



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

HEARING DATE: February 4, 2021

AGENDA ITEM #4

Project Description

Applicant: County of San Bernardino Land Use Services Department

Community: Countywide

Location: Countywide

Project No: PMISC-2020-00005

Staff: Magda Gonzalez

Proposal: Development Code Amendment to repeal Chapter 83.07 (“Glare and Outdoor Lighting”) of Division 3 of Title 8 of the San Bernardino County Code and to add Chapter 83.07 (“Light Trespass”) to Division 3 of Title 8 of the San Bernardino County Code, relating to countywide light standards.

Newspaper Publication Date: January 24, 2021 Report Prepared By: Magda Gonzalez

PROJECT DESCRIPTION

The proposal is an amendment to Title 8 of the San Bernardino County Code (Development Code) to repeal Chapter 83.07 titled “Glare and Outdoor Lighting” and replace it with the “San Bernardino County Light Trespass Ordinance.” The Development Code Amendment is intended to update the County’s lighting standards with a primary focus on the issue of light pollution and light trespass.

BACKGROUND

Dark skies are a valuable asset for residents of unincorporated San Bernardino County. With community growth and development arises concerns for light pollution and light trespass. Land Use Services (LUS) has actively worked with the community to address prevalent outdoor lighting issues, and set forth reasonable standards that prohibit light pollution and light trespass. LUS has engaged with the community over several years, through meetings and visits to the desert with the International Dark Sky Association, and members of the Third District Dark Sky Committee. Public outreach has allowed community members to express their concerns and provide invaluable information which has provided greater understanding of the community’s appreciation for dark skies. These meetings have allowed the community to collaborate in the drafting of this ordinance. The Code Enforcement and Building & Safety Divisions have provided feedback on the measures now included in the San Bernardino County Light Trespass Ordinance to ensure

health and safety, and to ensure compliance with the California Green Building Standards Code (CALGreen). The ordinance establishes requirements for the Valley, Mountain and Desert regions of the County.

ANALYSIS OF PROPOSAL

Content of the Proposed Ordinance: The Development Code Amendment identifies the “Glare and Outdoor Lighting” chapter of the Development Code that could benefit from a thorough revision to clarify and expand standards for outdoor lighting. The Development Code Amendment represent staff’s recommendations, in conjunction with the public outreach described above, to correct these issues, summarized as follows:

Repeal

- **Chapter 83.07 – Glare and Outdoor Lighting.** A copy of the current lighting standards is included as Exhibit B to the staff report for review and consideration.

Replace

- **Chapter 83.07 – Light Trespass** – The purpose of this Chapter is to set forth reasonable standards that prohibit light pollution and light trespass. The proposed Light Trespass Ordinance has been drafted to update the Development Code with standards that will ensure health and safety, and ensure compliance with the California Green Building Standards Code (CALGreen) and enhance the quality of life by minimizing intrusive light. The ordinance includes definitions, establishes requirements for the Valley, Mountain and Desert regions of the County, and sets forth enforcement and penalties for violations.

ENVIRONMENTAL DETERMINATION

The Development Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines because it can be determined with certainty that the Development Code Amendment will not have a significant effect on the environment.

FINDINGS

The following findings and the evidence to support such findings must be made by the Planning Commission in its recommendation to the Board of Supervisors to approve the proposed Development Code Amendment:

1. The proposed ordinance amending the Development Code is consistent with the Countywide Plan and any applicable specific plan because the proposed ordinance supports Policy LU-4.7 which provides, “[w]e minimize light pollution and glare to preserve views of the night sky, particularly in the Mountain and Desert regions where dark skies are fundamentally connected to community identities and local economies. We also promote the preservation of dark skies to assist the military in

testing, training, and operations.” The proposed ordinance will amend the Development Code to allow the County to more effectively prevent and regulate light pollution and light trespass from one property to another by setting clarified development standards for outdoor lighting.

