



COMMUNITY DEVELOPMENT

DESCHUTES COUNTY PLANNING COMMISSION

5:30 PM, THURSDAY, JANUARY 13, 2022

Barnes Sawyer Rooms - Deschutes Services Bldg - 1300 NW Wall St – Bend

(541) 388-6575 | www.deschutes.org

AGENDA

MEETING FORMAT

The Planning Commission will conduct this meeting in person, electronically and by phone.

Members of the public may view the Planning Commission meeting in real time via the Public Meeting Portal at www.deschutes.org/meetings.

Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge. To login to the electronic meeting online using your computer, copy this link:

<https://us02web.zoom.us/j/89904007457?pwd=L3pkUE5MTWozSIRvM2NjY0ZOTUFaZz09>

Passcode: 969153

Using this option may require you to download the Zoom app to your device.

Members of the public can access the meeting via telephone, dial: 1-312-626-6799. When prompted, enter the following Webinar ID: 899 0400 7457 and Passcode: 969153. Written comments can also be provided for the public comment section to planning@deschutes.org by 5:00 p.m. on January 13. They will be entered into the record.

I. CALL TO ORDER

II. APPROVAL OF MINUTES - 11/18/21 and 12/9/21

III. ELECTION OF CHAIR AND VICE CHAIR

IV. PUBLIC COMMENT

V. ACTION ITEMS

1. Dark Skies Outdoor Lighting Update and Panel Selection (*Tarik Rawlings, Associate Planner*)

VI. PLANNING COMMISSION AND STAFF COMMENTS

VII. ADJOURN



Deschutes County encourages persons with disabilities to participate in all programs and activities. This event/location is accessible to people with disabilities. If you need accommodations to make participation possible, please call (541) 617-4747.



MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Tarik Rawlings, Associate Planner
Will Groves, Planning Manager

DATE: December 30, 2021

SUBJECT: Deschutes County Outdoor Lighting Ordinance – Update and Panelist Selection

Based on previous input from the public, the Planning Commission, and the Board of County Commissioners (Board), the Community Development Department is revisiting Deschutes County Code (DCC) Chapter 15.10, Outdoor Lighting Control.¹ Staff input relating to the existing outdoor lighting standards is provided below. Also included is a tentative list of panelist positions for the Planning Commission's consideration for a February 10 discussion.

I. Background

The Community Development Department's (CDD) FY 2021-2022 Work Plan considers amending DCC Chapter 15.10 to comply with new technologies and Dark Skies Best Practices.² On November 15, 2021, the Board approved the request to begin the process.

II. Dark Skies Ordinance

Many local governments in the United States have enacted what is popularly called a Dark Skies Ordinance. It requires that most outdoor lighting face downward to the ground in an effort to reduce lighting pollution which have a detrimental effect on astronomical observations and public enjoyment of the night sky. The International Dark-Sky Association (IDA) currently lists over 50 US jurisdictions that have been designated as Dark Sky communities, parks, or reserves as of 2020.³ Support for the benefits of dark skies and the adoption of dark sky legislation has been expressed by policymakers, designers, public safety professionals, wildlife biologists, and land use planning entities across the country.

¹ https://deschutescounty.municipalcodeonline.com/book?type=ordinances#name=CHAPTER_15.10_OUTDOOR_LIGHTING_CONTROL

² <https://www.deschutes.org/cd/page/work-plan-annual-report>. Page 34.

³ <https://www.darksky.org/our-work/conservation/idsp/communities/>

III. Chapter 15.10, Outdoor Lighting Control

Deschutes County's Outdoor Lighting Ordinance was adopted in 1994.⁴ The ordinance received broad-based support in testimony to the Board in 1994. It continues to receive recognition today.

Several elements combine to make Central Oregon attractive for stargazers. East of the Cascade Mountains the lack of any large metropolitan cities makes for a darker night sky. Even with nearby Bend, Oregon's rapid growth, outdoor lighting standards are helping to keep light pollution and associated sky glow minimized. Deschutes County adopted an outdoor lighting ordinance which limits the types of lighting that can be used in order to help keep the rural skies sparkling with stars and the Milky Way. Locals know that they're lucky to live in an area with community support that will help to keep these dark night skies unspoiled. Even from their own backyards they are able to view thousands of stars.⁵

CDD produced a frequently asked questions factsheet.⁶ Ordinance 94-024 requires that:

- All private and commercial outdoor lighting fixtures installed after August 10, 1994 or replacing a fixture installed before that date 120 or brighter watt incandescent bulb (1,800 lumens) located in the unincorporated areas must be shielded by design or modification that directs light downward, and must limit direct line-of-sight of the fixture's lamp to the property on which the fixture is installed.

