

ORDINANCE NUMBER 3341

AN ORDINANCE ESTABLISHING CHAPTER 8.64 MISSOULA MUNICIPAL CODE ENTITLED "MISSOULA OUTDOOR LIGHTING ORDINANCE" TO ENACT A LIGHTING ORDINANCE FOR THE CITY OF MISSOULA EFFECTIVE JANUARY 1, 2008.

BE IT ORDAINED BY THE MISSOULA CITY COUNCIL THAT CHAPTER 8.64 MISSOULA MUNICIPAL CODE IS HEREBY ESTABLISHED AS FOLLOWS:

Chapter 8.64
MISSOULA OUTDOOR LIGHTING ORDINANCE

Sections:

8.64.010	Findings
8.64.020	Purpose and Intent
8.64.030	Definitions
8.64.040	Lighting Administration
8.64.050	Applicability
8.64.060	Prohibitions and Exemptions for Commercial, Industrial, and Multi-Family Residential Installations
8.64.070	General standards for New Commercial, Industrial, and Multi-Family Residential Lighting Installations
8.64.080	General standards for exterior residential lighting installations
8.64.090	Non-conforming Commercial, Industrial, or Multi-Family Residential light fixtures
8.64.100	New Street Lighting
8.64.110	Submittal and Certification
8.64.120	Appeal
8.64.130	Violations and Procedures
8.64.140	Conflicts with other ordinances or applicable codes
8.65.150	Effective Date

8.64.010 Findings.

- A. Excessive and improperly located lighting can cause unsafe and unpleasant conditions.
- B. Lighting which is appropriate to the location and purpose can enhance safety and enjoyment of the city.

8.64.020 Purpose and Intent. This ordinance is established to promote the public health, safety, security, and the nighttime use and enjoyment of property, including:

- A. To protect and improve safe travel for all modes of transportation
- B. To reduce light pollution, light spillover, glare, and unnecessary light intensity
- C. To promote lighting practices and systems to conserve energy
- D. To maintain and improve nighttime aesthetics of Missoula, including preservation of the night sky.

This ordinance provides basic outdoor lighting requirements based on industry standards. Creative use of outdoor lighting to supplement building architecture, enhance outdoor enjoyment and other uses of lighting are encouraged rather than discouraged within the framework of ordinance requirements.

8.64.030 Definitions.

CANDELA: The metric unit luminous intensity (that is, power emitted by a light source in a particular direction, with wavelengths weighted by the luminosity function, a standardized model of the sensitivity of the human eye).

CUTOFF: See FULL CUTOFF or SEMI CUTOFF

DIRECT GLARE SOURCE: Light that originates in a direct line of sight from a source which results in objectionable glare.

EXISTING STREET LIGHTING: Those streetlight fixtures in operation prior to the effective date of this ordinance.

LIGHT FIXTURE: The assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast housing, and the attachment parts.

FOOTCANDLE: (fc) a unit of measurement for a total amount of light cast on a surface (illuminance). One footcandle is equivalent to the illuminance produced by a source of one candle at a distance of one foot. Vertical footcandle is the measurement on a vertical surface. Horizontal footcandle is a measurement on a horizontal surface.

FULL CUTOFF FIXTURE: An outdoor lighting fixture that emits 0% of its light above 90 degrees and 10% above 80 degrees from horizontal. This is a standard IESNA definition.

GLARE: The sensation produced by a light source that is sufficiently brighter than the level to which the eyes are adapted causing annoyance, discomfort, or loss in visual performance and visibility. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

GRADE: Ground level directly under the light fixture. Interchangeable with parking lot pavement surface and GROUND.

GROUND: Same as GRADE

HEIGHT: The distance between the lamp in a light fixture and the ground, measured perpendicular to the ground.

HISTORIC STREETLIGHT: Streetlight fixtures and poles manufactured before January 1, 1945, and streetlight fixtures manufactured after 1945 that are designed to replicate streetlight fixtures manufactured before January 1, 1945.

HORIZONTAL FOOTCANDLE: The amount of light measured on a horizontal surface

IESNA: Illumination Engineering Society of North America. The professional society of lighting engineers. IESNA publications contain industry standard guidelines for lighting design, including outdoor lighting.