2. The proposed ordinance amending the Development Code would not be detrimental to the public interest, health, safety, convenience or welfare of the County. The proposed ordinance is designed specifically to enhance the public interest, health, safety, convenience and welfare of the County by providing needed clarification and updates in the regulations imposed on development and authorize a community benefit by allowing the County to effectively regulate light pollution and light trespass.
3. The proposed ordinance amending the Development Code is internally consistent with other applicable provisions of the Development Code. The proposed ordinance repeals the current lighting standards and replaces them with countywide standards that are more consistent with uniform codes such as CALGreen.
4. The proposed amendment is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be determined with certainty that implementation of the proposed ordinance would not have a significant effect on the environment.

RECOMMENDATION

That the Planning Commission recommend that the Board of Supervisors take the following actions:

1. **FIND** that the Ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3);
2. **ADOPT** the findings as contained in the staff report;
3. **ADOPT** the proposed Ordinance to repeal Chapter 83.07 (“Glare and Outdoor Lighting”) of Division 3 of Title 8 of the San Bernardino County Code and to add Chapter 83.07 (“Light Trespass”) to Division 3 of Title 8 of the San Bernardino County Code, relating to countywide light standards; and
4. **DIRECT** the Clerk of the Board to file a Notice of Exemption.

ATTACHMENTS

Exhibit A: Proposed Ordinance

Exhibit B: Current Chapter 83.07

EXHIBIT A

Proposed Ordinance

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ORDINANCE NO.

An ordinance of the County of San Bernardino, State of California, to repeal and add Chapter 83.07 to Division 3 of Title 8 of the San Bernardino County Code, relating to light trespass.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. The Board of Supervisors of the County of San Bernardino finds that:

(a) Chapter 83.07 of Division 3 of Title 8 of the San Bernardino County Code currently sets forth the development standards for outdoor lighting by regulating glare and light trespass. The Board of Supervisors finds new lighting standards are needed in order to more effectively prevent and regulate light trespass from one property onto another, and thereby promote the public health, safety, welfare and quality of life of the citizens of the County by establishing regulations and a process for review of outdoor lighting.

(b) Properly noticed public hearings have been held before the Planning Commission and the Board of Supervisors of the County of San Bernardino, State of California, pursuant to the Planning and Zoning Law of the State of California and San Bernardino County Code.

(c) The Board of Supervisors has analyzed the ordinance described herein and has determined that the ordinance is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), the Board of Supervisors has determined that there is no possibility that the ordinance may have a significant effect on the environment and accordingly, the ordinance is exempt from CEQA.

SECTION 2. Chapter 83.07 of Division 3 of Title 8 of the San Bernardino County

1 Code is repealed.

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3 SECTION 3. Chapter 83.07 is added to Division 3 of Title 8 of the San Bernardino
4 County Code, to read:

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6 **CHAPTER 83.07: LIGHT TRESPASS**

7 **Section**

8 **83.07.010 Title.**

9 **83.07.020 Purpose.**

10 **83.07.030 Definitions.**

11 **83.07.040 Applicability.**

12 **83.07.050 Valley Region Requirements.**

13 **83.07.060 Mountain and Desert Region Requirements.**

14 **83.07.070 Conflicts with other Laws.**

15 **83.07.080 Application of Ordinance to Legal Non-Conforming Lighting**

16 **83.07.090 Enforcement and Penalties.**

17

18 **83.07.010 Title.**

19 This chapter shall be known as the "San Bernardino County Light Trespass
20 Ordinance."

21 **83.07.020 Purpose.**

22 The purpose of this chapter is to protect and promote public health, safety, welfare,
23 quality of life and the ability of the County to prevent and regulate light trespass from one
24 property onto another, by establishing regulations and a process for review of outdoor
25 lighting in order to accomplish the following:

26 (a) Minimize direct glare and prevent excessive lighting, thereby minimizing
27 light trespass and pollution caused by inappropriate or misaligned light fixture, and
28 promoting common courtesy among neighbors;

