

Sec. 108-16-1. - Purpose and intent.

The purpose and intent of this chapter is to promote the community character of the Ogden Valley, as provided for in the Ogden Valley general plan, by providing regulations and encouragement for the preservation of a dark sky. This chapter is also intended to promote the health, safety, and general welfare of Ogden Valley residents and visitors by:

- (1) Reducing, eliminating, or preventing light trespass;
- (2) Reducing, eliminating, or preventing unnecessary or inappropriate outdoor lighting;
- (3) Reducing, eliminating, or preventing the effects of outdoor lighting on wildlife;
- (4) Preventing unsightly and unsafe glare;
- (5) Promoting energy conservation;
- (6) Maintaining nighttime safety, utility, and security;
- (7) Encouraging a minimal light footprint of land uses in order to reduce light pollution; and
- (8) Promoting and supporting astrotourism and recreation, including the pursuit or retention of accreditation of local parks by the International Dark-Sky Association.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-2. - Applicability.

- (a) *New outdoor lighting.* Except as provided in subsection (c) below, all outdoor lighting installed after August 1, 2017, shall conform to the requirements established by this chapter.
- (b) *Existing outdoor lighting.* Except as provided in subsection (c) below, all existing outdoor lighting that does not meet the requirements of this chapter and is not exempted by this chapter shall be considered a nonconforming use and as such shall be phased out as outlined in section 108-16-7 of this chapter.
- (c) *Lighting for residential use.* Except as may be provided in section 108-16-7, the lighting standards of this chapter are not mandatory for a single-family, two-family, or three-family dwelling in existence or approved on or before August 1, 2017. The county shall employ educational methods and incentives to encourage voluntary compliance for these residential uses.
- (d) *Conflict.* Should this chapter be found to be in conflict with other sections of this code, the more restrictive shall apply.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-3. - General standards.

- (a) *Light shielding and direction.* Unless specifically exempted in section 108-16-5, all outdoor lighting shall be fully shielded and downward directed in compliance with the following, examples of which are graphically depicted in section 108-16-10:
 - (1) No artificial light source shall project direct artificial light into the nighttime sky;
 - (2) No artificial light source shall be placed at a location, angle, or height that creates a light trespass, as defined in section 101-1-7 and graphically depicted in section 108-16-11.
 - (3) The shielding shall be made of completely opaque material such that light escapes only through the bottom. Shielding that is translucent, transparent, has perforations or slits of any kind, or allows light to escape through it in any other manner is not permitted.
 - (4) Shielding may be attained by light fixture design, building design, or other site design features such as fencing, walls, landscaping, or other screening, provided it is in strict compliance with subsections (a)(1) through (3) of this section.

(b) *Light color.* Unless otherwise specified in this chapter, the color of any outdoor lighting artificial light source shall be equal than 3000K, in accordance with the standard Kelvin temperature chart, as graphically depicted in section 108-16-12.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-4. - Specific standards.

In addition to the general standards of section 108-16-3. The following are specific standards that apply to all commercial, industrial, manufacturing, public and quasi-public, institutional, multifamily, recreation, and resort uses:

- (1) *Light curfew.* Unless exempt in section 108-16-5, and except for residential uses, all outdoor lighting shall be turned off by 10:00 p.m., or, if applicable, within one hour after the close of business, whichever is later, except the following:
 - a. Lighting to illuminate the entrance of the building;
 - b. Safety lighting of parking lots and pedestrian areas;
 - c. Lighting necessary for after-hours business.
- (2) *Flashing or flickering light.* No flickering or flashing lights shall be permitted.
- (3) *Canopy lighting.* All direct artificial light sources shall be sufficiently recessed so as not to project direct light greater than five feet from the outside perimeter of the canopy, and shall not produce more than a ratio of eight lumens per square foot of canopy area. This ratio shall be calculated by combining the total lumen output of each artificial light source and dividing by the square footage of the canopy. See section 108-16-13 for a graphic depiction.
- (4) *Parking lot lighting.* All artificial light sources in open-air parking lots shall not exceed a ratio of two lumens per square foot of parking lot area. This ratio shall be calculated by combining the total lumen output of each artificial light source divided by the square footage of the parking lot area. See section 108-16-14 for a graphic depiction.
- (5) *Recreation facility lighting.* Recreation facility lighting, as defined in section 101-1-7, shall comply with the following:
 - a. The lighting for the recreation activity area shall only be directed onto the area where the recreation activities are occurring. It shall not be allowed to illuminate surfaces that are not essential to the function of the recreation activity.
 - b. The lighting shall not exceed a ratio of 10 lumens per square foot of recreation activity area. This ratio shall be calculated by combining the total lumen output of each artificial light source divided by the square footage of the recreation activity area. See section 108-16-15 for a graphic depiction.
 - c. The recreation activity area shall be lit only when it is in use.
 - d. The light color standard of 108-16-3 does not apply to lighting for the recreation activity area.
- (6) *Sign lighting.* Sign lighting shall comply with the requirements of 110-2-12.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-5. - Exemptions.

The following artificial light sources are exempt from the requirements of this chapter:

- (1) *Agricultural lighting.* Lighting for agricultural uses;
- (2) *Federal and state flag lighting.* The outdoor lighting of a United States or State of Utah official flag, provided it is in compliance with the following:
 - a. The light shall be downward directed from the top of the flag pole;
 - b. The light shall be as narrow a beam as possible and aimed and shielded to illuminate, to the best effort practicable, only the area which the flag occupies in all wind conditions; and
 - c. The light level shall be minimized to create the least amount of impact on the dark sky, while still offering

noticeable illumination of the flag;

- (3) *Federal and state facilities lighting.* Federal and state facilities are exempt from the requirements of this chapter. However, they are encouraged to cooperate and to coordinate with the county the construction of their facilities in compliance with this chapter;
- (4) *Fossil fuel lighting.* Fossil fuel light, produced directly by the combustion of natural gas or other utility-type fossil fuels;
- (5) *Holiday or festive lighting.* Holiday or festive outdoor lighting for residential uses, provided it is in compliance with the following:
 - a. That the lighting shall not create a hazard or glare nuisance; and
 - b. That the lighting shall be temporary in nature and not permanently installed. It shall be removed within a reasonable time after the end of the holiday or festive event, but at least once per year;
- (6) *Low output light source.* An artificial light source having an output equal to or less than 105 lumens, provided that the cumulative lumen output of all low output light sources shall not exceed a ratio of one and one-half lumens per square foot of cumulative area intended to be illuminated. This ratio shall be calculated by combining the total lumen output of each low output light source divided by the square footage of the area intended to be illuminated. The low output light sources shall be distributed across the area intended to be illuminated and not organized in a focused location;
- (7) *Mobile lighting.* Lighting affixed to a vehicle, provided the lighting is not intended for the stationary illumination of an area;
- (8) *Motion sensor controlled light source.* An artificial light source that has a light output equal to or less than 900 lumens and is controlled by a motion sensor, provided it is in compliance with the following:
 - a. That the motion sensor is set to turn the artificial light source off ten minutes after the last detection of motion; and
 - b. That the artificial light source is sufficiently shielded in a manner that prevents glare on adjacent properties or roadways;
- (9) *Safety or security lighting.* For the sole purpose of mitigating legitimate and verifiable safety or security hazards, the land use authority may exempt an artificial light source if it is shown to be necessary. The land use authority may apply reasonable conditions to ensure optimal compliance with the purpose and intent of this chapter. Evidence demonstrating that it is necessary shall be one or both of the following:
 - a. Submitted proof of lighting requirements from a property insurance company that demonstrates that compliance with this chapter will render the property uninsurable. The minimum amount of lighting required by the property insurance company shall be considered the maximum for the purposes of this chapter; or
 - b. Submitted reasonable research findings, from a qualified professional, as defined by section 101-1-7, that offer a compelling argument for the need for the exemption. However, if the land use authority is aware of other research findings that refute what is submitted, then the land use authority must determine which research findings are more persuasive under the circumstances. If the land use authority grants the exemption, then the minimum amount of lighting necessary to ensure appropriate safety or security, as recommended by the qualified professional, shall be considered the maximum for the purposes of this chapter;
- (10) *Occasional event lighting.* Outdoor lighting intended for an occasional event, such as a wedding, party, social gathering, or other similar event that occurs on an occasional basis, provided it is in compliance with the following:
 - a. Occasional event lighting shall be turned off by 10:30 p.m. and any remaining lighting shall comply with this chapter; and
 - b. Occasional events shall not occur more than twice per month;
- (11) *Underwater lighting.* Underwater lighting in a swimming pool or other water feature provided it is not intended to illuminate features above water;