There are exceptions:

- Motion-sensitive lights which shine for not longer than 20 minutes.
- Decorative holiday lighting which shines for not more than 45 days.
- See the text of the ordinance for other exemptions which apply in certain circumstances.

Currently, Deschutes County does not require an application for outdoor lighting review nor any requirement for applicants to submit separate outdoor lighting plans in association with development proposals and application materials. In addition to design-specific shielding requirements and brightness limitations, the majority of outdoor lighting ordinances reviewed in comparison to Deschutes County utilize some amount of educational outreach. Dark Sky educational resources typically include example designs of dark sky-supportive outdoor lighting fixtures⁷, tips for working independently with neighbors to resolve outdoor lighting issues⁸, and a summary of dark sky benefits as related to local resources.

⁴ Ordinance 94-024. https://s3-us-west-2.amazonaws.com/municipalcodeonline.com-new/deschutescounty/ordinances/documents/1620317553_1994-34738-Ordinance%20No.%2094-024%20Recorded%209_1_1994.pdf

⁵ <https://www.darkskydefenders.org/blog/sunriver-designated-first-international-dark-sky-place-in-oregon>.

⁶ https://www.deschutes.org/sites/default/files/fileattachments/community_development/page/770/outdoor_lighting_-_frequently_asked_questions.pdf

⁷ <https://www.darksky.org/our-work/lighting/lighting-for-industry/fsa/fsa-products/>

⁸ <https://www.darksky.org/our-work/lighting/lighting-for-citizens/my-neighbors-lighting/>

IV. Preliminary Research and CDD Input

On December 10, representatives from CDD and County Legal Counsel met to discuss DCC Chapter 15.10 as it relates to reviewing and enforcing non-compliant outdoor lighting. Three constraints were identified, which are discussed in further detail below:

1. Deschutes County's legal authority related to outdoor lighting;
2. CDD Building Division capacity to review and/or inspect lighting fixtures; and
3. CDD Code Compliance capacity to enforce potential violations.

Legal Authority

State and federal laws prohibit a county from adopting retroactive ordinances that impose new standards upon uses that exist on the date that new regulations are adopted. For example, Deschutes County does not have the legal authority to require all existing exterior lighting in Deschutes County to come into compliance by a certain date. However, Deschutes County does have the authority to require outdoor lighting compliance for all new and existing lighting associated with a proposed development application.

The aforementioned legal constraints related to retroactive review of outdoor lighting features are not uncommon for Oregon jurisdictions. The following municipalities have outdoor lighting provisions that limit the application of outdoor lighting standards to outdoor lighting installations constructed after the effective date of their respective ordinances:

- City of Ashland⁹
- City of Dundee¹⁰
- City of Eugene¹¹
- City of Sisters¹²

These legal constraints are incorporated similarly into standards outside of Oregon in jurisdictions such as Goochland County, Virginia,¹³ and Coconino County, Arizona.¹⁴

Building Safety Capacity

The Building Safety Division administers and implements state and federal building codes. Plan reviewers and building inspectors do not have the capacity to review or inspect outdoor lighting fixtures. Their priorities focus on structural, mechanical, plumbing and electrical requirements and corresponding permits.

⁹ <https://ashland.municipal.codes/LandUse/18.4.4.050>

¹⁰ <https://www.codepublishing.com/OR/Dundee>. Hard copy obtained from Dundee City Recorder on December 21, 2021

¹¹ <https://eugene.municipal.codes/EC/9.6725>

¹² <https://www.codepublishing.com/OR/Sisters/#!/SistersDevCode02/SistersDevCode0215.html%232.15.2400>

¹³ <https://www.goochlandva.us/DocumentCenter/View/5632/Article-25--Outdoor-Lighting>

¹⁴ <https://www.coconino.az.gov/DocumentCenter/View/3004/Section17>

Code Compliance Capacity

The Board has established the following priorities for code violations:

1. Violations that present an imminent threat to public life, health and safety;
2. Violations which impact rivers, streams, floodplains, and wetlands;
3. Solid Waste Code violations, Environmental Soils violations, and Building Code violations consisting of ongoing non-permitted construction or failure to obtain permits; and
4. Land use violations.¹⁵

There is limited capacity for the Code Compliance Division to review outdoor lighting violations. Furthermore, according to code compliance staff, it is difficult to substantiate outdoor lighting complaints related to downward shielding. Currently, unshielded lighting may be in violation when in excess of regulated threshold (120 watt / 1,800 lumens). Throughout 2021, only five (5) code complaints were received related to outdoor lighting violations. No complaints were substantiated, due to the difficulty in quantifying the brightness of a given outdoor light from off-site and the low priority assigned to these violations.

V. Outdoor Lighting Panel

On February 10, the Planning Commission will convene a panel to discuss DCC Chapter 15.10 and any potential changes. Panelists could include representatives from partner agencies, CDD divisions, as well as Dark Skies experts from nonprofit or similar groups. A tentative list of suggested panelists are included below. Staff seeks feedback on the composition of the panel:

1. International Dark Sky Association (IDA)
2. Astronomer(s)
3. Wildlife Expert (ODFW / USFWS)
4. Audubon Society
5. Central Oregon Builders Association (COBA)
6. CDD Code Compliance

VI. Next Steps

Based on feedback from the Planning Commission, panelists will convene as the Deschutes County Outdoor Lighting Panel on February 10, 2022. Afterwards, staff will engage the Planning Commission to discuss next steps.

ATTACHMENTS:

1. Deschutes County Outdoor Lighting Control – DCC Chapter 15.10

¹⁵https://www.deschutes.org/sites/default/files/fileattachments/community_development/page/11842/code_compliance_policy_and_procedures_manual.pdf. Page 5.

Chapter 15.10. OUTDOOR AND GREENHOUSE LIGHTING CONTROL

- 15.10.010. Purpose and Intent as Relates to Residential, Commercial and Public Area Lighting.**
- 15.10.020. Purpose and Intent as Relates to Street Lighting.**
- 15.10.030. Conformance With Applicable Codes.**
- 15.10.040. Approved Materials and Methods of Construction or Installation/Operation.**
- 15.10.050. Definitions.**
- 15.10.055. Definition-Outdoor and Greenhouse Light Fixtures.**
- 15.10.060. Definition-Community Development Department.**
- 15.10.065. Definition-Exempt Light Fixtures.**
- 15.10.070. Definition-Individual.**
- 15.10.075. Definition-Installed.**
- 15.10.080. Definition-Shielding.**
- 15.10.085. Definition-Fully Shielded.**
- 15.10.090. Definition-Partially Shielded.**
- 15.10.095. Definition-Directed Shielding.**
- 15.10.100. Definition-Unshielded.**
- 15.10.105. Definition-High Intensity Discharge Lamp Sources.**
- 15.10.110. Definition-Luminous Tube Lighting.**
- 15.10.115. Definition-Greenhouse**
- 15.10.120. Requirements for Installation of Outdoor Lighting.**
- 15.10.130. Submission of Plans and Evidence of Compliance With Code-Subdivision Plats.**
- 15.10.140. Shielding.**
- 15.10.150. Prohibitions.**
- 15.10.160. Externally Lighted Outdoor Advertising Signs, Billboards.**
- 15.10.170. Exemptions.**
- 15.10.180. Violations and Penalties.**
- 15.10.190. Violations Constitute Public Nuisance.**
- 15.10.200. Code Requirements Tables for Shielding.**

15.10.010. Purpose and Intent as Relates to Residential, Commercial and Public Area Lighting.

The purpose of DCC 15.10 is to affirm the right of citizens in Deschutes County, Oregon to illuminate residential, commercial and public areas with lighting fixtures appropriate to the need while utilizing such illumination in a way that preserves rural and urban vistas and is confined to the property from which it is generated.

(Ord. 94-024 §1, 1994)

15.10.020. Purpose and Intent as Relates to Street Lighting.

The purpose of DCC 15.10 is to affirm that citizens of Deschutes County, Oregon have a right to the safety of well-lighted streets and highways and that such illumination by nature cannot be confined to the property from which it is generated. Thus, certain high wattage and low wattage applications for the propose of highway safety as defined below are allowed under these provisions.

