REGULAR MEETING NOTICE

OF THE

PLANNING AND ZONING COMMISSION

Commission Members:
Chairman Mike Archambault, Vice-Chairman Eugene Mikolajczyk
Commissioners: Amberleigh Dabrowski, Susan Dempster, Erik Hansen, Howie Jones, and Roger Owers

Pursuant to A.R.S. 38-431.02, notice is hereby given to the members of the Fountain Hills Planning and Zoning Commission and to the general public that the Fountain Hills Planning and Zoning Commission will hold a regular meeting, which is open to the general public, on **October 13, 2016**, at **6:30 p.m.** in the Town Hall Council Chambers at 16705 E. Avenue of the Fountains, Fountain Hills, Arizona.

Commissioners of the Town of Fountain Hills will attend either in person or by telephone conference call; a quorum of the Town's Councilmembers or various Commissions or Boards may be in attendance at the Commission meeting.

TIME: **6:30 P.M. – REGULAR SESSION**

WHEN: **THURSDAY, October 13, 2016**

WHERE: **TOWN HALL COUNCIL CHAMBERS**
16705 EAST AVENUE OF THE FOUNTAINS

PROCEDURE FOR ADDRESSING THE PLANNING & ZONING COMMISSION

Anyone wishing to speak before the Commission must fill out a speaker's card and submit it to the Commission Recorder prior to the Commission's discussion of that Agenda item. Speaker Cards are located in the Council Chamber Lobby and near the Recorder's position on the dais.

Speakers will be called in the order in which the speaker cards were received either by the Recorder or the Chairman. At that time, speakers should stand and approach the podium. Speakers are asked to state their name prior to commenting and to direct their comments to the Presiding Officer and not to individual Commission Members. Speakers' statements should not be repetitive. *In order to conduct an orderly business meeting, the Presiding Officer shall keep control of the meeting and shall require the speakers and audience to refrain from abusive or profane remarks, disruptive outbursts, applause, protests or other conduct that disrupts or interferes with the orderly conduct of the business of the meeting. Personal attacks on Commissioners, Town Council members, Town staff or members of the public are not allowed. Please be respectful when making your comments. If a speaker chooses not to speak when called, the speaker will be deemed to have waived his or her opportunity to speak on the matter. Speakers may not (i) reserve a portion of their time for a later time or (ii) transfer any portion of their time to another speaker.*

If there is a Public Hearing, please submit the speaker card to speak to that issue prior to the beginning of the Public Hearing and the Consideration of said issue.

Individual speakers will be allowed **three** contiguous minutes to address the Commission. Time limits may be waived by *(i) discretion of the Chairman upon request by the speaker not less than 24 hours prior to a Meeting, (ii) consensus of the Commission at Meeting or (iii) the Chairman either prior to or during a Meeting.* **If you do not comply with these rules, you will be asked to leave.**

*** CALL TO ORDER AND PLEDGE OF ALLEGIANCE – Robert Rodgers**

*** MOMENT OF REFLECTION – Robert Rodgers**

*** ROLL CALL – Robert Rodgers**

CALL TO THE PUBLIC

Pursuant to A.R.S. §38-431-01(G), public comment is permitted (not required) on matters not listed on the agenda. Any such comment (i) must be within the jurisdiction of the Commission and (ii) is subject to reasonable time, place, and manner restrictions. The Commission will not discuss or take legal action on matters raised during "Call to the Public" unless the matters are property noticed for discussion and legal action. **At the conclusion of the call to the public, individual Commission members may (i) respond to criticism, (ii) ask staff to review a matter or (iii) ask that the matter be placed on a future Commission agenda.**

AGENDA ITEM(S)

1) **ELECTION OF A CHAIRMAN AND VICE-CHAIRMAN FOR A ONE-YEAR TERM BEGINNING OCTOBER 13, 2016 THROUGH SEPTMBER 30, 2017.**

2) **CONSIDERATION of APPROVING** the Planning and Zoning Commission meeting minutes from September 8, 2016.

3) **PUBLIC HEARING** regarding **ORDINANCE #16-11, TEXT AMENDMENTS** to the Fountain Hills Zoning Ordinance, Sections 2.02.C.1, 2.04, 2.05, 2.06, 12.02.D.7, 13.05, 13.06, 17.06.B.1.a, 18.11.B, 18.14, 19.02.A, 19.07.A, 23.04.B, 23.05.A, 23.06.C, and 23.07, relating to Administrative Site Plan Approval. Case #Z2016-07

4) **CONSIDERATION of ORDINANCE #16-11, TEXT AMENDMENTS** to the Fountain Hills Zoning Ordinance, Sections 2.02.C.1, 2.04, 2.05, 2.06, 12.02.D.7, 13.05, 13.06, 17.06.B.1.a, 18.11.B, 18.14, 19.02.A, 19.07.A, 23.04.B, 23.05.A, 23.06.C, and 23.07, relating to Administrative Site Plan Approval. Case #Z2016-07

5) **PUBLIC HEARING of ORDINANCE #16-03, a TEXT AMENDMENT** to the Fountain Hills Zoning Ordinance, Section 1.12, Section 6.08.CC, and Chapter 8, relating to Outdoor Lighting controls. Case #Z2016-01

6) **CONSIDERATION of ORDINANCE #16-03, a TEXT AMENDMENT** to the Fountain Hills Zoning Ordinance, Section 1.12, Section 6.08.CC, and Chapter 8, relating to Outdoor Lighting controls. Case #Z2016-01

7) **COMMISSION DISCUSSION/REQUEST FOR RESEARCH** to staff.
Items listed below are related only to the propriety of (i) placing such items on a future agenda for action or (ii) directing staff to conduct further research and report back to the Commission.

8) **SUMMARY OF COMMISSION REQUESTS** from the Development Services Director.

9) **REPORT** from the Development Services Director.

10) **ADJOURNMENT.**

Supporting documentation and staff reports furnished to the Commission with this agenda are available for review in the Planning & Zoning Division of the Development Services Department.

DATED this 6th day of October 2016

By: _____
Robert Rodgers, Development Services Director,
Town of Fountain Hills

The Town of Fountain Hills endeavors to make all public meetings accessible to persons with disabilities. Please call 837-2003 (voice) or 1-800-367-8939 (TDD) 48 hours prior to the meeting to request reasonable accommodations to participate in this meeting. **A majority of the Council Members may be in attendance. No official action will be taken.**

Notice is hereby given that pursuant to A.R.S. §1-602.A.9 , subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Planning and Zoning Commission are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived."

TOWN OF FOUNTAIN HILLS

☒ Planning and Zoning
☐ Board of Adjustment

AGENDA ACTION FORM

Meeting Date: October 13, 2016

Meeting Type: Regular

Agenda Type: Regular

Submitting Division: Development Services

Staff Contact Information: N/A

REQUEST TO PLANNING & ZONING COMMISSION: **CONSIDERATION for approving the PLANNING & ZONING COMMISSION REGULAR MEETING MINUTES from September 8, 2016.**

Applicant: N/A

Applicant Contact Information: N/A

Property Location: N/A

Related Ordinance, Policy or Guiding Principle: Policy or Guiding Principle: A.R.S. §38-431.01

Staff Summary (background)**:** The intent of approving previous meeting minutes is to ensure an accurate account of the discussion and action that took place at that meeting for archival purposes. Approved minutes are placed on the Town's website in compliance with state law.

Risk Analysis (options or alternatives with implications)**: N/A**

Fiscal Impact (initial and ongoing costs; budget status)**: N/A**

Recommendation(s): Approval

Staff Recommendation(s): Approval

SUGGESTED MOTION: Move to Approve the Planning & Zoning Commission Regular Meeting Minutes dated September 8, 2016, as presented.

Attachment(s): N/A

Submitted by:

Paula Woodward 10/6/2016

Paula Woodward, Executive Assistant Date

Approved by:

10/6/2016

Robert Rodgers, Development Services Director Date

TOWN OF FOUNTAIN HILLS

☒ **Planning and Zoning**
☐ **Board of Adjustment**

AGENDA ACTION FORM

Meeting Date: October 13, 2016

Agenda Type: Regular

Meeting Type: Regular

Submitting Department: Development Services

Staff Contact Information: Bob Rodgers, Director, 480-816-5138, rrodgers@fh.az.gov

REQUEST TO PLANNING & ZONING COMMISSION:

PUBLIC HEARING regarding ORDINANCE #16-11, TEXT AMENDMENTS to the Fountain Hills Zoning Ordinance, Sections 2.02.C.1, 2.04, 2.05, 2.06, 12.02.D.7, 13.05, 13.06, 17.06.B.1.a, 18.11.B, 18.14, 19.02.A, 19.07.A, 23.04.B, 23.05.A, 23.06.C, and 23.07, relating to Administrative Site Plan Approval.

Case #Z2016-07

CONSIDERATION of ORDINANCE #16-11, TEXT AMENDMENTS to the Fountain Hills Zoning Ordinance, Sections 2.02.C.1, 2.04, 2.05, 2.06, 12.02.D.7, 13.05, 13.06, 17.06.B.1.a, 18.11.B, 18.14, 19.02.A, 19.07.A, 23.04.B, 23.05.A, 23.06.C, and 23.07, relating to Administrative Site Plan Approval.

Case #Z2016-07

Applicant: Town of Fountain Hills

Applicant Contact Information: Planning & Zoning Division

Property Location: Town-Wide

Related Ordinance, Policy or Guiding Principle:
Fountain Hills Zoning Ordinance Chapter 2 - Procedures
Fountain Hills Zoning Ordinance Chapter 12 - Commercial Zoning Districts
Fountain Hills Zoning Ordinance Chapter 13 - Industrial Zoning Districts
Fountain Hills Zoning Ordinance Chapter 17 - Wireless Telecommunications Towers & Antennas
Fountain Hills Zoning Ordinance Chapter 18 - Town Center Commercial District
Fountain Hills Zoning Ordinance Chapter 19 - Architectural Review Guidelines
Fountain Hills Zoning Ordinance Chapter 23 - Planned Area Development District Regulations

Staff Summary (background):
This is a series of text amendments to the Zoning Ordinance that will re-organize sixteen separate sections from seven different chapters of the zoning ordinance that relate to the submittal, review, and approval requirements for site plan approval.

The reorganization will also allow for administrative staff review and approval of new commercial, industrial, mixed-use, and multi-family site plans that fully comply with ordinance requirements. This amendment is designed to allow for a quicker turnaround of applications by eliminating the requirement that the plans be submitted to the Planning & Zoning Commission and/or Town Council for final approval prior to applying for building permits.. Staff will still be required to ensure that all zoning requirements are met prior to any site plan approval.

There are currently multiple sections in the zoning ordinance that require some form of plan review and approval for commercial, industrial, mixed-use, and multi-family proposals prior to allowing an applicant to apply for building permits. These sections contain plan review submittal requirements that must be met prior to the issuance of PUD, PAD, Concept Plan, Site Plan, Temporary Use, Special Use, and Administrative Use Permits. There are also similar submittal requirements for applicants seeking a re-zoning. Unfortunately, these sections routinely list application submittal requirements that are not the same as, or even inconsistent with, the other sections. This has led to confusion, needless duplication, and unnecessary time delays.

Site plans and the information they contain should be essentially the same for most submittals. Currently many applications have slightly different plan submittal requirements and the same plans are labeled differently in many chapters. Plans are known as Concept Plans, Site Plans, Plans of Development, and Development Plans.

In an effort to streamline the various processes, Ordinance #16-11 consolidates all the submittal requirements of the various sections related to some form of site plan review and approval into one location under the heading of SITE PLAN REVIEW, with one general list of submittal requirements. The ordinance further allows staff the authority to review the submittals for compliance with the Town's ordinances, and if the proposal is found to be in full compliance, staff may approve the site plan without the need for public hearings before the Planning & Zoning Commission and/or Town Council.

Should a Site Plan be denied administrative approval, applicants are provided with a two-part appeal process that allows appeal of the denial to the Planning & Zoning Commission, and should that appeal fail, the applicant may further appeal the denial to the Town Council.

The PUD process will be eliminated as it has been largely superseded by the PAD process, and the Concept Plan approval process will become an administrative action but will be re-identified as Site Plan Review.

Applications for Special Use Permits, PAD's or Re-Zonings will still follow the public hearing process that is currently used.

Risk Analysis (options or alternatives with implications)**:**
Approval of these text amendments will allow staff to administratively approve site plan submittals that fully comply with the ordinance requirements.

Denial will require that the above-noted plan review processes follow the same approval procedures that are currently in place.

Fiscal Impact (initial and ongoing costs; budget status)**:** NA

Staff Recommendation(s):
Staff recommends that the Planning & Zoning Commission forward a recommendation that the Town Council approve the text amendments to the Zoning Ordinance regarding Site Plan Review and Approval as presented.

SUGGESTED MOTION:
Move to forward a recommendation to the Town Council to approve Ordinance #16-11, a series of text amendments to the Fountain Hills Zoning Ordinance that will allow the consolidation and reorganization of multiple ordinance sections, and to authorize the administrative review and approval of commercial, industrial, mixed-use, and multi-family site plans as presented.

Attachment(s):

Draft Ordinance #16-11
Draft Zoning Ordinance Site Plan Approval Amendments

Submitted by:

Robert Rodgers October 4, 2016
Development Services Director Date

ORDINANCE 16-11

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE FOUNTAIN HILLS ZONING ORDINANCE, CHAPTERS 2 (PROCEDURES), 12 (COMMERCIAL ZONING DISTRICTS), 13 (INDUSTRIAL ZONING DISTRICTS), 17 (WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS), 18 (TOWN CENTER COMMERCIAL ZONING DISTRICT), 19 (ARCHITECTURAL REVIEW GUIDELINES) AND 23 (PLANNED AREA DEVELOPMENT DISTRICT) BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT KNOWN AS "THE NOVEMBER 3, 2016, ZONING ORDINANCE AMENDMENTS RELATING TO SITE PLAN APPROVAL."

