in a suitable housing such as a lantern, firepit or fireplace.
- j. Underwater lighting of swimming pools or other water features.

§ 102-8. Administrative Waiver.

The official charged with enforcing this chapter shall have the authority to grant a partial or complete waiver of the requirements of this chapter pursuant to the following procedures:

- A. Any applicant seeking a waiver from all or some of the requirements of this chapter shall file an application describing in detail with supporting information and documentation the nature, duration, location, specifications, and other particulars of the waiver being sought.
- B. The application for a waiver must demonstrate that bringing the luminaire(s) for which the waiver is sought into full compliance with this chapter would either (i) constitute a demonstrably unreasonable hardship on the applicant, as balanced against the potential impacts of noncompliance, or (ii) result in conditions that are materially detrimental to

health, safety, or welfare. The applicant may also provide for consideration an alternative plan(s) that demonstrate(s) their ability to substantially mitigate the negative effects of non-compliance.

- C. Written notice of any application for a waiver shall be given to direct abutters to the property of the applicant and to the general public through a legal notice published in the local newspaper, including specific information on the nature, duration, location, and specifications and other particulars of the waiver being sought, at least fourteen (14) days in advance of any decision on the waiver application. Any notice recipient who claims that he/she/they or occupants of his/her/their property would be adversely affected by a grant of the waiver may file a statement and materials containing information to support his/her/their claim.
- D. In determining whether to grant or deny the waiver and what, if any, conditions and limitations (including a time limit) to impose, the reviewing official shall determine whether the applicant has met the conditions for a waiver stated above.
- E. Waivers shall be granted in writing to the applicant and shall contain all conditions and limitations, including any time limit on the activity. Noncompliance with any provision or condition of the waiver may result in its termination.
- F. The reviewing official shall place on public file a copy of the application for the waiver, all accompanying submissions, and the decision, including all conditions and limitations, and the reasons for granting or denying the waiver, as well as any other documentation associated with the process.
- G. Any waiver may be reviewed, adjusted, terminated, or repealed by the official charged with enforcing this chapter at any time after two years, unless a longer time is specified in the waiver, or in the event of noncompliance with any provision or condition of the waiver.
- H. Any decision made under this provision may be appealed under § 102-9G of this chapter.

§ 102-9 Enforcement, violations, and penalties.

A. Enforcement.

- a. The enforcement of this chapter shall be overseen by a Lighting Enforcement Officer appointed by the Town Manager.
- b. The Lighting Enforcement Officer is authorized and empowered to institute and maintain, in the name of the Town of Nantucket, any and all enforcement proceedings seeking injunctive relief and any other appropriate remedy, including fines and penalties.
- c. The Town may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.
- d. The Lighting Enforcement Officer may, with the permission of the owner or pursuant to an administrative search warrant, go onto private property for the purpose of determining whether there has been a violation of this chapter.

B. Violations.

- a. It shall be unlawful to install or operate any outdoor lighting luminaire in violation of any provision of this chapter, unless specifically exempted.
- b. Whoever violates any provision of this bylaw may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D, and Article II of Chapter 1 of the Code of the Town of Nantucket.
- c. Each and every day during which a violation continues shall be deemed to constitute a separate offense.

C. Civil penalty.

- a. Violation of this chapter shall be subject to a penalty of \$100 for the first violation, \$200 for the second violation, and \$300 for the third violation and any subsequent violation.
- b. If a luminaire violates more than one provision of this chapter, that will be treated as one violation for the purposes of assessing penalties. However, if multiple luminaires violate one or more provisions of this chapter, a penalty may be imposed for each nonconforming luminaire.
- c. Before the imposition of a civil penalty, the property owner shall be notified of the violation(s) and given time to cure the violation(s) or demonstrate that there is no violation.

D. Request for enforcement.

- a. If the Lighting Enforcement Officer is requested, in writing, to enforce this chapter against any person or entity suspected of violating one or more of its provisions,

the Lighting Enforcement Officer shall notify, in writing, the requesting party of any action or refusal to act, and the reasons therefor, within thirty (30) days of receipt of such request.

- b. If no decision has been issued within thirty-five (35) days from the date the complaint was submitted, it shall be deemed denied as of the date ending such period and shall be subject to appeal.

E. Process.

- a. The Lighting Enforcement Officer shall investigate all reports of suspected violations, making a site visit at night as necessary to determine compliance.
- b. If, after investigation, the Lighting Enforcement Officer finds that a provision of this chapter is being violated, notice shall be given, as follows:
 - i. If abatement of the violation would require modification, replacement, or removal of a luminaire, the notice shall be in writing and by hand-delivery or by certified mail, return receipt requested, to the property owner and/or to the occupant of the premises, demanding that violation be abated within thirty (30) days of the date of hand-delivery or of the date of mailing of the notice. The Lighting Enforcement Officer may require abatement in fewer than thirty (30) days, depending on the nature of the violation, but shall not allow more than thirty (30) days.
 - ii. If the abatement of the violation simply involves turning off or redirecting a luminaire, notice may be given verbally to the occupant(s) of the premises with an order to cease or abate the violation immediately.
- c. If the violation is not abated within the time allowed, the Lighting Enforcement Officer may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this chapter and to collect the penalties for such violations.
- d. If the Lighting Enforcement Officer concludes there is a violation, based on a site visit and/or photographic evidence, the owner shall have the burden of demonstrating that the luminaire complies with the standards established by this chapter.
 - i. The manufacturer's specification sheet may be used to establish the lumen level of a luminaire, correlated color temperature (CCT), and, if required, to verify the use of a fully shielded fixture.
 - ii. Illumination levels may be verified through the use of manufacturer's photometric data sheet(s) and/or photometric site drawing or through on-site calibrated light meter readings.

