

SHOREWOOD

# COMMERCIAL ZONING UPDATE



PUBLIC HEARING DRAFT  
January 24, 2023

Chapter 16  
**Boards, Commissions and Committees**

Article VIII  
**Design Review Board**

**§ 16-19 Design Review Board.**

- A. Established. There shall be a Design Review Board in and for the Village of Shorewood.
- B. Membership. The Design Review Board shall consist of nine members, appointed by the Village President with the approval of the Village Board, who shall serve without compensation.
- (1) The membership shall include at least two architects, two additional architects or other design professionals, one real estate broker, and four additional members, all of whom shall be residents of the Village. In addition, three former members of the Design Review Board may serve as alternate members pursuant to Subsection C(4) of this section.
  - (2) The Village Manager, Village Attorney and Planning and Zoning Administrator, or their designees, shall be ex officio nonvoting members.
  - (3) Members of the Board shall elect their own Chair and adopt such rules as they deem advisable, but which shall not conflict with the provisions of this section.
  - (4) All appointments shall be for staggered terms of three years commencing June 1 of the year of appointment, provided that any vacancy shall be filled for the unexpired term of the original appointment. Members shall serve until their successors have been appointed.
- C. Organization.
- (1) Meetings shall be held at the call of the Chair, when requested by the Building Inspector, or when a ruling and determination is required hereunder. All meetings shall be open to the public except as allowed by applicable law.
  - (2) Minutes shall be kept showing all actions taken and shall be a public record.
  - (3) A quorum shall be four members and all action shall require the concurring vote of at least the majority of those members present.
  - (4) In the event that there are at least three members present, a specified former member may serve as a voting member for the purpose of providing a quorum to conduct the meeting.
- D. Duties and responsibilities.
- (1) The Design Review Board is responsible for evaluating design elements during the design review process (see 535-31F).
  - (2) The Design Review Board does not have the authority to revise or amend zoning regulations.

## Chapter 319 Health and Sanitation

### Article I Food Service

#### **§ 319-1 Marketing and trade practices.**

The provisions Ch. 100, Wis. Stats., related to marketing and trade practices, are incorporated by reference and made a part hereof as if fully set forth herein.

#### **§ 319-2 Serving food outdoors.**

Food may be served at drive-ins, open-air dining rooms and other similar restaurants where screening is not provided for the dining room, provided that:

- A. The areas where food is served are kept free of flies and other insects.
- B. All food served and all utensils used in connection therewith are covered or wrapped.

#### **§ 319-3 Hours of operation for restaurants.**

All restaurants operated in the Village of Shorewood and licensed hereunder shall be closed no later than 1:00 a.m. Monday through Friday and 2:00 a.m. Saturday and Sunday. Such premises shall not be reopened earlier than 5:00 a.m. of the same day. Excepted from these provisions shall be the following holidays when the licensed premises may remain open until 2:00 a.m. on the day of the holiday: Memorial Day, Independence Day, and Labor Day. On New Year's Day, the licensed premises may remain open with no closing time required on January 1 annually.

Chapter 326  
**Housing and Property Standards**

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**§ 326-7 Minimum space, use and location requirements.**

No person shall occupy or let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- A. No dwelling unit shall be occupied by more than one family as defined in this chapter.
- B. Floor areas, ceiling heights and room areas shall be as provided for under Chapter 225, Building Construction, of the Village Code.
- C. No dwelling or dwelling unit containing two or more bedrooms shall have such room arrangement that access to a bathroom or toilet room intended for use by the occupants of more than one bedroom can be had only by going through another bedroom, nor shall such room arrangements exist so that access to a bedroom can be had only by going through another bedroom or bathroom or toilet room.
- D. No space in a basement in any R district may be used for sleeping purposes or as a dwelling unit.
- E. Every occupant of every dwelling unit shall have unrestricted access to a toilet and to a kitchen sink or lavatory basin located with that dwelling unit.
- F. Every room used for sleeping purposes by more than two occupants shall be required to have an additional 40 square feet of floor area for each additional occupant thereof, subject to the basic requirements as established under the provisions of § 225-7F of this Code.

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## Chapter 437

### Sales

#### Article II

#### Display of Merchandise in Outdoor Areas

##### **§ 437-14 Approval required.**

No goods, wares or merchandise shall be sold, rented or leased, or shall be exposed for sale, rental or leasing, or otherwise displayed for any other commercial reason, on any streets, sidewalks, alleys or in any other public area without an approved Special Privilege as regulated in § 466-18 in conjunction with the following considerations.

##### **§ 437-15 Considerations for approval.**

In determining whether or not to approve applications received under this article, the Village Manager shall consider:

- A. The type of merchandise to be displayed.
- B. Location of the display.
- C. Whether or not the display will have an adverse effect upon the appearance of the neighborhood or area where located.
- D. Whether or not the display will have an adverse effect on adjacent property values.
- E. Whether or not the display will impede or interfere with the safe passage of pedestrians or motor vehicles.
- F. Whether or not the display will create a public nuisance in the area.
- G. Such other matters as may be deemed relevant and material.

##### **§ 437-16 Exceptions.**

Excepted from the provisions of this article shall be goods, wares or merchandise on display and sold at rummage sales and governmental or court-ordered sales.

**Chapter 455**  
**Solid Waste**

**Article I**  
**Refuse Collection and Disposal**

**§ 455-2 Refuse collection service.**

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**D. Combined refuse collection service to the commercial class.**

- (1) All in-basement collection service or collection service from other than Village-approved karts or dumpsters is prohibited.
- (2) Combined refuse collection for the commercial class will be from Village-approved karts or dumpsters, to be contracted by the commercial class owner with a private hauler of the owner's choosing; the cost of such collection service shall be paid by the commercial class owners of Village property.
- (3) Commercial class owners of Village property requiring collection services shall be subject to the following additional requirements:
  - (a) If karts, dumpsters or other approved containers are used, they shall be closed at all times, other than times of dumping, and shall be screened from public view to prevent unsanitary or unsightly conditions.
  - (b) Screening required hereunder shall be subject to the approval of the Design Review Board, per 535-24I.
  - (c) Screening required hereunder may be waived as a Design Adjustment per 535-28D by the Design Review Board for good cause shown for reasons of unique or special hardship when such waiver will not allow for unsanitary or unsightly conditions to exist.
  - (d) Unless contracted with a private hauler, a special collection must be requested by the property owner from the Village for unusual, heavy, bulky or hazardous materials and yard waste subject to the provisions of Subsection C(4) of this section, and the cost for said special collection shall be paid by the commercial class owner.
  - (e) All karts, dumpsters or other approved containers shall be located on the property of the commercial class owner and shall not encroach upon the public way or the property of any other owner.

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# Chapter 535

## Zoning

### Article I

#### Introduction

##### **§ 535-1 Authority.**

These regulations are adopted under the authority granted by §§ 61.35 and 62.23(7), Wis. Stats.

##### **§ 535-2 Purpose.**

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this community.

##### **§ 535-3 Intent.**

It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters and regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic and other dangers; provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; provide adequate sanitation and drainage; prevent overcrowding of land; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the community's Comprehensive Plan or plan components. It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

##### **§ 535-4 Abrogation and greater restrictions.**

It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

##### **§ 535-5 Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

### Article II

#### Definitions

##### **§ 535-6 Definitions and word usage.**

For the purposes of this chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The words “shall,” “will,” and “must” are mandatory. The phrase “may not” means that the subject act is prohibited.

##### **535-6A General definitions.**

###### **ALLEY**

A public or private right-of-way providing a secondary means of vehicular access to abutting properties.

###### **AREA, BUILDING**

The total floor area of the first floor of a building as measured from the exterior face of the walls. Areas of the building not provided with surrounding walls, such as a carport, shall be included in the building area if such areas are included within the horizontal projection of the

roof or floor above.

**AREA, FLOOR**

The gross area of all floor space within the building, not including any parking area.

**AREA, LOADING**

A space or berth on the same lot for the loading or unloading of goods, wares or merchandise, having adequate ingress and egress to a public street or alley.

**AREA, LOT**

The total area of land lying within the peripheral boundaries of a parcel.

**ATTIC**

That portion of a dwelling used for storage or other nonhabitable purposes which is located on the uppermost floor of the building.

**BALCONY**

A roofed or unroofed platform that projects from the wall of a building above grade more than 18 inches and that is enclosed only by a parapet or railing.

**BALCONETTES**

Balconettes are false balconies, sometimes referred to as Juliet balconies, consisting of a rail and door, either without an outdoor platform or with an outdoor platform less than 18 inches in depth.

**BUILDING**

Any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.

**BUILDING, MIXED-USE**

A commercially classified building containing a mix of use groups, including, but not limited to, residential, commercial, civic and institutional, or other.

**BUILDING, MULTIUNIT**

A commercially classified building with a residential use containing three or more dwelling units.

**COVERED ENTRYWAY**

A covered entrance over a doorway without support structures extending to the ground or floor.

**DECK**

An exterior structure that has no roof or sides that may be enclosed by a parapet or railing and has a permeable floor which allows the infiltration of precipitation.

**DRIVEWAY**

Any private drive surface used for vehicular travel or parking giving access from a public way to a building or buildings on abutting property.

**DWELLING**

Any building, except temporary housing, which is wholly or partly used or intended to be used for living or sleeping by human occupants and includes any appurtenances attached thereto.

**DWELLING UNIT**

A combination of rooms, including habitable space, cooking and bathing facilities, designed to be occupied by not more than one household.

## **EFFICIENCY UNIT**

A dwelling unit located in a residential, multi-unit or mixed-use building consisting of one principal room and, in addition, consisting of a kitchen facility and bathroom, which shall be exclusive of hallways and closets provided therein.

## **ESSENTIAL SERVICES**

Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal building. These services include, but are not limited to, underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as, but not limited to, poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants.

## **FACADE**

The vertical surface of a building.

## **HOME OCCUPATION**

Any occupation conducted entirely within the principal building by resident occupants of said building which is customarily incidental to the principal use of the premises.

## **HOUSEHOLD**

An individual, or any number of persons related by blood, marriage, legal adoption or legal guardianship, or a group of not more than 3 adults of any relationship plus any minor children related by blood, adoption or documented responsibility living together in a dwelling unit. Except as provided under §62.23(7)(i), Wis. Stats., the foregoing definition of "household" may not be used or applied to prohibit or restrict the following:

- (a) A community living arrangement with a capacity of eight or fewer persons as described and meeting the criteria under § 62.23(7)(i), Wis. Stats., that is licensed, operated or permitted under the provisions set forth in § 62.23(7)(i), Wis. Stats.
- (b) A foster home under the provisions of Ch. 48, Wis. Stats., whereby a foster home license is issued, provided that the number of foster children shall not exceed four, unless all are in the relationship to each other of brother or sister.
- (c) An adult family home licensed under § 50.033(1m)(b), Wis. Stats., and described in and subject to the provisions of §§ 50.01(1)(b) and 62.23(7)(i), Wis. Stats, which provide that the number of additional adults residing at such adult family home shall not exceed four, unless all of the additional adults are siblings each of whom has a developmental disability.

## **LEGAL NONCONFORMITY**

Any structure, land or water lawfully used, occupied, or erected or platted at the time of the effective date of this chapter or amendments thereto, which does not conform to the regulations of this chapter.

## **LOT, BUILDABLE**

A parcel of land having a street frontage occupied or intended to be occupied by a principal building and sufficient in size to meet the lot, width and area minimums, and open space requirements of this chapter.

## **LOT, CORNER**

A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135° or less measured on the lot sides.

**LOT COVERAGE**

The total area of the lot covered by either a principal building or accessory structures, not including uncovered structures, such as decks, patios, driveways, parking slabs and the like, in relation to the total lot area.

**LOT LINE**

The peripheral boundary of a parcel of land.

**LOT LINE, STREET**

A line dividing a lot from a public right-of-way.

**LOT WIDTH**

The distance between the side lot lines measured along the front setback line or the frontage of a build-to zone as established by this chapter.

**OCCUPIED BUILDING SPACE**

Interior building space occupiable by people, not including storage, mechanical, utility, or garage space.

**PUBLIC AND SEMIPUBLIC BUILDINGS**

Structures principally of an institutional nature and serving a public need, such as churches, hospitals, rest homes, schools, including private academic schools and nursery schools, libraries, museums, post offices, police and fire stations, public and private utilities and other public services, but not including the operation of a public bar, restaurant or recreational facility as a commercial enterprise.

**SETBACK**

The minimum horizontal distance between a lot line and the nearest wall of the principal building facing such lot line.

**SOLAR ENERGY SYSTEM**

Equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy.

**STREET**

A public or private right-of-way providing primary vehicular access to abutting properties.

**STRUCTURE**

Anything which is constructed or erected and which is fastened, anchored or rests on a permanent foundation or on the ground for any occupancy or use whatsoever.

**STRUCTURE, ACCESSORY**

A structure subordinate to the principal building located on the same lot or parcel serving a purpose customarily incidental to the principal building.

**STRUCTURE, EXISTING**

A building, structure, equipment, or premises and appurtenances thereto completed or in the course of construction for which a permit has been issued prior to the effective date of this chapter.

**STRUCTURE, NONCONFORMING**

Any structure not conforming in respect to height, area, streetwall, building type, building design, parking, loading, or distance requirements.

**STRUCTURE, TEMPORARY**

A structure designed for temporary protection of goods, materials, chattels or other uses, not including human habitation, for a period not to exceed 30 days, unless otherwise provided in the Village Code.

**TRANSIENT**

A reference to something of a temporary nature. When referring to persons, the reference means someone who is not a permanent resident but rather one who resides for a short time or stops for a brief period.

**USE, ACCESSORY**

A use subordinate to the principal use of a lot or parcel serving a purpose customarily incidental to the principal use.

**USE, COMMERCIAL**

Uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public.

**USE, CONDITIONAL**

A special class of uses which are deemed desirable for the public welfare within a given zoning district or districts but which are potentially incompatible with typical uses permitted within the district(s) and which require restrictions or conditions tailored to fit the special problems which the uses permit.

**USE, EXISTING**

A use for which a permit has been issued prior to the effective date of this chapter.

**USE, LAWFUL**

The approved use of a structure, land or water that conforms to the Village's use regulations at the time of its establishment.

**USE, NONCONFORMING**

Any use associated with a structure, land or water, which does not conform to the use regulations of this chapter.

**USE, PRINCIPAL**

The primary purpose or function that a lot, building or tenant space serves or is intended to serve.

**USE, RESIDENTIAL**

Uses that provide for long-term residential occupancy by individual households or by groups of people living together in a non-household setting. See 535-25C.

**USE, TEMPORARY**

Uses of a temporary nature typically due to construction or a seasonal nature.

**VISION SETBACK**

An unoccupied triangular space at the street corner of a corner lot as established hereinafter in this chapter.

**WIND ENERGY SYSTEM**

Equipment and associated facilities that convert and then store or transfer energy from the wind into usable forms of energy.

## **ZONING ADMINISTRATOR**

The Zoning Administrator of the Village of Shorewood or their designee.

### **535-6B Residential and public district definitions.**

#### **BASEMENT**

Any floor of a building, the ceiling of which is not more than five feet above lot grade at any point of the building.

#### **BUILDING HEIGHT**

The vertical distance measured from the mean elevation of the established grade of the frontage street to the highest point of flat roofs, including parapets; to the mean height level between the eaves and ridges of gable, gambrel, hip and pitch roofs; or to the deckline of mansard roofs.

#### **ESTABLISHED GRADE**

The grade of the street as established by ordinance at the center line of the street.

#### **FRONTAGE**

The dimension of a lot abutting a public street measured along the street line to which an address has been assigned.

#### **GARAGE**

An accessory building where private vehicles are kept for storage purposes and wherein such use is accessory to the residential use of the property on which it is located.

#### **PATIO**

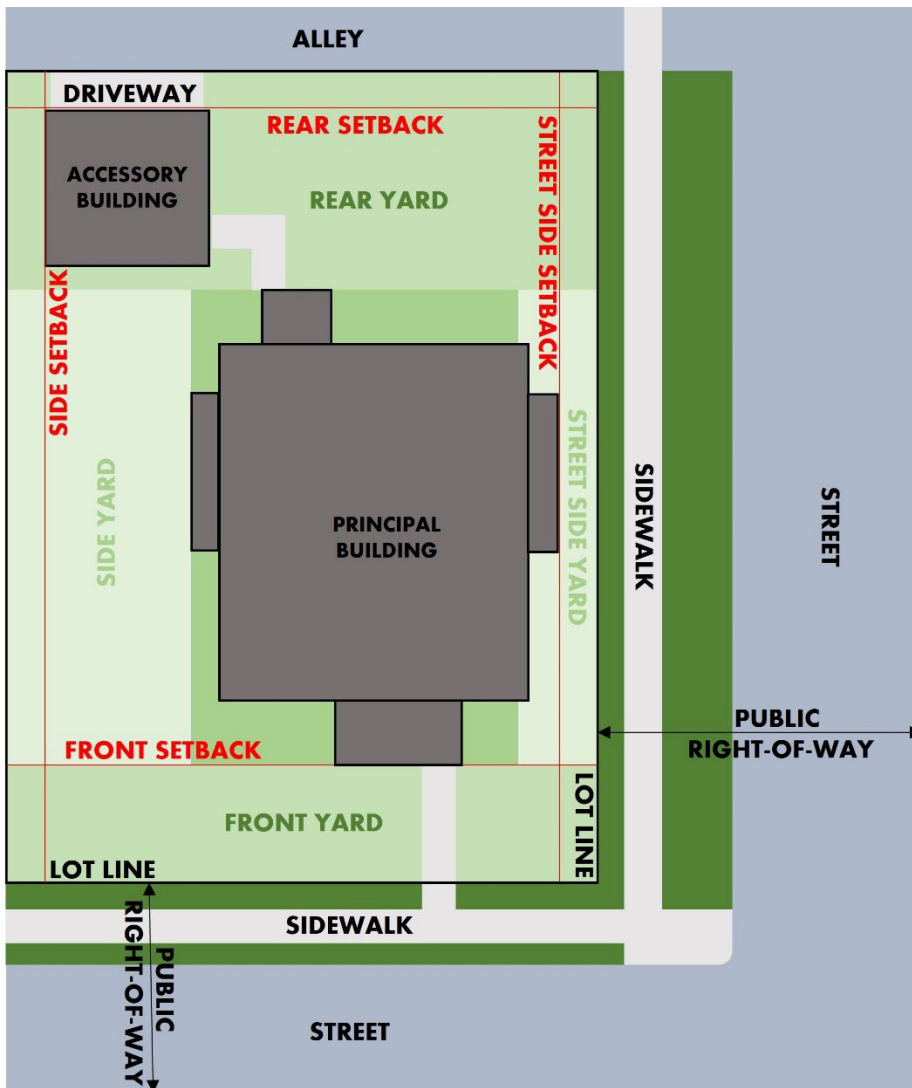
A hard-surfaced outdoor living area, usually on grade, located generally adjacent to a building.

#### **PORCH**

An elevated structure attached to the entrance of a building without side walls, forming a covered approach or vestibule to a doorway.

#### **PRIVATE CLUB**

A building or grounds used for regular or periodic meetings or gatherings of a group of persons organized for a nonprofit purpose, but not groups organized to render a service customarily carried on as a business.



**Figure 535-6-1:** Yards and Setbacks

**SETBACK, FRONT**

The minimum horizontal distance between the lot line adjacent to the street upon which the principal building fronts and the nearest point of the principal building facing such street. Refer to Figure 535-6-1.

**SETBACK, REAR**

The minimum horizontal distance between the rear lot line and the nearest wall of a building or structure on a lot. Refer to Figure 535-6-1.

**SETBACK, SIDE**

The minimum horizontal distance between an interior side lot line and the nearest wall of a building or structure on a lot. Refer to Figure 535-6-1.

**SETBACK, STREET SIDE**

The minimum horizontal distance between the street side lot line and the nearest wall of a building or structure on a corner lot. Refer to Figure 535-6-1.

**STOOP**

A solid, open platform located at the entrance of a building with a staircase.

**STORY**

That portion of a building included between the upper surface of any floor and the upper surface of the floor next above or, if there is no floor above it, then the space between the floor and the

ceiling next above it. Story does not mean a cellar, basement, mezzanine, balcony or attic.

### **TOWNHOUSE**

A structure containing three or more single-unit attached dwelling units with two or more common walls, extending from the basement floor to the roof of each unit, with individual front and rear entries.

### **YARD**

An open space that lies between a principal building and the nearest lot line.

### **YARD, FRONT**

A space extending across the entire width of a lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest wall of the principal building. On a corner street lot, the front yard shall be the side on which the lot's address is assigned. Refer to Figure 535-6-1.

### **YARD, REAR**

A space extending across the entire width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest wall of the principal building. This yard shall be opposite the front yard. Refer to Figure 535-6-1.

### **YARD, SIDE**

A space extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest wall of the principal building. Refer to Figure 535-6-1.

### **YARD, STREET SIDE**

A space extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the street side lot line to the nearest wall of the principal building. Refer to Figure 535-6-1.

### **535-6C Commercial district definitions.**

### **BASEMENT**

That portion of a building having more than 3 feet of its floor-to-ceiling height below the average finished grade of the adjoining ground and with a floor-to-ceiling height of 7.5 feet or more. See Figure 535-22-29.

### **BASEMENT, VISIBLE**

A basement having more than 3 feet of its floor-to-ceiling height above the average finished grade of the adjoining ground. See Figure 535-22-29.

### **BUILD-TO ZONE**

An area in which the street facade of a building must be placed, dictated by the minimum and the maximum distance a structure may be placed from the lot line. See 535-22I(4)

### **COURTYARD**

A courtyard is any open air, uncovered landscape, sidewalk, patio, terrace, or deck area, enclosed on at least 3 sides and with a maximum opening of 50% of any street facade.

### **FACADE, NON-PRIMARY**

A building facade generally parallel to and facing the right-of-way line along a nonprimary street.

**FACADE, PRIMARY**

A building facade generally parallel and facing the right-of-way line along a primary street.

**FACADE, REAR**

Any facade of a building generally parallel to and facing the rear lot line.

**FACADE, SIDE**

Any facade of a building generally parallel to and facing a side or interior side lot line.

**FACADE, STREET**

Any facade of a building generally parallel to and facing any street right-of-way and including bays or minor walls perpendicular to the facade. The facade may be a primary or non-primary facade, depending on whether it is facing a primary or non-primary street, respectively.

**FRONTAGE, NON-PRIMARY**

The portion of a lot or building abutting or directly adjacent to a non-primary street right-of-way.

**FRONTAGE, PRIMARY**

The portion of a lot or building abutting or directly adjacent to a primary street right-of-way.

**FRONTAGE, STREET**

The portion of a lot or building abutting or directly adjacent to a street right-of-way.

**GRADE**

The elevation of finished ground level adjoining the building or structure at all exterior walls or surfaces. Along a street facade, grade refers to the elevation of the adjacent public streetscape sidewalk.

**GREEN ROOF**

The roof of a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. It may also include additional layers such as a root barrier and drainage and irrigation systems.

**LIGHT TRESPASS**

Lighting that falls beyond the boundaries of the property it is intended to illuminate; also known as "light spillover."

**LUMEN**

The measure of brightness from a light source, comparing how bright a light source is.

**LUMINAIRE**

The complete lighting assembly, less the support assembly. For purposes of determining total light output from a luminaire, lighting assemblies which include multiple unshielded or partially shielded lamps on a single pole or standard shall be considered a single unit.

**SHADOW LINE**

An architectural feature consisting of a typically decorative, 3-dimensional, linear element, horizontal or vertical, protruding or indented at least 1.5 inch in depth from the exterior facade of a building, and creating a shadow on the facade with light overhead, and extending, with limited interruption, the length or height of the designated story. Examples may include cast stone cornices or lintels, pilasters, or stepped brick coursing.

**STORY, GROUND**

Also called ground floor. The story closest to the ground level that does not meet the definition

of a basement.

**STORY, HALF**

See measuring of building height, 535-22I(8)g.

**STREETSCAPE AREA**

The area behind the back of curb designed for pedestrian travel, including the sidewalk and buffer zone between the sidewalk and street for street planting and/or street furnishings.

**STREETWALL**

The portion of the building facade that is located generally parallel and facing the street right-of-way line, creating a vertical edge or wall to the street.

**STREETWALL, PRIMARY**

The minimum amount of building facade required along and generally parallel to a primary street frontage and built within the build-to zone.

**YARD**

An actual (as opposed to “required”) open, unoccupied space that exists on a lot between a building and a lot line.

**YARD, INTERIOR**

On lots with multiple buildings, a yard between any buildings that does not abut any lot line.

**YARD, NON-PRIMARY**

A street yard extending between the principal building and a non-primary street right-of-way and lying between the primary yard and the rear lot line.

**YARD, PRIMARY (FRONT)**

A street yard extending along the full width of the lot and lying between the principal building and a primary street right-of-way.

**YARD, REAR**

A yard extending along the full width of the lot and lying between the rear of the principal building and the rear lot line.

**YARD, SIDE**

A yard extending from the front yard to the rear yard and lying between the side of the principal building and the side lot line.

**YARD, STREET**

Any yard between the principal building and a street right-of-way.

Article III  
**General Provisions**

**§ 535-7 Jurisdiction.**

The jurisdiction of this chapter shall include all lands and waters within the corporate limits of the Village of Shorewood and as otherwise provided by law.

**§ 535-8 Compliance required; enforcement.**

- A. Except as may be otherwise specifically provided, the use, size, height and location of buildings existing on the effective date of this chapter or thereafter erected, converted, enlarged or structurally altered, the provisions for open spaces and the use of land shall be in compliance with the regulations established herein for the district in which such land or building is located.

- B. The duty of the Planning and Development Department, with assistance of the Police Department, shall be to investigate all complaints, to give notice of violations, and to enforce the provisions of this chapter. A duly authorized representative of the Planning and Development Department may enter at any reasonable time any public or private land or waters to make an inspection pursuant to enforcing the provisions hereof, subject to applicable law.
- C. In addition to all other powers granted to the Zoning Administrator and the Planning and Development Department to enforce the provisions of this chapter, the Zoning Administrator, Building Inspector or any representative of the Planning and Development Department duly authorized by the Village Manager are authorized pursuant to § 800.02, Wis. Stats., to issue municipal citations for violations of any of the provisions of this chapter.

**§ 535-9 Site restrictions.**

- A. Unsuitable land. No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Planning and Development Department by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics and general welfare of this community.
- B. Lots. All lots shall abut a public street, and each lot shall have a minimum frontage of 40 feet except as otherwise provided in this chapter.
- C. Buildable lot. No lot shall be considered a buildable lot if it abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- D. Building on divided or replatted lot. It shall be unlawful for any person, firm or corporation to erect any building or structure on a lot divided or replatted in violation of the area and frontage requirements of the district where located.
- E. Principal buildings. All principal buildings shall be located on a lot, and only one principal building shall be located, erected, or moved onto a lot unless otherwise provided in this chapter.
- F. Decks, patios, porches and driveways in R districts. No deck, patio, porch or driveway shall be constructed unless a Village building permit is applied for and issued by the Village, in accordance with the requirements of the Village Code.

(1) Decks.

- (a) Decks shall not be located in the front yard or street side yard, or the side setback or rear setback of a lot.

(2) Patios.

- (a) Patios, which are defined to include any hard-surfaced outdoor area with minimum dimensions of greater than six feet in length and width and an area of 64 square feet or greater, excluding driveways, may be located in the front yard or street side yard, only when constructed within the following parameters:

- [1] No more than 30% of any front yard or street side yard may be covered by a patio.
- [2] One entire side of a patio must be adjacent to the principal building of the lot.
- [3] Front yard patios and street side yard patios shall not be located closer than three feet to the front lot line or street side lot line.

- [4] A scaled drawing of the proposed layout of the front yard or street side yard patio must be completed, along with a list of proposed materials to be used in construction, all of which shall be submitted to the Design Review Board for review and approval. All materials must be of high quality, such as cut stone, Lannon or blue stone, or decorative concrete. In addition, the patio surface shall be screened from public view by year-round, continuous, natural vegetation of at least 18 inches in height, such as shrubs, ornamental grasses or perennial plants that provide screening through the winter months. High quality, decorative masonry or concrete walls, and permanent planters, no higher than three feet as measured from the surface of the patio, may be used in combination with natural vegetation to achieve year-round screening. No fences shall serve as the primary screening materials.
  - [5] Patios may not exceed six inches above grade in the front yard or street side yard.
- (b) Patios shall not be located in the side setback or rear setback of a lot, with the exception of on-grade patios in the R-5 and R-6 residence districts.
- (3) Porches and covered entryways. In order for buildings to have various features that provide variety, articulation and unique character, standards are established to allow certain elements of modest size to be placed in setback areas.
    - (a) Required setbacks.
      - [1] Porches may project up to eight feet from the front facade of the house into the front yard and covered entryways may project up to four feet into the front yard; however, in no instance may such projection encroach closer than 10 feet to the front lot line.
      - [2] Porches and covered entryways shall not be located beyond the interior side setback.
      - [3] Covered entryways may project up to four feet into the street side yard; however, in no instance may such projection encroach closer than six feet to the side lot line.
      - [4] Porch and covered entryway land area coverage shall count within the allowable area for principal buildings, per respective zoning districts.
    - (b) Design requirements.
      - [1] The maximum depth of a porch shall be no more than 10 feet.
      - [2] The floor height of any porch or covered entryway shall be at or within eight inches of the front entry height.
      - [3] Porch and covered entryway roof height shall be a maximum of one story. A second floor deck with railing may be allowed, subject to design approval.
      - [4] At least 50% of the exterior wall area shall be open; mesh screened areas, glazing and guardrails shall be considered enclosed.
      - [5] A covered entryway shall be centered over the doorway, including sidelights, and shall not extend greater than three feet in either direction.
    - (c) Prohibitions.

[1] Unfinished pressure-treated materials are prohibited.

[2] Porches may not be used for living purposes, three/four-season rooms, greenhouses, sunrooms, solariums (glass roof) or other like structures.

(4) Driveways.

(a) Driveways shall not be constructed unless they lead to a garage, except that circular driveways may be located in the front yard, provided that there is a garage or a garage is being constructed on the lot contemporaneously and provided that:

[1] An applicant for a permit to construct a circular driveway must submit a sketch of the proposed layout and landscape screening in addition to any other information that the Building Inspector or the Design Review Board may reasonably require in order to comply with this section;

[2] The design and materials used are aesthetically compatible with the surrounding neighborhood;

[3] The width of the lot at the front property line is at least 60 feet to allow for an adequate turning radius;

[4] There is landscaping necessary to adequately screen it from street view that does not impair the vision triangle; and

[5] The plans, including the landscaping, have been reviewed and approved by the Design Review Board.

(b) Newly constructed or reconstructed driveways shall have a minimum width of eight feet. In cases of reconstruction of driveways the Building Inspector may waive the minimum width where it is not practically possible to reconstruct an existing driveway to that width, but the reconstructed driveway may not be narrower than it was prior to reconstruction.

G. Open space requirements in R districts. At least 30% of each lot shall remain as open space, uncovered by structures, and planted with grass, shrubs, trees or other forms of vegetation, or surfaced with natural ground cover.

**§ 535-10 Height and Yard Modifications.**

A. Height Modifications. The district height limitations stipulated elsewhere in this chapter may be exceeded, but such modification shall be in accord with the following:

- (1) Residential communication structures shall not exceed a height greater than 15 feet above the principal building ~~structure~~ on which they are located.
- (2) Public or semipublic facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, and governmental offices and stations, may be erected to a height of 60 feet, provided that all required yards are increased not less than one foot for each foot the structure exceeds the district's maximum height requirement.
- (3) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are conditional uses in all R and P districts if they exceed the height limitations of this chapter.

B. Allowed Encroachments into Yards.

- (1) Uncovered stairs and landings may project into any yard not more than six feet and shall

not be closer than three feet to any lot line.

- (2) Architectural projections, such as eaves and building ornamentation, may project into any required yard, but such projection shall not exceed 18 inches.
- C. Essential Services. Essential services, such as utilities, electric power and communication transmission lines, are exempt from any setback and height requirements of this chapter.
- D. Vision setback area.
- (1) Except for intersections controlled by stop lights, stop signs or yield signs, vision setback lines at intersections of public streets shall be established by a straight line connecting two points which are on the center lines of and 50 feet from the intersection point of the two center lines of intersecting streets.
  - (2) In the vision setback area, no structure of any kind shall be permitted which exceeds a height of three feet above the elevation of the center of the intersection, except necessary highway and traffic signs, public utility lines and open fences through which there is clear vision, nor shall any fence or plant material be permitted which obscures safe vision of the approaches of the intersection.

**§ 535-11 Reduction of area.**

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this chapter.

**§ 535-12 Joint use.**

No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

**§ 535-13 Public utility uses.**

Subject to the applicable provisions of the Village Code, the following public utility uses may be located in any district: cable lines and necessary mechanical appurtenances; telephone and electrical distribution poles and lines; electrical transformers, provided that there is no service garage or storage yard; and telephone, telegraph and power transmission poles and lines and necessary mechanical appurtenances, including equipment housing, structures and towers, provided that when a utility proposes a main transmission facility, it shall give notice to the Planning and Development Department of such intention and of the date of hearing before the Public Service Commission and, before construction, shall file with the Planning and Development Department a mapped description of the route of such transmission line.

**§ 535-14 Correction of hazardous conditions or nuisances.**

Any use in any district which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood, as measured by the standards established in Article VIII of this chapter and by other applicable provisions of the Village Code, shall be corrected or improved by such measures as are approved by the Planning and Development Department consistent with reasonable technology and economic practicality.

**§ 535-15 Violations and penalties.**

Except where a penalty is otherwise prescribed, the penalty for violation of any provision of this chapter shall be as set forth in § 115-1 of the Village Code.

**§ 535-16 Reserved.**

**Article IV**  
**Zoning Districts**

**§ 535-17 Establishment.**

A. Districts. For the purpose of this chapter, the Village of Shorewood is hereby divided into the following zoning districts:

R-1	Lake Drive Residence District No. 1
R-2	Lake Drive Residence District No. 2
R-3	Lake Drive Residence District No. 3
R-4	Lake Drive Residence District No. 4
R-5	Single-Household Residence District No. 1
R-6	One- and Two-Household Residence District No. 1
R-7	Townhouse Residence District
R-8	Estabrook Homes Residential District
R-9	Apartment House District No. 1
R-10	Apartment House District No. 2
P-1	Civic and Institutional District
P-3	Park Preservation District
PDD	Planned Development District Overlay
MX1	Mixed-Use Storefront 1
MX2	Mixed-Use Storefront 2
CX	Commercial Storefront Mix
GX1	General Residential-Office Mix 1
GX2	General Residential-Office Mix 2
GX3	General Residential-Office Mix 3
RX	Residential Mix

B. Boundaries. Boundaries of these districts are hereby established as shown on a map titled "Zoning Map, Village of Shorewood, Wisconsin," which accompanies and is a part of this chapter. Such boundaries shall be construed to follow corporate limits, United States Public Land Survey lines, lot or property lines, and center lines of streets, highways, alleys, easements and railroad rights-of-way or such lines extended, unless otherwise noted on the Zoning Map.

- C. Vacation. Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- D. Annexations. Annexations to or consolidations with the Village subsequent to the effective date of this chapter shall be placed in the Park Preservation District, unless the annexation ordinance temporarily places the land in another district. Within one year, the Plan Commission shall evaluate and recommend a permanent district classification to the Village Board.

**§ 535-18 Zoning Map.**

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this chapter and shall bear upon its face the attestation of the Village President and Village Clerk and shall be available to the public in an administrative office of the Village to be designated by the Planning and Zoning Administrator. Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

**§ 535-19 Residence districts.**

Zones R-1 through R-10 serve the fully developed residential districts within the Village. Their primary intent is to maintain the particular character of each residential area, mainly with respect to building bulk, setback, and land coverage. As needed, additional measures are stated where topography restricts land usage.

A. R-1 Lake Drive Residence District No. 1.

- (1) Allowable uses: See Article V.
- (2) Lot:
  - (a) Width, minimum: 100 feet (on North Lake Drive).
  - (b) Area, minimum: 24,000 square feet.
- (3) Building:
  - (a) Area, minimum: 1,200 square feet.
  - (b) Height, maximum: 30 feet.
- (4) Setback:
  - (a) Front, minimum: 100 feet.
  - (b) Side, minimum: 10 feet.
  - (c) Rear: see specific requirements for bluff areas which follow hereafter.
- (5) Lot coverage, maximum: 30% of the lot for the principal building ~~structure~~ plus up to 10% for accessory structures.
- (6) Additional requirements.
  - (a) All land between the water's edge of Lake Michigan and elevation 680 feet mean sea level shall not be included as part of the required land area under § 535-22C(2) of this chapter.
  - (b) The rear setback shall be at least such distance as to ensure the stabilization of the bluff area; sufficient distance from the bluff area as to prevent injury or damage to adjacent property; and sufficient distance from the bluff area to provide for the natural

runoff of surface and percolating water or provide for an approved drainage according to applicable law.

- (c) A registered professional engineer hired by the owner of the lot shall certify to the Village that the footings and method of constructing any building or structure and the materials used therein are adequate from an engineering standpoint so as not to adversely disturb the natural runoff of surface and percolating water or create or add to a problem of erosion on the bank of the lake bluff and shall not adversely affect the structural integrity of any structure located on adjoining or adjacent lots.

B. R-2 Lake Drive Residence District No. 2.

- (1) Allowable uses: See Article V.
- (2) Lot:
  - (a) Width, minimum: 60 feet (on North Lake Drive).
  - (b) Area, minimum: 8,000 square feet.
- (3) Building:
  - (a) Area, minimum: 1,200 square feet.
  - (b) Height, maximum: 30 feet.
- (4) Setback:
  - (a) Front, minimum: 50 feet or the average of existing setbacks on the west side of North Lake Drive as established between the two closest intersecting streets, whichever is less.
  - (b) Side:
    - [1] Interior, minimum: five feet.
    - [2] Street: 18% of the width of the lot but not less than 20 feet.
  - (c) Rear, minimum: five feet.
- (5) Lot coverage, maximum: 30% of the lot for the principal building on an interior lot; 40% of the lot for the principal building on a corner lot; plus up to 10% for accessory structures.

C. R-3 Lake Drive Residence District No. 3.

- (1) Allowable uses. See Article V.
- (2) Lot:
  - (a) Width, minimum: 60 feet (on North Lake Drive).
  - (b) Area, minimum: 8,000 square feet.
- (3) Building:
  - (a) Area, minimum: 1,200 square feet.
  - (b) Height, maximum: 30 feet.

- (4) Setback:
  - (a) Front, minimum: 40 feet or the average of existing setbacks on the west side of North Lake Drive as established between the two closest intersecting streets, whichever is less.
  - (b) Side:
    - [1] Interior, minimum: five feet.
    - [2] Street: 16% of the width of the lot but not less than 15 feet.
  - (c) Rear, minimum: five feet.
- (5) Lot coverage, maximum: 30% of the lot for the principal building on an interior lot; 40% of the lot for the principal building on a corner lot; plus up to 10% for accessory structures.

D. R-4 Lake Drive Residence District No. 4.

- (1) Allowable uses. See Article V.
- (2) Lot:
  - (a) Width, minimum: 60 feet.
  - (b) Area, minimum: 18,000 square feet.
- (3) Building:
  - (a) Area, minimum: 1,200 square feet.
  - (b) Height, maximum: 30 feet.
- (4) Setback:
  - (a) Front, minimum: 25 feet or the average of existing setbacks on the east side of North Lake Drive as established between the two closest intersecting streets extended, whichever is greater.
  - (b) Side, minimum: five feet.
  - (c) Rear: see specific requirements for bluff area which follow hereafter.
- (5) Lot coverage, maximum: 30% of the lot for the principal building, plus up to 10% for accessory structures.
- (6) Additional requirements.
  - (a) All land between the water's edge of Lake Michigan and elevation 680.00 feet mean sea level shall not be included as part of the required land area under § 535-22C(2) of this chapter.
  - (b) The rear setback shall be at least such distance as to ensure the stabilization of the bluff area; sufficient distance from the bluff area as to prevent injury or damage to adjacent property; and sufficient distance from the bluff area to provide for the natural runoff of surface and percolating water or provide for an approved drainage according to applicable law.

- (c) A registered professional engineer hired by the owner of the lot shall certify to the Village that the footings and method of constructing any building or structure and the materials used therein are adequate from an engineering standpoint so as not to adversely disturb the natural runoff of surface and percolating water or create or add to a problem of erosion on the bank of the lake bluff and shall not adversely affect the structural integrity of any structure located on adjoining or adjacent lots.

E. R-5 Single-Household Residence District No. 1.

- (1) Allowable uses. See Article V.
- (2) Lot:
  - (a) Width, minimum: 50 feet.
  - (b) Area, minimum: 6,000 square feet.
- (3) Building:
  - (a) Area, minimum: 1,200 square feet.
  - (b) Height, maximum: 30 feet.
- (4) Setback:
  - (a) Front, minimum: 25 feet or the average of existing setbacks on the side of the street where the property is located between the two closest intersecting streets, whichever is greater.
  - (b) Rear, minimum: three feet.
  - (c) Side:
    - [1] Interior, minimum: three feet.
    - [2] Street side: 25% of the width of the lot but not less than 10 feet, provided that the buildable width of the lot shall not be less than 20 feet.
- (5) Lot coverage, maximum: 30% of the lot for the principal building on an interior lot; 40% of the lot for the principal building on a corner lot; plus up to 10% for accessory structures.

F. R-6 One- and Two-Household Residence District No. 1.

- (1) Allowable uses. See Article V.
- (2) Lot:
  - (a) Width, minimum: 40 feet.
  - (b) Area, minimum: 4,500 square feet.
- (3) Building:
  - (a) Area, minimum:
    - [1] Single-household: 1,200 square feet.
    - [2] Two-household: 900 square feet per dwelling unit.

- (b) Height, maximum: 30 feet.
- (4) Setback:
  - (a) Front, minimum: 25 feet or the average of existing setbacks on the side of the street where the property is located, between the two closest intersecting streets, whichever is greater.
  - (b) Rear, minimum: three feet.
  - (c) Side:
    - [1] Interior, minimum: three feet.
    - [2] Street side: 25% of the width of the lot but not less than 10 feet, provided that the buildable width of the lot shall be not less than 20 feet.
- (5) Lot coverage, maximum: 30% of the lot for the principal building on an interior lot; 40% of the lot for the principal building on a corner lot; plus up to 10% for accessory structures.
- (6) Additional requirements. It shall be unlawful to construct a two-unit residential building on any vacant lot upon which no prior dwelling has been constructed or on a lot previously occupied by a single-unit residential building in this district.

G. R-7 Townhouse Residence District.

- (1) Allowable uses. See Article V.
- (2) Lot:
  - (a) Width, minimum: 20 feet per dwelling unit.
  - (b) Area, minimum: 2,000 square feet per dwelling unit and 25,000 square feet per townhouse development.
- (3) Building:
  - (a) Area, minimum: 1,200 square feet per dwelling unit.
  - (b) Height, maximum: 30 feet.
- (4) Setback:
  - (a) Front, minimum: 15 feet.
  - (b) Rear, minimum: three feet.
  - (c) Side, minimum: six feet (applies to exterior wall of end dwelling unit measured to property line).
- (5) Lot coverage, maximum: 40% of the lot for the principal building plus 10% for accessory structures on an interior lot; 50% for the principal building structure plus 10% for accessory structures on a corner lot.

H. R-8 Estabrook Homes Residential District.

- (1) Principal and accessory uses. In the residential area in this district, no building or premises shall be used and no building or structure shall be erected, altered or maintained which is

arranged for, intended or designed to be used except for multiple-dwelling units not to exceed two stories in height, and with a garage or garages constructed in connection with and part of the plan of the multiple housing project, and which shall provide sufficient storage space for not less than one automobile for each family residing in such multiple dwelling or dwellings; such garage or garages shall be constructed underground, shall be of fireproof material and shall be adequately ventilated and lighted.

- (2) Conditional uses. Within this district, a recreational clubhouse may be constructed, erected and maintained upon approval of the Village Plan Commission, subject to the following conditions:
  - (a) Written rules and regulations governing the use of the recreational clubhouse shall be posted at all times by the owner, in a conspicuous location, upon or within the recreational clubhouse.
  - (b) The use of the recreational clubhouse shall be limited to the residents of this district and their guests.
  - (c) A security system subject to the approval of the Village's Planning and Development Department shall be provided which shall be so designed as to prevent a child of tender years (under 10 years of age) from obtaining unsupervised access to the swimming pool area of the recreational clubhouse.
  - (d) The conditional use granted hereunder shall be subject to periodic review by the Plan Commission; the initial review shall take place within one year of original approval. Subsequent reviews shall occur at such times thereafter as the Plan Commission shall determine.
- (3) Lot area, minimum: 2,000 square feet per household.
- (4) Building:
  - (a) Area, minimum: see § 225-7F(2)(a), (b) and (c) of the Village Code.
  - (b) Height, maximum: 30 feet.
- (5) Setback:
  - (a) Front, minimum: 15 feet.
  - (b) Rear, minimum: 30 feet between buildings.
  - (c) Side yards. There shall be a minimum distance between such multiple-dwelling buildings of not less than 30 feet; provided, however, that a minimum distance between a recreational clubhouse and all other buildings or structures shall be no less than 20 feet.

