

The Charlevoix City Council met on Monday, December 16, 2024 with Mayor Lyle Gennett presiding. The following is an excerpt from the official records of said meeting.

Motion by Kalbfell, seconded by Hagen to approve ordinance 854 of 2024 as presented.

**CITY OF CHARLEVOIX
ORDINANCE NO. 854 of 2024**

AN ORDINANCE TO AMEND TITLE XV LAND USE, CHAPTER 153 PLANNING AND ZONING SECTIONS 153.172 AND 153.207(D)

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title XV Land Use, Chapter 153 Planning and Zoning Section 153.172 is hereby amended as follows:

153.172 Purpose and Intent. It is the purpose and intent of this Code to balance the goals of the City of Charlevoix's Master Plan to maintain its small-town character with the need to provide for safe lighting practices and to minimize light pollution for the enjoyment of Charlevoix's citizens and visitors.

A. The use of outdoor lighting is often necessary for adequate nighttime safety and utility, but common lighting practices can also interfere with other legitimate public concerns. Principles among these concerns are:

1. The degradation of the nighttime visual environment by production of unsightly and dangerous glare;
2. Lighting practices that interfere with the health and safety of Charlevoix's citizens and visitors;
3. Unnecessary waste of energy and resources in the production of too much light or wasted light;
4. Interference in the use or enjoyment of property which is not intended to be illuminated at night, and the loss of the scenic view of the night sky due to increased urban sky-glow.

B. The concerns of safety, utility and aesthetic appearance need not compete. Good modern lighting practices can provide adequate light for safety and utility without excessive glare or light pollution. In nearly all cases, careful attention to when, where and how much nighttime lighting is needed will lead to better lighting practices.

C. The topography and atmospheric conditions in northern Michigan are uniquely suited for commercial and private astronomical observation in the area. Unnecessary or excessive uses of outdoor nighttime lighting have an adverse impact on astronomical observation even at relatively distant observatories.

D. Accordingly, it is the intent of this Code to require lighting practices and systems which will minimize light pollution, glare, light trespass, and conserve energy while maintaining nighttime safety, utility, security and productivity.

Outdoor Lighting. This definition includes the following terms and definitions:

A. "Class 1 lighting" means all outdoor lighting used for, but not limited to, outdoor sales or eating areas, assembly or repair areas, advertising and other signs, recreational facilities and other similar applications where color rendition is important to preserve the effectiveness of the activity.

B. "Class 2 lighting" means all outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots and outdoor security where general illumination for safety and/or security of the grounds is the primary concern.

C. "Class 3 lighting" means any outdoor lighting used for decorative effects including, but not limited to, architectural illumination, flag and monument lighting, and illumination of trees, bushes, and similar things.

D. "Direct illumination" means illumination resulting from light emitted directly from a lamp, luminary, or reflector and is not light diffused through translucent signs or reflected from other surfaces such as the ground or building faces.

E. "Display lot or area" means outdoor areas where active nighttime sales activity occurs and where accurate color perception of merchandise by customers is required. To qualify as a display lot, 1 of the following specific uses must occur: automobile sales, boat sales, tractor sales, building supply sales, gardening or nursery sales, and assembly lots. Uses not on this list may be approved as display lot uses by the Zoning Administrator.

F. "Foot-candle" means 1 lumen per square foot. Unit of illuminance. It is the luminous flux per unit area in the Imperial system. One foot-candle equals approximately 0.1 (0.093) lux.

G. "Fully shielded light fixture" means a light fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted (see Figure 153.172).

H. "Glare" means the sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, and brightness of the source, and on the brightness level to which the eyes are adapted.

I. "Installed" means a light fixture attached or fixed in place, whether or not connected to a power source, of any outdoor light fixture.

J. "Light pollution" means any adverse effect of man-made light.

K. "Light trespass" means light spill falling over property lines.

L. "Lumen" means a unit used to measure the actual amount of visible light which is produced by a lamp as specified by the manufacturer.

