

ORDINANCE NO. 2016-12

AN ORDINANCE INVOLVING LIGHTING POLICIES FOR COMMERCIAL AND INSTITUTIONAL PROPERTIES BY ADDING TITLE VI TO CHAPTER 18 OF THE CITY OF MONTGOMERY CODE OF ORDINANCES: INCLUDING DEFINITIONS, LIGHTING REQUIREMENTS FOR OUTDOOR COMMERCIAL AND INDUSTRIAL LIGHTING, PROHIBITIONS; PROVIDING EXEMPTIONS, ADMINISTRATION AND ENFORCEMENT WITH PENALTIES FOR VIOLATIONS; PROVIDING FOR VARIANCES BY CITY COUNCIL; PROVIDING SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE AFTER PUBLICATION

WHEREAS, the State of Texas, pursuant to Chapter 211.003, has recognized that inappropriate or excessive outdoor lighting can cause light pollution and city regulation protecting the necessary for the government, interest, welfare, or good order of the general public is pursuant to Chapter 51.012 and Chapter 217.002 is so authorized; and

WHEREAS, the Montgomery area has experienced a significant increase in the use of outdoor lighting that causes light pollution; and

WHEREAS, inappropriate and poorly designed light fixtures can also cause glare, the unnecessary use of electric power, the diminishing ability to view the night sky, hazardous nighttime pedestrian and vehicular travel, and an unattractive townscape; and

WHEREAS, the City of Montgomery recognizes that the regulation of outdoor lighting, which provides consistent outdoor lighting standards and reduces light pollution, is in the best interest of the City; and

WHEREAS, the City of Montgomery desires to protect the health, safety and welfare of its citizens and visitors, the quality of life and economic well-being of the City; and

WHEREAS, the City of Montgomery believes that consistent outdoor lighting standards will enhance the safety of citizens and visitors, the security of property, and will result in more efficient, pleasant and cost-effective lighting.

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

SECTION ONE: FINDINGS INCORPORATED

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION TWO: AMENDMENT TO CITY CODE OF ORDINANCES

The City Code of Ordinances is hereby amended to add Article VI, “Commercial Lighting,” to Chapter 18 “Buildings and Building Regulations,” so that it reads as follows:

Sec. 18-301. Definitions.

Candela means a unit of luminous intensity in any given direction. A candela is commonly called “one candlepower.”

Changeable electronic variable message sign (CEVMS) shall mean a sign which permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign, and which varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administration as the National Standard.

City means the City of Montgomery, Montgomery County, Texas.

Commercial means for-profit business activity rather than for private single-family residential purposes.

Cutoff means a luminaire having a light distribution in which the light intensity does not exceed 2.5% and is above an angle of 90 degrees above nadir and ten percent (10%) at or above 80 degrees above nadir – applying to all lateral angles around the luminaire.

Direct Light means light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens, of a luminary.

Full Cutoff (FCO) means a luminaire light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 10 percent (ten %) at a vertical angle of 80 degrees above nadir. This applies to all lateral angles around the luminaire. A full cutoff luminaire is also fully shielded.

Footcandle means a unit of light measurement equal to one lumen per square foot.

Glare means direct light emitted from a luminaire that causes reduced vision or temporary blindness.

Illuminance means the quantity of light arriving at a surface measured in lux or footcandles.

Institutional means a public or private school, a church, lodge or other quasi-public development.

Intermittent Lighting means luminaries that do not remain on for an extended period of time.

Lumen means a unit of luminous flux.

Luminous flux means the quantity of the energy of the light emitted per second in all directions. The unit of **luminous flux** is “lumen” (lm). One lumen is the **luminous flux** of the uniform point light source that has luminous intensity of 1 candela and is contained in one unit of spatial angle.

Luminary means a complete lighting unit, consisting of a lamp or lamps and parts designed to distribute light, position and protect lamps, and connect lamps to a power supply.

Nadir means the direction pointing vertically down from the lowest light emitting part of a luminary.

Outdoor Lighting means night-time illumination of an outside area or object by any man-made device.

Sign Code Application Area shall mean the corporate limits of the City of Montgomery.

Temporary Outdoor Lighting means lighting for a specific event of an outside area or object by any man-made device that produces light for a period less than 7 days and with at least 30 days passing before reuse.

Trespass Lighting means light emitted by a luminary that falls outside the boundaries of the property on which the luminary is installed.

Sec. 18-302. Lighting Requirements

- (a) All commercial and institutional outdoor lighting installed within the corporate city limits of the City of Montgomery shall be in conformance with the requirements established by this Ordinance.
- (b) **Control of Glare.**
 - (1) Any luminary that is aimed, directed, or focused in such a manner to create glare perceptible to persons operating motor vehicles on public rights of way.
 - (2) A luminary used for public roadway illumination shall not exceed 25 feet in height, and the location of

the luminary may be positioned up to the property edge.