I. R-9 Apartment House District No. 1.

- (1) Allowable uses. See Article V.
- (2) Lot area: not less than 600 square feet per dwelling unit.
- (3) Building:
  - (a) Area: see § 225-7F(2)(a), (b) and (c) of the Village Code.
  - (b) Height, maximum: 40 feet.

- (4) Setback:
  - (a) Front, minimum: 15 feet.
  - (b) Rear: 20% of depth of lot, but not less than 20 feet for interior lot or 15 feet for corner lot.
  - (c) Side:
    - [1] Interior: 10% of width of lot but not less than five feet. For buildings more than 2 1/2 stories in height, each side yard shall be increased one additional foot in width for each story above the second floor.
    - [2] Street side: a twelve-foot setback shall be required on all corner lots.

J. R-10 Apartment House District No. 2.

- (1) Allowable uses. See Article V.
- (2) Building:
  - (a) Area: see §225-7F(2)(a), (b) and (c) of the Village Code.
  - (b) Height, maximum: 40 feet.
- (3) Setback:
  - (a) Front, minimum: 15 feet.
  - (b) Rear: 20% of depth of lot but not less than 20 feet for interior lot or 15 feet for corner lot.
  - (c) Side:
    - [1] Interior: 10% of width of lot but not less than five feet. For buildings more than 2 1/2 stories in height, each side yard shall be increased one additional foot in width for each story above the second floor.
    - [2] Street side: a twelve-foot setback shall be required on all corner lots.

§ 535-20 **Public and semipublic districts.**

A. P-1 Civic and Institutional District. The P-1 District is comprised mainly of long-standing public and semipublic buildings in areas throughout the Village. Beyond municipal buildings and public schools, additional permitted uses include private schools, community and religious assembly, and facilities devoted to public recreational purposes.

- (1) Allowable uses. See Article V.
- (2) Building:
  - (a) Area, maximum: 30% of lot coverage.
  - (b) Height, maximum: 50 feet.
- (3) Setback:
  - (a) Front, minimum: 25 feet.

- (b) Rear, minimum: 15 feet.
- (c) Side:
  - [1] Interior, minimum: 10 feet.
  - [2] Street side, minimum: 15 feet.

B. P-3 Park Preservation District. The aim of the P-3 District is to preserve this zone for scenic, scientific, historic and recreational uses in this zone and to encourage the preservation of undeveloped areas along the Milwaukee River and Lake Michigan.

- (1) Allowable uses. See Article V.
- (2) Lot:
  - (a) Width: no minimum.
  - (b) Area: no minimum.
- (3) Building:
  - (a) Area: no minimum.
  - (b) Height, maximum: 30 feet.
- (4) Setback:
  - (a) Front, minimum: 15 feet from all lot lines.
  - (b) Rear, minimum: 15 feet from all lot lines.
  - (c) Side, minimum: 15 feet from all lot lines.

**§ 535-21 Planned Development District Overlay**

A. Legacy District Status

- (1) Land classified in a Planned Development District (PDD) zoning district on February 6, 2023 will continue to be classified in the PDD zoning district, which shall function as an overlay zoning district. Overlay zoning districts “over-lay” the underlying base zoning district classification to alter some or all of zoning regulations that apply to particular sites.
- (2) Applications to establish new PDD zoning districts or to expand the boundaries of existing PDD zoning districts will not be accepted after February 6, 2023.
- (3) Except as expressly approved by the Village as part of any plans, agreements, or written conditions of approval of a PDD zoning district established before February 6, 2023, the regulations of the underlying base zoning district shall govern all new development within a PDD overlay district, including physical improvements and the review of new uses and occupancies.
- (4) Amendments to existing PDD overlay districts shall be processed in accordance with the Changes and Amendments procedures of Article XI. Any approved amendments shall comply with all applicable regulations of the underlying base zoning district.

## 535-22. COMMERCIAL & MIXED-USE ZONING DISTRICTS

### 535-22A INTENT

The regulations of the commercial and mixed-use districts are intended to support development along the business corridors of the village, based upon the goals and vision established in the Village’s Comprehensive Plan. Further, these districts are intended to achieve the following:

#### 535-22A(1) SENSE OF PLACE

A sense of place defined by human-scaled development consisting of a variety of high-quality buildings and civic spaces with well-designed landscapes and streetscapes.

#### 535-22A(2) WALKABLE DEVELOPMENT

Walkable development that is comfortable, safe, and interesting for the pedestrian through the use of human-scaled buildings, streetscape design, and a hierarchy of streets for pedestrians and vehicles.

#### 535-22A(3) MIXED-USE

Buildings and development that activate streets and civic spaces during the day and into the evenings through a mix of uses and multi-story buildings that define the public space of the street.

#### 535-22A(4) SUSTAINABLE

Development that promotes environmental sustainability goals, such as reductions in energy consumption, reductions in greenhouse gas emissions through pedestrian- and bicycle-friendly design, and supporting the natural environment.

**Table 535-22-1. Districts**

SYMBOL	DISTRICT NAME
<b>COMMERCIAL &amp; MIXED-USE DISTRICTS</b>	
MX1	Mixed-Use Storefront 1
MX2	Mixed-Use Storefront 2
CX	Commercial Storefront Mix
GX1	General Residential-Office Mix 1
GX2	General Residential-Office Mix 2
GX3	General Residential-Office Mix 3
RX	Residential Mix

### 535-22B DISTRICTS

#### 535-22B(1) DISTRICTS ESTABLISHED

The Village's commercial and mixed-use districts are listed in [Table 535-22-1](#). When this zoning ordinance refers to “commercial and mixed-use” districts, it is referring to these districts.

#### 535-22B(2) DISTRICT DESCRIPTIONS

**(a) MX, Mixed-Use Storefront Districts.** The MX districts are intended for the mixed-use corridors, where walkable Storefront Buildings generally include shopping, eating and drinking, and services behind the storefront windows and a mix of uses throughout the building, including residential.

[1] MX1 is for locations abutting neighborhoods.

[2] MX2 is reserved for locations where taller buildings fit within the context of the area.

**(b) CX, Commercial Storefront Mix District.** The CX district is intended for specific locations where single-use, single-story Commercial Buildings, oriented both to pedestrian and automobile access, may occur alongside a mix of uses within walkable Storefront Buildings.

**(c) GX, General Residential-Office Districts.** The GX districts are intended for locations along corridors and neighborhood edges, where residential, office, and other low-intensity commercial and production uses can mix comfortably in General Buildings and Row Buildings can be used for live-work or residential uses.

[1] GX1 is for locations abutting neighborhoods.

[2] GX2 is for locations where taller buildings fit within the context of the area.

[3] GX3 is reserved for the southeast intersection at Capitol Drive and Oakland Avenue, where the tallest development is designated to occur.

**(d) RX, Residential Mix District.** The RX district is intended for multi-unit residential uses in a mix of General Buildings and Row Buildings located on the edges of neighborhoods.

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22C Other Applicable Regulations**

**535-22C OTHER APPLICABLE REGULATIONS**

The following regulations apply to all sites zoned as commercial and mixed-use districts. Any other applicable regulations established by the Village may also apply.

**535-22C(1) BUILDING TYPES**

Building types regulated in this section, [535-22](#), are allowed in districts per [Table 535-22-2](#). All buildings and site development must comply with one of the building types in this section, unless otherwise expressly stated in these zoning regulations.

**535-22C(2) USES**

See [Article V](#) for allowed uses and any use-specific regulations within each district.

**535-22C(3) BUILDING & SITE DESIGN**

See [535-23](#) for building design and [535-24](#) for site design regulations applicable to all building types allowed in this section, [535-22](#).

**535-22C(4) MEASURING BUILDING TYPES**

See [535-22I](#) for methods for measuring building type requirements. See 535-6 for definitions.

**535-22C(5) EXISTING BUILDINGS AND LOTS**

See [Article VII](#) for buildings constructed and lots established prior to the adoption of these regulations that do not conform to these regulations.

**535-22C(6) APPROVALS**

See [535-31](#) for the project review procedures.

**535-22C(7) ADJUSTMENTS**

See [535-31G](#) for design adjustment and [535-31H](#) for planning adjustment procedures to the building type regulations.

(a) **Planning Adjustments.** Minor dimensional adjustments may be allowed to certain building type regulations per [535-31H](#).

(b) **Design Adjustments.** Allowed design adjustments, per [535-31G](#), are allowed where explicitly defined in these regulations.

**535-22D APPLICABLE TO ALL BUILDING TYPES**

The regulations of this subsection apply to all building types, unless otherwise stated.

**535-22D(1) PERMANENT BUILDINGS**

All buildings must be of permanent construction without a chassis, hitch, or wheels, or other features that would make the structure mobile, unless otherwise expressly stated in this ordinance, and except as follows:

(a) **Temporary Construction Buildings.** Temporary construction buildings are allowed per 535-27.

(b) **Other Temporary Buildings.** Temporary buildings, other than temporary construction buildings, may be allowed on sites per [535-27](#).

**535-22D(2) ACCESSORY STRUCTURE REGULATIONS**

Except as defined in the building type regulations, accessory structures are subject to the regulations of [535-26](#).

**535-22D(3) NUMBER OF PRINCIPAL BUILDINGS**

One principal building is allowed per lot, unless otherwise stated in the building type regulations.

**535-22D(4) TREATMENT OF YARDS**

All yards must consist of landscape areas, patio/terrace space, or sidewalk space, unless otherwise expressly stated. See [535-24](#) for landscape and site design regulations.

**Table 535-22-2. Allowed Building Types by District**

Building Types								Reference
	MX1	MX2	CX	GX1	GX2	GX3	RX	
Storefront Building	●	●	●	–	–	–	–	<a href="#">535-22E</a>
Commercial Building	–	–	●	–	–	–	–	<a href="#">535-22F</a>
General Building	–	–	–	●	●	●	●	<a href="#">535-22G</a>
Row Building	–	–	–	–	●	●	●	<a href="#">535-22H</a>

**KEY:** ● = Allowed

## 535-22 Commercial & Mixed-Use Zoning Districts 535-22D Applicable to All Building Types

**(a) Parking Locations.** Paved vehicular areas (parking lots, loading areas, drives) are located per the building type regulations. Minimum side and rear setbacks of parking must be landscaped.

**(b) Side-Yard Parking Lots.** Some districts allow side-yard parking lots. Side-yard parking lots must not encroach into any street yard or minimum side setback, except as otherwise expressly stated.

**(c) Driveways Crossing Yards.** Paved vehicular areas are limited to specific locations per the applicable district building type regulations. Driveways may cross through yards as follows:

- [1] Where permitted as access to the lot, driveways may cross perpendicularly through the primary or non-primary street yards, except as otherwise expressly stated.
- [2] In all districts, driveways may cross perpendicularly through the side and rear yards to connect to parking on adjacent lots.

### 535-22D(5) REFUSE & RECYCLING LOCATIONS

Unless otherwise defined by the building type, all refuse, recycling, and other waste areas must comply with the regulations of this subsection, [535-22D\(5\)](#). Recycling includes any donation-collection containers for clothing or goods. See [455-2](#) for collection service regulations.

**(a) Interior Location Access Doors.** Refuse, recycling, and other waste areas may be located inside the building with access doors off the rear or interior side facade.

- [1] Access doors may be located off a non-primary street facade if no other option exists.
- [2] Access doors must be opaque, screening a minimum of 80% of the opening.
- [3] Carts, dumpsters, and containers must be located immediately inside the access doors and stored inside until the process of emptying. Carts, dumpsters, and containers may not be pulled out on the street in advance of the arrival of the hauling truck.

**(b) Rear Yard.** Refuse, recycling, and other waste areas may be located in the rear yard of the lot, except as otherwise allowed by this subsection [535-22D\(5\)](#). See [535-24I](#) for required screening of refuse, recycling, and other waste areas.

**(c) Interior Side and Non-Primary Street Yards.** When the rear yard is less than 5 feet in depth and an interior

location is not available, refuse, recycling, and other waste areas may be located in the rear portion of an interior side yard or in a non-primary street yard with an approved design adjustment per [535-31G](#).

- [1] Access gates must be located off any alley. If no alley exists, the gates must be set back a minimum of 15 feet from any street facade.
- [2] Carts, dumpsters, and containers must be located immediately inside the access doors and stored inside until the process of emptying. Carts, dumpsters, and containers may not be pulled out into a parking lot or onto the street in advance of the arrival of the hauling truck.
- [3] See [535-24I](#) for required screening of refuse, recycling, and other waste areas.

### 535-22D(6) LOADING LOCATIONS

Unless otherwise defined by the building type, all on-site loading areas must be located as follows.

**(a) Rear Yard.** All loading activities must occur in the rear or interior yard.

**(b) Access Doors and Docks.** All loading docks and access doors must be located on a rear facade or interior yard facade.

**(c) Screening.** See [535-24G](#) for required buffers to vehicular areas and [535-24I](#) for required screening of loading areas.

### 535-22D(7) PRIMARY FRONTAGES

Primary frontages generally establish the fronts of lots and buildings, and determine where to locate the principal entrance to the building. Per the building type regulations, primary frontages require the highest level of facade treatment and restrict the location of parking, driveways, and garage entrances.

**(a) Designation.** Lots may have multiple primary frontages. Primary frontages are generally defined by primary street, waterway frontage, and civic space frontage as follows:

- [1] Primary Streets. Defined primary streets include Oakland Avenue, Capitol Drive, and Wilson Drive.
- [2] Neighborhood Primary Streets. Within neighborhoods, primary streets are those where the majority of buildings along the street have front facades and principal building entrances facing the street.

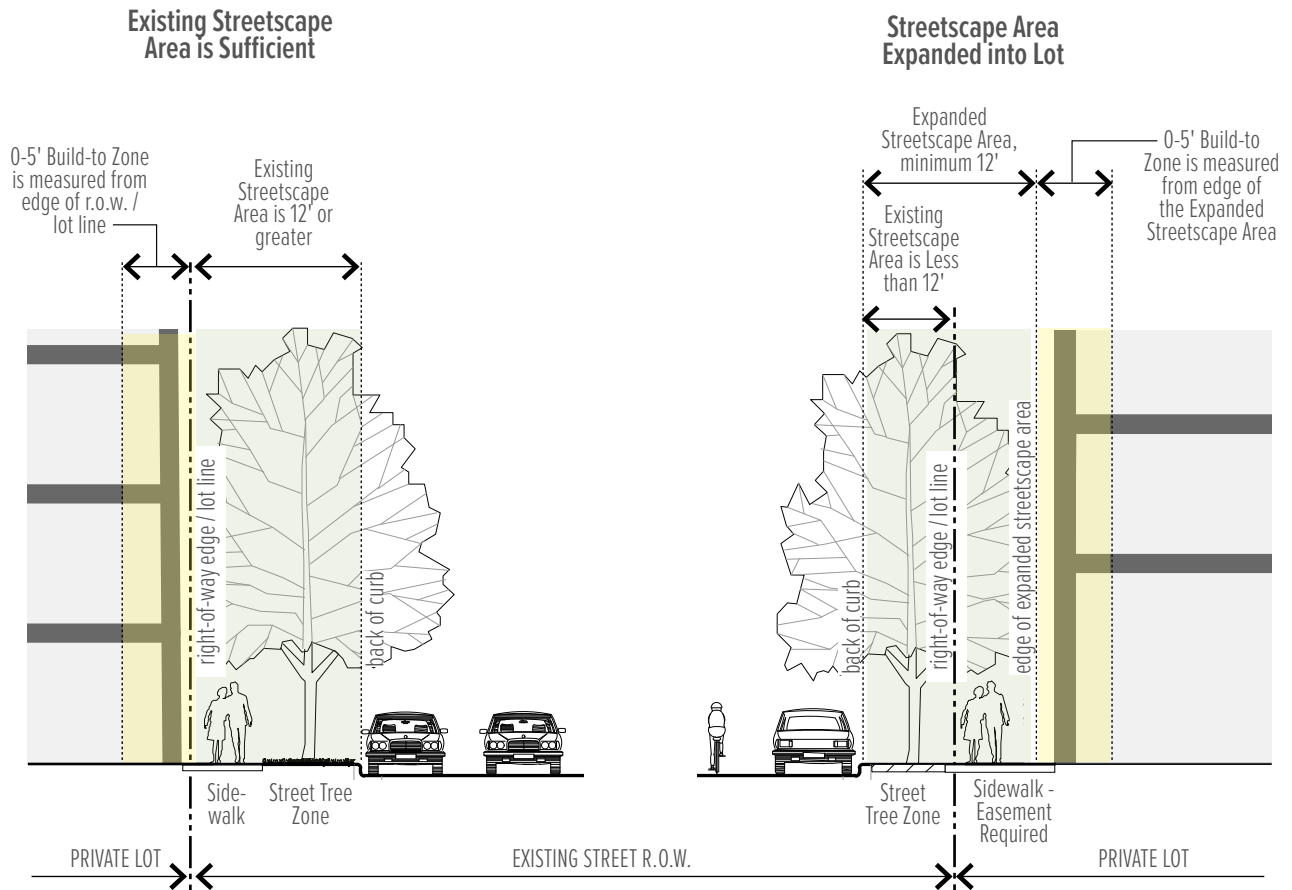
## 535-22 Commercial & Mixed-Use Zoning Districts

### 535-22D Applicable to All Building Types

- [3] Waterfronts. Lots with frontage along the Milwaukee River must treat facades facing the waterway as primary frontages in addition to any primary street frontage.
- [4] Civic or Open Space Frontage. Lots containing or abutting civic spaces or public open spaces, and the Oak Leaf Trail must treat frontages abutting that space as primary frontages, unless otherwise approved as a planning adjustment (see [535-31H](#)).
- [5] Non-Primary Frontage. A non-primary frontage is a street frontage that is not considered a primary frontage.
- (b) One Primary Street Frontage Required.** All lots must treat at least one street frontage as primary. If no primary street abuts the lot, the street with the most existing frontage(s) must be treated as primary, unless otherwise approved as a planning adjustment (see [535-31H](#)).
- (c) Through-Lots with Two Primary Frontages.**
- [1] Where a parcel zoned MX, GX, CX, or RX extends from one primary street through the block to another primary street, each street must be treated as a primary frontage, unless otherwise approved as a planning adjustment (see [535-31H](#)).
- [2] Any through-lot facing any R district across a street must incorporate the following:
- [a] Within the first 50 feet of lot depth across from any R district primary frontage, all regulations of a General or Row Building type.
- [b] Uses permitted in those building types are allowed except no retail or consumer service category uses.
- (d) Intersecting Primary Streets.** Where two primary streets intersect on the subject lot, the street with the most existing primary frontage treatments may be treated as the sole primary frontage of the lot.
- [1] In the case of the intersection at Capitol Drive and Oakland Avenue, the Oakland Avenue frontage must be treated as the primary frontage, unless a planning adjustment is approved (see [535-31H](#)).
- [2] Where a Storefront Building is located at the intersection of either Capitol Drive or Oakland Avenue with a neighborhood street, Capitol Drive or Oakland Avenue must be treated as the primary frontage.
- [3] Where a building other than a Storefront Building is located at the intersection of either Capitol Drive or Oakland Avenue with a neighborhood street, the development may treat either as the primary frontage.
- [4] Where an existing building is located at the intersection of either Capitol Drive or Oakland Avenue with a neighborhood street and fronts the neighborhood street, the neighborhood street serves as the primary frontage.
- (e) Non-Primary Frontages.** Non-primary frontages allow for a lower level of facade treatment as well as permit locations for garage and parking lot entrances. Non-primary frontages may always be treated at the higher level of a primary frontage.

#### 535-22D(8) MINIMUM STREETSCAPE AREA

- (a) Purpose.** A minimum area between the street pavement and the lot line is required to ensure adequate pedestrian facilities are provided along all streets, including, at a minimum, sidewalks and street trees. See [Figure 535-22-1](#).
- (b) Build-to Zone Measurement.** Where the area from the back of curb to the lot line along any portion of the frontage is less than 12 feet, the build-to zone must be measured starting from 12 feet off the back of curb/edge of pavement into the lot. The result is the building will be located such that the pedestrian area is at least 12 feet deep. The back-of-curb measurement must be taken along the typical street segment and must not include any bump-outs at street corners. See [535-22\(4\)](#) for measuring build-to zones.
- (c) Streetscape.** The extended streetscape area must be treated with streetscape per [535-24E\(3\)](#).
- (d) Easement.** When the sidewalk is less than 5 feet in clear width, an easement is required to ensure a full 5-foot sidewalk is publicly available.



**Figure 535-22-1. Minimum Streetscape Area**

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**535-22E STOREFRONT BUILDING TYPE**

**535-22E(1) DESCRIPTION AND INTENT**

The Storefront Building type is intended for use along corridors to accommodate shopping, services, and eating establishments in a mixed-use building. Oriented to the street with narrow or no side setbacks, this building type's streetwalls help define the public space of the street. Ground-story storefront glass, entrances along the sidewalk, and windows in upper stories facing the street make these buildings interesting and inviting to pedestrians. Parking is located internally or in the rear yard.

**535-22E(2) ILLUSTRATIVE IMAGES**

The images shown in [Figure 535-22-2](#) are intended to illustrate the general character of the building type. The buildings and sites in each image may not fulfill all of the building type regulations.

**535-22E(3) BUILDING REGULATIONS**

The following tables and illustrations regulate this specific building type. See [535-22D](#) for general regulations for all building types. See 535-6 for definitions and [535-22I](#) for measuring table regulations.

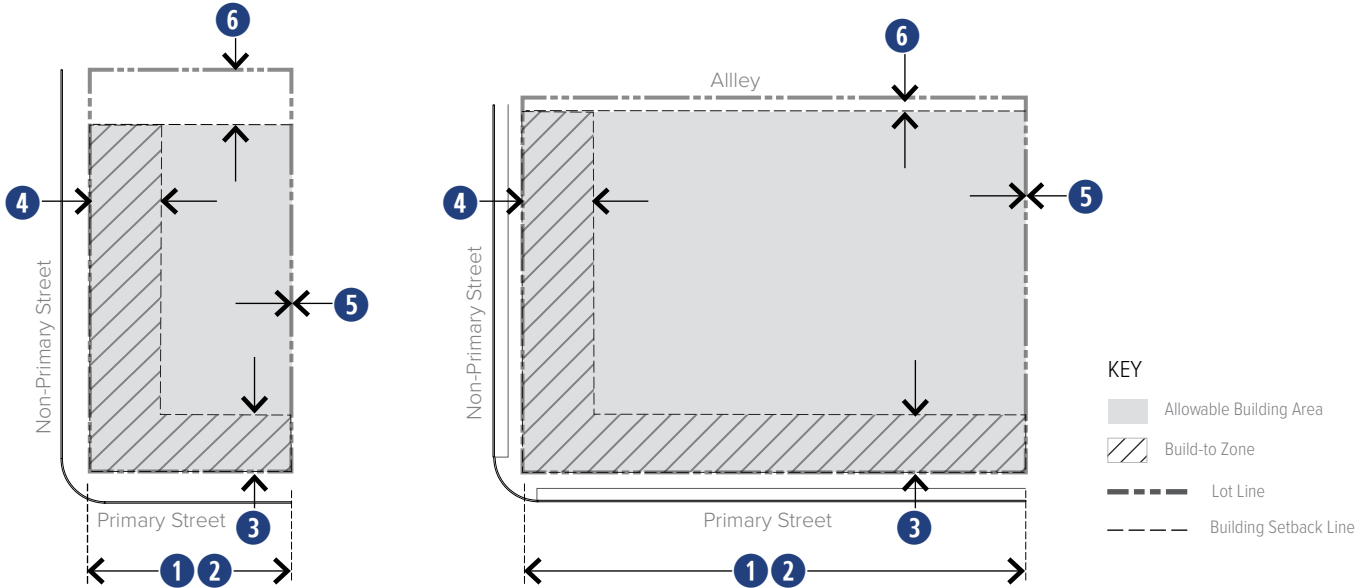
LINK	SUBSECTION
<a href="#">535-22E(4)</a>	Building Siting
<a href="#">535-22E(5)</a>	Parking & Accessory Structures
<a href="#">535-22E(6)</a>	Height
<a href="#">535-22E(7)</a>	Roofs
<a href="#">535-22E(8)</a>	Primary & Non-Primary Facades
<a href="#">535-22E(9)</a>	Supplemental Regulations



**Figure 535-22-2. Examples of Storefront Building Type**

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22E Storefront Building Type**

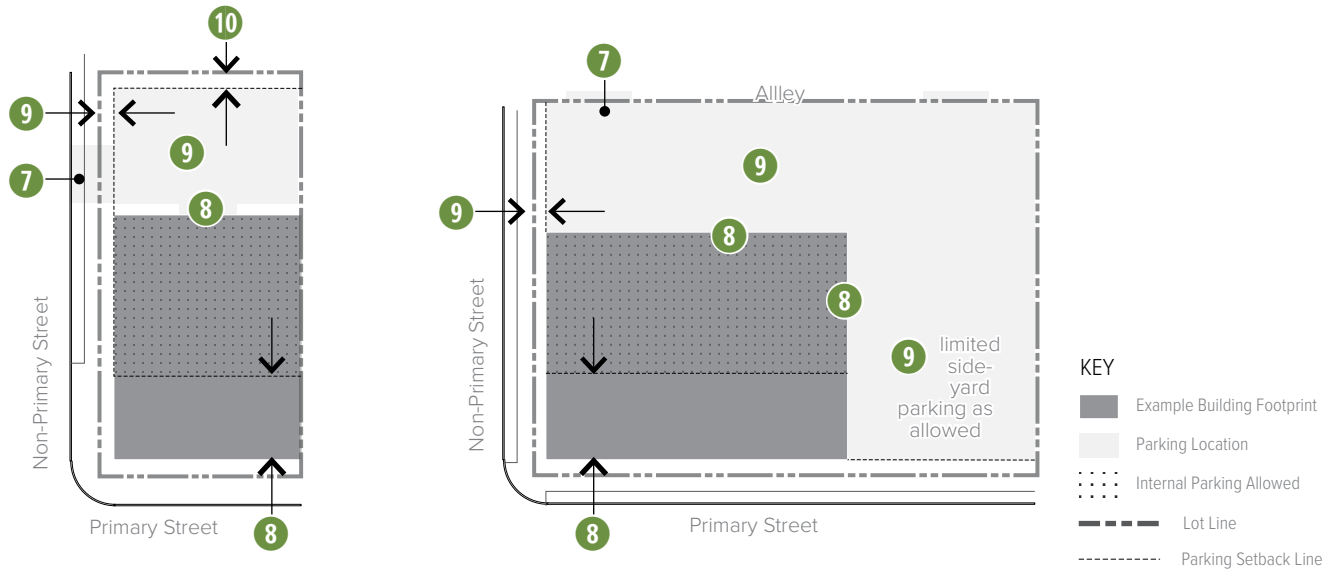
**Figure 535-22-3. Storefront Building Siting**



**DISTRICTS**

	<b>MX</b>	<b>CX</b>	<b>Additional/References</b>
<b>535-22E(4) BUILDING SITING.</b> See <a href="#">Figure 535-22-3</a>			
<b>1</b> Lot Width	35 ft.	35 ft.	
<b>2</b> Primary Streetwall	80% min.	65% min.	Through-lots addressed per <a href="#">535-22D(7)</a> . See <a href="#">535-22I(4)</a> for measuring.
Primary Streetwall Variation	See <a href="#">535-22E(9)(a)</a> for courtyard, outdoor plaza requirement on primary streetwalls over 120 ft. wide.		
<b>3</b> Primary Street Build-to Zone	0 min. 20 ft. max.	0 min. 20 ft. max.	Minimum streetscape area required per <a href="#">535-22D(8)</a> . See <a href="#">535-22I(4)</a> for measuring.
<b>4</b> Non-Primary Street Build-to Zone	0 min. 25 ft. max.	0 min. 25 ft. max.	Through-lots addressed per <a href="#">535-22E(9).B</a> .
<b>5</b> Side Setback	0 ft. min. or, if set back at all, min. 5 ft., except if adjacent to a district other than MX or CX, min. 5 ft.		Buffer required adjacent to R districts per <a href="#">535-22E(9)</a> .
<b>6</b> Rear Setback	min. 5 ft. at alley; if no alley, min. 20 ft.		

**Figure 535-22-4. Storefront Building Parking Siting**

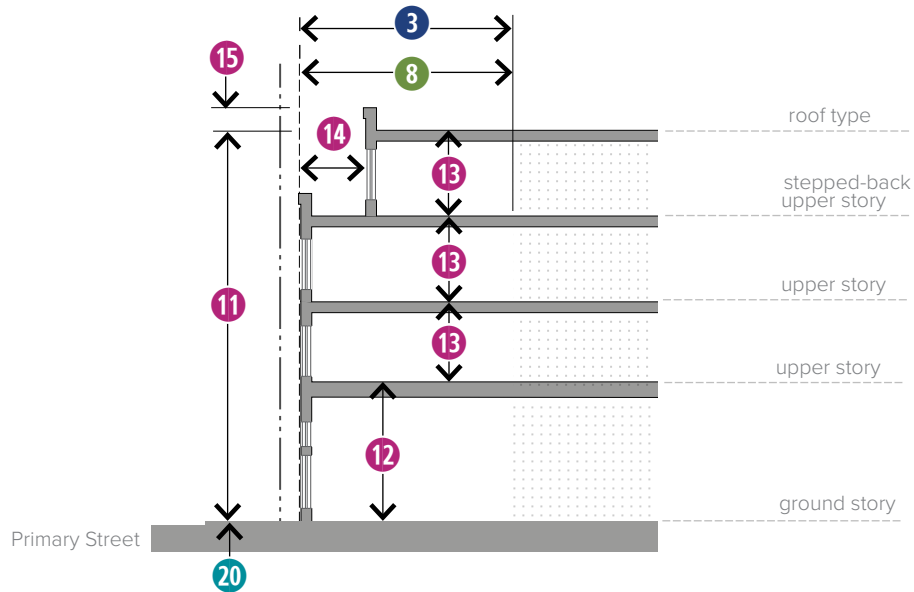


**DISTRICTS**

	<b>MX</b>	<b>CX</b>	Additional/References
<b>535-22E(5) PARKING &amp; ACCESSORY STRUCTURES.</b> See <a href="#">Figure 535-22-4</a> .			
<b>7</b> Parking & Driveway Access Location	Alley; if no alley, 1 access off non-primary street; if no non-primary street or alley, 1 access off primary street		See Article IX for parking.
Size	Max. 22 ft. width at sidewalk		
<b>8</b> Internal Parking Setback	20 ft. min. from primary facade above any basement		See <a href="#">535-23E(9)</a> for garage door design regulations.
Internal Parking Door Location	Rear, side facade; if no alley exists, door may be located on a non-primary street facade with an approved planning adjustment		
<b>9</b> Surface Parking Location	Rear yard	Rear yard; limited side yard	See <a href="#">535-22I(7)</a> for allowed limited side-yard parking layout
Street Setback	No closer to lot line than principal building		See <a href="#">535-24</a> for landscape buffers and parking lot landscaping.
Side & Rear Setback	0 ft. min. at alley; 3 ft. min.	0 ft. min. at alley; 3 ft. min.	
<b>10</b> Accessory Structure Location	See <a href="#">535-26</a> accessory structure regulations		See <a href="#">535-26</a> for additional accessory structures and use regulations.
Street Setback	No closer to lot line than principal building		
Side & Rear Setback	5 ft. min.	5 ft. min.	
<b>KEY ACCESSORY STRUCTURES</b>			<b>KEY:</b>
Outbuildings & Garages	●	●	● = Allowed
Drive-Through Facilities	○	●	○ = Requires a Conditional Use Permit
Fuel Pumps	–	●	
Outdoor Sales & Display	●	●	
Parking Structure	●	●	

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22E Storefront Building Type**

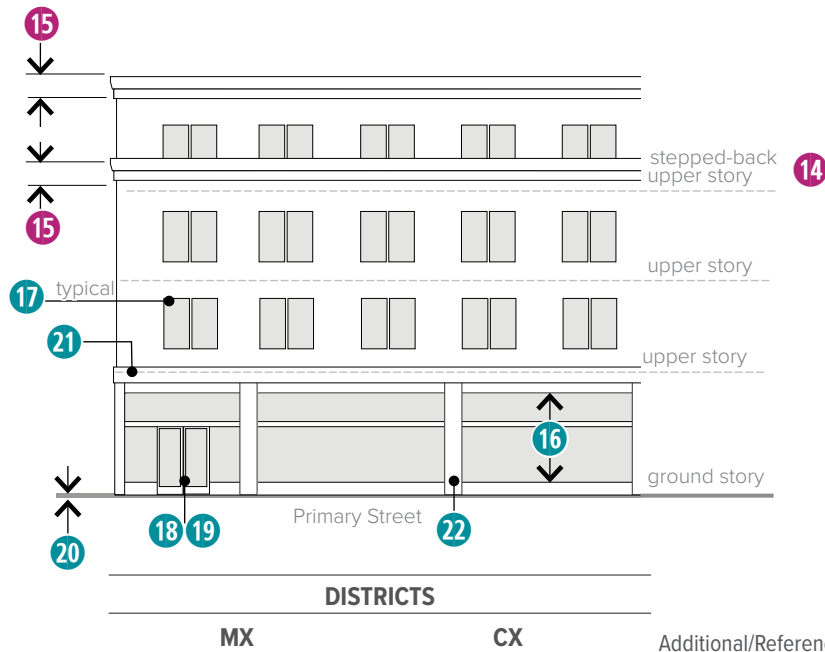
**Figure 535-22-5. Storefront Building Height**



**DISTRICTS**

		MX	CX	Additional/References
<b>535-22E(6) HEIGHT.</b> See <a href="#">Figure 535-22-5</a>				
<b>11</b>	Height	2 story min. In <b>MX1</b> : 4 stories max. In <b>MX2</b> : 5 stories max.	2 story min. 5 stories max.	See <a href="#">535-22E(9)</a> for minimum story facade location. Step-backs required adjacent to R districts per <a href="#">535-22E(9)</a> .
<b>12</b>	Ground-Story Height		12 ft. min. 16 ft. max.; up to 20 ft. max. with an approved planning adjustment	Measured floor to floor. See <a href="#">535-22I(8)</a> for measuring height.
<b>13</b>	Upper-Story Height		9 ft. min. 12 ft. max.	
<b>14</b>	Stepped-Back Top Story		For all buildings over 3 stories and 120 feet in width along the primary street, at least 50% of the top story primary street facade must be stepped back a minimum of 7 feet from the ground-story primary facade.	
<b>535-22E(7) ROOFS.</b> See <a href="#">Figure 535-22-5</a>				
<b>15</b>	Roof Types	Flat, parapet, pitched		See <a href="#">535-23B</a> for roof types and tower regulations.
	Tower	Allowed		

**Figure 535-22-6. Storefront Building Facade**



		MX	CX	Additional/References
<b>535-22E(8) PRIMARY &amp; NON-PRIMARY FACADES.</b> See <a href="#">Figure 535-22-6</a>				
<b>16</b>	Transparency: Ground Story on Primary Facades	65% min.	70% min.	See <a href="#">535-22I(9)</a> for measuring transparency. Blank-wall segments apply. See <a href="#">535-23F(4)</a> for bird-safe glass treatments.
		Measured between 2 ft. and 10 ft. from sidewalk grade		
		No bays, 15 ft. wide sections, or any rectangular areas greater than 30% of a story's primary facade may be without transparency		
		Ground-story transparency must extend min. 30 ft. around the corner down any street-side facades		
<b>17</b>	Transparency: Upper Stories on Primary Facades	20% min.		Measured per story, includes any half stories, visible basement, or towers with full height stories. See <a href="#">535-22I(9)</a> for measuring transparency.
		No bays or 15 ft. wide sections or any rectangular areas greater than 30% of a story's facade on a primary facade may be without transparency		
	Transparency: Non-Primary Facades	20% min.		
<b>18</b>	Building Entrance Location	One per every 60 feet of primary facade		See <a href="#">535-22I(10)</a> for measuring building entrance location.
<b>19</b>	Entrance Type	Storefront		See <a href="#">535-23C</a> for entrance types.
<b>20</b>	Ground-Story Elevation	Within 24 in. of sidewalk elevation		
<b>21</b>	Horizontal Divisions with Shadow Lines	Within 3 ft. of the top of the first story		Horizontal shadow lines to run a min. 80% of length of facade. See <a href="#">535-6C</a> for definition of shadow lines.
<b>22</b>	Vertical Divisions with Shadow Lines	One per every 60 ft. of ground-story street facade		

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22E Storefront Building Type**

**535-22E(9) SUPPLEMENTAL REGULATIONS**

**(a) Primary Streetwall Variation.** One of the following must be utilized for every 120-foot wide section of building streetwall:

- (1) Courtyard.** One courtyard, minimum 30 feet in width by 30 feet in depth, is required.
  - [a] The courtyard may count towards primary streetwall when abutting the build-to zone. See definition of courtyard in 535-6C.
  - [b] Parking is not allowed in courtyards.
  - [c] Courtyard facades must be treated as primary frontage per facade regulations for the building type and any design regulations in [535-23](#).
  - [d] Courtyard may not be located on the corner of the lot except as approved by a design adjustment per [535-31G](#). No more than one corner of an intersection may be occupied by a courtyard.
  - [e] The courtyard must include special paving materials and patterns and landscape materials such as trees in grates or planters and/or landscape beds.
  - [f] Temporary or permanent seating is required. Temporary seating must be available or in place between March 15 and November 15.
  - [g] At least one other amenity such as a pergola, trellises, catenary or string overhead lighting, a fountain, or artwork such as a sculpture or mural must be included. Other amenities may be approved through the design adjustment process (see [535-31G](#)).

**(2) Outdoor Plaza.** The maximum build-to zone must be utilized for a minimum of 35% of the streetwall to

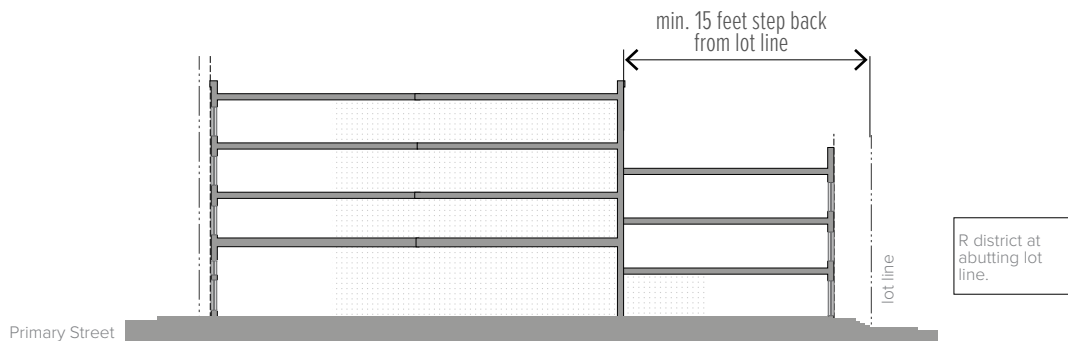
allow for one or more permanent outdoor seating or dining areas.

- [a] The seating/dining areas must be included in the street yard landscape per [535-24E](#). Special paving materials and patterns, landscape materials such as trees in grates or planters and/or landscape beds must be included.
- [b] Temporary or permanent seating is required. Temporary seating must be available or in place between March 15 and November 15.
- [c] At least one other amenity per 120 feet of streetwall must be included. Amenities include such items as a pergola, trellises, catenary or string overhead lighting, a fountain, or artwork such as a sculpture or mural must be included. Other amenities may be approved through the design adjustment process (see [535-31G](#)).

**(b) Treatment Turning Corners.** At all intersections of primary and non-primary streets, primary facade regulations must be met along the first 30 feet of facade, measured horizontally along the non-primary street from the corner. See [535-23F\(4\)](#) for bird-safe glass treatments at fly-through conditions.

**(c) Minimum Story Street Facades.** The street facades of the minimum stories must be located fully in the build-to zone, occupying the same facade plane. For example, with a minimum height of 2 stories, the street facade of the second story may not be set back from the first story.

**(d) Transition at R Districts.** Along lot lines abutting an R district, facades above the third story must be stepped back a minimum of 15 feet from the applicable lot line. See [Figure 535-22-7](#). Side and rear buffer required per [535-24G](#).



**Figure 535-22-7. Step Back at R District (section)**

**535-22F COMMERCIAL BUILDING TYPE**

**535-22F(1) DESCRIPTION AND INTENT**

The Commercial Building is a version of the Storefront Building that accommodates both vehicular and pedestrian access comfortably. Vehicular-focused uses, such as fueling stations and businesses with drive-through facilities are accommodated by this building type.

**535-22F(2) ILLUSTRATIVE IMAGES**

The images shown in [Figure 535-22-8](#) are intended to illustrate the general character of the building type. The buildings and sites in each image may not fulfill all of the building type regulations.

**535-22F(3) BUILDING REGULATIONS**

The following tables and illustrations regulate this specific building type. See [535-22D](#) for general regulations for all building types. See 535-6 for definitions and [535-22I](#) for measuring table regulations.

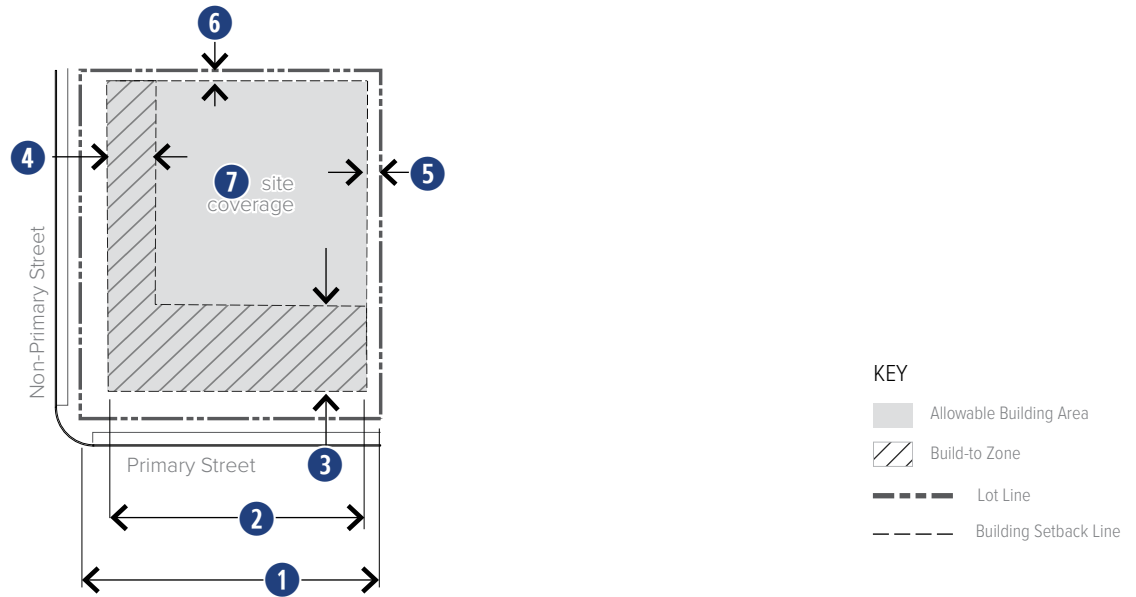
LINK	SUBSECTION
<a href="#">535-22F(4)</a>	Building Siting
<a href="#">535-22F(5)</a>	Parking & Accessory Structures
<a href="#">535-22F(6)</a>	Height
<a href="#">535-22F(7)</a>	Roofs
<a href="#">535-22F(8)</a>	Primary & Non-Primary Facades
<a href="#">535-22F(9)</a>	Supplemental Regulations



**Figure 535-22-8. Examples of Commercial Center Building Type**

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22F Commercial Building Type**

**Figure 535-22-9. Commercial Building Siting**



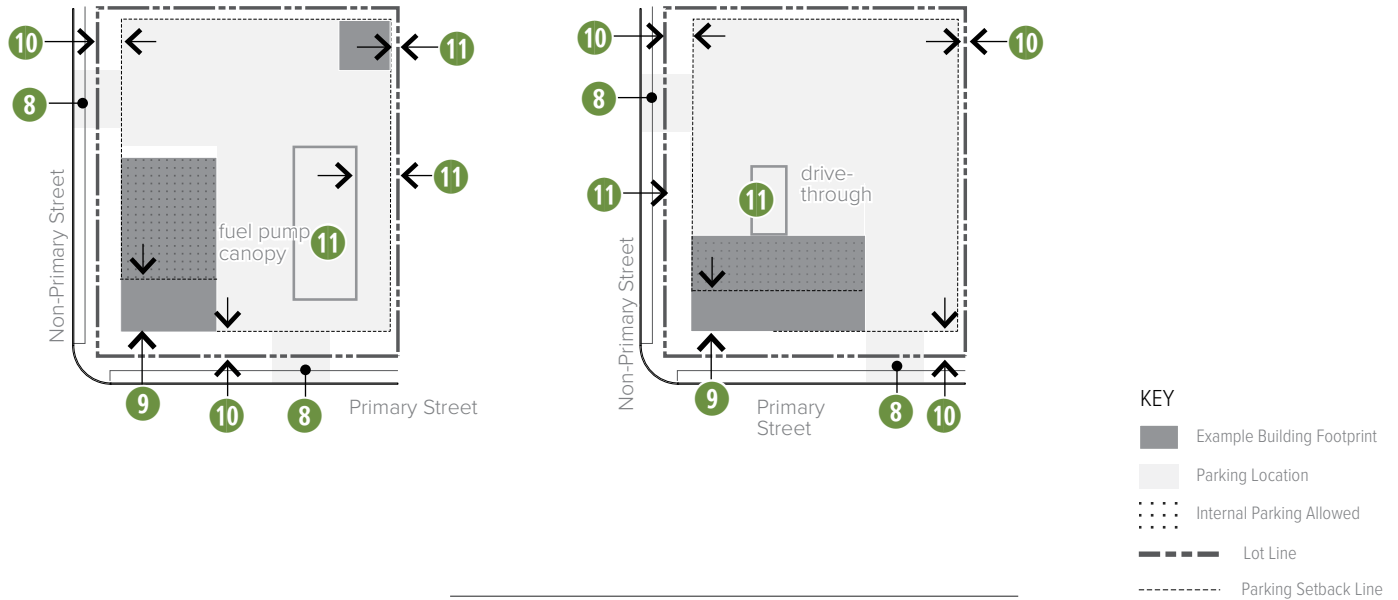
**DISTRICTS**

**CX**

Additional/References

535-22F(4) BUILDING SITING. See <a href="#">Figure 535-22-3</a>			
		CX	Additional/References
1	Lot Width	40 ft. min.	
2	Primary Streetwall	50% min.	
3	Primary Street Build-to Zone	10 ft. min. 35 ft. max.	Min. streetscape area required per <a href="#">535-22D(8)</a> . Outdoor dining and seating area required per <a href="#">535-22F(9)</a> .
4	Non-Primary Street Build-to Zone	10 ft. min. 20 ft. max.	
5	Side Setback	5 ft. min.	Buffer required adjacent to R districts per <a href="#">535-22F(9)</a> .
6	Rear Setback	min. 5 ft. at alley; if no alley, min. 20 ft.	
7	Site Coverage	75% max.	See <a href="#">535-22I(5)</a> for measuring site coverage.