1 (b) Assist in the overall efforts by the County to preserve the night sky and
2 thereby help preserve the County's rural quality of life and the scenic value of this
3 desirable visual resource;

4 (c) Promote wildlife habitation and migration by minimizing light trespass and
5 pollution into and adjacent to habitat areas;

6 (d) Provide sufficient lighting where it is needed to promote safety and security
7 on public and private property;

8 (e) Allow flexibility in the style of outdoor lighting;

9 (f) Provide standards for efficient and moderate use of lighting which balance
10 energy use and economic impact;

11 (g) Provide lighting standards that can evolve according to advancements in
12 technology; and

13 (h) Promote lighting practices and systems which conserve energy, decrease
14 dependence on fossil fuels and limit greenhouse gas emissions consistent with the
15 California Global Warming Solutions Act and other applicable federal, state and local law.

16 **83.07.030 Definitions.**

17 The definitions in this section are intended to apply to this chapter only. Any term
18 or phrase which is not specifically defined herein shall have the definition as provided by
19 Division 10 of the Development Code or elsewhere within the County Code. The following
20 words and phrases are defined as follows:

21 **"Directional lighting"** means methods of directing light downward, rather than
22 upward or outward, with the intention of directing light where it is needed.

23 **"Foot-candle"** (abbreviated 'fc') means a unit of illuminance defined as one lumen
24 per square foot. One foot-candle is approximately equal to 10.76 lux.

25 **"Fully shielded"** means a light fixture constructed and installed in such a manner
26 that all light emitted, either directly from the lamp or a diffusing element, or indirectly by
27 reflection or refraction from any part of the fixture, is projected below the horizontal plane
28 through the fixture's lowest light-emitting part.

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"Glare" means light or illuminance entering the eye directly from a light fixture or indirectly from reflective surfaces that causes visual discomfort, reduced visibility to a reasonable person, or is in violation of the standards set forth in this chapter.

"Illuminance" means the intensity of light falling upon or hitting a given surface, and is measured in units of foot-candles or lux.

"Kelvin" means the measure of the color temperature of a light source. Warmer temperatures are a lower number, and cooler temperatures are a higher number.

"Lamp" means, in generic terms, a source of optical radiation (i.e., "light"), often called a "bulb" or "tube." Examples include incandescent, fluorescent, high-intensity discharge (HID) lamps, and low-pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.

"Light trespass" means artificial light or illuminance that falls beyond the property that it is located on.

"Lumen" means the unit of measure used to quantify the amount of visible light produced by a lamp or emitted from a light fixture (as distinct from "watt," a measure of power consumption).

"Lux" (abbreviated 'lx') means the unit of illuminance defined as one lumen per square meter. One lux is approximately equal to 0.093 foot-candle.

"Outdoor light fixtures" means outdoor electrically powered illuminating devices, lamps and similar devices, including solar powered lights, and all parts used to distribute the light and/or protect the lamp, permanently installed or portable; synonymous with "luminaires."

"Seasonal lighting" means lighting display installed and operated on a property, typically in connection with a holiday or tradition.

"Sky glow" means the brightening of the nighttime sky that results from scattering and reflection of artificial light by air molecules, moisture and dust particles in the atmosphere. Sky glow is caused by light directed or reflected upwards or sideways.

1 **"String lights"** means outdoor light fixtures or light sources that make use of LED
2 lamps, connected by free-strung wires or inside of tubing resulting in several or many
3 points of light that are unshielded or partly shielded light sources. No lamp types other
4 than LED lamps may be used in string lights used as outdoor light fixtures.

5 **83.07.040 Applicability.**

6 (a) All outdoor light fixtures installed prior to the effective date of this ordinance
7 are subject to the compliance period set forth in Subsection 83.07.080(a), however the
8 following requirements must be complied with immediately:

9 (1) Outdoor light fixtures that have the ability to be redirected, shall be
10 directed downward so as to minimize sky glow, glare and light trespass onto adjacent
11 properties.

