



INTER-OFFICE COMMUNICATION

TO: Community Development Committee
FROM: Planning and Development Services Staff
DATE: October 9, 2013
SUBJECT: Pending Referral - Lighting Issues (Legistar Item # 121109)

An amendment to the City's lighting regulations was adopted by the City Commission on December 20, 2012. Since adoption, eleven petitions have been processed very successfully with staff taking time to walk through the new revisions with applicants. Only three petitions have been approved with waivers from aspects of the lighting ordinance.

The Community Development Committee (CDC) convened on August 14, 2013 and heard presentations from GRU and Planning and comments from the general public. The CDC requested that Planning staff address the following issues:

1. The thresholds that require compliance with the lighting ordinance;
2. The list of submittal requirements;
3. The exemption or waiver process; and
4. Potential to implement modifications to address issues of concern with the current ordinance.

The following is a response to the CDC's request on August 14, 2013.

1. The thresholds that require compliance with the lighting ordinance

Section 30-344 (b) of the ordinance stipulates that the ordinance is applicable to "All outdoor lighting uses within the City including, but not limited to, multi-family residential, commercial, industrial, public and private recreation and institutional uses, architectural and landscaping lighting."

This essentially requires that all outdoor lighting associated with development review or any electrical installation that requires a permit will have to comply with the regulations listed in Section 30-344. However, the ordinance only requires that lighting be installed for safety purposes and when a development operates or is open to the public after sunset. A development is also required to fully comply with the ordinance when 50% or more of existing luminaires are replaced or when the number of luminaires on a property is increased by 50% or more.

2. The list of submittal requirements

The submission requirements are listed as Sec. 30-344 (f). They are directly related to the "Purpose and Intent" of the ordinance as reflected in Sec. 30-344 (a). The list focuses on the key elements of the ordinance and is an attempt to facilitate submission of an application that addresses the required elements. The list also assists the reviewer in establishing that an application is in compliance with the regulations. The

submittal requirements are a means of transferring the written requirements to a map or graphical format that is more easily understood by applicant, reviewer and advisory board; thereby facilitating easier determination of approval.

Experience has determined that applicants prefer a predefined list of requirements generated by the reviewer instead of trying to decipher how to best present materials to prove compliance. Applicants for development plan review already having most of the site plan requirements simply need to provide another drawing sheet with information specific to the lighting plan.

The submission requirements act as a basis for providing competent substantial evidence and provide a common basis for presentation of materials in determining compliance. It also helps to ensure that applicants are not required to provide arbitrary elements with their application. The list establishes predictability, consistency and equitability in what is required of applicants

Finally, the list of submittal requirements is application specific in that some applications may not be required to provide the full list of items.

3. **The exemption or waiver process**

The waiver process is established to provide relief from elements of compliance where there are unique and unusual circumstances related to the subject development. The initial thrust to modify the former ordinance was based on its inability to address unique situations and site characteristics. While the ordinance has a fixed list of criteria, ground situations and characteristics vary from one site to another and from one business type to another. The ability to consider waivers makes the ordinance more realistic to real life situations.

Waivers can be issued at both a staff and advisory board level subject to a list of criteria.

4. **Potential to implement modifications to address issues of concern with the current ordinance.**

As is the case in similar situations, administrative determinations and language interpretation goes a long way in addressing ordinance implementation issues. In implementing the current ordinance, staff has already made such determinations and interpretations.

The waiver provision is another tool available to address areas of concern where an applicant can demonstrate compliance with the ordinance by providing an alternative track to meet the objectives and intent of the ordinance.

Since the ordinance is adopted, it must be implemented accordingly and we cannot ignore the requirements. However, staff has determined that it is feasible to address the issues raised through minor ordinance modification and to re-address the issues related to LED lighting. The ordinance can be amended to readdress the use of LED as follows:

To the extent feasible, luminaires shall consist of lighting at least as energy and resource efficient as high performance LED lighting.

The following is a list of concerns presented to staff about the current ordinance.

Subsequent to adoption by the City Commission the revised Ordinance has been applied in several instances resulting in project approval. The reviews raised the following concerns:

1. Lighting provided shall be as energy and resource efficient as high performance LED lighting.
2. A requirement to provide control devices that shall automatically extinguished outdoor lighting when sufficient daylight is available
3. The implementation of the ordinance as it relates to repairs, upgrades and maintenance of existing lighting is another area of concern.
4. An apparent conflict in meeting the requirements for building and vehicular use area lighting when they are adjacent to each other
5. The ability of GRU to provide rental lighting to customers due the requirement for comparable high performance LED lighting.