**Figure 535-22-10. Commercial Building Parking Siting**



**DISTRICTS**

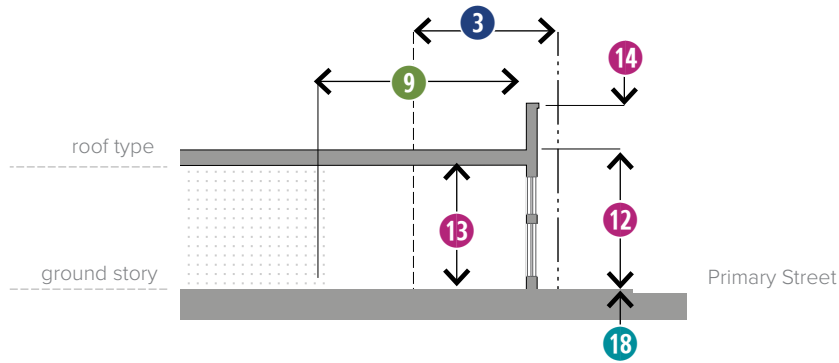
**CX**

Additional/References

535-22F(5) PARKING & ACCESSORY STRUCTURES. See Figure 535-22-4.			Additional/References
8	Parking & Driveway Access Location	1 access per 120 feet of each street frontage	See Article IX for parking.
	Size	Max. 22 ft. width at sidewalk	
9	Internal Parking Setback	20 ft. min. behind primary facade in rear of building above any basement	See 535-23E(9) for garage door design regulations.
	Internal Parking Door Location	Rear, side, non-primary facade	
10	Surface Parking Location	Rear yard, side yard	Minimum primary streetwall must be met for side yard parking. See 535-6C for definition of yards. See 535-24 for landscape buffers and parking lot landscaping.
	Street Setback	No closer to lot line than principal building	
	Side & Rear Setback	5 ft. min.	
11	Accessory Structure Location	See 535-26 accessory structure regulations	See 535-26 for additional accessory structures and use regulations.
	Street Setback	No closer to lot line than principal building	
	Side & Rear Setback	5 ft. min.; 15 ft. min. adjacent to R district	
<b>KEY ACCESSORY STRUCTURES</b>			<b>KEY:</b> ● = Allowed ○ = Requires a Conditional Use Permit
	Outbuildings & Garages	●	
	Drive-Through Facilities	●	
	Fuel Pumps	●	
	Outdoor Sales & Display	●	
	Parking Structure	—	

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22F Commercial Building Type**

**Figure 535-22-11. Commercial Building Height**



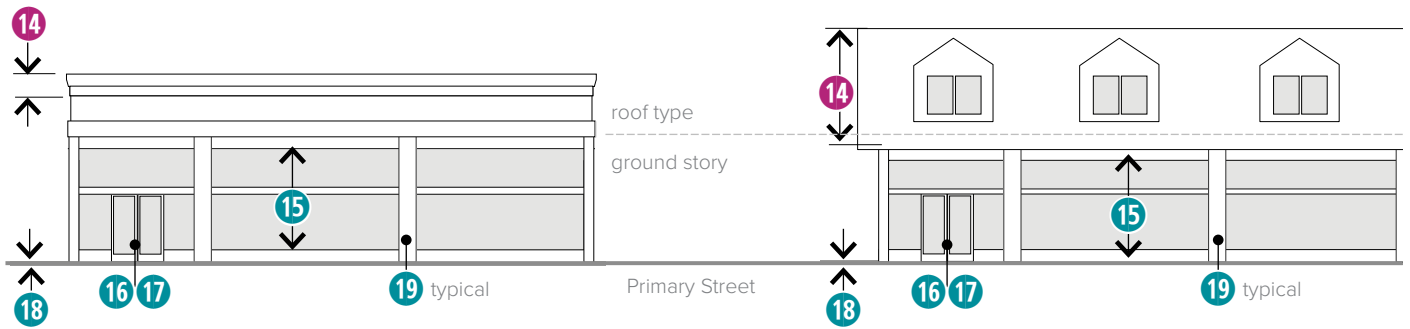
**DISTRICTS**

**CX**

Additional/References

535-22F(6) HEIGHT. See <a href="#">Figure 535-22-5</a>			
<b>12</b>	Height	1 story min. 1 story max.	See <a href="#">535-22(8)</a> for measuring height.
<b>13</b>	Story Height	10 ft. min. with pitched roof, 14 ft. min. with flat or parapet roof 18 ft. max.	
535-22F(7) ROOFS. See <a href="#">Figure 535-22-5</a>			
<b>14</b>	Roof Types	Flat, parapet, pitched	See <a href="#">535-23B</a> for roof types and tower regulations. See <a href="#">535-22F(9)</a> for pitched roof on single-story building.
	Tower	Allowed	

**Figure 535-22-12. Commercial Building Facade**



**DISTRICTS**

**CX**

Additional/References

**535-22F(8) PRIMARY & NON-PRIMARY FACADES.** See Figure 535-22-6

<b>15</b>	Ground-Story Transparency on Primary Facades	55% min.  No bays, 15 ft. wide sections, or any rectangular areas greater than 30% of a story's primary facade may be without transparency  Ground-story transparency must extend a min. 30 ft. around the corner, down any street-side facades	Ground-story transparency measured between 2 ft. and 10 ft. from sidewalk grade. See <a href="#">535-22(9)</a> for measuring transparency. Blank-wall segments apply.
	Transparency: Non-Primary Facades	15% min.	Measured per story, includes any towers with full-floor height. See <a href="#">535-22(9)</a> for measuring transparency.
<b>16</b>	Building Entrance Location	One per every 60 feet of primary facade	See <a href="#">535-22(10)</a> for measuring building entrance location.
<b>17</b>	Entrance Type	Storefront	See <a href="#">535-23C</a> for entrance types.
<b>18</b>	Ground-Story Elevation	Within 24 in. of sidewalk elevation	
	Horizontal Divisions with Shadow Lines	–	See 535-6C for definition of shadow lines.
<b>19</b>	Vertical Divisions with Shadow Lines	One per every 60 ft. of ground-story street facade	

## 535-22 Commercial & Mixed-Use Zoning Districts

### 535-22F Commercial Building Type

#### 535-22F(9) SUPPLEMENTAL REGULATIONS

(a) **Outdoor Plaza.** To provide an amenity for pedestrians in this building type that allows more of a vehicular focus, one or more permanent outdoor seating areas, each a minimum of 400 sf, must be located either within the build-to zone, abutting the build-to zone, or a combination of the two. An alternative location, on-site, may be approved through the design adjustment process, [535-31G](#).

[1] If located in the build-to zone, either fully or partially, the plaza area must be included in the street yard landscape design per [535-24E](#). Special paving materials and patterns, landscape materials such as trees in grates or planters and/or landscape beds must be included.

[2] Temporary or permanent seating is required. Temporary seating must be available or in place between March 15 and November 15.

(b) **Treatment Turning Corners.** At all intersections of primary and non-primary streets, primary facade regulations must be met along the first 30 feet of facade, measured horizontally, on the non-primary street from the corner. See [535-23F\(4\)](#) for bird-safe glass treatments at fly-through conditions.

**535-22G GENERAL BUILDING TYPE**

**535-22G(1) DESCRIPTION AND INTENT**

The General Building is a basic urban building, typically housing multiple residential units, office, laboratory spaces, classrooms, and similar spaces, usually with a central main entrance off a lobby and with windows delineating each story. Parking is located in the rear yard with attached garages entered from the rear of the building. Buildings vary in height depending on the district, with allowed half stories (.5 stories) located within a pitched roof or in a visible basement.

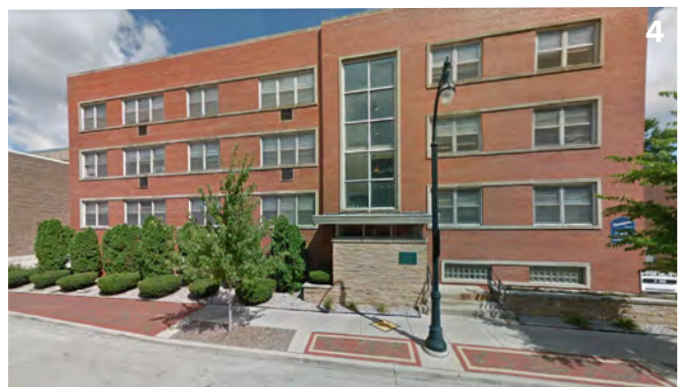
**535-22G(2) ILLUSTRATIVE IMAGES**

The images shown in [Figure 535-22-13](#) are intended to illustrate the general character of the building type. The buildings and sites in each image may not fulfill all of the building type regulations.

**535-22G(3) BUILDING REGULATIONS**

The following tables and illustrations regulate this specific building type. See [535-22D](#) for general regulations for all building types. See 535-6 for definitions and [535-22I](#) for measuring table regulations.

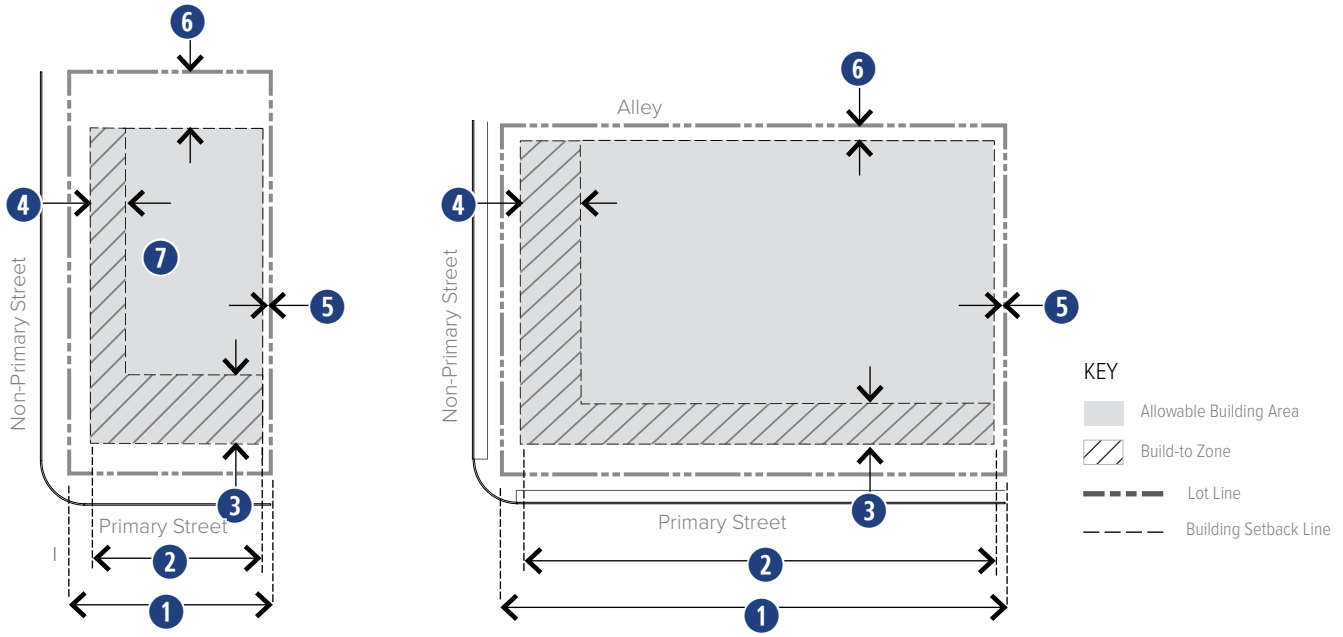
LINK	SUBSECTION
<a href="#">535-22G(4)</a>	Building Siting
<a href="#">535-22G(5)</a>	Parking & Accessory Structures
<a href="#">535-22G(6)</a>	Height
<a href="#">535-22G(7)</a>	Roofs
<a href="#">535-22G(8)</a>	Primary & Non-Primary Facades
<a href="#">535-22G(9)</a>	Supplemental Regulations



**Figure 535-22-13. Examples of General Building Type**

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22G General Building Type**

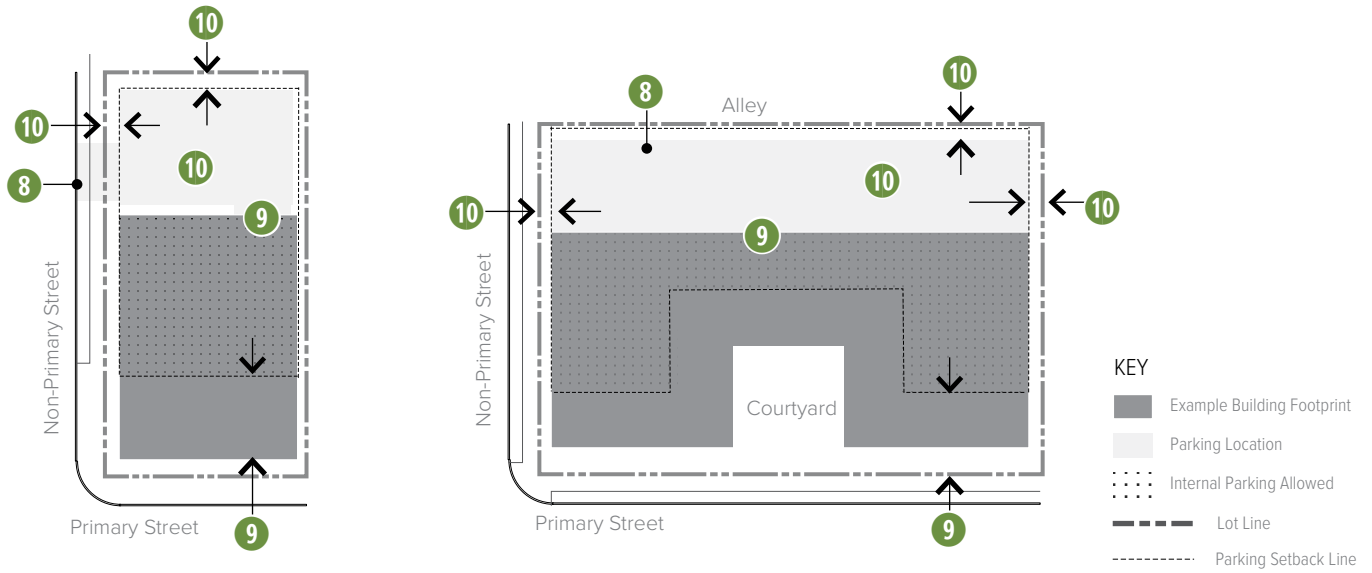
**Figure 535-22-14. General Building Siting**



**DISTRICTS**

	<b>GX</b>	<b>RX</b>	Additional/References	
<b>535-22G(4) BUILDING SITING.</b> See <a href="#">Figure 535-22-14</a>				
	Multiple Principal Buildings	allowed	not allowed	Each building must meet the building type regulations with primary street frontage.
<b>1</b>	Lot Width	35 ft.	35 ft.	
<b>2</b>	Primary Streetwall	75% min.	75% min.	Through-lots addressed per <a href="#">535-22D(7)</a> . See <a href="#">535-22I(4)</a> for measuring.
	Primary Streetwall Variation	See <a href="#">535-22G(9)(a)</a> for courtyard, outdoor plaza requirement on primary streetwalls over 120 ft. wide.		
<b>3</b>	Primary Street Build-to Zone	5 ft. min. 25 ft. max.	10 ft. min. 25 ft. max.	Contextual setbacks apply. See <a href="#">535-22I(4)</a> . See <a href="#">535-22D(8)</a> minimum streetscape area.
<b>4</b>	Non-Primary Street Build-to Zone	5 ft. min. 25 ft. max.	5 ft. min. 25 ft. max.	See <a href="#">535-24K</a> for river shorelines setbacks along the Milwaukee River.
<b>5</b>	Side Setback	Min. 10 ft. adjacent to R district; otherwise, min. 5 ft.		
	Between Buildings on a Lot	Min. 10 ft	–	
<b>6</b>	Rear Setback	Min. 5 ft. at alley; if no alley, min. 20 ft.  Min. 5 ft. rear setback may be approved through a planning exception when alley access exists along the side lot line.		See <a href="#">535-22G(9)</a> for treatment adjacent to R districts.
<b>7</b>	Site Coverage	80% max.	70% max.	See <a href="#">535-22I(5)</a> for measuring site coverage.

**Figure 535-22-15. General Building Parking Siting**

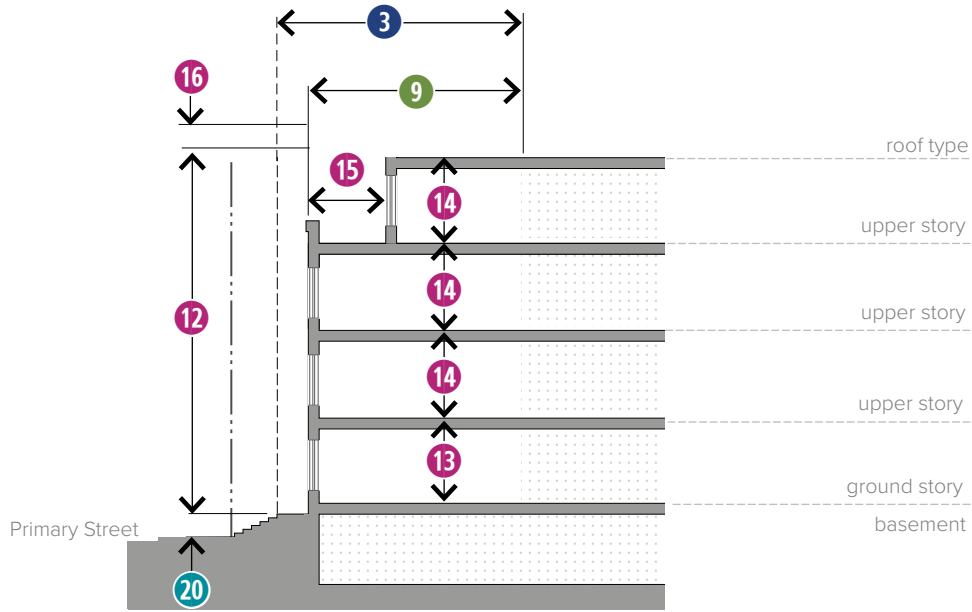


**DISTRICTS**

	<b>GX</b>	<b>RX</b>	Additional/References
<b>535-22G(5) PARKING &amp; ACCESSORY STRUCTURES.</b> See <a href="#">Figure 535-22-15</a> .			
<b>8</b> Parking & Driveway Access Location	Alley; if no alley, 1 access off non-primary street; if no non-primary street or alley, 1 access off primary street		See Article IX for parking.
Size	Max. 22 ft. width at sidewalk		
<b>9</b> Internal Parking Setback	20 ft. min. from primary facade above any basement		See <a href="#">535-23E(9)</a> for garage door design regulations.
Internal Parking Door Location	Rear, interior side facades; if no alley, non-primary facade may be approved with a planning adjustment		
<b>10</b> Surface Parking Location	Rear yard	Rear yard	See <a href="#">535-24</a> for landscape buffers and parking lot landscaping.
Street Setback	No closer to lot line than principal building		
Side & Rear Setback	3 ft. min.	5 ft. min.	
Accessory Structure Location	See <a href="#">535-26</a> accessory structure regulations		See <a href="#">535-26</a> for additional accessory structures and use regulations.
Street Setback	No closer to lot line than principal building		
Side & Rear Setback	5 ft. min.	5 ft. min.	
<b>KEY ACCESSORY STRUCTURES</b>			<b>KEY:</b>
Outbuildings & Garages	●	●	● = Allowed
Drive-Through Facilities	○	–	○ = Requires a Conditional Use Permit
Fuel Pumps	–	–	
Outdoor Sales & Display	–	–	
Parking Structure	●	○	

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22G General Building Type**

**Figure 535-22-18. General Building Height and Roofs**



		DISTRICTS		
		GX	RX	
<b>535-22G(6) HEIGHT.</b> See Figure 535-22-18				
<b>12</b>	Height	2 stories min. GX1: 4.5 stories max. GX2: 5.5 stories max. GX3: 8.5 stories max.	2 stories min. 4.5 stories max.	See <a href="#">535-22G(9)</a> for minimum story facade location. Step-backs required adjacent to R districts per <a href="#">535-22G(9)</a> . See <a href="#">535-22I(8)</a> for measuring height.
<b>13</b>	Ground-Story Height	10 ft. min. GX1 & GX2: 14 ft. max. GX3: 16 ft. max.	9 ft. min. 12 ft. max.	Measured floor to floor.
<b>14</b>	All Other Stories Height	9 ft. min. 12 ft. max.	9 ft. min. 12 ft. max.	
<b>15</b>	Stepped-Back Top Story	All buildings in GX1 and GX2 over 3 stories and 120 feet in width along the primary street: at least 50% of the top story primary street facade must be stepped back a minimum of 7 feet from the ground-story primary facade.		
<b>535-22G(7) ROOFS.</b> See Figure 535-22-18				
<b>16</b>	Roof Types	Flat, parapet, pitched	Flat, parapet, pitched	See <a href="#">535-23B</a> for roof types and tower regulations.
	Tower	Allowed	Allowed	

**Figure 535-22-19. General Building Facades**



535-22G(8) PRIMARY & NON-PRIMARY FACADES. Figure 535-22-19				
		GX	RX	Additional/References
17	Transparency: Primary Facades Non-Primary Facades	20% min. 18% min.	20% min. 18% min.	Measured per story, includes any half stories, visible basements, or towers with full floor height. See 535-22I(9) for measuring transparency. Blank-wall segments apply. See 535-23F(4) for bird-safe glass treatments.
		No bays, 15 ft. wide sections, or any rectangular areas greater than 30% of a story's primary facade may be without transparency		
18	Building Entrance Location	One per every 120 ft. of primary facade		See 535-22I(10) for measuring building entrance location.
19	Entrance Type	Stoop	Stoop, porch	See 535-23C for entrance types. See 535-22I(8) for definition of visible basement.
20	Ground-Story Elevation	Between 18 in. and 30 in. above grade or between 30 in. and 5 ft. with a visible basement		
21	Horizontal Divisions with Shadow Lines	One within 3 ft. of the top of any basement, first, or second story		Horizontal shadow lines to run a min. 80% of length of facade. See 535-6C for definition of shadow lines.
22	Vertical Divisions with Shadow Lines	One per every 120 ft. of street facade		

## 535-22 Commercial & Mixed-Use Zoning Districts

### 535-22G General Building Type

#### 535-22G(9) SUPPLEMENTAL REGULATIONS

**(a) Primary Streetwall Variation.** One of the following must be utilized for every 120-foot wide section of building streetwall:

- (1) Courtyard.** One courtyard, minimum 30 feet in width by 30 feet in depth, is required.
- [a] The courtyard may count towards primary streetwall when abutting the build-to zone. See definition of courtyard in 535-6C.
  - [b] Parking is not allowed in courtyards.
  - [c] Courtyard facades must be treated as primary frontage per facade regulations for the building type and any design regulations in [535-23](#).
  - [d] Courtyard may not be located on the corner of the lot except as approved as a design adjustment (see [535-31G](#)). No more than one corner of an intersection may be occupied by a courtyard.
  - [e] The courtyard must include special paving materials and patterns and landscape materials such as trees in grates or planters and/or landscape beds.
  - [f] Temporary or permanent seating is required. Temporary seating must be available or in place between March 15 and November 15.
  - [g] At least one other amenity such as a pergola, trellises, catenary or string overhead lighting, a fountain, or artwork such as a sculpture or mural must be included. Other amenities may be approved through the design adjustment process (see [535-31G](#)).
- (2) Outdoor Plaza.** The maximum build-to zone must be utilized for a minimum of 35% of the streetwall to allow for one or more permanent outdoor seating areas.
- [a] The seating areas must be included in the street yard landscape design per [535-24E](#). Special paving materials and patterns,

landscape materials such as trees in grates or planters and/or landscape beds must be included.

- [b] Temporary or permanent seating is required. Temporary seating must be available or in place between March 15 and November 15.
- [c] At least one other amenity per 130 feet of streetwall must be included. Amenities include such items as a pergola, trellises, catenary or string overhead lighting, a fountain, or artwork such as a sculpture or mural must be included. Other amenities may be approved through the design adjustment process (see [535-31G](#)).

**(b) Minimum Story Street Facades.** The street facades of the minimum stories must be located fully in the build-to zone, occupying the same facade plane. For example, with a minimum height of 2 stories, the street facade of the second story may not be set back from the first story.

**(c) Transition at R Districts.** Along lot lines abutting an R district, facades above the third story must be stepped back a minimum of 15 feet from the applicable lot line. See [Figure 535-22-7](#).

**(d) River Shoreline.** For locations adjacent to the Milwaukee River, see the River Shorelands regulations in [535-24K](#).

**535-22H ROW BUILDING TYPE**

**535-22H(1) DESCRIPTION AND INTENT**

The Row Building is comprised of multiple vertical units with shared side walls. Each unit is typically oriented to the street with an entrance off the public sidewalk and can be solely residential or a live-work unit, as allowed by the district. Parking is located in the rear yard with either detached garages or attached garages entered from the rear of the building.

**535-22H(2) ILLUSTRATIVE IMAGES**

The images shown in [Figure 535-22-20](#) are intended to illustrate the general character of the building type. The buildings and sites in each image may not fulfill all of the building type regulations.

**535-22H(3) BUILDING REGULATIONS**

The following tables and illustrations regulate this specific building type. For the purposes of the Row Building, a building consists of a series of units. See [535-22D](#) for general regulations for all building types. See 535-6 for definitions and [535-22I](#) for measuring table regulations.

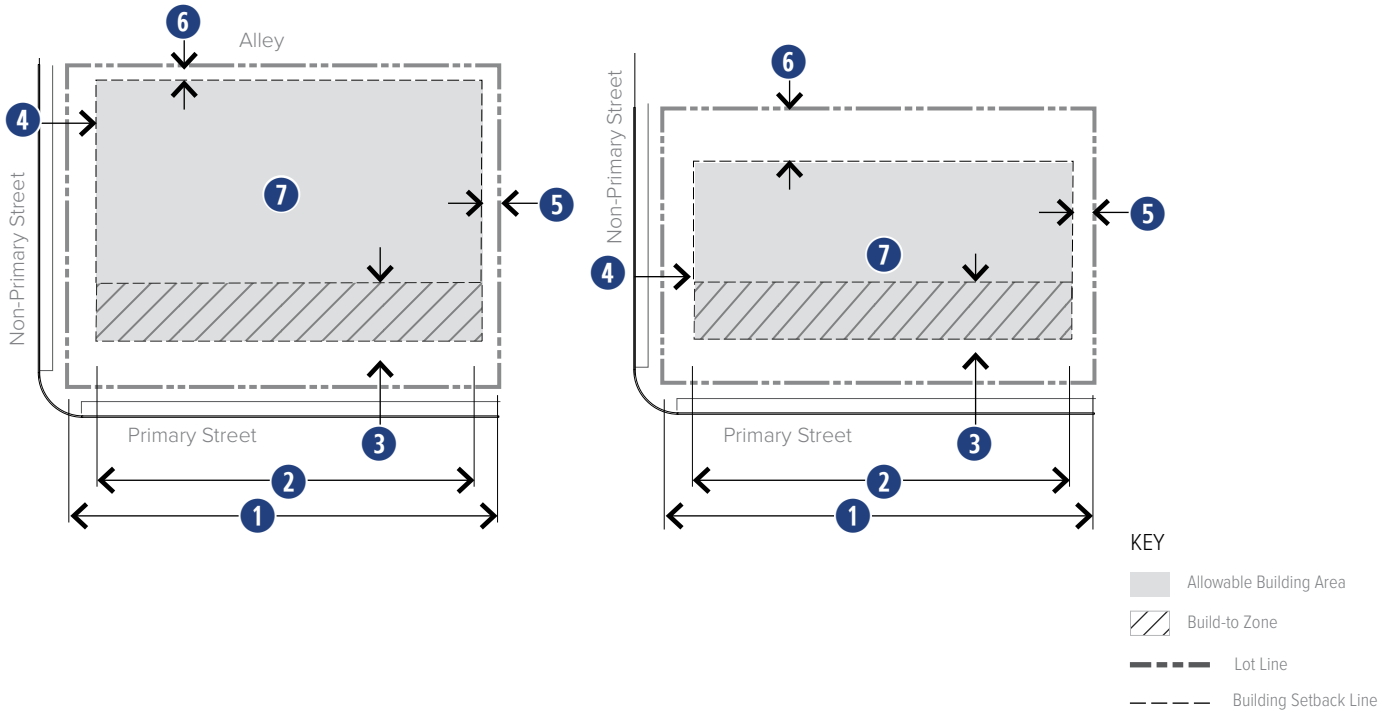
LINK	SUBSECTION
<a href="#">535-22H(4)</a>	Building Siting
<a href="#">535-22H(5)</a>	Parking & Accessory Structures
<a href="#">535-22H(6)</a>	Height
<a href="#">535-22H(7)</a>	Roofs
<a href="#">535-22H(8)</a>	Primary & Non-Primary Facades
<a href="#">535-22H(9)</a>	Supplemental Regulations



**Figure 535-22-20. Examples of Row Building Type**

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22H Row Building Type**

**Figure 535-22-21. Row Building Siting**



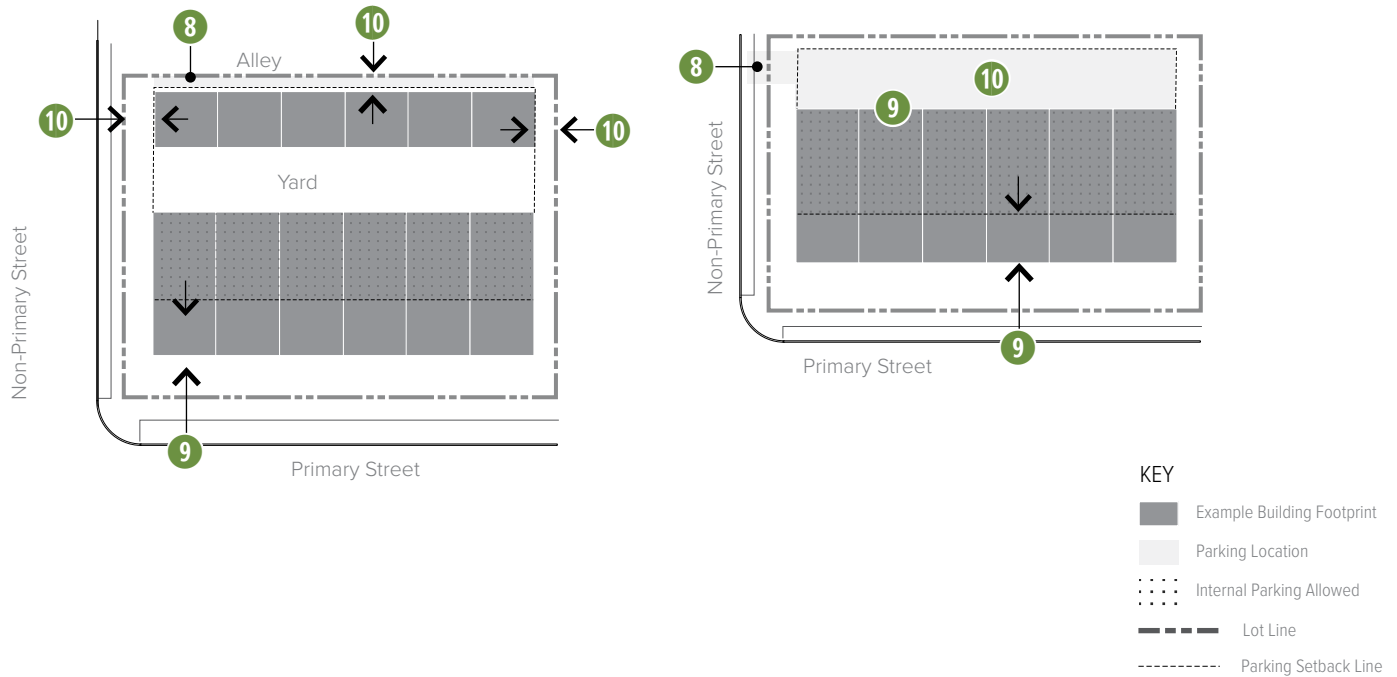
**DISTRICTS**

**GX, RX**

Additional/References

535-22H(4) BUILDING SITING. See <a href="#">Figure 535-22-21</a>		
Configuration	Multiple side-by-side units sharing common side walls	
Multiple Principal Buildings	allowed	See <a href="#">535-22H(9)</a> for multiple buildings on a lot.
<b>1</b> Lot Width	100 ft. min.	
<b>2</b> Building Width per Street Frontage	3 units min. 5 units max.	See <a href="#">535-22H(9)</a> for courtyards. Measured in build-to zone along any street frontage.
<b>3</b> Primary Street Build-to Zone	15 ft. min. 35 ft. max.	See <a href="#">535-22D(8)</a> minimum streetscape area.
<b>4</b> Non-Primary Street Setback	10 ft. min.	
<b>5</b> Side Setback Space between Adjacent Buildings	7.5 ft. min. 15 ft. min.	
<b>6</b> Rear Setback	5 ft. min. at alley; if no alley, 20 ft. min.	
<b>7</b> Site Coverage	65% max.	See <a href="#">535-22(5)</a> for measuring site coverage.

**Figure 535-22-22. Row Building Parking Siting**



**DISTRICTS**

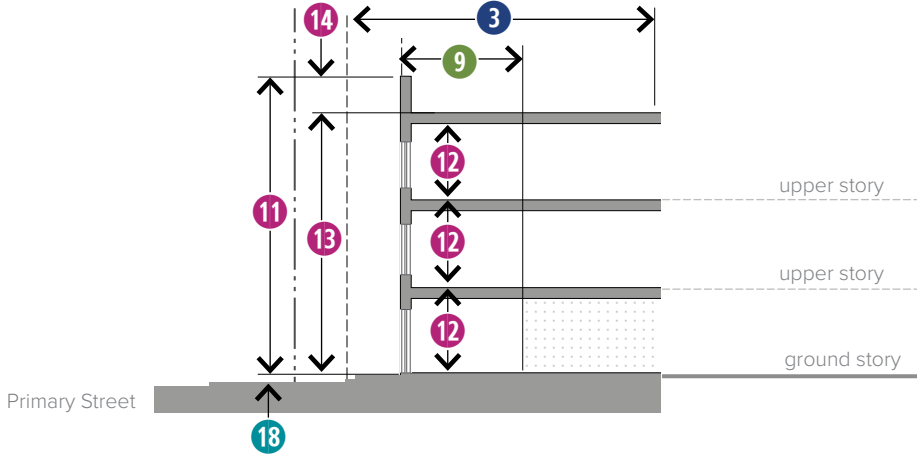
**GX, RX**

Additional/References

<b>535-22H(5) PARKING &amp; ACCESSORY STRUCTURES.</b> See Figure 535-22-22.			
<b>8</b>	<b>Parking &amp; Driveway Access Location</b>	Alley; if no alley, 1 access off non-primary street; if no non-primary street or alley, 1 access off primary street	See Article IX for parking.
	<b>Size</b>	Max. 14 ft. width at sidewalk	
<b>9</b>	<b>Internal Parking Setback</b>	Min. 12 ft. behind primary facade above any basement	See supplemental regulations in <a href="#">535-22H(9)</a> for garage door screening. See <a href="#">535-23E(9)</a> for garage door design regulations.
	<b>Internal Parking Door Location</b>	Rear; not visible from a primary street and screened from non-primary streets	
<b>10</b>	<b>Parking Lot &amp; Accessory Structure Location</b>	Rear yard; see <a href="#">535-26</a> accessory structure regulations	See <a href="#">535-26</a> for additional accessory structures and use regulations.
	<b>Street-Side Setback</b>	No closer to lot line than principal building	
	<b>Side &amp; Rear Setback</b>	5 ft. min.	
<b>KEY ACCESSORY STRUCTURES</b>			
	Outbuildings & Garages	●	<b>KEY:</b> ● = Allowed ○ = Requires a Conditional Use Permit
	Drive-Through Facilities	—	
	Fuel Pumps	—	
	Outdoor Sales & Display	—	
	Parking Structure	○	

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22H Row Building Type**

**Figure 535-22-23. Row Building Height**



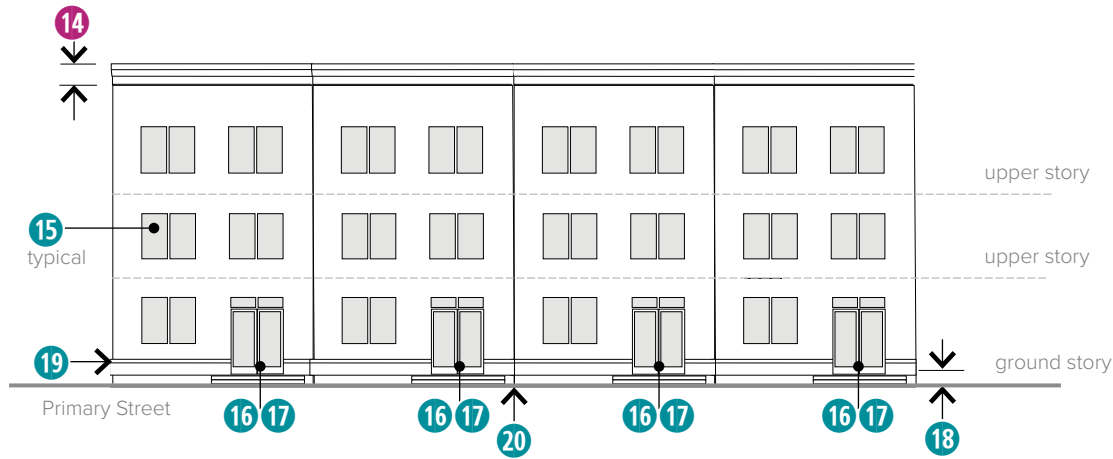
**DISTRICTS**

**GX, RX**

Additional/References

535-22H(6) HEIGHT. See Figure 535-22-23			
11	Height	2 stories min. 3 stories max.	See supplemental regulations on half stories in <a href="#">535-22H(9)</a> . See <a href="#">535-22(8)</a> for measuring height.
12	Floor-to-Floor Height	9 ft. min. 11 ft. max.	Measured floor to floor.
13	Height to Eaves (Pitched Roof)	20 ft. max.	Height to eaves is measured from the first floor to the bottom of the horizontal eave. See <a href="#">535-22(8)</a> for measuring height to eaves.
535-22H(7) ROOFS. See Figure 535-22-23			
14	Roof Types	Pitched, flat, parapet	See <a href="#">535-23B</a> for roof types and tower regulations.
	Tower	Not allowed	

**Figure 535-22-24. Row Building Facades and Roofs**



**DISTRICTS**

**GX, RX**

Additional/References

**535-22H(8) PRIMARY & NON-PRIMARY FACADES.** See Figure 535-22-24

			Additional/References
<b>15</b>	<b>Transparency: Primary Facades Non-Primary Facades</b>	20% min. 15% min.	Measured per story, including any half stories, visible basement, or towers with full-floor height. See <a href="#">535-22I(9)</a> for measuring transparency. Blank-wall segments apply.
	No bays, 10 ft. wide sections, or any rectangular areas greater than 30% of a story's primary facade may be without transparency		
<b>16</b>	<b>Building Entrances Location</b>	One per unit on primary facade except 1 per every 3 units may be located off a courtyard	See <a href="#">535-22H(9)</a> for courtyards.
<b>17</b>	<b>Entrance Type</b>	Porch or Stoop	See <a href="#">535-23C</a> for entrance types.
<b>18</b>	<b>Ground-Story Elevation above Grade</b>	Between 18 in. and 30 in. above grade or between 30 in. and 5 ft. with a visible basement	
<b>19</b>	<b>Horizontal Divisions with Shadow Lines</b>	One within 3 ft. of the top of any basement, first, or second story	See 535-6C for definition of shadow lines.
<b>20</b>	<b>Vertical Divisions with Shadow Lines</b>	One for every 60 ft. of facade on the ground story	

# 535-22 Commercial & Mixed-Use Zoning Districts

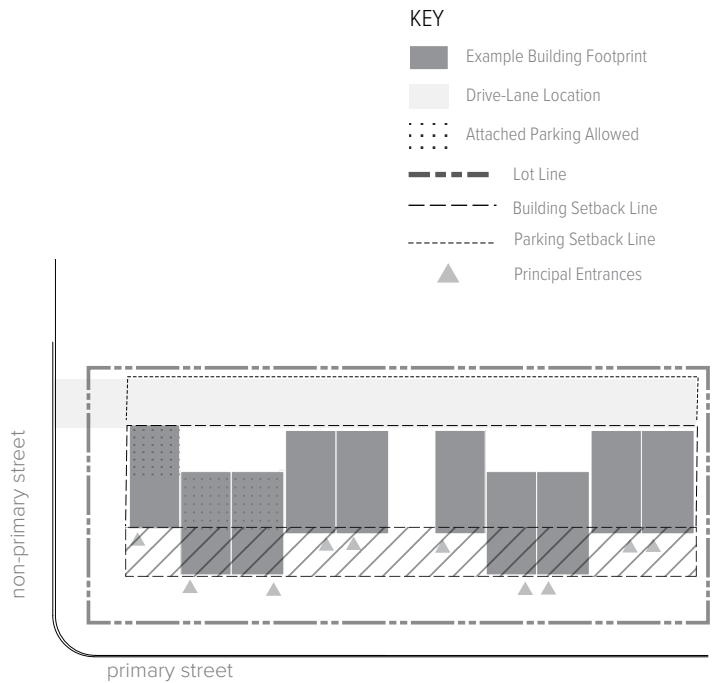
## 535-22H Row Building Type

### 535-22H(9) SUPPLEMENTAL REGULATIONS

**(a) Multiple Buildings on a Lot.** Multiple buildings may be located on a lot with the following regulations:

- [1] The minimum space between buildings is met.
- [2] Each building must fulfill all of the requirements of the building type unless otherwise expressly stated.
- [3] Each building must be located in the build-to zone, contributing to the primary streetwall requirements, except one of every 2 units may front a courtyard. See [Figure 535-22-25](#).
  - [a] The courtyard counts as primary streetwall as long as 3 sides are enclosed at the minimum primary streetwall percentage.
  - [b] Parking is not allowed in the courtyard.
  - [c] Primary facade requirements apply to courtyard facades.
  - [d] If a unit is located on the corner of the courtyard and the street, the entrance must be located on the street.
  - [e] All entrances must connect to the primary street sidewalk via a minimum 4-foot wide sidewalk.

**(b) Garage Door Visibility.** Garage doors must be screened from any street by building or by a masonry wing wall off the building. The wing wall must be faced in an allowed major material used on the adjacent building facade.