12 (2) Outdoor light fixtures that have adjustable dimmers with color
13 temperature that exceeds 3000 Kelvin shall be dimmed to comply with Subsection
14 83.07.060(e) to minimize glare and light trespass onto adjacent properties.

15 (3) String lights may be allowed in each occupied outside dining and
16 entertainment area provided that all of the following conditions are met:

17 (i) The correlated color temperature of light sources does not
18 exceed 3000 Kelvin; and

19 (ii) The emission of no individual lamp in the string exceeds 40
20 initial lumens, and the aggregate total of lumen output of such
21 string lights used as outdoor light fixtures does not exceed, 4000
22 lumens; and

23 (iii) String lights are not used as landscape lights, with the
24 exception of installations meeting the definition of seasonal lighting.

25 (iiii) String lights must be extinguished by 11:00 pm, or when the
26 area is no longer occupied, or upon close of business.

27 (b) All outdoor light fixtures installed after the effective date of this ordinance
28 shall comply with this chapter.

1 (c) For any property subject to this chapter and also regulated by permit
2 conditions pertaining to outdoor lighting, the more restrictive provisions in terms of
3 minimizing light pollution shall apply.

4 (d) Nothing in this chapter shall prohibit a declaration of covenants, conditions
5 and restrictions for private enforcement from further restricting lighting so long as it meets
6 the minimum standards detailed in this chapter.

7 (e) The following lighting and activities are not regulated by this chapter:

8 (1) Indoor lighting.

9 (2) Lighting within the public right-of-way for the principal purpose of
10 illuminating public streets or traffic control.

11 (3) Lighting solely used to illuminate signs for which a permit has been
12 received.

13 (4) Lighting solely used to illuminate address signs.

14 (5) Construction or emergency lighting, provided such lighting is
15 temporary, necessary, and is discontinued immediately upon completion of the
16 construction work or termination of the emergency.

17 (6) Aircraft navigation lights, such as those attached to radio/television
18 towers and regulated by federal or state standards.

19 (7) Short-term lighting associated with activities authorized by a valid
20 temporary use permit, special event permit or film permit during the duration of the permit.

21 (8) Outdoor lighting fixtures on facilities or lands owned, operated, or
22 controlled by the United States Government or State of California.

23 **83.07.050 Valley Region Requirements.**

24 This section provides standards for outdoor lighting in the Valley Region.

25 (a) Light Trespass From Commercial or Industrial Use – Prohibited. Outdoor
26 lighting of commercial or industrial land uses shall be fully shielded to preclude light
27 pollution or light trespass on any of the following:

28 (1) An abutting residential land use zoning district;

1 (2) A residential parcel; or

2 (3) Public right-of-way.

3 (b) Maximum Allowed Foot-candles. Direct or indirect light from any light fixture
4 shall not cause glare or illuminance above five-tenths foot-candles when measured at the
5 property line of a residential land use zoning district, residential parcel, or public right-of-
6 way. Light levels shall be measured with a photoelectric photometer, following the
7 standard spectral luminous efficiency curve adopted by the International Commission on
8 Illumination (CIE), as updated from time to time.

9 **83.07.060 Mountain and Desert Region Requirements.**

10 This section provides standards for all outdoor lighting in the Mountain and Desert
11 Regions.

12 (a) All outdoor light fixtures shall be fully shielded and installed and maintained
13 in such a manner that the shielding does not permit light trespass in excess of those
14 amounts set forth in subsection (g) below.

15 (b) Light pollution and trespass shall be minimized through the use of
16 directional lighting, fixture location, height and the use of shielding and/or motion sensors
17 and timers.

18 (c) Curfew. All outdoor lighting shall be extinguished by 11:00 p.m., close of
19 business, or when people are no longer present in exterior areas, whichever is later,
20 except for lighting activated by motion sensor which extinguishes no later than five
21 minutes after activation and lighting at a building entrance, parking area, driveway and
22 driveway egress points.