(c) **Commercial and Institutional Lighting.**

(1) Exterior commercial lighting shall be reviewed by the City Administrator or his/her designee.

(2) All exterior lighting on commercially zoned real property, property intended to be used as a multifamily residential development, or commercial property bordering single-family residential property shall be full cutoff.

(3) ***Service stations and other fueling facilities.*** Gas station canopies must utilize canopy lights that are fully recessed into the canopy.

(4) ***Parking Lot Lighting.*** All parking lot lighting shall be either full cutoff or cutoff lighting.

(5) **Outdoor Advertising Signs.**

a. Lighting fixtures used to illuminate outdoor advertising signs shall conform to the requirements specified in the City's most current sign regulations and shall be full cutoff.

b. Outdoor advertising signage of the type constructed of translucent materials and internally illuminated does not require shielding and shall be allowed. Dark backgrounds with light lettering or symbols are preferred.

(6) **Municipal, County and State Activities.** All municipal, county, and State of Texas activities shall be exempt from the requirements of this Ordinance.

(d) **Subdivision Street Lighting.** Any public or private street lighting that is required for subdivisions filed after the effective date of this Ordinance shall be cutoff or full cutoff lighting.

Sec. 18-303. Prohibitions.

(a) ***Laser Source Lighting.*** The use of laser source lighting or any similar high intensity lighting, such as used for outdoor advertising or entertainment, when projected above the

horizontal plane is prohibited unless authorized by City Council.

- (b) ***Searchlights.*** The operation of searchlights for advertising purposes is prohibited, unless authorized by City Council.

Sec. 18-304. Exemptions

The following are exempt from the provisions of this Ordinance:

- (1) Traffic control signals and devices.
- (2) Temporary emergency lighting (i.e. fire, police, repair workers).
- (3) Moving vehicle lights.
- (4) Navigation lights (i.e. airports, heliports, radio/television towers).
- (5) Seasonal decorations in place no longer than 60 days.
- (6) Sports field outdoor lighting.
- (7) Special situations approved by the City Council for temporary or periodic events.
- (8) Security lights of any wattage that are controlled by a motion-sensor switch and which do not remain on longer than five (5) minutes after activation.
- (9) Lighting of a flag as long as no glare is perceptible to adjacent residential property owners.
- (10) Landscaping lighting as long as no glare is perceptible to adjacent residential property owner.

Sec. 18-305. Effective date and grandfathering of nonconforming luminaries.

- (a) This Ordinance shall take effect immediately upon approval by the City Council and publication as required by law. This Ordinance shall supersede and replace all previous ordinances pertaining to outdoor lighting.
- (b) All luminaries in place prior to the effective date of the Ordinance shall be grandfathered.

Sec. 18-306. Administration and enforcement.

- (a) ***Enforcement.*** This Ordinance shall be enforced by the City Administrator or his/her designee.

- (b) ***Penalties.*** Anyone charged with negligently, recklessly, knowingly, or intentionally violating any provisions of this Ordinance shall be fined by a penalty of not more than \$500, as provided for in Section 1-13 of the Code of Ordinances of the City of Montgomery. Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.

Sec. 18-307. Variances

Variances to the terms of this Ordinance may be granted by the City Council where a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. A variance request must be submitted to the City Administrator setting out the basis for the request along with any associated fees listed in the city fee schedule. No variance can be granted unless:

- (1) such variance will not be contrary to the public interest;
- (2) such variance will be in harmony with the spirit and purposes of this Ordinance;
- (3) the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial; and
- (4) the variance will not substantially weaken the general purposes of this Ordinance.

SECTION THREE: SEVERABILITY CLAUSE

If any provision, section, subsection, sentence, paragraph, sentence, clause or phrase of this Ordinance or the application of same to any person or set of circumstances, shall for any reason be held to be unconstitutional, void, or invalid or otherwise unenforceable, the invalidity or unenforceability shall not affect other provisions of this Ordinance or their application to other sets of circumstances and to this end all provisions of this Ordinance are declared to be severable.

SECTION FOUR: NO VESTED INTEREST

No person shall acquire any vested interest in this Ordinance or any specific regulations contained herein. This Ordinance and any regulation enacted hereby maybe amended or repealed by the City Council in the manner provided by law.

SECTION FIVE: TEXAS OPEN MEETINGS CLAUSE

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

SECTION SIX: EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage and publication as the law prescribes.

PASSED AND APPROVED this the 28th day of June, 2016.

CITY OF MONTGOMERY, TEXAS

Kirk Jones, Mayor

ATTEST:

(CITY SEAL)

Susan Hensley, City Secretary

APPROVED AS TO FORM:

Larry L. Foerster, City Attorney