WHEREAS, the Mayor and Council of the Town of Fountain Hills (the "Town Council") adopted Ordinance No. 93-22, which established the Zoning Ordinance for the Town of Fountain Hills (the "Zoning Ordinance"); and

WHEREAS, the Town Council desires to amend the Zoning Ordinance to revise Chapter 2 (Procedures), Chapter 12 (Commercial Zoning Districts), Chapter 13 (Industrial Zoning Districts), Chapter 17 (Wireless Telecommunications Towers and Antennas), Chapter 18 (Town Center Commercial Zoning District), Chapter 19 (Architectural Review Guidelines) and Chapter 23 (Planned Area Development (P.A.D.) District) relating to Site Plan Approvals; and

WHEREAS, in accordance with the Zoning Ordinance and pursuant to ARIZ. REV. STAT. § 9-462.04, as amended, public hearings regarding this Ordinance were advertised in the September 28, 2016 and October 5, 2016, editions of the *Fountain Hills Times*; and

WHEREAS, public hearings were held by the Fountain Hills Planning and Zoning Commission (the "Commission") on October 13, 2016, and by the Town Council on November 3, 2016.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The document known as the November 3, 2016, Zoning Ordinance Amendments Relating to Site Plan Approval (the "Site Plan Amendments"), of which one paper copy and one electronic copy are on file in the office of the Town Clerk, which document was made a public record by Resolution 2016-28 of the Town of Fountain Hills, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 3. The text of the Zoning Ordinance is hereby amended for Chapter 2 (Procedures), Chapter 12 (Commercial Zoning Districts), Chapter 13 (Industrial Zoning Districts), Chapter 17 (Wireless Telecommunications Towers and Antennas), Chapter 18 (Town

Center Commercial Zoning District), Chapter 19 (Architectural Review Guidelines) and Chapter 23 (Planned Area Development (P.A.D.) District) as set forth in the Site Plan Amendments.

SECTION 4. Any person who fails to comply with any provision of the Site Plan Amendments shall be subject to civil and criminal penalties as set forth in Chapter 1 (Administration), Article 1-8 (Penalty) of the Fountain Hills Town Code, including civil penalties of not more than $250.00 base fine. Criminal penalties shall constitute a class one misdemeanor, punishable by a fine not to exceed $2,500.00 or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Site Plan Amendment adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED BY the Mayor and Council of the Town of Fountain Hills, Arizona, November 3, 2016.

FOR THE TOWN OF FOUNTAIN HILLS:

Linda M. Kavanagh, Mayor

ATTESTED TO:

Bevelyn J. Bender, Town Clerk

REVIEWED BY:

Grady E. Miller, Town Manager

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney

2794640.1

THE NOVEMBER 3, 2016

ZONING ORDINANCE AMENDMENTS

RELATING TO SITE PLAN APPROVAL

Amendments to Chapter 2 - Procedures

The Town of Fountain Hills Zoning Ordinance, Chapter 2 (Procedures), Section 2.02 (Special Use Permits), Subsection C (Special Use Permit Application), is hereby amended as follows:

Section 2.02 Special Use Permits

. . .

C. Special Use Permit Application:

1. Application for a use permit shall be filed with the ~~Community~~ Development SERVICES Department on a form prescribed by the ~~Community~~ Development SERVICES ~~Director~~ DEPARTMENT. The application shall be forwarded to the ~~Planning and Zoning~~ Commission by the PLANNING AND Zoning ~~Administrator~~ DIVISION, and when required by the Zoning Administrator, shall be accompanied by a detailed site plan prepared in accordance with Section 2.04 showing all information necessary to demonstrate that the proposed use will comply with all special conditions as well as other regulations and requirements of this ZONING Ordinance. An applicant ~~shall~~ MAY furnish the Commission with any additional information it may consider relevant to ~~investigation of~~ the case.

The Town of Fountain Hills Zoning Ordinance, Chapter 2 (Procedures), Section 2.04 (Concept Plan Review), is hereby deleted in its entirety and replaced with a new Section 2.04 (Site Plan Review Regulations) to read as follows:

Section 2.04 Site Plan Review Regulations

A. Purpose: The purpose of these Site Plan Review regulations is to provide for administrative review and approval of Site Plans for all non-residential developments, multi-family developments having five or more dwelling units, and mixed-use developments, upon making a finding that the proposed development conforms to the intent and provisions of this Zoning Ordinance and all other relevant Town ordinances. These Site Plan Review regulations also provide for a two-step appeal of the Site Plan Review administrative decision first to the Planning & Zoning Commission and second to the Town Council.

B. Applicability: All non-residential developments, multi-family developments having five or more dwelling units, and mixed-use developments shall receive Site Plan approval prior to approval of construction plans related to a development. After a Site Plan and construction plans are approved according to this Section 2.04, and all fees have been paid according to the Town's adopted fee schedule, a building permit shall be issued for the development.

C. Application for Administrative Site Plan Review & Approval: A request for Site Plan Review & Approval shall be filed with the Planning & Zoning Division on a form prescribed by the Development Services Department. The request for approval shall be accompanied by 1 electronic copy of the Site Plan and 10 identical copies of the Site Plan, as follows: (i) scale of the Site Plan shall be not less than 1 inch equals 20 feet (for large-scale projects, the Development Services Director may allow a different scale); and (ii) the Site Plan copies shall be on one or more sheets of paper measuring not more than 24 by 36 inches, drawn to a scale, prepared by an Arizona registered Land Surveyor, an Arizona registered Civil Engineer, or an Arizona registered Architect, which show the following:

1. Legal description, property dimensions and heading, along with the name, address and telephone number of the owner, developer and designer.

2. A generalized location map showing surrounding land use, zoning, and traffic circulation patterns within a 300-foot radius of

the property, measured in all directions from the perimeter of the property lines. A north arrow and scale shall be provided.

3. A narrative describing the project in sufficient detail to enable the plan reviewer to understand the scope and complexity of the project.

4. Site conditions information, including:

   a. A topographic survey extending at least 100 feet beyond the exterior property line of the site. Contour interval shall not exceed 2 feet within 20 feet of any proposed improvement and 5 foot intervals for the remainder of the lot or parcel.

   b. Location and extent of major vegetative cover (if any). All Saguaro cacti over three feet in height must be identified as well as significant vegetation and rock outcroppings as defined in Article 1 of the Subdivision Ordinance.

   c. Location and extent of intermittent streams and water ponding areas.

   d. Existing drainage, including arrows showing direction of flow. Show any areas of ponding.

   e. Natural features such as mesas, rock outcroppings, or streams and manmade features such as existing roads and structures, with indication as to which are to be retained and which are to be removed or altered.

   f. A slope analysis map with categories of less than 10 percent, 10 to 20 percent, 20 to 30 percent and 30 percent and above. Identify hillside disturbance areas and Hillside Protection Easement (H.P.E.) areas with areas of each totaled in a table. Demonstrate compliance with the hillside disturbance regulation of the Town's Subdivision Ordinance or specifically identify variations from these requirements.

5. Proposed land use areas and specifications, including use standards of each area:

a. Proposed dwelling unit type, total land area and maximum density of residential use areas.

b. Proposed uses, total land area and maximum lot coverage. List the individual square footage of all non-residential buildings and disturbance areas.

c. Proposed public streetscape and public and private open space improvements and their relationship to the overall development.

d. Building heights, minimum lot areas and setbacks. Show the size and dimensions of yards and spaces between buildings and show the location, type and height of walls and fences.

e. Building elevations and architectural renderings showing architectural theme colors and type of exterior building materials for each structure or group of structures.

f. A graphic representation of the proposed landscaping treatment, plant materials, fences, walls and other site plan and open space improvements, in accordance with the Subdivision Ordinance.

g. Proposed location and width of any arterial, collector or local streets.

h. Proposed location and use of all lands proposed to be dedicated for public purposes including parks, storm water retention areas and school sites.

i. If structures are proposed, show cross-sections through site and building at 25 foot intervals perpendicular to slope, giving percentage of slope at each, and showing exact heights of structures at each existing contour.

j. If structures are proposed, each floor level shall be shown with different shading with a legend giving grade or elevation of each level.

k. If a garage(s) is proposed, the proposed elevation or grade at garage floor and at existing street level at drive entry.

Give percentage of total average slope, and percent and length of single steepest portion of driveway.

l. The individual square footage of buildings, garages, patios, footprint, and disturbance area.

m. All disturbed (or graded) areas and the proposed method of final treatment. Indicate all retaining walls, showing the actual heights.

n. Existing and proposed grades and drainage systems and how drainage is altered, how it is redirected to original channel and show that the requirements regarding storm water runoff and drainage have been met.

o. Location, number of spaces, dimensions, circulation patterns, and surface materials for all off-street parking and loading areas, driveways, access ways, and pedestrian walkways. The acceptability of any proposed shared parking arrangement must be validated in a study prepared by an independent traffic expert approved by the Town and whose services are paid for by the applicant.

p. The location, dimensions, area, materials, and lighting of signage.

q. A lighting plan in conformance with Chapter 8 of this Zoning Ordinance.

r. Street dedications and improvements.

s. The size and locations of all existing and proposed public and private utilities. All easements must be shown and given in writing.

t. A phasing plan, if the project will be completed in phases, indicating which improvements will be completed in each phase.

u. A traffic analysis, unless waived by the Development Services Director.

6. If the site contains unique features requiring additional analysis, any other information the plan reviewer reasonably determines

to be necessary to establish compliance with this Zoning Ordinance.

D. **Fee:** The application for an Administrative Site Plan Review & Approval shall be accompanied by a filing fee, which shall include Town staff review time costs, in an amount established by a schedule adopted by the Town Council either as part of its annual budget or by separate resolution. No part of the filing fee shall be refundable. Payment of the filing fee may be waived when the petitioner is the town, county, state, school district, or federal government.

E. **Review Procedures:** For each Site Plan submitted, the Planning & Zoning Division shall determine administrative completeness, determine substantive completeness, review and consider approval within the time periods adopted by resolution of the Town Council in compliance with ARIZ. REV. STAT. § 9-835, as amended.

F. **Appeals:** The application for an appeal of an Administrative Site Plan Review decision shall be made within 30 days of said decision and shall be accompanied by a filing fee in an amount established by the Town Council as part of its annual budget or by separate resolution. No part of the filing fee shall be refundable. Payment of the filing fee may be waived when the petitioner is the Town, the federal government or a county, state, school district, or sanitary district.

1. Any applicant for Administrative Site Plan approval who is dissatisfied or aggrieved by the decision of the Planning and Zoning Division may, within 30 days, appeal the decision to the Planning & Zoning Commission. The Planning & Zoning Commission may approve, conditionally approve, continue to a later date or deny said Site Plan based on compliance with all provisions of this Zoning Ordinance.

2. Any applicant who is dissatisfied or aggrieved by the appeal decision of the Planning & Zoning Commission may, within 30 days, appeal their decision to the Town Council. The Town Council may approve, conditionally approve, continue to a later date or deny said Site Plan based on compliance with all provisions of this Zoning Ordinance.

G. **Expiration of Site Plan Approval:**

1. A Site Plan approval becomes void if a building permit has not been issued within one year from the date of the approval.

2. If the applicant files for an extension prior to the Site Plan approval becoming void, an extension may be granted by the Planning & Zoning Division.

H. Special Use Permits, Temporary Use Permits, Waivers Requests: Administrative Site Plan Review approval shall be permitted for temporary use permits and administrative use permits. Administrative Site Plan Review approval shall not be granted if all Zoning Ordinance provisions are not fully met or if one or more special use permits or waivers are necessary. In such cases, applications must be heard by the Planning & Zoning Commission and Town Council as follows:

1. The Planning & Zoning Commission shall review and consider the Site Plan along with any Special Use Permit or Waiver requests. Applications shall be filed with the Planning & Zoning Division on a form prescribed by the Development Services Department. The application shall be accompanied by a detailed Site Plan prepared in accordance with Subsection 2.04(C) above showing all information necessary to demonstrate that the proposed use will comply with all special conditions as well as other regulations and requirements of this Zoning Ordinance.

2. The Planning & Zoning Commission shall forward a recommendation for approval, conditional approval, or denial to the Town Council. The Town Council shall consider the request within 30 working days of the Planning & Zoning Commission forwarding its recommendation.

The Town of Fountain Hills Zoning Ordinance, Chapter 2 (Procedures), Section 2.05 (Plan Review), is hereby deleted in its entirety and replaced with a new Section 2.05 (Violation and Enforcement), to read as follows:

Section 2.05 Violation and Enforcement

A. Prior to Building Permit: Prior to the issuance of a building permit, the Chief Building Official or designee shall ascertain that the Zoning Administrator and other reviewing agencies have approved the plans which are in conformance with those presented with the building permit application and that the time limitations imposed by this Zoning Ordinance have not elapsed.

B. During Construction: The Chief Building Official or designee shall ensure that all matters are undertaken according to the conditions of the approved Site Plan. In the event of a violation, the Building Inspector shall notify the permittee, by mail or written report that he is in violation of the conditions of the approved Site Plan. If the violation is not cured or a cure is not substantially begun, in the opinion of the Chief Building Official or designee, within 10 days after notification, the building permit shall be revoked and shall be null and void. Once commenced, the cure shall be pursued diligently until completion, but in no event shall any cure period exceed 30 days, unless approved in writing by the Chief Building Official.

The Town of Fountain Hills Zoning Ordinance, Chapter 2 (Procedures), Section 2.06 (Planned Unit Developments), is hereby deleted in its entirety and replaced with the following:

Section 2.06 Planned Unit Developments

Planned Unit Developments (PUD) shall not be approved after September 1, 2016. Planned Unit Developments approved prior to September 1, 2016 shall be regulated according to the approved PUD on file with the Town's Development Services Department.