ILLUMINANCE: The amount of luminous flux per unit area in the English system, equal to one lumen per square foot, and measured in footcandles. The metric system uses the lux. One footcandle equals approximately 0.1 (0.093) lux.

INITIAL LUMENS: Amount of luminous flux emitted by a lighting fixture at initial installation. Initial Lumens are usually listed by the manufacturer. A 100 watt incandescent light bulb emits approximately 1800 lumens.

LIGHT SOURCE: Artificial light emitted directly from a fixture lamp, lens, or mirror. Light which is reflected after leaving the fixture does not constitute a light source.

LIGHT SPILLOVER: Any form of artificial illumination emanating from a light fixture that spills over property boundaries and creates a direct glare source that exceeds 0.5 foot-candles horizontal on the work plane at the subject property line.

LIGHT TRESPASS: See LIGHT SPILLOVER

LIGHTING ADMINISTRATION: The part of the City of Missoula designated to administer the provisions of this ordinance.

LIGHTING PROFESSIONAL: An individual capable of specifying and designing lighting systems in accordance with the provisions of this ordinance. Lighting Professionals may include but are not necessarily limited to licensed Lighting Designers, Professional Engineers, Architects, lighting company representatives skilled in lighting system design, utility company employees skilled in lighting design, and electrical contractors skilled in lighting design. Qualified Lighting Professionals are determined by the Lighting Administration.

LUMEN: Unit of luminous flux; used to measure the amount of light emitted by lamps.

LUMINAIRE: Same as LIGHT FIXTURE above

LUMINOUS FLUX: A measure of the energy emitted by a light source in all directions. The metric unit of Luminous flux is the lumen (lm). One lumen is defined as the amount of light that falls on a unit spherical area at unit distance from a light source of one candela.

MAINTAINED ILLUMINANCE LEVEL: Lamps emit less luminous flux over time and therefore illuminance levels of an installation will decrease over time. The maintained illuminance level is usually determined as a percentage of the initial illuminance level. The percentage is different for the various types of lamp sources. This number is reported as a part of the photometric plan.

MCBA: Missoula Building Code Board of Appeals

MEAN LUMENS: The lumen output of a lamp after it has operated for approximately 40% of its rated life.

NEW: Lighting installed after the effective date of this ordinance as in 'new lighting'.

NUISANCE: any improperly specified, installed, unshielded, or misdirected light fixture or luminaire.

SEMI CUTOFF: An outdoor lighting fixture that emits no more than 5% of its light above 90 degrees and 20% above 80 degrees from horizontal. This is a standard IESNA definition.

STREETLIGHT: An outdoor light fixture located within a public right of way.

UPLIGHT: Light projected above the horizontal plane passing through the light fixture lamp.

VERTICAL FOOTCANDLE: The amount of light measured on a vertical surface

8.64.040 Lighting Administration.

- A. General. The Lighting Administration is the part of the City of Missoula government designated to administer this ordinance.
- B. Responsibility. The Lighting Administration is responsible for the following:
 1. Administration of the lighting ordinance
 2. Interpreting the lighting ordinance provisions and requirements

3. Final approval of lighting plans submitted for Commercial, Industrial, and Multi-Family Residential new construction permits
4. Approval of exceptions as listed in the ordinance
5. Approval or disapproval of variances from the provisions of this ordinance
6. Recipient of complaints regarding violations of this ordinance
7. Delegation and overseeing of a complaint investigation
8. Adjudication of a complaint
9. Approval of applications to be deemed a 'Lighting Professional' as described in this ordinance

8.64.050 Applicability.

- A. New Commercial, Industrial, and Multi-Family Residential outdoor lighting. This ordinance shall apply to all outdoor lighting fixtures and land uses established after the effective date of this ordinance.
- B. New Residential. This ordinance shall apply to Residential installations as listed in 8.65.080 of this ordinance.
- C. Expansion or Redevelopment of Existing Commercial, Industrial, and Multi-Family Residential. This ordinance shall apply to the entire building/structure, parking area, or use, as appropriate, under the following conditions:
 1. When an existing building or structure is expanded in size by 25 percent or more
 2. When the area of an existing parking area is expanded in size by 25 percent or more
 3. When an existing outdoor use (e.g., outdoor storage, vehicle sales) is expanded in size by 25 percent or more.
(The stated thresholds in items 1, 2, or 3 apply to a single addition or cumulative additions occurring after the effective date of this ordinance).
 4. When there is a change in the primary use of the subject property.

