

CHAPTER XI. PUBLIC OFFENSES

ARTICLE 8. LIGHTING NUISANCE

SECTIONS

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11-801. PURPOSE. It is the intent of this article to establish criteria that will provide a standard means for determining what constitutes a light nuisance.

(Ord. 1750C; 11-02-98)

11-802. DEFINITIONS. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:

- (a) Chief of Police — means the chief of police or any authorized representative.
- (b) Fully Shielded Fixture — An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixture.
- (c) Occupant — means any person who has a legal or equitable interest in a parcel of real property other than a fee interest including a life tenant, tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property, as the agent or personal representative of the person holding legal title to a fee interest.
- (d) Owner — means any person who, alone or jointly or severally with others, shall have legal title to a fee interest in the parcel of real property, with or without accompanying actual possession thereof.
- (e) Person — means and includes any individual, firm, estate, corporation, association, partnership, cooperative or governmental agency.

- (f) Planning Director — means the Director of Planning and development or any authorized representative of the Director of Planning and Development.
- (g) Premises — means any public or private property, vacant or occupied lot, plot, parcel of land, street sidewalk, alley, boulevard, highway, right-of-way, park, parkway, public square or viaduct, including the structures or buildings thereon.
- (h) Primary Structure — means a dwelling, garage or attached shed.
- (i) Residential — means a place where a human(s) dwell.

(Ord. 1790C; 03-22-99)

11-803. APPLICABILITY OF ARTICLE TO CORPORATIONS.

- (a) When the owner or occupant of the premises on which a lighting nuisance has been determined to exist is a corporation, any officer of such corporation or the person in charge of the local office of such corporation who shall have been notified as provided for at Section 11-806 shall be guilty of violating the provisions of this article upon the failure, neglect or refusal of such corporation to comply with such notice.
- (b) Exception — Nothing in this article is to be applied or in any way construed against any governmental entity or any agent approved by any governmental entity or any public utility in the performance of a sanctioned or official activity.

(Ord. 1750C; 11-02-98)

11-804. LIGHTING NUISANCE.

- (a) A lighting nuisance is any exterior light fixture or light source erected or maintained by any property owner or occupant that:
 - (1) Is a light that does not comply with the shielding requirements as set forth in subsection (b);
 - (2) Illuminates any portion of the premises of another person with a light intensity greater than 0.5 foot-candle as measured by a photoelectric photometer having a spectral response similar to that of the human eye, in accordance with standard spectral luminous efficiency curve adopted by the International Commission on Illumination;
 - (3) Is not mounted on a primary structure except for low wattage, ground mounted landscape lighting that poses no driving hazard; or,
 - (4) Is intermittent, except for motion detector lighting and temporary (not to exceed 45 days) holiday lighting.

(b) Table of Shielding Requirements

Fixture Lamp Type	Shielding Requirement
All of the following lamps if over 50 watts:	
Low/High Pressure Sodium, Mercury	
Vapor, Metal Halide, Fluorescent, Linear	
Halogen, and Linear Tungsten-Halogen,	
all over 50 watts	Fully Shielded
Incandescent* over 150 watts	Fully Shielded
Incandescent* 150 watts or less	No Shielding Required
Fossil Fuel	No Shielding Required
Any light source of 50 watts or less	No Shielding Required

*Note: Incandescent includes non-linear halogen and non-linear tungsten-halogen lamps.

(Ord. 1790C; 03-22-99)

11-805. PERMITTING, CAUSING OR MAINTAINING A LIGHTING NUISANCE PROHIBITED.

- (a) It shall be unlawful for any owner or occupant, as defined at 11-802, of any lot, tract or parcel of land, to cause or permit any nuisance as defined in this article to be created or remain upon such premises; and it shall be the duty of such owner or occupant to remove and abate any such lighting nuisance from such premises.
- (b) No owner or occupant shall permit, cause, keep, maintain or create any lighting nuisance as defined in this article, or cause any such lighting nuisance to be committed, kept, maintained or created within the corporate limits of the city.
- (c) No owner or occupant of any dwelling, building, lot or premises shall cause or allow any lighting nuisance to be or remain in or upon any such dwelling, building, lot or premises.

(Ord. 1750C; 11-02-98)

11-806. NOTICE OF VIOLATION.

- (a) When an allegation of a lighting nuisance, as set forth at 11-804 herein, is received by the neighborhood services administrator, he or she will conduct an inspection of the premises within five business days. Whenever the neighborhood services administrator has determined that a lighting nuisance exists on any premises within the City's corporate limits, he or she shall or she shall issue written notice as provided herein and have the notice served on the owner or agent of such property by restricted mail or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing the notice by restricted mail to the last known address of the owner. This notice shall:
 - 1. Be in writing.
 - 2. State the nature of such alleged lighting nuisance and that such condition constitutes nuisance lighting.

3. Describe the premises where the lighting nuisance is alleged to exist or to have been committed.
4. Specify a period five days (120 hours) for the removal and abatement of the nuisance.
5. State that failure, neglect or refusal to remove and abate lighting nuisances renders the owner or occupant prosecutable in municipal court, and upon a finding of guilty, punishable by a fine of not more than \$500 or imprisonment of not more than 180 days, or by both such fine and imprisonment.
6. State that each day (24 hour period) that such lighting nuisance exists alter the five days (120 hours) waiting period constitutes a separate punishable offense as set forth herein.

(Ord. 1790C; 03-22-99)
(Code 2000)

11-807. FAILURE TO COMPLY. When a notice of violation is served under this article, at the end of the period of time allowed in the notice of violation, the neighborhood services administrator shall reinspect the premises. If, upon reinspection, the cited nuisance is found not to have been removed and abated, the neighborhood services administrator may cause a complaint to be tiled for prosecution in municipal court.

(Ord. 1750C; 11-02-98)
(Code 2000)

11-808. EMERGENCIES. Whenever a lighting nuisance creates an emergency requiring immediate action to protect the public health, safety or welfare, the planning director or the chief of police may issue an immediate order directing the owner, occupant or other person in charge of the premises to take such action as is necessary to remove or abate the emergency. If circumstances warrant, the director of planning or chief of police may act to correct or abate the emergency. Said emergency order shall be in effect in lieu of the notice of violation.

(Ord. 1750C; 11-02-98)

11-809. PENALTY FOR VIOLATION OF ARTICLE.

- (a) Any person convicted of a violation of this article shall be punished for that violation by a fine of not less than \$50 but not more than \$500, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. All fines imposed shall be in accordance with the minimum fine schedule set out in subsection (c) of this section.
- (b) Every day that a violation continues shall be considered a separate offense, for which the violator may be arrested, tried and convicted without serving another notice.
- (c) Whenever the penalty is to be a fine or a fine and imprisonment, the fine shall be no less than the minimum amount set out in the following:

..... First offense	\$ 50
..... Second offense	\$100
..... Third offense	\$300
..... Fourth and subsequent offense	\$500

- (d) In determining the applicable minimum fine, an offense shall be considered a subsequent offense only if the defendant has previously pleaded or been found guilty of causing or permitting the same nuisance at the same location.

(Ord. 1750C; 11-02-98)

11-810. NUISANCE, INJUNCTION. Any violation of this section is hereby declared to be a nuisance. In addition to any other relief provided by this section, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(Ord. 1750C; 11-02-98)