

ARTICLE 12

Night Sky Protection

74-12-1. Short title.

This act [74-12-1 to 74-12-11 NMSA 1978] may be cited as the "Night Sky Protection Act".

History: Laws 1999, ch. 197, § 1.

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contains no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), is effective on June 18, 1999, 90 days after adjournment of the legislature.

Compiler's notes. — The Night Sky Protection Act was originally enacted by Laws 1999, ch. 197, §§ 1 to 10 and codified as 74-12-1 to 74-12-10 NMSA 1978. [Laws 2001, ch. 151, § 2](#) added a new section to the Night Sky Protection Act and has been codified as 74-12-11 NMSA 1978.

74-12-2. Purpose.

The purpose of the Night Sky Protection Act is to regulate outdoor night lighting fixtures to preserve and enhance the state's dark sky while promoting safety, conserving energy and preserving the environment for astronomy.

History: Laws 1999, ch. 197, § 2.

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective June 18, 1999, 90 days after adjournment of the legislature.

74-12-3. Definitions.

As used in the Night Sky Protection Act:

A. "outdoor lighting fixture" means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including searchlights, spotlights and floodlights, whether for architectural lighting, parking lot lighting, landscape lighting, billboards or street lighting; and

B. "shielded" means a fixture that is shielded in such a manner 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.

History: [Laws 1999, ch. 197, § 3.](#)

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective on June 18, 1999, 90 days after adjournment of the legislature.

74-12-4. Shielding of outdoor light fixtures.

All outdoor lighting fixtures installed after January 1, 2000 shall be shielded, except incandescent fixtures of one hundred fifty watts or less and other sources of seventy watts or less.

History: [Laws 1999, ch. 197, § 4.](#)

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective on June 18, 1999, 90 days after adjournment of the legislature.

74-12-5. Nonconforming light fixtures.

A. In addition to other exemptions provided in the Night Sky Protection Act, an outdoor lighting fixture not meeting these provisions shall be allowed, if the fixture is extinguished by an automatic shutoff device between the hours of 11:00 p.m. and sunrise.

B. No outdoor recreational facility, whether public or private, shall be illuminated after 11:00 p.m. except for a national or international tournament or to conclude any recreational or sporting event or other activity conducted, which is in progress prior to 11:00 p.m. at a ballpark, outdoor amphitheater, arena or similar facility.

History: [Laws 1999, ch. 197, § 5.](#)

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective on June 18, 1999, 90 days after adjournment of the legislature.

74-12-6. Use of mercury vapor lighting fixtures.

No new mercury vapor outdoor lighting fixtures shall be sold or installed after January 1, 2000.

History: [Laws 1999, ch. 197, § 6.](#)

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective on June 18, 1999, 90 days after adjournment of the legislature.

74-12-7. Exemptions.

A. The following are exempt from the requirements of the Night Sky Protection Act:

- (1) outdoor lighting fixtures on advertisement signs on interstates and federal primary highways;
- (2) outdoor lighting fixtures existing and legally installed prior to the effective date of the Night Sky Protection Act; however, when existing lighting fixtures become unrepairable, their replacements are subject to all the provisions of the Night Sky Protection Act;
- (3) navigational lighting systems at airports and other lighting necessary for aircraft safety; and
- (4) outdoor lighting fixtures that are necessary for worker safety at farms, ranches, dairies, feedlots or industrial, mining or oil and gas facilities.

B. The provisions of the Night Sky Protection Act are cumulative and supplemental and shall not apply within any county or municipality that, by ordinance or resolution, has adopted provisions restricting light pollution that are equal to or more stringent than the provisions of the Night Sky Protection Act.

History: [Laws 1999, ch. 197, § 7](#).

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective on June 18, 1999, 90 days after adjournment of the legislature.

74-12-8. Construction industries division; duties.

The construction industries division of the regulation and licensing department shall review the outdoor lighting provisions in the uniform building codes used in New Mexico and make recommendations for appropriate changes to comply with the provisions of the Night Sky Protection Act and shall permit and inspect, to the standards set forth in the Night Sky Protection Act, all construction of and on state-owned buildings that is subject to permit and inspection under the Construction Industries Licensing Act [Chapter 60, Article 13 NMSA 1978].

History: [Laws 1999, ch. 197, § 8](#); [2001, ch. 151, § 1](#).

ANNOTATIONS

The 2001 amendment, effective June 15, 2001, inserted the language beginning "and shall permit and inspect" at the end of the section.

74-12-9. Costs of replacement; recovery.

If public utilities are required pursuant to the provisions of the Night Sky Protection Act or by local government ordinances to accelerate replacement of lighting fixtures, the cost of such replacement shall be included in rates approved by the public regulation commission.

History: [Laws 1999, ch. 197, § 9.](#)

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective on June 18, 1999, 90 days after adjournment of the legislature.

74-12-10. Violations; penalty.

Any person, firm or corporation violating the provisions of the Night Sky Protection Act shall be punished as follows:

A. for a first offense, the offender may be issued a warning; and

B. for a second offense or offense that continues for thirty days from the date of the warning, twenty-five dollars (\$25.00) minus the replacement cost for each offending fixture.

History: [Laws 1999, ch. 197, § 10.](#)

ANNOTATIONS

Effective dates. — Laws 1999, ch. 197 contained no effective date provision, but, pursuant to [N.M. Const., art. IV, § 23](#), was effective on June 18, 1999, 90 days after adjournment of the legislature.

74-12-11. Enforcement.

In order to promote the purposes of the Night Sky Protection Act and to provide uniform minimum outdoor lighting standards throughout the state, the construction industries division of the regulation and licensing department shall enforce the Night Sky Protection Act as it pertains to public buildings subject to permit and inspection under the Construction Industries Licensing Act [Chapter 60, Article 13 NMSA 1978] and each political subdivision of the state shall fully enforce the provisions of the Night Sky Protection Act.

History: [Laws 2001, ch. 151, § 2](#); [§ 74-12-11 NMSA 1978](#), repealed and reenacted by [Laws 2009, ch. 79, § 1.](#)

ANNOTATIONS

Repeals and reenactments. — [Laws 2009, ch. 79, § 1](#) repealed former [74-12-11 NMSA 1978](#), relating to enforcement, and enacted a new [74-12-11 NMSA 1978](#), effective June 19, 2009.