EXCEPTION: Provisions of 8.64.050 (C) may be waived if the 25% redevelopment trigger of part of the said property would result in excessive lighting upgrade or replacement costs. In general, lighting upgrade or replacement costs can be considered excessive when they are greater than 25% of the total project costs.

- D. Replacement of existing Commercial, Industrial, and Multi-Family Residential lighting systems. This ordinance shall apply to the replacement of existing lighting fixtures as part of an existing outdoor Commercial, Industrial, and Multi-Family Residential lighting installation even if the original lighting installation was purchased and/or installed before the effective date of this ordinance.

Replacement of a singular fixture within an assembly or group of singular fixtures may be the same as existing unless such replacements are no longer available. In such case the replacement fixtures shall be compliant with this ordinance.

- E. Existing Commercial, Industrial, and Multi-Family Residential lighting systems. This ordinance shall not apply to Commercial, Industrial, and Multi-Family Residential lighting fixtures installed before the effective date of this ordinance unless operation of such fixtures constitute a safety hazard.

8.64.060 Exemptions and Prohibitions for Commercial, Industrial, and Multi-Family Residential Installations

- A. Exempted Commercial, Industrial, and Multi-Family Residential:
 1. All lighting required by state or federal agencies.
 2. Seasonal displays using multiple low wattage bulbs (approximately fifteen lumens or less), provided that they do not constitute a fire hazard, create a nuisance, and are maintained in a safe condition.
 3. Lighting used during an emergency.

4. Light fixtures attached to a multi-family residential building which are less than 2,000 lumens and mounted below the eave.
5. Lighting placed underwater to illuminate swimming pools or fountains.

The Lighting Administration may authorize additional property specific exemptions when proposed lighting does not conflict with the purposes of this ordinance. An application for such an exemption must be made in writing and include an outdoor lighting plan prepared and signed by a Lighting Professional.

B. Prohibited Commercial, Industrial, and Multi-Family Residential Lighting. The following types of outdoor lighting are specifically prohibited:

1. Lighting that could be confused for a traffic control device
2. Lighting that is oriented upward, except as otherwise provided for in this ordinance
3. Search lights, laser source lights, or any similar high-intensity light except for those used in emergencies by police and fire personnel or at their direction, or for approved temporary lighting under a special event permit issued by the City of Missoula.
4. Blinking, flashing, moving, scintillating, flickering, changing intensity, and changing colors light fixtures not otherwise permitted by the sign ordinance.
5. Any lamp or bulb when not within a Light Fixture and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting.
6. A string of lights, individual lamps larger than 45 lumens, suspended between 2 or more objects (e.g., between 2 poles) unless used only for seasonal decorations.
7. Mercury vapor light fixtures.
8. Any lighting fixture or device that is operated in such manner as to constitute a hazard or danger to persons, or to safe vehicular operation.

EXCEPTION: Accent building mounted luminous tube (such as neon, LED, or other similar technology.)

8.64.070 General standards for new Commercial, Industrial, and Multi-Family Residential Lighting Installations.

- A. Illumination Standards. Unless otherwise specified, illumination shall have maintained intensities and uniformity ratios in accordance with the current recommended practices of the IESNA, as from time to time amended. Illumination shall be measured from grade and when the ground is free of snow. Illumination levels shall be no more than 125% of the minimum IESNA recommended horizontal footcandles for the given task.
- B. Illumination level at property boundary line. When a Commercial, Industrial or Multi-family use abuts a Residential use, illumination at the property boundary line from the Commercial or Industrial property may not exceed 0.5 vertical foot-candles. When a Commercial or Industrial use abuts a public right-of-way, or another Commercial or Industrial use, illumination at the property boundary line may not exceed 1.0 vertical foot-candles.
- C. Pole-mounted Light Fixtures. Light Fixtures shall not be higher than 30 feet in all Commercial, Industrial, and Multi-Family Residential areas.