Amendments to Chapter 12 – Commercial Zoning Districts

The Town of Fountain Hills Zoning Ordinance, Chapter 12 (Commercial Zoning Districts), Section 12.02 (Permitted Uses), Subsection D, is hereby amended as follows:

Section 12.02 Permitted Uses

. . .

D. In C-3 Zoning Districts, the following uses are also permitted:

. . .

7. New and used automobileS, boats, golf carts, all-terrain vehicles, motorcycles, travel trailers, recreational vehicle sales and rental, including outside display area, provided all sales and repair activities are conducted within a building and subject to Site Plan approval ~~of the Planning and Zoning Commission and Town Council~~ PURSUANT TO SECTION 2.04 OF THIS ZONING ORDINANCE.

. . .

Amendments to Chapter 13 - Industrial Zoning Districts

The Town of Fountain Hills Zoning Ordinance, Chapter 13 (Industrial Zoning Districts), Section 13.05 (Procedural Regulations), is hereby deleted in its entirety and reserved for future use.

The Town of Fountain Hills Zoning Ordinance, Chapter 13 (Industrial Zoning Districts), Section 13.06 (Expiration of Approval), is hereby deleted in its entirety and reserved for future use.

Amendments to Chapter 17 - Wireless Telecommunications Towers and Antennas

The Town of Fountain Hills Zoning Ordinance, Chapter 17 (Wireless Telecommunications Towers and Antennas), Section 17.06 (Special Use Permits), Subsection B (Towers), paragraph 1 (Information Required), part "a" is hereby amended as follows:

Section 17.06 Special Use Permits

. . .

B. Towers:

1. Information required. In addition to any information required for applications for special use permits pursuant to Chapter 2, Section 2.02 of this Zoning Ordinance, applicants for a special use permit for a tower shall submit the following information:

   a. A SITE Plan ~~of Development~~ as required in Section 2.04 plus zoning, General Plan classification of the site and all properties within the applicable separation distances set forth in Section 17.07(B), adjacent roadways, proposed means of access, elevation drawings of the proposed tower and any other structures, and other information deemed by the ~~Community~~ Development SERVICES Director to be necessary to assess compliance with this chapter.

. . .

Amendments to Chapter 18 – Town Center Commercial Zoning District

The Town of Fountain Hills Zoning Ordinance, Chapter 18 (Town Center Commercial Zoning District), Section 18.11 (Parking and Loading), Subsection B, is hereby amended as follows:

Section 18.11 Parking and Loading

. . .

B. A shared parking plan may be proposed for developments within the TCCD according to the following guidelines:

. . .

4. A shared parking plan shall be subject to review and approval by the Planning and Zoning Commission during SITE ~~concept~~ Plan review.

5. Shared parking shall conform to the following standards:

. . .

e. Easements: Owner Affidavit; Parking Association. When shared parking is permitted, the applicant shall ensure that all owner(s) of the property on which the shared parking is located shall, prior to SITE ~~concept~~ Plan approval, (1) record an irrevocable easement over such property for the benefit of the applicant's property and (2) file a parking affidavit with the Planning and Zoning Director indicating the (A) the joint use is acceptable and will not interfere with the owner's current use and (B) owner agrees and understands that future development on the owner's property may be limited due to the shared parking. In cases where parking for a project is to be provided on more than one (1) lot, a parking association shall be formed by the owners of the affected parcels prior to SITE ~~concept~~ Plan approval. Documentation of the association's recorded conditions, covenants and restrictions shall be provided to the Planning and Zoning Director, or designee, prior to SITE ~~concept~~ Plan approval and shall be in a form acceptable to the Town Attorney.

. . .

The Town of Fountain Hills Zoning Ordinance, Chapter 18 (Town Center Commercial Zoning District), Section 18.14 (Density, Area, Building and Yard Regulations), is hereby amended to delete the reference to "Concept Plan" in footnote "a" and replace it with "Site Plan."

Amendments to Chapter 19 - Architectural Review Guidelines

The Town of Fountain Hills Zoning Ordinance, Chapter 19 (Architectural Review Guidelines), Section 19.02 (Applicability), is hereby amended as follows:

Section 19.02 Applicability

A. All proposed retail, service, commercial, wholesale, transportation, industrial or multi-family developments, re-developments or expansions, ~~which~~ THAT are subject to Site Plan Review~~, a Special Use Permit or a Concept Plan review~~ pursuant to the provisions of Chapter 2 shall be subject to Design Review and approval by the SAME PERSON OR ENTITY RESPONSIBLE FOR APPROVING THE SITE PLAN ~~Planning & Zoning Commission~~ prior to the issuance of any Special Use Permit or Building Permit in connection with such development, re-development or expansion. Likewise, prior to the issuance of a Certificate of Occupancy, all conditions of said Design Review and approval must be met.

. . .

The Town of Fountain Hills Zoning Ordinance, Chapter 19 (Architectural Review Guidelines), Section 19.07 (Administration), is hereby amended as follows:

Section 19.07 Administration

A. When DESIGN REVIEW OF A SITE PLAN IS REQUIRED TO BE COMPLETED BY ~~exercising its powers of Design Review under this section,~~ the Planning & Zoning Commission AND THE TOWN COUNCIL, EACH shall hold ~~concurrent~~ ITS DESIGN REVIEW hearing~~s~~ DURING THE ~~with the Concept~~ SITE Plan Review PROCESS CONDUCTED PURSUANT TO SECTION 2.04 OF THIS ZONING ORDINANCE. All DESIGN Review~~s,~~ hearings and decisions shall be completed in conjunction with the ~~Concept~~ SITE Plan Review, unless specifically requested otherwise by an applicant.

. . .

Amendments to CHAPTER 23 - PLANNED AREA DEVELOPMENT (P.A.D.) DISTRICT

The Town of Fountain Hills Zoning Ordinance, Chapter 23 (Planned Area Development (P.A.D.) District), Section 23.04 (Intensity of Land Use), Subsection B, is hereby amended as follows:

Section 23.04 Intensity of Land Use

. . .

B. The yard, building setback, building height, lot size, and other requirements within the district shall be those approved in the ~~Development~~ SITE Plan as provided below in Subsection 23.07(B)~~(6)~~.

The Town of Fountain Hills Zoning Ordinance, Chapter 23 (Planned Area Development (P.A.D.) District), Section 23.05 (Design Standards), Subsection A (Consistency with Standards), is hereby amended as follows:

Section 23.05 Design Standards

A. **Consistency with Standards:** The design of the project shall be consistent with any existing guidelines applicable to the land uses proposed, including, but not limited to, the Town's *Commercial/Multi-Family Architectural Design Review Guidelines* and ~~*Concept*~~ *SITE Plan* requirements.

. . .

The Town of Fountain Hills Zoning Ordinance, Chapter 23 (Planned Area Development (P.A.D.) District), Section 23.06 (General Requirements and Standards), Subsection C (Approval of Development Plan), is hereby amended as follows:

Section 23.06 General Requirements and Standards

. . .

C. **Approval of Development Plan:** No building, subdivision or zoning approval shall be issued for any use under a P.A.D. zoning designation

prior to approval of the Development Plan as prescribed herein. FOR THE PURPOSES OF THIS CHAPTER, "DEVELOPMENT PLAN" SHALL COLLECTIVELY MEAN THE TOWN-APPROVED VERSION OF THE SITE PLAN SUBMITTED ACCORDING TO SUBSECTION 23.07(B) BELOW, THE ADDITIONAL REQUIRED STUDIES PROVIDED ACCORDING TO SUBSECTION 23.07(C) BELOW, THE PROJECT NARRATIVE PROVIDED ACCORDING TO SUBSECTION ~~23.07(D) BELOW~~ 2.04(C) ABOVE AND THE PHASING PLAN SUBMITTED ACCORDING TO SUBSECTION ~~23.07(E) BELOW~~ 2.04(C) ABOVE.

. . .

The Town of Fountain Hills Zoning Ordinance, Chapter 23 (Planned Area Development (P.A.D.) District), Section 23.07 (Application and Procedures), is hereby amended as follows:

Section 23.07 Application and Procedures

A. Pre-application Meeting: Prior to making a P.A.D. application, the applicant shall meet with appropriate Town staff to discuss the development concept, the review and approval process, and the submittal requirements.

B. ~~Development~~ SITE Plan: The P.A.D. zoning district may only be developed in accordance with an approved ~~Development~~ SITE Plan PREPARED AND APPROVED ACCORDING TO SECTION 2.04 OF THIS ZONING ORDINANCE. ~~The Development Plan for the area of the P.A.D. request shall be on one or more sheets of paper measuring not more than twenty-four (24) by thirty-six (36) inches, drawn to a scale specified by Town staff, prepared by an Arizona registered civil engineer or surveyor, including the following:~~

~~1. Proposed name of the development.~~

~~2. Name, address, and telephone number of the property owner and applicant.~~

~~3. Legal description, including gross and net acreage.~~

~~4. A generalized location map showing surrounding land use, zoning, and traffic circulation patterns within a three hundred (300) foot radius of the property, measured in all directions from the perimeter of the property lines. A north arrow and scale shall be provided.~~

~~5. Site conditions information, including:~~

~~a. Topographic contours (with intervals of no more than two (2) feet), covering the entire P.A.D. area plus an area distance of one hundred (100) feet beyond the property boundary.~~

~~b. Location and extent of major vegetative cover (if any). All Saguaro cacti over three (3) feet in height must be identified as well as significant vegetation and rock outcroppings as defined in Article 1 of the Subdivision Ordinance.~~

~~c. Location and extent of intermittent streams and water ponding areas.~~

~~d. Existing drainage, including arrows showing direction of flow. Show any areas of ponding.~~

~~e. The maximum height of all retaining walls. Demonstrate compliance with the Town's grading standards in the Zoning Ordinance or specifically identify requested variations from these requirements.~~

~~f. Natural features such as mesas, rock outcroppings and manmade features such as existing roads and structures, with an indication as to which are to be retained and which are to be removed or altered.~~

~~g. A slope analysis map with categories of less than ten (10) percent, ten (10) to twenty (20) percent, twenty (20) to thirty (30) percent and thirty (30) percent and above. Identify hillside disturbance areas and Hillside Protection Easement (H.P.E.) areas with areas of each totaled in a table. Demonstrate compliance with the hillside disturbance regulation of the Town's Subdivision Ordinance or specifically identify variations from these requirements.~~

~~h. Evidence that the proposed plan complies with existing agreements that apply to the site.~~

~~i. Other information considered relevant by the applicant or Town staff.~~

~~6. Proposed land use areas and specifications, including use standards of each area:~~

~~a. Proposed dwelling unit type, total land area and maximum density of residential use areas.~~

~~b. Proposed uses, total land area and maximum lot coverage. List the individual square footage of all non-residential buildings and disturbance areas.~~

~~c. Proposed public streetscape and public and private open space improvements and their relationship to the overall development.~~

~~d. Building heights, minimum lot areas and setbacks. Show the size and dimensions of yards and spaces between buildings and show the location, type and height of walls and fences.~~

~~e. Building elevations and architectural renderings showing architectural theme colors and type of exterior building materials for each structure or group of structures in the P.A.D.~~

~~f. A graphic representation of the proposed landscaping treatment, plant materials, fences, walls and other site plan and open space improvements.~~

~~g. Proposed location and width of any arterial, collector or local streets.~~

~~h. Proposed location and use of all lands proposed to be dedicated for public purposes including parks, storm water retention areas and school sites.~~

C. ADDITIONAL REQUIRED STUDIES:

~~i~~1. Master water, sewer and drainage plans. The plans shall indicate the approximate alignment and sizing of water lines, sanitary sewers, and storm sewers (if any), as well as easements for utilities, if necessary. Evidence must be submitted that the water company operating in Fountain Hills and the Fountain Hills Sanitary District approve the alignment and sizing of proposed utilities. Show existing and proposed grades and drainage systems and how drainage is altered, how it is redirected to original channel, and how the requirements regarding storm water runoff and drainage have been met.

~~j~~2. A Traffic Impact Analysis including projected volumes on streets within and adjacent to the site. Indicate off-site improvements necessary to accommodate the increase in traffic at level of service C or better. Indicate any proposed phasing of traffic improvements and relate such traffic improvements to the overall phasing of the project.

~~7. The location, number of spaces, dimensions, circulation patterns, and surface materials for all off-street parking and loading areas, driveways, access way and pedestrian walkways. The acceptability of any proposed shared parking arrangement must be validated in a study prepared by an independent traffic expert approved by the Town and whose services are paid for by the applicant.~~

~~8. The location, dimensions, height, area, materials and lighting of signage.~~

~~9. The location, height and type of outdoor lighting.~~

~~10. Any other information that the Town Staff may find necessary to establish compliance with this and other ordinances.~~

~~C~~D. Project Narrative:

1. The applicant shall submit a statement describing the terms and conditions under which the property will be developed and maintained subsequent to development. Such statements shall include any conditions, performance standards and other reasonable restrictions as may be necessary to ensure the development and maintenance of the property in accordance with the approved Development Plan. The purpose of this narrative is to provide a clear and concise statement for the review process to ensure a better understanding of the proposed development concept.

2. The applicant shall submit a description of the objectives to be achieved by the development concept. The statement shall include, but is not limited to:

    a. The manner in which the proposed development meets the P.A.D. standards as set forth in the Zoning Ordinance.

    b. The proposed architectural and site design concepts including style, colors and type of materials, placement of structures to maximize views and take advantage of the site's natural characteristics.

    c. Specific concepts by which the proposed development will make an orderly transition from existing or planned

adjacent development, including varied setbacks and facade treatment, open space elements, screening of parking areas and landscaping of public or private open spaces and recreational facilities.

d. Intended design philosophy and environmental quality described by written text, graphics or photography, or a combination thereof.