**Figure 535-22-25. Multiple Row Buildings on a Lot**

**535-22I MEASURING BUILDING TYPE REGULATIONS**

**535-22I(1) FRACTIONS AND ROUNDING GENERALLY**

When calculations required under this zoning code result in fractions, any fractional result of less than one-half of the unit of the regulation is rounded down to the whole number and any fractional result of one-half or more of the regulation unit is rounded up to the whole number. For example, if the maximum regulation is 2 feet, a measurement of 1.5 feet (or 1-foot, 6 inches) is rounded up to 2 feet and a measurement of 1.25 feet (or 1-foot, 3 inches) is rounded down to 1 foot. If the maximum regulation is in inches, fractions are rounded to the nearest inch.

**535-22I(2) GENERALLY PARALLEL & PERPENDICULAR**

"Generally parallel," when stated related to lot lines or building facades, means less than 45 degrees off the lot line or facade. "Generally perpendicular," when stated related to lot lines or building facades, means more than 45 degrees off the lot line or facade in any direction.

**535-22I(3) PRIMARY STREETWALL**

The following applies to required primary streetwall per the building type regulations in this section, [535-22](#).

**(a) Measurement: Minimum Percentage of Streetwall.**

The minimum percentage of primary streetwall must be equal to or greater than the width of the principal structures, as measured within the primary build-to zone, divided by the length of the lot line parallel to the primary street, minus the minimum side setbacks. See [Figure 535-22-26](#).

**(b) Height.** The streetwall or building facade being measured must meet the minimum height required for the building type. See [535-22I\(8\)\(b\)](#).

**(c) Courtyard and Other Allowances.** Courtyards and other allowances may be listed in the supplemental regulations for the building type as required or allowed. The length of the courtyard opening or expanded build-to zone may be counted towards primary streetwall.

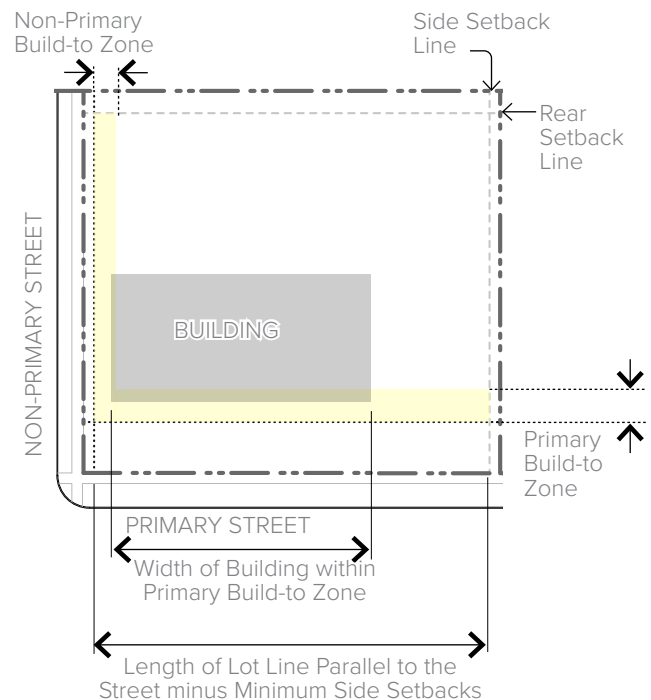
**535-22I(4) SETBACKS AND BUILD-TO ZONES**

The following applies to required setbacks and build-to zones per the building type regulations in this section, [535-22](#).

**(a) Measurement: Buildings.** Required setbacks and build-to zones are measured from the applicable lot line, right-of-way line, or specific location referred to in the applicable regulation, to the exterior building walls generally parallel to the subject line.

- [1] Street (primary and non-primary) build-to zones and setbacks are measured from the actual right-of-way line of the street to the nearest exterior building wall. (Alleys are not considered streets and typically abut side or rear lot lines.)
- [2] Side or interior-side setbacks are measured from the nearest side lot line that does not abut a street.
- [3] Rear setbacks are measured from the rear lot line.
- [4] On corner lots, the required primary or non-primary setback must be provided for each street frontage, depending on whether the abutting street is a primary or non-primary street. The lot line opposite of the primary street is the rear lot line, requiring a rear setback. The lot line generally perpendicular to the primary street is the side lot line, requiring a side setback.

$$\frac{\text{Width of Building within Build-to Zone}}{\text{Length Primary Frontage Lot Line Minus Minimum Side Setbacks}} = \text{Primary Streetwall \%}$$



**Figure 535-22-26. Measuring Primary Streetwall**

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22I Measuring Building Type Regulations**

- [5] On through-lots, the required primary or non-primary setback must be provided for each street frontage, depending on whether the abutting street is a primary or non-primary street. (See 535-6C for definitions.) Generally applicable regulations apply per [535-22D\(7\)](#) and supplemental building regulations for the building type may have additional requirements.
- (b) Minimum Required Streetscape Area.** See [535-22D\(8\)](#) for regulations requiring a minimum streetscape area. Where the minimum area does not exist, the build-to zone is measured from the edge of the expanded streetscape area into the lot.
- (c) Exceptions to Build-to Zones.** Upper-story recessed balcony facades are not required to be located within the build-to zone.
- (d) Contextual Setbacks.** The contextual build-to zone or minimum and maximum setbacks are determined by calculating the mean yard depth that exists on the nearest 2 lots on either side of the subject lot.
  - [1] If one or more of the lots required to be included in the prevailing setback calculation are vacant, the vacant lot will be deemed to have a street yard depth equal to the minimum street setback requirement of the subject zoning district.
  - [2] Lots with frontage on a different street than the subject lot or that are separated from the subject lot by a street or alley are not used in computing the contextual setback.
  - [3] When the subject lot is a corner lot, the mean street yard depth will be computed on the basis of the

nearest 2 lots with frontage on the same street as the subject lot.

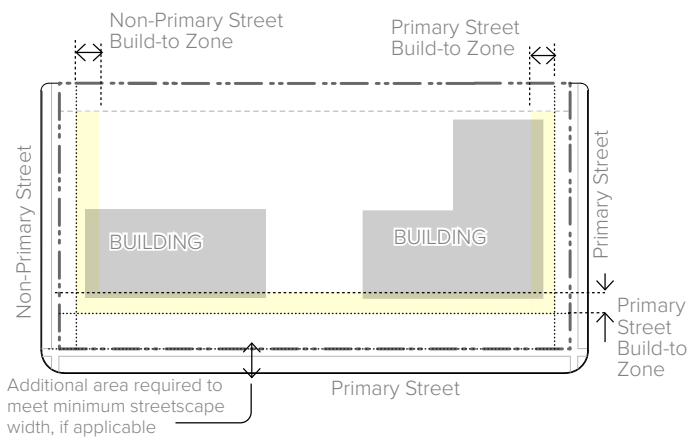
- [4] When the subject lot abuts a corner lot with frontage on the same street, the mean yard depth will be computed on the basis of the abutting corner lot and the nearest 2 lots with frontage on the same street as the subject lot.
- (e) Allowed Encroachments.** Allowed encroachments into setbacks or beyond build-to zones are defined in 535-10.
- (f) Setbacks on Irregular Lots.** Setbacks are measured from lot lines towards the center of the lot as follows:
  - [1] When lot lines are curvilinear, setbacks must be measured parallel to the curvilinear lot line.
  - [2] When there are multiple rear lot lines, the rear setback must be measured from each of rear lot lines.

- (g) Measurement: Elements Other than Buildings.** Minimum setbacks that apply to elements other than buildings (e.g. parking areas, fences, storage areas) are measured from the lot line, right-of-way line, or specific location referred to in the applicable regulations, to the nearest point of the feature.

**535-22I(5) SITE COVERAGE**

Site coverage is measured as the percentage of a lot covered by impervious surfaces. See [Figure 535-22-29](#).

- (a) Impervious Surfaces.** Any land or portion of a site covered by constructed features that prevent the direct percolation of surface water into the underlying earth. Examples include buildings, paved parking and roadways, masonry walls and terraces, swimming pools, sidewalks, hard surface playing courts, and paved driveways.
- (b) Semi-Pervious Materials.** Semi-pervious materials, such as semi-pervious pavers, semi-pervious asphalt, and semi-pervious concrete, counts towards the site coverage at a lower rate. The area of the semi-pervious materials is added into the overall site coverage at 75% of the actual area. For example, if the area of semi-pervious materials measures 1,600 sq. ft., 1,200 sq. ft. (75% of 1,600) contributes to the lot's maximum site coverage.
- (c) Green Roofs.** Green, or vegetated, roofs count towards the site coverage, calculated at 75% of the area of the green roof. For example, if the surface of the green roof



**Figure 535-22-27. Build-to Zones**

# 535-22 Commercial & Mixed-Use Zoning Districts

## 535-22I Measuring Building Type Regulations

measures 13,000 sq. ft., then 9,750 sq. ft. (75% of 1,600) contributes to the lot's maximum site coverage.

### 535-22I(6) INTERNAL PARKING AND DOOR LOCATION

- (a) **Internal Parking Setback Measurement.** Internal parking setbacks are defined in the building type regulations.
- (b) **Dimensional Setback.** When the building type regulation includes a dimensional setback for internal parking, the setback is measured from the primary facade of the building, located generally parallel and facing the primary lot line. The setback is intended to promote the use of the area directly behind the primary facade of any building for people and not the parking of vehicles.
- (c) **Setback Use.** The use of the space of the building within the setback must be occupied space. See 535-6C for definition of occupied space.
- (d) **Internal Parking Door Location.** Any garage door must be located on one of the designated facades of the building.

### 535-22I(7) LIMITED SIDE-YARD PARKING

Where allowed, limited side-yard parking is located in the interior side yard and must be configured as one double- or single-loaded aisle of parking with the centerline of the aisle located perpendicular to the street.

### 535-22I(8) BUILDING HEIGHT

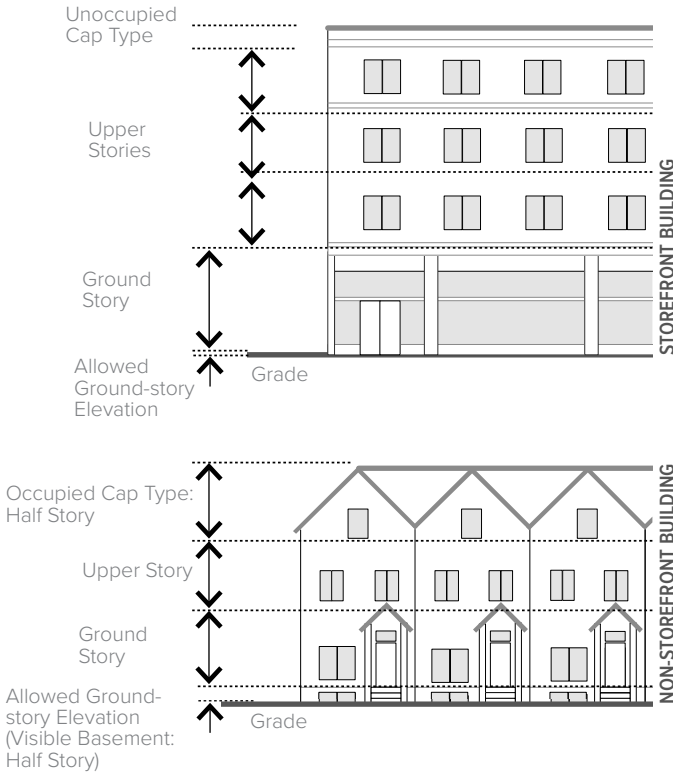
See [Figure 535-22-28](#). Building height is measured as the total of all components related to height in the building type regulations, including ground story elevation, minimum and maximum stories with allowed floor-to-floor height ranges, and roof types.

- (a) **Ground-Story Elevation.** The ground-story elevation, located in the facade regulations for each building type is measured from the grade of the public sidewalk along any street lot lines. A range is allowed per building type. See [535-22I\(8\)\(g\)](#) for basements and visible basements ranges above grade.
- (b) **Minimum Height in Stories.** Each building type requires a minimum number of stories. The building must meet the minimum number of stories required along all primary street facades and for a depth of at least 30 feet into the building. All building facades located within the build-to zone must meet the required minimum building height.
- (c) **Maximum Height in Stories.** The maximum number of stories applies to the entire building. The maximum

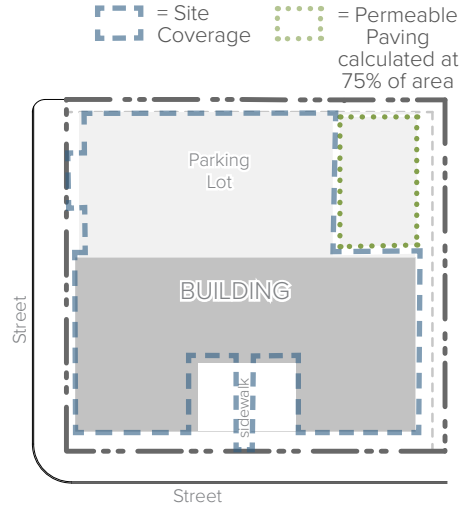
number of stories may not be exceeded due to sloped sites. Heights must step with the grade in order to not exceed the maximum allowable height. See [Figure 535-22-30](#).

- (d) **Roof Type.** Roof types per [535-23B](#) allowed by building type regulations add additional height to the building.
- (e) **Towers.** When expressly allowed in the building type tables, towers may exceed the overall maximum height of the subject building type (see [535-23B\(6\)](#)).
- (f) **Height to Eaves.** Eave height is measured from the floor elevation of the first floor to the horizontal eave of a pitched roof.
- (g) **Half Stories.** Half stories are stories either located fully within the roof type or in a visible basement.
  - (1) **Roof.** Where occupied building space is allowed within the roof type (see [535-23B](#)), any space within the roof and within the floor-to-floor height counts as a half story towards the overall allowable height.
    - [a] The occupiable footprint of half stories in the roof is limited to no more than 65% of the footprint of story below.
    - [b] Dormers or gabled ends of roofs on half stories are limited to no more than 50% of the facade length of the story below, and must be set back from any street facade a minimum of 9 feet.
  - (2) **Visible Basement.** See [Figure 535-22-31](#) for diagram and explanation of a visible basement and 535-6C for definitions of basements and visible basements.
  - (3) **Two Half Stories.** If a building has both a half story within the roof and a half story that is a visible basement, the combined height of the two half stories is considered one full story in terms of measuring overall height.
- (h) **Basements.** See [Figure 535-22-31](#) for illustration of basements and 535-6C for definitions of basements and visible basements.
  - [1] A basement that is not a visible basement does not count towards the minimum or maximum height of a building.
  - [2] Any building may have a basement, unless expressly prohibited in this ordinance.

535-22 Commercial & Mixed-Use Zoning Districts  
**535-22I Measuring Building Type Regulations**



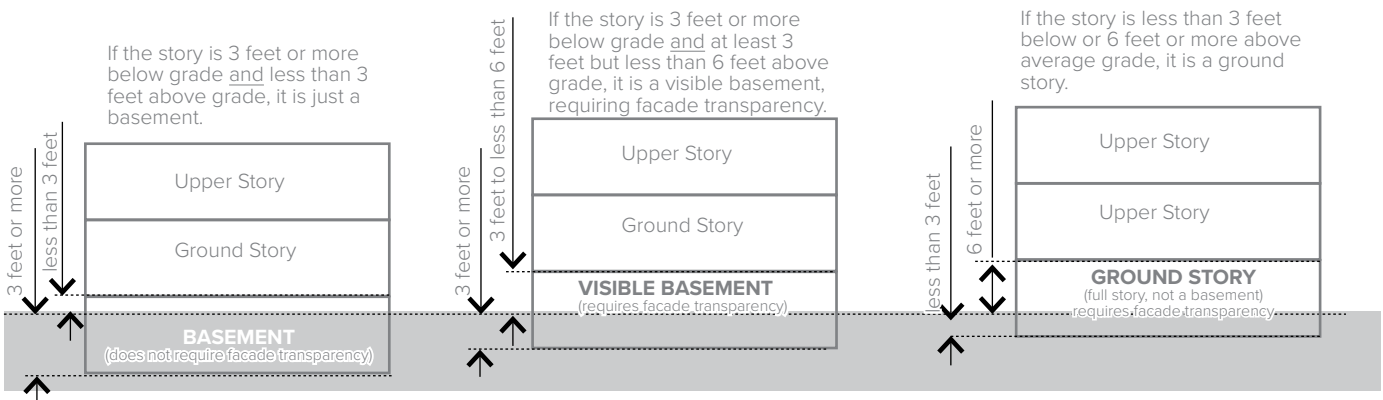
**Figure 535-22-28. Measuring Building Height**



**Figure 535-22-29. Site Coverage**



**Figure 535-22-30. Measuring Height along a Sloped Street**



**Figure 535-22-31. Basements & Visible Basements**

## 535-22 Commercial & Mixed-Use Zoning Districts

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[3] A basement may contain any use allowed within the building, including those allowed only in upper stories.

- (i) **Story Height.** Each story is measured with a range of permitted floor-to-floor heights. See [Figure 535-22-28](#).
- (1) **Measurement.** All story heights are measured in feet between the floor of a story to the floor of the story above it. Minimum and maximum floor-to-floor heights are required along a minimum of 80% of each facade's horizontal length for each story.
- (2) **Ground Story.** When noted as a separate story height, the ground-story height must extend from the primary street facade into the building a minimum of 30 feet. The remainder of the ground-story may meet either the primary frontage ground-story heights or the height range permitted for all stories.
- (3) **Single-Story Buildings and Top-Story Measurement.** For single-story buildings and the uppermost story of a multi-story building, the floor-to-floor height is measured from the floor of the story to the ceiling, unless a specific height is provided for a single-story building.
- (4) **Mezzanines.** Mezzanines may be included within the allowed floor-to-floor height of any story per the building types provided the following:
- [a] Mezzanines extending above the story's allowable floor-to-floor height must count as a full story in addition to the story below.
  - [b] Mezzanines occupying more than 30% of the floor area below must count as a full story in addition to the story below.
  - [c] Where the mezzanine story is located adjacent to a street facade, the street facade transparency requirements of the subject building type must be applied to both the mezzanine floor and the story the mezzanine overlooks.
- (5) **Taller Spaces.** Spaces exceeding the allowable floor-to-floor heights of the building type are permitted for a maximum of 20% the length of street facades.

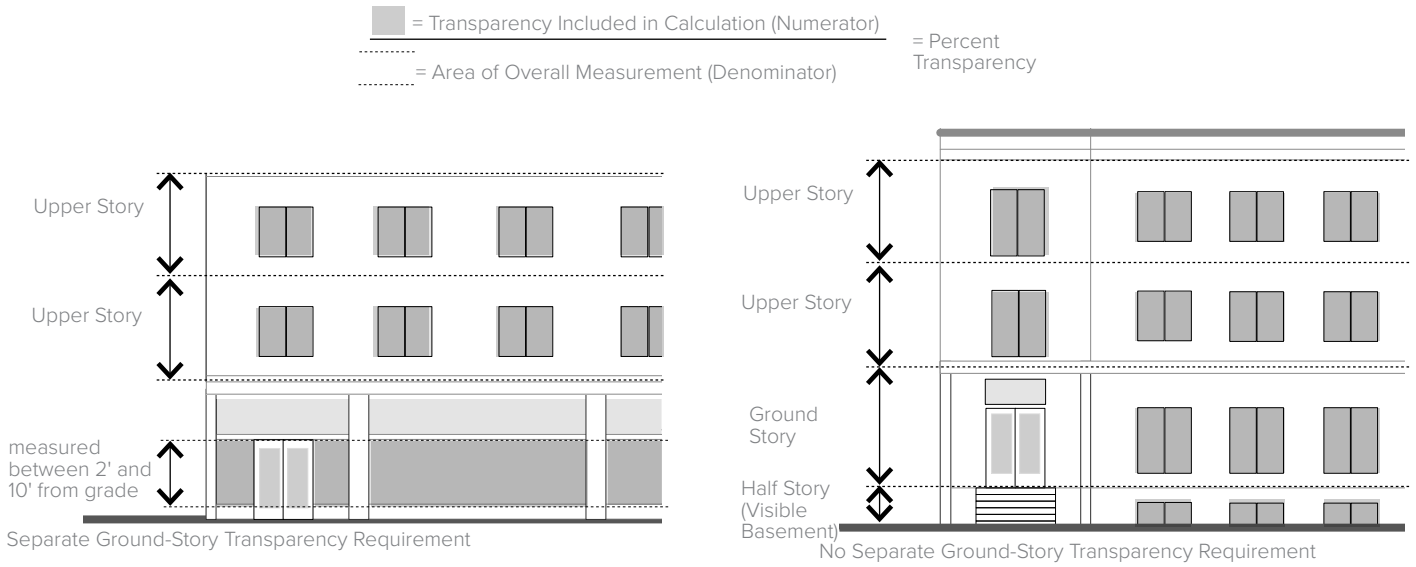
### 535-22I(9) TRANSPARENCY

Governed by the building type regulations, the transparency of a facade is measured for each story separately using 2

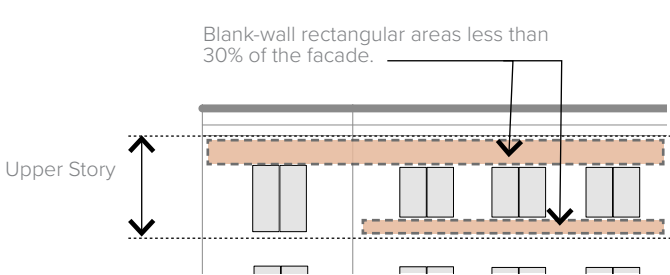
regulations: (1) an overall minimum transparency percentage per story, and (2) where applicable per building type, maximum blank-wall segments (per [535-22I\(9\)\(c\)](#), below).

- (a) **Definition of Transparency.** For the purposes of this zoning ordinance, transparency is the measurement of the percentage of a facade that contains highly transparent, low-reflectance glass.
- (1) **Storefront.** When transparency is required separately for primary street ground-story facades, glass must be a minimum of 60% transmittance factor and a reflectance factor of not greater than 0.25.
- (2) **All Other Windows.** Transparency for all window, door glass, and other storefront glass must be a minimum of 50% transmittance factor and a reflectance factor of not greater than 0.25.
- (3) **False Windows.** The use of false or faux windows, where the window is visible from the exterior with no opening from the interior, to meet the transparency requirement is not allowed.
- (b) **Measurement.** Minimum facade transparency is measured from floor to floor of each story separately, except for required minimum ground-story transparency as defined below. See the building type regulations for required transparency by building type.
- [1] Transparency requirements must be met with windows or glass in doors that comply with applicable transmittance and reflectance factors.
  - [2] The measurement may include the frame, mullions, and muntins, but may not include trim or casing.
- (c) **Blank-Wall Segments.** Where applicable per the building type regulations, blank-wall segments on all facades must meet the following:
- [1] No rectangular areas greater than 30% of a story's facade, as measured floor to floor, may be blank wall, without transparency. See [Figure 535-22-33](#).
  - [2] No horizontal segments of a story's facade greater than 15 feet in width may be blank wall, without transparency. See [Figure 535-22-34](#).
- (d) **Minimum Ground-Story Transparency.** When a separate minimum ground-story transparency is required per the building types requirements, the ground-story transparency is measured between 2 feet and 10 feet from the average grade at the base of the facade.

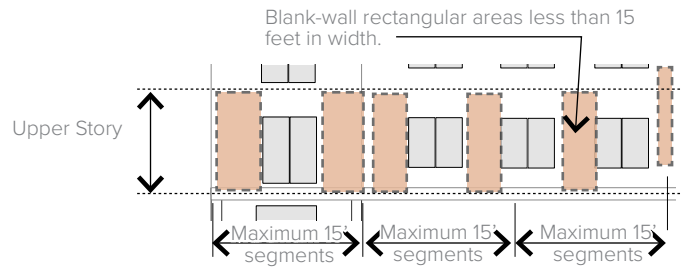
535-22 Commercial & Mixed-Use Zoning Districts  
**535-22I Measuring Building Type Regulations**



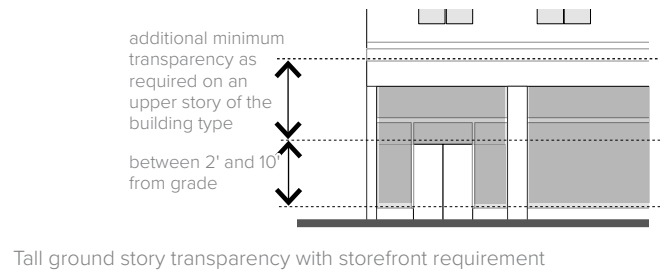
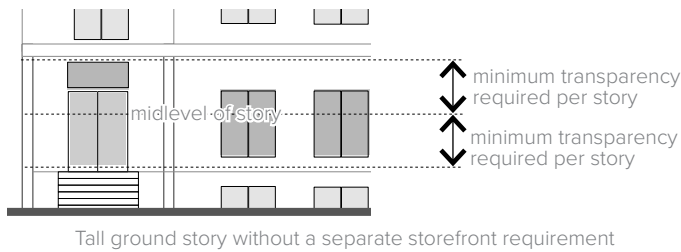
**Figure 535-22-32. Measuring Transparency Floor-to-Floor**



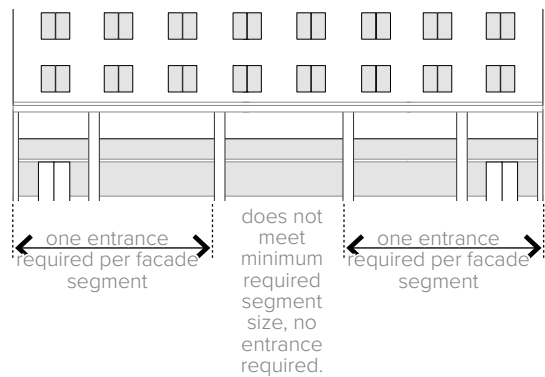
**Figure 535-22-33. Blank-Wall Segments (1)**



**Figure 535-22-34. Blank-Wall Segments (2)**



**Figure 535-22-35. Measuring Transparency on Taller Stories**



**Figure 535-22-36. Entrances**

- (e) **Mezzanines.** Mezzanines treated as a separate story per [535-22I\(8\)](#) must include upper-story transparency required per building type.
- (f) **Tall Stories.** Stories that are 18 feet or taller in height must include additional transparency consistent with the following standards. See [Figure 535-22-35](#).
- (1) Separate Ground-Story Transparency Required.**  
When a separate minimum ground-story, storefront-level transparency is required per the building type regulations, the facade design must fulfill that requirement as regulated between 2 and 10 feet. Above 10 feet and up to the top of the tall, ground story, the facade must meet the minimum transparency for an upper story per the building type regulations.
- (2) No Separate Ground-Story Transparency Required.** Where no separate ground-story transparency is required per building type, a tall story is treated as 2 separate stories, divided in half horizontally, with the minimum transparency applied to each half.
- (g) **Half Stories and Visible Basements.** All half-story facades located within the roof structure and within visible basements must meet the minimum required transparency. Openings without windows or doors are not allowed on visible basements on primary street facades.

**535-22I(10) BUILDING ENTRANCES**

Entrances must be provided consistent with the entrance location and number requirements established for the subject building type and consistent with [Figure 535-22-36](#).

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## **535-23. BUILDING DESIGN**

### **535-23A GENERAL REGULATIONS**

#### **535-23A(1) APPLICABILITY**

The regulations of this section, [535-23](#), apply to all buildings in all commercial and mixed-use districts, unless otherwise stated.

#### **535-23A(2) INTENT**

The regulations of this section, [535-23](#), along with the building type regulations in [535-22](#), are intended to improve the physical quality of buildings, improve the long-term value and durability of buildings, enhance the pedestrian experience, and protect the historic form and scale of the village.

- (a) Durable, High Quality.** Ensure the use of well-tested, high-quality, durable, weather-resistant, exterior-grade materials on the majority of finished building surfaces, while permitting a wider range of materials for details. High-quality materials can improve how well buildings weather, reduce material failure rate, require lower maintenance, have a longer life cycle and sense of permanence, and maintain longer term value.
- (b) Clearly Articulated, Human-Scaled Facades.** Promote clearly articulated, well-organized facades that are easy to understand, have a clear hierarchy, and yield building proportions and details comfortable to and in line with the scale of people.

#### **535-23A(3) ADJUSTMENTS**

Planning and design adjustments to specific building design regulations explicitly defined in this section, [535-23](#), may be approved through the adjustments process per [535-31G](#) and [535-31H](#), provided the intent of the building design regulations are met.

### **535-23B ROOF TYPES**

#### **535-23B(1) REGULATIONS APPLICABLE TO ALL ROOF TYPES**

- (a)** The major components of any roof shall meet the requirements of one or a combination of the roof types allowed on a building per the building type regulations in [535-22](#).
- (b)** See 535-6C for definitions of occupied building space, shadow lines, and half stories, often referred to within the roof types.
- (c)** Roofs for bay or bow windows and dormers are not required to meet a roof type.

- (d)** Terraces, green roofs, rooftop gardens, and other outdoor facilities are allowed on any roof and are not considered a roof type, except as follows:
  - [1] Any permanently covered, open-air area applies to the overall height as regulated by the building type regulations ([535-22](#)), or may be treated as a tower on the building per [535-23B\(6\)](#).
  - [2] Any fully enclosed structure on a roof must meet the tower regulations per [535-23B\(6\)](#).
  - [3] Terraces and other outdoor facilities for people may not be located within 15 feet of an adjacent lot line of an R district.
  - [4] Commercial activities may not occur on any rooftop that abuts an R district.
  - [5] Outdoor dining is regulated as an accessory use in [535-26F](#).
- (e)** Roofs, including all eaves or overhangs, must be fully located within the property lines of the lot, but may encroach into yards per [535-22I\(4\)](#). See [535-22](#) for setback regulations.

#### **535-23B(2) OTHER ROOF TYPES**

Other roof designs not defined in this section may be approved through the design adjustment process (see [535-31G](#)) with the following requirements:

- (a) Occupied Building Space.** The roof type must not create additional occupiable floor space beyond that permitted by the building type. See 535-6C for definition of occupied space.
- (b) Other Design.** The shape of the roof should be different from those defined in this section, [535-23B](#), such as a dome, spire, or vault and not an allowed pitched roof, parapet roof, or flat roof, except as otherwise expressly stated in this section, [535-23](#).
- (c) Warrant.** The building should warrant a separate status from the majority of buildings in the district, with a correspondence between the form of the roof and the building use or location. For example, a dome for planetarium or a unique, singular roof for a more distinctive museum or cultural facility.

#### **535-23B(3) PARAPET ROOF TYPE**

A parapet is a low wall projecting above a building's roof along the perimeter of the building on all street facades and other primary facades. See [Figure 535-23-1](#) for an example of a parapet roof type.

535-23 Building Design  
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**(a) Parapet Height.** Height is measured from the top of the upper story to the top of the parapet.

- [1] Minimum height is 1.5 feet with a maximum height of 6 feet.
- [2] Roof slope beyond the parapet must not be visible above the parapet.
- [3] A shadow line must be located within 2 feet of the top of the uppermost story.
- [4] A shadow line must be located at the top of the parapet.
- [5] Parapets may be faced with a sloped, shingled roof detail, provided the detail does not exceed the allowable height of the parapet and the shingles are clay tiles.

**(b) Occupied Building Space.** Occupied building space must not be incorporated behind this roof type.

**(c) Rooftop Appurtenances.** With the exception of solar panels, wind energy systems, and antennae, any rooftop appurtenances must be located towards the rear or interior of the parapet roof. Rooftop appurtenances should be located such that the parapet blocks their view from the sidewalk across the street or may be

located within a tower per [535-23B\(6\)](#). See [535-23G\(4\)](#) for additional regulations of mechanical equipment.

**535-23B(4) FLAT ROOF TYPE**

This roof type is a visibly flat roof with overhanging eaves. See [Figure 535-23-2](#) Example of a Flat Roof.

**(a) Maximum Slope.** The maximum slope is 2:12; however, the roof must not appear to be visibly sloped from the street or other primary frontage.

**(b) Eaves.** Eaves are required on all street and other primary frontages.

**(1) Eave Depth.** Eaves must have a depth of at least 14 inches. Eave depth is measured from the building facade to the outside edge of the eave.

**(2) Eave Thickness.** Eaves must be a minimum of 6 inches thick. Eave thickness is measured at the outside edge of the eave, from the bottom of the eave to the top of the eave.

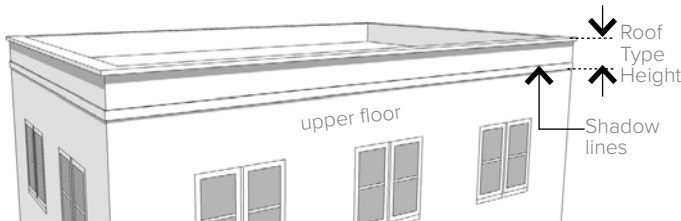
**(c) Interrupting Vertical Walls.** Vertical walls may interrupt the flat roof and extend above the top of the eave with no discernible roof type.

[1] No more than one-third or 20 feet, whichever is less, of any primary facade may consist of an interrupting vertical wall.

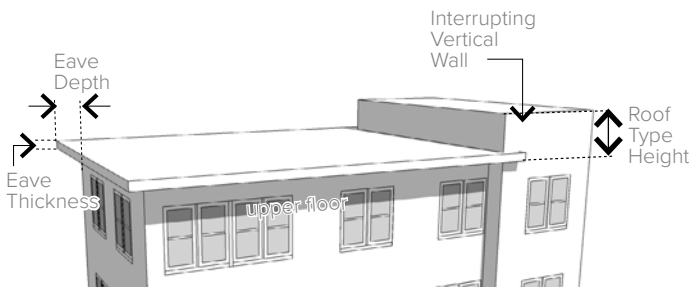
[2] Vertical walls shall extend no more than 8 feet above the top of the eave.

**(d) Occupied Building Space.** Occupied building space shall not be incorporated within this roof type, including the flat roof and vertical wall.

**(e) Rooftop Appurtenances.** With the exception of solar panels, wind energy systems, and antennae, rooftop appurtenances must not be located on the flat portion of this roof type. Any rooftop appurtenances may be located behind the interrupting vertical wall with no visibility from the sidewalk across the street per [535-23G\(4\)](#) or may be located within a tower per [535-23B\(6\)](#).



**Figure 535-23-1. Example of a Parapet Roof Type**



**Figure 535-23-2. Example of a Flat Roof Type**

**535-23B(5) PITCHED ROOF TYPE**

This roof type is a sloped or pitched roof, where the slope appears on all street and other primary facades. Slope is measured with the vertical rise divided by the horizontal span or run. See [Figure 535-23-3](#) Examples of Pitched Roof type.

**(a) Pitch Measure.** The roof may not be sloped less than a 4:12 or more than 14:12. Slopes less than 4:12 are permitted to occur on second story or higher roofs.

**(b) Configurations.**

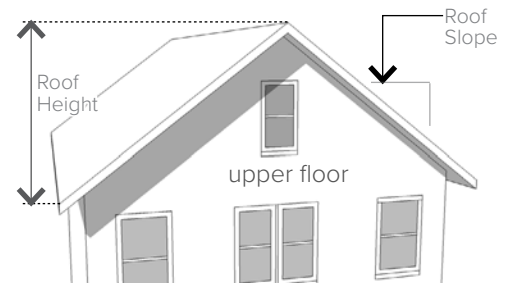
- [1] Hipped, gabled, and combination of hips and gables with or without dormers are allowed. When the ridge line runs parallel to any primary frontage, [a] or [b], below, must occur:
  - [a] A gabled end or perpendicular ridge line must occur at least every 100 feet of roof; or
  - [b] One dormer must be provided for every 15 feet of ridge line on any street or primary frontage with at least one dormer per frontage.
  - [c] Occupied building space within the roof is allowed and counts as a half or full story.
- [2] Gambrel and mansard roofs are allowed per the following:
  - [a] Gambrel roofs with the ridge line perpendicular to the street are allowed.
  - [b] Gambrel roofs with the ridge parallel to the street and mansard roofs are allowed where one dormer is provided for every 20 feet of ridge line on any street or primary frontage with at least one dormer per frontage.
  - [c] The steepest portion of the roof must be no greater than the tallest permitted height of one upper story.
  - [d] Materials for gambrel and mansard roofs are limited to clay tile, slate, composite slate, or standing seam metal.
  - [e] The overall height of a gambrel or mansard roof, inclusive of all slopes, must not exceed 1.25 the height of an allowed upper story.
  - [f] Occupied building space is required beneath the roof and counts as a half or full story, based upon the percentage of footprint allowed for a half story within the building type regulations.
- [3] Butterfly (or inverted gable or V-shaped roof) and shed roofs are allowed only with a design adjustment approved (see [535-31G](#)). The following applies:
  - [a] Negative impacts on neighboring properties, such as shading or glare, are mitigated.
  - [b] The butterfly or shed roof must not exceed 8 feet in total height, inclusive of overhang.



Low Pitched Roof Type (Hip Roof)



Parallel Pitched Roof Type



Pitched Roof Type (Gable Roof)

**Figure 535-23-3. Examples of Pitched Roof Type**

- [c] The roof must not be significantly higher than the surrounding context, unless the visibility of the roof is screened from the street and neighbors by the building.
- [d] Occupied building space within the roof is allowed and counts as a half or full story.

**(c) Maximum Roof Height.** Except as otherwise specified, pitched roofs must have a maximum height on primary and non-primary frontage facades equal to no more than 1.5 times the upper-story floor-to-floor height utilized on the building.

**(d) Rooftop Appurtenances.** With the exception of solar panels, antennae, and wind energy systems, any rooftop

535-23 Building Design  
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appurtenances must be recessed within the pitched roof with no visibility on any street elevation drawing. See [535-23G\(4\)](#) for additional regulations of rooftop mechanical equipment.

**535-23B(6) TOWERS**

A tower is a vertical element used with other roof types. See [Figure 535-23-4](#) Example of Tower.

**(a) Degree of Enclosure.** A street-facade tower must be fully enclosed. Any interior building tower may be partially or fully enclosed. A fully open structure, such as a rooftop pergola is not a tower (see [535-23B\(1\)\(d\)](#)).

**(b) Types of Towers.** Unless otherwise defined by the building type regulations, the following types of towers are allowed:

- (1) Street Facade Towers.** Street facade towers are located on a street facade, treated with all of the regulations applicable to any street facade, including transparency and building materials.
- (2) Interior Building Towers.** Interior towers are typically functional, providing housing for utilities or access to the roof on the interior of the building or at the rear or side facade. Facades taller than 5 feet, located within 30 feet of a street facade, must meet the minimum primary street, upper-story transparency requirement.

**(c) Tower Location, Quantity, & Spacing.** See [Table 535-23-1](#) for regulations for location, quantity, and spacing for each type of tower.

**(d) Tower Height.**

[1] Maximum height, measured from the top of the uppermost floor of the building to the top of the tower shaft, not including the tower roof, is the equivalent of the height of one upper floor of the building to which the tower is applied.

[2] A tower allows up to one additional story of height within the tower footprint to any building type where permitted and is not included in the overall maximum height of the building.

**(e) Tower Footprint.**

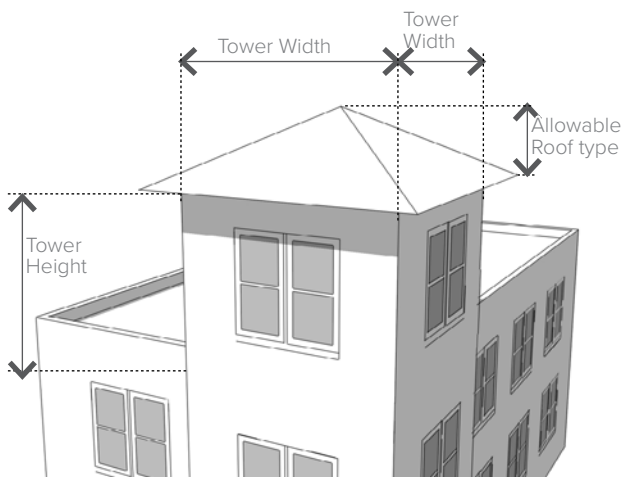
- [1] A tower footprint may be polygonal (simple, e.g. hexagonal or octagonal), rectilinear, or cylindrical in plan.
- [2] The maximum width in any direction of the footprint of any tower is 1/3 the width of any street or primary facade or 20 feet, whichever is less.

**(f) Horizontal Shadow lines.** If the tower extends the building up to a 5th or higher story, a shadow line is required between the 4th and 5th stories on any tower street facade. Shadow lines required by the roof type used on the tower also apply.

**(g) Occupied Building Space.** Towers may be occupied by the same uses allowed in upper stories of the building type to which it is applied.

**(h) Rooftop Appurtenances.** No rooftop appurtenances are permitted on tower roofs. Roof appurtenances may be housed within a tower.

**(i) Tower Roof.** The tower may be roofed by any roof type defined in this subsection [535-23B](#) or approved as an other roof type per [535-23B\(2\)](#).



**Figure 535-23-4. Example of Tower**

**Table 535-23-1. Tower Location, Quantity, Spacing**

	STREET FACADE TOWER	INTERIOR BUILDING TOWER
Location on Building	Within 15 feet of any street facade	Minimum 30 feet from any street facade
Number Allowed	2 per building	2 per building
	Total of 4 per building	
Spacing	120 feet minimum for other street facade towers	60 feet minimum from any other tower

## 535-23C ENTRANCE TYPES

### 535-23C(1) REGULATIONS APPLICABLE TO ALL ENTRANCE TYPES

Entrance types are allowed per building type, see [535-22](#). The following applies to entrance types on any street or courtyard facades.

- (a) **Retaining Walls.** See [535-24C\(2\)](#) for retaining walls located in any street yard.
- (b) **Railings.** Railings for all porches or ramps must be constructed of steel or cast stone on all building types.
- (c) **Design Adjustment.** Other configurations for any entrance type may be approved through the design adjustment process (see [535-31G](#)), provided the intent of the entrance type is maintained.

### 535-23C(2) STOREFRONT ENTRANCE TYPE

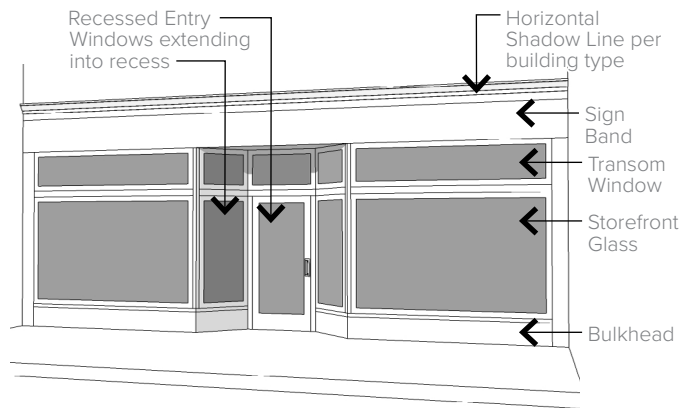
(a) **Intent.** Storefront entrance types are intended to provide at grade access between the building and adjacent sidewalk creating a high level of permeability. See [Figure 535-23-5](#).

(b) **Recessed Entrance.** Where the pedestrian pavement area outside the storefront is less than 7 feet deep, measured from the edge of any street tree well perpendicularly to the facade, entrances must be recessed as follows:

- [1] The door must be recessed between 3 and 8 feet deep, measured from the facade.
- [2] The maximum width of the recess is 10 feet.

(c) **Transparency.** A minimum amount of ground-story storefront glass is required per the building type regulations.

- [1] The storefront entrance must meet the minimum ground-story, primary-facade transparency requirements.
- [2] The glass shall turn the corner of any recessed entry as shown in [Figure 535-23-5](#).
- [3] Transom windows.
  - [a] Transom windows above entrance doors and windows are required where the top of the door is lower than the top of the storefront windows.
  - [b] Existing transom windows must be retained.



**Figure 535-23-5. Example of a Storefront Entrance**



**Figure 535-23-6. Example of Stoop Entrance**



**Figure 535-23-7. Example of Porch Entrance**

## 535-23 Building Design

### 535-23C Entrance Types

[4] See [535-23E\(1\)](#) for general window regulations.

- (d) Bulkhead.** Where a bulkhead is incorporated, the maximum height is 24 inches. A bulkhead is the lower set of panels or low wall upon which the storefront windows rest. See [Figure 535-23-5](#). The bulkhead may be constructed of wood, metal, concrete, or masonry. Concrete masonry units may not be exposed. See [535-23D](#) for allowed facade materials.
- (e) Security Shutters.** External roll down shutters are not allowed. Any necessary security grills must be located inside the shop windows, and shall not be solid. Preferred security systems are glass shock or breaker sensors, or electronic alarms.

#### 535-23C(3) STOOP ENTRANCE TYPE

A stoop is a small, open platform that may include a canopy or roof cantilevered off the building. See [Figure 535-23-6](#).

- (a) Location.** Stoops on any street facades in the commercial and mixed-use districts must be located within the build-to zone unless a planning adjustment is approved (see [535-31H](#)).
- (b) Stoop Size.** Stoops must be a minimum of 4 feet wide and 3 feet deep.
- (c) Canopy.** A canopy over a stoop must be located within 3 feet of the top of the ground story.
- (d) Elevated Stoop.** Where a stoop entrance is located above 3 feet, the lower level is considered a visible basement and the following applies:
- [1] See [535-24C\(2\)](#) for general retaining wall regulations.
  - [2] Street facade transparency requirements of the building type apply to any visible basement facade. See 535-6C for definition of visible basement. Openings without windows or doors are not allowed on primary street facades visible basements.
  - [3] Elevated Stoops must be a masonry or concrete structure, faced with an allowed major facade material if exposed. Wood decking or open metal platforms attached to the building are not allowed.
  - [4] Ramps must be designed as part of the stoop as required by any building accessibility regulations.

