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Council Action and Executive Summary

Item # 19 **Ordinance/Resolution#** 2583 **Council District:** ALL

For Meeting of August 2, 2010
(Adoption Date)

TITLE: AN ORDINANCE AMENDING SECTION 39-23 (D) GRANDFATHERING AND SECTION 39-24 VARIANCES OF THE OUTDOOR LIGHTING ORDINANCE, CHAPTER 39 OF THE LAS CRUCES MUNICIPAL CODE. THE AMENDMENTS ADJUST THE DATE FOR COMPLIANCE WITH THE ORDINANCE TO AUGUST 7, 2012 AND CLARIFY THAT VARIANCES TO THE OUTDOOR LIGHTING ORDINANCE ARE HEARD BY THE PLANNING AND ZONING COMMISSION IN LIEU OF THE BOARD OF ADJUSTMENT WHICH WAS ABOLISHED IN 2006. SUBMITTED BY THE CITY OF LAS CRUCES.

PURPOSE(S) OF ACTION: To amend the City of Las Cruces Municipal Code, Chapter 39 – Outdoor Lighting Ordinance to address the deadline for City-wide compliance with the Ordinance and clarify the variance process.

Name of Drafter: Robert Kyle		Department: Community Development		Phone: 528-3106	
Department	**Signature**	**Phone**	**Department**	**Signature**	**Phone**
Community Development		528-3066	Budget		541-2107
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

Pursuant to direction received from the City Council during its June 9, 2010 work session on the Outdoor Lighting Ordinance, staff has prepared an amendment to the existing Outdoor Lighting Ordinance (Chapter 39 Las Cruces Municipal Code) to extend the deadline for compliance with the Ordinance for a period of two years, to expire on August 7, 2012. The current Ordinance required City-wide compliance ten years after the date of adoption which was on August 7, 2000. The existing Outdoor Lighting Ordinance is currently being revised and the proposed extension will provide for relief during the revision period. The issue of how non-conforming lighting will be treated is a topic that will be addressed in the revised Ordinance.

As staff was preparing the extension amendment it was realized that the procedure for variances outlined within the Ordinance was not consistent with action taken by the City Council in 2006 when the Board of Adjustment was eliminated and variance authority for numerous codes, including the Outdoor Lighting Ordinance, was transferred to the Planning and Zoning Commission. As such, staff has also made that amendment and included it in this packet clarifying the appropriate variance authority to be the Planning and Zoning Commission in lieu of the Board of Adjustment and referencing the appropriate Municipal Code sections related to the process.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Ordinance
2. Exhibit "A"- Article II Outdoor Lighting Ordinance with proposed amendments

OPTIONS / ALTERNATIVES:

1. Vote **YES** to approve the Ordinance. This action will amend the Outdoor Lighting Ordinance (Chapter 39, LCMC), to extend the date for compliance to August 7, 2012 and clarify the variance process and authority outlined in the ordinance.

2. Vote **NO** to deny the Ordinance. This action will not facilitate any amendment to the Outdoor Lighting Ordinance. Such action will result in all non-conforming lighting covered by the Ordinance being in violation of the Ordinance and significant code enforcement activities will have to be initiated to bring about compliance.

3. **Modify** the Ordinance and vote **YES** to approve the modified Ordinance. The Council may modify the Ordinance as deemed appropriate. Potential modifications could include shortening or lengthening the extension period or removing a deadline period at all and tying compliance provisions to whatever provisions are included within a revised ordinance.

4. Table/Postpone the Ordinance and direct staff accordingly.

ORDINANCE NO. 2583
COUNCIL BILL NO. 11-003

AN ORDINANCE AMENDING SECTION 39-23 (D) GRANDFATHERING AND SECTION 39-24 VARIANCES OF THE OUTDOOR LIGHTING ORDINANCE, CHAPTER 39 OF THE LAS CRUCES MUNICIPAL CODE. THE AMENDMENTS ADJUST THE DATE FOR COMPLIANCE WITH THE ORDINANCE TO AUGUST 7, 2012 AND CLARIFY THAT VARIANCES TO THE OUTDOOR LIGHTING ORDINANCE ARE HEARD BY THE PLANNING AND ZONING COMMISSION IN LIEU OF THE BOARD OF ADJUSTMENT WHICH WAS ABOLISHED IN 2006. SUBMITTED BY THE CITY OF LAS CRUCES.