3. General description of the availability of other community facilities, such as schools, fire protection services and cultural facilities, if any, and how these facilities are affected by this proposal.

4. Evidence that the proposal is compatible with specifically cited goals of the Fountain Hills General Plan and any applicable area specific plan.

~~D~~E. Phasing of Development (Phasing Plan):

1. Any P.A.D. plan proposed to be constructed in phases shall include full details relating to each phase, including the type of development, density, lot coverage and a map designating the phases and sequence of development. Each phase shall be designed so that it may be developed independently of other, subsequent phases.

2. The Phasing Plan shall include the projected time for beginning and completion of each phase. A modification of the timing of any of the phases of development may be approved by the Town Manager or his designee upon the showing of good cause by the developer.

~~E~~F. Approval of the Development Plan: The review of a Development Plan shall be in conjunction with the rezoning of the property. The Planning and Zoning Commission shall base its recommendation, and the Town Council shall base its decision, on the conformance of the proposed DEVELOPMENT Plan with the Town's General Plan, any applicable area specific plan and the stated purpose of the P.A.D. district.

~~F~~G. Recordation of Development Plan: Within ~~thirty (~~30~~)~~ days of receiving zoning and Development Plan approval by the Town Council, the ~~applicant~~ TOWN shall, at applicant's expense, record NOTICE OF

the Development Plan and conditions of approval with the Maricopa County Recorder's Office. ~~Failure to record the approved plan within thirty (30) days of approval will render the approval null and void. The Town Manger or his designee may grant one thirty (30) day extension of time of the requirement to record the Development Plan.~~

TOWN OF FOUNTAIN HILLS

☒ Planning and Zoning
☐ Board of Adjustment

AGENDA ACTION FORM

Meeting Date: October 13, 2016

Meeting Type: Regular

Agenda Type: Regular

Submitting Division: Planning & Zoning

Staff Contact Information: Bob Rodgers, Development Services Director, rrodgers@fh.az.gov

REQUEST TO PLANNING & ZONING COMMISSION:

PUBLIC HEARING of ORDINANCE #16-03, a TEXT AMENDMENT to the Fountain Hills Zoning Ordinance, Section 1.12, Section 6.08.CC, and Chapter 8, relating to Outdoor Lighting controls.
Case #Z2016-01

CONSIDERATION of ORDINANCE #16-03, a TEXT AMENDMENT to the Fountain Hills Zoning Ordinance, Section 1.12, Section 6.08.CC, and Chapter 8, relating to Outdoor Lighting controls.
Case #Z2016-01

Applicant: The Town of Fountain Hills

Applicant Contact Information: Planning & Zoning Division

Property Location: Town-Wide

Related Ordinance, Policy or Guiding Principle:

Fountain Hills Zoning Ordinance Chapter 1 – Section 1.12 – Definitions
Fountain Hills Zoning Ordinance Chapter 2 – Section 2.01 – Amendments or Zone Changes
Fountain Hills Zoning Ordinance Chapter 6 – Section 6.08.CC – Signs Allowed or Required
Fountain Hills Zoning Ordinance Chapter 8 – Outdoor Lighting Control

Staff Summary (background):

Updates to the Fountain Hills Outdoor Lighting Ordinance (Zoning Ordinance Chapter 8) were initiated by staff in an effort to update the terminology and measurement standards according to current conditions and technology.

Section 1.12 of the Zoning Ordinance contains the definitions of terms used throughout the ordinance.

Section 6.08.CC of the Zoning Ordinance contains the Town's regulations regarding electronic message signs and LED signs.

Chapter 8 of the Zoning Ordinance contains the Town's outdoor lighting regulations. This chapter is commonly called the "Dark Sky" ordinance. However, while it is more restrictive than many communities in the valley, it is not a true "Dark Sky" ordinance.

Staff's proposed text amendments (ORD #16-03) will amend these Zoning Ordinance sections in order to update the Towns outdoor lighting requirements according to current standards and technologies.

A brief outline of the revised ordinance includes:

- The adoption of updated conversion information between Watts and Lumens.
- Adopting definitions for updated terms used in the ordinance.
- Measuring the maximum levels of allowable light in lumens rather than in watts.
- Adopting standards for shielding based on initial lumens rather than watts.
- Setting the maximum level of a light's Correlated Color Temperature at 3,000 Kelvin.
- Prohibits light trespass.
- Provides for holiday lighting exemptions.
- Provides for municipal use and emergency exemptions.
- Allows exemptions for permitted special events.

Staff recommends adoption of Ordinance #16-03 as described above.

ADDITIONAL DISCUSSION:
During this revision process the "Dark Sky Committee", a self-appointed advocacy group, approached staff with a number of recommendations for inclusion in the revised ordinance. Their stated intention is that the Town become a certified Dark Sky Community and potentially construct an observatory in Town.

Staff reviewed the Dark Sky group's recommendations and agreed to include and recommend many of the amendments proposed by the group. Staff also considered some of the recommendations to be either too potentially detrimental to the local business community to implement without a significant and thorough review or ultimately unenforceable. These have not been included in this amendment proposal.

The Dark Sky group's recommendations are attached to this report.
The items that staff has not included in the current proposal are as follows:

1. <u>Proposed Section 8.02.D Lumen Density Caps</u>

   Staff: Staff believes that the lumen density is adequately controlled under the basic regulations regarding the number, brightness, and quantity of lights on a property.

   Including an additional "per acre" lumen density cap will add an additional redundant layer of regulations that will only be applied to the commercial properties in town. Particularly the properties in commercial plazas and in the downtown area.

   Staff believes that the better ordinance location for a requirement such as this would be to include it within the Concept Plan/Site Plan submittal and approval requirements for new construction. It is staff''s understanding that including this provision in with the existing requirement that new commercial construction proposals provide a photometric plan would satisfy the Dark Sky certification requirement. Staff has no way of enforcing such a standard against existing properties.

2. Proposed Section 8.02.F Municipally Owned Lighting
   Staff: The Dark Sky group proposes to include a section that requires all municipal lighting to abide by the requirements of this ordinance. Staff understands that municipal lighting is exempt from this ordinance for practical, as well as public safety reasons. In fact, the current proposed ordinance specifically lists lighting on government property as being exempt. Staff does not know of a reasonable way of enforcing this provision against the Town and would therefore recommend that this preference might be adopted as a Council policy rather than adopting it as another unenforceable ordinance.

3. Proposed amendment to Section 8.04.B Permanent and Temporary Exemptions
   Staff: The Dark Sky group proposes to remove the Town's exemption while leaving the other levels of government exemptions in place. Staff does not believe that this amendment can be enforced even if it is adopted. (See item 2 above)

Risk Analysis (options or alternatives with implications):
Adoption of the proposed ordinance amendments will update the current outdoor lighting standards and in line with current technologies. It will also bring the Town closer to Dark Sky certification.

Not adopting the amendments will maintain the current ordinance standards for outdoor lighting.

Fiscal Impact (initial and ongoing costs; budget status): N/A

Staff Recommendation(s):
Staff recommends that the Planning & Zoning Commission vote to forward a recommendation to the Town Council to approve the proposed text amendments to the Zoning Ordinance, Section 1.12, Section 6.08.CC, and Chapter 8, relating to Outdoor Lighting controls as presented and recommended by staff.

SUGGESTED MOTION:
Move to forward a recommendation to the Town Council to approve Ordinance #16-03, the proposed text amendments to the Fountain Hills Zoning Ordinance, Section 1.12, Section 6.08.CC, and Chapter 8, relating to Outdoor Lighting controls as presented and recommended by staff.

Attachment(s):

Draft Ordinance #16-03
11/3/16 Draft Zoning Ordinance Amendments Related to Outdoor Lighting (Marked up)
11/3/16 Draft Zoning Ordinance Amendments Related to Outdoor Lighting (Clean)
Dark Sky Committee Information Packet
Correspondence

Submitted by:

Robert Rodgers October 4, 2016
Development Services Director Date

ORDINANCE 16-03

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, AMENDING THE FOUNTAIN HILLS ZONING ORDINANCE, CHAPTERS 1 (INTRODUCTION) 6 (SIGN REGULATIONS) AND 8 (OUTDOOR LIGHTING CONTROL) BY ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT KNOWN AS THE "TOWN OF FOUNTAIN HILLS ZONING ORDINANCE AMENDMENTS RELATING TO OUTDOOR LIGHTING, NOVEMBER 3, 2016."

WHEREAS, the Mayor and the Council of the Town of Fountain Hills (the "Town Council") adopted Ordinance No. 93-22, which established the Zoning Ordinance for the Town of Fountain Hills (the "Zoning Ordinance"); and

WHEREAS, the Town Council desires to amend the Zoning Ordinance to revise Chapter 1 (Introduction), Chapter 6 (Sign Regulations) and Chapter 8 (Outdoor Lighting Control) relating to the outdoor lighting standards; and

WHEREAS, in accordance with the Zoning Ordinance and pursuant to ARIZ. REV. STAT. § 9-462.04, as amended, public hearings regarding this ordinance were advertised in the September 28, 2016 and October 5, 2016, editions of the *Fountain Hills Times*; and

WHEREAS, public hearings were held by the Fountain Hills Planning and Zoning Commission on October 13, 2016, and by the Town Council on November 3, 2016.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The document known as the Town of Fountain Hills Zoning Ordinance Amendments Relating to Outdoor Lighting, November 3, 2016 (the "Outdoor Lighting Amendments"), of which one paper copy and one electronic copy are on file in the office of the Town Clerk, which document was made a public record by Resolution 2016-22 of the Town of Fountain Hills, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 3. The text of the Zoning Ordinance is hereby amended for Chapter 1 (Introduction), Chapter 6 (Sign Regulations) and Chapter 8 (Outdoor Lighting Control) as set forth in the Outdoor Lighting Amendments.

SECTION 4. Any person who fails to comply with any provision of the Outdoor Lighting Amendments shall be subject to civil and criminal penalties as set forth in Chapter 1 (Administration), Article 1-8 (Penalty) of the Fountain Hills Town Code, including civil penalties of not more than $250.00 base fine. Criminal penalties shall constitute a class one misdemeanor, punishable by a fine not to exceed $2,500.00 or by imprisonment for a period not

to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Outdoor Lighting Amendment adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 6. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED BY the Mayor and Council of the Town of Fountain Hills, Arizona, November 3, 2016.

FOR THE TOWN OF FOUNTAIN HILLS:

Linda M. Kavanagh, Mayor

ATTESTED TO:

Bevelyn J. Bender, Town Clerk

REVIEWED BY:

Grady E. Miller, Town Manager

APPROVED AS TO FORM:

Andrew J. McGuire, Town Attorney

2638705.2

CLEAN

TOWN OF FOUNTAIN HILLS

ZONING ORDINANCE AMENDMENTS

RELATING TO OUTDOOR LIGHTING

November 3, 2016

Amendments to Chapter 1 - Introduction

The Town of Fountain Hills Zoning Ordinance, Chapter 1 (Introduction), Section 1.12 (Definitions) is hereby amended by adding the following definitions:

Adaptive Lighting Controls: Devices such as motion sensors, timers and dimmers used in concert with outdoor light fixtures to vary the intensity or duration of operation of lighting.

Correlated Color Temperature (CCT): The temperature, in Kelvin, of a black body whose spectrum approximates the spectral power distribution of a given light source. Correlated color temperature is a measure of the quality of "warmness" or "coolness" of a lamp.

Fully Shielded: Providing internal and/or external shields and louvers so that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected only below a horizontal plane running through the lowest point on the fixture where light is emitted or reflected.

Glare: The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends upon such factors as the size, position, and luminance of the source and the luminance of to which the eyes are adapted.

Initial Lumens: The lumens rating of a lamp when new, not including any age-related depreciation of light output.

Installed. Set up and fixed in position for use.

Lumen: The SI (International System of Units) unit of light output. A lumen is approximately the amount of light that falls on a one–square–foot surface one foot away from a candle flame.

Luminaire: A body that gives light.

Nit: A unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter. Nits are used to describe the brightness of display devices such as televisions, computers, and electronic message boards.

Outdoor Light Fixture: An artificial illuminating fixture, lamp, or other device, located in the open air, not within an enclosed structure, that is permanent or portable, and is used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or floodlights for:

1. Buildings and structures
2. Recreation areas
3. Parking lot lighting
4. Landscape lighting
5. Billboards and other signage (advertising or other)
6. Street lighting.

Partially shielded: As applied to outdoor lighting fixtures, means a fixture that is shielded so that the bottom edge of the shield is below the plane centerline of the light source (lamp), minimizing the emission of light above the horizontal plane.

Amendments to Chapter 6 – Sign Regulations

The Town of Fountain Hills Zoning Ordinance, Chapter 6 (Sign Regulations), Section 6.08 (Signs Allowed or Required), Subsection CC (Electronic Message Center), is hereby amended as follows:

Section 6.08 Signs Allowed or Required

. . .

CC. Electronic Message Center: Signs with intermittent, scrolling or flashing illumination, including electronic message center signs, are permitted in Commercial and Industrial zoning districts only; provided, however, that churches and schools may display such signs in residential districts. All electronic message center signs are subject to the following:

1. There shall be no moving or flashing green or red features that could be mistaken as traffic control devices.

2. Intermittent Changes:

   a. Any changes to the face or copy of the sign must have a minimum of eight (8) second interval between changes.

   b. Between the hours of 10:00 p.m. – 6:00 a.m., except for time and temperature~~.~~:

      (1) There shall be no changes to the face or copy of the sign; and

      (2) The background must be darker than the text.

