

## Chapter 18

### NIGHT SKY PROTECTION ACT

#### Sec. 18-1. Title.

The name of this Chapter shall be called the Night Sky Protection Act for the City of Livingston, Montana. (Ord. 1967, 4/3/06)

#### Sec. 18-2. Purpose and intent.

Montana is famous for its big sky and its nighttime sky is equally as dramatic. The City of Livingston, Montana, recognizes that its nighttime sky is unique and valuable to the community. It is the purpose and intent of this Chapter to promote the public health, safety and welfare, the quality of life, and the ability to view the night sky, by establishing regulations for nighttime exterior lighting while maintaining adequate lighting for safety and security of City residents and visitors. This Chapter establishes standards for exterior lighting in order to accomplish the following:

- A. To protect against direct glare and excessive nighttime lighting;
  - B. To provide safe public ways for motorists, pedestrians and bicyclists;
  - C. To prohibit skyward lighting and thereby reclaim the ability to view the night sky by promoting the reduction of light pollution that interferes with viewing the night sky;
  - D. To prevent light trespass in the City;
  - E. To promote efficient and cost effective lighting;
  - F. To ensure that adequate lighting exists where necessary to promote safety and security;
  - G. To encourage lighting practices and systems which will minimize light pollution and glare;
- and
- H. To reduce energy waste.

(Ord. 1967, 4/3/06)

#### Sec. 18-3. Definitions.

Words and phrases used in this Chapter, unless the context clearly indicates otherwise, mean as follows:

“Direct light” means unshielded light emitted from an artificial light source, off of its reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

“Existing street lighting” means those streetlight fixtures in operation as of January 1, 2006.

“Historic streetlight” means streetlight fixtures manufactured before January 1, 1950, and streetlight fixtures manufactured after 1950 that are designed to replicate streetlight fixtures manufactured before January 1, 1950, and which are in use in the City as of January 1, 2006.

“Fixture” means 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.

“Light source” means artificial light emitted from a fixture lamp, lens, or mirror. Light which is reflected after leaving the fixture does not constitute a light source.

“Light trespass” means the shining of direct light from the property upon which the light source is situated onto other property, either public or private, i.e., a person standing upon his or her own property or upon public property who can see an unshielded artificial light source upon the property on which the light source exists, experiences light trespass.

“Luminaire” means a complete lighting system, including lamp(s) and the fixture.

“Luminaire footcandle” means the total footcandle for exterior lights shall be measured from three (3) feet above the ground level directly underneath the light with the measuring instrument held in the horizontal plane.

Shielded, Fully or Directionally Shielded. “Fully shielded” means an outdoor light fixture either by design or by an externally applied device that blocks the transmission of light, except downward below the horizontal plane running through the lowest point on the fixture, i.e., light is directed only downward beneath the fixture’s light source. “Directionally shielded” means an outdoor light fixture either by design or by an externally applied device that directs light downward and away from property subject to light trespass thereby limiting the direct line-of-sight of the fixture’s light source to the property upon which the fixture is installed. (Ord. 1967, 4/3/06)

**Sec. 18-4. Prohibited lights.**

A. Skyward Light Prohibited. All outdoor lighting fixtures shall be fully shielded so that no light is emitted above a horizontal plane passing through the lowest point of the light source, i.e., light is to be directed only downward beneath the fixture’s light source.

B. Mercury Vapor Prohibited. No mercury vapor outdoor lighting fixtures shall be installed in the City after the effective date of the ordinance codified in this Chapter.

C. Laser Lights Prohibited. The use of laser source lights or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.

D. Moving Light Prohibited. Except as provided in the exemptions, lights that flash, chase, move, revolve, rotate, blink, flicker, or vary in intensity or color are prohibited.

E. Searchlights Prohibited. The operation of searchlights for advertising or entertainment purposes is prohibited. (Ord. 1967, 4/3/06)

**Sec. 18-5. Lighting standards.**

A. Directional Shielding. All outdoor lighting shall be directionally shielded and maintained so as not to impair the vision of the operator of a motor vehicle, cyclist, or pedestrian using the public right-of-way.

B. Light Trespass Prohibited. All outdoor lighting shall be directionally shielded and maintained so as not to constitute a light trespass.

C. Permitted Hours of Use, Exceptions. Except for residential lights, streetlights and security lighting, all lighting shall be turned off between eleven (11) p.m. and sunrise. Exceptions shall be granted to those businesses which are actually open for business during the hours between eleven (11) p.m. and sunrise.

D. Exterior Lighting Standards. Exterior lights shall meet the following standards measured in luminaire footcandles:

	<b>Maximum Footcandle</b>
<b>Building Entrances</b>	
Active (pedestrian and/or conveyance)	5
Inactive (normally locked, infrequently used)	5
<b>Building Exteriors</b>	
Vital locations or structures	5
Building surrounds	1
Floodlit buildings and monuments	10
Loading and unloading platforms	20
Automated teller machines	20
<b>Service Stations</b>	
Approach	1.5
Driveway	1.5
Pump island	20
Service area	3
<b>Storage Yards</b>	
Active	20
Inactive	10
<b>Retail Outdoor Lighting</b>	10
<b>Parking Lots</b>	5

(Ord. 1967, 4/3/06)

