

BILL NO. 2019-09

NYE COUNTY ORDINANCE NO. 552

SUMMARY: An ordinance amending Nye County Code Title 17, Comprehensive Land Use Planning and Zoning, by amending Section 17.04.750 relating to Lighting; and providing for the severability, constitutionality and effective date thereof; and other matters properly relating thereto.

TITLE: AN ORDINANCE AMENDING NYE COUNTY CODE TITLE 17, COMPREHENSIVE LAND USE PLANNING AND ZONING, BY AMENDING SECTION 17.04.750 RELATING TO LIGHTING; AND PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY AND EFFECTIVE DATE THEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, pursuant to NRS 244.119, the Nye County Board of Commissioners ("Board") is authorized to amend the Nye County Code; and

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety, morals and the general welfare of the residents of Nye County, the Board is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, any such regulation, restriction and control must take into account the potential impairment of natural resources and the total population which the available natural resources will support without unreasonable impairment; and

WHEREAS, the Board finds these changes to be appropriate and an improvement to the regulations;

NOW, THEREFORE, pursuant to NRS 244.110, the Board of County Commissioners of the County of Nye, State of Nevada, does ordain:

17.04.750: LIGHTING:

Definitions:

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

AREA LIGHT

Light that produces over 1,800 lumens (See Addendum 1 for light output of various lamps). Area lights include, but are not limited to, streetlights, parking lot lights and yard lights.

AVERAGE FOOTCANDLE

The level of light measured at an average point of illumination between the brightest and darkest areas. The measurement can be made at the ground surface or at four to five feet above the ground.

BALLAST

A device used with a discharge lamp to obtain the necessary voltage, current, and/or wave form for starting and operating the lamp.

BULB

The source of electric light. To be distinguished from the whole assembly (see "luminaire").

CANDELA (cd)

Unit of luminous intensity.

COMMISSION

The Nye County Board of County Commissioners.

EIGHTY-FIVE-DEGREE FULL-CUTOFF-TYPE FIXTURES

Fixtures that do not allow light to escape above an eighty-five-degree angle measured from a vertical line from the center of the lamp extended to the ground.

EXISTING LIGHTING

Any and all lighting installed prior to the effective date of this chapter.

EXTERIOR LIGHTING

Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting for the intent of this chapter.

FIXTURE

The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

FLOODLIGHT

Light that produces up to 1,800 lumens (See Addendum 1 for light output of various lamps) and is designed to "flood" a well-defined area with light. Generally, floodlights produce from 1,000 to 1,800 lumens.

FLUX (RADIANT FLUX)

Unit is erg/sec or watts.

FOOTCANDLE

Illumination produced on a surface one foot from a uniform point source of one candela. Measured by a light meter.

FULL-CUTOFF FIXTURES

Fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

GLARE

Intense light that results in discomfort and/or a reduction of visual performance and visibility.

HOLIDAY LIGHTING

Festoon-type lights, limited to small individual bulbs on a string, where the spacing of bulbs is not closer than three inches and where the output per bulb is no greater than 15 lumens.

IESNA

Illuminating Engineering Society of North America (IES or IESNA), the professional society of lighting engineers, including those from manufacturing companies, and others professionally involved in lighting.

ILLUMINANCE

Density of luminous flux incident on a surface. Unit is footcandle or lux.

LAMP

The source of electric light: the bulb and its housing. To be distinguished from the whole assembly (see "luminaire").

LIGHT

The form of radiant energy acting on the retina of the eye to make sight possible; brightness; illumination; a lamp, as defined above.

LIGHTING

Any or all parts of a luminaire that function to produce light.

LIGHT POLLUTION

Any adverse effect of man-made light including, but not limited to, light trespass, uplighting, the uncomfortable distraction to the eye, or any man-made light that diminishes the ability to view the night sky. Often used to denote urban sky glow.

LIGHT TRESPASS

Light falling where it is not wanted or needed, generally caused by a light on a property that shines onto the property of others.

LUMEN

Unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One footcandle is one lumen per square foot. One lux is one lumen per square meter.

LUMINAIRE

The complete lighting unit, including the lamp, the fixture, and other parts.

LUMINANCE

At a point and in a given direction, the luminous intensity in the given direction produced by an element of the surface surrounding the point divided by the area of the projection of the element on a plane perpendicular to the given direction. Units: candelas per unit area. The luminance is the perceived brightness that we see, the visual effect of the illuminance, reflected, emitted or transmitted from a surface.

NONESSENTIAL

Lighting that is not necessary for an intended purpose after the purpose has been served. Does not include any lighting used for safety and/or public circulation purposes. Example: For purposes of this chapter, lighting for a business sign is considered essential during business hours, however, is considered nonessential once the business is closed.

PARTIALLY SHIELDED

The bulb of the fixture is shielded by a translucent siding and the bulb is not visible at all. Light may be emitted at the horizontal level of the bulb.

PLANNING COMMISSION

The Pahrump Regional Planning Commission.

RECESSED

When a light is built into a structure or portion of a structure such that the light is fully cut off and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

SHIELDED

When the light emitted from the fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The bulb is not visible with a shielded light fixture, and no light is emitted from the sides of the fixture. Also considered a full-cutoff fixture.

TEMPORARY LIGHTING

Lighting that is intended to be used for a special event for seven days or less.

UPLIGHTING

Lighting that is directed in such a manner as to shine light rays above the horizontal plane.

A. Title:

This chapter, together with the amendments thereto, shall be known and may be cited the "Pahrump Regional Planning District Dark Sky Ordinance."

B. Purposes:

The general purpose of this chapter is to protect and promote the public health, safety and welfare, the quality of life, and the ability to view the night sky, by establishing regulations and a process of review for exterior lighting. This chapter establishes standards for exterior lighting in order to accomplish the following:

1. To protect against direct glare and excessive lighting;

2. To provide safe roadways for motorists, cyclists and pedestrians;
3. To protect and reclaim the ability to view the night sky, and thereby help preserve the quality of life
4. To prevent light trespass in all areas of the PRPD;
5. To promote efficient and cost-effective lighting;
6. To ensure that sufficient lighting can be provided where needed to promote safety and security;
7. To allow for flexibility in the style of lighting fixtures;
8. To provide lighting guidelines.

C. Scope:

1. All exterior lighting installed after the effective date of this chapter in any and all zoning districts in the PRPD shall be in conformance with the requirements established by this chapter and any other applicable ordinances. All existing lighting installed prior to the effective date of this chapter in any and all zoning districts in the PRPD shall be addressed as follows:
 - a. All existing lighting located on a subject property that is part of an application for a PRPD design review, conditional use, or subdivision permit, or building permit is required to be brought into conformance with this chapter. Conformity shall occur prior to issuance of certificate of occupancy, final inspection, or final plat recordation, when applicable. For other permits, the applicant shall have a maximum of 30 days from date of permit issuance to bring the lighting into conformance.
 - b. All existing exterior commercial lighting that is not in conformance with this chapter shall be brought into conformance with this chapter five year from the date of adoption of this chapter.
 - c. All existing lighting that does not meet the requirement of this PRPD Dark Sky Ordinance requirement which states that "any parking, yard, or building illumination in [any] zoning [district] shall be so directed as to protect adjacent properties from glare and direct lighting" is required to be brought into conformance within five years from the date of adoption of this chapter.
 - d. All existing exterior residential lighting, not affected by Subsection C(1)(a) and (b) above, that does not comply with this chapter is required to be brought into conformance with this chapter within five years from the date of adoption of this chapter.

D. Criteria:

The Board of County Commissioners, Zoning Administrator, Nye County Building Official and/or the Planning Commission shall have the authority to require new lighting, and existing lighting, to meet the requirements of this chapter.

