

**CITY OF SANIBEL  
LEGAL DEPARTMENT**

**MEMORANDUM**



**TO: Members of City Council**

**FROM: Kenneth B. Cuyler *KBC***  
**City Attorney**

**DATE: January 28, 2015**

**RE: Proposed revisions to the Dark Sky Ordinance to meet the intent  
and recommendations previously discussed**

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Ordinance No. 15-004 is a proposed Ordinance amending the Dark Sky Code provisions and is scheduled for first reading on February 3, 2015 and will be scheduled for second reading and public hearing on March 3, 2015. During the continuing review process of the Ordinance, it was determined that several items in the currently drafted Ordinance are not in accordance with the prior discussions and direction of the City Council and the previous presentations and recommendations by the Vice Mayor to the City Council.

The purpose of this Memorandum is to detail two proposed revisions and explain the purpose and effect of the provisions.

A. The Vice Mayor had previously recommended to City Council and City Council had previously directed that the draft Ordinance “grandfather” certain light fixtures which are located, for example, on a porch under a porch roof or in a garage under the garage roof. The recommendation was that since such light did not shine directly upwards and often provides lighting for safety, that such lights be “grandfathered” until such time as the fixture is relocated or replaced.

There is a concern that under the new definition of “uplighting”, the light of such fixtures could go above the 90 degree plane measured at the bottom of the light fixture, even though the light could not go directly upward because of the roof, eaves, overhang, etc.

Therefore, it is recommended that this matter be clarified by adding the additional sentence cited below as part of Section 126-997(e) entitled “existing nonconforming luminaires.” The new sentence will read as follows:

“Lights that are properly installed within or under an architectural space or feature (such as a porch roof, roof overhang, eaves or similar architectural feature) shall be permitted to remain after January 1, 2018 until such time as they are either replaced or relocated (and such lights shall not be considered uplighting even where such architectural feature is not the functional equivalent of a full cutoff feature).”

B. With respect to the second item, the prior discussions were clear that a pole light should be “grandfathered” as long as it had a top or cover on the fixture. All glass fixtures or globe fixtures on a pole without any top or cover of any sort would be prohibited as of January 1, 2018. Under the new definitions, it is not clear that a covered fixture would be “grandfathered” because it is not entirely shielded.

Therefore, it is recommended that a new Subsection (4) be added under the same Section 126-997(e) entitled “Existing nonconforming luminaires.”

- (4) Notwithstanding the above provisions of this section, a pole light where the fixture has an opaque cover, cap or top constructed as part of the fixture assembly shall be permitted to remain after January 1, 2018 until such time as it is replaced or relocated.

Attached to this Memorandum are several relevant pages of the draft Dark Sky Ordinance that show where the proposed revisions discussed above would be inserted into the Ordinance. The proposed revisions are highlighted in green to facilitate your review.

If you have any questions regarding the above, please let me know.

KBC/jg

Cc: Judith A. Zimomra, City Manager  
Pamela Smith, City Clerk

emergency services, as well as all vehicular luminaires.

- (2) Lighting for public streets, roads, and rights-of-way, except that such lighting shall be reviewed in accordance with section 78-7, applying the policies set forth in Ordinance No. 00-10, as well as general policy 9 in the Plan for Scenic Preservation of the Sanibel Plan: "In order to maintain the dark sky of this nonurban community, minimize outdoor lighting."
- (3) All hazard warning luminaires required by federal or state regulatory agencies are exempt from the requirements of this subsection. Unless otherwise mandated, all luminaires used must be yellow/amber and must be shown to be as close as possible to the federally or state required minimum lumen output requirement for the specific task.
- (4) Holiday lighting, as specified in subsection 106-3(13).
- (5) The Sanibel Lighthouse light.

(6) Swimming pool lights located below the water surface within the pool shell. For properties within the Bay Beach, Gulf Beach, and Gulf Beach Ridge zones, swimming pool lighting directly or indirectly visible from the beach must also comply with marine turtle lighting standards in Section 126-1000-1001.

(7) Landscaping and pathway lighting, three (3) feet or less in height. Solar or other low wattage landscape and pathway lighting shall not project light skyward; full cutoff fixtures are encouraged, but not required. Landscaping and pathway lighting for properties lying within the Bay Beach, Gulf Beach, and Gulf Beach Ridge zones must also comply with marine turtle lighting standards in Sections 126-1000-1001.

(e) ~~Existing nonconforming luminaires.~~ The following categories of outdoor lights must be brought into compliance with the standards of this section in accordance with the timetable provided:

(1) Any lawfully existing luminaire, with the exception of unshielded pole lighting ~~except as described in Subsection 4 below~~ and uplighting, that currently exists at the time of this ordinance that is not in conformance with the standards set forth in Subsection 126-997 (c) shall be permitted to remain until after January 1, 2018 until such time as they are either replaced or relocated. Lights that are properly installed within or under an architectural space or feature (such as a porch roof, roof overhang, eave or similar architectural feature) shall be permitted to remain after January 1, 2018 until such time as they are either replaced or relocated (and such lights shall not be considered uplighting even where such architectural feature is not the functional equivalent of a full cutoff feature). Upon the effective date of Ordinance No. 00-10, all luminaires that direct light toward streets, bicycle paths, or parking lots that cause glare to motorists or cyclists shall be either shielded or redirected so that the luminaires do not continue to cause a potential hazard.

(2) All luminaires, not identified in paragraph (1) above, shall be permitted to remain until January 1, 2018. By this date, all outdoor lights shall be brought into compliance with the standards of this section.

~~However, a~~ Any luminaire that replaces a lawfully existing luminaire, or any lawfully existing luminaire that is moved, must meet the standards of ~~this section~~ Subsection 126-997(c) at the time of its replacement or relocation.

(3) All lawfully existing unshielded pole-mounted lighting ~~(except as described in Subsection (4) below)~~, and uplighting shall be strictly prohibited as of January 1, 2018.

(4) Notwithstanding the above provisions of this section, a pole light where the fixture has an opaque cover, cap or top constructed as part of the fixture assembly shall be permitted to remain after January 1, 2018 until such time as it is replaced or relocated.