23 (d) Unless extinguished manually, automated control systems, such as motion
24 sensors and timers, shall be used to meet curfew requirements. Photocells or photo
25 controls shall be used to extinguish all outdoor lighting automatically when sufficient
26 daylight is available. Automated controls should be fully programmable and supported by
27 battery or similar backup.

28 (e) Lighting Color (Chromaticity). The correlated color temperature of all

1 outdoor lighting shall be 3000 Kelvin or less except for seasonal lighting.

2 (f) Luminaires Used for Seasonal Lighting. Notwithstanding the requirements
3 of this chapter, the use of luminaires for seasonal lighting shall be allowed on a property
4 for up to a total of 60 consecutive days in a 12-month period unless otherwise approved
5 in conjunction with a discretionary permit.

6 (g) Allowable Light Trespass. Outdoor lighting shall not cause light trespass
7 exceeding the following amounts, measured with a light meter oriented vertically or
8 horizontally either at the property line of the property or measured from some other point
9 on the property where light trespass may be reasonably determined to occur due to
10 differences in property or improvement elevations from one property to another, such that
11 it would allow for the measurement of light in excess of the standards listed below.

12 (1) From any property onto a residential property, the maximum
13 allowable light trespass shall be 0.1 foot-candles.

14 (2) From any property onto a non-residential property, the maximum
15 allowable light trespass shall be 0.25 foot-candles.

16 (h) Permanently installed lighting that blinks, flashes or is of high intensity or
17 brightness that causes a light trespass is prohibited.

18 **83.07.070 Conflicts with other Laws.**

19 In the event the provisions in this chapter conflict with any applicable federal, state,
20 or local law, this section shall be applied in a manner intended to carry out all provisions
21 of law to the maximum extent feasible. When there is an irreconcilable conflict between
22 the provisions of this chapter and the requirements of federal, state or local law, the
23 provisions of the federal, state or local law shall prevail over the provisions contained in
24 this chapter to the extent necessary to avoid a violation of those laws.

25 **83.07.080 Application of Ordinance to Legal Non-conforming Lighting.**

26 (a) Compliance Period. Notwithstanding the provisions in Chapter 84.17
27 (Nonconforming Uses and Structures), a property owner shall comply with the
28 requirements of this chapter within two years after the effective date. Non-compliant

1 lighting still in place after the compliance deadline shall remain extinguished at all times.

2 (b) Extension. If a property owner is notified by the County that their lighting
3 does not comply with the requirements of this chapter, they may apply for an extension
4 of time by submitting a request on a form approved by the Department and detailing why
5 an extension of time is warranted. Upon demonstration of good cause for providing a
6 property owner additional time to comply with the requirements of this chapter, the irector
7 may extend the property owner's time to comply or may require a plan for partial
8 compliance in advance of full compliance. For purposes of this section, the term "good
9 cause" shall mean a significant financial or other hardship which warrants an extension
10 or conditional extension of the time limit established by this chapter. In no instance shall
11 the director issue an extension in excess of one year. The director's decision shall be
12 appealable pursuant to the same provisions and procedures as set forth in Section
13 81.02.020.

14 **83.07.090 Enforcement and Penalties.**

15 A violation of this chapter shall be punishable in accordance with the provisions of
16 Chapter 86.09 (Enforcement) and Chapter 11.02 (Violations and Enforcement) of the
17 County Code.

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19 SECTION 4. The Board of Supervisors declares that it would have adopted this
20 ordinance and each section, sentence, clause, phrase, or portion of it irrespective of the
21 fact that any one or more sections, subsections, clauses, phrases or portions of it be
22 declared invalid or unconstitutional. If for any reason any portion of this ordinance is
23 declared invalid or unconstitutional, then all other provisions of it shall remain valid and
24 enforceable.

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26 SECTION 5. This ordinance shall take effect thirty (30) days from the date of
27 adoption.