EXCEPTION: For parking lots with fewer than seventy-five spaces, the pole mounted light fixture shall not be mounted higher than 20 feet.

- D. Building-mounted Light Fixtures. In Commercial, Industrial, and Multi-Family Residential areas, building-mounted light fixtures shall not be attached to a sloped roof and shall not be higher than 20 feet or the height of the building, whichever is less.

EXCEPTION: Where building mounted fixtures are used solely to illuminate architecture features of the building, such fixtures must comply with all applicable provisions of this ordinance including 8.64.080 (B).

- E. Continued maintenance. Lighting installations for Commercial, Industrial, and Multi-Family Residential installations, shall be maintained in good repair to meet the provisions of this ordinance.
- F. Lighting controls for Commercial and Industrial Parking Areas Lighting in vehicle parking areas containing 20 parking spaces or more shall be reduced to 50 percent of permitted levels as stated in 8, 64.070 (A) one hour after the business closing to one hour before the business opens. If lighting levels are already below 50 percent of permitted levels, no lighting adjustment is required.

EXCEPTION: The Lighting Administration may waive the 50% lighting level requirement where reduced lighting levels would reduce security or safety. Multi-family Residential uses are exempt from 8.64.070 (F).

- G. Light Fixture types. If lighting is installed for parking areas, along internal streets, sidewalks, and trails, the light fixtures must be full cutoff rated.
- H. Historic, period, or pole top decorative light fixture. To promote a unified development theme, post top light fixtures (also referred to as period lighting or decorative lighting) may be used if they are:
1. Equipped with cutoff or semi cutoff optics
 2. Mounting height no more than 16 feet
 3. Lamp lumen output no more than 17,600 initial lumens (175 watt pulse start metal halide lamp)
 4. Light spillover shall be in accordance with the Definition in this ordinance.

EXCEPTION: The Lighting Administration in consultation with the Historic Preservation Officer may waive the provisions of 8.64.070 (H) if these provisions provide significant degradation of the historic nature of the facility and for which there is no reasonable alternative light fixture.

- I. Flag poles, statues and similar monuments. A flag pole bearing a state flag, a flag of the United States or a flag of a foreign nation may be illuminated, provided the following standards are met:
1. The light fixture lamping or lens shall be fully shielded from direct view by pedestrians or vehicular traffic.
 2. Upward aiming light fixtures shall be set back no more than 30% of the object height nor should be no closer than 15% of the object height unless it can be demonstrated that a closer mounting of the light fixture results in less sky illumination.
 3. The light fixtures shall not collectively exceed 40,000 initial lumens.
 4. Public statues, memorials or other monuments may also be illuminated in a similar manner, provided the above standards are met.
- J. Exterior lighting of a building:
1. Lighting may be used only to accentuate an architectural or aesthetic element of the building, not the entire building.
 2. Upward aimed lighting shall not exceed 4,000 mean lumens per architectural or aesthetic element, shall be fully shielded, and mounted as flush to the wall as possible.
 3. Lighting exceeding 4,000 mean lumens architectural or aesthetic element shall be aimed downward, fully shielded, and mounted as flush to the wall as possible.
- K. Externally Illuminated Sign lighting. Externally illuminated signs may be illuminated consistent with the following standards:
1. Ground signs that are less than 6 feet in height may be illuminated from above provided the light fixture is no taller than the top of the sign, or lighted with ground-mounted lights, provided the lights are fully shielded.

2. Ground signs 6 feet in height or taller may be illuminated from above provided the light fixture is no taller than the top of the sign.
3. Wall signs may be illuminated with ground-mounted lights provided the lights are fully shielded.
4. Ground mounted light fixtures shall not be visible from the opposite side of the sign.
5. Light fixture lamps used to externally illuminate a sign shall not be visible from vehicular travel lanes, adjacent public rights-of-way, or adjoining properties.
6. The intensity of illumination falling on an externally illuminated sign shall be no more than what is necessary to make the illuminated sign legible.

All other sign illumination standards and provisions, including but not limited to internally illuminated signs, sign placement, sign size, etc. are not a part of this ordinance and may be included in other ordinances such as the sign ordinance.