F. Permit required. Compliance review of lighting plan prior to installation.

- a. Any construction that involves the installation of exterior lighting and that requires a building and use permit under Chapter 139 (Zoning) or approval by the Historic District Commission shall require a permit issued by the Lighting Enforcement Officer verifying that the lighting plans satisfy the requirements of this chapter.
- b. A reasonable fee to defray the cost of administration incurred in the review and processing of permits under this chapter shall be established by the Town Manager and collected with each permit application.
- c. The lighting plan shall be filed with the Lighting Enforcement Officer at the same time that any other required plans are submitted and shall include:
 - i. A map or drawing showing the acreage of the property and the location on the property where the luminaire(s) will be installed;
 - ii. The specifications for each luminaire to be installed, including but not limited to the correlated color temperature (CCT), the lumen output, the BUG rating (if applicable), and the shielding description;
 - iii. The quantity and type of all proposed luminaires;
 - iv. The proposed schedule of use, including use of timers, dimmers and/or motion sensors;
 - v. Any other evidence that the proposed installation will comply with this chapter.

The Lighting Enforcement Officer shall have the authority to request additional information to confirm compliance with the provisions of this chapter.

- d. Within thirty (30) days of submission of the lighting plans or any additional information requested, the Lighting Enforcement Officer shall issue a permit stating the lighting plan conforms to the requirements of this chapter or the reasons for denying the application. If a permit has not been issued within thirty-five (35) days from the date the application for a permit was submitted, the application shall be deemed denied as of the date ending such period and shall be subject to appeal.
- e. After a permit has been issued, no substitutions may be made for approved luminaires without submitting a revised plan for review and requesting an amendment to the permit.

G. Appeals.

- a. Any person aggrieved by a refusal to act, decision, or order of the Lighting Enforcement Officer may appeal to the Town Manager, or the official appointed by the Town Manager to handle such appeals, within thirty (30) days after written notification of the decision of the Lighting Enforcement Officer or the date a request for enforcement or an application for a permit shall have been deemed

denied in accordance with the provisions above.

- b. Any appeal filed with the Town Manager or designee, as to which no decision has been issued within thirty-five (35) days from the date of submission, shall be deemed denied as of the date ending such period and shall be subject to appeal to the Select Board.
- c. Any appeal to the Select Board from the order or decision of the Town Manager or designee shall be taken within thirty (30) days from the date of the order or decision or within thirty (30) days from the date on which the appeal shall have been deemed denied in accordance with provision above.
- d. Any appeal pursuant to the above subsections shall be taken by filing a notice of appeal, specifying the grounds thereof, with the Town Administrator. A copy of said notice, including the date and time of filing with the Town Administrator, shall be filed with the Lighting Enforcement Officer. The Lighting Enforcement Officer shall forthwith transmit to the Town Administrator all documents and papers related to the appeal taken.

H. Civil remedies. Nothing in this chapter shall be construed as limiting the right of any person or entity to pursue legal action against any other person or entity under any applicable law, including the doctrine of nuisance.

§ 102-10. Effective Date.

The effective date of the adoption or amendment of this chapter shall be the date on which such adoption or amendment was voted upon at Town Meeting. If such adoption or amendment is subsequently disapproved, in whole or in part, by the Attorney General, this chapter as it would have read without the disapproved portion of the adoption or amendment so voted, shall be deemed to have continued in effect from the date of such vote.

§ 102-11. Severability.

The provisions of this chapter are hereby declared to be severable and, if any provision or the application of such provision to any property, person or circumstance shall be determined to be invalid, such invalidity shall not be construed to affect the validity of any other provision hereof or the application of any provisions to any other property, person, or circumstances. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

(Catherine Gail Walker, et al)

FINANCE COMMITTEE MOTION: Moved that Chapter 102 of the Code of the Town of Nantucket (Outdoor Lighting) is hereby amended by deleting the existing text in its entirety and replacing it with the following new language *(NOTE: changes to the language proposed by Warrant Article #76 are shown as follows: new language is shown as highlighted text and language to be deleted is shown by strikeout. These methods to denote changes are not meant to become part of the final text. Non-substantive changes to the numbering of this bylaw shall be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket!)*:

**Chapter 102
OUTDOOR LIGHTING**

§ 102-1. Purpose. The purpose of this chapter is to establish regulations for outdoor lighting that:

- A. Minimize the unintended and/or adverse impact of the use of artificial light at night (commonly known as light pollution) to the greatest extent possible, in recognition of its negative effects on people as well as wildlife.**
- B. Protect residents from light trespass that negatively affects the enjoyment of their own property and their property values.**
- C. Control glare to increase the safety and security of residents and visitors.**
- D. Minimize skyglow to preserve the ability to see the stars and Milky Way, thereby preserving humanity's connection with the night sky, fostering awe and wonder in current and future generations of children as well as adults, and preserving the ability of the Maria Mitchell Association to conduct astronomical research.**
- E. Provide adequate light for the safe performance of outdoor tasks at night and to keep property free from harm.**
- F. Promote efficient and cost-effective lighting to conserve energy.**
- G. Preserve the historic and rural character of Nantucket.**

§ 102-2. Applicability.

- A. The provisions of this chapter shall apply to all outdoor lighting, in all zoning districts, unless specifically exempted elsewhere in this chapter. This includes all privately owned lighting as well as all lighting owned, maintained, or controlled by the Town of Nantucket or another governmental body (including the Nantucket Public Schools).
- B. In case of a conflict between any of the provisions in this chapter or between any provision of this chapter and another provision of the Nantucket Code, the most restrictive provision shall control.
- C. New installations. All exterior luminaires installed after the effective date of this chapter shall conform with the requirements established by this chapter and any other applicable bylaws, regardless of the reason for the installation.
- D. Nonconforming existing luminaires.
 - a. All exterior lighting that was installed prior to the effective date of this chapter that does not conform with the requirements of this chapter may continue to be used and maintained for up to five years, except if any of the following occurs:
 - i. The official appointed to oversee the enforcement of this chapter determines that one or more luminaires constitutes a hazard to public safety or a lighting nuisance under § 102-6A of this chapter, in which case the nonconforming luminaire(s) must be brought into compliance within ~~thirty (30)~~ **ninety (90)** days of written notification being mailed or hand delivered.
 - ii. More than fifty percent (50%) of the total assessed value or square footage of a structure, as determined from the building permit application, is repaired, altered, reconstructed, or renovated, in which case the nonconforming luminaire(s) must be brought into compliance by the time the final building inspection occurs.
 - iii. A nonconforming luminaire owned by the Town of Nantucket is retrofitted, in which case the fixture must be brought into compliance at the time that work is done.
 - b. Request for extension. Private property owners may request an extension from the Town Manager to use and maintain a nonconforming luminaire, for up to a maximum of ten (10) years from the date a nonconforming fixture was installed, provided that the luminaire was compliant with the requirements that existed at the time of the installation and the date of installation can be verified via documents or date-stamped photographs; the nonconforming luminaire cost \$100 or more when purchased; and the nonconforming luminaire cannot be brought into compliance by changing the bulb or lighting element or by installing shielding.

§ 102-3. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed:

BUG RATING SYSTEM

A lighting classification system created by the Illuminating Engineering Society (IES) and the International Dark-Sky Association (IDA) to describe the light pollution contributions from outdoor luminaires. “B” relates to backlight, which often contributes to light trespass. “U” relates to uplight, which contributes to skyglow and limits the ability to see the stars. “G” relates to glare, which makes it difficult to see.

CORRELATED COLOR TEMPERATURE (CCT)

A specification of the color appearance of the light emitted by a lamp, measured in units called Kelvin (K). Correlated color temperature (CCT) values are typically provided in lighting manufacturer data sheets.

EMERGENCY LIGHTING

Temporary lighting required for public safety in the reasonable determination of public safety officials.

ENVIRONMENTALLY SENSITIVE AREA

Any land that contains threatened or endangered species habitats, is used for agricultural purposes, or is subject to a conservation restriction.

EXTERNALLY ILLUMINATED SIGN

Any sign or display whose information content is made visible at night by means of a luminaire mounted at some distance above, below, or otherwise away from the surface containing the information or message intended to be seen.

FLOODLIGHT

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

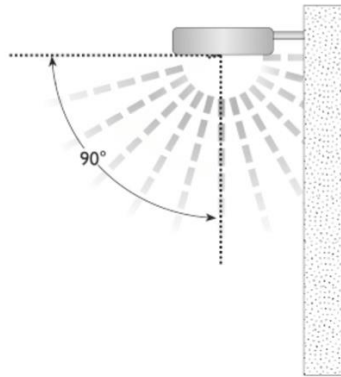
FOOT-CANDLE

A measurement of illuminance equivalent to one lumen per square foot.

FULLY SHIELDED LUMINAIRE

A luminaire that is constructed so that, in its properly installed position, all the light emitted shines below the horizontal plane at the point where the light is emitted. See Figure 1 (below). Luminaires with adjustable aiming are not fully shielded unless they are aimed and shielded so that no light is emitted above the horizontal plane at the point where the light is emitted.

Figure 1. Fully Shielded Luminaire



GLARE

Intense light emitted by a lamp or luminaire that reduces visibility and creates visual discomfort and/or momentary visual impairment.