3. LED SIGNS / ELECTRONIC MESSAGE DISPLAYS are subject to all of the following:

   a. Between the hours of 10:00 p.m. and 6:00 a.m.:

      (1) LED signs shall not exceed the maximum lumination level of 100 nits; and

      (2) Signs located adjacent to residential zoning districts shall be turned off.

   b. Signs shall be equipped with photo cell sensors that are factory locked to:

      (1) Adjust the sign to an appropriate light level during daylight hours; and

      (2) Dim the sign at night to the required nit level as stated in this section.

   c. An affidavit from the manufacturer or other evidence of compliance satisfactory to the town, attesting to the photo cell sensor equipment lock as required above shall be submitted with the sign permit application.

   d. The electronic message center portion of the sign shall not have a white background and shall be turned off when the business is closed.

   e. Signs shall include timers that automatically turn off the digital display.

Amendments to Chapter 8 – Outdoor Lighting Control

The Town of Fountain Hills Zoning Ordinance, Chapter 8 (Outdoor Lighting Control) is hereby amended as follows:

Sections:

8.01 Administration.
8.02 General Requirements.
8.03 Prohibitions.
8.04 Permanent and Temporary Exemptions.
8.05 Procedures for Compliance.

Section 8.01 Administration

A. Purpose: It is the intent of this chapter to require lighting practices and systems that minimize light pollution, glare, and light trespass, and conserve energy while maintaining adequate light for nighttime safety, utility, security and productivity. Good modern lighting practices can achieve these goals and at the same time preserve the scenic view of the night sky, minimize lighting that would have a detrimental effect on astronomical observations, and prevent lighting that would be offensive to neighboring and near-by properties.

B. Conformance with Applicable Code AND ZONING ORDINANCE Provisions: All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this chapter, any other applicable provisions of the zoning ordinance and building codes of the Town of Fountain Hills, which may hereafter be enacted, as applicable.

C. Approved Material and Methods of Installation: The provisions of this chapter are not intended to prevent the use of any material or method of installation not specifically prescribed by this chapter, provided any such alternate has been approved in writing by the Town of Fountain Hills Zoning Administrator upon consultation with the Chief Building Official and finding that the proposed design, material or method:

1. Provides approximate equivalence to the applicable requirements of this chapter and applicable building codes; or

2. Is otherwise satisfactory and complies with the intent of this chapter.

Section 8.02 General Requirements

A. Shielding:

1. All outdoor light fixtures with light output greater than 2250 initial lumens shall be fully shielded. Fixtures with light output ranges from 1125 to 2250 initial lumens shall be at least partially shielded.

2. Outdoor advertising signs constructed of translucent materials and wholly illuminated from within do not require shielding.

B. **CORRELATED COLOR TEMPERATURE (CCT):** In order to minimize the detrimental effects of blue light, the correlated color temperature (CCT) of any outdoor lighting fixture shall not exceed 3000k.

C. **LIGHT TRESPASS:** Outdoor lighting fixtures shall be sufficiently shielded and aimed such that spillage of light onto adjacent properties is minimized and glare from the light emitting and/or reflecting parts of a luminaire is not visible from any adjacent property.

E. **HOLIDAY LIGHTING DECORATIONS:** Temporary outdoor holiday lighting decorations are permitted for a reasonable period before a holiday and are not subject to the requirements in this section 8.02. Holiday lighting in residential neighborhoods shall be minimized after 11:00 p.m. and shall be removed within two weeks after the holiday.

Section 8.03 Prohibitions

A. **Searchlights:** The operation of searchlights is prohibited.

B. **Recreational Facilities:** No outdoor recreational facility, public or private, shall be illuminated after 11:00 P.M. except to conclude a specific recreational, sporting or other activity that began prior to 10:00 P.M. Recreational facility lighting shall make appropriate use of adaptive controls when possible.

C. **Outdoor Building or Landscaping Illumination:** The unshielded outdoor illumination of any building, landscaping, signage or other purpose, is prohibited except with light fixtures of less than 1125 lumens. The combined outdoor unshielded lighting shall not exceed 1125 lumens within a 25-foot radius. All illumination shall be so arranged as not to shine upon or reflect onto adjoining properties.

D. **Exterior Lighting:** All lighting for off-street parking or loading areas or for the external illumination of buildings or signs shall be directed away from and shielded from any adjacent residential property and shall not detract from driver visibility on adjacent streets.

E. **Mercury Vapor:** All mercury vapor fixtures are prohibited.

F. **Signage:** All outdoor signage lighting, shall conform to section 8.02 and shall be of such size and color as not to interfere with traffic or limit visibility of adjoining property. Lighting on any sign not wholly illuminated from within shall conform to section 8.02 and be directed towards the ground. Regulations relating to signs with intermittent, scrolling or flashing illumination are in Chapter 6, Section 6.08.CC.

Section 8.04 Permanent and Temporary Exemptions

A. **Nonconforming Fixtures:** All outdoor light fixtures existing and fully installed prior to the effective date of this chapter are nonconforming indefinitely; provided, however, that no change in use, replacement, structural alteration, or restoration (after abandonment of outdoor light fixtures) shall be made unless it thereafter conforms to the provisions of this Chapter.

B. **GOVERNMENTAL Facilities:** Those facilities and lands owned, operated or protected by the U.S. federal government, the State of Arizona, Maricopa County, and the Town are exempted from all requirements of this chapter. Voluntary compliance with the intent of this Chapter at those facilities is urged.

C. **Special Exemption:** The Zoning Administrator may grant a special exemption from the requirements of Section 8.02 only upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.

D. **Utility Exemption:** Utility companies entering into a duly approved contract with the Town of Fountain Hills in which they agree to comply with the provisions of these regulations, shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures.

E. **Temporary Exemptions:**

1. Request: Any individual may submit a written request (on a form approved by the Zoning Administrator) for a temporary exemption to the requirements of this chapter, such exemption to be valid for 30days, renewable at the discretion of the Zoning Administrator.

2. The request for temporary exemption(s) shall provide:

   a. Specific exemptions(s) requested.

   b. Type and use of outdoor light fixture for which exemption is sought.

   c. Duration of the requested exemption.

   d. Type of lamp(s) and calculated lumens.

   e. Total wattage of lamp(s).

   f. Proposed location.

   g. Previous temporary exemptions, if any.

   h. Physical size of outdoor light fixture and type of shielding to be provided.

3. In addition to the above data, the Zoning Administrator may request any additional information, which would assist in evaluating the request.

4. The Zoning Administrator shall make a decision on the application and shall notify the applicant of the decision within 10 days of receipt of a complete application. The exemption shall be granted upon a determination that the type and use of the outdoor light fixture is the for the shortest period of time and the minimum lumens needed for the intended purpose and shall not be detrimental to persons residing or businesses operating within a reasonable distance from the use location.

F. **SPECIAL EVENTS:** Events that are approved through the special event permit, special use permit, temporary use permit, or administrative use permit processes may include specified exemptions from this Chapter for the duration of the event, but only if they satisfy the criteria set forth above in Subsection (E)(4).

Section 8.05 Procedures for Compliance

A. Application:

1. Any individual applying for a Building Permit or Use Permit who intends to install outdoor light fixtures shall, as a part of the permit application, submit evidence that the proposed light fixtures will comply with this Chapter.

2. All other individuals intending to install outdoor landscape lighting or decorative lighting consisting of light fixtures under 375 lumens are exempt from the requirements of this Section.

B. Contents of Application: The application for Building Permit or Use Permit shall contain, but shall not necessarily be limited to the following, all or a portion of which may be part of or in addition to the information required elsewhere in this Zoning Ordinance.

1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, etc.

2. Description of the illuminating devices, fixtures, lamps, supports, etc. shall include at least the initial lumen output, shielding planned, and manufacturer's catalog cuts, and drawings (including sections where required). Additional information may be required, as deemed necessary by the Zoning Administrator.

3. If an applicant desires to use an outdoor light fixture that is different from what is in the application, the applicant shall submit the requested change to the Zoning Administrator with adequate information to allow a determination in compliance with this Chapter.

The above required plans and descriptions shall be sufficiently complete to enable the reviewing department to readily determine compliance with the requirements of this chapter. If such plans and descriptions do not readily enable this determination, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

TOWN OF FOUNTAIN HILLS

ZONING ORDINANCE AMENDMENTS

RELATING TO OUTDOOR LIGHTING

~~OCTOBER 20~~November 3, 2016

Amendments to Chapter 1 - Introduction

The Town of Fountain Hills Zoning Ordinance, Chapter 1 (Introduction), Section 1.12 (Definitions) is hereby amended by adding the following definitions:

Adaptive Lighting Controls: Devices such as motion sensors, timers and dimmers used in concert with outdoor light fixtures to vary the intensity or duration of operation of lighting.

Correlated Color Temperature (CCT): The temperature, in Kelvin, of a black body whose spectrum approximates the spectral power distribution of a given light source. Correlated color temperature is a measure of the quality of "warmness" or "coolness" of a lamp.

Fully Shielded: Providing internal and/or external shields and louvers so that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected only below a horizontal plane running through the lowest point on the fixture where light is emitted or reflected.

Glare: The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends upon such factors as the size, position, and luminance of the source and the luminance of to which the eyes are adapted.

Initial Lumens: The lumens rating of a lamp when new, not including any age-related depreciation of light output.

Installed. Set up and fixed in position for use.

Lumen: The SI (International System of Units) unit of light output. A lumen is approximately the amount of light that falls on a one–square–foot surface one foot away from a candle flame.

Luminaire: A body that gives light.

Nit: A unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter. Nits are used to describe the brightness of display devices such as televisions, computers, and electronic message boards.

Outdoor Light Fixture: An artificial illuminating fixture, lamp, or other device, located in the open air, not within an enclosed structure, that is permanent or portable, and is used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or floodlights for:

1. Buildings and structures
2. Recreation areas
3. Parking lot lighting
4. Landscape lighting
5. Billboards and other signage (advertising or other)
6. Street lighting.

Partially shielded: As applied to outdoor lighting fixtures, means a fixture that is shielded so that the bottom edge of the shield is below the plane centerline of the light source (lamp), minimizing the emission of light above the horizontal plane.

Amendments to Chapter 6 – Sign Regulations

The Town of Fountain Hills Zoning Ordinance, Chapter 6 (Sign Regulations), Section 6.08 (Signs Allowed or Required), Subsection CC (Electronic Message Center), is hereby amended as follows:

Section 6.08 Signs Allowed or Required

. . .

CC. Electronic Message Center: Signs with intermittent, scrolling or flashing illumination, including electronic message center signs, are permitted in Commercial and Industrial zoning districts only; provided, however, that churches and schools may display such signs in residential districts. All electronic message center signs are subject to the following:

~~1. Signs must be on-site.~~

~~2~~1. There shall be no moving or flashing green or red features that could be mistaken as traffic control devices.

~~3~~2. Intermittent Changes:

a. Any changes to the face or copy of the sign must have a minimum of eight (8) second interval between changes.

b. ~~Any changes to the face or copy of the sign must stop at~~ B~~b~~etween the hours of 10:00 p.m. – 6:00 a.m., except for time and temperature~~.~~:

(1) T~~t~~here shall be no changes to the face or copy of the sign; and

~~c.~~ (2) ~~After 10:00 p.m.,~~ The background must be darker than the text.

3. LED SIGNS / ELECTRONIC MESSAGE DISPLAYS are subject to all of the following:

a~~A~~. Between the hours of 10:00 p.m. and 6:00 a.m.~~.~~:

(1) LED signs shall not exceed the maximum lumination level of 100 nits; and

(2) S~~s~~igns located adjacent to residential zoning districts shall be turned off.

b. Signs shall be equipped with photo cell sensors that are factory locked to:

(1) Adjust the sign to an appropriate light level during daylight hours; and

(2) Dim the sign at night to the required nit level as stated in this section.

c. An affidavit from the manufacturer or other evidence of compliance satisfactory to the town, attesting to the photo cell sensor equipment lock as required above shall be submitted with the sign permit application.

d. The electronic message center portion of the sign shall not have a white background and shall be turned off when the business is closed.

e.~~E.~~ Signs shall include timers that automatically turn off the digital display.

Amendments to Chapter 8 – Outdoor Lighting Control

The Town of Fountain Hills Zoning Ordinance, Chapter 8 (Outdoor Lighting Control) is hereby amended as follows:

Sections:

8.01 Administration.
~~8.02 Definitions.~~
8.0~~3~~2 General Requirements.
8.~~04~~03 Prohibitions.
8.0~~5~~4 Permanent and Temporary Exemptions.
8.0~~6~~5 Procedures for Compliance.