- L. Canopy lighting. Lighting associated with a canopy used for vehicular shelters, including gas stations and car washes:
1. Canopy lights, such as service station lighting shall be fully recessed or fully shielded so as to ensure that no light source is visible from or causes glare on public rights of way or adjacent properties.
 2. Lighting installed beneath a canopy shall be pointed downward and substantially confined to the ground surface directly beneath the perimeter of the canopy.
 3. Lighting beyond the perimeter of the canopy shall be consistent with the lighting ordinance for parking areas.
- M. Recreational facilities. Lighting for outdoor athletic fields, courts, or tracks:
 1. When an outdoor athletic field abuts a residential district, lighting should be designed so that the illumination at the property boundary line that is attributable to the subject property does not exceed 0.5 foot-candles horizontal.
 2. Lighting used to illuminate the athletic surface shall be turned off within one hour after the last event of the night.
 3. Lighting shall be designed by a Montana registered professional engineer, Montana registered architect, or Montana registered landscape architect having experience with similar lighting installations or by a lighting fixture vendor specializing in the specific type of recreational lighting.
- N. Outside Car Display Lots
1. Car display lots shall be illuminated in accordance with the latest edition of the IESNA standards.
 2. Light fixtures shall be full cutoff type
 3. Flood lights for area illumination are prohibited
 4. Light spillover shall be in accordance with the definition in this ordinance
 5. Light controls shall be used to reduce lighting levels by 50% by no later than 12:00 midnight until dawn.

EXCEPTION: The Lighting Administration may waive the 50% lighting level requirement where reduced lighting levels would reduce security or safety.

8.64.080 General standards for exterior residential lighting installations.

- A. Safety. No lighting fixture or device may be operated in such manner as to constitute a hazard or danger to persons, or to safe vehicular operation.
- B. Pole-mounted light fixtures. Light fixtures shall not be higher than 25 feet or the height of the building, whichever is less.

C. Continued maintenance. Lighting installations shall be maintained in good repair to meet the provisions of this ordinance on an on-going basis.

D. Light fixtures

1. A light fixture installed after the effective date of this ordinance shall be equipped with full cutoff optics.

EXCEPTION: Any lighting fixture producing eight hundred eighty (880) mean lumens (equivalent of a 60-watt incandescent bulb) or less.

2. Exterior residential lighting installed after the effective date of this ordinance may not result in light spillover on adjacent property.

EXCEPTION: Seasonal lighting or light fixtures jointly owned or rented by owners of contiguous property may use fully compliant light fixtures with light spillover within the contiguous property, but not beyond the contiguous property.

E. Existing nonconforming light fixtures. Light fixtures installed before the effective date of this ordinance that are in violation of this ordinance are permitted as nonconforming light fixtures without any time limit.

EXCEPTION: Public complaints regarding light fixtures (see example below) containing one or more unshielded flood lamps rated 880 mean lumens or greater, with or without a motion sensor will cause an educational, informational notice to be issued by the Lighting Administration to the property owner, and the fixture shall be replaced or shielded within one year after the date of the notice.



EXCEPTION: Public complaints regarding light fixtures (see example below) generally used as a pole or building mounted high pressure sodium (HPS), mercury vapor, or metal halide yard light with a dropped unshielded diffuser will cause an educational, informational notice to be issued by the Lighting Administration to the property owner, and the fixture shall be replaced or shielded within one year after the date of the notice.

1. If leased from a utility company, then upgraded to compliance with the lighting ordinance in accordance with 8.64.050 (D)
2. If not leased from a utility company, then shielded or replaced within one year after the date of the notice.



8.64.090 Non-conforming Commercial, Industrial, or Multi-Family Residential light fixtures.

A. Street Light fixtures in Lighting Districts

1. All existing street lighting fixtures that are in violation of this ordinance are permitted as nonconforming street lighting without any time limit.
2. If a pole is replaced, both the pole and the pole mounted light fixture shall be compliant with the provisions of 8.64.100.

CLARIFICATION: Replacement of historic street lights shall comply with 8.64.070 (H)

3. If a light fixture is replaced on an existing non-conforming pole, the replacement light fixture shall be compliant with 8.64.100.