#### 535-23C(4) PORCH ENTRANCE TYPE

A porch is a raised, roofed platform open on all sides not abutting the building. See [Figure 535-23-7](#).

- (a) Location.** Porches on any street facade in the commercial and mixed-use districts must be fully located within the build-to zone unless a planning adjustment is approved (see [535-31H](#)).

#### **(b) Porch Size.**

- [1] Minimum porch size is 5 feet deep and 8 feet wide.
- [2] Maximum depth of porches is 10 feet.

- (c) Height.** Porch roof height shall be a maximum of 2 stories, each story meeting the floor-to-floor story height of the building type. Unenclosed. At least 50% of the exterior wall area shall be open; mesh screened areas, glazing and guardrails shall be considered enclosed.

- (d) Elevated Porch.** Where a porch entrance is located more than 3 feet above the public sidewalk, the lower level is considered a visible basement and the following applies:

- [1] See [535-24C\(2\)](#) for general retaining wall regulations.
- [2] Street facade transparency requirements of the building type apply to any visible basement facade. See 535-6C for definition of visible basement. Openings without windows or doors are not allowed on primary street facades.
- [3] Ramps must be designed as part of the porch as required by any building accessibility regulations.

## 535-23D FACADE MATERIALS

### 535-23D(1) MAJOR FACADE MATERIALS

Allowed major facade materials are listed in [Table 535-23-2](#). [Figure 535-23-9](#) illustrates major and minor facade materials.

**(a) Street and Other Primary Facades.** Major materials are required on all street and other primary facades, unless otherwise stated, and are intended to serve as the main surface material on street-facing and other primary facades. See [535-22D\(7\)](#) for other primary facades including courtyard facades. Major materials must be used on a minimum of 65% of applicable facades, not including window and door areas.

**(b) Simplicity of Facade Materials.** The intent of these regulations is the use of fewer facade materials resulting in simpler, clearer building designs.

**(1) Single Major Material.** A single major facade material must be used for the street and other primary facades of the building.

**(2) Design Adjustment.** A design adjustment may be approved (see [535-31G](#)) for dividing the building into segments with at least one segment 120 feet or greater. Each segment may utilize a different major facade material. [Figure 535-23-9](#) illustrates major and minor facade materials.

[a] Building segments must be separated by a minimum 3 feet setback.

[b] Courtyards may count as a separate building segment.

**(c) Side and Rear Facades.** A minimum of 65% of side and rear facades must be comprised of either major materials in [Table 535-23-2](#) or side and rear facade materials in [Table 535-23-4](#).

[1] For any rear and side facades that are generally perpendicular to a street or other primary facade, allowed major materials on the street or primary facade must extend along that side or rear facade a distance equal to the horizontal distance to the side facade of the adjacent building or a maximum of 30 feet, whichever is less.

**(d) Original Facade Materials.** Where brick or stone is an existing building's original major facade material, the following applies:

[1] The original brick or stone may be maintained if in good condition or repaired, or the brick or stone may be replaced by new brick or stone.

[2] A different major material may not be installed over the original brick or stone except with approval of a design adjustment (see [535-31G](#)).

**(e) Renovation of Existing Single-Story Buildings.** Where existing single-story buildings are replacing facade materials, a design adjustment may be approved to utilize a different proportion of major to minor facade materials, provided the major material area is larger than the minor material area.

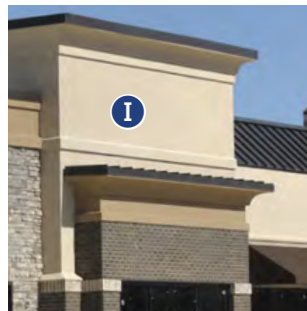
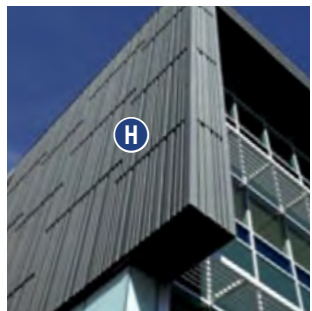
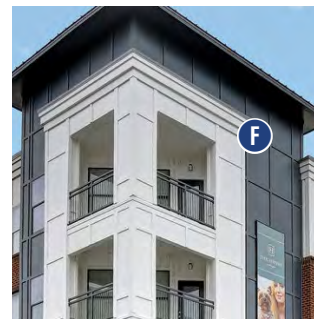
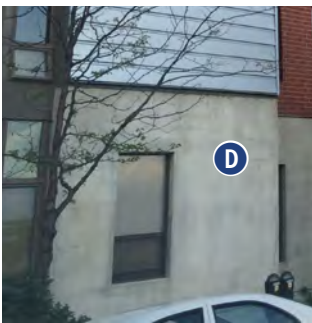
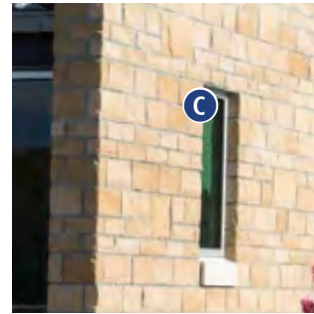
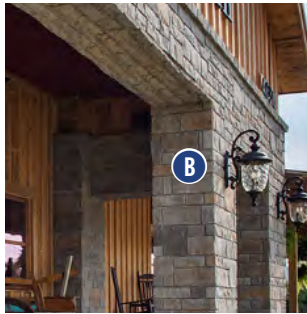


**Figure 535-23-9. Example of Major and Minor Materials on a Facade**

535-23 Building Design  
**535-23D Facade Materials**

**Table 535-23-2. Allowed Major Materials on Street & Primary Facades**

MATERIAL (alphabetical)	BUILDING TYPE			
	STOREFRONT BUILDINGS	COMMERCIAL BUILDING	GENERAL BUILDINGS	ROW BUILDINGS
<b>A</b> <b>Brick</b> full dimensional, economy, unit, face brick, unglazed, no black	●	●	●	●
<b>B</b> <b>Concrete Masonry Units</b> architectural, minimum 3 inch depth, “artisan stone” look, varied sizes, (Echelon Masonry or approved equal), “stone” face, “hewn stone”, rock cut	●	●	●	●
<b>C</b> <b>Stone</b> natural, units	●	●	●	●



**Table 535-23-3. Allowed Minor Facade Materials**

All allowed major facade materials for street & primary facades may be used for minor facade materials, unless otherwise listed as prohibited in Table 535-23-6.

MATERIAL (alphabetical)	ALLOWED ON BUILDINGS IN THESE ZONES	ALLOWED LOCATION	MAXIMUM AMOUNT ON ALLOWED FACADES
<b>Brick</b> full dimensional, economy, unit, face brick, glazed, black	All	All facades	35%
<b>D Concrete Surfaces</b> finished, stained, painted, treated concrete & precast panels	All	All facades, below ground floor only	10%
<b>E Concrete Masonry Units</b> minimum 3 inch depth, split-faced, burnished/ground face, glazed, or honed	All	Street facades	20%
<b>F Fiber Cement Board</b> finished panels, finished lap siding or shingles	All	All facades, stories above the ground story only	35%
<b>G Glass</b> curtain wall, no spandrel glass	All	All facades; see 535-23F for bird-safe design	35%
<b>H Metal, Architectural</b> articulated architectural panel, cladding system (steel, titanium, zinc, corten steel)	All	All facades, stories above the ground story only	35%
<b>Stucco</b> cement-based, 2-3 layer hard coat	All	All facades	35%
<b>I Stucco</b> synthetic or with elastomeric finishes	All	All facades, 3rd or higher stories only	35%
<b>Terra Cotta or Ceramic</b> tiles or panels	All	All facades	20%
<b>J Wood</b> painted, stained, treated, natural, or aged lap siding, shingles, board & batten	All	All facades, no more than 100 s.f. continuous area	20%
<b>K Wood, Composite</b> lap siding, shingles, board & batten, rainscreen system	All	All facades, no more than 100 s.f. continuous area	35%



535-23 Building Design  
**535-23D Facade Materials**

**Table 535-23-4. Allowed Side & Rear Facade Materials**

All allowed major facade materials for street & primary facades may be used for rear and side facades, unless otherwise listed as prohibited in [Table 535-23-6](#).

MATERIAL (alphabetical)	BUILDING TYPES			
	STOREFRONT BUILDINGS	COMMERCIAL BUILDING	GENERAL BUILDINGS	ROW BUILDINGS
<b>E</b> <b>Concrete Masonry Units</b> minimum 3 inch depth, split-faced, burnished/ground face, glazed, or honed	●	●	●	●
<b>F</b> <b>Fiber Cement Board</b> finished panels, finished lap siding or shingles	●	●	●	●
<b>H</b> <b>Metal, Architectural</b> articulated architectural panel, cladding system (steel, titanium, zinc, corten steel)	●	●	●	●
<b>J</b> <b>Stucco</b> synthetic or with elastomeric finishes	●	●	●	—
	3rd or higher stories only			

**535-23D(2) MINOR FACADE MATERIALS**

**(a) Maximum Minor Materials for Facades.** A maximum of 35% of each facade surface, not including window and door areas, may be composed of minor facade materials per [Table 535-23-3](#).

**(b) Accents and Details.** Additional materials are allowed for trim, accents, and details per [Table 535-23-5](#), not included in the maximum facade area.

**535-23D(3) PITCHED ROOF MATERIALS**

The following materials are allowed on pitched roofs: dimensional asphalt composite shingles, wood shingles and shakes, metal tiles or standing seam, slate, ceramic tile, and engineered wood or slate.

**535-23D(4) GRADE OF MATERIALS**

All doors, windows, and hardware must be of commercial grade quality with the exception of those on Row Buildings.

**535-23D(5) MATERIAL INSTALLATION**

The following material installation requirements are intended to advance the quality of construction, durability, and aesthetics of new buildings, specifically related to application and detailing of facade materials.

**(a) Changes in Facade Materials.** Changes in facade materials, whether major materials or minor materials, should occur mainly at concave corners or changes in building planes.

**(b) Materials Hierarchy.** A hierarchy of materials must be maintained on the building facade, where visually "heavier," articulated unit materials (brick, concrete masonry units, stone) are located at the base of the facade and visually "lighter," constant surface materials with fewer seams (stucco, panels) are located above those on the facade.

**(c) Shadow Lines on Surfaces.** Shadow lines must delineate changes in materials with solid materials of a thickness that is greater than 1.5 inches, such as cast stone, masonry, or stone. For example, cast stone elements or brick may be offset to create a shadow.

**535-23D(6) OTHER MATERIALS**

Materials that are not listed in this section as allowed major, minor, accent/detail, or roof materials may not be installed on any facade or roof unless approved as a design adjustment (see [535-31G](#)).

**(a) Intent.** Other materials may be allowed if the applicant demonstrates the material in its proposed application meets the intent of the facade material standards.

**(b) Examples.** Samples and examples of successful high-quality local installation in the region and the manufacturer's warranty and industry ratings must be provided by the applicant.

**(c) Prohibited Materials.** Materials listed as prohibited on [Table 535-23-6](#) may not be approved as acceptable materials.

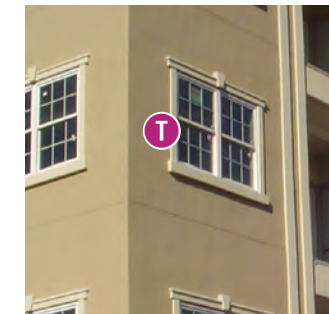
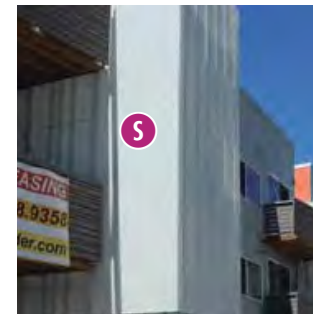
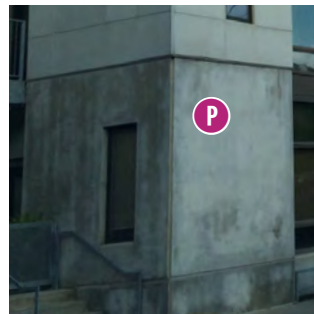
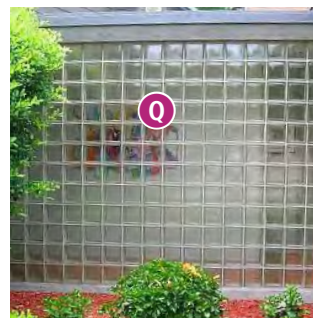
**Table 535-23-5. Allowed Detail & Accent Materials**

All permitted major and minor facade materials may be used for details, trim, and accents.

<b>M</b>	<b>Concrete Details</b> precast stone ornamentation, lintels, sills, banding, columns, beams
–	<b>Fiber Cement Details</b> trim, soffits
<b>N</b>	<b>Metal Details</b> trim, ornamentation, lintels, beams, columns
–	<b>Wood and Wood Composite Details</b> painted/treated trim, soffits, other approved details
<b>O</b>	<b>Vinyl Details</b> limited to soffits, window trim; minimum .04 inches thick

**Table 535-23-6. Prohibited Materials**

	<b>Brick</b> thin veneer
<b>P</b>	<b>Concrete, Unfinished</b> untreated, unstained, unpainted
–	<b>Fiberglass and Acrylic Panels</b> all
<b>Q</b>	<b>Glass Block</b> clear or patterned units with or without color
<b>R</b>	<b>Metal, Aluminum Composite</b> aluminum composite materials (ACM) or panels (ACP)
<b>S</b>	<b>Plastic Panels</b> all, including high-density polyethylene and polycarbonate panels
<b>T</b>	<b>Stucco Moldings or Synthetic Stucco Moldings</b> trim, sills, cornices, banding, columns, pilasters or other 3 dimensional details
	<b>Vinyl &amp; PVC Siding</b> minimum .040 in. thick
–	<b>Wood</b> unfinished, untreated plywood siding or panels



## 535-23 Building Design

### 535-23E Facade Elements

#### 535-23E FACADE ELEMENTS

##### 535-23E(1) WINDOWS

Windows on street and other primary facades of all buildings must be consistent with the following requirements:

- (a) **Amount.** Each building must meet the transparency requirements per the building type regulations. See [535-22](#).
- (b) **Bird-Friendly Design.** See [535-23F\(4\)](#) for bird-friendly design regulations applicable to all windows, storefront glass, and curtain-wall glass, and any other non-opaque surface.
- (c) **Recessed.** All windows, with the exception of ground-story storefront systems and glass curtain wall systems, must be recessed with the glass a minimum of 1.5 inches from the facade surface material or adjacent trim.
- (d) **Vertically Oriented.** A minimum of 70% of street facade windows must be individually vertically oriented, but may be grouped in a set. See [Figure 535-23-10](#).
- (e) **Operable Windows.** Operable windows are required as follows:

- [1] A minimum of 70% of all street facade windows on all buildings must be operable.
- [2] Examples include single-hung, double-hung, pivot, casement, and awning windows; fixed or picture windows are not operable.
- [3] Exceptions include any ground-story storefront glass, glass curtain wall systems, and windows in visible basements with internal parking.
- [4] The intent of this regulation is to break expanses of glass into smaller, human-scale increments and to provide a level of permeability between the inside of the building to the outdoors and the street. A design adjustment may be approved (see [535-31G](#)) for an alternative design that achieves the intent of the regulation.

- (f) **Visibility Through Glass.** Reflective or mirrored glass and glass block are prohibited on street and other primary facades. Windows must meet the transmittance and reflectance factors established in the transparency definition. See [535-22I\(9\)](#).
- (g) **Unobstructed Windows.** Ground-story, primary street-facade windows, other than those for residential uses, must be unobstructed with visibility through to the interior, occupied space.

[1] The first 12 inches behind the glass on the interior of the building must be free of any obstructions, including window coverings that limit visibility by people through the window and except window signs as allowed in 445-11. Window coverings include opaque screens applied to windows, curtains, blinds, or opaque shades mounted behind windows.

[2] Solid backs of furniture or display racks located against the windows or walls constructed less than 3 feet from the windows are prohibited. Display racks of merchandise oriented to the outside are allowed.

[3] Window displays at least 3 feet deep on the inside of the building may be used.

[a] The displays must be oriented to the pedestrian and not solely intended to block views into the space.

[b] The backdrop of the display may be no taller than 48 inches. Above the backdrop, clear unobstructed views into the occupied space are required.

(h) **Expressed Lintels.** For masonry construction, the expression of lintels must be included above all windows and doors by a change in brick coursing or by a separate detail or element. See [Figure 535-23-10](#) for illustrations of expressed lintels on masonry facades.

(i) **Garage Doors.** Garage doors utilized for patio/terrace access, open air dining, or display and not utilized for vehicular access, may be used for storefronts or other window requirements on any building type, provided the doors contribute to and meet the transparency requirements. Garage doors do not count as an entrance.

##### 535-23E(2) DOORS

Doors on street and other primary facades of all buildings must be consistent with the following requirements:

- (a) **Amount.** Each building must meet the entrance requirements per the building type regulations. See [535-22](#).
- (b) **Recessed.** All doors, with the exception of those in ground-story storefront systems and glass curtain wall systems, must be recessed with the door panel a minimum of 3 inches from the facade surface material or adjacent trim.

(c) **Visibility Through Glass.** Doors on primary facades must include at least 35% transparent glass, meeting the transmittance and reflectance factors established in the transparency definition. See [535-22I\(9\)](#). A design adjustment may be approved (see [535-31G](#)) for a lower transmittance, such as frosted glass.

(d) **Open, Operable Doors.** All doors on a primary facade must be fully operable as follows:

- [1] False doors are not allowed.
- [2] The minimum number of required doors on a facade per the building type regulations must be open and operable during the business hours of the tenant behind the door.
- [3] A planning adjustment may be approved (see [535-31H](#)) for the open door requirement based upon the use in the building and the intent of these regulations.

### 535-23E(3) SHUTTERS

When shutters, whether functional or not, are utilized on a street or other primary facade of any building type, the shutters must meet the following requirements. See [Figure 535-23-11](#).

- (a) **Size.** All shutters must be sized for the windows, so that, if the shutters were to be closed, they would not be too small for complete coverage of the window.
- (b) **Materials.** Shutters must be wood, metal, or fiber cement. Synthetic and engineered woods are allowed provided that the applicant submits a sample and examples of high-quality, local installations of the material.

### 535-23E(4) AWNINGS & CANOPIES

Removable awnings and canopies attached to buildings and located on any street or primary facade must be constructed consistent with the requirements of this section. See [Figure 535-23-12](#) for examples of awnings.

- (a) **Material.** All awnings and canopies shall be canvas or metal. Plastic awnings are prohibited.
- (b) **Structures.** Frames must be metal and wall-mounted. Support poles from the ground are prohibited except where the awning is over 8 feet in depth and utilized for outdoor eating areas or entrances.
- (c) **Canopies & Light Shelves.** Permanent canopies, projections, or overhangs used as architectural features, light shelves, or shading devices are allowed and not intended to be regulated by this subsection.



**Figure 535-23-10. Vertically Oriented Window & Exposed Lintels**



Inappropriately Sized Shutters.



Appropriately Sized Shutters

**Figure 535-23-11. Examples of Shutters**

535-23 Building Design  
**535-23E Facade Elements**

- (d) **Right-of-Way.** Awnings or canopies extending into any right-of-way require a permit per the municipal code, [466-18](#).
- (e) **Clearance.** All portions of any awning or canopy shall provide at least 7 feet of vertical clearance over any walkway and 15 feet of vertical clearance over vehicular areas.
- (f) **Signs.** See [445-8](#) for signs on awnings and canopies.

**535-23E(5) PRINCIPAL ENTRYWAY**

See [Figure 535-23-13](#) for examples of defined principal entryways. Principal entrances to all buildings or units, except storefronts, must be visible from the street and clearly delineated through one or more of the following design features:

- (a) **Roof or Canopy.** The entryway is covered by a roof or canopy differentiating it from the overall building roof type.
- (b) **Porch.** The entryway is through a porch on any building type except a Storefront Building.
- (c) **Sidelights and Transom.** Sidelights or transom windows are included around the entryway.
- (d) **Articulation.** The entryway is included in a separate bay of the building that extends up at least 2 stories or in a recessed bay with a change in material.
- (e) **Design Adjustment.** Other structural methods of substantially differentiating the entrance from the facade similar in scope to the examples of this section and not including paint, trim, or materials may be approved through the design adjustment process (see [535-31G](#)).

**535-23E(6) BALCONIES**

Balconies on a facade facing any street or other primary facade shall be consistent with the requirements of this subsection. See [Figure 535-23-14](#) for examples of balconies.

- (a) **Definitions.** For the purpose of this subsection, [535-23E\(5\)](#), the following definitions apply:
  - (1) **Balconies.** Balconies include any roofed or unroofed platform that projects from the wall of a building above grade more than 18 inches and that is enclosed only by a parapet or railing. This definition does not include balconettes.
  - (2) **Balconettes.** Balconettes are false balconies, sometimes referred to as Juliet balconies, consisting of a rail and door, either without an outdoor platform

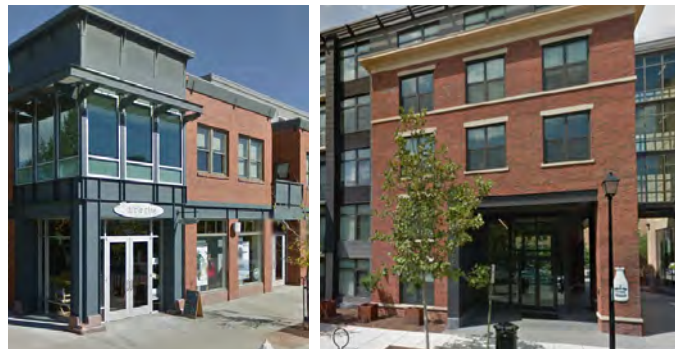


Metal Awning



Canvas Awning

**Figure 535-23-12. Examples of Awnings**



**Figure 535-23-13. Examples of Defined Principal Entryways**

or with an outdoor platform less than 18 inches in depth.

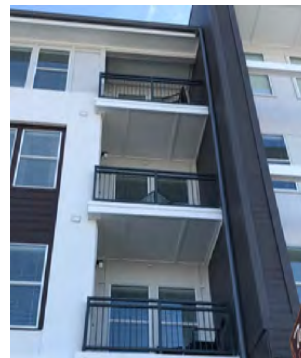
- (b) **Balconettes.** Balconettes are allowed and not subject to any of the balcony regulations in this subsection.
- (c) **Size.** Balconies must be a minimum of 4 feet deep and 5 feet wide.
- (d) **Facade Coverage.** A maximum of 35 percent of street facades, calculated separately for each facade, may be covered by balconies. The balcony area is calculated by drawing a rectangle on the facade elevation around the following: the platform or floor of the balcony; any rails, walls, columns, or indentations; and any ceiling, roof, or upper balcony.
- (e) **Integrated Design.** Balconies must be integrated within the design of the facade, avoiding tacking the balconies onto the facade after the elevation has been designed.

- [1] A minimum of 50 percent of the perimeter of each balcony must abut an exterior wall of the building, partially enclosing the balcony.
- [2] The balcony support structure must be integrated with the building facade; separate columns or posts supporting any balcony from the ground are not allowed.

- (f) **Platform.** The balcony platform must be at least 3 inches thick and any underside of a balcony that is visible from any street or public way shall be finished.
- (g) **Build-to Zone Requirement.** When the balcony is in the build-to zone, the portion of the facade behind it is exempt from meeting the build-to zone requirement.
- (h) **Design Adjustment.** A design adjustment may be approved for an alternative balcony design, provided the design meets the intent of these regulations.

**535-23E(7) GROUND STORY AT SLOPING FACADES**

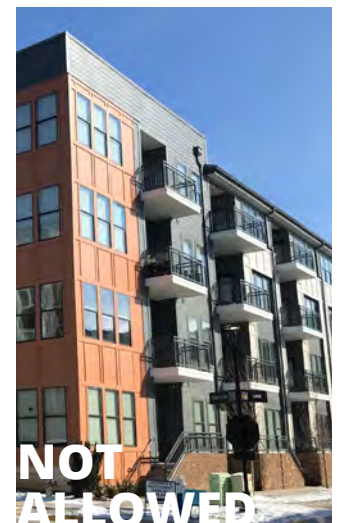
- (a) **Intent.** Grade transitions on any building facade along a significantly sloped sidewalk or street must be designed to minimize blank walls and maximize pedestrian-scale frontages between waist and eye level. See [Figure 535-23-15](#) for examples of positive facades along slopes.
- (b) **Storefronts.** The following regulations apply to storefront facades along sloping streets or other primary frontages:
  - [1] The interior floor level must step to match the exterior grade within 3 feet and/or changes in grade



Balconies Appropriately Attached to or Incorporated into Facade.



Balconies: Covers More than Allowed Facade Area



Balconies: Extending Off (Tacked onto) Facade

**Figure 535-23-14. Examples of Balconies**

## 535-23 Building Design

### 535-23E Facade Elements

may be accommodated by a storefront window display space.

- [2] Knee walls and bulkheads must not exceed 24 inches in height except a maximum 10% or one 10-foot section, whichever is greater, may be up to 36 inches in height.
- [3] Retaining walls at sloped facades must not exceed 18 inches in height except a maximum 10% or one 10-foot section, whichever is greater, of walls may be up to 30 inches in height.
- [4] If the grade change is more than 9 feet in height along a single block face, entrance requirements may be increased to one entrance per 90 feet of building frontage.
- [5] If the grade change is more than 9 feet along a single block face, building entrances adjacent to the street must be within 3 feet of the grade of the adjacent sidewalk.

**(c) Non-Storefronts.** The following regulations apply to all non-storefront facades along sloping streets:

- [1] Multiple front entrances along the street must activate each segment of building section at each grade.
- [2] The interior floor level must step to match the changes in exterior grade within a 3-foot range and/or deeper transition zones between the sidewalk and building facade of porches, terraces, and landscape areas may be used assist with grade changes.
- [3] Changes may be accommodated by terraced planters and retaining walls. Retaining walls must not exceed 18 inches in height except a maximum 10% or one 10-foot section, whichever is greater, of walls may be up to 30 inches in height.
- [4] When the elevation of the first floor is more than 3 feet above grade, windows must be provided into the basement or lower floor elevation. See definition of visible basement in 535-6C.

**(d) Design Adjustment.** An alternative method of addressing significant slopes along street and primary frontages may be approved as a design adjustment (see [535-31G](#)), provided the design meets the intent of these regulations.



**Figure 535-23-15. Examples of Ground Story along Slopes Streets and Sidewalks**



**Figure 535-23-16. Example of a Terminated Vista.**

### **535-23E(8) VISTAS**

Views down streets that terminate at parcels must be considered when locating buildings, parking, and building elements on those parcels. [Figure 535-23-16](#).

- (a) Rears of Buildings.** The location of open space and streets shall not create views of the rear of buildings or parking behind buildings from primary streets and open or civic space.
- (b) Parking.** Parking structures and surface parking lots are not permitted at the termination of a street vista.
- (c) Street Termini.** When a street terminates at a parcel, the parcel must be occupied by one of the following:
  - (1) Courtyard or Open Space.** A courtyard or other open space must be located at the street terminus for the width of the subject street right-of-way. A vertical element shall terminate the view. Acceptable vertical elements include, but are not limited to, a stand or group of trees, a sculpture, a pergola or other public structure, or a fountain. Any open space must be treated as street yard landscape per [535-24E](#).
  - (2) Building.** The facade of a building, whether fronting a primary street or not, must terminate the view for the width of the subject street right-of-way. The building must incorporate one of the following treatments to terminate the view: an allowed tower per [535-23B\(6\)](#), a bay, an allowed courtyard per the building type regulations ([535-22](#)), or an articulated, principal entryway per [535-23E\(5\)](#). That portion of the facade must be treated as a primary facade.

### **535-23E(9) GARAGE DOORS**

The following requirements apply to garage doors provided on any street facade.

- (a) Location.** Allowed locations for vehicular garage doors on street and non-street facades are regulated by the building types in [535-22](#).
- (b) Recessed from Facades.** Garage doors located on street-facing facades must be recessed a minimum of 3 feet from the dominant facade of the principal building facing the same street.
- (c) Design.** Garage doors facing a street must meet the following:

- [1] The doors must be clad with high-quality materials in a color used in the building facade.

- [2] The minimum transparency of the building must be met on the garage door, unless otherwise approved by a design adjustment.
- [3] Upgraded architectural doors or carriage-style doors are required on Row buildings.

# 535-23 Building Design

## 535-23E Facade Elements

### 535-23E(10) PARKING FACADES ALONG STREETS

See [Figure 535-23-17](#) for one illustration of a parking facade on a street. Parking facades are allowed only on non-primary street facades per the building type regulations in [535-22](#) and either as a separate accessory structure on the lot or in the rear of the building. The following standards apply to any parking facade visible from any street or other public way.

- (a) **Materials.** Major and minor material requirements, per [535-23D](#) shall be met on all street facades. An additional permitted minor material is stained, finished concrete on any story.
- (b) **Ramps and Slopes.** Ramps and slopes shall not be located on any street facades.
- (c) **Vertical Divisions.** Vertical divisions extending the full height of the structure are required every 30 feet to deemphasize the horizontal decks. Divisions shall be a minimum of 2 feet in width with a minimum projection of 3 inches.
- (d) **Screening of Vehicles.** Visibility of parked motor vehicles must be screened from the street by walls with a minimum opacity of 50%. Alternative screening may be approved through a design adjustment (see [535-31G](#)).
- (e) **Lighting.** Lighting within parking structures must be shielded to avoid light trespass through openings and windows. See [535-24J](#) for lighting regulations.
- (f) **Blank Wall Limitations.** No rectangular area greater than 30 percent of any story's facade, as measured from floor to floor, and no horizontal segment of a story's facade greater than 15 feet in width may be solid wall without an opening.
- (g) **Entrances.**
  - [1] For all Storefront Buildings, a pedestrian entrance directly into the parking structure from the street is required.
  - [2] All pedestrian entrances directly into the garage must be separate from the vehicular entrance and directly accessed from the sidewalk, unless provided through a building lobby,
  - [3] All exterior pedestrian entrances into any garage must meet the principal entryway regulations in [535-23B](#). Stairwells must be located inside a tower per [535-23B](#) with windows at a transparency rate of 65%.

- (h) **Cap.** The top story of the parking structure shall include a parapet or other roof type along all facades. Refer to roof types defined in [535-23B](#).
- (i) **Vehicular Entrances.** Drive access location and width is regulated by the building type in [535-22](#).



**Figure 535-23-17. Example of a Parking Facade**

## **535-23F BIRD-FRIENDLY DESIGN**

### **535-23F(1) INTENT**

The intent of the bird-friendly building design regulations is to reduce the bird injury and mortality from in-flight collisions with buildings.

### **535-23F(2) APPLICABILITY**

The regulations of this section, [535-23F](#), applies as follows:

- (a) New Construction.** All facades of all buildings, 5,000 square feet or larger of gross floor area, in the commercial and mixed-use districts.
- (b) Window Replacement.** Replacement of 50% or more of all applicable windows on all facades.

### **535-23F(3) APPLICABLE SURFACES**

The following surfaces must be mitigated:

- (a) Glass.** All glass areas 50 square feet or larger, including one continuous panel of glass or 2 or more glass panels divided by mullions of 6 inches in width or narrower.
- (b) Fly-Through Conditions.** Where panels of glass on two separate facades exist within 30 feet of each other and the line of sight through the panels creates the illusion of a void leading through to the other side.
- (c) Building Details and Site Structures.** All glass railings, awnings, panels, or other similar transparent structures on buildings or in the landscape.
- (d) Exception.** Replacement windows in existing openings are not applicable surfaces.

### **535-23F(4) BIRD-SAFE GLASS TREATMENT**

The applicable surfaces listed in [535-23F\(3\)](#) must be mitigated as follows to reduce bird impacts with glass:

- (a) Visual Markers.** Visual markers must be located on the entire applicable glass surface consistent with all of the following:
  - (1) Treatment.** Visual markers must be applied to or integrated into the glass using either fritted glass, etched glass, or film or UV-coating on the glass.
  - (2) Pattern.** The pattern of the visual marker must include dots or shapes at least 5mm in diameter in a pattern less than 2 inches by 2 inches or lines, 1/8" wide or greater, spaced no more than 2 inches apart.
  - (3) Material Threat Factor.** The manufacturer must be specified and the visual marker treatment must have a material threat factor (MTF) of 30 or less

as determined by the most recent version of the American Bird Conservancy's (ABC) Bird Collision Deterrence: Summary of Material Threat Factors.

- (b) Design Adjustment.** An alternative design solution, such as screens, louvers, or shades mounted on the exterior of the building, may be approved as a design adjustment (see [535-31G](#)) provided the MTF is lower than 30 and the material still meets the transparency requirements of [535-22\(9\)](#).

## 535-23 Building Design

### 535-23G Mechanical Equipment

#### 535-23G MECHANICAL EQUIPMENT

Mechanical equipment is necessary for any building design, but can have a negative visual impact and detract from the quality of the design of a building. The purpose of the regulations in this section, [535-23G](#), is to ensure that the visual impact of mechanical equipment and appurtenances is minimized to the maximum extent feasible.

##### 535-23G(1) "MECHANICAL EQUIPMENT" DEFINED

When the following regulations refer to "mechanical equipment," any mechanical equipment or utility appurtenance, such as but not limited to HVAC systems, boilers, condensers, transformers, generators, vents, meters, ducts, are being referenced, except solar and wind energy systems, subject to [535-26](#) in accessory structure regulations.

##### 535-23G(2) DESIGN ADJUSTMENT

Alternate locations for mechanical equipment other than those defined in this subsection, [535-23G](#), may be approved as a design adjustment (see [535-31G](#)), provided the applicant proves the equipment cannot function in the locations allowed by these regulations and the equipment is screened to the maximum extent possible by methods other than only landscape.

##### 535-23G(3) MECHANICAL EQUIPMENT IN BUILDING

Mechanical equipment must be located within the building, unless the applicant demonstrates that locating the equipment within the building would conflict with the equipment's function. See tower regulations in [535-23B\(6\)](#), as allowed per building types ([535-22](#)), for rooftop building structure to potentially accommodate mechanical equipment.

##### 535-23G(4) ROOFTOP MECHANICAL EQUIPMENT

Any rooftop mechanical equipment shall be located consistent with the following. See [Figure 535-23-18](#) for an example.

- (a) Incorporate equipment into the roof design consistent with the applicable standards of roof types in [535-23B](#).
- (b) Set the equipment back a minimum of 15 feet from any street, trail, or alley facade.
- (c) Rooftop equipment must be fully screened from the sidewalk across any abutting street.

##### 535-23G(5) MECHANICAL EQUIPMENT ON STREET FACADES

- (a) Mechanical equipment must not be located on a street facade unless the applicant demonstrates that locating the equipment in a different location would conflict with the equipment's function.

- (b) Any mechanical equipment approved on a facade must be located consistent with the following standards:

- (1) **Street Facade.** The mechanical equipment may be located on a street facade only if all of the following requirements are met:

- [a] The equipment is located on a surface perpendicular (and not parallel) to the adjacent street. The equipment may be located on a facade parallel to the street only with approval of a design adjustment (see [535-31G](#)).
- [b] The equipment extends from the facade surface no more than 3 inches.
- [c] The equipment must be designed as part of the facade, integrating with windows and materials. See examples in [Figure 535-23-19](#).

- (2) **Air Vents or Grills.** Air vents and grills may be successfully incorporated into storefront window systems, provided the transparency requirements are met by the actual windows in the system.

- (3) **Alignment.** Multiple pieces of mechanical equipment must be organized and aligned on the facade in a regular pattern. Compliance with this standard must be illustrated on the drawing elevations submitted as part of the application.

- (4) **Material Coordination.** To the extent practicable, facade-mounted mechanical appurtenances shall be located on a material that limits their visibility. For example, dark colored vents will be more visible on light colored fiber cement panels than a textured, darker surface such as brick.

##### 535-23G(6) MECHANICAL EQUIPMENT ON OTHER HORIZONTAL SURFACES

Mechanical equipment, such as electrical transformers and air conditioners, located on the ground, decks, or horizontal surfaces other than the roof must be located consistent with the following standards:

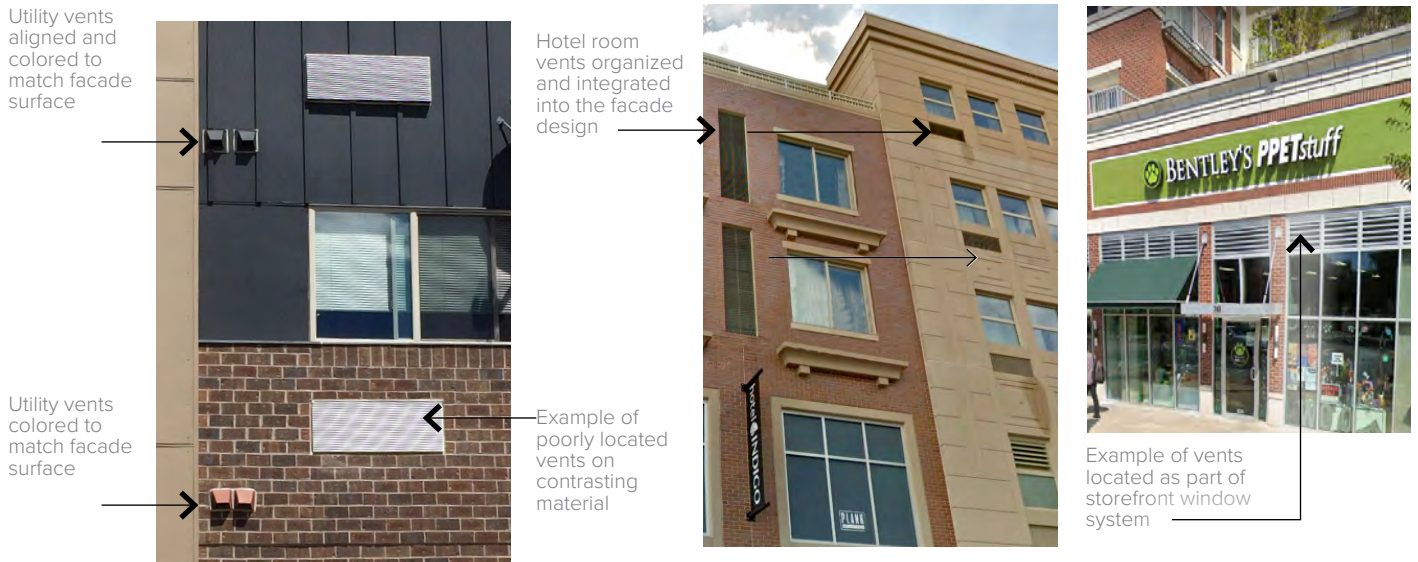
- (a) **No Encroachment.** Mechanical equipment shall not extend into any right-of-way or any easement, unless otherwise approved by the Village.

- (b) **Allowed Yard Location.** See 535-6C for definition of yards.

- (1) **Primary Street Yard.** Mechanical equipment and appurtenances must not be located in the primary street yard, except as defined in [535-23G\(6\)\(e\)](#).



**Figure 535-23-18. Rooftop Utilities Screened from the Public Way by a Parapet**



**Figure 535-23-19. Utility Appurtenances located on Facades**



**Figure 535-23-20. Examples of Poorly Located Utility Appurtenances on Primary Streets**

## 535-23G Mechanical Equipment

- (2) Non-Primary Street Yard.** Mechanical equipment may be located in the non-primary street yard only when the equipment cannot function or be located in a rear or side yard, and provided the equipment is screened from the street per [535-24I](#).
- (3) Rear and Side Yard.** Mechanical equipment may be located in any rear or side yard.
- (c) Screening from Streets or Open Spaces.** All equipment must be screened from view from any street or open space per the following:
- [1] Walls for screening must be consistent with the building design, colors, and materials, faced with an allowed major-facade material.
  - [2] Where landscaping only is employed, the following must be met:
    - [a] The utility must be located in a larger landscape area and the landscape screen designed as part of the larger planting bed design.
    - [b] Shrubs must fully screen the equipment within 1 year of installation. Grasses that go dormant during winter months, but do not die to the ground are acceptable.
    - [c] During the design review process, additional landscape materials may be required to fully screen the equipment.
- (d) Screening from Adjacent Parcels.** All equipment must be screened from adjacent parcels using the side and rear buffers in [535-23F](#).
- (e) Street or Primary Yard Location.** Mechanical equipment located in a street yard or other primary frontage yard is allowed only if all of the following are met:
- [1] The applicant demonstrates that the equipment cannot be located in a rear yard, non-primary street yard, or in a side yard.
  - [2] No other utility cabinets, boxes, or other appurtenances are within 100 feet along the same side of the street as the proposed utility appurtenance.
  - [3] The equipment is located a minimum of 15 feet from a street intersection, measured from the intersection of the curb line, and does not impact the visibility at intersections governed by 535-10.
  - [4] The equipment is fully screened in a manner that is consistent with the building design, colors, and materials; the screen height is the minimum to adequately screen the equipment; and the equipment and screening does not block any facade transparency. See [Figure 535-23-20](#) for examples of poorly located, unscreened equipment on primary streets.

## **535-24. LANDSCAPE & SITE DESIGN**

### **535-24A GENERAL REGULATIONS**

#### **535-24A(1) PURPOSE**

The landscape and site design regulations of this section are intended to provide the following.

- (a) To protect the appearance of the village through context-sensitive, high-quality landscape and fencing that supports the goal of walkable corridors.
- (b) To increase the compatibility of adjacent uses and minimize the adverse impacts created by adjoining or neighboring uses.
- (c) To promote the prudent use of water through sustainable, functional landscapes.
- (d) To reduce energy demands through the shading of buildings and pavement, reducing urban heat island effects.

#### **535-24A(2) APPLICABILITY**

All new buildings, landscape, and site elements in the commercial and mixed-use districts must the regulations of this section, [535-24](#). Additionally, the following building or site expansions trigger conformance with these regulations:

- (a) **Building Enlargement/Expansions.** Enlargement or expansion of existing buildings by 2,500 square feet or more.
- (b) **Expansion of Existing Parking, Loading Areas, or other Vehicular Areas.** Enlargement or expansion of an existing parking, loading, or other vehicular area (e.g. drive-through facilities, fueling stations, vehicular sales lots) by 2,500 square feet or more.
- (c) **Courtyards and Outdoor Plazas.** Reconstruction and/or repaving an existing courtyard or outdoor plaza, seating or dining area.

#### **535-24A(3) VISION SETBACK**

See 535-10 for regulations requiring clear vision on corner lots at street intersections.

#### **535-24A(4) STORMWATER**

Stormwater detention, retention, or filtration systems, such as bioswales or rain gardens, may be located in any street yard or other required site landscape area, provided all other regulations are met.

### **535-24B LANDSCAPE AREAS**

All unpaved yards of any lot in the commercial and mixed-use zones must be covered by either planting bed per [535-24B\(1\)](#) or lawn per [535-24B\(2\)](#).

#### **535-24B(1) PLANTERS AND PLANTING BEDS**

All planters and planting beds must include shrubs, ornamental grasses (not turf or lawn grass), ground cover, vines, annuals, or perennials.

- (a) A minimum of 65% of any bed area must be covered in plant material at maturity. The remaining portion of the bed may be covered with natural, unpainted and undyed bark mulch, or natural, unpainted and uncolored, decorative stones, minimum 0.75 inches and maximum 5 inches in dimension.
- (b) Annual beds must be maintained seasonally, replanting as necessary.
- (c) All species in planting beds must be native or naturalized for the area, and non-invasive per [220-1B](#).

#### **535-24B(2) LAWN**

See [220-3](#) for grass lawns and natural lawn management plans.

535-24 Landscape & Site Design  
**535-24C Sidewalks & Site Structures**

**535-24C SIDEWALKS & SITE STRUCTURES**

**535-24C(1) SIDEWALK CONNECTIONS**

Continuous sidewalks must connect all building entrances to public sidewalks via the shortest possible route.

- (a) A minimum of 5 feet of pavement width must be clear to count as a sidewalk connection.
- (b) Building entrances located in the rear are exempt from this requirement when directly opening onto a public alleyway.

**535-24C(2) RETAINING WALLS**

The following applies to all retaining walls in any street yard:

- (a) **Height.** Retaining walls must be no more than 18 inches in height above grade.
- (b) **Material.** Retaining walls must be faced in an allowable major facade material.
- (c) **Steep Slopes.** Multiple retaining walls with sloped landscape in between may be used to accommodate taller elevations. Landscape beds may not be sloped greater than 3:1.
- (d) **Design Adjustment.** Alternative retaining wall designs may be approved through a design adjustment (see [535-31G](#)) provided the walls are necessary for development of a site.