- (12) *Temporary public agency lighting.* Temporary outdoor lighting in use by law enforcement or a government agency or direction;
- (13) *Tower lighting.* Tower lighting required by the FAA or the FCC, provided that it shall not exceed the minimum requirements of those agencies. Collision markers shall have a dual mode for day and night to minimize impact to the night sky and migrating birds; and
- (14) *Traffic control devices.* Traffic control devices and signals.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-6. - Procedures for compliance.

- (a) *Applications.* Any application for a permit or approval required by this Land Use Code shall contain evidence that the proposed work complies with this chapter.
- (b) *Contents of application or submittal.*
 - (1) In addition to the specific application requirements elsewhere in this Land Use Code, the application submittal shall contain the following:
 - a. Plans indicating the location of all artificial light sources on the premises, including their height above the ground.
 - b. Description of each artificial light source device, and supporting structure. This description may include, but is not limited to, device specifications from the manufacturer, drawings, details, and cross sections, when available.
 - (2) The required plans and descriptions set forth in subsection (b)(1) of this section shall be complete and shall be presented in a manner that clearly demonstrates compliance with this chapter. The land use authority may require the applicant to submit photometric schematics and attestation from a qualified professional that the submittal complies with this chapter.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-7. - Required replacement of nonconforming outdoor lighting.

After the effect of this chapter, which is August 1, 2017, all outdoor lighting that does not comply with the requirements of this chapter shall be considered nonconforming outdoor lighting. All nonconforming outdoor lighting shall be phased out in accordance with the following schedule:

- (1) *Lighting conversion.* Except for outdoor lighting for a single-family, two-family, or three-family dwelling in existence or approved on or before August 1, 2017, any nonconforming outdoor artificial light source shall be terminated, replaced, or retrofitted to conform to the requirements of this chapter within ten years after the effect of this chapter. The county shall provide frequent public notice of the effect, but no less than one per year after the effect of this chapter. The county shall employ educational methods and incentives to encourage voluntary compliance prior to this five-year period and to assist the public in understanding and complying with this chapter;
- (2) *Lighting replacement.* The replacement of any nonconforming outdoor artificial light source shall comply with the requirements of this chapter;
- (3) *Building exterior modification.* When the replacement of a building's exterior materials exceeds 25 percent of the building's exterior area, excluding roof area, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming outdoor lighting on the premises on or within 25 feet of the building shall be brought into compliance with the requirements of this chapter. This shall not include repainting or re-roofing.
- (4) *Building expansion.* When a building's expansion exceeds the threshold established in this subsection, whether by a single expansion project or by an accumulation of separate expansion projects, all nonconforming outdoor lighting on the premises on or within 25 feet of the building shall be brought into compliance with the

requirements of this chapter. The established threshold of expansion shall be the smaller of the following:

- a. Twenty-five percent of the total area of the building as it exists on August 1, 2017; or
 - b. Two thousand five hundred square feet; and
- (5) *Site improvements.* When a site improvement which requires a land use permit, conditional use permit, or design review approval, modifies an area that exceeds the threshold established in this subsection, whether by a single modification project or by an accumulation of separate modification projects, all nonconforming outdoor lighting on the premises shall be brought into compliance with the requirements of this chapter. The established threshold of modification shall be the smaller of the following:
- a. Twenty-five percent of the site area; or
 - b. Twenty thousand square feet.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-8. - Violations, enforcement, and implementation.

