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ARTICLE SEVEN

SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

11.701 Purpose

The Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements and recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this Ordinance and provide for specific areas of exception.

11.702 Required Street Frontage

Except as permitted below, any lot used in whole or part for residential purposes shall provide a minimum frontage of 20 feet along at least one public street, or shall possess an exclusive, uninterrupted private easement of access or right of way of at least 20 feet wide to a public street. There shall not be more than one single-family housing unit for such frontage or easement. A common easement of access at least fifty feet in width may be provided for two or more single-family units or for one or more duplex, two-family, townhouse, or multiple-family housing units.

11.703 Lot Size Exceptions

In any district permitting residential use types, a single-family or duplex use type may be located on any lot or plot of official record as of the effective date of this Ordinance, regardless of its area or width, but subject to the following requirements:

- a. The sum of the widths of the side yards of such lot shall be the lesser of those required by the district regulations or 25% of the width of the lot. No single side yard shall be less than 10% of the width of the lot.
- b. The depth of the rear yard of such lot need not exceed 20% of the depth of the lot, but shall not be less than 20 feet.
- c. If two or more such adjacent lots are combined under single ownership, the resulting combined lots shall be treated as a single lot for purposes of applying these setback requirements.

11.704 Setback Adjustments

a. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than three feet to the near side of the alley.

b. Encroachments on Required Yards

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

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1. Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three feet into a required yard.
2. Terraces, patios, uncovered decks, and ornamental features which have no structural element more than two feet above or below the adjacent ground level may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or twenty feet from any street property line.
3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
4. For buildings constructed upon a front property line, a cornice may project into public right-of-way. Maximum projection is the smaller of four feet or five percent of the right-of-way width.
5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.
6. Accessory structures are subject to all site development regulations of its zoning district, except as provided below: (*Amended by Ord. 02-07, 3-4-02; Ord. 04-02, 4-19-04; Ord. 04-10, 9-7-04; Ord. 11-06, 4-5-11*)
 - (a) Side Yards: An accessory structure may be located a minimum of five feet from the side lot line of the property if it is located between the rear building line of the principal building and the rear property line.
 - (b) Front Yards: No accessory structure may be located between the front building line of the principal building and the front property line.
 - (c) Rear Yard: The minimum rear yard setback for accessory structures shall be 5 feet. This minimum rear yard setback shall be increased to 15 feet if the accessory structure is a garage with a vehicular entrance door that is directly oriented toward an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory structure shall be located within any easement or right-of-way along the rear property line.
 - (d) Maximum Size: The number of accessory structures for a residential zoned district shall be limited to no more than two accessory structures per residence, except for lots one-half acre or more in which case up to three accessory structures per residence may be permitted. The maximum total floor space of all attached and detached garages and storage buildings shall not exceed the smaller of 2000 square feet or the square footage contained in the footprint of the principal structure. The maximum building coverage for all structures on a residential lot shall not exceed the limits specified in Table 4-3. All accessory structures on a site, taken together, must comply with the building coverage requirements for the zoning district and shall not occupy more than 30% of any required rear yard except for irregular size lots that shall comply with the maximum building coverage for the specific zoning.
 - (e) Height: The height of an accessory structure shall not exceed the height of the principal structure on the lot. Any accessory structures located within 15' of the property line shall

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have a maximum height of 15', if placed more than 15' away from any side or rear property line, the structure can have a maximum height of 20'. The maximum height of any accessory structure shall not exceed 20 feet.

(f) Foundations: All accessory structures shall be built with a permanent foundation system that will keep the structure securely fastened in-place. Any accessory structure not built on a permanent foundation is considered a temporary structure, and is not allowed.

(g) Footings: Footings that extend below the frost line, (36" below grade), are required on all accessory structures except those with a floor area of less than 400 SF.

(h) Separation from Other Buildings: No accessory structure shall be placed within ten feet of any other building on its own property or any adjacent properties.