**535-24C(3) DECKS**

- (a) **Yard Location.** Decks may not be located in any primary street yard.
- (b) **Non-Primary Street Yards.** In non-primary street yards, the following applies:
  - [1] Decks must be located a minimum of 1 foot from any lot line with landscape planting bed between any public streetscape sidewalk and the deck.
  - [2] Deck floors may not be located more than 12 inches above any public sidewalk.
  - [3] Deck rails must be metal, or a metal frame with wood or composite wood, and no higher than 42 inches.
- (c) **Rear or Side Yards.** In rear or side yards, the following applies:
  - [1] Decks must be set back a minimum of 3 foot from any lot line.

- [2] Decks may be no higher than 3 feet above the grade of the abutting lot line.

**535-24C(4) PATIOS & TERRACES**

- (a) **Definition.** Patios and terraces include any hard-surfaced outdoor area, minimum 64 square feet and with minimum dimensions of length and width of at least 6 feet, that is designed for people and not for the storage or access of motor vehicles.
- (b) **Street Yards.** Patios and terraces may be located in any street yard only when constructed within the following parameters:
  - [1] One entire side of a patio must be adjacent to the principal structure of the lot.
  - [2] Street yard patios shall not be located closer than 3 feet to any abutting lot.
  - [3] Patios may not exceed 18 inches above grade in any street yard.
  - [4] Patios contribute to overall site coverage per the building type regulations in [535-22](#) and measured per [535-22\(5\)](#).
  - [5] All materials must be of high quality, such as cut stone, Lannon or blue stone, or decorative concrete.
  - [6] The patio surface must be designed per the street yard design regulations in [535-24E](#).
- (c) **Side and Rear Yard.** Patios must be set back a minimum of 3 foot off the lot line abutting any interior side yard and minimum of 1 foot off the lot line abutting any rear yard on an abutting lot.
- (d) **Design Adjustment.** An alternative patio layout and design may be approved as a design adjustment per [535-31G](#).

## 535-24D LANDSCAPE INSTALLATION

### 535-24D(1) INTENT

The following provisions aid in ensuring that all required landscaping is installed and maintained properly.

### 535-24D(2) APPLICABILITY

These provisions apply to landscape installation required by this section, [535-24](#).

### 535-24D(3) GENERAL INSTALLATION REQUIREMENTS

- (a) **Plant Size Requirements.** Plant material must be sized according to [Table 535-24-1](#) unless otherwise noted in this section.
- (b) **Condition and Selection of Planting Materials.** The plant materials used must be free from visible signs of disease, infestation, or physical defect at the time of planting. Plant materials must:
- [1] Be appropriate for the conditions of the location, including sun and wind exposure, air quality, salt exposure, soil type, expected moisture content of soil, and slope.
  - [2] Not be an invasive or a potentially invasive species.
  - [3] Be, wherever possible, native or naturalized to the Shorewood region.
- (c) **Compost, Mulch, and Organic Matter.** Compost, mulch, and organic matter must be utilized within the soil mix to reduce the need for fertilizers and increase water retention.
- (d) **Maintenance.** All installed plant material must be fully maintained, including watering, mulching, fertilizing, and replacement as necessary per [220-3](#).

### 535-24D(4) TREE INSTALLATION

- (a) **Permeable Surface.** For each tree planted, a minimum amount of permeable surface area is required, unless otherwise stated in this code. See [Table 535-24-2](#) for estimated tree canopy sizes at maturity, soil volumes, and permeable area recommended per tree.
- [1] At least 50% of the limits of the mature canopy must be located above a permeable surface.
  - [2] Permeable area for one tree cannot count towards that of another tree.
- (b) **Suspended Pavement System.** When the required soil surface area of a tree (see [Table 535-24-2](#)) will extend below any pavement, a modular suspended pavement

system (Silva Cells, Root Space, or an approved equivalent), must be used below that pavement to ensure root growth and access to air and water

**Table 535-24-1. Plant Material Size at Installation**

PLANT MATERIAL TYPE	MINIMUM SIZE
Deciduous Shade/ Overstory Tree	1.5 in. caliper/ 8 ft. height
Evergreen Tree	8 ft. height
Understory Tree	6 ft. height
Ornamental Tree	1.5 in. caliper
Shrubs - Deciduous	5 gallon container or 18 in. balled & burlapped
Shrubs - Evergreen	5 gallon container or 18 in. balled & burlapped
Groundcover	3 in. height

**Table 535-24-2. Estimated Canopy & Permeable Surface Area by Tree Size**

TREE SIZE	ESTIMATED MATURE CANOPY SIZE	MINIMUM REQUIRED PERMEABLE SURFACE AREA
Small	300 sq. ft.	100 sq. ft. (e.g. 4 ft. x 25 ft.)
Medium	700 sq. ft.	225 sq. ft. (e.g. 4 ft. x 56.25 ft.)
Large	1,000 sq. ft.	400 sq. ft. (e.g. 4 ft. x 100 ft.)

## 535-24 Landscape & Site Design

### 535-24E Street Yard Landscape

#### 535-24E STREET YARD LANDSCAPE

Street yard landscape addresses treatment of the private street yard, the area between any building facade and the lot line abutting the street right-of-way.

##### 535-24E(1) INTENT

To ensure the space between any building and the street is treated as a cohesive landscape design, including planting and paving areas, that enhances the pedestrian experience.

##### 535-24E(2) PUBLIC STREETScape

- (a) Any damage to any existing public streetscape during construction or as a result of any construction on the private lot must be repaired or replaced per [Article V of Chapter 466](#).
- (b) Replacement or revision of any element of public streetscape requires approval of the Department of Public Works. The new design must be consistent with the existing public streetscape and coordinated with any street yard landscape design.

##### 535-24E(3) MINIMUM STREETScape AREA

In locations where the minimum streetscape area of [535-22D\(8\)](#) applies, the minimum area located in the street yard must be treated as part of the streetscape, matching the abutting and adjacent public streetscape design.

##### 535-24E(4) STREET YARD AREAS

All areas between the lot line abutting the street right-of-way and the building must be designed as an extension to the existing public streetscape, but may include varying degrees of landscaped and paved areas as follows:

- (a) **Storefront Windows.** Streetscape pavement must extend up to the storefront windows in the build-to zone on any Storefront Building, continuing the pavement design of the Village-installed public streetscape.
- (b) **Maximum Site Coverage.** Landscape areas, decks per [535-24C\(3\)](#), and patios/terraces per [535-24C\(4\)](#) may be incorporated into street yards, but the site must not exceed the maximum site coverage area. See building type regulations in [535-22](#).
- (c) **Courtyards.** Courtyards in the street yard are allowed or required as part of the building type. See Primary Streetwall Variation in supplemental regulations of certain building types, [535-22](#).
- (d) **Outdoor Seating Areas.** Outdoor seating or dining areas in the build-to zone are allowed or required as part of the building type. See Primary Streetwall Variation in supplemental regulations of certain building types, [535-22](#).

#### 535-24E(5) STREET YARD LANDSCAPE ELEMENTS

The following applies to landscaped and paved areas in any street yard:

- (a) **Paving.** Additional paving materials may be introduced, provided the design incorporates elements of and coordinates with the public streetscape. For example, expansion or control joints in concrete in the streetscape and street yard must align.
- (b) **Courtyards and Outdoor Plazas.** Courtyards and outdoor seating or dining areas in the supplemental regulations for each building type ([535-22](#)) have specific requirements for furnishings and other amenities. Additionally, one of the following landscape area requirements must be utilized:
  - (1) **Plaza.** Where 60% or more of the area is paved, a minimum of 5% of the area must include landscape planters or pots, tree wells, or in-ground or raised planter beds.
  - (2) **Green.** Where less than 60% of the area is paved, a minimum of 30% of the area must include landscape planters or pots, tree wells, or in-ground or raised planter beds.
- (c) **General Street Yard Planting Bed.** The following applies to any unpaved street yard area except courtyards and outdoor plazas regulated separately in (b), above.
  - [1] When any unpaved street yard area is shallower than 6 feet, the entire area must be planting bed per [535-24B\(1\)](#).
  - [2] When any unpaved street yard area is deeper than 6 feet, the unpaved area must include a minimum of 30% planting bed per [535-24B\(1\)](#).
- (d) **Trees.** Street yard areas must include at least one tree per every 1400 square feet of courtyard area. See [535-22](#) for courtyards in building types. All street yard tree species to be approved by the Department of Public Works prior to installation.
- (e) **Fences and Walls.** Metal fences or masonry walls may be incorporated into any street yard area to separate distinct seating areas.
  - (1) **Primary Street Yard.** In the primary street yard, fences and walls may not exceed 24 inches in height.

- (2) **Non-Primary Street Yard.** In the non-primary street yard, fences and walls may not exceed 48 inches in height.
- (3) **Fence Materials.** Metal fences must be steel or iron, and have a maximum opacity of 60%.
- (4) **Design Adjustment.** Other fence or wall designs may be approved as a design adjustment per [535-31G](#)

## **535-24F FRONTAGE BUFFER**

### **535-24F(1) INTENT**

To lessen the visual impact of on-site vehicular parking, loading, and other activities from the street.

### **535-24F(2) APPLICABILITY**

The frontage buffer is required on all lots for all building types in the commercial and mixed-use zoning districts in accordance with the following:

- (a) **Vehicular Areas along Street Frontages.** Along the perimeter of any off-street surface parking, driveway, loading, fuel pump, drive-through, or other vehicular areas fronting a street right-of-way, not including along any alley.
- (b) **Vehicular Areas along Open Space.** Along the perimeter of any off-street surface parking, driveway, or loading areas abutting any P3 zoning district or other open or civic space.

### **535-24F(3) REQUIREMENTS**

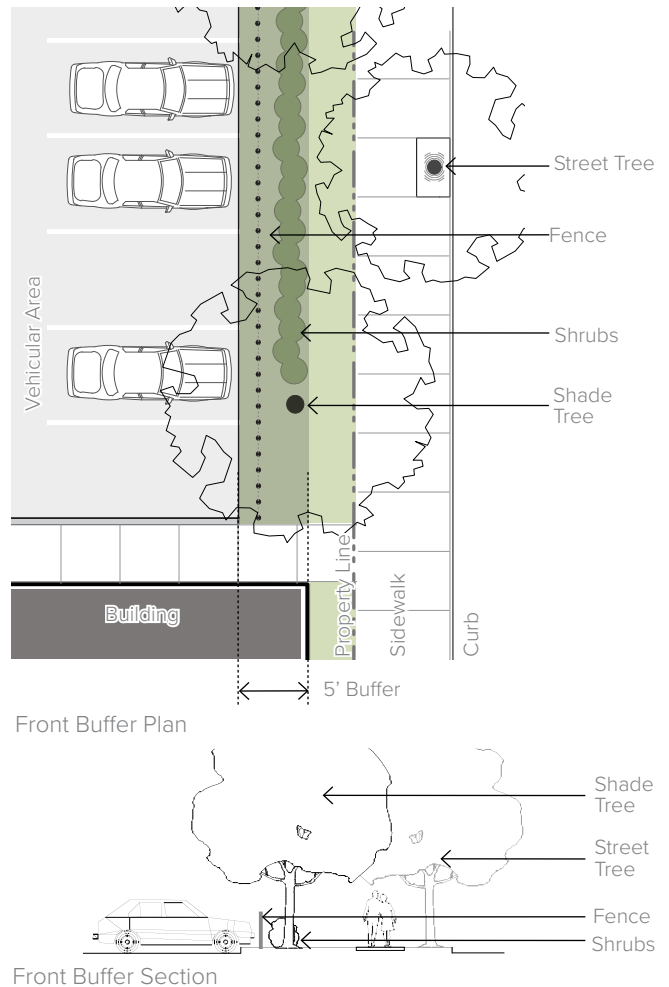
Refer to [Figure 535-24-1](#) for illustration of these requirements.

- (a) **Buffer Depth.** The required buffer area must be a minimum 5 feet in depth, measured from the street-facing lot line into the lot.
- (b) **Buffer Location.** The required buffer area must extend the width of the vehicular area, but may allow for the perpendicular crossing of driveways.
- (c) **Fence.** A continuous fence is required in the frontage buffer as follows:
  - (1) **Fence Location.** The fence must be located 2 feet from the back of curb or edge of the vehicular area into the buffer and a minimum of 3 feet from the front of the buffer.
  - (2) **Fence Alignment.** The fence must be either aligned directly with any adjacent buildings or deeper into the lot than the building. In order to align the fence with the building, the buffer may need to be located deeper into the lot to maintain the fence location requirements in (1), above.
  - (3) **Gate or Opening.** One pedestrian opening, maximum 4 feet in width, is permitted for every 30 feet of fence.
  - (4) **Fence Materials.** The fence must be black, gray, or dark green steel. Masonry columns (maximum 2.5

535-24 Landscape & Site Design  
**535-24F Frontage Buffer**

feet in width) and base (maximum 18" in height) are allowed, but not required.

- (5) **Fence Height.** The fence must be a minimum of 3 feet and a maximum of 4 feet in height.
- (6) **Fence Opacity.** The fence must be a minimum of 25 percent and a maximum of 60 percent opaque.
- (d) **Buffer Landscape.** The following landscape is required within the buffer.
  - (1) **Shade Trees.** If no street trees exist in the streetscape abutting the buffer area, medium or large shade trees are required at a minimum of 40 feet on center, with at least one shade tree required for each straight section of buffer between drive or walk openings. If street trees exist, any buffer trees provided should alternate spacing with street trees.
  - (2) **Shrubs.** A single row of shrubs is required on the street side in front of and along the fence.
    - [a] The shrubs must have a minimum mature width and height of 24 inches.
    - [b] The height of the shrubs must be maintained at no more than 36 inches.
    - [c] The shrubs must be spaced no more than 36 inches on center.
  - (3) **Existing Vegetation.** During the design review, the Design Review Board may credit existing vegetation toward meeting buffer requirements.



**Figure 535-24-1. Frontage Buffer Plan & Section**

**535-24G SIDE & REAR BUFFERS**

**535-24G(1) INTENT**

To minimize the impact that one zoning district may have on a neighboring district and to provide a transition between districts.

**535-24G(2) APPLICABILITY**

A side and rear buffer is required along the side and rear lot lines of all lots for all building types per this subsection, [535-24G](#), per [Table 535-24-3](#).

**535-24G(3) EXCEPTIONS**

The buffer width may be reduced in accordance with the following:

- (a) **Alleys.** Buffers are not required abutting alleys.
- (b) **Existing Landscape.** Where the buffer will interfere with existing mature, healthy landscape, the Design Review Board shall determine the extent of the needed buffer.
- (c) **Access Points.** Driveways and other access points may interrupt buffers as necessary.

**535-24G(4) ACTIVITIES REQUIRING BUFFERS**

(a) Side and rear buffers are required where the following occurs in the rear or side yards of a lot:

- (1) **Motor Vehicle Areas.** Any vehicular areas, abutting or adjacent to districts designated in [Table 535-24-3](#). Vehicular areas include such areas as parking lots or spaces, drives, drive-through uses, fueling stations, truck parking, and structured parking.

- (2) **Loading Areas.** Any loading areas abutting or adjacent to districts designated in [Table 535-24-3](#). Loading areas include such areas as loading bays, loading docks, service bays, garage doors, other outdoor trucking facilities.
- (3) **Service Areas.** Any service areas abutting or adjacent to districts designated in [Table 535-24-3](#). Service areas include such areas as delivery doors, refuse and recycling areas, outdoor employee break areas.
- (4) **Outdoor Dining & Outdoor Display.** Outdoor dining per [535-26F](#) and outdoor display per [535-26G](#) may be required to have side and rear buffers based upon an approved conditional use permit.

**535-24G(5) BUFFER LOCATION ON LOT**

Side and rear buffers must be installed in one of the following locations on the lot:

- (a) **Abutting the Lot Line.** Along the lot line of lot requiring the buffer.
- (b) **Abutting the Activity.** The buffer may be located at the edge of the activity being buffered, provided the area between the buffer and the lot line is landscaped and includes at least one tree per every 2,000 square feet.

**535-24G(6) FENCE BUFFER**

See [Table 535-24-3](#) where required. See [Figure 535-24-2](#) for illustration.

- (a) **Buffer Depth.** A minimum 2-foot wide buffer, measured from the lot line onto the subject lot, is required.
- (b) **Privacy Fence.** A 6-foot opaque, privacy fence screening the activity must be located in the buffer adjacent to the lot line.

- [1] Allowed materials include PVC, composite wood, FSC wood (cedar, redwood, or other approved by the zoning administrator), stone, or brick. Concrete panels and concrete masonry units are not allowed, except when faced on all sides with brick or stone.
- [2] When located abutting an R or RX district front yard, the fence must step down to a 3-foot height within 20 feet of the street right-of-way or the depth of the abutting R or RX district yard, whichever is less.

- (c) **Curbs or Wheel Stops.** A curb or wheel stops must be provided along the buffer edge, minimum 18" from the fence, at any vehicular area to prevent motor vehicles

**Table 535-24-3. Side & Rear Buffer Required**

BUFFER REQUIRED ON LOTS ZONED:	ABUTTING LOTS ZONED:					
	CX	MX1, MX2	GX1, GX2, GX3	RX	R	P2, P3
CX	-	-	-	LANDSCAPE BUFFER	LANDSCAPE BUFFER	LANDSCAPE BUFFER
MX1, MX2	-	-	-	FENCE BUFFER	FENCE BUFFER	FENCE BUFFER
GX1, GX2, GX3	-	-	-	FENCE BUFFER	FENCE BUFFER	FENCE BUFFER
RX	-	-	-	-	FENCE BUFFER	-

See [535-24G\(4\)](#) for activities triggering buffer requirement.

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**535-24G Side & Rear Buffers**

from damaging the fence. Parking may not overhang into the buffer.

- (d) **Landscape or Mulch.** The buffer area must either be a landscape area per 535-24B or covered in mulch or rock as specified in 535-24B(1).

**535-24G(7) LANDSCAPE BUFFER**

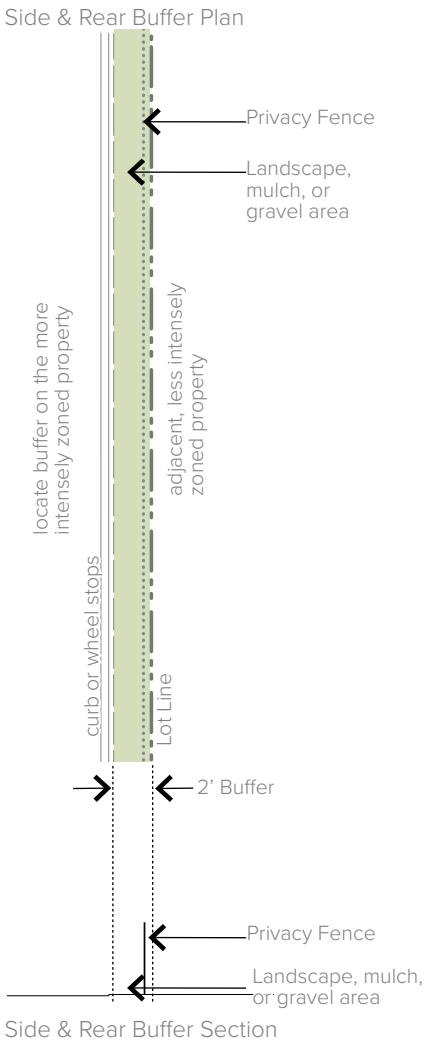
See Table 535-24-3 where required. See Figure 535-24-3 for illustration.

- (a) **Buffer Depth.** A minimum 3-foot wide landscape buffer, measured from the lot line onto the subject lot, is required.
- (b) **Privacy Fence.** A privacy fence is required. See 535-24G(6)(b) for fence requirements.

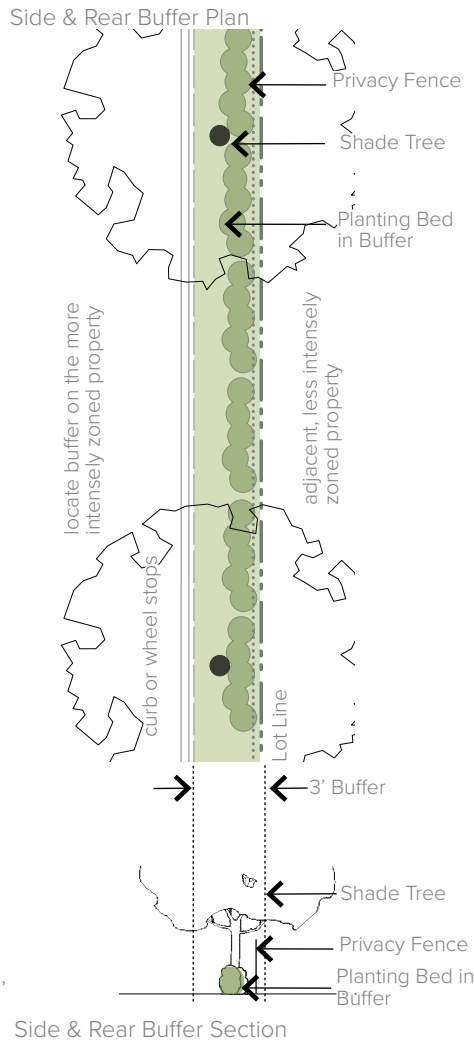
- (c) **Curbs or Wheel Stops.** A curb or wheel stops must be provided along the buffer edge, minimum 18" from the fence, at any vehicular area to prevent motor vehicles from damaging the fence. Parking may not overhang into the buffer.

- (d) **Shade Trees.** As part of a conditional use process, medium or large shade trees may be required at a minimum of 40 feet on center, with at least one shade tree required for each segment of buffer.

- (e) **Landscape.** The buffer area must be landscaped with a continuous shrub hedge, consisting of a staggered, double row of shrubs with a minimum mature width of 24 inches each, spaced no more than 36 inches on center, and height maintained between 48 and 72 inches.



**Figure 535-24-2. Fence Buffer**



**Figure 535-24-3. Landscape Buffer**

**535-24H INTERIOR PARKING LOT LANDSCAPE**

The parking lot interior is the area dedicated to parking on a given parcel from the edge of pavement to edge of pavement, and including any islands or medians. See [Figure 535-24-4](#) for illustration of these requirements.

**535-24H(1) INTENT**

To provide shading of pavement surfaces to reduce heat island effects and to improve the appearance of parking lots by breaking up the large expanses of pavement with trees and landscaped islands.

**535-24H(2) APPLICABILITY**

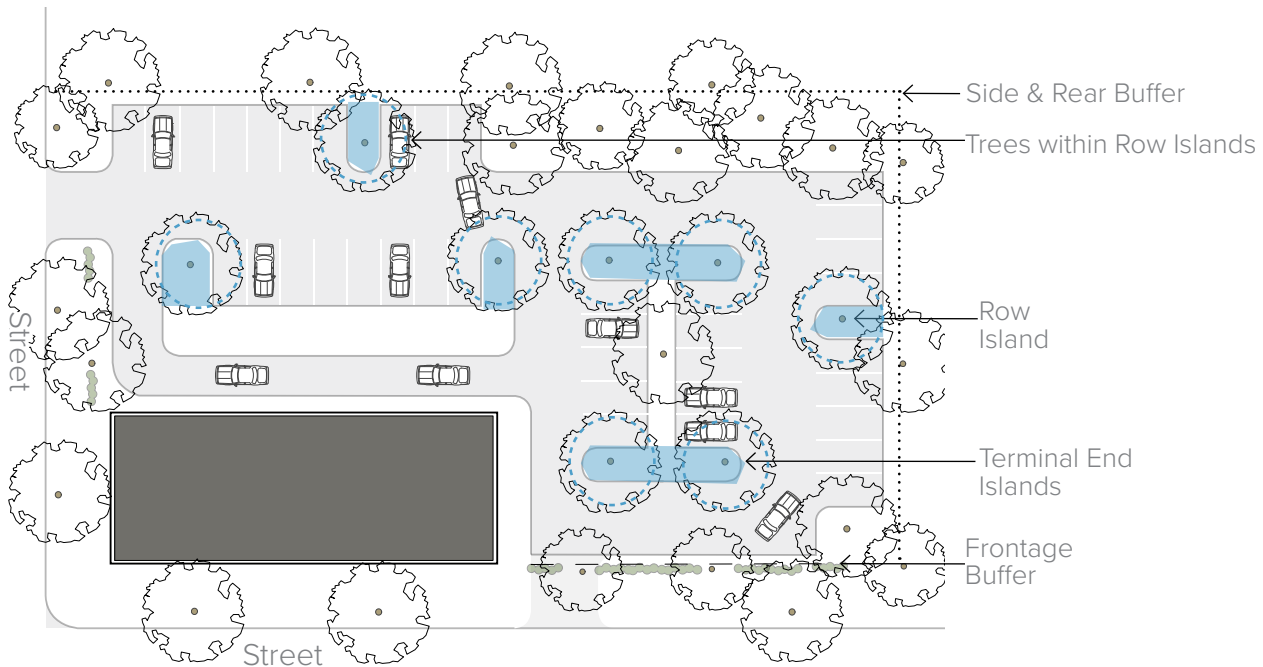
All off-street surface parking lots with more than 10 spaces and/or more than one drive aisle must meet the interior parking lot regulations.

- (a) See [535-24F](#) for required perimeter buffer along street frontages and [535-24G](#) for required perimeter buffers at side and rear lot lines.
- (b) When the number of required off-street parking spaces on a lot conflicts with the provision of the required landscape islands, the landscape islands shall be supplied and the number of off-street parking spaces reduced by the least amount possible.

**535-24H(3) REQUIRED LANDSCAPE ISLANDS**

- (a) **Terminal End Islands.** Landscape islands are required at the terminal ends of freestanding rows of parking. Freestanding rows of parking are those not abutting the parking lot perimeter or building face, and may have a single or double row of parking.
- (b) **Row Islands.** For rows of parking with more than 10 spaces, a landscape island is required to result in no more than 10 continuous parking spaces in a row without a landscape island.
- (c) **Island Width.** The minimum width for an island is 5 feet, measured perpendicular to the adjacent parking space, and the depth of the island is equal to the depth of the adjacent parking space.

- [1] Islands less than 15 feet in width must utilize a suspended pavement system per [535-24D\(4\)](#) under any paved surface within a tree's critical root zone equal to 50% of the mature canopy diameter.
- [2] Islands less than 9 feet in width must install an aeration system and utilize permeable paving within the mature tree canopy area.



**Figure 535-24-4. Interior Parking Lot Landscape**

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**535-24I Screening of Refuse & Utility Areas**

[3] Islands must be either treated as landscape areas per [535-24B](#) or covered in the mulch or rock specified in [535-24B\(1\)](#).

**(d) Minimum Number of Trees.** All of the following must be met for any interior parking lot.

- (1) Island Trees.** A minimum of 1 medium or large shade tree is required within each island.
- (2) 50-foot Rule.** Each parking space must be located within 50 feet of a tree.
- (3) Shading Requirement.** At maturity, tree canopies must shade a minimum of 30 percent of the interior of the parking lot. Refer to [Table 535-24-2](#) for mature canopy sizes.

**535-24H(4) LANDSCAPE AREAS**

Areas in the parking lot not specifically designed for use as drive aisles, parking spaces, loading, refuse, or sidewalks must be unpaved, landscape areas. The intent is to reduce pavement area to that which is required for a functioning parking lot.

**535-24I SCREENING OF REFUSE & UTILITY AREAS**

**535-24I(1) INTENT**

To reduce the visibility of open storage, refuse areas, and utility appurtenances from public areas and adjacent properties.

**535-24I(2) APPLICABILITY**

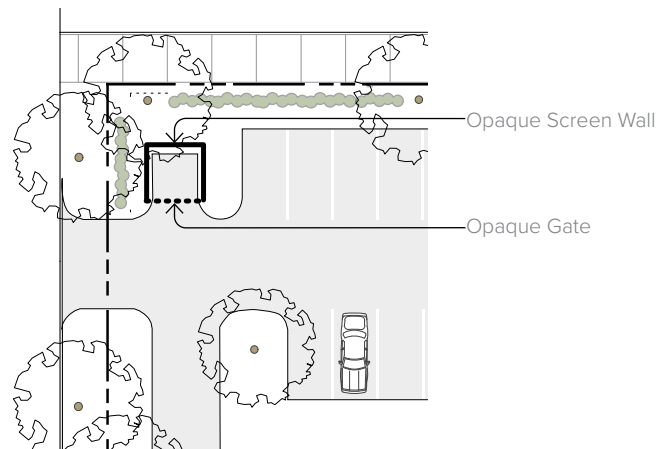
All dumpsters, loading areas, refuse areas, mechanical equipment, and utility appurtenances must be screened as follows.

**535-24I(3) LOCATION**

- (a) Refuse and Recycling.** See [535-22D\(5\)](#) for building type regulations, including allowed location of refuse and recycling areas.
- (b) Utility Equipment.** See [535-22G](#) for the allowed location of mechanical and utility equipment and appurtenances.

**535-24I(4) REFUSE AREAS**

- (a) Concrete Pad.** For all loading, refuse and recycling areas, a concrete pad is required.
- (b) Opaque Screen.** An opaque masonry, wood, or composite wood screen wall is required on at least 3 sides of the refuse area.
- (c) Screen Height.** The height of the screen wall must be tall enough to screen the use inside, and a minimum of 6 feet. During the design review process, the Design Review Board may request additional height as needed for complete screening.
- (d) Gate.** An opaque gate is required on the 4th side.



**Figure 535-24-5. Screening of Refuse Area**

**535-24I(5) UTILITIES**

**(a) Large Private Mechanical Equipment.**

- (1) Definition.** Large private mechanical equipment includes ground-mounted equipment at least 4 feet in height.
- (2) Fence or Wall.** An opaque wood fence or brick-faced masonry screen wall is required on all sides facing street right-of-way.
- (3) Shrubs.** Planting beds consisting of a double row of mixed shrubs with a minimum mature width of 24 inches each, spaced no more than 36 inches on center, and height maintained between 30 and 72 inches.

**(b) Small Private Mechanical Equipment.**

- (1) Definition.** Small private mechanical equipment includes ground-mounted equipment less than 4 feet in height.
- (2) Screening.** Landscape screening with shrubs is required as follows:
  - [a] Shrubs must be spaced no more than 30" on center, fully screening the equipment from any street within 2 years.
  - [b] Shrubs must be incorporated into a larger landscape bed and design.

**535-24J COMMERCIAL OUTDOOR LIGHTING**

**535-24J(1) PURPOSE AND INTENT**

The purpose of this subsection is to provide for adequate and safe lighting; to limit light spillover and glare onto adjacent properties, public streets, and the night sky; and to reduce bird injury and mortality from in-flight collisions with buildings.

**535-24J(2) APPLICABILITY**

Except as set forth in this subsection, all outdoor lighting installed or any interior lighting fixture that projects light outside the structure in the commercial and mixed-use districts after February 16, 2006, shall comply with the requirements of this subsection.

**535-24J(3) PERMITS AND APPROVAL PROCESS**

- (a)** Installation or modification of any hard-wired outdoor light fixture in commercial and mixed-use districts shall require an electrical permit.
- (b)** On all developments or projects requiring site plan approval, all existing and proposed exterior light fixtures shall be depicted and described on a separate lighting plan, indicating the location of all lighting fixtures, mounting details, installation height in feet, and overall illumination levels (in footcandles) all around the site and at property lines.
- (c)** The Design Review Board must review and approve all outdoor lighting or any interior lighting fixture that projects light outside the structure in the commercial and mixed-use districts as part of the design review process per [535-31](#).

**535-24J(4) GENERAL REQUIREMENTS.**

- (a)** Light fixtures shall be selected with care to ensure that they are appropriately scaled in relation to their setting and to ensure that they are of a style that is compatible with the character of their immediate environment.
- (b)** Luminaires above 4,000 lumens shall be aimed, shielded, or located so as to minimize glare. All light fixtures shall be located, aimed, or shielded so as to eliminate stray light trespassing across property boundaries or light directed upward.
- (c)** The maximum allowable average light spillover to an adjacent property shall be 2 footcandles, measured across three photometric points.

**535-24J(5) LIGHT COLOR**

Correlated color temperature of any outdoor light source shall not exceed 2,200 Kelvins within the commercial and

## 535-24 Landscape & Site Design

### 535-24J Commercial Outdoor Lighting

mixed-use districts unless the light fixture is fully shielded, preventing glare.

#### 535-24J(6) AUTOMATIC SHUT-OFF

Exterior light fixtures that are not necessary for safety, building entrances, or circulation shall automatically shut off from midnight until 6 a.m. Manual override capability may be provided for occasional after-hours use.

## 535-24K RIVER SHORELANDS

#### 535-24K(1) FINDINGS OF FACT

Uncontrolled use of the shorelands and pollution of the navigable waters in the village would adversely affect the public health, safety, convenience, and general welfare and impair the tax base.

#### 535-24K(2) PURPOSE

For the purpose of promoting the public health, safety, convenience and welfare, the river shorelands regulations have been established to:

- (a) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
  - [1] Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
  - [2] Controlling filling and grading to prevent serious soil erosion problems.
- (b) Protect spawning grounds, fish and aquatic life through:
  - [1] Preserving wetlands and other fish and aquatic habitat.
  - [2] Regulating pollution sources.
  - [3] Controlling shoreline alterations.
  - [4] Reducing effluent and controlling nutrients.
- (c) Control placement of structures and activities through:
  - [1] Prohibiting certain activities detrimental to the shoreland area.
  - [2] Regulating building setbacks from the river.
- (d) Preserve shore cover and natural beauty through:
  - [1] Restricting the removal of natural shoreland cover.
  - [2] Preventing shoreline encroachment by structures.
  - [3] Controlling shoreland excavation and other earthmoving activities.

#### 535-24K(3) AREAS TO BE REGULATED

- (a) Areas regulated shall include all the lands (referred to herein as "shorelands") in the village which are located within the described boundaries:
  - [1] South of Capitol Drive. The Milwaukee County Park System Trail to the east, East Capitol Drive to the north, the ordinary high-water mark of Milwaukee River to the west, and Village limits to the south.

[2] North of Capitol Drive. Estabrook Parkway Road, Village limits to the north, the ordinary high-water mark of Milwaukee River to the west, and East Capitol Drive to the south.

- (b) The area regulated, generally described herein, is shown on a map dated October 1, 2006, that is maintained and available for inspection at the Village Hall. This map shall be known as the "Shoreland Zoning Map." "Ordinary high-water mark" means the point on the bank or shore up to which the presence and action of surface water are so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

#### **535-24K(4) COMPLIANCE**

The use of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, or dredging of any lands, the cutting of shoreland vegetation, and the subdivision of lots shall be in full compliance with the terms the river shorelands regulations, and other applicable local, state or federal regulations. Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this subsection, [535-24K](#). Property owners and their agents or lessees, including builders and contractors, are responsible for compliance with the regulations.

#### **535-24K(5) PERMIT.**

- (a) Persons and entities seeking a permit under this subsection, [535-24K](#), shall submit an application on a form provided and with the information and certifications as described in this subsection, [535-24K](#).
- (b) The applicant shall reimburse the Village for all of the Village's costs and expenses, including professional and attorney fees, as may be incurred in reviewing the application.
- (c) If the permit application is disapproved, the Village shall detail in writing all deficiencies or reasons for disapproval.

#### **535-24K(6) INTERPRETATION**

In their interpretation and application, the provisions of this subsection, [535-24K](#), shall be held to be minimum requirements and shall be liberally construed in favor of the Village of Shorewood and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes.

#### **535-24K(7) CERTIFICATION BY A PROFESSIONAL ENGINEER**

Within the area regulated by this subsection, [535-24K](#), a registered professional engineer hired by the owner of the lot shall certify to the Village that any grading or earthmoving, construction of footings, buildings or structures, the methods of construction and the materials used therein are adequate from an engineering standpoint so as not to:

- (a) Adversely affect the slope stability of the bluff;
- (b) Increase the runoff of water on the surface of the bluff;
- (c) Create or add to a problem of erosion on the shoreland or bluff; or
- (d) Adversely affect the structural integrity of any structure located on adjoining or adjacent lots.

#### **535-24K(8) SETBACKS**

- (a) All setbacks are measured on a horizontal plane from the roof overhang and any cantilevered portions of the structure at the point of the structure that is nearest to the ordinary high-water mark or bluffline. Except as may be allowed under [535-24K\(8\)\(c\)](#) and [\(d\)](#), all buildings and structures shall be set back the greater of:

- [1] Twenty feet measured horizontally to the east from the bluffline;
- [2] Seventy-five feet as measured horizontally from the ordinary high-water mark; or
- [3] Such distance as to not adversely impact the stability of the bluff slope; sufficient distance from the bluff area as to prevent injury or damage to adjacent property; and sufficient distance from the bluff area to provide for the natural runoff of surface water or provide for an approved drainage according to applicable law.

- (b) The bluffline is defined as the line along the top of the bluff where the slope riverward is 12% or more as measured horizontally for a distance of not more than 50 feet or less than 25 feet. Portions of the bluffline defined herein have been surveyed and marked on the Shoreland Zoning Map dated October 1, 2006.
- (c) Conditional use permit application. Property owners and their agents and lessees, including builders and contractors, must apply for and obtain a conditional use permit under the procedures established in Article V of this chapter before commencing activities within the area between the river ordinary high-water mark and the setbacks described within subsection, [535-24K,\(8\)\(a\)](#), including:

## 535-24 Landscape & Site Design

### 535-24K River Shorelands

- [1] Filling, excavation, alteration or modification of the land or modification to grade.
  - [2] Removal of vegetation as described in [535-24K\(9\)](#) and [535-24K\(11\)](#).
  - [3] Temporary access uses when these described areas may be affected by construction or other activities in the adjacent area.
  - [4] Construction of any building or structures.
- (d) Conditional use permit consideration. In considering an application for conditional use permit, the Plan Commission shall follow the process for review and approval established in [535-311](#), taking into account the purposes of this subsection, [535-24K](#), as described in [535-24K\(2\)](#) and those standards contained in [535-311](#) as may be applicable.

#### 535-24K(9) SHORELINE CUTTING

Tree and shrubbery cutting is prohibited without a conditional use permit in the area bound by the ordinary high-water mark of the Milwaukee River and the bluffline described within [535-24K\(8\)\(b\)](#) or, in those portions where there is no bluffline, in the area 75 feet inward from the ordinary high-water mark.

- (a) The cutting of dead, diseased, or dying trees or shrubbery shall be subject to Village approval.
- (b) Natural shrubbery shall be preserved as far as practicable and, where removed, it shall be replaced with other native vegetation that is equally effective in minimizing runoff, preventing erosion and preserving natural beauty.
- (c) The removal of vegetation requires an application for a conditional use permit where the following information shall be provided:
  - [1] Existing vegetation with a tree inventory of all trees larger than four-inch diameter at breast height;
  - [2] Identification of any species on the Wisconsin Department of Natural Resources' Natural Heritage Inventory Working List;
  - [3] Proposed cutting and vegetation removal; and
  - [4] Proposed maintenance, landscaping and replanting plan.

#### 535-24K(10) SHORELINE GRADING

Any grading, excavation or filling in the area bound by the ordinary high-water mark of the Milwaukee River and the setbacks described within [535-24K\(8\)\(a\)](#) is prohibited without

a conditional use permit.

#### 535-24K(11) GRADING INLAND OF THE BLUFFLINE

Any grading within the area regulated by this subsection, [535-24K](#), but inland of the bluffline described within [535-24K\(8\)\(b\)](#) shall require a permit and approval. In addition to the requirements of Chapter 250, Article I, Construction Site Erosion Control, of the Village Code the following conditions shall be met:

- (a) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (b) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
- (c) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
- (d) Bare ground shall be stabilized according to accepted engineering standards.
- (e) Grading shall comply with the County Floodplain Zoning Ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- (f) Grading shall comply with state and federal regulations pertaining to adverse impacts on wetlands.

## ARTICLE V. USES

### 535-25. PRINCIPAL USES

#### 535-25A GENERAL REGULATIONS

##### 535-25A(1) USE TABLE

Principal uses are allowed in accordance with [Table 535-25-1](#). Multiple principal uses as allowed may be located on one lot or in one tenant space.

##### 535-25A(2) INTERPRETING THE USE TABLE

- (a) **Use Classification System.** Uses are listed in the first column of [Table 535-25-1](#). This chapter classifies uses into categories and subcategories, as explained in [535-25B](#).
- (b) **Permitted Uses.** Uses identified with a “●” are permitted as-of-right in the subject zone, subject to compliance with all other applicable regulations of this chapter.
- (c) **Permitted in Upper Stories and Rear of Ground Story Only.** Uses identified with a “⦿” are permitted as-of-right in the subject zone but only when located above the ground floor in upper stories of the building or in the rear of the ground story, a minimum of 20 feet from the primary facade. The 20 feet behind the primary facade must contain an allowed occupied use. See 535-6C for definition of occupied use.
- (d) **Permitted in Limited Portion of Building Footprint.** Uses identified with a “⦿” are permitted as-of-right in the subject zone in any floor of the building, provided that the total cumulative floor area occupied by such uses does not exceed 25% of the ground-story building footprint. A planning adjustment may be requested for up to an additional 10% of the footprint, maximum 35%.
- (e) **Conditional Uses.** Uses identified with a “○” are allowed only if reviewed and approved in accordance with the conditional-use permit procedures of [535-31I](#).
- (f) **Prohibited Uses.** Uses identified with a “—” are expressly prohibited. Uses that are not listed in the use table and that cannot be reasonably interpreted (as stated in [535-25B](#)) to fall within any defined use category or subcategory are also prohibited.
- (g) **Conditions.** The final (“Conditions”) column of [Table 535-25-1](#) includes a cross-reference to any supplemental (use-specific) conditions that apply to one or more uses within the subject use category.

- (h) **Accessory Uses & Structures.** Many customary accessory uses and structures are allowed in conjunction with principal uses. See [535-26](#) for regulations.
- (i) **Conversions.** In R-1 through R-7 districts, no 1 unit household residence may be converted to a 2 unit residence.
- (j) **Performance Standards.** Performance standards listed in Article VIII shall be complied with by all uses in all districts.

#### 535-25B USE CLASSIFICATIONS

This subsection establishes and describes the use classification system used to categorize principal uses under this chapter.

##### 535-25B(1) USE GROUPS

This section classifies principal uses into 4 major groupings. These are referred to as “use groups.” The use groups are as follows:

- (a) Residential (see [535-25C](#));
- (b) Commercial (see [535-25D](#));
- (c) Civic & Institutional (see [535-25E](#)); and
- (d) Other (see [535-25F](#)).

##### 535-25B(2) USE CATEGORIES

Each use group is further divided into more specific categories. Use categories classify principal uses and activities based on common functional, product or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, or relevant building or site conditions.

##### 535-25B(3) USE SUBCATEGORIES

Some use categories are further broken down to identify specific subcategories of uses.