[Note for informational purposes only: Lighting in lighting districts makes up the majority of the public street lighting within the City of Missoula. They are owned and operated by a utility but rented to the City of Missoula. The residents of each lighting district pay 90% of the cost of the light fixtures within the respective lighting districts via property taxes. The City of Missoula pays the other 10% from general funds.]

B. Other Outdoor Lights

1. All existing outdoor lighting fixtures (except for existing street lights covered in 8.64.090 (A) or 8.64.090 (C) that are in violation of this ordinance are permitted as nonconforming outdoor lighting without any time limit.

EXCEPTION: The Lighting Administration may require compliance with the provisions of this ordinance of nonconforming light fixtures as a result of nonconforming fixture replacement, expansion or redevelopment of property, or safety as listed in 8.64.070, this ordinance and 8.64.050 (D)

C. Outdoor light fixtures owned by the City of Missoula

1. All existing City of Missoula owned outdoor light fixtures shall be classified as commercial for the provisions of this ordinance and are therefore subject to the provisions of 8.64.050.

8.64.100 New Street Lighting.

A. Light Fixture Configuration. Street light fixtures installed after the effective date of this ordinance shall be equipped with full cutoff optics, and positioned to minimize any direct glare source and not create light spillover.

B. Mercury vapor bulbs or lamps. Mercury vapor bulbs or lamps may not be used in street lights installed after the effective date of this ordinance.

C. Street light mounting height. Street light fixtures installed after the effective date of this ordinance shall not be mounted higher than 30 feet above grade.

EXCEPTION TO 8.64.100 (C) Where a wide street or boulevard is illuminated such that a fixture mounted at 30' precludes proper illumination, such lighting shall be mounted no higher than 45 feet. The owner of this lighting shall demonstrate via photometric calculations the need for this variance from 30' mounting height.

EXCEPTIONS to 8.64.100 (A) (B) (C)

1. Traffic signals and other traffic safety and control devices
2. Historic streetlights.

8.64.110 Submittal and Certification.

- A. New Construction of Commercial, Industrial, and Multi-Family Residential Lighting Plan. An outdoor lighting plan is required for all new outdoor lighting installations for all Commercial, Industrial, and Multi-Family Residential property. A lighting plan by a lighting professional shall include at least the following submittal information:
1. Fixture manufacturer specification sheets, cut-sheets, catalog sheets, or manufacturer provided information for all proposed outdoor fixtures showing compliance with the provisions of this ordinance.
 2. A site plan on paper showing light fixture locations, light fixture types, mounting heights, and aiming instructions as required providing a clear expression of the proposed outdoor light fixture system design.
 3. An iso-foot candle plot or contour drawing on paper showing calculated light levels for the area of proposed work. The iso-foot candle plot shall extend no less than 10 feet beyond the property line and to the middle of the street to indicate compliance with light spillover requirements of this ordinance.
 4. If building elevations are proposed for illumination, submittal drawings for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, calculated average, peak, and minimum vertical foot candles in the illuminated area, and the proposed aiming direction of the light fixture(s). The submittals must indicate how light is to be controlled for compliance with the building illumination sections of this ordinance.
- B. Commercial, Industrial, and Multi-Family Residential Lighting Plan - Retrofits, Modifications of Existing Lighting Systems and/or Replacement of Light Fixtures in an Existing Lighting System. A lighting plan shall include at least the following submittal information:
1. Fixture manufacturer specification sheets, cut-sheets, catalog sheets, or manufacturer provided information for all proposed outdoor fixtures showing compliance with the provisions of this ordinance.
 2. Description of the proposed lighting system change. Description may be a plan, drawing, or a written description.