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1 MICHELLE D. BLAKEMORE
2 County Counsel

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4 By: _____

5 Deputy County Counsel

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7 Date: _____

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EXHIBIT B

Current Chapter 83.07

CHAPTER 83.07 GLARE AND OUTDOOR LIGHTING

Sections:

- 83.07.010 Purpose
- 83.07.020 Applicability
- 83.07.030 Glare and Outdoor Lighting - Valley Region
- 83.07.040 Glare and Outdoor Lighting - Mountain and Desert Regions

83.07.010 Purpose

The purpose of this Chapter is to encourage outdoor lighting practices and systems that will:

- (a) Minimize light pollution, glare, and light trespass;
- (b) Conserve energy and resources while maintaining nighttime safety, visibility, utility, and productivity;
- (c) Curtail the degradation of the nighttime visual environment.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

83.07.020 Applicability

The provisions of this Chapter shall apply to various types of outdoor lighting in the Valley Region, as specified in Section 83.07.030 and in the Mountain and Desert Regions, as specified in Section 83.07.040.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

83.07.030 Glare and Outdoor Lighting - Valley Region

This Section provides standards for outdoor lighting in the Valley Region.

- (a) **Light trespass prohibited.** Outdoor lighting of commercial or industrial land uses shall be fully shielded to preclude light pollution or light trespass on any of the following:
 - (1) An abutting residential land use zoning district;
 - (2) A residential parcel; or
 - (3) Public right-of-way.

- (b) **Determination of light trespass.** A determination of light trespass shall be made through a quantitative measurement utilizing a standard yardstick (3 ft x 1½ in.). The yardstick shall be placed at the building setback line in the complainant's yard. The yardstick shall be in contact with the ground or may be raised to window level of the dwelling and in a vertical position. The person taking the measurement shall then determine if a shadow is cast by the light source, that is, the light source, yardstick, and shadow shall be in alignment. Measurements shall not be taken when there is a moon in the night sky.
- (c) **Maximum allowed foot-candles.** Direct or indirect light from any light fixture shall not cause glare above five-tenths (0.5) foot-candles when measured at the property line of a residential land use zoning district, residential parcel, or public right-of-way. Light levels shall be measured with a photoelectric photometer, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

83.07.040 Glare and Outdoor Lighting - Mountain and Desert Regions

This Section provides standards for outdoor lighting in the Mountain and Desert Regions, unless exempt in compliance with Subsection 83.07.040(e) (Exempt lighting and fixtures), below.

- (a) **Residential, commercial and industrial land use zoning districts.** The following standards shall apply to all structures and freestanding outdoor light fixtures in all land use zoning districts.
- (1) **Maximum height.** Residential pole lighting shall not exceed 12 feet in height.
- (2) **Shielding requirements.** New permitted lighting for new construction, unless exempt in compliance with Subsection 83.07.040(e) (Exempt lighting and fixtures), below, shall be shielded in compliance with the requirements outlined in Table 83-7 (Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region), in order to preclude light pollution or light trespass on:
- (A) Adjacent property;
- (B) Other property within the line of sight (direct or reflected) of the light source; or
- (C) Members of the public who may be traveling on adjacent roadways or rights-of-way.

**Table 83-7
Shielding Requirements For Outdoor Lighting
in the Mountain Region and Desert Region**

Fixture Lamp Type	Residential Area Shielded	Commercial/Industrial Area Shielded
Low Pressure Sodium	Fully	Fully
High Pressure Sodium	Prohibited except fully shielded on streets	Fully
Metal Halide	Prohibited	Fully
Fluorescent	Fully	Fully
Quartz	Prohibited	Fully
Incandescent > 60 Watts	Fully	Fully
Incandescent 60 Watts or less	No requirement	No requirement
Compact fluorescent lights (CFL) > 13 watts	Fully	Fully
Compact fluorescent lights (CFL) 13 watts or less	No requirement	No requirement
Glass Tubes filled with Neon, Argon, or Krypton	No requirement	No requirement
Mercury Vapor	Prohibited	Fully
Halogen	Prohibited	Fully
Searchlights for advertising purposes	Prohibited	Prohibited
Laser source light or similar light intensity light for advertising purposes	Prohibited when projected above the horizontal	Prohibited when projected above the horizontal