M. "Luminary" means the complete lighting assembly, less the support assembly.

N. "Motion sensing security lighting" means any fixture designed, and properly adjusted, to illuminate an area around a residence or other building by means of switching on a lamp when motion is detected inside the area or perimeter and switching the lamp off when the detected motion ceases.

O. "Multi-class lighting" means any outdoor lighting used for more than 1 purpose, for example security and decoration, such that its use falls under the definition of 2 or more classes as defined for Class 1, 2 and 3 lighting.

P. "Net acreage" means the remaining ground area of a parcel after deleting all portions for proposed and existing public rights-of-way and undeveloped area.

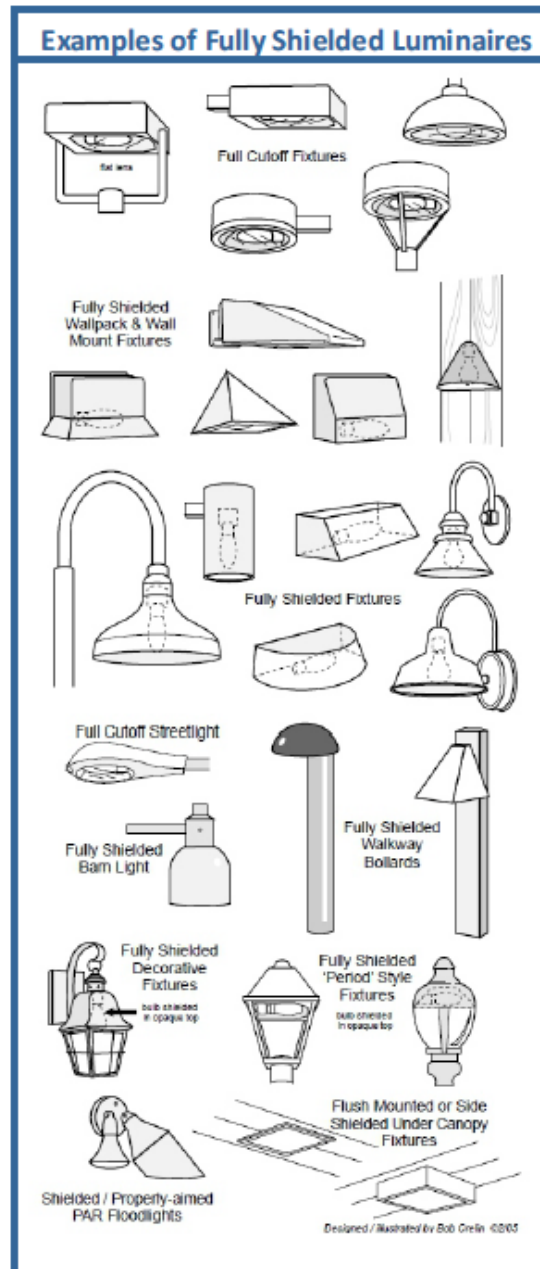


Figure 153.172 Example of Fully Shielded Light Fixtures

Q. "Outdoor light fixture" means an outdoor illuminating device, outdoor lighting or reflective surface, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to, lights used for:

1. Buildings and structures;
2. Recreational areas;
3. Parking lot lighting;
4. Landscape lighting;
5. Architectural lighting;
6. Signs (advertising or other);
7. Street lighting-
8. Product display area lighting-
9. Building overhangs and open canopies-
10. Security lighting-

R. "Outdoor recreation facility" means an area designed for active recreation, whether publicly or privately owned, including, but not limited to, parks, baseball diamonds, soccer and football fields, golf courses, tennis courts, and swimming pools.

S. "Partially shielded light fixture" means a fixture shielded in such a manner that no more than 10% of the light emitted directly from the lamp or indirectly from the fixture is projected at an angle above the horizontal, as determined by photometric test or certified by the manufacturer. Luminaries mounted under canopies or other structures such that the surrounding structure effectively shields the light in the same manner are also considered partially shielded for the purposes of this Code.