**Sec. 18-6. Compliance deadline.**

Except as hereinafter provided, all outdoor light fixtures lawfully installed prior to and operable on the effective date of the ordinance codified in this Chapter shall be brought into compliance with the requirements of this Chapter on or before December 31, 2010; however, such noncomplying lights shall immediately meet the shielding requirements of this Chapter. Prior to December 31, 2010, when any noncomplying light is either repaired or replaced, such repair or replacement shall meet all the provisions of this Chapter. (Ord. 1967, 4/3/06)

**Sec. 18-7. Exemptions.**

- A. The following are exempt from the requirements of the Night Sky Protection Act:
1. Outdoor lighting fixtures used on land or facilities under the control of the Federal Government;
  2. Navigational lighting systems at airports and other lighting necessary for aircraft safety or any other lights required by State or Federal law;
  3. Recreational facilities during events, but under no circumstances shall any illumination occur one (1) hour after the event concludes;
  4. Lights used for holiday decorations, but only during the month in which the holiday occurs;

5. Motion detector lights that operate automatically for periods of less than five (5) minutes so long as they do not create a light trespass;
6. U. S. flags displayed by top-mounted lighting on a twenty-four (24) hour basis or by illumination directed upward so that the light is directed only onto the flag from a light source that does not exceed two hundred sixty-five thousand (265,000) mean lumens;
7. Temporary variances granted by the City Commission for special events;
8. The City Manager may grant temporary exemptions from the provisions of this Chapter for lighting of construction sites, including night security during construction, upon consideration of a lighting mitigation plan submitted by the owner of the construction site or the owner's representative. Criteria for approval include duration, number, location, and height of each light source, and hours of operation.
9. Lights used during emergencies or by police, fire, public works and public utility personnel in their official duties are exempt from this Chapter;
10. Traffic signals and other traffic safety and control devices are exempt from the requirements of this Chapter;
11. Historic streetlights are exempt from the requirements of this Chapter. Historic street lighting must, to the extent possible, utilize and orient the lighting so as to accommodate the aesthetic values of the surrounding area while minimizing light trespass through directional shielding;
12. Low amperage decorative lighting used to illuminate pedestrian pathways and walking malls are exempt from the requirements of this Chapter;
13. One (1) light fixture with a sixty (60) watt incandescent lamp/bulb or less wattage contained within a frosted globe per exterior door;
14. Outdoor advertising signs in compliance with the City of Livingston's sign regulations (Section 30.50 of the Livingston Municipal Code) constructed of translucent materials with dark backgrounds and light lettering or symbols which are wholly illuminated from within do not require shielding;
15. Outdoor lighting fixtures necessary for worker safety or in situations where other compelling safety interest may exist which cannot be addressed by another method of lighting, but such exception must be approved by the City Commission;
16. Neon signs and existing lighted signs in the downtown historic district which flash, chase, move, revolve, rotate, blink, flicker, or vary in intensity or color; however, such lights must be turned off when the business is closed. (Ord. 1967, 4/3/06)

**Sec. 18-8. Street lighting.**

**A. Streetlights.**

1. All street lighting must be configured with a directional shield with horizontal cutoff which is positioned to minimize any objectionable direct light and to redirect light onto the public way and away from residences so as not to create light trespass.

2. Bulb Type. Mercury vapor bulbs or lamps may not be used in streetlights.

**B. Nonconforming Streetlights.**

1. All existing street lighting fixtures, not otherwise exempt, that are in violation of this Chapter are permitted as nonconforming street lighting until January 1, 2017; after which time, all street

lighting fixtures must comply with the requirements of this Chapter. Any replacement or repair of a fixture on a nonconforming streetlight before January 1, 2017, must be brought into compliance with this Chapter.

2. The City Manager must submit a plan to the City Commission no later than January 1, 2007, for its approval to bring street lighting fixtures into compliance with the requirements of this Chapter. Thereafter, each year for the next ten (10) years, not less than ten (10) percent of nonconforming street lighting fixtures identified in the compliance plan shall be retrofitted to comply with the requirements of this Chapter. (Ord. 1967, 4/3/06)

**Sec. 18-9. Complaint and notice of violation procedure.**

The City, an owner or occupant of private property, a pedestrian or driver of a motor vehicle experiencing light trespass from a light may file a complaint with the City. Within ten (10) working days from the filing of the complaint, the City shall investigate whether the light is causing light trespass on private or public property. If the light is causing light trespass, the City shall give written notice to the owner or occupier of the property upon which the light is located to remedy the light trespass within fifteen (15) calendar days. Failure to remedy the light trespass may result in the person owning or occupying the property upon which the offending light is located to be cited for a violation of this Chapter. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court. (Ord. 1967, 4/3/06)

**Sec. 18-10. Violation and civil penalty.**

It is unlawful to install or operate any lighting fixture in violation of this Chapter or to allow or permit light trespass to occur. Any violation of any provision of this Chapter is a municipal infraction punishable as follows:

- A. For a first offense, the offender may be issued a warning.
- B. For a second offense that continues for thirty (30) days from the date of the warning, by a civil penalty of not more than Twenty-Five Dollars (\$25.00) minus the replacement cost for each offending fixture.
- C. A third or subsequent offense is punishable by a civil fine of not more than Fifty Dollars (\$50.00). (Ord. 1967, 4/3/06)

**Sec. 18-11. Public nuisance.**

A light trespass is deemed a public nuisance. The City Attorney may, in a court of competent jurisdiction, seek appropriate equitable relief in enforcing this Chapter, including, but not limited to, injunctive relief. (Ord. 1967, 4/3/06)