EXCEPTION: Replacement of a single fixture as indicated in 8.64.050 (D)

- C. Residential Lighting Plan - New Construction. The Owner or the Owner's Lighting Professional shall submit a signed and dated form certifying understanding and compliance with the provisions of this ordinance. This form will be available from the City of Missoula.
- D. Residential Lighting Plan - Retrofits, Modifications of Existing Lighting Systems and/or Replacement of Light Fixtures in an Existing Lighting System. Neither a certification of lighting ordinance compliance nor a permit is required. The new lighting installation shall comply with 8.64.080.
- E. Additional Information. Review of the submittal may require additional information or clarifications following the initial lighting plan submittal.
- F. Approval and Appeal
1. The Lighting Administration may approve, deny, or require modifications to any outdoor lighting plan in order to insure compliance with the applicable sections of this ordinance.
 2. The lighting plan applicant may appeal the Lighting Administration's decision or required modifications as set forth in Section 8.64.120.

G. Fees

1. Fees may be collected at the time of application for a lighting permit.
2. Fees collected under the provisions of this ordinance shall not be used for any other purpose except for lighting ordinance administration.

8.64.120 Appeal.

- A. Lighting design review - All except hardship The appeal of a decision by the Lighting Administration, in accordance with the applicable provisions of Chapter 15.36 Missoula Municipal Code, will be heard by the Missoula Building Code Board of Appeals (MBCBA).
- B. Lighting design review - Hardship
1. The MBCBA is to hear the appeal of a decision by the Lighting Administration in accordance with the applicable provisions of Chapter 15.36 and to hear and decide variances from the provisions of the light ordinance for the specific case where an unnecessary hardship or practical difficulty exists.
 2. The MBCBA may grant a variance from the provisions of this ordinance when it is shown by the record before the board that a hardship or practical difficulty exists. The records of the board shall clearly indicate the particular and specific respect a hardship or practical difficulty. The burden shall be on the appellant to the board to present sufficient evidence to establish a record justifying board action granting the appellant's request.
 3. The MBCBA may grant variances from the provisions of this chapter where the board finds that literal enforcement will result in unnecessary hardship or practical difficulties to the appellant which were not brought about by an act of the appellant, or where strict application of the provisions of this ordinance would be unreasonable as to a particular lighting system. A "practical difficulty or unnecessary hardship" may result from the size, shape, location, elevation, or dimensions of a site, or the existing structures located on the site, or from geographic, topographic, or other physical conditions on the site or in the immediate (adjacent) vicinity which are unique to the applicant's site. The MBCBA, in granting any variance based on such practical difficulties or physical hardship, shall allow only the most restricted variance possible, which will provide the appellant remedy to the practical difficulties or physical hardship identified by the board, in keeping with the intent and purpose of this ordinance.

8.64.130 Violations and Procedures for light fixtures installed after the effective date of this ordinance.

- A. Lighting Administration If the Lighting Administration finds that any lighting fixture installed after the effective date of this ordinance violates the provisions of this ordinance, notice shall be given by hand delivery or certified mail, return receipt requested, of such violation to the owner and/or to the occupant of such premises, requiring the violation be abated within thirty (30) days of the date of the hand delivery or the date of mailing of the notice.

A Lighting Administration staff person shall be available to assist in working with the party to correct said violation. Educational materials are available from the Lighting Administration and/or the City of Missoula web based resources.

If the violation is not abated within the thirty (30) day period, the Lighting Administration may initiate actions and proceedings, either legal or equitable, as allowed by law.

B. Violation and Penalty

1. It shall be unlawful to install any lighting fixture not in compliance with this ordinance.
2. Any violation of any provision of this ordinance may be treated as a misdemeanor, incurring a penalty of not less than fifty dollars (\$50.00) for each violation and other alternative relief from the Municipal Court as provided by law.
3. Each day the infraction exists constitutes a separate violation.

8.64.140 Conflicts with other ordinances or applicable codes. If any provision or part of this ordinance conflicts with any existing City of Missoula ordinance, the most restrictive shall apply.

8.64.150 Effective date. The effective date of this ordinance shall be January 1, 2008.

Codification instructions:

This ordinance shall be codified as Chapter 8.64 Missoula Municipal Code.

Severability

If any provision of this ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance, and the provisions of this ordinance are declared to be ordinance.

Approved by an 11 ayes, 1 nay, 0 abstention, 0 absent vote, and

Approved by the Mayor this 16th date of April 2007.

ATTEST:

APPROVED:

/s/ Martha L. Rehbein
Martha L. Rehbein
City Clerk

/s/ John Engen
John Engen
Mayor