T. "Security lighting" means lighting designed to illuminate a property or grounds for the purpose of visual security.

U. "Unshielded fixture" means any fixture that allows light to be emitted above the horizontal directly from the lamp or indirectly from the fixture or a reflector.

V. "Watt" means the unit used to measure the electrical power consumption (not the light output) of a lamp.

Applicability.

A. New Uses, Buildings and Major Additions or Modifications. If the total cumulative increase in floor area is greater than 33% for single-family residential or greater than 25% for all other uses, then all outdoor lighting fixtures shall meet the requirements of this Code for the entire site, including previously installed and any new outdoor lighting. Cumulative modification or replacement of outdoor lighting constituting 25% or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a nonconforming site, shall constitute a major addition for purposes of this section.

B. Minor Additions. If the total cumulative increase in the floor area is 33% or less for single family residential or 25% or less for all other uses, then full conformance of the existing portion of the building or structure is not required. However, such projects shall require the submission of a complete inventory and Site Plan detailing all existing and any proposed new outdoor lighting.

C. New Lighting. Any new lighting on the site shall meet the requirements of this Code with regard to shielding and lamp type; the total outdoor light output after the modifications are complete shall not exceed that on the site before the modification, or that permitted by this Code, whichever is larger.

D. Resumption of Use after Abandonment. If a property or use with nonconforming lighting is abandoned as defined in 153.293, Nonconforming Buildings or Structures, then all outdoor lighting shall be reviewed and brought into compliance with this Code before the use is resumed.

E. Public Roadways. In general, this Code does not apply to city and state rights-of-way. However, the goal of the City is to have all such street lights fully shielded.

Outdoor Lighting Standards.

A. Light Emitting Diode Lighting (LED). Due to their high energy efficiency, long life and spectral characteristics, (LED) lamps are the preferred illumination source throughout the city. Their use is to be encouraged, when not required, for outdoor illumination whenever its use would not be detrimental to the use of the property.

1. Class 1 Lighting. Light emitting diode (LED) lamps are not required. Businesses who choose to use LED as their primary lamps are eligible to apply for an additional 10% increase in the lumens per acre allowed for their site.

2. Class 2 Lighting. Light emitting diode (LED) lamps are required. Up to 10% of the total lumens per acre allowed may be white light.

B. Light Trespass Standard. All light fixtures, including security lighting, shall be aimed and shielded so that the direct illumination shall be confined to the property boundaries of the source.

Particular care is to be taken to ensure that the direct illumination does not fall onto or across any public or private street or road. Motion sensing light fixtures shall be fully shielded and properly adjusted, according to the manufacturer's instructions, to turn off when detected motion ceases.

C. Lamp and Shielding. All light fixtures are required to be fully shielded and shall be installed in such a manner that the shielding complies with the definition of fully shielded light fixtures for all uses, including single-family and multifamily residential uses, except as provided below.

1. All lamp types above 2,000 lumens shall be fully shielded.

2. Partially shielded light fixtures may be permitted subject to the approval of the Zoning Administrator.

3. Partially shielded light fixtures are limited to a maximum of 5,500 lumens per net acre and shall not exceed 2,000 per lamp (see subsection (D) of this section).

D. Total Outdoor Light Output Standards – Nonresidential and Multifamily Uses.

1. Total outdoor light output shall not exceed an average of .4356 lumens per net foot for all development except single-family residential uses. This cap is not intended to be achieved in all cases or as a design goal. Instead, design goals should be the lowest levels of lumens necessary to meet the lighting requirements of the site. Partially shielded light fixtures are limited to an average maximum of 7.92 lumens per net foot and are counted towards the 100,000 lumens per net acre cap.

2. Seasonal decorations, permitted between November 15 and January 15, are not counted toward these limits. Lighting used for external illumination of signs is counted.

