AN ACT (Dark Skies)

RELATING TO THE ENVIRONMENT; ENACTING THE NIGHT SKY PROTECTION ACT PROVIDING A PENALTY. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE
This act may be cited as the “Night Sky Protection Act”

Section 2. PURPOSE
The purpose of the Night Sky Protection Act is to regulate outdoor night lighting fixtures to preserve and enhance the states dark sky while promoting safety, conserving energy and preserving the environment for astronomy.

Section 3. DEFINITIONS As used in the Night Sky Protection Act:

“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

“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.

Section 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.

Section 5. NONCONFORMING LIGHT FIXTURES
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.

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.

Section 6. USE OF MERCURY VAPOR LIGHTING FIXTURES
No new mercury vapor outdoor lighting fixtures shall be sold or installed after January 1, 2000.

Section 7. EXEMPTIONS
The following are exempt from the requirements of the Night Sky Protection Act:

Outdoor lighting fixtures on advertisement signs, on interstates and federal primary highways.

Outdoor lighting fixtures existing and legally installed prior to the effective date of the Night Sky Protection Act; however, when existing lighting fixtures become irreparable, their replacements are subject to all the provisions of the Night Sky Protection Act.

Navigational lighting systems at airports and other lighting necessary for aircraft safety.
Outdoor lighting fixtures that are necessary for worker safety at farms, ranches, dairies, feedlots, or industrial, mining or oil and gas facilities.

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

Section 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.

Section 9 COSTS OF REPLACEMENT - RECOVERY
If public utilities are required pursuant to the provisions of the Night sky Protection Act or by local government ordinance to accelerate replacement of lighting fixtures the cost of such replacement shall be included in rates approved by the public regulation commission.

Section 10. VIOLATIONS – PENALTY
Any person, firm, or corporation violating the provisions of the Night Sky Protection Act shall be punished as follows:

For the first offense, the offender may be issued a warning.

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

Section 11. ENFORCEMENT
In the exercise of any of the powers and duties conferred by law, a governing body of a political subdivision of the state shall enforce the provisions of the Night Sky Protection Act.