##### 535-25B(4) CLASSIFICATION OF USES

The Zoning Administrator is authorized to classify individual uses on the basis of the use group, category, and subcategory descriptions of this article. When a use cannot be reasonably classified into a use group, category, or subcategory, or appears to fit multiple groups, categories, or subcategories, the Zoning Administrator is authorized to assign the use to the most similar and thus most appropriate group, category, or subcategory based on the actual or

535-25 Principal Uses  
**535-25B Use Classifications**

**Table 535-25-1. Principal Use Table**

USE GROUP Use Category	DISTRICTS												Conditions/ Supplemental Regulations
	Commercial & Mixed-Use				Residential						Public		
	MX1 MX2	CX	GX1 GX2 GX3	RX	R-1 R-2 R-3 R-4	R-5	R-6	R-7	R-8	R-9 R-10	P-1	P-3	
<b>RESIDENTIAL (535-25C)</b>													
Household Living, 1 unit	⊖	⊖	●	●	●	●	●	●	●	●	-	-	
Household Living, 2 units	⊖	⊖	●	●	-	-	●	-	●	●	-	-	
Household Living, 3+ units	⊖	⊖	●	●	-	-	-	-	●	●	-	-	
Group Living													
Community Living Arrangement, Small	⊖	⊖	●	●	●	●	●	●	●	●	-	-	<a href="#">535-25C(2)(b)</a>
Community Living Arrangement, Large	⊖○	○	○	○	-	-	-	-	○	○	-	-	<a href="#">535-25C(2)(b)</a>
Residential Care Facility	⊖	●	●	●	-	-	-	-	●	●	-	-	
<b>COMMERCIAL (535-25D)</b>													
Consumer Service	●	●	●	-	-	-	-	-	-	-	-	-	
Child Care Center, 8 or fewer individuals	⊖	●	●	●	●	●	●	●	●	●	●	-	
Child Care Center, 9 or more individuals	⊖	●	●	-	-	-	-	-	-	-	●	-	
Eating & Drinking Place	●	●	⓪	-	-	-	-	-	-	-	-	-	
Entertainment, Indoor	⊖	●	●	-	-	-	-	-	-	-	●	●	
Event Venue	⊖	●	●	-	-	-	-	-	-	-	●	●	
Funeral & Mortuary Service	-	-	●	-	-	-	-	-	-	-	-	-	
Lodging	⊖	●	●	●	-	-	-	-	-	-	-	-	
Manufacturing & Production, Artisan	●	●	⓪	-	-	-	-	-	-	-	-	-	<a href="#">535-25D(8)</a>
Medical-Dental Clinic-Office	⊖	⊖	●	-	-	-	-	-	-	-	-	-	
Office	⊖	⊖	●	-	-	-	-	-	-	-	-	-	
Personal Credit Establishment	○	○	-	-	-	-	-	-	-	-	-	-	<a href="#">535-25D(11)</a>
Retail Sales, General	●	●	⓪	-	-	-	-	-	-	-	-	-	
Retail Sales, Donated Goods	○	○	-	-	-	-	-	-	-	-	-	-	<a href="#">535-25D(13)(b)</a>
Vehicle Service	-	○	-	-	-	-	-	-	-	-	-	-	<a href="#">535-25D(14)(b)</a>
<b>CIVIC &amp; INSTITUTIONAL (535-25E)</b>													
College	⊖	⊖	⊖	-	-	-	-	-	-	-	●	-	
Community Assembly	⊖	⊖	⊖	-	-	-	-	-	-	-	●	-	
Cultural Facility	●	●	●	-	-	-	-	-	-	-	●	-	
Hospital	-	-	●	-	-	-	-	-	-	-	●	-	
Parks & Open Space	-	-	-	-	-	-	-	-	-	-	●	●	
Safety Service	●	●	●	-	-	-	-	-	-	-	●	-	
School	⊖	⊖	⊖	-	-	-	-	-	-	-	●	-	
Utilities & Services, Minor	●	●	●	●	●	●	●	●	●	●	●	●	
Utilities & Services, Major	-	-	-	-	-	-	-	-	-	-	●	●	
<b>OTHER USES (535-25F)</b>													
Parking Lot	-	○	○	○	-	-	-	-	-	-	○	○	<a href="#">535-25F(1)(b)</a>

KEY: ● = Permitted as-of-right ⊖ = Permitted as-of-right in upper stories only

⓪ = Permitted as-of-right (floor area not to exceed 25% of building footprint or in the rear of the ground story per [535-25A\(2\)](#) ○ = Conditional use permit approval required

- = Prohibited

projected characteristics of the principal use or activity in relationship to the use group, category, or subcategory descriptions. In making such determinations, the Zoning Administrator must consider:

- (a) The types of activities that will occur in conjunction with the use;
- (b) The types of equipment and processes to be used;
- (c) The existence, number and frequency of residents, customers or employees;
- (d) Parking demands associated with the use; and
- (e) Other factors deemed relevant to a use determination.
- (f) If a use can reasonably be classified in multiple groups, categories, or subcategories, the Zoning Administrator is authorized to categorize each use in the category that provides the most exact, narrowest, and appropriate “fit.”
- (g) Appeals of use classification determinations may be taken to the Board of Appeals in accordance with the appeal procedures of 535-56.

## **535-25C RESIDENTIAL USE GROUP**

The residential use group includes uses that provide for long-term residential occupancy by individual households or by groups of people living together in a non-household setting.

### **535-25C(1) HOUSEHOLD LIVING**

The household living use category is characterized by a single household occupying a dwelling unit that is self-contained, with facilities for cooking, eating, sleeping, and hygiene. Tenancy is typically 30 days or longer. Examples of household living uses include living in houses, residential buildings containing multiple dwelling units, mixed-use buildings, and other buildings containing self-contained dwelling units. Housing that includes shared facilities (e.g., assisted living facilities, co-housing, and intentional communities) is considered household living if residents occupy self-contained dwelling units.

### **535-25C(2) GROUP LIVING**

(a) **Description.** The group living use category is characterized by residential occupancy of all or a portion of a building by a group other than a household. Individuals typically occupy rooms or areas that do not include separate cooking, eating, or bathroom facilities necessary to provide for self-contained living. Group living uses typically have a common eating area for residents. Tenancy is typically 30 days or longer. Buildings or spaces occupied by group living uses contain individual rooms with private or shared bathroom facilities and may also contain shared kitchen facilities, and/or common dining and living areas for residents. Residents may or may not receive any combination of care, training, or treatment, but those receiving such services must reside at the site. Group living uses include the following subcategories:

(1) **Community Living Arrangement.** Any use described in Wis. Stat. 46.03(22), 48.743(1), 48.02(6), or 50.01(1). Small community living arrangement uses are those occupied by 8 or fewer residents (not counting caregivers). Large community living arrangement uses are those occupied by 9 or more residents (not counting caregivers).

(2) **Residential Care Facility.** A nursing home, as described in Wis. Stat. 50.01(3), a hospice, as described in Wis. Stat. 50.90(1), or a residential care apartment complex, as described in Wis. Stat. 50.034.

(b) **Use-Specific Conditions.** Community living arrangements are subject to the regulations established in Wis. Stat. 62.23(7)(i).

## 535-25D Commercial Use Group

### 535-25D COMMERCIAL USE GROUP

The commercial use group includes uses that provide a business service or involve the selling, leasing or renting of merchandise to the general public.

#### 535-25D(1) CONSUMER SERVICE

The consumer service use category includes establishments that provide personal or small business-oriented services to individuals or small businesses. Typical uses in the consumer service use category include the following:

- (a) **Improvement Service.** Establishments that provide grooming, cosmetic, or well-being-related services for people and their pets. Typical uses include barbers, hair and nail salons, pet grooming establishments, tanning salons, day spas, health clubs, and body art services (e.g., tattoo and piercing). Also includes practitioners of the healing arts, such as massage therapists and acupuncturists, but does not include medical and dental clinics and offices in [535-25D\(9\)](#). Walk-in consultations or appointments are typically allowed and retail goods supporting the business are on display and for sale.
- (b) **Studio, Artist or Instructional Service.** Establishments that focus on providing individual or small group instruction or training in fine arts, music, dance, drama, fitness, language or similar activities. Also includes dance studios, ballet academies, yoga studios, martial arts instruction, tutoring, artist studios and photography studios.
- (c) **Business Support Service.** Establishments that provide personnel services, printing, copying, package (delivery) drop-off, photographic services or communication services to businesses or consumers. Examples include employment agencies, copy and print shops, delivery/courier service drop-off location for consumers, and photo developing labs.
- (d) **Consumer Maintenance & Repair Service.** Establishments that provide maintenance, cleaning and repair services for consumer goods on a site other than that of the customer (i.e., customers bring goods to the site of the repair/maintenance business). Examples include laundry and dry cleaning pick-up shops, tailors, bicycle repair, taxidermists, dressmakers, shoe repair, picture framing shops, locksmiths, vacuum repair shops, electronics repair shops and similar establishments.

#### 535-25D(2) CHILD CARE CENTER

Uses licensed by the state, described in Wis. Stat. 49.136(1) (ad), and providing care and supervision for children under the age of 7 away from their primary residence for more than 4 hours and less than 24 hours per day.

#### 535-25D(3) EATING & DRINKING PLACES

The eating & drinking places use category includes establishments that prepare and serve food or beverages for on- or off-premise consumption. The category includes full-service restaurants, take-out restaurants, ice cream and yogurt shops, bars, taverns, brewpubs, and banquet halls. Eating and drinking places with drive-up or drive-through service are allowed only where accessory drive-through service is allowed, in accordance with the building type regulations of [535-22](#).

#### 535-25D(4) ENTERTAINMENT, INDOOR

Establishments that provide commercial gathering places, primarily indoors, for participant or spectator entertainment that have no more than 20,000 square feet of total gross floor area. Typical general entertainment uses include cinemas, theaters, arcades, bowling alleys, and experienced-based entertainment establishments, such as laser tag, escape rooms, and arts and crafts workshops. Does not include adult-oriented businesses.

#### 535-25D(5) EVENT VENUE

An event venue is a multi-purpose venue facility hosting special events such as graduations, weddings, anniversaries, holiday gatherings, trade shows, corporate functions or parties, concert settings, and general get-togethers. An event venue typically includes indoor and/or outdoor seating and a stage or event area, but not a full-service kitchen.

#### 535-25D(6) FUNERAL & MORTUARY SERVICE

The funeral and mortuary service use category includes establishments that provide services related to the death of a human or domestic, household pet, including funeral homes and mortuaries.

#### 535-25D(7) LODGING

Establishments that provide temporary lodging for less than 30 days to transient guests who maintain a permanent place of residence elsewhere. Examples include hotels and motels, bed & breakfast inns, as described in Wis. Stat. 97.01(1g), and short-term rentals, as described in Wis. Stat. 66.1014(1)(c).

**535-25D(8) MANUFACTURING & PRODUCTION, ARTISAN**

- (a) **Description.** The artisan manufacturing & production use category includes indoor work spaces used by artists for the creation of art or the practice of their artistic endeavors or by craftspeople who produce consumer goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations, storage or regular commercial truck parking/loading. Typical uses include woodworking; custom furniture shops; tailors and clothing-makers; cabinet-making; ceramic studios; jewelry manufacturing; confections, bakeries, caterers, and custom-made food items; upholstery shops; and artwork including painting, printmaking and sculpture.
- (b) **Supplemental Regulations.** In the MX district, a minimum of 200 square feet of accessory retail sales or service is required for artisan manufacturing and production. The accessory retail sales or service must be located within the primary frontage of the building.

**535-25D(9) MEDICAL OR DENTAL OFFICE OR CLINIC**

Workplaces of medical practitioners, such as medical doctors, optometrists, dentists, physical therapists, chiropractors, and veterinarians licensed for such practice by the state and where appointments are typically scheduled in advance. This subcategory includes outpatient clinics and urgent care facilities, but excludes medical services provided in hospitals.

**535-25D(10) OFFICE**

The office use category includes workplaces of private companies, organizations (for-profit and non-profit), and public agencies providing professional, executive, management, medical, administrative, or design services, including the following subcategories:

- (a) **Business & Professional Office.** Workplaces of firms, organizations, or agencies, as well as individuals in a co-working environment, providing professional, executive, management, administrative, financial, accounting, consulting, or legal services, but excluding walk-in offices. Examples of business and professional offices include accounting, architecture, computer software design, engineering, graphic design, interior design, investment, insurance, law offices, mental health practitioners, and counselors.
- (b) **Broadcast or Recording Studio.** Establishments that provide for audio or video production, recording or broadcasting.

- (c) **Business Training.** Commercial establishments and facilities, including classrooms, providing vocational, trade, business or professional training services in a completely enclosed building.
- (d) **Financial Service.** Establishments involved in the exchange, lending, borrowing and safe-keeping of money. Examples include banks and credit unions. Automatic teller machines, kiosks and similar facilities that do not have on-site employees are not classified as financial service uses if they meet the criteria for classification as an accessory use. Personal credit establishments are not considered financial service uses (see [535-25D\(11\)](#)).
- (e) **Research Service.** Establishments engaged in scientific research and testing services leading to the development of new products and processes. Research service uses do not include the mass production, distribution or sale of products or that produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.
- (f) **Walk-In Office.** Workplaces primarily providing direct services to patrons or clients, typically not requiring appointments. This subcategory includes employment agencies, insurance agencies, real estate agent offices, travel agencies, utility company offices, and offices for elected officials. It does not include medical or dental offices or uses more specifically classified as financial services.

**535-25D(11) PERSONAL CREDIT ESTABLISHMENT**

- (a) **Description.** The personal credit establishment use category includes any one or more of the following:
- (1) **Check Cashing Establishment.** Any use, except a bank, trust company, savings bank, savings and loan association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders or traveler's checks for a fee.
- (2) **Pawnbroker.** An establishment that is engaged to any extent in the purchasing and selling of articles or jewelry in a manner described in Wis. Stat. 134.71(1)(e) or 134.71(1)(g) or (h).
- (3) **Payday Lender.** Any person or entity that is substantially in the business of negotiating, arranging, aiding, or assisting a consumer in procuring payday loans, as described in Wis. Stat. 62.23(7)(hi)1.b.

## 535-25 Principal Uses

### 535-25D Commercial Use Group

**(b) Use-Specific Conditions.** Personal credit establishments are subject to the following use-specific regulations:

- [1] A personal credit establishment may not be established within 1,500 feet of any other personal credit establishment, measured in a straight line between the nearest exterior walls of the buildings occupied by the respective personal credit establishments.
- [2] A personal credit establishment may not be established within 150 feet of an R-1, R-2, R-3, R-4, R-5, or R-6 zoning district or P-1 zoning district.
- [3] A personal credit establishment may not be established within 50 feet of a Planned Development district, unless the Plan Commission specifically finds that the proposed use would be consistent with the uses allowed in the subject Planned Development district and would not impede the normal and orderly development and improvement of the property in the Planned Development district.
- [4] A personal credit establishment may not be open or in operation between the hours of 9:00 p.m. and 7:00 a.m.

#### 535-25D(12) RETAIL SALES, GENERAL

The general retail sales use category includes uses that sell or otherwise provide pharmaceuticals, groceries, sundry goods, convenience goods, consumer shopping goods, household goods, plants and flowers, or hardware, except that the sale or display of firearms or ammunition suitable for use in a firearm is prohibited. This category includes consignment sales and retail sales of used merchandise, including antiques, and does not include goods classified in the retail sales, donated goods category.

#### 535-25D(13) RETAIL SALES, DONATED GOODS

**(a) Description.** The donated goods retail sales use category includes uses that receive donated goods from the public for on-site sale of those goods to the public, except that the sale or display of firearms or ammunition suitable for use in a firearm is prohibited. Consignment sales and retail sales of used merchandise is classified in the general retail sales use category.

**(b) Use-Specific Conditions.** Retail sales, donated goods, are subject to the following use-specific regulations:

- [1] Donation drop-off must be limited to during business hours only. All donations must be brought inside or collected from an employee at an entrance and stored inside.

[2] Exterior doors must include a sign specifying that no donations outside of business hours are accepted.

[3] Refuse containers must be located inside the building per [535-22D\(5\)](#).

#### 535-25D(14) VEHICLE SERVICE

**(a) Description.** The vehicle service use category includes uses that provide for the ordinary maintenance, or limited repair of new or used passenger motor vehicles. Examples of vehicle service uses include the following subcategories:

**(1) Fueling Station.** Establishments engaged in retail sales of vehicle fuels or electric vehicle supply for personal motor vehicles, other than truck stops and fleet fueling facilities. Fueling stations may dispense conventional vehicle fuels and/or alternative vehicle fuels. See [535-26D](#) for accessory structure fueling pumps and [535-26C](#) for electric vehicle charging equipment. Electric charging for fleet vehicles is allowed, accessory to the principal use.

**(2) Personal Vehicle Repair and Maintenance, Minor.** The service and repair of automobiles, light-duty trucks, boats, and motorcycles, including the incidental sale, installation, and servicing of related equipment and parts. This classification includes the replacement of small automotive parts and liquids as well as emissions testing, quick-service oil, tune-up and brake and muffler shops in which service is provided in enclosed bays and no vehicles are stored overnight. Does not include disassembly, removal or replacement of major components such as engines, drive trains, transmissions or axles; automotive body and fender work, vehicle painting or other operations that generate excessive noise, objectionable odors, or hazardous materials.

**(3) Car Washes.** Establishments engaged in the cleaning of motor vehicles. As the principal use on the lot, all car wash facilities must meet the regulations of a building type. Accessory car wash facilities are regulated as outbuildings.

**(b) Use-Specific Conditions.** Vehicle service uses are subject to the following use-specific regulations:

- [1] The maximum number of vehicles that may be stored or displayed outside of completely enclosed buildings may not exceed 1 vehicle per 300 square feet of lot area after deducting areas covered by buildings and required parking and maneuvering areas from the gross area of the lot.

**535-25E Civic & Institutional Use Group**

- [2] Vehicles may not be stored in tandem, each vehicle must be accessible from a drive aisle.
- [3] Inoperable vehicles must be parked on-site and for no more than 30 days.

**535-25E CIVIC & INSTITUTIONAL USE GROUP**

The civic and institutional use group includes public, quasi-public, and institutional uses that provide services that benefit the public at-large.

**535-25E(1) COLLEGE**

The college use category includes Institutions of higher learning that offer courses of general or specialized study and are authorized to grant academic degrees. The college use subcategory includes classrooms and instructional spaces, as well as on-campus residence halls, fraternity and sorority houses, administrative buildings, auditoriums and other on-campus uses and facilities that provide customary accessory and support functions for college or university uses.

**535-25E(2) COMMUNITY ASSEMBLY**

The community assembly use category includes facilities for hosting public or private meetings including senior centers, community centers, City-owned performing arts centers, and religious institutions. It also includes fraternal organizations and similar not-for-profit clubs restricted to use by dues-paying members and their guests.

**535-25E(3) CULTURAL FACILITY**

Museum-like preservation and exhibition of objects in one or more of the arts and sciences, gallery exhibition of works of art or library collections of books, manuscripts and similar materials operated by a public or quasi-public agency.

**535-25E(4) HOSPITAL**

State-licensed public, private, and non-profit facilities providing inpatient medical, surgical, mental health, or emergency medical services. Hospitals may also provide outpatient treatment.

**535-25E(5) PARKS & OPEN SPACE**

The parks and open space use category includes recreational, social, or multi-purpose uses associated with public parks, public open spaces, public play fields, public or private golf courses, or other outdoor open space or recreation areas. It also includes urban agriculture uses, such as community gardens, outdoor urban farms and beekeeping. The parks and open space use category includes the following subcategories:

**(a) Community Garden.** An area of land managed and maintained by a public or non-profit organization or a group of individuals to grow and harvest food crops and/or ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. Community gardens may be principal uses or accessory to other public or semi-public uses, such as parks, schools, community centers, or community assembly uses. This classification does not include gardens that are accessory to residential uses when access is limited to those who reside on the subject property. Sales of products produced in association with a community garden is permitted as an accessory use in zones in which retail sales & entertainment uses are allowed.

**(b) Natural Resource Preservation.** Undeveloped land left in a natural state for specific use as visual open space or environmental purposes. Typical uses include wildlife or nature preserves, arboretums, flood management projects and reservoirs.

**(c) Parks and Recreation.** Parks, playgrounds, recreation facilities, and related open spaces that are open to the general public. This subcategory also includes playing fields, courts, gymnasiums, swimming pools, picnic facilities, tennis courts, boat docks, and golf courses, as well as related food concessions or clubhouses within a principal structure or in an accessory structure on the same site.

**535-25E(6) SAFETY SERVICE**

Publicly owned establishments that provide fire, police, or public safety services, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations, police stations, ambulance services, and storm or civil defense shelters.

**535-25E(7) SCHOOL**

Public and private schools at the primary, elementary, middle school or high school level that provide basic, compulsory, state-mandated education outside of a residence.

**535-25E(8) UTILITIES & SERVICES**

The utilities and services use category includes utilities and essential public service uses and facilities. The utilities and services use category includes the following subcategories:

## 535-25 Principal Uses

### 535-25F Other Uses

- (a) **Utilities & Services, Minor.** Facilities that need to be located in or close to the area where the service is provided. Minor utilities generally do not have regular employees at the site and typically have few if any impacts on surrounding areas. Typical uses include water and sewer pump stations; gas regulating stations; underground electric distribution substations; electric distribution lines and transformers; bus turnarounds and on-street transit stops, water conveyance systems; stormwater storage and conveyance systems; and emergency communication warning/broadcast facilities.
- (b) **Utilities & Services, Major.** Facilities that typically have substantial visual or operational impacts on nearby areas. Typical uses include water and wastewater treatment facilities and high-voltage electric substations, and utility-scale power generation facilities (including wind, solar and other renewable and nonrenewable energy sources).

## 535-25F OTHER USES

### 535-25F(1) PARKING LOTS & STRUCTURES

- (a) **Description.** The parking lots and structures use category includes all parking lots and parking structures located on lots or sites that are not occupied by a principal building or use, including public parking lots, parking lots for electric vehicle charging, and parking lots that provide required parking spaces for land uses that are located on a different site than the use served by such parking (i.e. off-site parking).
- (b) **Use-Specific Conditions.** Use-specific conditions are as follows:
- (1) **Access.** Access to parking lots and structures must be off an alley; if no alley exists, access may be located off a non-primary street; if no alley and no non-primary street exists, one access drive may be off a primary street.
  - (2) **Materials.** Any portion of a parking structure fronting a street or visible from any street must meet the design requirements for parking facades per [535-23E\(10\)](#).
  - (3) **Ramps.** Drive ramps sloped more than 1:20 must not be located on a primary street facade.
  - (4) **Height.** The height of any parking structure must be lower than any part of an abutting or adjacent principal structure by a minimum of 6 feet.
  - (5) **Re-Use.** The structure providing horizontal floors at the floor-to-floor heights of one of the building types allowed in the zoning district, to allow future conversion to another use.
  - (6) **Buffers and Interior Parking Lot Landscaping.** See [535-24](#) for required buffers and landscaping.

## 535-26. ACCESSORY USES & STRUCTURES

### 535-26A GENERAL ACCESSORY USE REGULATIONS

#### 535-26A(1) USES AND STRUCTURES AUTHORIZED

Accessory uses and structures are allowed only in connection with lawfully established principal uses and principal structures. Allowed accessory uses and structures are limited to those expressly identified in [Table 535-26-1](#), as well as those that in the determination of the Zoning Administrator satisfy all of the following criteria:

- (a) They are customarily found in conjunction with the subject principal use and structure;
- (b) They are subordinate and clearly incidental to the principal use of the property;
- (c) They are operated and maintained by the owners or lessees of the principal use; and
- (d) They serve a necessary function for or contribute to the comfort, safety or convenience of the owners or lessees of the principal use.

#### 535-26A(2) GENERALLY APPLICABLE REGULATIONS

The regulations of this section apply generally to all accessory uses and structures unless express provisions of this chapter establish more specific regulations for a particular type of accessory use or accessory structure.

- (a) **Location.** Accessory uses and structures must be located on the same lot as the principal use and principal structure to which they are accessory.
- (b) **Yard.** Accessory buildings and structures are allowed in the rear or side yard only, unless otherwise expressly stated.
- (c) **Time of Establishment.** No accessory building or structure other than a fence or temporary construction office or may be placed on a lot before construction of the principal building.
- (d) **Buildings & Structures.** Accessory buildings and structures are subject to the same regulations that apply to principal buildings and structures on the subject lot, unless otherwise expressly stated.
- (e) **Size.** Accessory structures must not exceed 15 feet in height and shall not occupy more than 10% of the lot, unless otherwise stated.
- (f) **Separation from Principal Structure.** Accessory buildings must be separated by a minimum distance of 10 feet from the principal building on the lot.

**Table 535-26-1. Accessory Use & Structure Table**

ACCESSORY USE	DISTRICTS												Reference
	Commercial & Mixed-Use				Residential						Public		
	MX	CX	GX	RX	R-1 R-2 R-3 R-4	R-5	R-6	R-7	R-8	R-9 R-10	P-1	P-3	
Drive-Through Facility	See building type regulations <a href="#">535-22</a>				-	-	-	-	-	-	-	-	<a href="#">535-26B</a>
Electric Vehicle Supply Equipment	●	●	●	●	●	●	●	●	●	●	●	●	<a href="#">535-26C</a>
Fuel Pumps	See building type regulations <a href="#">535-22</a>				-	-	-	-	-	-	-	-	<a href="#">535-26D</a>
Home Occupation	●	●	●	●	●	●	●	●	●	●	-	-	<a href="#">535-26E</a>
Outbuildings & Garages	See building type regulations <a href="#">535-22</a>				●	●	●	●	●	●	●	●	<a href="#">535-26A</a>
Outdoor Dining	○	○	○	-	-	-	-	-	-	-	-	-	<a href="#">535-26F</a>
Outdoor Sales/Displays	See building type regulations <a href="#">535-22</a>				-	-	-	-	-	-	-	-	<a href="#">535-26G</a>
Parking Structures	See building type regulations <a href="#">535-22</a>				-	-	-	-	○	○	●	-	<a href="#">535-26H</a>
Solar Energy System	●	●	●	●	●	●	●	●	●	●	●	●	<a href="#">535-26I</a>
Wind Energy System	○	○	○	○	○	○	○	○	○	○	○	○	<a href="#">535-26J</a>
Other Customary Accessory Uses	●	●	●	●	●	●	●	●	●	●	●	●	<a href="#">535-26A</a>

KEY: ● = Permitted ○ = Requires Conditional Use Approval - = Prohibited

535-26 Accessory Uses & Structures  
**535-26B Drive-Through Facility**

**535-26B DRIVE-THROUGH FACILITY**

**535-26B(1) APPLICABILITY**

The regulations of this section govern accessory drive-through uses and facilities, which are structures or portions of a building that permit customers to purchase goods or receive services while remaining in their motor vehicle.

**535-26B(2) BUILDING TYPE REGULATIONS**

The key accessory structure tables for each building type identify the zones in which drive-through facilities are allowed (see [535-22E](#) through [535-22H](#)).

**535-26B(3) LOCATION**

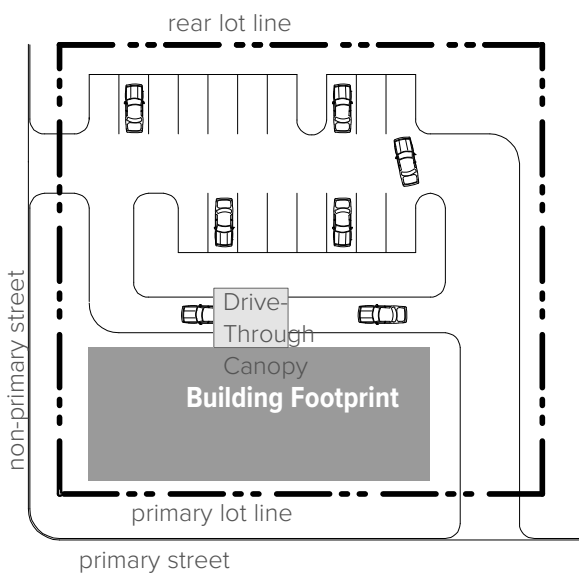
Drive-up windows and drive-through facilities must be located in the rear yard, interior side yard, or on the rear or interior side facade of the building. See [Figure 535-26-1](#) for one example of a drive-through.

**535-26B(4) ADDITIONAL REGULATIONS**

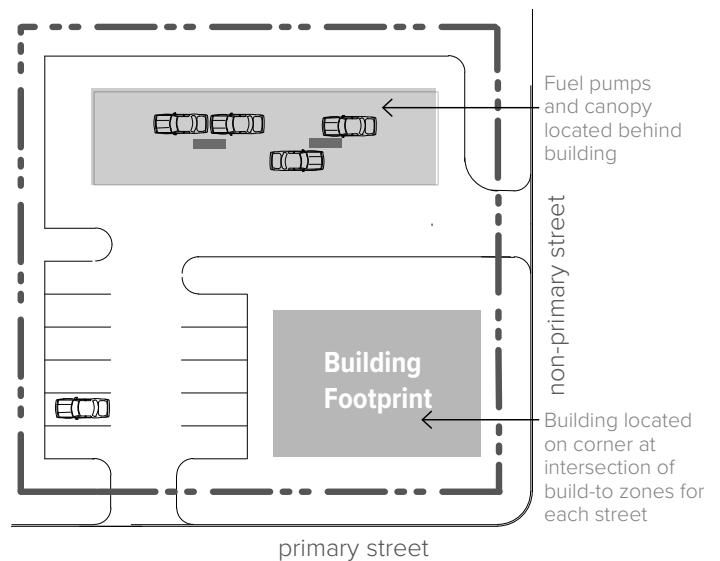
- (a) **Vehicle Stacking.** Vehicle stacking lanes must be located in the rear yard or an interior side yard.
- (b) **Accessory Structures/Signs.** The menu board and speaker must be located in the rear yard or an interior side yard.
- (c) **Adjacent to R District.** When a drive-through facility is located on a lot that abuts an R district to the side or rear, the following applies:

- [1] The drive-through facility, including the window, any canopy, and any stacking area for vehicles, must be set back at least 25 feet from the abutting R district lot line.
- [2] The drive-through facility may not be located closer to any street than any principal building on the lot or an abutting lot.

- (d) **Structure.** Drive-through canopies and roofs must match the roof of the principal building and must not exceed the height of the structure. Materials used for the drive-through supports or other features must be repeated from the principal building design.
- (e) **Site Coverage.** Drive-through canopies are limited to no more than 50% of the building footprint.
- (f) **Conditions.** Where allowed only with a conditional use permit per the building type regulations in [535-22](#), drive-through facilities may be approved only as with the following conditions:
  - [1] The use is accessory only to a financial service subcategory principal use per [535-25D\(10\)\(d\)](#).
  - [2] The drive-through facility is staffed by an on-site person.
  - [3] Amplified sound is allowed only at the window.



**Figure 535-26-1. Drive-Through Facility**



**Figure 535-26-2. Fuel Pumps**

## **535-26C ELECTRIC VEHICLE SUPPLY EQUIPMENT**

### **535-26C(1) WHERE ALLOWED**

- (a) Electric vehicle supply equipment is permitted in all districts when accessory to the principal use. When such stations are accessory to residential uses, they must be designated as private, restricted-use charging stations.
- (b) If the principal use of the subject property is electric vehicle charging, then the use is considered a fueling station for zoning purposes and restricted to zoning districts in which fueling stations are allowed.

### **535-26C(2) REGULATIONS**

- (a) Property owners may collect a service fee for the use of publicly accessible electric vehicle supply equipment.
- (b) Parking spaces for electric vehicle supply equipment are counted towards minimum off-street parking requirements.
- (c) In the commercial and mixed-use districts, EV supply equipment may be located anywhere on the lot where a parking space is allowed per the building type regulations (see [535-22E](#) through [535-22H](#)).

## **535-26D FUEL PUMPS**

### **535-26D(1) APPLICABILITY**

The regulations of this subsection apply to fuel pumps and canopies associated with vehicle service uses. They do not apply to electric vehicle charging equipment.

### **535-26D(2) WHERE ALLOWED**

The accessory structure tables for each building type identify the zones in which fuel pumps are allowed.

### **535-26D(3) PRINCIPAL BUILDING**

Fuel pumps must be accessory to a principal building, a building type allowed in the subject zone.

### **535-26D(4) LOCATION**

Fuel pumps must be located in the rear yard or interior side yard. See [Figure 535-26-2](#) for one example of a fuel pump location.

### **535-26D(5) ADDITIONAL REGULATIONS**

- (a) **Size and Site Coverage.** Fuel pump canopies may not exceed 18 feet in height and may not occupy more than 35% of the lot.

- (b) **Materials.** The roof of the canopy must match the principal building in type and material. Columns and supports must be clad in a major material used on the principal building facade.
- (c) **Canopy Lighting.** All luminaires mounted or recessed into the lower surface of service station canopies shall be shielded and utilize flat lenses.

## **535-26E HOME OCCUPATIONS**

### **535-26E(1) ALLOWED HOME OCCUPATIONS**

The following home occupations are permitted as-of-right if they comply with all of the general regulations of paragraph [535-26E\(2\)](#), below. Allowed home occupations that do not comply with the general regulations of paragraph [535-26E\(2\)](#), below, require approval of a conditional use permit (see [535-31I](#)).

- (a) Caterers, dressmakers, seamstresses or tailors;
- (b) Music or dancing teachers, provided that the instruction shall be limited to one pupil at a time except for occasional groups;
- (c) Artists, sculptors or authors;
- (d) Lawyers, architects, engineers, real estate agents/brokers, insurance agents, and members of similar professions;
- (e) Ministers, rabbis, priests or members of religious orders;
- (f) The letting for hire of not more than two rooms for rooming or boarding use for not more than two persons, neither of whom is a transient;
- (g) Home-based workers employed by a firm or organization with offices located elsewhere; and
- (h) Other home-based work activities that can be conducted without external impacts on the surrounding neighborhood.

### **535-26E(2) GENERAL REGULATIONS**

Home occupations are subject to compliance with the following regulations in addition to all regulations of the underlying zoning district:

- (a) The home occupation shall be incidental and secondary to the use of the dwelling for dwelling purposes.
- (b) No more than 25% of the floor area of one story of the dwelling shall be devoted to any home occupation.

## 535-26 Accessory Uses & Structures

### 535-26F Outdoor Dining

- (c) No person other than members of the immediate household occupying such dwelling shall be employed in the home occupation.
- (d) No stock-in-trade (except articles produced by members of the immediate household residing on the premises) shall be displayed or sold upon the premises.
- (e) There shall be no stock-in-trade or commodity sold or services rendered that require receipt or delivery of merchandise, goods or equipment by other than a passenger motor vehicle or by letter carrier mail service or parcel delivery service.
- (f) No alteration of the dwelling shall be made which changes the character thereof as a dwelling.
- (g) The home occupation shall be conducted entirely within the dwelling; all activity, including storage, shall be conducted completely within the dwelling.
- (h) There shall be no signs, display or activity that will indicate from the exterior of the dwelling that the building is being used for any purpose other than that of the dwelling.
- (i) No home occupation shall be operated in such a manner as to cause a public nuisance as defined in § 389-1 of the Village Code.
- (j) There shall be no perceptible noise, odor, smoke, electrical interference or vibrations emanating from the dwelling.
- (k) There shall be no more than one customer or client on the premises at the same time.
- (l) There shall be no activity connected with the home occupation between the hours of 10:00 p.m. and 7:00 a.m.

#### 535-26E(3) PROHIBITED HOME OCCUPATIONS

The following are expressly prohibited as home occupations:

- (a) Animal hospitals.
- (b) Barbershops.
- (c) Beauty parlors.
- (d) Clinics or hospitals.
- (e) Dancing schools, except as allowed by paragraph (a)[2], above.
- (f) Mortuaries.
- (g) Nursery schools.

- (h) Private clubs.
- (i) Renting of trailers.
- (j) Repair shops or service establishments, except the repair of electrical appliances, typewriters, cameras, or other similar small items.
- (k) Restaurants.
- (l) Stables or kennels.
- (m) Tourist homes.

### 535-26F OUTDOOR DINING

#### 535-26F(1) APPLICABILITY

The regulations of this section govern outdoor dining as an accessory use to an allowed principal use on the property per [Table 535-26-1](#).

#### 535-26F(2) USE-SPECIFIC CONDITIONS

Outdoor dining is allowed on any lot with approval of a conditional use permit (see [535-311](#)) subject to the following:

- (a) Outdoor dining is allowed as an accessory use only to an eating and drinking place or event venue principal use.
- (b) Outdoor dining may be allowed on any rooftop (see [535-23B\(1\)\(d\)](#)) that is not abutting an R district and in any yard of the lot.
- (c) Ground level outdoor dining decks, patios, or terraces may not occupy the space designated for any buffer required by [535-24](#) and are subject to any deck and patio-terrace regulations per [535-24C](#).
- (d) A side and rear buffer per [535-24G](#) may be required as a condition of the permit.
- (e) Outdoor dining is not limited to any maximum area of the lot, but any paving areas are subject to the maximum site coverage required by building type (see [535-22E](#) through [535-22H](#)).
- (f) Outdoor dining may be required to be closed by 10:00pm, Sunday through Thursday and midnight on Friday and Saturday as a condition of the permit. Other hours of operation may be applied as conditions by the Plan Commission.
- (g) Temporary outdoor dining located in the street right-of-way is subject to approval of a Special Privileges permit per 466-18.

## **535-26G OUTDOOR DISPLAY AREAS**

### **535-26G(1) APPLICABILITY**

The regulations of this section govern outdoor display of merchandise or other items offered for viewing and sale as an accessory use of the principal use of the property.

### **535-26G(2) REGULATIONS**

The following regulations apply to all outdoor display areas:

- (a) On-Site.** Outdoor displays are subject to all applicable setback regulations that apply to the principal building, unless otherwise expressly stated in this zoning ordinance.
- (b) Sidewalk Sales.** Display of merchandise on the public sidewalk directly in front of a business is allowed with the approval of a Special Privilege permit per 466-18. A 5-foot clear zone must be maintained on the public sidewalk at all times. All other regulations in this subsection apply.
- (c) Single Frontage Only.** Outdoor displays on corner lots must be confined to a single frontage.
- (d) Display Time.** Merchandise or other items may be displayed only during hours of operation of the principal use and must be fully removed and placed indoors outside of operating hours, except as follows:

[1] Plant merchandise, such as plant materials, pots, garden accessories, and small bags of soil, may be located outdoors at all times.

[2] Propane tanks, firewood, ice in freezers, and merchandise similar in scale, hazard, and use may be stored outdoors outside of business hours with approval of a conditional use permit under the following conditions:

[a] Merchandise may be stored only in a rear or interior side yard.

[b] Screening per [535-24I](#) and/or side and rear buffers per [535-24G](#) may be required as a condition of approval.

## **535-26H PARKING STRUCTURES**

### **535-26H(1) APPLICABILITY**

The regulations of this subsection apply to stand-alone, accessory structures occupied by decked, multi-level motor vehicle parking.

### **535-26H(2) BUILDING TYPE REGULATIONS**

The accessory structure tables for each building type identify which zones allow accessory parking structures.

### **535-26H(3) LOCATION**

Accessory parking structures must be located on the same lot as the principal structure.

### **535-26H(4) YARD**

Accessory parking structures must be located in the rear yard and be screened from view of any primary street by the principal building. Parking structures on lots with multiple primary street frontages must be screened from view of all primary streets.

### **535-26H(5) ADDITIONAL REGULATIONS**

- (a) Setbacks.** Parking structures may not be located closer to any street or interior side lot line than the principal structure.
- (b) Height.** The overall height of a parking structure must be at least one story lower than any principal structure.
- (c) Facade Design.** On street frontages, accessory parking structures must meet the facade design regulations of a parking structure in [535-23E\(10\)](#).
- (d)** Accessory parking garages are subject to the maximum site coverage required by building type (see [535-22E](#) through [535-22H](#)).

## **535-26I SOLAR ENERGY SYSTEMS**

### **535-26I(1) APPLICABILITY**

The regulations of this section govern accessory solar energy systems.

### **535-26I(2) GENERAL**

- (a)** Solar energy systems are permitted as an accessory use to all lawfully established principal uses in all zones.
- (b)** Accessory solar energy systems must comply with all applicable building and electrical code requirements.

### **535-26I(3) BUILDING-MOUNTED SYSTEMS**

- (a)** Building-mounted solar energy systems may be mounted on principal or accessory structures.
- (b)** Building-mounted solar energy systems may not encroach into required street setbacks. Systems mounted on principal structures may encroach into interior side setbacks by up to 2 feet and into rear building setbacks by up to 5 feet.

## 535-26 Accessory Uses & Structures

### 535-26J Wind Energy Systems

- (c) Only building-integrated or flush-mounted solar energy systems may be installed on street-facing building elevations.
- (d) Building-mounted solar energy systems may not extend more than 5 feet above the highest point of the roof line.

#### 535-26I(4) GROUND-MOUNTED SYSTEMS

- (a) Ground-mounted (freestanding) solar energy systems may not be located in a street yard.
- (b) Ground-mounted solar energy systems may be located within interior and rear yard areas but must be set back at least 2 feet from all lot lines.
- (c) Ground-mounted solar energy systems may not exceed 18 feet in height.
- (d) Ground-mounted solar energy systems must be fully screened from any street or neighboring lot at the ground level by a fence.

## 535-26J WIND ENERGY SYSTEMS

#### 535-26J(1) APPLICABILITY

The regulations of this subsection govern accessory small wind energy systems.

#### 535-26J(2) USE-SPECIFIC CONDITIONS

Where allowed with a conditional use permit, the following conditions apply:

- (a) **Authority to restrict systems limited.** Any proposed wind energy system may be approved if the applicant meets the owner requirements for a wind energy system as set forth in PSC 128.10 through 128.19, Wis. Adm. Code, (current through Administrative Register, December 2014, No. 708) and as hereinafter amended, which are hereby incorporated by reference and made a part hereof as if fully set forth herein.
- (b) The Plan Commission may only restrict the system if the restriction satisfies one of the following conditions:
  - [1] Serves to preserve or protect the public health or safety.
  - [2] Does not significantly increase the cost of the system or significantly decrease its efficiency.
  - [3] Allows for an alternative system of comparable cost and efficiency.

## **535-27. TEMPORARY USES**

### **535-27A AUTHORITY TO APPROVE**

#### **535-27A(1) PLANNING & DEVELOPMENT DEPARTMENT**

(a) The Planning and Development Department is expressly authorized to approve the following as temporary uses upon determining that the proposed use is a customary temporary use in the subject location and will generally be compatible with surrounding uses and not be a detriment to public safety.

- [1] Construction staging areas, construction field offices and storage of materials related to ongoing construction or demolition not to exceed the period in which construction is ongoing and for which all required permits remain valid;
- [2] Mobile storage containers not to exceed the period in which construction is ongoing and for which all required permits remain valid, or if no building or construction permits are required, for no more than 40 days;
- [3] Parking lot sales, farmer's markets, and other seasonal and holiday sales lots for a maximum of 60 days per lot per year;
- [4] Other similar customary temporary uses and activities.

(b) The Planning and Development Department is also expressly authorized to refer any temporary use request to the Plan Commission for final decision-making.

#### **535-27A(2) PLAN COMMISSION**

The Plan Commission must hear temporary use requests within a reasonable time after application filing to determine whether the temporary use request should be approved, approved with conditions, or denied. In order to approve temporary use requests, the Plan Commission must determine that the proposed use is a customary temporary use in the subject location, will be generally compatible with surrounding uses when conducted on a temporary basis, and will not be a detriment to public safety.

### **535-27B CONDITIONS OF APPROVAL**

In approving a temporary use, the Planning and Development Department and the Plan Commission are authorized to impose conditions on the operation of the temporary uses that will help to ensure that they do not create unreasonable adverse impacts on surrounding uses and that they operate safely, consistent with the general

purposes of this zoning ordinance. Examples of such conditions include the following:

- (a) Requirements for vehicle access and parking;
- (b) Restrictions on hours of operation;
- (c) Limitations on signs, outdoor lighting and amplified sound;
- (d) Requirements for financial guarantees for cleanup and/or removal of structures or equipment; and
- (e) Other conditions necessary to carry out the general purposes of this zoning ordinance.

### **535-27C DURATION OF TEMPORARY USE**

- (a) The applicant must submit a written explanation of the length of time needed for a proposed temporary use.
- (b) The Planning and Development Department or the Plan Commission, as applicable, must establish the allowed time limit for each temporary use at the time of approval, which in no event may exceed 12 months.

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## § 535-28 Mobile wireless facilities.

### A. Wireless telecommunications and mobile wireless facilities.

- (1) Purpose. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, these regulations are necessary in order to:
  - (a) Facilitate the provision of wireless telecommunication services to the residents and businesses of the Village;
  - (b) Minimize adverse visual effects of towers through careful design and siting standards;
  - (c) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;
  - (d) Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and encourage co-location;
  - (e) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Village; and
  - (f) Regulate mobile service facilities to the extent allowed by § 66.0404, Wis. Stats., and other applicable laws.
- (2) Definitions. All terms used in this section shall have the meaning described and used in § 66.0404(1), Wis. Stats.
- (3) Permits required.
  - (a) Except as hereinafter noted, it shall be unlawful for any person, firm or corporation to place, erect, construct or relocate within the Village of Shorewood any wireless telecommunications equipment or mobile wireless facilities without first applying for and obtaining:
    - [1] A conditional use permit granted under Article V of Chapter 535, Zoning, and this section.
    - [2] A building permit and electrical permit for the construction of the antenna and supporting or accessory structures.
- (4) New construction and substantial modification of facilities and support structures.
  - (a) An application for a permit to engage in the siting or construction of a new mobile service support structure and facilities or to engage in a Class 1 co-location shall be submitted in writing to the Planning and Development Department and shall contain the following:
    - [1] The name and business address of, and the contact individual for, the applicant.
    - [2] The location of the proposed or affected support structure.
    - [3] The location of the proposed mobile service facility.
    - [4] If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support

structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- [5] If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
- [6] If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has a responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.

(b) Determination of completeness within 10 days of submittal.

- [1] The Director of Planning and Development Department or the Designee shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Village shall notify the applicant in writing within 10 days of receiving the application if it is found not to be complete and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their applications as often as necessary until it is complete.

(c) Permit fees. The applicant shall pay the fee as enumerated within the Village Fee Schedule.