- (b) **Determination of light trespass.** Light trespass shall be determined in compliance with Subsection 83.07.030(a), above.
- (c) **Additional standards for recreation facilities.** The following additional standards shall apply to recreational facilities:
- (1) Private recreational facilities shall not be illuminated between the hours of 11:00 p.m. and sunrise.
 - (2) Public recreational facilities shall not be illuminated unless the facilities are being utilized. The illumination shall be turned off no later than 11:00 p.m. or one hour after the termination of the event and/or use, whichever occurs last.
- (d) **Additional standards for off-site signs (billboards) and on-site signs.** Lighting fixtures used to illuminate a new off-site sign and exterior illuminated on-site signs shall be mounted on the top of the sign structure and shall comply with the shielding requirements in Table 83-7 (Shielding Requirements for Outdoor Lighting in the Mountain Region and Desert Region), above.

- (e) **Exempt lighting and fixtures.** The following outdoor lighting fixtures shall be exempt from the requirements of this Section:
- (1) Fixtures producing light directly by the combustion of fossil fuels (e.g., kerosene lanterns, gas lamps, etc.).
 - (2) Neon, argon or krypton outdoor lighting fixtures.
 - (3) Outdoor lighting fixtures on facilities or lands owned, operated, or controlled by the United States Government or State of California. Voluntary compliance at those facilities is encouraged.
 - (4) Emergency lighting operated by a public utility or agency during the course of repairing or replacing damaged facilities.
 - (5) Emergency lighting and fixtures necessary to conduct rescue operations, provide emergency medical treatment, or address any other emergency situation.
 - (6) Provided there is no light pollution, or light trespass, or when the lighting fixtures are regulated by motion detector, lighting fixtures within five feet of an entrance or exit door and/or alcove of a dwelling unit, not exceeding a height of eight feet and a wattage not exceeding 75 watts.
 - (7) Internally illuminated signs.
 - (8) Holiday lighting fixtures or displays.
 - (9) Architectural lighting whether it is freestanding or attached to a structure that does not exceed an intensity of 60 watts.
 - (10) Pedestrian lighting that does not have an intensity greater than 60 watts.
 - (11) Vertical lighting for properly displayed U.S. and State of California flags that does not exceed an intensity of 140 watts.
- (f) **Nonconforming lighting.**
- (1) Existing nonconforming outdoor lighting fixtures that were not regulated by previous development codes shall be allowed continued use, except that the lighting shall not be structurally altered so as to extend its useful life, aside from regular maintenance. If the Director determines that a nonconforming lighting fixture results in light pollution or light trespass, the Director may require the light to either be shielded, filtered, redirected, replaced with a less intense light source or otherwise modified (including removal if necessary) to eliminate the light pollution or light trespass.

- (2) In those cases where the Director has determined that light pollution or light trespass exists, the Director may grant additional time for the property owner to remedy the light pollution or light trespass where a hardship exists. In determining if a hardship exists, the following factors shall be considered:
 - (A) The degree of difficulty in accessing the fixture;
 - (B) Financial difficulty or cost of correcting the light pollution or light trespass;
 - (C) Degree of light pollution or light trespass; or
 - (D) Other similar issues.
- (3) When a hardship exists and a request for temporary relief from the immediate compliance of a remedy action has been submitted to the Director, the following findings shall be made to grant the relief:
 - (A) Special circumstances or conditions apply to the land, structure(s), or outdoor light fixtures for which temporary administrative relief is sought, and the circumstances or conditions are peculiar to the land, structure(s), or outdoor light fixtures and do not apply generally to the land, structure(s), or outdoor light fixtures in the neighborhood.
 - (B) The granting of the temporary administrative relief will generally be in harmony with the intent of this Section and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (4) When a request for temporary relief has been submitted to the Department in a hardship case, the Director shall make a determination within 10 business days from the date of the submission of the request and promptly notify the applicant in writing of the decision. Temporary relief shall not exceed a period of 90 days. The Director's determination may be appealed to the Commission within 10 days of the decision. Should additional time be required, the request shall be forwarded to the Commission for review and consideration through the Temporary Use Permit process in compliance with Chapter 85.15 (Temporary Use Permits).
- (5) The Director may forward the request for temporary relief to the Commission based upon the degree of light pollution or light trespass, costs of correcting the light pollution or light trespass, or other similar issues.
- (6) In those cases where the Director has determined that light pollution or light trespass exists, and that adjustment or removal of the nonconforming light structure is required, the Director shall fix a time for the adjustment or removal of the nonconforming lighting fixture commensurate with the investment value and related to the depreciated value of the lighting fixture. The determination may only be made after notice to the owner.

