

ORDINANCE NO. 2016-014

CONSIDER APPROVAL OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS, AMENDING ORDINANCE NO. 2001-025, OUTDOOR LIGHTING, AS AMENDED BY ORDINANCE NO. 2004-007, TO UPDATE VARIOUS DEFINITIONS, AND ESTABLISH STREET LIGHT REQUIREMENTS; REPEALER; SEVERABILITY; EFFECTIVE DATE; PROPER NOTICE AND MEETING; AND PROVIDING FOR CERTAIN CONDITIONS

WHEREAS, the City Council of the City of Wimberley (“City Council”) is aware that outdoor lighting is necessary for the safety and welfare of the public and for the safe and effective conduct of business and that a business might desire to use various forms and types of lights to attract the attention of passersby and that public events may require illumination for night time activity and that residents may wish to install or maintain lights to provide for security; and

WHEREAS, the City Council has adopted a Vision Statement and a Comprehensive Plan that require the preservation of Wimberley’s “small town” attributes and the integrity of the natural environment including a dark sky at night; and

WHEREAS, the City Council has observed that these attributes are diminished by lighting of urban intensity and finds that such lighting creates glare and sky glow and contrasts unreasonably with the moderate illumination suitable for a small town; and

WHEREAS, the City Council has considered that such lighting creates glare and visual clutter that can distract the attention of drivers of motor vehicles and thereby pose a risk to public safety; and

WHEREAS, the City Council finds that its citizens have the right to property free from unwanted illumination; and

WHEREAS, the City Council has observed a variety of outdoor lighting situations and has determined which uses of lighting and reasonable lighting intensity levels are consistent with the preservation of these attributes while affording sufficient light for security and safety; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WIMBERLEY, TEXAS THAT:

Section 1. Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Wimberley and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. Amendment.

Title XV (Land Usage), sections 151.60, *et seq.* (Outdoor Lighting) are hereby amended as follows:

“OUTDOOR LIGHTING

§ 151.60 COMPLIANCE REQUIRED.

All outdoor lighting fixtures and installations in the city shall conform to the following provisions.

§ 151.61 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BULB. A light-emitting device or a structure containing a light source. This includes but is not limited to a lamp.

CORRELATED COLOR TEMPERATURE. The specification of the color appearance of light emitted by a lamp, relating its color to the color of light from a reference blackbody source when heated to a particular temperature, measured in degrees Kelvin (K).

DIFFUSING LENS. A translucent enclosure which surrounds a light source and through which there can be seen no semblance of an image of the light source. To provide a sufficiently wide distribution of light, a lens meeting this definition shall have a minimum cross-section, as seen from any angle, of not less than 0.125 square inch per lumen of enclosed light source emission.

EFFICACY EFFICIENCY. As an engineering term, the emission of light by a light source expressed in lumens per watt. In the absence of manufacturers’ ratings, or at the discretion of the city, the ***EFFICACY EFFICIENCY*** and light emission of lamps shall be calculated as follows:

- (1) Common tungsten incandescent: 12 lumens per watt;
- (2) Halogen incandescent: 18 lumens per watt;
- (3) Metal halide: 82 lumens per watt;
- (4) High pressure sodium: 82 lumens per watt; ~~and~~
- (5) Fluorescent tubes: 75 lumens per watt.; and
- (6) LED: 50-150 lumens per watt.

FIXTURE. An outdoor lighting assembly containing 1 or more lamps and including any lenses, reflectors, and shields designed to direct the light in a defined manner.

FOOTCANDLE. As an engineering term, a unit of light intensity equal to 1 lumen per square foot, which applies to the brightness of light on a surface or at a point in space.

FULL HORIZONTAL CUT-OFF FIXTURE. A fixture that confines the light entirely below a horizontal plane running through the lowest of: the lowest point from which light is emitted, or the lowest part of any lens, or the lowest point of any specular reflector.

GLARE. The effect of light shining directly in the eyes such as occurs when there is a line of sight to the light source.

INITIAL LUMENS. The manufacturer-specified number of lumens of light generated by a lamp at the beginning of its service lifetime, not accounting for losses associated with lamp age.

