



9450 SW Gemini Drive  
PMB 44671  
Beaverton, OR 97008

June 28, 2024

**BY EMAIL**

Andrea Smith, Interim City Manager  
Ogdensburg, New York  
asmith@ogdensburg.org

**Re: Notice of Dangerous Condition – LED Street Lights**

Dear Andrea Smith,

This letter serves to provide Constructive Notice of a dangerous condition(s) within the town of Ogdensburg. LED streetlights have been proven to impair vision and cognitive functioning, can cause non-epileptic and epileptic seizures, and can greatly increase the risk of disease. The US Food and Drug Administration has not vetted LED streetlights for photobiological, neurological, or psychological safety. LED streetlights are unregulated and create hazardous, dangerous, and discriminatory conditions.

The US Department of Energy states that LEDs are a “radically new technology” that emit a “directional” light with “unique characteristics”.<sup>1</sup> It is the directional, focused nature of LEDs and their unique characteristics that make LEDs unsuitable for most lighting applications because of the dangerous conditions and discriminatory barriers that LED lights create.

28 C.F.R. § 35.151(a)(1) states:

*Each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities, if the construction was commenced after January 26, 1992.<sup>2</sup>*

28 C.F.R. § 35.151(b)(1) states:

*Each facility or part of a facility altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by individuals with disabilities, if the alteration was commenced after January 26, 1992.*

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<sup>1</sup> [https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl\\_lessons-learned\\_2014.pdf](https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_lessons-learned_2014.pdf)

<sup>2</sup> <https://www.law.cornell.edu/cfr/text/28/35.151>

Here are a few reports of neurological, psychological, and physical injury caused by LED devices:

- Minnesota Department of Human Rights – LED RRFB – (<https://www.softlights.org/wp-content/uploads/2023/06/74059-6-15-2023-ECP-Memorandum-.pdf>)
- Seizure – LED RRFB - (<https://www.softlights.org/wp-content/uploads/2022/09/MA-Incident-Report.pdf>).
- Emergency Vehicle – Seizure Reaction / Panic Attack - (<https://www.softlights.org/wp-content/uploads/2021/09/Encounter-with-Emergency-Vehicle.pdf>)
- LED Incident Reports - (<https://www.softlights.org/led-incident-reports/>)
- NYSPSC Case 21-02623 Public Comments on LED streetlights – (<https://tinyurl.com/3b9farmy>)

The Soft Lights Foundation submitted a 19-page report to Henderson, Nevada which examines the hazards of LED streetlights and rebuts the false claims of the utility companies. (<https://www.softlights.org/wp-content/uploads/2024/04/LED-Streetlights-Henderson-NV.pdf>)

On May 24, 2024, the US Food and Drug Administration issued a decision to not publish performance standards for any LED product, despite the requirements of 21 U.S.C. 360ii. Thus, given the numerous reports of harm and discrimination caused by LED streetlights and the lack of regulation from the FDA, LED streetlights must be vetted by the town of Ogdensburg to ensure that the directional nature and unique characteristics of LED streetlights do not create a dangerous condition and that a constructed or altered area containing an LED streetlight, is readily accessible and usable by all individuals with disabilities, including, but not limited to, individuals with epilepsy, migraines, autism, EMS, and PTSD.

The town of Ogdensburg is now on notice that LED streetlights create dangerous and discriminatory conditions, and that the Ogdensburg has a Due Care obligation to eliminate existing dangerous conditions and to not create new dangerous and discriminatory conditions by installing LED streetlights.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

[mbaker@softlights.org](mailto:mbaker@softlights.org)