E. Total Outdoor Light Output Standards – Single-Family Residential Uses.

1. Outdoor lighting for single-family residential uses is not subject to a lumens per net acre cap.

2. Outdoor lighting for single-family residential uses is subject to the lamp fixture and shielding requirements.

F. Parking Lot Standards. Parking lots shall be considered Class 2 lighting. Parking lot lighting poles shall be sized in such a manner that the top of any luminary does not exceed 12 feet above adjacent grade.

G. Lighting Time Limitations.

1. Class 1 lighting, including but not limited to sales, service, commercial, assembly, repair, maintenance, and industrial areas, may only continue in operation until 11:00 p.m. or for as long as the area is in active use but once off remain off during non-business hours.
2. Class 2 lighting shall have no time restrictions except as specified by any conditions of approval. Uses that do not require all-night illumination *are encouraged* to turn off their outdoor lighting during night hours whenever possible.
3. Class 3 lighting, except for flagpole lighting and low-wattage holiday decorations must be extinguished after 11:00 p.m. or when the business closes, whichever is later.
4. Multi-class lighting, except for security lighting, must conform to the time limitations of the strictest class.

H. Multi-Class Lighting Standard. Multi-class lighting must conform to the shielding and timing restrictions, if any, that apply to the most restrictive included class.

I. Class 3 Lighting Standards.

1. All Class 3 lighting must be selected, designed, installed, and aimed so that there is a minimum amount of spill beyond the area intended to be lighted.
2. Permanent exposed string lighting is not permitted except where permitted in the Central Business District.
3. All Class 3 lighting must comply with the light trespass standards as described in subsection 153.172(B) of this section.
4. All Class 3 lighting shall comply with the lamp and shielding standards as described in subsection 153.072 Outdoor Lighting standard (C) of this section.
5. a. Subject to the approval of the Zoning Administrator, uplighting or ground-mounted lighting may be allowed to accent unique features of a building and/or surrounding landscaping (such as outstanding architectural features, specimen trees with dense year-round foliage or large native shrub masses). Uplighting or ground-mounted lighting shall be designed and installed in such a manner as to minimize glare with special consideration in areas where there is vehicle and pedestrian traffic.
b. All lighting which is directed upwards shall be placed in such a manner that the angle of the lamp shall not be greater than 45 degrees measured from a horizontal plane to a line projected through the center of the lamp, and fixtures shall be fully shielded to contain and direct the light onto the feature to be lit.

J. Searchlights, floodlights, laser source lights, strobe or flashing lights, illusion lights or any similar high intensity light shall not be permitted except in emergencies by police and fire personnel at their direction. Spot lights are permitted and must be directed downward 45 degrees from any neighboring property.

K. On projects where an engineer or architect is required, the developer shall verify in writing to the city that all outdoor lighting was installed in accordance with the approved plans.

Special Uses.

A. Recreational Facilities.

1. Lighting for outdoor athletic fields, courts or tracks shall be considered Class 1.
2. Lighting allowed in this subsection shall be subject to Planning Commission approval. When the proposed lumens per acre exceed the lumens per net acre limits, the installation shall be designed to achieve no greater than the minimum illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
3. Every such lighting system design shall be certified by a Michigan registered engineer as conforming to all applicable restrictions of this Code.
4. Such lighting shall not include any light trespass as determined by the Zoning Administrator.
5. All events shall be scheduled so as to complete all activity and lights turned off by 10:00 p.m.
6. Fully shielded lighting shall be required for fields designed for amateur, recreational or nonprofessional sports activity. For professional level sports facilities where fully, shielded fixtures are not utilized, acceptable luminaries shall include those which:
 - a. Are provided with internal or external glare control louvers, or both, and installed so as to minimize uplight and off-site light trespass as determined by the Zoning Administrator; and
 - b. Are installed and maintained with aiming angles that permit no greater than 2% of the light emitted by each fixture to project above the horizontal.