(i) Attached Accessory Buildings: Any accessory structure physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.

(j) Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory structure must be entirely to the rear of the line of any principal building on such adjacent lot. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

(k) Hazards: Any accessory use which creates a potential fire hazard shall be located a minimum of 10 feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.

(l) No accessory building shall be built upon any lot until construction of the principal building has begun.

(m) Appearance: The exterior appearance of all accessory structures shall be architecturally harmonious with the main residential structure and consistent with the design, scale, and appearance of the primary structure. Materials that are used to construct the accessory structure shall be exterior grade wood or better of similar appearance and durability to that of the principal structure.

(n) Carports: A carport is a covered structure used to offer limited protection to vehicles, primarily cars, from the elements. The structure can either be free standing or attached to a wall. Carports that are not architecturally connected to the principal residence by similar appearance and materials are prohibited. This includes but is not limited to metal framed structures with metal roofs, post and beam structures with a low slope roof, or a low slope roof attached to another structure or between structures.

(o) Lamp posts with a maximum height of ten (10) feet, and flagpoles up to a maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.

(p) Garage Setbacks: Any garage that fronts on a public street must be set back at least 25 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

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7. Lamp posts with a maximum height of ten (10) feet, and flagpoles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.

c. Setback Adjustments

1. Setbacks on Built-Up Blockfaces

These provisions apply if thirty percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

(a) If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.

(b) If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.

(c) If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.

(d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

2. Corner Lots

Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

d. Rear Yard Exceptions - Residential Uses

When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than sixty percent (60%) of the rear yard required by the zoning district.

e. Double Frontage Lots

Residentially zoned double frontage lots on a major street, and with no access to that street may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.

f. Satellite Antennas

1. Each lot shall have no more than one satellite antenna.

2. Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.

3. Antennas with a surface area of over 6.3 square feet are subject to the following additional regulations:

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- (a) Such antennas shall be located no less than ten feet from the property line of an adjacent property line.
- (b) The maximum height shall be 15 feet and the maximum diameter shall be 11 feet.
- (c) Each antenna shall be screened by a six-foot high wood or masonry fence, or by natural plants or trees of equal minimum height.

g. Vision Clearance Zones

Except in the DC District, no structure, including a fence, shall be built to a height of more than three feet above the established curb grade on the part of the lot within as vision clearance zone. The vision clearance zone shall be a triangle measured from the point of intersection of the centerline of the streets to a point 90 feet in each direction from the intersection along such centerlines. At the intersection of major streets, the 90-foot distance shall be increased to 120 feet. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection.

11.705 Height Exceptions

These provisions allow exceptions to the height limit of any zoning district in certain situations.

a. Vertical Projections

Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing and future ordinances.

b. Amateur Radio Towers and Federal Communication Commission Pronouncements

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Board of Adjustment may grant a Conditional Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e)).
3. Such radio towers shall not be located within any front yard of the primary use.

c. Civic Buildings

Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

d. Communications Towers

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Communications towers, when operated by a federally licensed commercial or non-profit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators. Such towers are subject to the requirements of Section 11.610a.

e. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation Systems are exempt from the height restrictions of the base district but is subject to the regulations of Section 11.610c.

f. Special Use Approvals

The Board of Adjustment may grant an exception from the height limit for a zoning district for a Special Use as part of its approval of that use. The limit or extent of this exception shall be a specific part of the special use permit.

g. Federal Aviation Administration Rules

No structure may be built in any zoning district which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Waverly.