1. All applications for design review, conditional use, subdivision and/or building permits shall include lighting plans showing location, type, height, and lumen output of all proposed and existing fixtures. The applicant shall provide enough information to verify that lighting conforms to the provisions of this chapter. The Planning Commission and/or Planning Director shall have the authority to request additional information in order to achieve the purposes of this chapter.
2. All exterior lighting shall be full-cutoff fixtures with the light source fully shielded, with the following exceptions:
 - a. Luminaires that have a maximum output of 260 lumens per fixture, regardless of number of bulbs, (equal to one twenty-watt incandescent light), may be left unshielded provided the fixture has an opaque top to keep light from shining directly up.
 - b. Luminaires that have a maximum output of 1,000 lumens per fixture, regardless of number of bulbs (equal to one sixty-watt incandescent light), may be partially shielded, provided the bulb is not visible, and the fixture has an opaque top to keep light from shining directly up.
 - c. Floodlights with external shielding may be angled provided that no light escapes above a twenty-five-degree angle measured from the vertical line from the center of the light extended to the ground, and only if the light does not cause glare or light to shine on adjacent property or public rights-of-way. Floodlights with directional shielding are encouraged. Photocells with timers that allow a floodlight to go on at dusk and off by 11:00 p.m. are encouraged.
 - d. Holiday lights as defined are exempt from the requirements of this chapter for the six-and-one-half-month period from November 1 to April 15, except that flashing holiday lights are prohibited on commercial properties. Flashing holiday lights on residential properties are discouraged. Holiday lights are encouraged to be turned off after bedtime and after close of businesses.
 - e. Sensor-activated lighting may be unshielded provided it is located in such a manner as to prevent direct glare and lighting into properties of others or into a public right-of-way, and provided the light is set to only go on when activated and to go off within five minutes after activation has ceased, and the light shall not be triggered by activity off the property.
 - f. Vehicular lights and all temporary emergency lighting needed by the Fire and Sheriff Departments, or other emergency services shall be exempt from the requirements of this chapter.

E. Light Trespass:

It is the intent of this chapter to eliminate and prevent light trespass through the proper installation of lighting fixtures. All existing and/or new exterior lighting shall not cause light trespass and shall be such as to protect adjacent properties from glare and excessive lighting.

F. IESNA Guidelines:

The Planning Commission may require that any new lighting or existing lighting that comes before them meet the standards for footcandle output as established by IESNA.

- G. All nonessential exterior commercial and residential lighting is encouraged to be turned off after business hours and/or when not in use. Lights on a timer are encouraged. Sensor-activated lights are encouraged to replace existing lighting that is desired for security purposes.

H Area Lights:

1. All area lights, including streetlights and parking area lighting, shall be full-cutoff fixtures and are required to be eighty-five-degree full-cutoff-type fixtures. Streetlights shall be high-pressure sodium, low-pressure sodium, LED, or metal halide, unless otherwise determined by the Board that another type is more efficient. Streetlights along residential streets shall be limited to a seventy-watt high-pressure sodium (hps) light and shall have a four-inch-tall sheet metal shroud installed around the perimeter of the lens to direct light downward. Streetlights along nonresidential streets or at intersections shall be limited to 100 watts hps, except that lights at major intersections on state highways shall be limited to 200 watts hps. If the Board permits a light type other than high-pressure sodium, then the equivalent output shall be the limit for the other light type. For example: a one-hundred-watt high-pressure-sodium lamp has a roughly equivalent output as a fifty-five-watt low-pressure-sodium lamp, or a one-hundred-watt metal-halide lamp.
2. Parking area lights are encouraged to be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level. Parking lot lighting shall not exceed IESNA-recommended footcandle levels.
3. All freestanding area lights within a residential zone, that are privately owned, except streetlights, shall be mounted at a height equal to or less than the value $3 + (D/3)$, where D is the distance in feet to the nearest property boundary or shrouded to direct light downward. The County may assist the residential customer with the shrouding.

I. Luminaire Mounting Height:

Freestanding luminaires shall be no higher than 25 feet above the stand/pole base, except that luminaires used for playing fields shall be exempt from the height restriction provided all other provisions of this chapter are met and the light is used only while the field is in use, and except that streetlights used on major roads may exceed this standard if necessary as determined by the Board, as advised by a lighting engineer. Building-mounted luminaires shall be attached only to walls, and the top of the fixture shall not exceed the height of the parapet or roof, whichever is greater.