HOLIDAY LIGHTING

Temporary decorative lighting installed in connection with a national, state, local or religious holiday.

ILLUMINATING ENGINEERING SOCIETY (IES)

The professional society of lighting engineers and other lighting professionals that is recognized as an authoritative body on the science and application of lighting and which publishes and promotes recommended practices for a variety of specific lighting applications.

ILLUMINANCE

The amount of light falling onto a given surface area, often measured in units called foot-candles.

KELVIN

A unit of measurement used for the correlated color temperature of light. Often denoted with the symbol K.

LAMP

The component of a luminaire that is the light source, not inclusive of any reflective or refractive optics used to direct light. This refers to bulbs that are easily removable and replaceable as well as integrated systems like light emitting diodes (LEDs).

LANDSCAPE LIGHTING

Any lighting used to illuminate trees, shrubs, or other plant material, as well as water features and decorative objects, in a yard, garden, park, or pool deck.

LIGHT POLLUTION

Any unintended and/or adverse impact of the use of artificial light at night.

LIGHT TRESPASS

Any light emitted by a luminaire that shines beyond the property on which the luminaire is installed and increases the illuminance at the property boundary line.

LUMEN

A unit of measurement of the amount of light emitted by a luminaire or lamp, typically displayed by the manufacturer as part of the product specification. Distinct from watts, which measures the amount of power consumed by a luminaire or lamp rather than the amount of light emitted. When used in this chapter, “lumens” refers to the number of lumens of light emitted by a luminaire when the lamp is new, not accounting for any depreciation over time, known as initial lumens.

LUMINAIRE

A complete lighting unit, consisting of one or more lamps, housing, lenses, reflectors, and other structural elements, but not including any mounting pole or surface. This includes what is commonly referred to as a light fixture as well as other types of lighting units such as string lights and rope lights.

LUMINANCE

A measure of light emitted by or from a surface. Measured in candelas per square meter (cd/m^2).

SAFETY AND SECURITY LIGHTING

Lighting that is intended to prevent accidents and/or deter or detect intrusions or other criminal activity occurring on a property or site. For the purposes of this chapter, this shall include lighting for entrances, walkways, roadways, parking lots, equipment yards, and building security, but shall not include landscape lighting, string lighting, rope lighting, decorative, and accent lighting.

SKYGLOW

A glow in the night sky deriving from an artificial source (or sources) of light.

SPORTS LIGHTING

Lighting to illuminate outdoor fields and other surfaces used for the practice and/or play of any outdoor sport or athletic activity. This term refers only to lighting intended to facilitate play on outdoor surfaces, or to illuminate spectator viewing stands, but not for illumination of any other part of a connected or adjacent property such as a parking area.

SPOTLIGHT

A type of luminaire designed to project a narrow, intense beam of light on a small area.

STRING LIGHTS

A type of luminaire consisting of small white or differently colored electric lights spaced evenly along a cable and used for decoration, including but not limited to “bistro” lights, “fairy” lights, and “festoon” lights.

VERTICAL ILLUMINANCE

The amount of light falling on a vertical surface or plane. When measuring vertical illuminance, the illuminance meter is held vertically rather than horizontally.

UPLIGHTING

Lighting placed or designed to shine the light above the horizontal plane at the point where the light is emitted.

§ 102-4. General requirements for all outdoor lighting.

All luminaires not specifically exempted in § 102-7 of this chapter shall comply with the following requirements:

- A. **Shielding.** All luminaires with a lumen output greater than 600 lumens shall be fully shielded except as follows:
 - a. String lights, provided they comply with § 102-5A of this chapter.
 - b. Temporary holiday lights, provided they comply with § 102-5C of this chapter.
 - c. Luminaires for the lighting of flags, provided they comply with § 102-5D of this chapter.
 - d. Sports lighting on nonresidential properties, provided it complies with § 102-5F of this chapter.

- B. **Correlated color temperature.** The correlated color temperature (CCT) of the light emitted by luminaires shall not exceed 2700 Kelvin, except as follows:
 - a. If a 2700 Kelvin (or lower) luminaire is not commercially available for the application in question, a luminaire with a CCT of up to 3000 Kelvin may be used unless otherwise provided by this chapter.
 - b. Temporary holiday lighting is exempt from this requirement, provided it complies with the requirements stated in § 102-5C of this chapter.
 - c. Sports lighting on nonresidential properties is exempt from this requirement, provided it complies with the requirements stated in § 102-5F of this chapter.

- C. **Lumen limits.**
 - a. Total lumens allowed per site. On no parcel or property shall the total lumen output of all luminaires exceed twenty thousand (20,000) total lumens per acre for residential properties or forty thousand (40,000) total lumens per acre for nonresidential properties, regardless of shielding.
 - i. Temporary holiday lighting and nonresidential sports lighting may be excluded when determining total lumens.
 - ii. For lighting within or mounted on external canopies at vehicle fueling stations and drive-through bank tellers or automated teller machines, an additional ten (10) lumens per square foot of canopy area shall be allowed.