11.706 Exceptions to Site Development Regulations for Creative Subdivisions

a. Purpose

In the instance that the Subdivision Chapter of the Land Development Ordinance provides for creative subdivisions, the city may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to creative subdivisions.

b. Site Area Per Unit

1. Unless otherwise provided, the site area per unit for a creative subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the creative subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

c. Perimeter Yards

1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
2. Structures must maintain a 20-foot minimum side yard setback from any property line that forms the boundary of the development.

d. Area and Yards for Individual Lots

1. Individual lots within a creative subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Ordinance, unless provided for by the

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regulations for a specific zoning district. A creative subdivision must be planned and developed as a common development. A minimum separation of twenty (20) feet shall be established for all residential structures not attached to one another, unless the City Council grants a specific exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Waverly's efforts to protect public health, safety, welfare, community character, property values and aesthetics.

2. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 25 feet from that public street or private way.

e. Coverage and Landscaping Requirements

Individual lots in a creative subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

11.707 Fence Regulations

a. Location Restriction

1. Unless otherwise provided by this Ordinance or other sections of the Waverly Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines or tract outside the surveyed lot lines.

2. No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

b. Applicability

The regulations contained in Sections 11.707(b) through 11.707(j) apply to all fences with a height above grade of 30 inches and over.

c. Required Openings

Unless otherwise provided by this Ordinance or other sections of the Waverly Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.

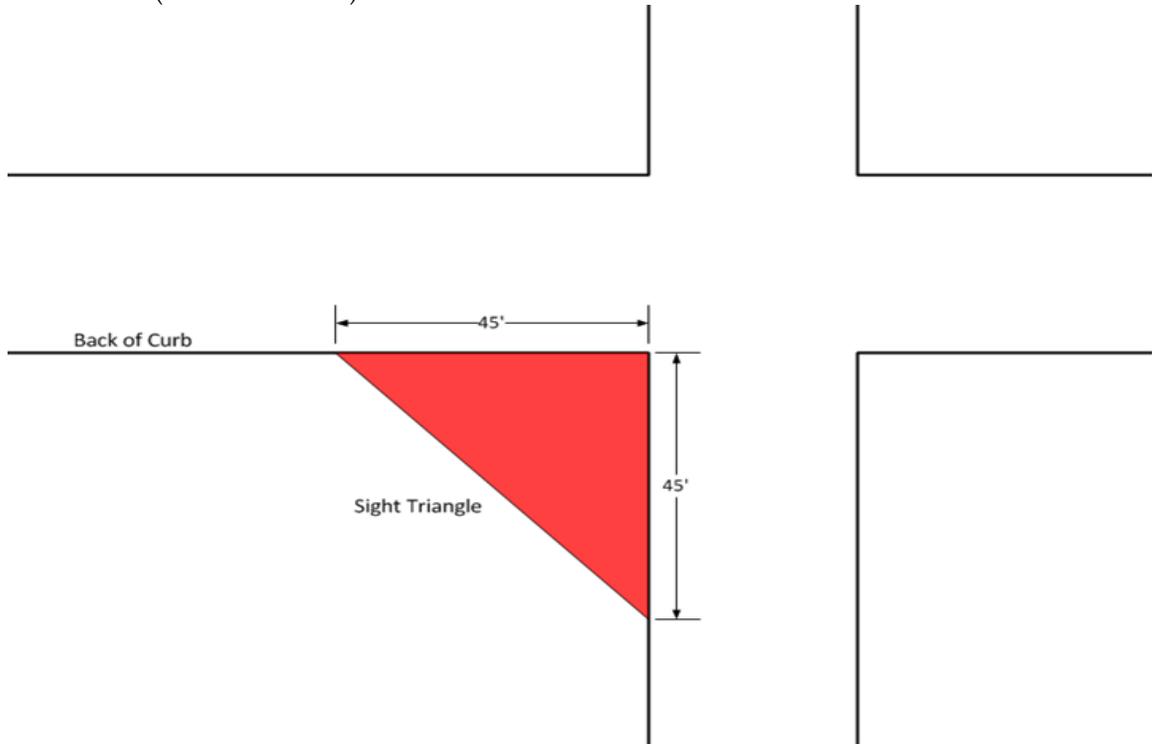
d. Sight Obstruction at Street Intersections (*Amended by Ord. 15-11, 12-8-15*)

No fence or hedge permitted or required by this article or other sections of the Waverly Municipal Code shall be built to a height of more than thirty inches (30") above the established curb grade on the part of the lot within the defined intersection sight triangle. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection. The intersection sight distance triangles are established as:

1. For major controlled intersections (e.g. stop, yield, signals etc.) and intersections with collector streets and arterial streets, the intersection sight distance triangles shall be defined as per the AASHTO Policy on Geometric Design of Highways and Streets, latest edition. For all other minor and uncontrolled intersections (residential streets) the intersection sight distance triangles on each leg of an intersection shall be defined as a triangle formed by the adjacent curb lines of

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intersecting streets and the line joining points 45 feet on each side line from their point of intersection (as shown below).



2. At intersections of a sidewalk and alley or non-residential driveway or parking lot access, the intersection sight triangle is defined as a triangle whose legs extend 10 feet back from the sidewalk along the alley or driveway, and 20 feet parallel to and along the back of the sidewalk back from the intersecting alley or driveway.

e. Facing

The finished surfaces of any fence shall face toward adjacent properties and street frontage.

f. Effect on Adjacent Properties and Drainage

1. No accessory building shall damage adjacent property by obstructing views, inhibiting solar access, or hindering ventilation.

2. Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainage ways created within easements.

g. Fence Construction on Utility Easements

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Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request of the owner of the easement whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

h. Protective Fences around Swimming Pools

A fence with a minimum height of five feet and compliant with the terms of this section shall be required around public or private swimming pools.

i. Residential Fences

Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.

1. Height: The maximum height of a fence within a required front yard or street side yard setback shall be 42 inches. The maximum height for any fence outside of a required front yard shall be six feet.
2. Exception for Street Side Yards: On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet.
3. Exception to Openness Requirement: Fences built on residential property outside of required front or street side yards may exceed of 50 percent closed construction.
4. Exception for Front Yards of Double Frontage Lots: A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts an arterial street or expressway, as defined in the Comprehensive Development Plan of the City of Waverly; and if such frontage does not provide primary access to the property.
5. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots. Other materials may be used if approved by the Building Inspector.

j. Civic, Office, Commercial, and Industrial Fences

Fences constructed in commercial and industrial districts are subject to the following special provisions:

1. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight feet.
2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities, Day Care, and Park and Recreation Use Types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts shall be eight feet.

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3. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Waverly.

4. Barbed wire shall not be used in the construction of any fence outside of the GI General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an industrial district provided that the bottom strand of the wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Waverly.

11.708 Outdoor Lighting (Established by Ord. 10-04, 3/1/2010)

a Purpose:

This section is intended to restrict or control the use of outdoor lighting devices and techniques which contribute to overall environmental glare, light trespass, public safety, and light pollution; affect the quality of the outdoor nighttime environment; and have a detrimental effect on astronomical observations.

b Alternative material:

This section is not intended to prevent the use of materials or techniques not specifically mentioned in this section, provided that such alternative is approved by the Zoning Administrator or the Public Works Director along public rights-of-way.

c Lighting terms.

1. **Outdoor light fixtures** shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include but not be limited to search-, spot-, or floodlights for buildings and structures, recreational areas, parking lots, landscape lighting, signs, street lighting, and display and service areas.

2. **Full Cutoff** shall mean a light fixture that cuts off all upward transmission of light.

3. **Fully shielded** shall mean fixtures that are shielded or designed in such a manner that light emitted by the fixture, either directly by the lamp or indirectly by the fixture, is projected below a horizontal plane running through the lowest point on the fixture where light is emitted which prevents a line of sight to the bulb when viewed from another property.

4. **Filtering** shall mean that light emitted by the lamp passes through a glass, acrylic, or translucent enclosure. Quartz glass does not meet the requirement of filtering.

5. **Lumens** shall mean measure of brightness of the illumination exiting a bulb.

6. **Spotlight** shall mean a luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

7. **Flood light** shall mean a luminaire or bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more.

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8. **Glare** shall mean discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment.
9. **Horizontal (or vertical) foot-candles** shall mean the amount of light striking a vertical or horizontal plane.
10. **Light source** shall mean the bulb and lens, diffuser, or reflective enclosure.
11. **Light trespass** shall mean light projected onto a property from a fixture not located on that property. No line of sight to a glaring light source is permitted from 5 feet or more inside a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.

d. Requirements for shielding and filtering.

Requirements for shielding and filtering of light sources are set forth in Table 7-1 listed below:

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Table 7-1 Shielding and Filtering Requirements for Light Sources		
Fixture Lamp Type	Shielded	Filtered
Low-pressure sodium	Fully	None
High-pressure sodium	Fully	None
Metal halide (Note 1)	Fully	Yes (Note 3)
Fluorescent	Fully (Note 4)	Yes (Note 5)
Quartz (Note 2)	Fully	None
Incandescent greater than 100W	Fully	None
Incandescent 100W or less	None	None
Mercury vapor	Prohibited	Prohibited
Fossil fuel	None	None
Glass tubes filled with inert gases	None	None
Other sources	By approval of the Zoning Administrator and Public Works Director	By approval of the Zoning Administrator and Public Works Director
NOTES:		
Note 1: Should be in enclosed luminaries.		
Note 2: Not considered an incandescent light source.		
Note 3: Most glass, acrylic, or translucent enclosures meet filtering requirements.		
Note 4: Outdoor signs constructed of translucent materials with internal lighting do not require shielding.		
Note 5: Warm, white, natural lamps are recommended.		

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e. Exemptions:

The following installations are exempt from the provisions of this section:

1. Nonconforming fixtures:

a.) Luminaries existing immediately prior to the effective date of this Section which are located on single family residential property adjacent to single family residential property and commercially zoned property adjacent to single family residential property or public ways which are in violation of this section may be declared a public nuisance after a complaint filed by an adjacent residential property owner of the City if they meet one of the following criteria:

- 1.) Exceed one (1) horizontal foot-candle at the property line, exclusive of street lights and other exterior lighting sources at the residential property line; or
- 2.) Directs a beam of light to a point beyond the property line; or
- 3.) Creates unreasonable glare because the fixture is not a cut-off or shielded style of luminaire.

b.) If it is determined that such non-conforming luminaries are unlawful or a nuisance, then such luminaries shall be altered by either replacement with conforming luminaries, shielding, landscaping, berms or directional modifications or controls within sixty (60) days of receiving a written notice of violation from the City. The 60 day cure period shall commence upon receipt of official notice by the property owner of violation of this Section.

2. Fossil-fuel lighting, such as fixtures using natural gas combustion as a light source.

3. Ornamental or thematic lighting in any Zoning District if specifically approved by the Planning Commission. The maximum height of any such ornamental light shall be 16 feet.

4. Construction or emergency lighting provided that such lighting is removed on completion of the construction project or emergency.

5. Temporary event lighting, such as searchlights, subject to issuance of a temporary permit by the Chief Building Official for a specific duration of time.

6. Exemptions granted by the Zoning Administrator and Public Works Director for special conditions, upon issuing a written finding that conditions exist that make conforming fixtures inadequate to the specific task.

f. Interpretation:

When enforcing the provisions of this Section, the City shall enforce such provisions in a non-arbitrary and non-discriminatory manner and such enforcement shall be interpreted by the City such that ordinary people can understand which acts are prohibited and which acts are allowed by this Section.

g. Inclusion on Permit Applications:

For all building projects other than single family residential, lighting plans shall be submitted as part of building, or sign permits and shall be reviewed as part of the normal review process for such permits.

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11.709 Appeals

Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Sections 11.1208 through 11.1210.