J. Up Lighting:

Up lighting is prohibited in all zoning districts, except in cases where the fixture is shielded by a roof overhang or similar structural shield from the sky and a Nevada licensed architect or engineer has stamped a prepared lighting plan that ensures that the light fixture(s) will not cause light to extend beyond the structural shield, and except as specifically permitted in this chapter.

K. Flag poles:

Upward flagpole lighting is permitted for governmental flags only, and provided that the maximum lumen output is 1,300 lumens. Flags are encouraged to be taken down at sunset to avoid the need for lighting.

L. Service stations:

The average lumen lighting level for new and existing service stations is required to be no greater than 30 lumens, as set by the IESNA for urban service stations.

M. Canopy lights:

All lighting shall be recessed sufficiently so as to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent property.

N. Landscape lighting:

Lighting of vegetation is discouraged and shall be in conformance with this chapter. Uplighting is prohibited.

O. Towers:

All radio, communication, and navigation towers that require lights shall have dual lighting capabilities. For daytime, the white strobe light may be used, and for nighttime, only red lights shall be used.

P. Temporary lighting:

Temporary lighting that conforms to the requirements of this chapter shall be allowed. Nonconforming temporary exterior lighting may be permitted administratively by the Planning Department with the issuance of a Temporary Use Permit after considering the public and/or private benefits which will result from the temporary lighting; any annoyance or safety problems that may result from the use of the temporary lighting; and the duration of the temporary nonconforming lighting. The applicant shall submit an application for a Temporary Use Permit with a detailed description of the proposed temporary nonconforming lighting to the Planning Department.

Q. Neon lights:

Neon lights are only permitted for businesses and required to be turned off during nonbusiness hours.

R. Notification.

S. Nye County Planning Department permits shall include a statement asking whether the subject property of the proposed work includes any exterior lighting.

T. Within 30 days of the enactment of this chapter, the Planning Commission shall send a copy of the PRPD Dark Sky Ordinance with a cover letter to all local electricians and local electric suppliers listed in the local 2018 telephone books, as well as to the Pahrump Chamber of Commerce.

U. Responsibility Of County.

1. The County will commit to changing all lighting within County rights-of-way and on County owned property to meet the requirements of this chapter. [1] The County may meet the requirements of this section by removing unnecessary streetlights and installing a sheet metal shroud around the lens to direct light downward.

2. Nye County will assist property owners and/or occupants to correct any nonconforming lighting through consulting with the owner/occupant and assisting in the provision of shields.

V. Violations, legal actions and penalties:

If, after investigation, the Zoning Administrator or Code Enforcement Officer finds that any provision of this chapter is being violated, the official shall give notice by hand delivery or by certified mail, return receipt requested, of such violation to the owner and/or to the occupant of such premises, demanding that the violation be abated within 30 days of the date of hand delivery or of the date of mailing of the notice. The Planning Department staff shall be available to assist in working with the violator to correct said violation. If the violation is not abated within the sixty-day period, the Zoning Administrator/Code 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.

W. Penalty:

A violation of this chapter, or any provision thereof, shall be punishable by a civil penalty of \$100 and each day of violation after the expiration of the sixty-day period provided in Subsection A above shall constitute a separate offense for the purpose of calculating the civil penalty.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 5th day of August, 2019.

Proposed on the 18th day of June, 2019.

Proposed by: Commissioner Wichman.

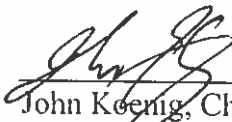
Adopted on the 16th day of July, 2019

Vote: Ayes: Commissioners: Koenig, Strickland, Wichman, Blundo, Cox

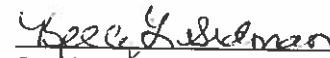
Nays: Commissioners: Ø

Absent: Commissioners: Ø

BY:


John Koenig, Chairman
Nye County Board of
County Commissioners

ATTEST:


Sandra B. Merlino
Clerk and Ex-Officio
Clerk of the Board