- b. Total lumens allowed for unshielded luminaires. On no parcel or property shall the total lumen output of the luminaires that are not fully shielded (excluding temporary holiday lighting) exceed a value of five thousand (5,000) lumens multiplied by the number of acres, or a total of two thousand (2,000) lumens, whichever is greater. Any luminaire that is either not fully shielded by design or is installed so that light shines above the horizontal plane at the point where the light is emitted shall be counted as an unshielded luminaire for the purpose of this limitation.
- c. Maximum lumen allowed for a luminaire. The lumen output of any luminaire on a residential property shall not exceed fifteen hundred (1,500) lumens and the lumen output of any luminaire on a nonresidential property shall not exceed five thousand (5,000) lumens.

D. Hours of illumination.

- a. All lighting, with the exceptions listed below, shall be turned off by 11:00 pm or, in the case of nonresidential properties, within one (1) hour of the end of normal business or operating hours. Lighting may not be turned on earlier than 6:00 am or, in the case of nonresidential properties, earlier than one (1) hour prior to the start of business or operations.
- b. The following exceptions shall apply:
 - i. Safety and security lighting: On residential properties, safety and security lighting may be used throughout the night. On nonresidential properties, safety and security lighting may be used throughout the night only if it **any luminaire with a lumen output above 600 lumens** is controlled by motion sensor or other automatic controls so that the light output is automatically turned off or dimmed by at least fifty (50) percent when activity has not been detected for fifteen (15) minutes or more. This requirement does not apply to streetlights, which may be used throughout the night provided they comply with § 102-5G of this chapter.
 - ii. Lighting of flags may be used throughout the night, provided it complies with the requirements of § 102-5D of this chapter.
 - iii. Sports lighting on nonresidential properties shall be turned off by 10:00 pm or within one hour of the end of active play, whichever is later.

§ 102-5. Requirements for specific applications.

- A. String lights. String lights **that are not fully shielded** shall be limited to products with a lumen level that does not exceed fifty (50) lumens per linear foot and no installation of such lighting shall exceed, in the aggregate, two thousand (2,000) lumens for residential properties and four thousand (4,000) for nonresidential properties.
- B. Landscape lighting. Uplighting of landscape features shall be limited to luminaires with a lumen output no greater than two hundred and fifty (250) lumens per luminaire that are aimed and oriented so that the light output points directly towards the landscape feature

to be lighted.

C. Holiday lighting.

- a. Decorative lighting for holidays shall not be installed more than six (6) weeks prior to the holiday and shall be removed within two weeks (2) following it. Any lighting installed outside of that time frame shall not be considered temporary holiday lighting and shall not qualify for the exemptions for such lighting under this chapter.
- b. Lighting for holidays shall be limited to low-intensity string lights, whose lumen level does not exceed fifty (50) lumens per linear foot; floodlights and spotlights, whose lumen level shall not exceed twelve hundred (1,200) lumens per luminaire; and projector lights.
- c. Any floodlights, spotlights, or projector lights used for holiday lighting shall be aimed and oriented in such a way as to not directly emit any light into the night sky or onto adjacent properties or public rights-of-way.

D. Illumination of flags. If flags are illuminated at night rather than lowered before sunset (as preferred), the lighting must comply with the following requirements:

- a. Flagpoles with a height greater than twenty (20) feet above ground level shall be illuminated only from above. This may be achieved by using a luminaire attached to the top of the flagpole or a luminaire mounted above the flagpole on a structure within fifteen (15) feet of the flagpole. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed eight hundred (800) lumens.
- b. Flagpoles with a height equal to or less than twenty (20) feet above ground level may be illuminated from below. If ground-level illumination is used, no more than two (2) spotlight luminaires may be used per flagpole, the lumen output shall not exceed six hundred (600) lumens per luminaire, and the luminaire(s) shall be mounted so that the light output points directly towards the flag(s).
- c. Flagpoles shall only be illuminated when a flag is hoisted.

E. Illumination of signs.

- a. Externally illuminated signs shall be lit only from the top of the sign, with fully shielded luminaires designed and installed to prevent light from spilling beyond the physical edges of the sign.
- b. Luminance levels during permitted hours of illumination shall not exceed 100 candelas per square meter (cd/m^2) as measured under conditions of full white display.
- c. The illuminated surface area of an individual sign shall not exceed 200 square feet.