- (a) *Violations.* The following constitute violations of this chapter:
- (1) The installation, maintenance, or operation of any outdoor artificial light source not in compliance with the provisions of this chapter.
 - (2) The alteration of any outdoor artificial light source after a certificate of occupancy has been issued without the review and approval of the land use authority when such alteration does not conform to the provisions of this chapter.
 - (3) Failure to shield, correct, or remove lighting that is installed, operated, maintained or altered in a manner that does not comply with this chapter.
- (b) *Enforcement.* Violations of this chapter are subject to enforcement and penalties as outlined in section 101-1-13. If the violation constitutes a safety hazard, typical enforcement measures shall be employed. Unless the violation constitutes a safety hazard, enforcement of a violation of this chapter shall be addressed as follows:
- (1) A courtesy letter shall be sent to the land owner that suggests that there may be noncompliant outdoor lighting on the premises. A second and third courtesy letter shall be sent at least 20 calendar days after the previous courtesy letter if a previous courtesy letter does not either cause the resolution of the violation or cause the landowner to initiate resolution with the county as provided in subsection (b)(3) of this section. Educational information about how to appropriately comply with this chapter shall also be sent and a method of contacting the county for discussion shall be provided in each courtesy letter. The third courtesy letter shall state that it is the last courtesy letter, and future contact will be in the form of a notice to comply.
 - (2) No sooner than 30 days after the third courtesy letter is sent, if it did not either cause the resolution of the violation or cause the landowner to initiate resolution with the county as provided in subsection (b)(3) of this section, a notice to comply shall be sent to the land owner. The notice shall include, with specificity, the violation, and shall give the landowner 30 days to comply with this chapter or initiate resolution with the county as provided in subsection (b)(3) of this section. The notice shall also include educational information about how to appropriately comply with this chapter.
 - (3) If a landowner initiates resolution of a violation of this chapter with the county, the county shall give the landowner no less than six months and no more than 12 months to comply with this chapter if is the landowner clearly demonstrates that good faith efforts will resolve the violation within the six-month period given. If the landowner does not clearly demonstrate that good faith efforts will resolve the violation a notice to comply shall be sent to the landowner. The notice shall include, with specificity, the violation and shall give the landowner 30 days to comply with this chapter.
 - (4) If, after steps (1) through (3) of this subsection have been satisfied, a landowner fails to initiate resolution of a violation of this chapter, or fails to comply within the period specified in subsection (b)(3) of this section, typical

enforcement measures shall be employed. Additionally, the final approval of current or future plans, the issuance of a certificate of occupancy, or the acceptance of new applications authorized by this Land Use Code may be withheld until compliance with this chapter is demonstrated.

- (c) *Creation of dark sky committee.* The county will create a dark sky committee to include representatives as follows: one planning division employee, two Ogden Valley residents at large, two Ogden Valley Business Association members, and one individual from the Ogden Weber Chamber of Commerce. The committee's purpose shall be to advise the county on dark sky best practices, implementation strategies, incentive programs, public/private partnerships, and anything else as the county commission deems necessary.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-9. - Examples of direct artificial light.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-10. - Examples of unshielded and shielded light sources.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-11. - Example of light trespass.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-12. - Standard Kelvin temperature chart.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-13. - Example of canopy lighting.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-14. - Example of parking lot lighting.

(Ord. No. 2017-24, Exh. B, 6-27-2017)

Sec. 108-16-15. - Example of recreation facility lighting.

(Ord. No. 2017-24, Exh. B, 6-27-2017)