Section 8.01 Administration

A. Purpose: I~~i~~t is the intent of this chapter to require lighting practices and systems that minimize light pollution, glare, and light trespass, and conserve energy while maintaining adequate light for nighttime safety, utility, security and productivity. Good modern lighting practices can achieve these goals and at the same time preserve the scenic view of the night sky, minimize lighting that would have a detrimental effect on astronomical observations, and prevent lighting that would be offensive to neighboring and near-by properties.~~This chapter is intended to restrict the permitted use of outdoor artificial illuminating devices emitting undesirable rays into the night sky which have a detrimental effect on astronomical observations, or which would otherwise be offensive to neighboring and near-by properties.~~

B. Conformance with Applicable Code AND ZONING ORDINANCE Provisions: ~~a~~All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this ~~article~~chapter, any other applicable provisions of the zoning ordinance ~~of the Town of Fountain Hills~~ and ~~any~~ building ~~ordinances~~codes of the ~~town~~ Town of Fountain Hills, which may hereafter be enacted, as applicable. ~~Where any provisions of any of the Arizona state statutes or of the federal law, or any companion ordinance comparatively conflicts with the requirements of this chapter, the more restrictive shall govern.~~

C. Approved Material and Methods of Installation: The provisions of this chapter are not intended to prevent the use of any material or method of installation not specifically prescribed by this chapter, provided any such alternate has been approved in writing by the T~~t~~own of F~~f~~ountain H~~h~~ills ~~Community Development Director~~ Z~~z~~oning A~~a~~dministrator upon consultation with the ~~e~~Chief ~~bu~~Building O~~o~~fficial and ~~a~~ finding that the proposed design, material or method:

1. Provides approximate equivalence to the applicable requirements of this chapter and applicable building codes; or

2. Is otherwise satisfactory and complies with the intent of this chapter.

~~Section 8.02 Definitions~~
~~For purposes of this chapter, the following terms shall have the following definitions:~~

~~**Fossil Fuel Light:** Light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.~~

~~**Fully Shielded:** Means the fixture shall be shielded so that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.~~

~~**Individual:** Any private individual, tenant, lessee, owner or any commercial entity including, but not limited to, companies, partnerships, joint ventures or corporations.~~

~~**Installed:** An initial installation of outdoor light fixtures on or after the effective date of this chapter.~~

~~**Luminary:** A body that gives light.~~

~~**Partially Shielded:** Means the fixture shall be shielded so that the bottom edge of the shield is below the plane centerline of the light source (lamp), minimizing the emission of light above the horizontal plane.~~

~~**Outdoor Light Fixtures:** Outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or floodlights for:~~

~~1. Buildings and structures~~
~~2. Recreation areas~~
~~3. Parking lot lighting~~
~~4. Landscape lighting~~
~~5. Billboards and other signage (advertising or other)~~
~~6. Street lighting~~

Section 8.0~~3~~2 General Requirements

A. Shielding ~~and Filtration~~:

1. ~~1.~~ All outdoor light fixtures with light output greater than 2250 initial lumens shall be fully shielded. Fixtures with light output ranges from 1125 to 2250 initial lumens shall be at least partially shielded.

~~All outdoor light fixtures, except those exempt from this chapter, shall be fully or partially shielded as required in Section 8.03, B.~~

~~2.~~2. Outdoor advertising signs constructed of translucent materials and wholly illuminated from within do not require shielding. ~~It is recommended that existing mercury vapor fixtures either be replaced or be equipped with a filter whose transmission is less than ten (10) percent total emergent flux at wavelengths less than forty-four hundred (4400) angstroms. "Total emergent flux" is defined as that between three thousand (3000) and seven thousand (7000) angstrom units.~~

~~3. Low pressure sodium lamps are the preferred light source for minimizing adverse effects on astronomical observations.~~

B. ~~Requirements for Shielding~~CORRELATED COLOR TEMPERATURE (CCT): I~~i~~n order to minimize the detrimental effects of blue light, the correlated color temperature (CCT) of any outdoor lighting fixture shall not exceed 3000k.

~~The requirements for shielding light emissions from outdoor light fixtures and requirements for filtration are as set forth in the following table:~~

~~Requirements for Shielding/Filtration~~

~~Fixture Lamp Type~~	~~Must be Shielded~~	~~Filtering Recommended~~
~~Low pressure sodium~~	~~Partially~~	~~None~~
~~High pressure sodium~~	~~Fully~~	~~None~~
~~Metal halide~~	~~Fully~~	~~Yes~~
~~Fluorescent~~	~~Fully~~	~~Yes~~
~~Quartz~~	~~Fully~~	~~None~~
~~Incandescent greater than 150w~~	~~Fully~~	~~None~~
~~Compact Fluorescent Greater than 52w~~	~~Fully~~	~~None~~
~~Incandescent 75w to 150w~~	~~Partially~~	~~None~~
~~Compact Fluorescent 18w to 52w~~	~~Partially~~	~~Yes~~
~~Incandescent less than 75w~~	~~None~~	~~None~~
~~Compact Fluorescent Less than 18w~~	~~None~~	~~Yes~~
~~Fossil fuel~~	~~None~~	~~None~~
~~Glass tubes filled with neon, argon, and krypton:~~	~~None~~	~~None~~
~~Other sources~~	~~as approved by the Zoning Administrator~~	

~~1. This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations.~~

~~2. Metal halide lamps shall be in enclosed luminaries. See also Section 8.04, F.~~

~~3. Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.~~

~~4. Warm white and natural lamps are preferred to minimize detrimental effects.~~

~~5. For the purposes of this division, a quartz lamp shall not be considered an incandescent light source.~~

~~6. Recommended for existing fixtures. See also Section 8.04, G.~~

C. **LIGHT TRESPASS:** Outdoor lighting fixtures shall be sufficiently shielded and aimed such that spillage of light onto adjacent properties is minimized and glare from the light emitting and/or reflecting parts of a luminaire is not visible from any adjacent property.

~~**D. LUMEN DENSITY CAPS:**~~

~~1. IN COMMERCIAL, INDUSTRIAL, LODGING, AND MULTI-FAMILY ZONING DISTRICTS, UNSHIELDED LIGHTING ON A PROPERTY SHALL NOT EXCEED:~~

~~a. 50,000 LUMENS PER NET ACRE IN COMMERCIAL, INDUSTRIAL, AND LODGING ZONING DISTRICTS.~~

~~b. 20,000 LUMENS PER NET ACRE IN MULTI-FAMILY ZONING DISTRICTS.~~

~~2. TO PREVENT OVER-LIGHTING IN COMMERCIAL, INDUSTRIAL, LODGING, AND MULTI-FAMILY ZONING DISTRICTS,, THE TOTAL AMOUNT OF LIGHTING ON A PROPERTY, BOTH SHIELDED AND UNSHIELDED, SHALL NOT EXCEED:~~

~~a. 100,000 LUMENS PER NET ACRE IN COMMERCIAL, INDUSTRIAL, AND LODGING ZONING DISTRICTS.~~

~~b. 50,000 LUMENS PER NET ACRE IN MULTI-FAMILY ZONING DISTRICTS.~~

~~3. IN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS AND FOR SINGLE-FAMILY RESIDENTIAL USES, OUTDOOR LIGHTING IS NOT SUBJECT TO A LUMEN DENSITY CAP, BUT IS SUBJECT TO SHIELDING REQUIREMENTS AS SET FORTH IN SECTION 8.02(A).~~

E. **HOLIDAY LIGHTING DECORATIONS:** Temporary outdoor holiday lighting decorations are permitted for a reasonable period before a holiday and are not subject to the requirements in this section 8.02. Holiday lighting in residential neighborhoods shall be minimized after 11:00 p.m. ~~SUNDAY THROUGH THURSDAY AND 11:00 P.M. FRIDAY AND SATURDAY~~ and shall be removed within two weeks after the holiday.

Section 8.~~04~~03 Prohibitions

A. **Searchlights:** The operation of searchlights ~~for advertising purposes~~ is prohibited.

B. **Recreational Facilities:** No outdoor recreational facility, public or private, shall be illuminated ~~by nonconforming means~~ after 11:00 P.M. except to conclude a specific recreational, sporting or other activity that began prior to 10:00 P.M. Recreational facility lighting shall make appropriate use of adaptive controls when possible.

C. **Outdoor Building or Landscaping Illumination:** The unshielded outdoor illumination of any building, landscaping, ~~signing~~ s~~S~~ignage or other purpose, is prohibited except with ~~incandescent~~ light fixtures ~~drawing less than~~of less than ~~seventy-five (75) watts~~1125 lumens. ~~or with compact fluorescent fixtures drawing no more than eighteen (18) watts.~~ The combined outdoor unshielded lighting shall not exceed ~~seventy-five (75) watts with incandescent fixtures or eighteen (18) watts when using compact fluorescent fixtures~~1125 lumens within a 25-foot radius ~~after 11:00 p.m.~~. All illumination shall be so arranged as not to shine upon or reflect onto adjoining properties.

D. **Exterior Lighting:** All lighting for off-street parking or loading areas or for the external illumination of buildings or signs shall be directed away from and shielded from any adjacent residential property and shall not detract from driver visibility on adjacent streets.

E. **Mercury Vapor:** All mercury vapor fixtures are prohibited.

F. **Signage:** All outdoor signage~~, with its~~ lighting~~,~~ shall conform to section 8.0~~3~~2 and shall be of such size and color as not to interfere with traffic or limit visibility of adjoining property. ~~Illumination~~ Lighting on any sign not wholly illuminated from within ~~must~~shall conform to section 8.0~~3~~2 and be directed towards the ground. Regulations relating to signs with intermittent, scrolling or flashing illumination are in Cchapter 6, Ssection 6.08.CC.~~Signs shall not have intermittent illumination or flashing lights (see Section 6.03.C.6).~~

~~G. Metal Halide Lamps: Metal halide display lighting shall not be used for security lighting after 11:00 p.m. (or after closing hours if before 11:00 p.m.) unless fully shielded.~~

Section 8.0~~5~~4 Permanent and Temporary Exemptions

A. Nonconforming Fixtures: All outdoor light fixtures existing and fully installed prior to the effective date of this chapter are nonconforming indefinitely; provided, however, that no change in use, replacement, structural alteration, or restoration (after abandonment of outdoor light fixtures) shall be made unless it thereafter conforms to the provisions of this C~~c~~hapter.

B. ~~Federal and State~~GOVERNMENTAL Facilities: Those facilities and lands owned, operated or protected by the U.S. federal government, the State of Arizona, ~~or~~Maricopa County, and the ~~t~~Town are exempted from all requirements of this chapter. V~~v~~oluntary compliance with the intent of this C~~c~~hapter at those facilities is urged.

C. Special Exemption: The Zoning Administrator may grant a special exemption from the requirements of Section 8.0~~3~~2 only upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.

D. Utility Exemption: Utility companies entering into a duly approved contract with the Town of Fountain Hills in which they agree to comply with the provisions of these regulations, shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures~~, including residential security lighting~~.

E. Temporary Exemptions:

1. Request: Any individual may submit a written request (on a form approved by the Zoning Administrator) for a temporary exemption to the requirements of this chapter, such exemption to be valid for ~~thirty (~~30~~)~~ days, renewable at the discretion of the Zoning Administrator.

2. The request for temporary exemption(s) shall provide:

   a. Specific exemptions(s) requested.

   b. Type and use of outdoor light fixture for which exemption is sought.

   c. Duration of the requested exemption.

   d. Type of lamp(s) and calculated lumens.

   e. Total wattage of lamp(s).

   f. Proposed location.

   g. Previous temporary exemptions, if any.

   h. Physical size of outdoor light fixture and type of shielding to be provided.

3. In addition to the above data, the Zoning Administrator may request any additional information, which would assist ~~his IN~~in evaluatin~~ong~~G ~~of~~ the request.

4. The Z~~z~~oning A~~a~~dministrator shall make a decision on the application and shall notify the applicant of the decision within 10 days of receipt of a complete application. The exemption shall be granted upon a determination that the type and use of the outdoor light fixture is the for the shortest period of time and the minimum lumens needed for the intended purpose and shall not be detrimental to persons residing or businesses operating within a reasonable distance from the use location.

F. SPECIAL EVENTS: Events that are approved through the special event permit, special use permit, temporary use permit, or administrative use permit processes may include specified exemptions from this C~~c~~hapter for the duration of the event, but only if they satisfy the criteria set forth above in ~~su~~Subs~~s~~ection (E)(4).

Section 8.0~~6~~5 Procedures for Compliance

A. Application:

1. Any individual applying for a B~~b~~uilding PermitERMIT or U~~u~~se P~~p~~ermit ~~under the zoning ordinance of the Town of Fountain Hills WHO~~who intends~~Sing~~ to install outdoor light~~ing~~ fixtures shall, as a part of ~~said~~the permit application, submit evidence that the proposed ~~work~~ light fixtures will comply with this C~~c~~hapter.

2. All other individuals intending to install outdoor ~~lighting fixtures shall submit an application to the Zoning Administrator providing evidence that the proposed work will comply with this chapter. Landscape~~ landscape lighting or decorative lighting consisting of light fixtures ~~of incandescent bulbs~~ under ~~twenty-five (25) watts~~ 375 lumens are exempt from the requirements of this ~~paragraph~~Section.

B. Contents of Application: The application for Building Permit or Use Permit shall contain, but shall not necessarily be limited to the following, all or a portion of which may be part of or in addition to the information required elsewhere in ~~the~~ this Zoning Ordinance ~~of the Town of Fountain Hills~~.

1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, etc.

2. Description of the illuminating devices, fixtures, lamps, supports, etc. ~~This description~~ shall include at least the initial lumen output, shielding planned, and ~~may include, but is not limited to,~~ manufacturer's catalog cuts, and drawings (including sections where required). Additional information may be required, as deemed necessary by the Zoning Administrator.

3. If an applicant desires to use an outdoor light fixture that is different from what is in the application, the applicant shall submit the requested change to the Zoning Administrator with adequate information to allow a determination in compliance with this Chapter.

The above required plans and descriptions shall be sufficiently complete to enable the ~~Zoning Administrator~~reviewing department to readily determine compliance with the requirements of this chapter. I~~ i~~f such plans and descriptions do not readily enable this determination, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab. ~~Should the applicant desire to use different outdoor light fixtures or lamps the applicant must submit all changes to the Zoning Administrator with adequate information to allow a determination of compliance with this Chapter.~~

~~C. **Issuance of Permit:** Upon compliance with the requirements of this Chapter, the Zoning Administrator shall issue a permit for installation of the outdoor lighting fixtures, to be installed per the approved application. In the event the application is part of another application under this ordinance, the privilege applied for will be granted if the applicant is in compliance with this Chapter as well as the other requirements for the privilege applied for under this ordinance.~~

~~D. **Amendment to Permit:** Should the applicant desire to use different outdoor light fixtures or lamps after a permit has been issued, the applicant must submit all changes to the Zoning Administrator for approval, with adequate information to allow determination of compliance with this Chapter.~~

DARK SKY GROUP PROPOSAL

Clean

The Town of Fountain Hills Zoning Ordinance, Chapter 8 Outdoor Lighting Control is hereby amended by deleting Section 8.02 Definitions and by renumbering and amending Sections 8.01 Administration, 8.03 General Requirements, 8.04 Prohibitions, 8.05 Permanent and Temporary Exemptions, and 8.06 Procedures for Compliance, to read as follows:

Chapter 8

OUTDOOR LIGHTING CONTROL

Sections:

8.01 Administration.
8.02 General Requirements.
8.03 Prohibitions.
8.04 Permanent and Temporary Exemptions.
8.05 Procedures for Compliance.