LAMP. A light-emitting device or a structure containing a light source. This includes but is not limited to a bulb.

LIGHT SOURCE. Any device or element which emits light.

LIGHT STRING. Any number of bulbs connected with wire in a linear or 2-dimensional array, not contained in the structure of a fixture, used either for illumination or decoration, and supported in any manner.

LIGHT TRESPASS. Any horizontal or vertical illumination on a property from light sources on another property that exceeds 0.1 footcandles on a residential or unzoned district or 0.5 footcandles on a non-residential district. The measurement shall be made 4 feet above the ground at a point 4 feet inside the property line.

LIGHTING INSTALLATION. All outdoor lighting fixtures and light sources on a property.

LINE OF SIGHT. As it applies to the visibility of a light source, a straight unobstructed line from any point on a property 4 feet or more above the ground to a light source on another property.

LUMEN. As an engineering term, a unit of light flux, which applies to the amount of light emitted by a lamp.

LUMENS PER ACRE. The total number of initial lumens produced by all lamps utilized in outdoor lighting on a property divided by the number of acres, or part of an acre, with outdoor illumination on the property.

SPECULAR REFLECTOR. A reflector which has a mirror-like surface that reflects an image (no matter how imperfect or distorted) of a light source.

§ 151.62 SHIELDING, SPECTRUM AND CURFEWS.

(A) Any fixture installed in the city, ~~including municipally-owned street lights, having total electric consumption in excess of 150 watts or total light emission in excess of 1,5800~~ initial lumens, except those illuminating a flag of a state or nation, shall be shielded in a manner that:

(1) Confines the light so that it falls entirely on a wall or sign, or confines the light entirely below ~~an angle 15 degrees below a horizontal plane at the level of the~~

lowest of: the lowest point of the fixture at which light is emitted, the lowest part of any lens, or the lowest point of any specular reflector; and

(2) Prevents a line of sight from any point off the property on which the fixture is situated to a light source, its surrounding non-diffusing lens, or a specular reflector within or incidental to the fixture. ~~A line of sight shall be deemed not to exist for a light source of 3,600 lumens or less if it is enclosed in a diffusing lens.~~

(B) No property in the city shall have fixtures that are not included in, or do not conform to division (A), which collectively have ~~total electric consumption exceeding 600 watts~~ ~~or~~ total light emission exceeding 7,200 initial lumens.

(C) No fixture may be installed employing a lamp whose correlated color temperature exceeds 3000 Kelvins.

(D) New street lighting installed after the effective date, other than fixtures at the intersection of roadways, shall utilize half-night photocells or timers to turn off the lights halfway between dusk and dawn.

~~(C) Lighting on a property shall not create light trespass on another property.~~

§ 151.63 SITE LUMEN LIMITS.

(A) The total outdoor light output (excluding municipally-owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) in both shielded and unshielded fixtures on any nonresidential property in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists shall not exceed 20,000 initial lumens per net acre, or 40,000 initial lumens per net acre in other districts and unzoned tracts, in any contiguous illuminated area. These lumen per net acre values are upper limits and not design goals; design goals should be the lowest levels that meet the requirements of the task.

(B) Total outdoor light output (excluding municipally-owned streetlights used for illumination of public rights-of-way and outdoor recreation facilities) in unshielded fixtures on any nonresidential property in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists shall not exceed 6,000 initial lumens per net acre, or initial 15,000 lumens per net acre in other districts and unzoned tracts, in any contiguous illuminated area.

§ 151.64 REDIRECTION AND REMOVAL OF ADJUSTABLE FIXTURES AND BULBS.

(A) *Redirection.* Any fixture existing on the effective date of this subchapter which does not conform to § 151.62 of this code and which can be re-aimed shall be re-aimed in a manner that reduces the degree of non-compliance so it fully conforms with § 151.62;

~~(2) The optical axis is at an angle not less than 60 degrees below the horizontal;~~
or

~~(3) The optical axis is at the lowest angle permitted by the nature of the fixture and existing or available mounting hardware.~~

~~(B) shall be removed, or the number of bulbs reduced sufficiently to comply with §.~~

(B) *Removal.* A light string that does not conform to § 151.62 shall be removed, or the number of bulbs reduced sufficiently to comply with § 151.62.