B. Outdoor Display Lots. Light for outdoor display lots shall be considered Class 1, and shall conform to the lumens per net acre limits except as follows:

1. All such lighting shall utilize fully shielded luminaries that are installed in a fashion that maintains the fully shielded characteristics.
2. When the proposed lumens exceed the per acre limits, the installation shall be designed to achieve no greater than the minimum illuminance levels for the activity as recommended by the Illuminating Engineering Society of North America (IESNA).
3. Such lighting shall not include any light trespass as determined by a Michigan registered engineer as conforming to all applicable restrictions of this Code.
4. Lighting Time Limitations. Outdoor display lot lighting shall conform to the hours of operation as established under Class 1 lighting standards. Any lighting on after the time limitations shall be considered Class 2 lighting and shall conform to all restrictions of this Code applicable to this class.

C. Service Station Canopies.

1. Class 2. Lighting for service station canopies shall be considered Class 2 lighting.
2. Shielding. All luminaries shall be flush with the lower surface of canopies and utilize flat glass or plastic covers.

3. Total Under-Canopy Output. The total light output used for illuminating service station canopies, defined as the sum of under-canopy initial bare-lamp outputs in lumens, shall not exceed 40 lumens per square foot of canopy. All lighting mounted under the canopy, except internally illuminated signs, shall be included in the total. Fifty percent of the total lumen output of all lamps mounted within or under a canopy shall be included in the lumen per acre cap.

D. Other Lighting on Parcels with Special Uses. All site lighting not directly associated with the special uses as permitted shall conform to all lighting standards described in this Code.

Plan Submittal and Evidence of Compliance.

A. Plan Submittal. Whenever a person is required to obtain a permit for outdoor lighting or signage, a conditional use permit, subdivision approval or any development plan approved by the city, including all city projects, or whenever a person requests a rezoning, the applicant shall, as part of the application process, submit sufficient information to enable the Zoning Administrator to determine whether proposed lighting complies with this Code. All applications may be subject to review and action by the Planning and Zoning Commission at the discretion of the Zoning Administrator.

B. Applications. All applications shall include the following:

1. A Site Plan indicating the location of all lighting fixtures, both proposed and any already existing on the site.
2. A description of each illuminating device, fixture, lamp, support and shield, both proposed and existing. The description shall include, but is not limited to, manufacturer's catalog cuts and illustrations (including sections where required); lamp types, wattages and initial lumen outputs.
3. Such other information that the Zoning Administrator may determine is necessary to ensure compliance with this Code.

C. Plan Approval. If the Zoning Administrator determines that any proposed lighting does not comply with this Code, the permit shall not be issued, nor the plan approved.

D. Lamp or Fixture Substitution. Should any outdoor light fixture or the type of light source therein be changed after the permit has been issued, a change request must be submitted to the Zoning Administrator for approval, together with adequate information to assure compliance with this Code, which must be received prior to substitution.

E. Certification of Installation. For all projects, commercial and multi-family, certification that the lighting, as installed, conforms to the approved plans shall be provided by a certified engineer before final approval by the City. Until this certification is submitted in writing, the City will ask that the Certificate of Occupancy be revoked or not be issued for the project.

Approved Materials and Methods of Construction or Installation/Operation – Approval of Alternatives. The provisions of this Code are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed by this Code, provided any such alternate has been approved by the Zoning Administrator. The Zoning Administrator may approve any such proposed alternate providing that it:

- A. Provides at least approximate equivalence to that applicable specific requirement of this Code.
- B. Is otherwise satisfactory and complies with the intent of this Code.

Exemptions and Nonconforming Lights.

A. All nonconforming outdoor light fixtures lawfully installed prior to and operable on the effective date of the ordinance codified in this Code are exempt from all requirements of this Code. However, there shall be no change in use or lamp type, or any replacement (except for same type and same-output lamp replacement) or structural alteration made, without conforming to all applicable requirements of this Code.