Section 8.01 Administration

A. **Purpose:** it is the intent of this chapter to require lighting practices and systems that minimize light pollution, glare, and light trespass, and conserve energy while maintaining adequate light for nighttime safety, utility, security and productivity. Good modern lighting practices can achieve these goals and at the same time preserve the scenic view of the night sky, minimize lighting that would have a detrimental effect on astronomical observations, and prevent lighting that would be offensive to neighboring and near-by properties.

B. **Conformance with Applicable Code and Zoning Ordinance Provisions:** All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this chapter, any other applicable provisions of the Zoning Ordinance or codes of the Town of Fountain Hills, which may hereafter be enacted, as applicable.

C. **Approved Material and Methods of Installation:** The provisions of this chapter are not intended to prevent the use of any material or method of installation not specifically prescribed by this chapter, provided any such alternate has been approved in writing by the Town of Fountain Hills zoning administrator upon consultation with the chief building official and finding that the proposed design, material or method:

1. Provides approximate equivalence to the applicable requirements of this chapter and applicable building codes; or

2. Is otherwise satisfactory and complies with the intent of this chapter.

Section 8.02 General Requirements

A. **Shielding:**

1. All outdoor light fixtures with light output greater than 2250 initial lumens shall be fully shielded. Fixtures with light output ranges from 1125 to 2250 initial lumens shall be at least partially shielded.

2. Outdoor advertising signs constructed of translucent materials and wholly illuminated from within do not require shielding.

B. **Correlated Color Temperature (CCT):** in order to minimize the detrimental effects of blue light, the correlated color temperature (CCT) of any outdoor lighting fixture shall not exceed 3000K.

C. **Light Trespass:** Outdoor lighting fixtures shall be sufficiently shielded and aimed such that spillage of light onto adjacent properties is minimized and glare from the light emitting and/or reflecting parts of a luminaire is not visible from any adjacent property.

D. **Lumen Density Caps:**

1. In commercial, industrial, lodging, and multi-family zoning districts, unshielded lighting on a property shall not exceed:

   A. 50,000 lumens per net acre in commercial, industrial, and lodging zoning districts.

   B. 20,000 lumens per net acre in multi-family zoning districts.

2. To prevent over-lighting in commercial, industrial, lodging, and multi-family zoning districts,, the total amount of lighting on a property, both shielded and unshielded, shall not exceed:

   A. 100,000 lumens per net acre in commercial, industrial, and lodging zoning districts.

   B. 50,000 lumens per net acre in multi-family zoning districts.

3. In single-family residential zoning districts and for single-family residential uses, outdoor lighting is not subject to a lumen density cap, but is subject to shielding requirements as set forth in section 8.02(A).

E. **Holiday Lighting Decorations:** Temporary outdoor holiday lighting decorations are permitted for a reasonable period before a holiday and are not subject to the requirements in this section 8.03. Holiday lighting in residential neighborhoods shall be minimized after 11:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday and shall be removed within two weeks after the holiday.

F. **Municipally Owned Lighting:**

1. All outdoor lighting owned by the Town of Fountain Hills shall adhere to the following requirements:

   a. When new publicly-owned buildings and other facilities are constructed, or new public rights-of-way are established, the installation of new outdoor lighting fixtures shall be allowed only when (1) a specific need related to a hazardous nighttime situation is identified by the Town and (2) lighting is deemed necessary as a matter of ensuring public safety.

   b. When existing, publicly owned buildings, other facilities and public rights-of-way are modified by physical alterations and/or by a change of use, the installation of new outdoor lighting fixtures beyond existing installations shall be allowed only when (1) a specific need related to a hazardous nighttime situation is identified by the Town and (2) lighting is deemed necessary as a matter of ensuring public safety.

   c. With the establishment of any new subdivision development where street rights-of-way will be dedicated to the Town, the Town shall not allow the installation of streetlights. However, in cases where it is determined that street lighting is deemed necessary in public rights-of-way for safety of pedestrians, bicyclists and/or motorists, the installation of street lighting shall be permitted. All lighting so installed shall be fully shielded, meet correlated color temperature requirements, make use of appropriate adaptive controls, and be subject to curfews as directed by the Town Council.

Section 8.03 Prohibitions

A. **Searchlights:** The operation of searchlights is prohibited.

B. **Recreational Facilities:** No outdoor recreational facility, public or private, shall be illuminated after 11:00 P.M. except to conclude a specific recreational, sporting or other activity that began prior to 10:00 p.m. Recreational facility lighting shall make appropriate use of adaptive controls when possible.

C. Outdoor ~~Building or Landscaping~~ Illumination: ~~The~~ Unshielded outdoor illumination ~~of any building, landscaping, signage, or other purpose~~ is prohibited except with light fixtures of less than 1,125 lumens. The combined outdoor unshielded lighting shall not exceed 1,125 lumens within a 25-foot radius. ~~after 11:00 p.m.~~ All illumination shall be so arranged as not to shine upon or reflect onto adjoining properties.

D. **Exterior Lighting:** All lighting for off-street parking or loading areas or for the external illumination of buildings or signs shall be directed away from and shielded from any adjacent residential property and shall not detract from driver visibility on adjacent streets.

E. **Mercury Vapor:** All mercury vapor fixtures are prohibited.

F. **Signage:** All outdoor signage lighting~~,~~ shall conform to Section 8.02 and shall be of such size and color as not to interfere with traffic or limit visibility of adjoining property. lighting on any sign not wholly illuminated from within shall conform to Section 8.02 and be directed towards the ground. Regulations relating to signs with intermittent, scrolling or flashing illumination are in chapter 6, section 6.08.CC.

Section 8.04 Permanent and Temporary Exemptions

A. **Nonconforming Fixtures:** All outdoor light fixtures existing and fully installed prior to the effective date of this chapter are nonconforming indefinitely; provided, however, that no change in use, replacement, structural alteration, or restoration (after abandonment of outdoor light fixtures) shall be made unless it thereafter conforms to the provisions of this chapter.

B. **Governmental Facilities:** Those facilities and lands owned, operated or protected by the U.S. federal government, the State of Arizona, and Maricopa County ~~and the Town~~ are exempted from all requirements of this chapter. Voluntary compliance with the intent of this chapter at those facilities is urged.

C. **Special Exemption:** The Zoning Administrator may grant a special exemption from the requirements of Section 8.02 only upon a written finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.

D. **Utility Exemption:** Utility companies entering into a duly approved contract with the Town of Fountain Hills in which they agree to comply with the provisions of these regulations, shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures.

E. **Temporary Exemptions:**

1. Request: Any individual may submit a written request (on a form approved by the Zoning Administrator) for a temporary exemption to the requirements of this chapter, such exemption to be valid for 30 days, renewable at the discretion of the Zoning Administrator.

2. The request for temporary exemption(s) shall provide:

   a. Specific exemptions(s) requested.

   b. Type and use of outdoor light fixture for which exemption is sought.

   c. Duration of the requested exemption.

   d. Type of lamp(s) and calculated lumens.

   e. Total wattage of lamp(s).

   f. Proposed location.

   g. Previous temporary exemptions, if any.

   h. Physical size of outdoor light fixture and type of shielding to be provided.

3. In addition to the above data, the Zoning Administrator may request any additional information, which would assist in evaluating the request.

4. The zoning administrator shall make a decision on the application and shall notify the applicant of the decision within 10 days of receipt of a complete application. The exemption shall be granted upon a determination that the type and use of the outdoor light fixture is the for the shortest period of time and the minimum lumens needed for the intended purpose and shall not be detrimental to persons residing or businesses operating within a reasonable distance from the use location.

F. **Special Events:** Events that are approved through the special event permit, special use permit, temporary use permit, or administrative use permit processes may include specified exemptions from this chapter for the duration of the event, but only if they satisfy the criteria set forth above in subsection (E)(4).

Section 8.05 Procedures for Compliance

A. **Application:**

1. Any individual applying for a building permit or use permit who intends to install outdoor light fixtures shall, as a part of the permit application, submit evidence that the proposed light fixtures will comply with this chapter.

2. All other individuals intending to install outdoor landscape lighting or decorative lighting consisting of light fixtures under 375 lumens are exempt from the requirements of this section.

B. **Contents of Application:** The application for building permit or use permit shall contain, but shall not necessarily be limited to the following, all or a portion of which may be part of or in addition to the information required elsewhere in this Zoning Ordinance.

1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, etc.

2. Description of the illuminating devices, fixtures, lamps, supports, etc. shall include at least the initial lumen output, shielding planned, and manufacturer's catalog cuts, and drawings (including Sections where required). Additional information may be required, as deemed necessary by the zoning administrator.

3. If an applicant desires to use an outdoor light fixture that is different from what is in the application, the applicant shall submit the requested change to the zoning administrator with adequate information to allow a determination in compliance with this chapter.

The above required plans and descriptions shall be sufficiently complete to enable the reviewing department to readily determine compliance with the requirements of this chapter. If such plans and descriptions do not readily enable this determination, the applicant shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

Robert 'Bob' Rodgers

From:	John Barentine [john@darksky.org]
Sent:	Wednesday, September 21, 2016 3:32 PM
To:	Robert 'Bob' Rodgers
Cc:	Nancy Bill
Subject:	Review of proposed changes to FH lighting code
Attachments:	IDSC_Guidelines_Oct2014.pdf; ATT00001.htm; image002.jpg; ATT00002.htm

Hi Bob,

As promised, I've reviewed the proposed changes to the code that Nancy Bill sent me on 13th July (file name: CODE - ZO Outdoor Lighting Exh to Ord 6-15-16.pdf) and compared them against the requirements for IDA International Dark Sky Communities (2014 version, attached here as a PDF). The new proposal is definitely an improvement over the first iteration of the code I reviewed in May 2015. However, we're still short some needed provisions.

Here are the specific requirements from the guidelines document (in *italics*), followed by what I understand to be the extent to which each is (or isn't) addressed in the proposed code changes (in plain text). My recommendations are based on what I feel will be acceptable to the IDA Dark Sky Places Committee.

Minimum Requirements For All Communities: A quality comprehensive lighting code like the IDA/IES Model Lighting Ordinance (MLO) with the following minimum standards (more on developing a lighting code and guidelines may be found on our website http://www.darksky.org/outdoorlighting/mlo):

• *i) Fully-shielded or full-cutoff standard for all lighting fixtures over 3000 lumens initial lamp output (or equivalent wattages), AND;*

This is addressed in §8.02(A)(1): "ALL OUTDOOR LIGHT FIXTURES WITH LIGHT OUTPUT GREATER THAN 2250 INITIAL LUMENS SHALL BE FULLY SHIELDED. FIXTURES WITH LIGHT OUTPUT RANGES FROM 1125 TO 2250 INITIAL LUMENS SHALL BE AT LEAST PARTIALLY SHIELDED."

Recommendation: NO CHANGES

• *ii) Restrictions on total amount of unshielded lighting, such as a limit on lumens per acre or total site lumens in unshielded fixtures (or equivalent wattages), AND;*

Assuming, per our phone conversation on 9/19/16, that the proposed lumen density caps in §8.02(D) will not be enacted by Council, this requirement is partially addressed in §8.02(C): "The combined outdoor unshielded lighting shall not exceed 1125 LUMENS within a 25-foot radius after 11:00 p.m." Assuming contiguity of adjacent 25-foot-radius circles, I calculate:

A circle of radius 25 feet has an area of 1963.5 SF
1125 lumens / 1963.5 SF = 0.573 lumens/SF
1 acre = 43,560 SF
So, this establishes a limit equivalent to 0.573 lm/SF * 43,560 SF = 24,960 lumens/acre

That's a reasonable number. However, I see two problems with this provision:

1. The per acre limit on unshielded lumens is applied in the code only to "Outdoor Building or Landscaping Illumination", and
2. The restriction applies only "after 11pm".

Recommendation: The unshielded lumens per SF limit should apply to all lighting, regardless of application or land use zone, and should apply dusk to dawn. I would therefore move the language about "1125 lumens within a 25-foot radius" to a separate section, such that it applies to all lighting in all situations, and remove "after 11:00 p.m."

• *iii) A policy to address over-lighting, such as energy density caps, lumens/acre caps, or maximum illuminance specifications, AND;*

If the proposed lumen density caps in §8.02(D) are not enacted, then the code does not address this at all.

Recommendation: Adopt the proposed provisions in §8.02(D)(2) or something substantially similar that specifically restricts total (shielded + unshielded) lighting density.

• *iv) A provision that clearly: (1) indicates where, when, and under what circumstances new public outdoor lighting (street lighting and lighting on other public property and rights-of-way) is warranted and will be permitted, and (2) requires that adaptive controls and curfews be employed in all future installations of public outdoor lighting.*

The proposed code changes do not address either of the above. Language that meets these requirememtns was suggested in the redline version I produced in July 2015 (§8.03(E), "Municipally Owned Lighting").

Recommendation: Adopt the July 2015 suggested language or something substantially similar.

Please let me know if you have any questions about any of the above items. Thanks.

Best regards,

John

INTERNATIONAL DARK-SKY ASSOCIATION

3223 N first Ave - Tucson Arizona 85719 - 520-293-3198 - www.darksky.org

TO PRESERVE AND PROTECT THE NIGHTTIME ENVIRONMENT AND OUR HERITAGE OF DARK SKIES THROUGH ENVIRONMENTALLY RESPONSIBLE OUTDOOR LIGHTING

DARK SKY COMMUNITY

www.darksky.org

International Dark-Sky Association Dark Sky Community Guidelines

October 2014

TABLE OF CONTENTS

Table of Contents 1

Definition of an IDA Dark Sky Community 2

Goals for IDA Dark Sky Community Creation 2

Benefits 2

Eligibility (All Must be Met) 2

Minimum Requirements For All Communities 3

Provisional Status 4

Guidelines on the DSC Process 5

- **Nomination** 5
- **DSC Application Process** 5
  - **Steps for Applicant** 5
  - **To be Included in DSC Submission** 6
- **IDA Review Process** 6
  - **Reassessment of DSC Designations** 6

DEFINITION OF AN IDA DARK SKY COMMUNITY

An IDA Dark Sky Community (DSC) is a town, city, or municipality that has shown exceptional dedication to the preservation of the night sky through the implementation and enforcement of quality lighting codes, dark sky education, and citizen support of dark skies.

GOALS FOR IDA DARK SKY COMMUNITY CREATION

- To identify communities with exceptional commitment to and success in pursuing dark sky preservation and restoration, and their promotion of quality outdoor lighting
- To promote ecotourism
- To promote protection of human health, nocturnal habitats, public enjoyment of the night sky and its heritage, and/or areas ideal for professional and amateur astronomy;
- To provide local, national, and international recognition for such communities
- To promote the ideals of International Dark-Sky Association (IDA) by encouraging communities to identify dark skies as a valuable community asset and goal

BENEFITS

Achieving this designation brings recognition of the efforts made by the Community council, the local government authorities (police department, planning and zoning, etc.), the citizens, and any other public and private organization to protect the night sky and the environment dependent on it. This designation will enhance awareness of dark sky matters to all residents and visitors of the Community.

Designation as an DSC entitles the Community to display the IDA Dark Sky Community logo in official publications, promotions, signs at the entrance or within the Community, and retain the use of this logo by other groups within the Community when identifying the area itself (i.e. a Community can say "Flagstaff, the world's first IDA Dark Sky Community" or in other words to the same effect, for example, an organization within the Community can say "located in Star City, an IDA Dark Sky Community"). IDA will maintain a web page identifying and describing all DSCs available on www.darksky.org.

ELIGIBILITY

Community must have some type of legal organization that is officially recognized by outside groups. This can be in the form of a town, city, municipality, or other legally organized community (such as a urban neighborhoods and subdivisions).

MINIMUM REQUIREMENTS FOR ALL COMMUNITIES

A) A quality comprehensive lighting code like the IDA/IES Model Lighting Ordinance (MLO) with the following minimum standards (more on developing a lighting code and guidelines may be found on our website http://www.darksky.org/outdoorlighting/mlo):

   i) Fully-shielded or full-cutoff standard for all lighting fixtures over 3000 lumens initial lamp output (or equivalent wattages), AND;

   ii) Restrictions on total amount of unshielded lighting, such as a limit on lumens per acre or total site lumens in unshielded fixtures (or equivalent wattages), AND;

   iii) A policy to address over-lighting, such as energy density caps, lumens/acre caps, or maximum illuminance specifications, AND;

   iv) A provision that clearly: (1) indicates where, when, and under what circumstances new public outdoor lighting (street lighting and lighting on other public property and rights-of-way) is warranted and will be permitted, and (2) requires that adaptive controls and curfews be employed in all future installations of public outdoor lighting.

B) Community commitment to dark skies and quality lighting as shown by:

   i) City owned lighting conforming with, or committed to conforming with, the lighting code (if the latter, a published plan with a timeline for completion in no more than 5 years), AND;

   ii) Municipal support of dark skies and good lighting as indicated through city publications, flyers, public service announcements, funding of lighting upgrades, etc.

C) Broad Support for dark skies from a wide range of community organizations such as:

   i) Chamber of Commerce

   ii) Local electrical utility

   iii) Local IDA Chapter

   iv) Lighting retailers

   v) Home Owners Association

   vi) Business Improvement Associations

   vii) Others

D) Community commitment to dark skies and education as shown by at least one of the following:

   i) Planning and execution of at least two community dark sky awareness events per year. This may be organized through a local astronomy club, municipality, school, etc. AND/OR;

ii) Inclusion of dark sky awareness documents (IDA brochures or Community-created brochures) with other Community informational documents for residents and visitors, AND/OR;

iii) Inclusion of dark sky education in Community schools and curriculum.

E) Success in light pollution control. At least one of the following conditions must be demonstrated:

i) Examples of a minimum of ten projects built under the lighting code, demonstrating effective application of the local lighting code, AND/OR;

ii) Alternative demonstration of success in light pollution control, to be discussed with IDA for compliance.

F) A sky brightness measurement program must be maintained either by the Community or by another public or private organization (university, research center, IDA chapter, astronomy club, etc.) to follow the evolution of light pollution in the DSC.

G) Designation is permanent, but is subject to regular review by IDA and possible revocation if minimum requirements are not maintained. More details may be found in the "Reassessment of DSC designation" section.

H) Periodic checks, through the submission of the annual report due October 1st, will be preformed to ensure that minimum standards and objectives of the program are being upheld and adequate progress is being made. This report is a short 1 to 2-page synopsis of the Community's activities and initiatives throughout the last year. The Borrego Springs, CA report is included on the website for reference www.darksky.org/communities.

PROVISIONAL STATUS

- In some cases, a Community interested in the program may lack all of the resources required to achieve a designation outright. If resource unavailability otherwise hinders the progress of a Community's application, that Community may apply for and be granted Provisional status at the discretion of the IDA Board of Directors. Provisional status recognizes the Community's ongoing work to become an IDA Dark Sky Community and is intended as a leverage point to successfully enable actions such as lighting upgrades/retrofits and policy changes.
- Provisional status expires after three (3) years. At any time before the end of this period, a Community may reapply for full status. Material submitted for the removal of provisional status may be an addendum to the initial application as long as the material includes a current assessment of the goals, outreach efforts, and lighting policy listed in the original application and clearly demonstrates that any program requirements left unmet at receipt of the Provisional status have been satisfied.
- To be considered for a provisional status, send a nomination package that includes the following information:
  - Documented intent to create and support an IDA Dark Sky Community;

- A description of the circumstances that currently prevent the Community from meeting the minimum Dark Sky Community requirements; and
- An action plan describing steps the aspiring Community will take to meet all program requirements in the specified Provisional status period

GUIDELINES ON THE DSC PROCESS

NOMINATION

The nomination may be initiated by an IDA qualified nominator who has personally reviewed a Community's outdoor lighting and commitment to night sky preservation. To become an IDA qualified nominator you must be an IDA member and be approved by the IDA Dark Sky Places manager. The nomination may be a joint effort between Community and the qualified nominator. Nominators are encouraged to correspond with IDA staff and the Community throughout this process—from first consideration of a DSC through the final submission package.

DSC APPLICATION PROCESS

STEPS FOR APPLICANT

A) Initial contact with IDA by phone or email to discuss the process and receive recommendations followed by continued contact to update IDA staff on progress and receive continued recommendations;

B) A formal point of contact (POC) person is designated and their phone, address and email information is forwarded to IDA staff. Before and after designation, any changes to this POC, or their information, must be communicated to IDA in order to ensure accurate communication at all times;

C) Official supporting letter for the nomination from elected representatives of the Community, such as the mayor and/or council of a municipality. Any additional letters of support from organizations, clubs, groups, universities, etc.;

D) Upon completion, the Community sends the application to IDA staff for review of the document. IDA staff confirms that the application is complete and ready for submission;

E) Completed application packet in PDF and/or MS Word .doc format sent electronically to International Dark Sky Places committee (DSPC) by IDA staff for review.

F) Submit in plenty of time for IDA staff to review and prepare your application to make the bi-monthly deadline that you prefer, find the deadlines at http://www.darksky.org/idsp. Requests to rush applications will NOT be accepted; meaning that planning ahead is essential if the Community is planning to meet a deadline.

TO BE INCLUDED IN DSC SUBMISSION

A) Map of Community and factual information, i.e. population, number of schools, etc.

B) Letter of nomination support by IDA qualified nominator and elected representatives of the Community such as the mayor and/or council.

C) The Community's lighting code and guidelines must meet the minimum requirements as stated in the minimum requirements section.

D) Documentation of examples of Community support and projects.

E) Proposed alternative wording for a DSC (e.g. Dark Sky Village, Starry Sky City, etc.), if desired.

F) An outline of a completed application is available and may be used upon request.

IDA REVIEW PROCESS

A) Applications are sent to the committee on a bi-monthly basis.

B) Before the Community's final application is submitted it is highly recommended that the Community be in regular conversation with IDA staff to perfect the application before the next application deadline. Applications not ready for submission by the deadline for committee consideration will be considered at the next committee meeting.

C) IDA staff forwards application to Dark Sky Places Committee for review at the deadline.

D) Approval of application by DSPC is by a 2/3-majority vote, or denial with reasons and recommendations. The DSPC committee may consider the applications for up to two months before a decision is released to the applicant. If approved the location will be notified and the program manager will organize a press release with the location during a 10-day waiting period during which the Board of Directors will have the formal right to veto should they perceive a problem with the application. The Community has the right to choose when the press release is made public but must organize the announcement to be made at the same time as the IDA press release unless otherwise discussed and agreed upon by both parties.

E) If approved the Community is awarded the DSC designation and listed along with their application on the IDA website. By submitting the application the Community agrees to have the application posted to the website unless otherwise stated;

F) If denied, a letter is sent to applicant outlining elements of the application that need improvement and specific recommendations for ways to remedy them. Applications can be resubmitted for future consideration after remediation is complete.

G) IDA realizes that certain circumstances surrounding a DSC application may cause some potential authors of letters of support (or opposition) to feel uneasy about publicly declaring their opinions about the IDA designation. In the interest of providing the Dark Sky Places Committee with as full a picture of Community sentiment about applications as possible, it is possible for some letters to be suppressed from online publication if it is felt that making the letters publicly available will subject their authors to retaliation or harassment. A prospective DSC seeking this protection for letter writers must make a formal written request to that effect. The Program Manager must approve

suppression of publication of any part of an application. Note that suppression of online publication does not prevent either the Committee or the IDA Board of Directors from reading all submitted letters.

REASSESSMENT OF DSC DESIGNATIONS

To ensure that Communities continue to be exemplary in their protection and restoration of natural lightscapes, IDA will periodically reevaluate each site in the Dark Sky Places Program. This is done to confirm that the Community continues to meet the minimum requirements and is making adequate progress toward LMP compliance goals outlined in this document.

To this end, the Community will submit an annual report to IDA by October 1st detailing activities and progress towards meeting DSC requirements during the previous twelve months. The report should include dates and brief descriptions of any interpretive events, lighting retrofit projects, outreach efforts, etc. Samples of printed materials and press articles should also be included. The annual report should not require a lot of time to produce, as it should be a compilation of information generated during the year. Electronic submission of the report and supporting documentation is required in PDF or Microsoft Word format. If the annual report is not sent in a timely fashion, IDA may suspend the site's DSC status until the annual reporting requirement has been met (see the following section).

Investigation and Due Process

A DSC designation is intended to represent the beginning of an ongoing relationship between the Community and IDA to our mutual benefit. IDA will periodically review the nature of that relationship in the required annual reports as described in the previous section. From time to time, IDA also receives comments from visitors to Communities that raise concerns about the veracity and timeliness of information provided to IDA by site administrators. IDA may, at its discretion, investigate claims in which it is alleged that DSCs are not living up to commitments made to IDA and the public in their applications to the Program. This section details the IDA procedure for carrying out such investigations, and the rights of DSCs in such matters.

An allegation of impropriety concerning any of the elements of participation in the Program outlined in this document is subject to IDA investigation and potential remedial action including temporary suspension and/or permanent revocation of the DSC designation. IDA staff shall perform due diligence in gathering facts concerning such allegations it deems credible, and will prepare a report of its findings for consideration by the DSPC. The DSPC commits to weighing the evidence fairly and impartially, and to seek to resolve disputes whenever possible through dialog. A Community subject to an investigation shall be notified in a timely manner and solicited for evidence contrary to the specifics of the allegation at hand. The resolution manner of dialog shall be emphasized from the beginning, and the Community will be given an opportunity to correct any deficiencies with regard to the Program guidelines established by the IDA investigation within a reasonable time period to be prescribed by the DSPC.

Failure to achieve consensus through these means risks a DSPC recommendation for suspension or revocation of the DSC designation. If made, such a recommendation will be forwarded to the IDA Board of Directors for formal ratification before coming into force. The Board's decision on any disciplinary matters involving a DSC shall be considered definitive and binding.

Any DSC so investigated has the right to review the allegations against it and all factual information collected by IDA pertinent to the allegations.

Reinstatement Following Suspension

If the DSPC recommends a suspension of a Community's IDA designation and the Board ratifies the suspension, the Community administration shall be immediately notified. The status of a suspended DSC shall be changed to "Provisional" in all IDA communications until the designation is reinstated or revoked; however, the process of obtaining reinstatement of a designation is not the same as that outlined in the "Provisional Status" section of these guidelines.

To obtain reinstatement of a suspended designation, the DSC must provide evidence to the DSPC's satisfaction that the specific issues identified by the DSPC as grounds for the suspension have been corrected and that all Program guidelines are once again met. The DSPC will consider the evidence presented by the DSC and render a judgment to either

- Accept the reinstatement petition, OR
- Reject the petition and recommend revocation, OR
- Return the petition with further instructions and a defined deadline for a DSC response.

A suspension left unresolved after one (1) year from the date of the Board's assent to the suspension automatically becomes a permanent revocation. Revocation entails removal of the DSC from IDA's roll of approved Dark Sky Places, and from mention on the IDA website and in member and external communications. IDA reserves the right to take legal action against any former DSC whose designation is duly revoked but continues to use the IDA name/logo in advertising, communications, and/or signage.