§ 151.64–65 ILLUMINATION.

(A) *Limitation per fixture.* The maximum illumination on any outdoor surface or object, including signs, from all fixtures or light sources, whether installed before or after the effective date of this subchapter, including lighting of externally illuminated and internally illuminated signs, shall not exceed:

(1) Six footcandles in districts RA, R-1 to R-5, MF-1, MF-2, NS and unzoned tracts where a residence exists;

(2) Eighteen footcandles in other districts and unzoned tracts where a business exists and is open; or

(3) Three footcandles in other districts and unzoned tracts where a business is closed or does not exist.

(B) *Measurement.*

(1) On any surface, except signs, the maximum illumination shall be measured at the point of highest illumination but no closer than 6 feet from the center of the nearest fixture.

(2) On any surface of an externally illuminated sign, the maximum illumination shall be measured at the center of the sign.

(3) On any surface of an internally illuminated sign, the maximum illumination shall be measured at the point of highest illumination.

(4) On any surface illuminated by an internally illuminated sign, the maximum illumination shall be measured at the point of highest illumination, but no closer than 6 feet from the center of the sign.

(C) *Re-lamping.* Any fixtures existing on the effective date of this subchapter which do not conform to this section, which require lamp replacement and which will support lamps of lower emission, shall be re-lamped with lower emission lamps in order to:

(1) Achieve compliance with this section; or

(2) Approach compliance with this section to the greatest possible degree.

§ 151.65–66 PROHIBITED LIGHTING FORMS.

The installation or replacement of a mercury arc or mercury discharge lamp of any size or kind is prohibited.

§ 151.66-67 REMOVAL OF NON-CONFORMING FIXTURES.

Non-conforming fixtures, except those of a public entity, existing within the city on ~~October 5, 2001~~the effective date of this ordinance, shall be removed or disconnected no later than ~~October 5, 2011~~seven years from the effective date. Any change of use of a property, or renovations to the structures on a property constituting more than 25% of their value, shall result in the removal or replacement of any non-conforming fixtures on those structures.

§ 151.67-68 REPLACEMENT OF FIXTURES; CONFORMANCE REQUIRED.

Any fixture that is replaced, whether or not it conforms to this subchapter, shall be replaced only with a fixture that conforms to all provisions of this subchapter.

§ 151.68-69 PUBLIC SAFETY AND PUBLIC NUISANCE.

(A) The City may install new public outdoor lighting, including street lighting and lighting on other public property and rights-of-way, after the effective date only upon the determination of the City Manager that a clear public safety threat exists in the space to be lit, and that the hazard can only be effectively mitigated through the use of outdoor lighting.

~~(AB)~~ Notwithstanding the provisions of § 151.67, the city may require the modification or removal or limited operation of lighting fixtures found to be a public hazard or public nuisance according to the following criteria.

(1) Criteria for finding illumination to be a public hazard:

(a) Light trespass or glare which is sufficiently intense or contrasts excessively with surrounding illumination, regardless of the intensity of the surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle; or

(b) Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in his or her path.

(2) Criteria for finding illumination to be a public nuisance:

(a) Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of a property;

(b) A high frequency or duration of periods when light trespass or glare is sufficient to interrupt or interfere with usual and reasonable use and enjoyment of a property; or

(c) Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any citizen of the city from the usual and reasonable enjoyment of a property.

~~(BC)~~ Benefit to the general public welfare may be found to mitigate a finding of a public nuisance but may not be found to mitigate a finding of a public hazard.

§ 151.69-70 EXCEPTIONS.

The city may grant an exception to some of the provisions of this subchapter for certain fixtures if the city finds the exception to be in the interest of public health, safety, and welfare and under the following conditions.