(Ord. 94-024 §1, 1994)

15.10.030. Conformance with Applicable Codes.

All outdoor electrically powered illuminating devices shall be installed in conformance with the provisions of this code, the building code, the electrical code, and the sign code of the jurisdiction. No provision of this ordinance are intended to pre-empt applicable state codes.

(Ord. 94-024 §1, 1994)

15.10.040. Approved Materials and Methods of Construction or Installation/ Operation.

The provisions of this code are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed by this code, provided any such alternate has been approved. The building official may approve any such proposed alternate that: Provides an equivalent alternative design that does not exceed 1800 lumens nor project light off-site of the subject lot or parcel.

(Ord. 94-024 §1, 1994)

15.10.050. Definitions.

Whenever appropriate in applying the provisions of DCC 15.10, the following words and phrases are defined as set forth in DCC 15.10.055-110.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.055. Definition-Outdoor and Greenhouse Light Fixtures.

"Outdoor light fixtures" means outdoor artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement. Such devices shall include, but are not limited to, search, spot, agricultural production/grow, and flood lights for:

1. Buildings and structures;
2. Recreational areas;
3. Parking lot lighting;
4. Landscape lighting;
5. Billboards and other signs (advertising or other);
6. Street lighting;
7. Product display area lighting;
8. Building overhangs and open canopies;
9. Holiday lighting;
10. Greenhouse interior lighting.

(Ord 2016-014 §1, 2016; Ord. 95-063 §1, 1995)

15.10.060. Definition-Community Development Department.

"Community Development Department" means the Community Development Department or designated representative(s) for the purposes of this ordinance.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.065. Definition-Exempt Light Fixtures.

"Exempt light fixtures" means outdoor artificial illuminating devices which are exempted by DCC 15.10.170.

(Ord. 95-063 §1, 1995)

15.10.070. Definition-Individual.

"Individual" means any private individual, tenant, lessee, owner or any commercial entity including but not limited to companies, partnerships, joint ventures or corporations.

(Ord. 94-024 §1, 1994)

15.10.075. Definition-Installed.

"Installed" means initial installation of outdoor lighting fixtures following the effective date of this ordinance. Projects with approved construction plans prior to effective date of this ordinance are excluded from compliance with the ordinance in the initial installation only.

(Ord. 95-063 §1, 1995)

15.10.080. Definition-Shielding.

"Shielding" for the purpose of this ordinance is provided for a lighting fixture by design of such fixture or by an externally applied device such as a shroud or hood of metal, wood or painted glass that does not allow transmission of light.

(Ord. 94-024 §1, 1994)

15.10.085. Definition-Fully Shielded.

"Fully shielded" means outdoor light fixtures shielded or constructed so that light rays emitted by the fixture are projected below the horizontal plane.

(Ord. 95-063 §1, 1995)

15.10.090. Definition-Partially Shielded.

"Partially shielded" means shielding so that the edge of the shield is at or below the centerline of the light source or lamp so as to limit light emission above the horizontal plane to 10 percent or less.

(Ord. 94-024 §1, 1994)

15.10.095. Definition-Directed Shielding.

"Directed shielding" means shielding by design or external application that directs light downward and limits direct line-of-sight of a fixture's lamp to the property upon which the fixture is installed.

(Ord. 95-063 § 1, 1995)

15.10.100. Definition-Unshielded.

"Unshielded" means light fixtures lacking any means to restrict the emitted light to below the horizontal plane.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.105. Definition-High Intensity Discharge Lamp Sources.

"High intensity discharge lamp sources" means high pressure sodium, mercury vapor, metal halide, low pressure sodium, and other similar lamps.

(Ord. 95-063 §1, 1995)

15.10.110. Definition-Luminous Tube Lighting.

"Luminous tube lighting" means gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g. neon, argon, etc.

(Ord. 94-024 §1, 1994)

15.10.115 Definition-Greenhouse.

"Greenhouse" means any building that is constructed of glass, plastic, or other transparent material in which plants are grown under climate controlled conditions, and includes hoop houses and other similar structures.

(Ord 2016-014 §1, 2016)

15.10.120. Requirements for Installation Of Outdoor Lighting.

Except as exempted by provisions of this ordinance, as of the date of adoption, the installation of outdoor lighting fixtures shall be subject to the provisions of this ordinance.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.130. Submission of Plans and Evidence of Compliance With Code-Subdivision Plats.

All proposed subdivisions and partitions within Deschutes County that include outdoor lighting fixtures or street lighting shall be subject to the provisions of this ordinance.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.140. Shielding.

All nonexempt outdoor lighting fixtures shall have shielding as required by the tables set forth in DCC 15.10.200.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.150. Prohibitions.

- A. Laser Source Light. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal is prohibited.
- B. Searchlights. The operation of searchlights for advertising purposes is prohibited between eleven o'clock P.M. and sunrise the following morning.
- C. Recreational Facilities. No outdoor recreational facility, public or private, shall be illuminated after eleven o'clock P.M. except to conclude a specific recreational or sporting event or any other similar activity conducted at or in the facility which was in progress under such illumination prior to eleven o'clock P.M., except that any outdoor recreational facility, public or private, which is illuminated with outdoor lighting fixtures conforming to this code may operate any time with such illumination.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.160. Externally Lighted Outdoor Advertising Signs, Billboards.

All externally lighted advertising signs and billboards will be illuminated by one of the following manners:

- A. Top mounted fixtures in which case such fixtures will conform to the shielding requirements as set forth in DCC 15.10.140.
- B. Bottom mounted fixtures in which case such fixtures shall be shielded either by application of external device or manufactured in such a way that upward and side directed light is confined to an area within four inches of the outermost surface of the sign's top and sides. Shielding will be constructed in such a manner that no reflective surface of the lighting fixture will extend past the limit of the shielding in the vertical plane when viewed from directly above. (See typical drawings - Table 1 and Table 2 attached.)

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.170. Exemptions.

A. Nonconformance.

- 1. All other outdoor light fixtures lawfully installed prior to and operable on the effective date of the requirements codified in this ordinance are exempt from all such requirements except those regulated in DCC 15.10.150(A), (B) and (C) or as follows:
 - a. All replacement of outdoor lighting fixtures, as of the date of adoption, shall be subject to the provisions of this ordinance.
 - b. Until a date six years after the date of adoption of this code, August 31, 2000.

2. Fossil Fuel Light. All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels are exempt from all requirement of DCC 15.10.
- B. Airport operations lighting and aircraft navigational beacons as established by the Federal Aviation Administration are permanently exempt from these provisions. All other airport outdoor lighting must conform to the intent of this ordinance.
 - C. Correctional Institutions. Exterior lighting for County correctional institutions shall be shielded high pressure sodium except at the immediate entry area, in which case other lighting may be used that conforms to the intent of this ordinance.
 - D. Lights used for holiday decorations for no more than 45 days are exempt from the requirements of this ordinance.
 - E. Carnivals and Fairs that require the use of temporary outdoor lighting fixtures are exempt except that permanent installations at dedicated sites must conform to the requirements of this ordinance.
 - F. Historical areas as designated by proper authority are exempt from the requirements of this ordinance. Use of the minimum illumination necessary to maintain public safety is encouraged.
 - G. Motion detector lights that operate automatically for periods of less than 20 minutes.
 - H. U.S. flags displayed by top mounted lighting on a 24 hours basis.
 - I. Internally lighted advertising signs.
 - J. Temporary exemptions to the provision(s) of DCC Title 15 for five days per calendar year.
 - K. Television or movie film productions are exempt except that permanent installations at dedicated sites must conform to the requirements of this ordinance.
 - L. Customary agricultural practices are exempt except that permanent installations at dedicated sites must conform to the requirements of this ordinance.
 - M. Construction necessary for an allowed use are exempt except that permanent installations at dedicated sites must conform to the requirements of this ordinance.
- (Ord. 99-022 §1, 1999; Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.180. Violations and Penalties.

For any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve or convert any lighting structure, or cause the same to be done, contrary to or in violation of any provision of this ordinance shall constitute a code violation subject to DCC 18.144.050.

(Ord. 2003-021 §33, 2003; Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.190. Violations Constitute Public Nuisance.

Any outdoor lighting fixture erected, constructed, enlarged, altered, repaired, moved, improved, or converted, contrary to the provisions of this ordinance shall constitute a code violation subject to DCC 18.144.040.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)

15.10.200 Code Requirement Tables for Shielding.

See attached Table 1, 2 and 3.

(Ord. 95-063 §1, 1995; Ord. 94-024 §1, 1994)