B. In the event that an outdoor lighting fixture is abandoned or is damaged to the point of requiring repairs for safe operation, the repaired or replacement fixture shall comply with the provisions of this Code.

C. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this Code for as long as the emergency exists.

D. Swimming Pool and Decorative. Underwater lighting used for the illumination of swimming pools is exempt from the lamp type.

E. Ornamental lighting that is incorporated into an architectural design, such as colored tubes, lighting of fountains, statuary or other outdoor art and other building elements (other than signs), provided that the light source is shielded to direct light onto the lighted element.

F. Lighting for temporary events, such as fairs, carnivals and similar temporary outdoor uses.

SECTION 1. Title XV Land Use, Chapter 153 Planning and Zoning Section 153.207(D) is hereby amended as follows:

(D) Illumination and lighting.

1. Externally lit signs shall be illuminated only with steady, stationary, shielded light sources directed solely onto the sign without causing glare, no unshielded lights, or lights directed upward or horizontally at sign faces, flashing lights, scrolling or moving electronic lights, or other distractive devices may be used in conjunction with any sign or business.
2. Light bulbs or lighting tubes used for illuminating a sign shall not be visible from adjacent public rights-of-way or residential properties. Illumination by bare bulbs or flames is prohibited.
3. External illumination for signs shall conform to all provisions of Outdoor lighting. Such lighting shall be treated as Class 1 lighting and shall conform to the lamp and shielding restrictions and lumen caps.
4. The fixtures used to illuminate signs shall not be directed toward nearby residential properties.
5. Internally illuminated signs are permitted in certain circumstances as follows:
 - a. Individual back-lit letters which are silhouetted against a softly illuminated wall.
 - b. Individual letters with translucent faces, containing soft lighting elements inside each letter.
 - c. Metal-faced box signs with cut-out letters and soft-glow fluorescent tubes.

6. Fluorescent lights shall be allowed for indirect illumination when placed in such a manner that the light tubes are not exposed to view from the public right-of-way or sidewalk.

7. A sign may be illuminated during the hours of operation of the facility being identified or advertised or until 11:00 p.m., whichever is later.

8. Such signs shall provide an automatic timer to comply with the intent of this section.

9. Illumination of off-premises signs is prohibited, except in the case of off-premises kiosks which are subject to the provisions of this Code.

10. a. Ground-mounted sign lighting is not permitted for freestanding signs on poles, where open space is visible from the bottom of the sign to the ground. The Zoning Administrator may approve ground mounted lighting for freestanding signs which are constructed in such a way that no open space is visible from the bottom of sign to the ground (such as solid base, landscaping).

b. All ground-mounted lights shall be placed in such a manner that the angle of the lamp shall not be greater than 45 degrees measured from a horizontal plane to a line projected through the center of the lamp, and fixtures shall be fully shielded to contain and direct the light onto the sign only. All upward-directed sign lighting is prohibited.

11. Underground wiring shall be required for all illuminated signs that are not attached to a building.

SECTION 3. Severability

No other portion, paragraph or phase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above sections, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 4. Effective Date

This Ordinance shall become effective thirty (30) days after its enactment.

Ordinance No. 854 was adopted on the 16th day of December 2024 A.D., by the Charlevoix City Council as follows:

Motion by: Kalbfell

Seconded by: Hagen

Yeas: Spring, Hagen, Knapp, Kalbfell, Parr, Cole

Nays: None

Absent: None

Motion carried.

State of Michigan } §
City of Charlevoix

Sarah J. Dvoracek

Clerk

Lyle Gennett

Mayor

CERTIFICATION

I, the undersigned, the City Clerk of the City of Charlevoix, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 854 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a special meeting held on December 16, 2024 the original of which is on file in the Clerk's office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, Act 267 of the Michigan Public Acts of 1976.

Dated: 12/16/2024

Sarah J. Dvoracek, City Clerk