- F. Sports lighting (nonresidential). Lighting installed on nonresidential properties for the practice or play of outdoor sports shall:**
- a. Comply with the lighting guidelines established by the Illuminating Engineering Society for the applicable class of play (IES RP-6). This shall be established by a certification letter from the International Dark Sky Association issued under its program for community-friendly sports lighting program, verifying that the design as well as the installation meets the IES criteria.**
 - b. Only illuminate the surface of play and adjacent viewing stands and shall not be used for any other application, such as lighting a parking area.**
 - c. Have adjustable illuminance levels so that the illuminance level can be lowered when there is no active play (e.g., for field maintenance).**
 - d. Be extinguished by 10:00 pm or within one hour of the end of active play, whichever is later.**
 - e. Be equipped with mechanical or electronic timers to prevent lights from being left on accidentally overnight.**
 - f. Be designed and installed to limit the impact of the lighting on other properties to the greatest extent possible.**
- G. Streetlights. The following requirements apply to streetlights, regardless of ownership.**
- a. Backlight, uplight and glare: The BUG rating of street light luminaires shall not exceed B1-U0-G1.**
 - b. Add-on shields: Add-on shields shall be added to luminaires whenever requested by a resident to eliminate light trespass and commercially available for the type of luminaire in question.**
 - c. Adaptive controls: New or replacement streetlight luminaires shall be provided with controls that, at a minimum, are capable of automatically reducing the output of the luminaire at a programmed time by at least fifty (50) percent.**
 - d. Community input. If a municipal or utility company lighting project is proposed that involves the retrofit or replacement of streetlights, the Town of Nantucket shall undertake a pilot demonstration with multiple options (including 2200K and 2400K luminaires) and solicit public comment before making a final decision on what to purchase and install.**
- H. Public lighting. The following requirements shall apply to luminaires that are owned, leased, operated, maintained, or controlled by the Town of Nantucket or another governmental entity or entities completely or partly funded by grants obtained by the Town or its agents, including but not limited to streetlights, luminaires to light municipal facilities, parking lots, parks, and playing fields.**

- a. New installations of outdoor lighting shall only be installed upon a determination by the Town Manager that a public safety hazard exists in the area to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting and not through some other passive means, such as reflectorized roadway paint or markers.
- b. If a municipal lighting project is proposed that involves the addition of more than ten (10) elevated luminaires with two thousand (2,000) or more lumens per luminaire, the Town of Nantucket or its designee must seek public comment prior to the purchase and installation to help mitigate unforeseen negative impacts.

ss 102-6. Prohibitions.

- A. Public safety hazard or nuisance. No outdoor lighting may create a public safety hazard or public nuisance in the form of light trespass or glare, regardless of when it was installed. Notwithstanding the other provisions of this chapter, the modification, removal, or limited operation of luminaires may be required if a public safety hazard or public nuisance is found based on the following criteria.
 - a. Light Trespass. Failure to comply with the illuminance level requirements stated below will be deemed a public nuisance unless in the judgment of the official charged with enforcing this chapter there are extenuating circumstances related to safety and security that justify an exception.
 - i. The maximum vertical illuminance level at a property line that is adjacent to a residential property, or an environmentally sensitive area, shall not exceed 0.05 foot-candle.
 - ii. The maximum vertical illuminance level at a property line that is adjacent to any other property shall not exceed 0.1 foot-candle.
 - iii. The measurement for compliance shall be made using a light meter designed to measure illuminance levels, and vertical illuminance shall be measured at the property line five (5) feet above grade with the meter aimed towards the subject property and perpendicular to the property line.
 - b. Glare. The glare from exterior lighting will be deemed a public safety hazard or public nuisance when, in the judgment of the officer charged with enforcing this chapter, it could interfere with the safe movement of motor vehicles on publicly traveled ways or when it interferes with the usual and reasonable use and enjoyment of property. This determination will be made through a site visit and visual inspection.
- B. Other prohibitions. The use of the following types of outdoor lighting is prohibited unless specifically exempted in § 102-7 of this chapter.
 - a. Highlighting or illumination of building facades and walls by use of uplighting except for temporary holiday lighting.

- b. Searchlights, sky beams, and similar lighting except as required by public safety personnel during emergency conditions.
- c. Any light, other than temporary holiday lighting, that dynamically varies its output by intermittently fading, flashing, blinking, or rotating.
- d. Lighting on publicly owned property subject to a conservation restriction under Massachusetts law.

§ 102-7. Exemptions.

The following types of lighting shall be exempt from the requirements and prohibitions of this chapter:

- a. Lighting required by law to be installed on motor vehicles.
- b. Emergency lighting, for as long as emergency conditions identified by public safety personnel continue to exist. This includes the activities of law enforcement, fire, and other emergency services.
- c. Temporary lighting required to save life, limb, or property from imminent peril, provided that the use of this lighting continues only during the hours of the peril.
- d. Lighting employed during repairs of roads, utilities, and similar infrastructure, provided that such lighting is deployed, positioned, and aimed such that the resulting glare is not directed beyond the work area.
- e. Any form of lighting whose use is mandated by any legal jurisdiction with broader authority than that of the Town of Nantucket, provided that the lighting does not exceed the minimum requirements of that legal mandate.
- f. Lighthouse beacons owned by the United States Coast Guard.
- g. Temporary lighting for events sponsored by the Town of Nantucket.
- h. Temporary lighting approved by the Select Board in conjunction with a special event permit, such as for concerts, fairs, and festivals, provided that the impact of the lighting is required to be mitigated to the greatest extent possible.
- i. Lighting produced by the combustion of fossil fuels (such as natural gas and propane) so long as the light source is completely enclosed in a suitable housing such as a lantern, firepit or fireplace.
- j. Underwater lighting of swimming pools or other water features.

§ 102-8. Administrative Waiver.