- (7) Where the Director has determined the continued existence of a nonconforming light is detrimental to the public health, safety or general welfare, or is a public nuisance, the use of the light may be immediately terminated or abated in compliance with the following procedure:
- (A) A public hearing before the Commission shall be used to process this termination or abatement.
 - (B) A Notice of Termination and a copy of the findings shall be sent to the property owner at least 30 days before the public hearing. Public notice shall be given in compliance with Chapter 86.07 (Public Hearings).
 - (C) If a termination is ordered, the Commission may provide for a reasonable period of time to amortize any lawful existing uses on the site. Extensions of this time period may be granted for good cause shown on later application to the reviewing authority by any affected person.
- (8) In commercial and industrial land use zoning districts, 50 percent of all nonconforming lighting fixtures within parking lots or within open lot sale areas shall be turned off within one hour after closing or between the hours of 10:00 p.m. and sunrise, whichever occurs first.
- (A) In those cases where turning off 50 percent of the nonconforming lighting fixtures would constitute a hardship, the Director may grant an administrative exemption based on the following findings:
 - (I) Special circumstances or conditions apply to the land, structure(s), or outdoor light fixtures for which temporary administrative relief is sought, and the circumstances or conditions are peculiar to the land, structure(s), or outdoor light fixtures and do not apply generally to the land, structure(s) or outdoor light fixtures in the neighborhood;
 - (II) The strict application of this Section would deprive the applicant reasonable use of the land, structure(s), or outdoor fixtures;
 - (III) The granting of the temporary administrative relief will generally be in harmony with the intent of this Section and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (B) When a request for an administrative exemption has been submitted to the Department in a hardship case, the Director shall make a determination within 10 business days from the date of the submission of the request for an administrative exemption and promptly notify the applicant in writing of the decision. The Director shall determine the period of administrative exemption consistent with Section 83.07.040(f)(8)(D). The Director's determination may be appealed to the Commission within 10 days of the decision. Should additional time be required, the request shall be forwarded to the Commission for review and consideration through the Temporary

Use Permit process in compliance with Chapter 85.15 (Temporary Use Permits).

- (C) The Director may forward the request for an administrative exemption to the Commission based upon the degree of light pollution or light trespass, costs of correcting the light pollution or light trespass or other similar issues.
- (D) In those cases where the Director determines that turning off 50 percent of the nonconforming lighting fixtures is a hardship to the business operator, the Director shall fix a time for the termination of the use of the nonconforming lighting fixture commensurate with the investment value and related to the depreciated value of the lighting fixture. The determination may only be made after notice to the owner.
- (E) In those cases where the Director has determined that light pollution or light trespass still exists even when 50 percent of all nonconforming lights are turned off, and that adjustment or removal of the nonconforming light structure(s) is required, the Director shall fix a time for the adjustment or removal of the nonconforming lighting fixture(s) commensurate with the investment value and related to the depreciated value of the lighting fixture. The determination may only be made after notice to the owner.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009); Amended Ordinance 4245 (2014)

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