(A) For the illumination of city streets, parking lots, areas of public activity, and yard security, a non-conforming fixture which is granted an exception may be installed and the fixture and its light shall be exempt from the provisions of §§ 151.62, 151.65(A)(3), and 151.67 of this code except as set forth below if:

(1) No alternative lighting design or location using fully conforming fixtures is reasonably applicable to the physical conditions of the site, and the asserted need for a non-conforming fixture is not solely for the purpose of achieving an illumination level in excess of the provisions of § 151.64(A)(3) of this code;

(2) A fully conforming fixture with or without auxiliary shielding is unavailable from manufacturers of fixtures or is unavailable for mounting on a pole of the public electric utility;

(3) The fixture has a full horizontal cut-off design, and has total light emission not exceeding 8,500 initial lumens;

(4) A fixture is mounted no higher than:

(a) Sixteen feet above the ground when mounted on a privately owned pole; or

(b) The lowest point consistent with public electric utility requirements when mounted on a pole which is the property of the public electric utility.

(5) No excepted fixture is located closer to another such fixture on 1 or separate properties than a distance equal to 3 times the average mounting height of the fixtures, nor closer to property lines of adjoining or facing residential property than a distance equal to 2 times the height of the fixture above the ground;

(6) No more than 1 excepted fixture is located on a residential property;

(7) No more than 2 excepted fixtures are located on a non-residential property for security purposes where there is no night time public activity;

(8) The maximum illumination due to all fixtures on the ground or any other surface does not exceed 6 footcandles; and

(9) The light from all excepted fixtures conforms to the provisions of §§ 151.62(A)(2) and 151.62(C) of this code so far as it affects any adjoining residential property.

(10) The lighting illuminates the flag of any state or nation, provided that:

(a) Flagpoles illuminated from below are limited to a height of 25 feet above ground level, and are illuminated with a single spot-type fixture whose

maximum initial output is 75 lumens per foot of height, measured from the light fixture to the top of the flagpole. The fixture must be mounted so that the lens is perpendicular to the flagpole.

(b) Flagpoles illuminated from above utilize a single light fixture, not to exceed 800 initial lumens, attached to the top of the flagpole or a fixture mounted above the top of the flagpole on a structure within 15 feet of the flagpole.

(B) Decorative light strings displayed during the seasonal holiday period from November 1 to January 15 of the next year are exempt from the provisions of this subchapter; ~~provided that:~~

~~—(1) No bulb in the string has electric consumption exceeding 5 watts; and~~

~~—(2) The light string does not contribute to light trespass on an adjacent residential property.~~

§ 151.70–71 APPLICABILITY; ADMINISTRATION AND ENFORCEMENT.

(A) All lighting installations or additions to lighting installations made after the original effective date of this subchapter shall conform to this subchapter and shall be subject to inspection by the Building Official or his or her designee.

(B) An outdoor lighting plan shall be included as part of the documentation for a permit application. The outdoor lighting plan shall show the bulb type and electric power of all proposed and existing outdoor bulbs and fixtures in the lighting installation, and provide sufficient detail with respect to location, height, and aiming and shielding of the fixtures to demonstrate that the proposed lighting installation complies with this subchapter.

(C) If the Building Official or his or her designee finds that an outdoor lighting fixture does not comply with this subchapter, the owner shall be notified and shall be allowed 30 days from the date of the notification to remedy the non-compliance or to demonstrate that a violation does not exist.

(D) This subchapter shall not be construed to require or allow any act which is prohibited by any other ordinance or code provision.”

Section 3. Except as expressly amended herein, the Wimberley Code of Ordinances shall remain in full force and effect.

Section 4. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

Section 5. Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinances as a whole.

Section 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

Section 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Chapter 551, Texas Government Code.

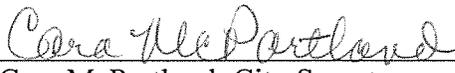
PASSED AND APPROVED this 21st day of April, 2016, by a vote of 4 (Ayes) to 0 (Nays) 0 (Abstain) vote of the City Council of the City of Wimberley, Texas.

CITY OF WIMBERLEY, TEXAS



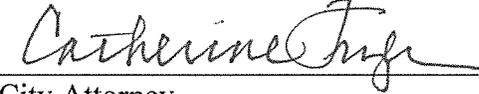
Steve Thurber, Mayor

ATTEST:



Cara McPartland, City Secretary

APPROVED AS TO FORM:



Catherine Trze
City Attorney