The official charged with enforcing this chapter shall have the authority to grant a partial or complete waiver of the requirements of this chapter if a property owner demonstrates pursuant to the following procedures:

- ~~I. Any applicant seeking a waiver from all or some of the requirements of this chapter shall file an application describing in detail with supporting information and documentation the nature, duration, location, specifications, and other particulars of the waiver being sought.~~
- ~~J. The application for a waiver must demonstrate that bringing the luminaire(s) for which the waiver is sought into full compliance with this chapter would either (i) constitute a demonstrably unreasonable hardship on the applicant, as balanced against the potential impacts of noncompliance, or (ii) result in conditions that are materially detrimental to health, safety, or welfare. The applicant may also provide for consideration an alternative plan(s) that demonstrate(s) their ability to substantially mitigate the negative effects of non-compliance.~~
- ~~K. Written notice of any application for a waiver shall be given to direct abutters to the property of the applicant and to the general public through a legal notice published in the local newspaper, including specific information on the nature, duration, location, and specifications and other particulars of the waiver being sought, at least fourteen (14) days in advance of any decision on the waiver application. Any notice recipient who claims that he/she/they or occupants of his/her/their property would be adversely affected by a grant of the waiver may file a statement and materials containing information to support his/her/their claim.~~
- ~~L. In determining whether to grant or deny the waiver and what, if any, conditions and limitations (including a time limit) to impose, the reviewing official shall determine whether the applicant has met the conditions for a waiver stated above.~~
- ~~M. Waivers shall be granted in writing to the applicant and shall contain all conditions and limitations, including any time limit on the activity. Noncompliance with any provision or condition of the waiver may result in its termination.~~
- ~~N. The reviewing official shall place on public file a copy of the application for the waiver, all accompanying submissions, and the decision, including all conditions and limitations, and the reasons for granting or denying the waiver, as well as any other documentation associated with the process.~~
- ~~O. Any waiver may be reviewed, adjusted, terminated, or repealed by the official charged with enforcing this chapter at any time after two years, unless a longer time is specified in the waiver, or in the event of noncompliance with any provision or condition of the waiver.~~
- ~~P. Any decision made under this provision may be appealed under § 102-9G of this chapter.~~

§ 102-9. Enforcement, violations, and penalties.

A. Enforcement.

- a. The enforcement of this chapter shall be overseen by a Lighting Enforcement Officer appointed by the Town Manager.
- b. The Lighting Enforcement Officer is authorized and empowered to institute and maintain, in the name of the Town of Nantucket, any and all enforcement proceedings seeking injunctive relief and any other appropriate remedy, including fines and penalties.
- c. The Town may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.
- d. The Lighting Enforcement Officer may, with the permission of the owner or pursuant to an administrative search warrant, go onto private property for the purpose of determining whether there has been a violation of this chapter.

B. Violations.

- a. It shall be unlawful to install or operate any outdoor lighting luminaire in violation of any provision of this chapter, unless specifically exempted.
- b. Whoever violates any provision of this bylaw may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D, and Article II of Chapter 1 of the Code of the Town of Nantucket.
- c. Each and every day during which a violation continues shall be deemed to constitute a separate offense.

C. Civil Penalties Fines.

- a. Violation of this chapter shall be subject to a penalty fine of \$100 for the first violation, \$200 for the second violation, and \$300 for the third violation and any subsequent violation.
- b. If a luminaire violates more than one provision of this chapter, that will be treated as one violation for the purposes of assessing penalties fines. However, if multiple luminaires violate one or more provisions of this chapter, a penalty fine may be imposed for each nonconforming luminaire.
- c. Before the imposition of a civil penalty, fine the property owner shall be notified of the violation(s) and given time to cure the violation(s) or demonstrate that there is no violation.

D. Request for enforcement.

- ~~a. If the Lighting Enforcement Officer is requested, in writing, to enforce this chapter against any person or entity suspected of violating one or more of its provisions, the Lighting Enforcement Officer shall notify, in writing, the requesting party of any action or refusal to act, and the reasons therefor, within thirty (30) days of receipt~~

~~of such request.~~

- ~~b. If no decision has been issued within thirty-five (35) days from the date the complaint was submitted, it shall be deemed denied as of the date ending such period and shall be subject to appeal.~~

