



Council Agenda Report

To: Mayor Grisanti and Honorable Members of the City Council

Prepared by: Richard Mollica, Planning Director

Approved by: Steve McClary, Interim City Manager

Date prepared: September 7, 2021 Meeting date: September 27, 2021

Subject: Initiate Amendments to the Dark Sky Ordinance

RECOMMENDED ACTION: 1) Adopt Resolution No. 21-54 initiating amendments to Malibu Municipal Code (MMC) Chapter 17.41 (Dark Sky Ordinance); and 2) Direct the Planning Commission to schedule a public hearing to consider amendments to MMC Chapter 17.41.

WORK PLAN: This item was included as Item #5h in the Adopted Work Plan for Fiscal Year 2021-2022.

FISCAL IMPACT: No fiscal impact is anticipated as a result of the recommended actions.

DISCUSSION: The City's Dark Sky Ordinance is contained in MMC Chapter 17.41. The ordinance was adopted by the City Council on May 29, 2018 and became effective on October 15, 2018. For existing legal nonconforming lighting, the ordinance established the following compliance deadlines:

1. Outdoor lighting at gas station properties - October 15, 2019
2. Outdoor lighting in commercial zoning districts - October 15, 2020
3. Outdoor lighting in residential and institutional zoning districts - October 15, 2021

In late 2019, staff began working with the owners of gas station properties, but this work, as well as the commercial enforcement and outreach were delayed due to the COVID-19 pandemic.

Below is an update of the progress made for the six gas stations located within the City:

21216 PCH (Mobil)

Staff requested revised plans in February 2021 and the applicant subsequently submitted revised plans on August 30, 2021. The plans show that light trespass will exceed the 0.25 foot-candle limit on the north side of the property, adjacent to Pacific Coast Highway (PCH). The applicant has been advised to revise plans to reduce trespass. Staff is currently waiting on revised plans from the applicant. Should the applicant elect to apply for a deviation request, the project would require a Planning Commission hearing. This application will be referred to a lighting engineer for review.

29145 Heather Cliff Road (ARCO) and 23387 PCH (Shell)

The applications are complete and waiting on consultation with a lighting engineer to ensure that the deviations requested for exceeding light trespass limits adjacent to street rights-of-way are warranted. If the lighting engineer cannot recommend alternatives to the deviation requests, Planning Commission hearings will be required.

30811 PCH (Chevron) and 26101 PCH (UNOCAL)

These applications are currently in plan check review with Building Safety; however, the applicant is facing challenges in complying with the light trespass requirements. These applications may be deferred to the lighting engineer for review.

23670 PCH (Chevron)

Code Enforcement staff contacted the owner in mid-August and was informed that the contractor would start installing the lights within the next week, however, due to backorders from the supplier, the new compliant lighting fixtures have not yet been received. Staff will monitor this project to ensure the installation is moving forward expeditiously. A final inspection is required to ensure the lights were installed according to the approved plan. A lighting engineer will be needed to ensure final compliance and to determine the project is complete.

The City is currently in discussion with Benya Burnett Consultancy regarding potentially entering into an agreement for less than \$24,000 for dark sky lighting consultant services. The City’s lighting consultant will review the pending gas station applications and render a recommendation prior to the issuance of a decision by the Planning Director or Planning Commission or issuance of electrical permits. Sufficient funding for this potential agreement is currently available in the Adopted Fiscal Year 2021-2022 Budget and no additional action by the City Council is required.

Proposed Zoning Text Amendment

Since the compliance deadlines have passed, staff is recommending the ordinance be amended to address challenges with implementation and, in particular, extension of the compliance deadlines as follows while the gas station applications are reviewed:

1. Outdoor lighting in commercial zoning districts - October 15, 2022
2. Outdoor lighting in residential and institutional zoning districts - October 15, 2023

Enforcement & Community Outreach

In addition, enforcement related to the Dark Sky Ordinance will need to be discussed as part of the Fiscal Year 2022-2023 budget work plan. Based on review of the ordinance and comments received, staff may obtain a firm or employee with the specific skill set necessary for field evaluations and necessary follow-up enforcement. Enforcement services will be separate from the plan check consulting and any community outreach programs.

Recommendation

Staff is recommending the following actions:

- 1) initiate a zoning text amendment to change the compliance dates for commercial and residential development; and
- 2) if it is the Council's wish, staff can schedule this amendment to the Dark Sky ordinance for discussion at a future Zoning Ordinance Revisions and Code Enforcement City Council Subcommittee meeting or the Council can provide direction at this meeting and staff will prepare a draft ordinance. Once the draft ordinance is complete, the amendments would be presented in a public hearing before the Planning Commission. Based on the Planning Commission's recommendation, the amendments would then be presented to the City Council to consider for adoption.

ATTACHMENT: Resolution No. 21-54

RESOLUTION NO. 21-54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING AMENDMENTS TO MALIBU MUNICIPAL CODE CHAPTER 17.41 (DARK SKY ORDINANCE)

The City Council of the City of Malibu does hereby find, order, and resolve as follows:

SECTION 1. Recitals.

A. On May 29, 2018, the City Council adopted Ordinance No. 434 amending Malibu Municipal Code (MMC) Title 17 (Zoning) to regulate outdoor lighting.

B. Ordinance No. 434 specified dates by which properties within commercial and residential zones must comply with outdoor lighting regulation; October 15, 2020 and 2021, respectively.

C. Due to the ongoing COVID-19 pandemic emergency and limited staff resources, enforcement of compliance with outdoor lighting regulations has been delayed and amending the MMC to update the compliance periods is recommended to allow time for compliance.

SECTION 2. Initiation.

Pursuant Malibu Municipal Code Chapter 17.74, the City Council hereby initiates an amendment to update the compliance periods for commercial and residential development included in MMC Chapter 17.41 (Malibu Dark Sky).

SECTION 3. Planning Commission Hearing.

The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with MMC Chapter 17.74. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify, or deny the proposed amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission.

SECTION 4. Certification.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this 27th day of September 2021.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney