

Members of our town energy committee have proposed removal of some streetlights. What potential liability could result from this decision?

Municipalities use outdoor lighting for a number of purposes. Streetlights on highways enable effective visibility between drivers, pedestrians and the highway environment. Outdoor lighting in parking areas and other public places can increase residents' sense of security and may reduce property crimes like vandalism and theft.

This safety and security come at a cost. A 2008 study commissioned by the U.S. Department of Energy estimated that in 2007, stationary outdoor lighting consumed 178,300,000,000 kilowatt-hours of electricity in the United States. According to *USA Today*, the nation's streetlights consume electricity equivalent to 1.4 million homes and generate greenhouse gasses equal to two million cars. They also are a primary source of light pollution. Residents are concerned about the expense of streetlights, their efficiency and impact on the environment. Municipalities in many areas of the country, including Vermont, are considering turning off streetlights and other outdoor lights to save money and reduce environmental impacts.

Removing streetlights presents some difficult legal issues. Lights are usually installed for safety purposes – to illuminate a dangerous intersection, dim sidewalk or parking area. While there is no legal duty imposed on Vermont municipalities to install streetlights, caselaw from other states indicates once a streetlight is installed, a municipality may have a duty of reasonable care in the maintenance and operation of the light. On the other hand, the Vermont Supreme Court has recognized that maintaining and designing streets and street lighting are governmental functions to which sovereign immunity applies. In 2001, the Court held that the City of Rutland could not be sued by the mother of a girl struck and killed by a motorist while crossing the street. Regardless of the city's alleged negligence in failing to provide adequate street lighting at the crossing, the City was immune from suit under the sovereign immunity doctrine. *O'Connor v. City of Rutland*, 172 Vt. 570 (2001).

Regardless of potential liability, municipal officials should take a measured and reasoned approach when considering the removal of streetlights, and give due regard to residents' safety. The best approach would be to identify all of the municipality's streetlights and evaluate the usefulness of each light, considering its economic and environmental costs. From this study, the municipality can objectively evaluate which lights provide the greatest value to residents. Those lights with the lowest value might be considered for removal. In some the instances, changing the type of lamp or the design of the fixture may increase its usefulness and efficiency; also, using timers to reduce the hours when the streetlight is operating may be an option. Municipalities in some areas of the country have installed light-emitting diode (LED) streetlamps. Researchers at the University of Pittsburgh recently concluded that LED streetlights strike the best balance between brightness, affordability, and conservation when their life span from production to disposal is considered.

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