E. Process. [Ed. Note: this will become subsection D]

- ~~a. The Lighting Enforcement Officer shall investigate all reports of suspected violations, making a site visit at night as necessary to determine compliance.~~
- ~~b. If, after investigation, the Lighting Enforcement Officer finds that a provision of this chapter is being violated, notice shall be given, as follows:~~
- ~~i. If abatement of the violation would require modification, replacement, or removal of a luminaire, the notice shall be in writing and by hand-delivery or by certified mail, return receipt requested, to the property owner and/or to the occupant of the premises, demanding that violation be abated within thirty (30) days of the date of hand-delivery or of the date of mailing of the notice. The Lighting Enforcement Officer may require abatement in fewer than thirty (30) days, depending on the nature of the violation, but shall not allow more than thirty (30) days.~~
 - ~~ii. If the abatement of the violation simply involves turning off or redirecting a luminaire, notice may be given verbally to the occupant(s) of the premises with an order to cease or abate the violation immediately.~~
- ~~c. If the violation is not abated within the time allowed, the Lighting Enforcement Officer may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this chapter and to collect the penalties for such violations.~~
- ~~d. If the Lighting Enforcement Officer concludes there is a violation, based on a site visit and/or photographic evidence, the owner shall have the burden of demonstrating that the luminaire complies with the standards established by this chapter.~~
- ~~i. The manufacturer's specification sheet may be used to establish the lumen level of a luminaire, correlated color temperature (CCT), and, if required, to verify the use of a fully shielded fixture.~~
 - ~~ii. Illumination levels may be verified through the use of manufacturer's photometric data sheet(s) and/or photometric site drawing or through on-site calibrated light meter readings.~~

F. Permit required. Compliance review of lighting plan prior to installation.

- ~~a. Any construction that involves the installation of exterior lighting and that requires a building and use permit under Chapter 139 (Zoning) or approval by the Historic~~

~~District Commission shall require a permit issued by the Lighting Enforcement Officer verifying that the lighting plans satisfy the requirements of this chapter.~~

- ~~b. A reasonable fee to defray the cost of administration incurred in the review and processing of permits under this chapter shall be established by the Town Manager and collected with each permit application.~~
- ~~c. The lighting plan shall be filed with the Lighting Enforcement Officer at the same time that any other required plans are submitted and shall include:
 - ~~i. A map or drawing showing the acreage of the property and the location on the property where the luminaire(s) will be installed;~~
 - ~~ii. The specifications for each luminaire to be installed, including but not limited to the correlated color temperature (CCT), the lumen output, the BUG rating (if applicable), and the shielding description;~~
 - ~~iii. The quantity and type of all proposed luminaires;~~
 - ~~iv. The proposed schedule of use, including use of timers, dimmers and/or motion sensors;~~
 - ~~v. Any other evidence that the proposed installation will comply with this chapter.~~~~

~~The Lighting Enforcement Officer shall have the authority to request additional information to confirm compliance with the provisions of this chapter.~~

- ~~d. Within thirty (30) days of submission of the lighting plans or any additional information requested, the Lighting Enforcement Officer shall issue a permit stating the lighting plan conforms to the requirements of this chapter or the reasons for denying the application. If a permit has not been issued within thirty-five (35) days from the date the application for a permit was submitted, the application shall be deemed denied as of the date ending such period and shall be subject to appeal.~~
- ~~e. After a permit has been issued, no substitutions may be made for approved luminaires without submitting a revised plan for review and requesting an amendment to the permit.~~

~~G. Appeals.~~

- ~~a. Any person aggrieved by a refusal to act, decision, or order of the Lighting Enforcement Officer may appeal to the Town Manager, or the official appointed by the Town Manager to handle such appeals, within thirty (30) days after written notification of the decision of the Lighting Enforcement Officer or the date a request for enforcement or an application for a permit shall have been deemed denied in accordance with the provisions above.~~

- ~~b. Any appeal filed with the Town Manager or designee, as to which no decision has been issued within thirty-five (35) days from the date of submission, shall be deemed denied as of the date ending such period and shall be subject to appeal to the Select Board.~~
- ~~c. Any appeal to the Select Board from the order or decision of the Town Manager or designee shall be taken within thirty (30) days from the date of the order or decision or within thirty (30) days from the date on which the appeal shall have been deemed denied in accordance with provision above.~~
- ~~d. Any appeal pursuant to the above subsections shall be taken by filing a notice of appeal, specifying the grounds thereof, with the Town Administrator. A copy of said notice, including the date and time of filing with the Town Administrator, shall be filed with the Lighting Enforcement Officer. The Lighting Enforcement Officer shall forthwith transmit to the Town Administrator all documents and papers related to the appeal taken.~~

H. Civil remedies. Nothing in this chapter shall be construed as limiting the right of any person or entity to pursue legal action against any other person or entity under any applicable law, including the doctrine of nuisance. [Ed. Note: this will become subsection E]

§ 102-10. Effective Date.

The effective date of the adoption or amendment of this chapter shall be **January 1, 2024**, ~~the date on which such adoption or amendment was voted upon at Town Meeting.~~ If such adoption or amendment is subsequently disapproved, in whole or in part, by the Attorney General, this chapter as it would have read without the disapproved portion of the adoption or amendment so voted, shall be deemed to have continued in effect from the date **stated above**, ~~of such vote.~~

§ 102-11. Severability.

The provisions of this chapter are hereby declared to be severable and, if any provision or the application of such provision to any property, person or circumstance shall be determined to be invalid, such invalidity shall not be construed to affect the validity of any other provision hereof or the application of any provisions to any other property, person, or circumstances. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

VOTE: The vote on the motion pursuant to Article 76, as moved by the Finance Committee, was by Majority Vote, Yes: 298, No: 152. The motion was adopted.

Nancy L. Holmes, CMC
Town & County Clerk