The City Council is informed that:

WHEREAS, the City of Las Cruces Municipal Code, Chapter 39 – Outdoor Lighting Ordinance requires an amendment to extend the period of time for lighting to be brought into compliance with the provisions of the Ordinance; and

WHEREAS, an amendment is necessary to correct the variance process and outline the appropriate variance authority within the Ordinance.

NOW, THEREFORE, Be it ordained by the governing body of the City of Las Cruces:

(I)

THAT Section 39 of the City of Las Cruces Municipal Code is hereby amended as shown in Exhibit "A," attached hereto and made part of this Ordinance; and

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this_____ day of _____ 2010.

APPROVED:

(SEAL)

_____
Mayor

ATTEST:

_____
City Clerk

VOTE:
Mayor Miyagishima: ____
Councillor Silva: ____
Councillor Connor: ____
Councillor Pedroza: ____
Councillor Small: ____
Councillor Sorg: ____
Councillor Thomas: ____

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

_____
City Attorney

ARTICLE II. - PROVISIONS

Sec. 39-21. Non-permitted lighting.

(a) Newly installed fixtures which are not full-cutoff fixtures.

(b) Lighting which produces illumination In excess of 70 lumens per square foot at ground level.

(c) Lighting which presents a clear hazard to motorists, cyclists, or pedestrians.

(Ord. No. 1813, § I, 8-7-00)

Sec. 39-22. Exemptions and exceptions.

(a) Residential fixtures consisting of a single incandescent light having an output of less than 1,800 lumens or 100 watts.

(b) Floodlights and spotlight, provided that the total beam width is less than 110 degrees and the beam center is directed at least 65 degrees below the horizontal.

(c) Up lighting for billboards, signs, architectural illumination, provided that the total output is less than 5,400 initial lumens per property parcel and less than 1,800 initial lumens per fixture. Moreover, no illumination may project beyond the highest point of the structure.

(d) Seasonal decorative lighting consists of incandescent lamps in a temporary installation.

(e) Full cutoff street lighting which is part of a federal, state, or municipal installation.

(f) Specialized lighting necessary for safety, such as navigated or runway lighting of airports, or temporary lighting associated with emergency operations, road hazard warnings, etc.

(g) Lighting of sports facilities or stadiums prior to 11:00 p.m. Illumination after 11:00 p.m. is also permitted if it is necessary in order to conclude a recreational, sporting, or other scheduled activity which is in progress prior to that time.

(h) Internally illuminated and exposed neon signs, including neon used for decorative purposes. Internally illuminated signs must be constructed so that the top of the sign is constructed of metal or of suitable material that does not allow light penetration vertically, so as to ensure that light is not emitted directly towards the sky.

(Ord. No. 1813, § I, 8-7-00; Ord. No. 1836, § II, 11-6-00)

Sec. 39-23. Grandfathering.

(a) Existing lighting is exempt from the provision of this chapter except that replacement fixtures must be fully compliant.

(b) Adjustable lighting must be brought into compliance within 90 days.

(c) These grandfathering provisions do not apply to lighting on a property which ceases operations or is unoccupied for more than (12) months, or where $25,000 or more is spent on renovations or remodeling. These must be brought into full compliance before reoccupation or reuse.

(d) All existing lighting installations must be brought into compliance with the provisions of this chapter ~~within ten years of its effective date~~ **by August 7, 2012**.

(Ord. No. 1813, § I, 8-7-00

Sec. 39-24. Variances.

Variances defined as other exemptions from the requirement of this chapter, shall not be permitted unless specifically authorized by the ~~board of adjustment~~ **planning and zoning commission**, subject to appeal to the city council in accordance with section ~~38-11~~ **38-10 (L)** of ~~this~~ **the Las Cruces Municipal** Code.

Procedural requirements for variance requests shall be in compliance with section ~~38-11~~ **38-10** article II, ~~division 5, board of adjustment~~ **planning and zoning commission** and procedures for variances to the Municipal Code.

(Ord. No. 1813, § I, 8-7-00; Ord. No. 1929, §§ I, II, 8-5-02)