(d) The Village Plan Commission shall review the application and consider a conditional use permit under the following conditions:

- [1] Within 90 days of submitting the application for conditional use permit under Subsection C(3), it shall be submitted to the Plan Commission for consideration, hearing, decision and issuance of permit.
- [2] The Plan Commission shall give public notice of the time and place of the hearing and due notice to the applicant. The applicant may appear in person or by agent or attorney.
- [3] Applications for conditional uses under this section shall be subject to the procedures, requirements and criteria contained within Article V of Chapter 535, Zoning, except as modified by this section.
- [4] In granting a conditional use permit, the Plan Commission may impose conditions consistent with the purpose of this section when the Commission concludes such conditions may be necessary.
- [5] The Village Plan Commission may consider the criteria for the grant of a conditional use permit as contained within § 535-25C(1) through (7).
- [6] The Commission shall not deny a conditional use permit:

- [a] Based on the health or environment effects of radio frequency emissions to the extent that the applicant proves compliance with FCC rules and regulations; or
  - [b] Based solely on aesthetic concerns, the height of the mobile service support structure or on whether the structure requires lighting.
- [7] The Plan Commission will make a final decision to approve or deny the applicant and notify the applicant in writing of its final decision. A denial of a request for a conditional use permit under this section shall be in writing and supported by substantial evidence as contained within the record of proceedings.
- (5) Co-located and multiple-user facilities.
- (a) An application for a permit to engage in Class 2 co-location shall be submitted in writing to the Planning and Development Department and shall contain the following:
    - [1] The name and business address of, and the contact individual for, the applicant.
    - [2] The location of the proposed or affected support structure.
    - [3] The location of the proposed mobile service facility.
  - (b) Determination of completeness within five days of submittal. The Director of the Planning and Development Department or the Director's designee shall review the application and determine whether the application is complete. If the application includes all of the foregoing information, the application shall be found to be complete. The Village shall notify the applicant in writing within five days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete.
  - (c) Permit fees. The applicant shall pay the fee as enumerated within the Village Fee Schedule.
  - (d) The Village Plan Commission shall review the application and consider a conditional use under the following conditions:
    - [1] Within 45 days of submitting the application for conditional use permit under Subsection C(3), it shall be submitted to the Plan Commission for consideration, hearing, decision and issuance of permit.
    - [2] The Plan Commission shall give public notice of the time and place of the hearing and due notice to the applicant. The applicant may appear in person or by agent or attorney.
    - [3] Applications for conditional uses under this section shall be subject to the procedures, requirements and criteria contained within Article V of Chapter 535, Zoning, except as modified by this section.
    - [4] In granting a conditional use permit, the Plan Commission may impose conditions consistent with the purpose of this section when the Commission concludes such conditions necessary.
    - [5] The Village Plan Commission may consider the criteria for the grant of a conditional use permit as contained within § 535-25C(1) through (7).

[6] The Commission shall not deny a conditional use permit:

[a] Based on the health or environment effects of radio frequency emissions to the extent that the applicant proves compliance with FCC rules and regulations; or

[b] Based on aesthetic concerns, the height of the mobile service support structure or on whether the structure requires lighting.

[7] The Plan Commission will make a final decision to approve or deny the applicant and notify the applicant in writing of its final decision. A denial of a request for a conditional use permit under this section shall be in writing and supported by substantial evidence as contained within the record of proceedings.

- (6) Waiver. The Plan Commission may, in its discretion, waive compliance with provisions within this section where the applicant provides specific engineering and technical data showing that the code requirements would:
- (a) Unreasonably delay or prevent installation, maintenance or use;
  - (b) Adversely impair reception such that the signal is not of an acceptable quality; or
  - (c) Unreasonably increase the cost of installation, maintenance or use.
- (7) All towers, antennas, mobile service facilities and mobile service support structures shall comply with the following requirements:
- (a) Each shall be constructed out of metal or other nonflammable material.
  - (b) Mobile service support structures towers, guy wires, appurtenant equipment and buildings shall comply with the yard and set back requirements of the zoning district in which they are located.
  - (c) Building codes; safety standards. To ensure structural integrity, the owner shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards that are published by the Electronic Industries Associations or the Wireless Infrastructure Association, as amended from time to time.
  - (d) Equipment shall be permanently grounded in accordance with the manufacturer's specifications for installation. All installations shall meet the minimum wind load design velocity of 80 miles per hour.
  - (e) No form of advertising or identification shall be allowed other than the customary manufacturer's identification plates.
  - (f) Portable or trailer-mounted equipment shall be prohibited; provided, however, that temporary installations for on-site testing and demonstration purposes may be allowed for reasonable periods.
  - (g) State or federal requirements. All equipment shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal government with the authority to regulate the equipment installed. If such standards and regulations are changed, then the owner of an equipment governed by this section shall bring it into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to

bring it into compliance with such revised standards and regulations shall constitute grounds for the removal under Subsection C(8).

- (h) Electrical installations in connection with this section, including grounding the system, shall be in accordance with the National Electrical Code, Wisconsin State Electrical Code and instructions of the manufacturer; in cases of conflict, the stricter requirements shall govern.
  - (i) All cable used to conduct current or signals shall be installed underground, unless adequately screened from public view. The location of all such underground lines, cables and conduits shall be shown on the documents supporting the application for permit.
  - (j) Equipment shall be filtered or shielded to prevent the emission or reflection of any radio frequency emissions or radiation that would cause interference with practical communication transmissions or broadcast reception on adjacent properties.
  - (k) Aesthetic considerations. Equipment shall be located and designed to reasonably reduce visual impact upon surrounding properties at street level. The Plan Commission may require appropriate screening and landscaping that does not interfere with reception.
  - (l) Lighting. Regulated equipment shall not be artificially illuminated unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
  - (m) The equipment cabinet or structures used in association with equipment regulated under this section shall comply with the following:
    - [1] If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 10% of the roof.
    - [2] Equipment storage buildings or cabinets shall comply with all applicable building codes.
    - [3] Buildings or cabinets located on the ground must be screened from view by vegetation or landscaping.
  - (n) Mobile service facilities and mobile service support structures shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.
  - (o) No mobile service support structure shall be located in R1 through R7 districts.
- (8) Failure to maintain or repair.
- (a) The Building Inspector may inspect, at any time, any equipment regulated by this section and located in the Village of Shorewood in order to ascertain whether or not the same is of a safe construction and condition and has been installed in a workmanlike manner in accordance with good engineering practices.
  - (b) In case any condition is found which might result in danger to life or property, or if the equipment is unsightly or in need of maintenance and repair, the Village Building Inspector or Electrical Inspector is authorized to give written notice to the owner or user at their last known address, citing such condition and requiring corrective action within five days from the date of such notice.

- (c) If such conditions are not corrected within such time, the maintenance of any such unsafe or unsightly installation by the owner or user thereof shall be considered unlawful, and the owner or user shall be subject to the penalty hereinafter prescribed.
- (d) If, in the opinion of the Building Inspector or the Electrical Inspector, such condition is so dangerous to life and property that immediate removal is required, the Village Building Inspector or Electrical Inspector shall remove or cause to be removed the equipment without further notice to the owner or user thereof and at the owner's expense.
- (e) Any equipment regulated by this section that is not operated or used for a continuous twelve-month period shall be considered abandoned and the owner of such abandoned equipment shall remove the same within 90 days thereafter or upon notice from the Building Inspector that the equipment is considered abandoned. Failure to remove the abandoned antenna within 30 days of notice shall be grounds to have the equipment removed at the owner's expense.
- (f) The cost of removing equipment under this subsection shall be chargeable to the owner of the property upon which it is located and shall be certified in the proper manner to have said costs levied as special charges against such property and the proper officers of the Village are authorized and directed to enter such charges on the tax roll.

(9) Exempt facilities.

- (a) Amateur radio towers owned and operated by a federally licensed amateur radio operator and which meets the following conditions:
  - [1] No more than one support structure for licensed amateur radio operator is allowed on a parcel.
  - [2] Sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.
- (b) Publicly owned and operated telecommunications facilities require in the public interest to provide for and maintain a radio frequency telecommunication system, including digital analog, wireless or electromagnetic waves, for police, fire and other municipal services.

(10) Appeals.

- (a) Board of Appeals.
  - [1] Any person aggrieved by a determination of the Planning and Development Department may appeal of the Board of Appeals in accordance with the provisions of §§ 535-56 and 535-57 of the Village Code.
  - [2] Decisions of the Village Plan Commission in granting, denying, amending, suspending, or revoking a permit under this section may be appealed to the Board of Appeals in accordance with the provisions of §§ 535-56 and 535-57 of the Village Code.
  - [3] The Board of Appeals shall decide all appeals under this section within 30 days after final hearing and shall transmit a signed copy of the Board's decision to the appellant and to the Planning and Development Department.
- (b) Review by court of record. Any person or persons aggrieved by a decision of the

Board of Appeals under this section may present to a court of record a verified petition specifying the contents of the decision appealed and the grounds upon which the decision is challenged, appealed or charged to be illegal. Such petition shall be presented to the court within 30 days after the filing of the decision by the Board of Appeals in the office of the Secretary.

- (c) Unless otherwise directed, no order, forfeiture, penalty or cost shall accrue or be enforced during the pendency of an appeal.

**§ 535-29 Reserved.**

**§ 535-30 Reserved.**

## ARTICLE VI. PROCEDURES

### 535-31. REVIEW PROCEDURES

#### 535-31D PROJECT REVIEW APPLICATION

##### 535-31D(1) PURPOSE

To ensure project applications and submittals include all information necessary to illustrate compliance with all applicable regulations.

##### 535-31D(2) APPLICATIONS

Project review applications shall be submitted to the Zoning Administrator on forms furnished by the Planning and Development Department.

- (a) A list of required applicant information, site and building plans, elevations, building use information, and other information is available from the Planning and Development Department.
- (b) Applications shall illustrate compliance with all zoning and design regulations.
- (c) The Zoning Administrator, Design Review Board, or Plan Commission may require additional information to determine whether the proposed project and use complies with all applicable provisions of this zoning ordinance and the Village Code.

##### 535-31D(3) FEE

The required review fee, as specified in the Village Fee Schedule must be included with the application submittal.

##### 535-31D(4) REVIEW PROCESSES

The Zoning Administrator shall determine which review processes are applicable to the project. See [Figure 535-31-3](#) for an overall flow chart incorporating all processes.

#### 535-31E ZONING REVIEW

##### 535-31E(1) PURPOSE

To ensure projects meet all applicable zoning regulations.

##### 535-31E(2) APPLICABILITY

The zoning review procedures of this section shall apply to all:

- (a) New building construction, building additions, and exterior building modifications that require a permit in all districts;

- (b) New commercial occupancy. See [225-20](#) for occupancy permit requirements.

- (c) Any use or structure requiring a conditional use permit.

##### 535-31E(3) ZONING REVIEW PROCESS

See [Figure 535-31-3](#) for an illustration of the review processes.

- (a) **Zoning Administrator Review.** Following receipt of a complete project review application, the Zoning Administrator shall review the application to determine whether the proposal complies with applicable zoning provisions of this zoning ordinance.
- (b) **Planning Adjustments.** The project review application shall include any requests for planning adjustments (see [535-31H](#)).
- (c) **Zoning Administrator Action.** After reviewing the project for compliance with all zoning provisions and approval of any planning adjustments, the Zoning Administrator shall act to approve; approve with modifications or conditions; approve contingent on design review or Plan Commission approval; or reject the proposed building design, site plan, and/or occupancy permit.
  - (1) **Approval.** In order for the application to be approved, the Zoning Administrator shall find and determine that the applicant's proposal complies with all applicable zoning regulations.
  - (2) **Modifications or Conditions.** If the application is approved subject to specific modifications or conditions, the applicant shall revise the application in accordance with those modifications and conditions and submit the revised plan(s) to the Zoning Administrator for approval.
  - (3) **Contingent on Further Review.**
    - [a] If the application is approved and design review, including any design adjustments, is applicable, the Zoning Administrator must approve the project contingent upon design review approval and the application shall be submitted for the design review process (see [535-31F](#)).

## 535-31 Review Procedures

### 535-31F Design Review

[b] If the application is approved and Plan Commission approval, including any planning adjustments, conditional uses, and/or special exceptions, is applicable, the Zoning Administrator must approve the project contingent upon Plan Commission approval and the application shall be submitted for the appropriate process.

**(4) Rejection.** If the Zoning Administrator determines that the application does not meet the zoning regulations, the Zoning Administrator may reject the application with justification.

**(d) Written Findings.** The Zoning Administrator shall file its written findings and determination with the Planning and Development Department and a copy of the written findings shall be provided to the applicant.

#### 535-31E(4) APPEALS OF ZONING ADMINISTRATOR DECISIONS

Any person aggrieved by a final decision of the Zoning Administrator may appeal the decision to the Board of Appeals in accordance with 535-56.

**(a)** An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought.

**(b)** The fee for appealing in each case shall be as provided by the Village Fee Schedule.

### 535-31F DESIGN REVIEW

#### 535-31F(1) PURPOSE & INTENT

The design review procedures of this section are intended to ensure timely, competent review of building designs and site improvements by the Design Review Board. (See Chapter 225 for establishment of the Design Review Board.) The design review process is intended to promote the public health, safety, convenience, prosperity, comfort, and general welfare of the citizens of the Village and to strike a reasonable balance between the desire of the property owner to choose the design of proposed buildings and site improvements and the continuing interest of the Village in:

**(a)** Promoting high-quality, durable, well-designed, well-constructed, and attractive buildings, structures, landscaping, and open space areas to maintain and enhance established Village standards;

**(b)** Protecting the walkable, human scale of the village as a whole, including its architecture and land use, with an accompanying recognition that the village is

characterized by a substantial amount of pedestrian and bicycle traffic;

**(c)** Supporting a diversity of architectural styles, which are, at the same time, compatible with their surroundings;

**(d)** Ensuring adequate light, air, and privacy for village residents; and

**(e)** Complying with applicable design regulations of this zoning ordinance.

#### 535-31F(2) APPLICABILITY

Except as expressly exempted in accordance with [535-31F\(3\)](#), the design review procedures of this section shall apply to all:

**(a)** New building construction, building additions, and exterior building modifications that require a permit per 225, in all districts;

**(b)** Installation, placement, or modification of any structure or sign that requires a permit;

**(c)** Outdoor lighting in MX, CX, GX, or RX districts;

**(d)** Circular driveways in R districts per [535-9F\(4\)](#);

**(e)** Replacement of 50% or more of all windows that are 50 sq. ft. or larger (see [535-23F\(3\)](#)) on a building in the MX, CX, GX, or RX districts.

**(f)** Other activities expressly requiring review and approval by the Design Review Board under the terms of this zoning ordinance, such as land management plans per 220-3; and

**(g)** Other matters pertaining to planning, zoning, building or design that are referred to the Design Review Board for findings and determination.

#### 535-31F(3) EXEMPTIONS

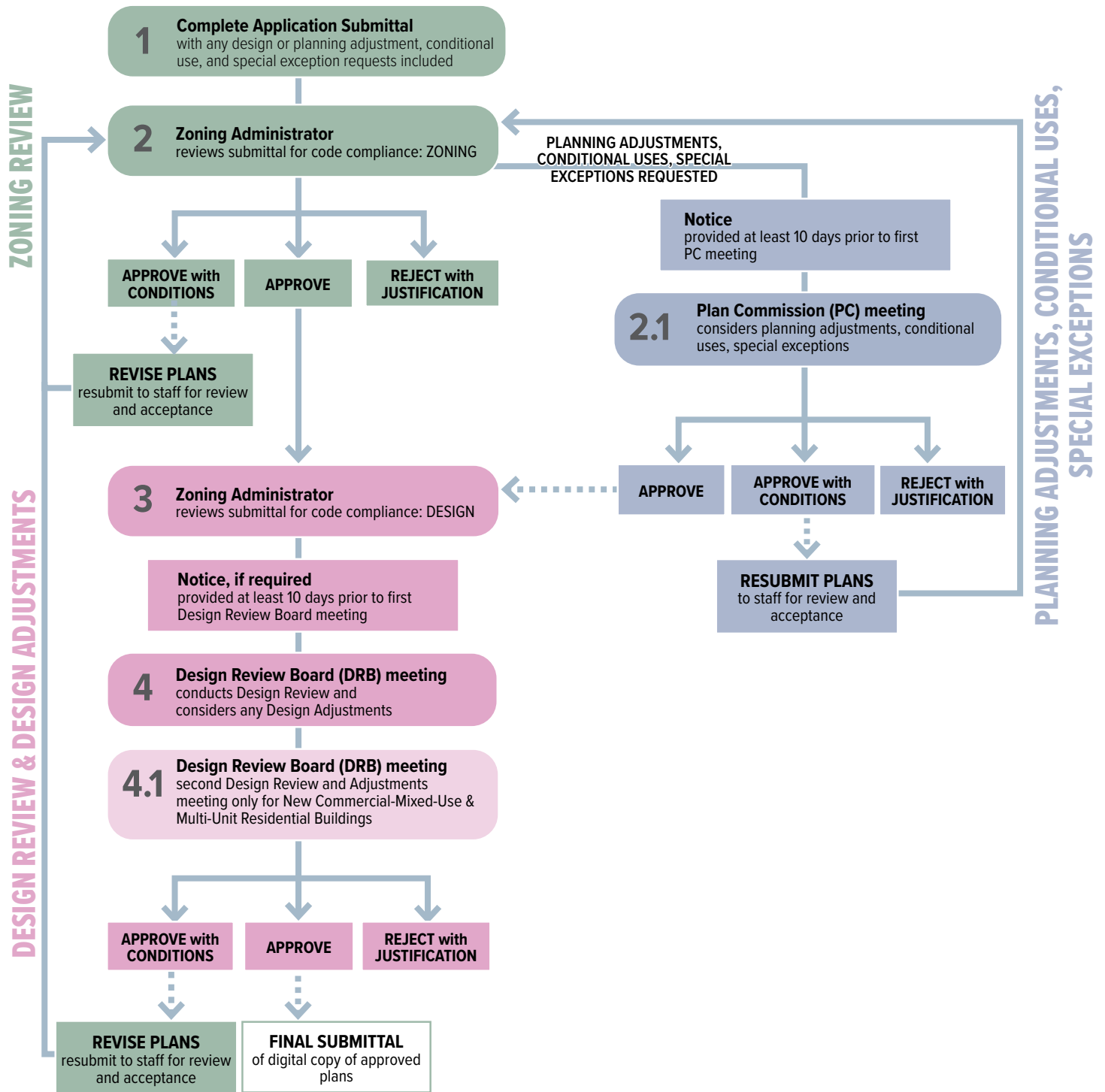
The following structures and site improvements are expressly exempt from the design review procedures of this section when located in R or P zoning districts:

**(a)** Concrete walks, patios, and slabs, when located within rear yards of residences.

**(b)** Parking slabs on alley frontages;

**(c)** Grade- or first floor-level decks within rear yards of residences; and

**(d)** Structural landscape features located within rear yard areas that are not visible from public rights-of-way.



**Figure 535-31-3. Project Review Processes**

535-31 Review Procedures  
**535-31F Design Review**

**535-31F(4) REVIEW AND DECISION-MAKING AUTHORITY**

The Design Review Board is authorized to review and take final action on all design review applications, unless otherwise specified.

**535-31F(5) DESIGN REVIEW PROCESS**

See [Figure 535-31-3](#) for an illustration of the review processes.

**(a) Zoning Administrator Review.** Following receipt of a complete project review application, the Zoning Administrator shall review the building design and/or site plan to determine whether the proposal complies with applicable design provisions of this zoning ordinance.

**(b) Meetings.** The Design Review Board shall conduct the following meetings:

**(1) New Commercial or Multi-Unit Residential Buildings.** At least 2 meetings are required on all design review applications that involve the construction of a new commercial or mixed-use building or a residential building occupied by more than 4 dwelling units.

**(2) Other.** All other design review applications may be acted upon after a single meeting.

**(c) Notice.** Notice of the Design Review Board’s consideration of any design review application involving the construction of a new building or construction of a building addition of 200 square feet or more shall be provided to all property owners within 250 feet of the subject property at least 10 days before the first Design Review Board meeting at which the design review application will be considered.

**(d) Board Process.** The Design Review Board shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination.

[1] The Design Review Board may make site inspections to better familiarize itself with the proposal.

**(e) Board Action.** After conducting the required meeting(s), the Design Review Board shall act to approve, approve with modifications or conditions, or reject the proposed building design and/or site plan. In taking action, the Design Review Board may recommend modifications or conditions that, in its judgment, will help the project comply with applicable regulations and ensure consistency with the purposes of subsection [535-31F\(1\)](#).

**(1) Approval.** In order for the Design Review Board to approve an application, it shall find and determine that the applicant's proposal complies with all applicable design regulations and is consistent with the purposes of subsection [535-31F\(1\)](#).

**(2) Modifications or Conditions.** If building design and/or site plans are approved subject to specific modifications or conditions, the applicant shall revise the building design and/or site plan in accordance with those modifications and conditions and submit the revised plan(s) to the Zoning Administrator. The Zoning Administrator is authorized to determine whether the plan(s) comply with modifications or conditions imposed by the Design Review Board.

**(3) Rejection.** If the Design Review Board acts to reject the proposed plans, the minutes of the Design Review Board's meeting shall include a statement of justification.

**(f) Written Findings.** The Board shall file its written findings and determination pursuant to a majority vote of all Board members present as soon as is practicable.

[1] The written findings and determination shall be signed by the Chair and filed with the Planning and Development Department.

[2] A copy of the written findings shall be provided to the applicant.

**(g) Approved Plan Submittal.** Once a building design and/or site plan is approved, the applicant shall submit a dated digital copy of the approved plan(s) to the Planning and Development Department.

[1] A copy of all approved building design and site plans shall be retained in the permanent files of the Village, and the approved plans shall then govern the issuance of building permits and other required approvals in accordance with this zoning ordinance.

**535-31F(6) REVIEW AND APPROVAL CRITERIA**

In making its findings and determination concerning each proposed project, the Design Review Board shall give substantial weight to the intent of the Village that the decisions of the Design Review Board perpetuate and further the character of Shorewood, fulfilling the purpose and intent statements for this procedure in [535-31F\(1\)](#) and the zoning regulations.

**535-31F(7) EFFECTIVE DATE OF DESIGN REVIEW APPROVAL**

A building design and/or site plan approved under the design review procedures of this section becomes effective upon approval.

**535-31F(8) LAPSE OF DESIGN REVIEW APPROVAL**

A building design and/or site plan approved under the design review procedures of this section shall lapse and have no further effect one year after it is approved, unless:

- (a) A building permit has been issued (if required);
- (b) The use or structure has been lawfully established; or
- (c) A different lapse of approval period or point of expiration has been expressly established by the Design Review Board at the time of design review approval.

**535-31F(9) MODIFICATION TO APPROVED DESIGN**

- (a) Minor modifications to approved design review applications may be reviewed and approved by the Zoning Administrator, provided the modifications do not substantially affect any aspect of the approved design, such as the building footprint and location, facade design, site layout, or parking layout and location, and the application continues to comply with applicable regulations and is consistent with the purposes of subsection [535-31F\(1\)](#).
- (b) The Zoning Administrator may request a review and approval of the Design Review Board for a minor modification.
- (c) Major modifications that substantially affect aspects of the design, such as the building footprint and location, facade design, site layout, or parking layout and location, must be reviewed and re-approved by the Design Review Board as a revised project review application.

**535-31F(10) PERMITS AND CONTINUING COMPLIANCE**

- (a) No permit may be issued for any development or construction subject to the design review procedures of this section until a project review application has been submitted and approved for such development in accordance with this section.
- (b) No permanent certificate of occupancy may be issued for such development or construction until all terms and conditions of the approved building design and/or site plan have been satisfactorily completed or provided for.
- (c) Construction, grading, or other development activities may be carried out only in compliance with the approved plan(s).

- (d) When a building design and/or site plan has been approved for a property pursuant to this section, the property shall be used and maintained in compliance with the approved plan(s).

**535-31F(11) APPEALS OF DESIGN REVIEW BOARD DECISIONS**

Any person aggrieved by a final decision of the Design Review Board may appeal the decision to the Board of Appeals in accordance with 535-56.

- (a) An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought.
- (b) The fee for appealing in each case shall be as provided by the Village Fee Schedule.

535-31 Review Procedures  
**535-31G Design Adjustments**

**535-31G DESIGN ADJUSTMENTS**

**535-31G(1) PURPOSE**

The design adjustment procedures of this subsection provide a mechanism by which certain expressly identified regulations in the zoning ordinance may be modified by the Design Review Board.

**535-31G(2) APPLICABILITY**

The Design Review Board is authorized to review and approve design adjustments expressly authorized in this zoning ordinance as a "design adjustment."

**535-31G(3) BURDEN OF PROOF OR PERSUASION**

The burden is on the applicant to demonstrate that the requested design adjustment meets the criteria for approval.

**535-31G(4) APPLICATION**

Requests for design adjustments shall be submitted on the project review application per [535-31D](#), accompanied by any required fees.

- (a) During the initial review of the project review application, the Zoning Administrator may identify elements not in compliance with the zoning ordinance and the project review application may be revised to request a design adjustment.
- (b) The application shall include a written statement describing why the design adjustment is necessary and an explanation of all efforts that will be taken to mitigate any adverse impacts resulting from approval of the design adjustment.
- (c) Any additional information required by the Zoning Administrator or Design Review Board must be supplied to enable competent review of the requested design adjustment.

**535-31G(5) APPROVAL CRITERIA**

The design adjustment provisions of this subsection are intended to authorize the granting of relief from strict compliance with certain design-related regulations in the following instances:

- (a) When specific building or site features or characteristics of the subject property, including the presence of existing buildings, create conditions that make strict compliance with applicable regulations impractical or undesirable; or
- (b) When an alternative design would result in equal or better implementation of the regulation's intended purpose, the purpose and intent of the design review

procedure, and consistency with the Comprehensive Plan.

**535-31G(6) REVIEW PROCESS**

Requested design adjustments must be submitted with the project review application (see [535-31D](#)) or upon the findings of the zoning review process (see [535-31E](#)).

- (a) **Zoning Administrator Review.** Following receipt of a complete project review application, the Zoning Administrator shall review the requires for a design adjustment.
- (b) **Meetings.** The design adjustment review must be considered concurrently with the design review process, conducting the number of Design Review Board meetings required per [535-31F\(5\)](#).
- (c) **Notice.** The design review notice required per [535-31F\(5\)](#) must also include notification of any design adjustments.
- (d) **Process.** The design review process ([535-31F](#)) shall include consideration of the design adjustment.
- (e) **Action.** After conducting the required meeting(s), the Design Review Board shall act to approve, approve with modifications or conditions, or reject the proposed design adjustment per the design review process in [535-31F\(5\)](#).
- (f) **Written Findings.** The Board shall include its findings and determination of the design adjustment in its written findings for the design review.

## **535-31H PLANNING ADJUSTMENTS**

### **535-31H(1) PURPOSE**

The planning adjustment procedures of this subsection provide a mechanism by which certain expressly identified regulations in the zoning ordinance may be modified by the Plan Commission.

### **535-31H(2) APPLICABILITY**

The Plan Commission is authorized to review and approve planning adjustments per the following:

- (a) Decrease any minimum and increase any maximum building siting or parking and accessory structure regulation in the commercial and mixed-use zones building types ([535-22](#)) by no more than 10% or one foot, whichever is greater.
- (b) Increase any floor-to-floor story heights in the height regulations that apply to the commercial and mixed-use zones building types ([535-22](#)) by no more than one foot;
- (c) Any other provision of this zoning ordinance that expressly authorizes a "planning adjustment."

### **535-31H(3) BURDEN OF PROOF OR PERSUASION**

The burden is on the applicant to demonstrate that the requested planning adjustment meets the criteria for approval.

### **535-31H(4) APPLICATIONS**

Requests for planning adjustments shall be submitted on the project review application per [535-31D](#), accompanied by any required fees.

- (a) During the initial review of the project review application, the Zoning Administrator may identify elements not in compliance with the zoning ordinance and the project review application may be revised to request a planning adjustment.
- (b) The application shall include a written statement describing why the planning adjustment is necessary and an explanation of all efforts that will be taken to mitigate any adverse impacts resulting from approval of the planning adjustment.
- (c) Any additional information as required by the Zoning Administrator or the Plan Commission must be supplied to enable competent review of the requested planning adjustment.

### **535-31H(5) APPROVAL CRITERIA**

The planning adjustment provisions of this subsection are intended to authorize the granting of relief from strict compliance with certain regulations as defined in [535-31H\(2\)](#),

based upon the following criteria:

- (a) When those specific building or site features or characteristics of the subject property, including the presence of existing buildings, create conditions that make strict compliance with applicable regulations impractical or undesirable; or
- (b) When relief defined would result in equal or better implementation of the regulation's intended purpose and consistency with the Comprehensive Plan.

### **535-31H(6) REVIEW PROCESS**

Requested planning adjustments must be submitted with the project review application (see [535-31D](#)) or upon the findings of the zoning review process (see [535-31E](#)).

- (a) **Design Review Process.** Notification and commencement of the Design Review Board's review of a project review application shall not occur until any requested planning adjustment has been reviewed by the Plan Commission.
- (b) **Zoning Administrator Review.** Following receipt of a complete project review application, the Zoning Administrator shall review the request for a planning adjustment.
- (c) **Meetings.** The Plan Commission shall conduct a meeting on all planning adjustment applications.
- (d) **Notice.** Notice of the Plan Commission's consideration of any planning adjustment application involving the construction of a new building or construction of a building addition of 200 square feet or more shall be provided to all property owners and tenants within 250 feet of the subject property at least 10 days before the Plan Commission meeting at which the planning adjustment application will be considered.
- (e) **Process.** The Plan Commission shall hear all interested parties and shall consider all data relevant to the application prior to making its findings and determination.
  - [1] The Plan Commission may make site inspections to better familiarize itself with the proposal.
- (f) **Action.** After conducting the required meeting, the Plan Commission shall act to approve, approve with modifications or conditions, or reject the requested planning adjustment. In taking action, the Plan Commission may recommend conditions or modifications that, in its judgment, will help the project comply with applicable regulations and avoid adverse land use impacts on the nearby properties.

535-31 Review Procedures  
**535-31H Planning Adjustments**

- (1) Approval.** If the planning adjustment is approved by the Plan Commission, the written findings must be forwarded to the Zoning Administrator for inclusion in the project review application for the project.
- (2) Modifications or Conditions.** If the planning adjustment is approved subject to specific modifications or conditions, the applicant shall revise the plan(s) in accordance with those modifications and conditions and submit the revised plan(s) to the Zoning Administrator. The Zoning Administrator is authorized to determine whether the plan(s) comply with modifications or conditions imposed by the Plan Commission.
- (3) Rejection.** If the Plan Commission rejects the planning adjustment, the minutes of the Plan Commission's meeting shall include a statement of justification.
- (g) Written Findings.** The Plan Commission shall file its written findings and determination pursuant to a majority vote of all Commission members present as soon as is practicable.
  - [1] The written findings and determination shall be signed by the Chair and filed with the Planning and Development Department.
  - [2] A copy of the written findings shall be provided to the applicant.

**535-31H(7) EFFECTIVE DATE OF PLANNING ADJUSTMENT APPROVAL**

A planning adjustment approved under the planning adjustment procedures of this section becomes effective upon approval of the project review application.

**535-31H(8) LAPSE OF PLANNING ADJUSTMENT APPROVAL**

A planning adjustment approved under the planning adjustment procedures of this section shall lapse and have no further effect one year after it is approved, unless:

- (a)** A building permit has been issued (if required);
- (b)** The use or structure has been lawfully established; or
- (c)** A different lapse of approval period or point of expiration has been expressly established by the Plan Commission at the time of planning adjustment approval.

**535-31H(9) APPEALS OF PLAN COMMISSION DECISIONS**

Any person aggrieved by a final planning adjustment decision of the Plan Commission may appeal the decision to

the Board of Appeals in accordance with 535-56.

- (a)** An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought.
- (b)** The fee for appealing in each case shall be as provided by the Village Fee Schedule.

## **535-31 CONDITIONAL USE PERMITS**

### **535-31(1) GENERAL**

- (a) Due to their varying design and operational characteristics, and potentially deleterious neighborhood impact, conditional uses, as identified within individual zoning districts in the Village Code, require a transparent, public review process on a case-by-case basis in order to determine whether or not they will be compatible with surrounding uses and development patterns.
- (b) The Plan Commission may authorize the Planning and Development Department to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this chapter and are found to be in compliance with the performance standards of Article VIII and do not adversely affect property values.

### **535-31(2) APPLICATIONS**

Applications for conditional use permits must be submitted to the Planning and Development Department on forms furnished by the department.

- (a) A list of required applicant information, site and building plans, elevations, building use information, and other information is available from the Planning and Development Department.
- (b) Applications shall illustrate compliance with all zoning and design regulations.
- (c) Additional information as may be required subsequently by the Plan Commission, Planning and Development Department, Health Department, Police Department or Fire Department.
- (d) Applications for approval to construct a wind energy system as defined in [535-26J](#) must conform to the requirements contained in § PSC 128.30(1) through (5), Wis. Adm. Code. (current through Administrative Register, December 2014, No. 708) and as hereinafter amended, which are hereby incorporated by reference and made a part hereof as if fully set forth herein. As a condition of approval, the application must contain all information, studies, agreements, permits, and reports referenced in § PSC 128.33, Wis. Adm. Code (current through Administrative Register, December 2014, No. 708) and as hereinafter amended, which is hereby incorporated by reference and made a part hereof as if fully set forth herein.

### **535-31(3) FEE**

- (a) The required review fee, as specified in the Village Fee Schedule must be included with the application submittal.

### **535-31(4) PURPOSE AND INTENT**

The following purpose and intent statements must be considered during the conditional use approval process:

- (a) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, general welfare, local environment, or wildlife habitat.
- (b) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair property values within the neighborhood.
- (c) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district or have a negative impact on the diversity of the type of businesses located in the district.
- (d) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
- (e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) The conditional use must, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Trustees pursuant to the recommendations of the Plan Commission.
- (g) The conditional use is in accordance with and subject to all other applicable laws and regulations.

### **535-31(5) PROCEDURES**

- (a) **General.** Upon the filing of a complete application for a conditional use permit, the Plan Commission must review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.
- (b) **Notice.** The Village Clerk must give notice of the required public hearing through publication of a Class II Notice, under Chapter 985 of the Wisconsin Statutes in the official Village newspaper. To the extent practical, the Planning and Development Department must also

## 535-31 Conditional Use Permits

provide notice to the owners of record of properties within 250 feet of the property for which the conditional use is being considered at least 10 days before the hearing. Compliance with this neighboring property owner notice shall not be a requirement for providing proper legal notice in order to take action, nor does failure to provide such notice invalidate any action taken.

**(c) Conditions.** Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter.

**(d) Compliance with Applicable Regulations.** Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access, performance standards and use-specific conditions, is required for all conditional uses. Variances may be granted only as provided in Article X.

**(e) Findings.** A conditional use permit may not be approved by the Plan Commission unless the Plan Commission finds that:

- [1] The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, general welfare, local environment, or wildlife habitat.
- [2] The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair property values within the neighborhood.
- [3] The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district or have a negative impact on the diversity of the type of businesses located in the district.
- [4] Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

[5] Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

[6] The conditional use must, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Board of Trustees pursuant to the recommendations of the Plan Commission.

[7] The conditional use is in accordance with and subject to all other applicable laws and regulations.

**(f) Decision.** The Plan Commission must render its written decision within 60 days of the close of the public hearing, including any reasons for granting or denying the conditional use permit, unless an extension of time for decision-making is agreed upon by the applicant.

**(g) Amendments and Modifications after Approval.** No alteration, extension or other modification of a conditional use is permitted, unless specifically approved by the Plan Commission. Any application for an alteration, extension or other modification will be filed and processed as an original application under this section.

**(h) Lapse of Approval**

[1] Any approved conditional use lapses and becomes null and void one year after the date of approval if the use has not commenced, or a valid building permit has not been obtained or construction is not underway. If a valid building permit has been obtained or construction is underway, the approval will expire if construction has not been completed within 18 months of the granting of the conditional use permit. The applicant may obtain an extension of these limitations through a request to the Plan Commission prior to expiration with a written explanation for the extension of time, and a timeline or schedule for completion.

[2] Any approved conditional use lapses and becomes null and void if the use has been abandoned or discontinued for a period of one year.

**(i) Changes in Tenure.** Any conditional use approved by the Plan Commission, operated in conformity with the original application and any conditions imposed within the approval, runs with the land and benefits all future owners and occupants of the affected premises, unless the use is abandoned or discontinued as herein provided.

**(j) Successive Applications.** The Plan Commission shall not consider an application for a similar conditional use under the same conditions or information that was denied by the Plan Commission within one year from the date of denial. Upon review of the application, the Planning and Development Director shall make the initial determination of whether or not an application is similar, or that no new information has been provided or conditions have not changed. After that initial determination, the Planning and Development Director will bring the application to the Plan Commission for confirmation, if desired by the applicant. If the Plan Commission modifies that determination and deems that the use is not similar, or that conditions have changed or new information has been provided, the Planning and Development Director will process the submission as an original application and schedule consideration for the next meeting of the Plan Commission.

**(k) Revocation and Termination.** The Plan Commission may revoke a conditional use permit and terminate a conditional use after a public hearing, if any of the following determinations are made:

- [1] The conditional use has not operated in conformity with the original application or any conditions imposed within the approval.
- [2] The conditional use has had a demonstrably negative impact on the surrounding area, local environment, or wildlife habitat.
- [3] The applicant or entity granted the conditional use violates, allows or suffers the violation of the ordinances of the Village of Shorewood, the State of Wisconsin or the United States on the premise covered by the conditional use.

## **535-31J PARKING SPECIAL EXCEPTIONS**

### **535-31J(1) PLAN COMMISSION**

The Plan Commission, upon application as required herein, may grant a special exception to the provisions and requirements of Article IX. Off-Street Parking.

### **535-31J(2) NOTICE & PUBLIC HEARING REQUIRED**

The Village Clerk shall give notice of the required public hearing through publication of a Class II notice, under Chapter 985 of the Wisconsin Statutes in the official Village newspaper. To the extent practical, the Planning and Development Department shall also provide notice to the owners of record of properties within 250 feet of the property for which the special exception is being considered at least 10 days prior to the hearing; however, compliance with this neighboring property owner notice shall not be a requirement for providing proper legal notice in order to take action, nor shall its noncompliance invalidate any action taken.

### **535-31J(3) CONSIDERATIONS**

Prior to granting a special exception, the Plan Commission shall consider all of the following as applicable:

- (a)** The effect the granting of the exception will have on adjacent parking and traffic conditions.
- (b)** The effect the granting of the exception will have on the appearance and character of the applicant's property, adjacent property and neighboring property.
- (c)** The effect the granting of the exception will have on the property values of the applicant's property, adjacent property and neighboring property.
- (d)** Whether the granting of the exception will serve a public or desirable or useful purpose.
- (e)** Whether the spirit and intent of the requirements of this article are being carried out.
- (f)** Recommendations of any boards or committees to which the Plan Commission refers the application for advice.
- (g)** Intensity of use, deviation from typical use classifications, access to transit, and physical constraints to meeting parking requirements.
- (h)** If senior housing is proposed, the number of employees on site, the type of senior housing, the parking needs of the residents, if any, and the ratios from the Institute of Transportation Engineers parking generation report ratios for senior housing should be reviewed.

## **535-31J Parking Special Exceptions**

- (i) Historical conditions and whether additional parking requirements for new or expanded use may be satisfied with incremental increase commensurate with new or expanded use.
- (j) Evidence that actual parking demands may be less than code requirements.
- (k) Availability of shared parking, including satisfactory documentation of shared parking to satisfy the parking demand.
- (l) Alternative transportation that has been reasonably shown to reduce the need for parking.
- (m) Such other matters as the Plan Commission deems relevant and material.

### **535-31J(4) APPLICATION**

Application for a special exception may be obtained from the Zoning Administrator upon the payment of a fee as provided by the Village Fee Schedule, which shall not be refundable.

### **535-31J(5) FINDINGS**

The Plan Commission shall either approve or disapprove the application for a special exception hereunder, in accordance with the provisions of this article, shall specify the requirement or requirements that will be expected from the application and shall find that the special exception is not inconsistent with the applicable provisions herein.

### **535-31J(6) APPEALS**

The Plan Commission's decision may be appealed to the Board of Appeals in accordance with the provisions of [535-56](#).

- (a) An application, including written notice of and basis for the appeal, shall be filed with the Village Clerk within 30 days of the date of the action from which the appeal is sought.
- (b) The fee for appealing in each case shall be as provided by the Village Fee Schedule
- (c) The Board of Appeals, after a hearing, may affirm, reverse or remand with recommendations any order, requirement, decision or determination of the Plan Commission made under this section.
- (d) The Board of Appeals shall decide all appeals under this subsection within 30 days after final hearing and shall transmit a signed copy of the Board's decision to the appellant and to the Planning and Development Department.

**§ 535-32 Reserved.**

Article VII  
**Legal Nonconformity**

**§ 535-33 Continuation of existing lawful use.**

The existing lawful use of a structure or premises at the time of the enactment of this chapter or any amendment applicable thereto, which use is not in conformity with the provisions established by this chapter, may be continued in the manner and for the purposes then existent subject to the conditions hereinafter stated.

**§ 535-34 Classification and regulation.**

For the purpose of administration, such nonconformity shall be classified and regulated as follows:

A. Nonconforming structure.

- (1) Expansion or Enlargement. No such structure shall be expanded or enlarged if such expansion or enlargement will add to or increase the degree of nonconformity, unless such structure is made to conform to the regulations of the district in which it is located.
- (2) Restoration of Significantly Damaged Structures. A nonconforming structure damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation be restored in accordance with the provisions of § 62.23(7)(hc), Wis. Stats.
- (3) Facades. In the commercial districts, if more than 50% of the area of a nonconforming façade is replaced, the entire façade must conform with the façade regulations of an allowed building type in the district per 535-22 and with the building design regulations in 535-23, except as defined in (2) of this subsection.
- (4) Roofs. In the commercial districts, if more than 50% of a nonconforming roof is replaced, the replaced roof must conform with a roof type of an allowed building type in the district per 535-22 and with the roof type design regulations in 535-23, except as defined in (2) of this subsection. Resurfacing and repairing of a roof does not count as a roof replacement.

B. Nonconforming use of structure.

- (1) No such use shall be expanded or enlarged except in conformity with the use regulations of the district in which the structure is located.
- (2) Upon petition to and approval of the Plan Commission, such use may be changed to another use, provided that the Plan Commission determines that the new use would result in greater or no less degree of conformity and provided further that such new use shall thereafter determine the degree of legal nonconformity.
- (3) When any such use is discontinued for a period of 12 consecutive months, any further use of the building shall conform to the regulations of the district in which it is located.
- (4) Where the building in which such use is carried on is damaged to the extent of more than 50% of its current assessed value as equalized, it shall not be restored for use except in conformity with the regulations of the district in which it is located.
- (5) Structural repairs and alterations to a building housing such use shall not, as long as such use continues, exceed 50% of the assessed value as equalized of the building at the time the use became nonconforming.

C. Nonconforming vacant lots.

- (1) No such vacant lot shall be conveyed to a new owner except in conformity with the provisions of § 535-9 of this chapter.

- (2) No building permit shall be issued except in conformity with the provisions of § 535-9 of this chapter.
- (3) The size and shape of such lot shall not be altered in any way so as to increase the degree of nonconformity unless approved by the Plan Commission.

D. Nonconforming use of land.

- (1) No such use shall be expanded or enlarged except in conformity with the use regulations of the district in which the land is located.
- (2) Upon petition to and approval of the Plan Commission, such use may be changed to another use, provided that the Plan Commission determines that the new use would result in greater or no less degree of conformity and provided further that such new use shall thereafter determine the degree of legal nonconformity.
- (3) Where any such use is discontinued for a period of 12 consecutive months, any future use of the land shall conform to the regulations of the district in which it is located.

E. Special exceptions.

- (1) Subject to the provisions of applicable state law, the Board of Appeals, upon application as required herein, may grant a special exception to the provisions of Subsection A hereof after considering:
  - (a) The effect the granting of the exception will have on the appearance and character of applicant's property, adjacent properties and neighboring properties.
  - (b) The effect the granting of the exception will have on the value of applicant's property, adjacent properties and neighboring properties.
  - (c) Whether the granting of the exception will serve the public interest in improving and preserving the value of the property.
  - (d) Such other matters as the Board of Appeals deems relevant and material.
- (2) Application for a special exception permit may be obtained from the Planning and Zoning Administrator upon the payment of a fee as provided by the Village Fee Schedule which shall not be refundable.
- (3) The matter shall be set for hearing before the Board of Appeals as soon after the application has been filed as is practicable. Within a reasonable time after said hearing, the Board of Appeals shall either approve or disapprove the application for special exception hereunder, in accordance with the provisions of this Subsection E.

**§ 535-35 Reserved.**

**§ 535-36 Removal of hazards.**

Where, upon complaint of the Zoning Administrator, Building Inspector or Chief of Police or Chief of Fire, any nonconforming structure or use is found by the Plan Commission as a matter of fact to be a hazard to the public health, safety or general welfare, such structure may be ordered removed or such use may be ordered discontinued within such time as the Plan Commission may deem reasonable. Upon failure to carry out such order, the Village may take such steps as are necessary to remove such structure or discontinue such use and assess the cost thereof against the property owner.

## Article VIII Performance Standards

### **§ 535-37 Purpose; compliance required.**

This chapter permits specific uses in specific districts, and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises (property line) or district. No structure, land, or water shall hereafter be used except in compliance with its district regulations and with the following performance standards.

### **§ 535-38 Air pollution.**

No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property in accordance with the applicable provisions of Ch. 285, Wis. Stats., and Chs. NR 400 to 499, Wis. Adm. Code.

### **§ 535-39 Fire and explosive hazards.**

All activities involving the utilization or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry, in accordance with the applicable provisions of Chapter 290, Fire Prevention, of the Shorewood Code, the American Insurance Association Fire Prevention Code, and the Wisconsin Administrative Code, in addition to the recommendations, rules and regulations of the National Fire Protection Association related thereto; in case of conflict between local, state and national code provisions, the stricter provisions shall govern.

### **§ 535-40 Liquid or solid wastes.**

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity, or temperature which can contaminate, pollute, or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing municipal utilities, or can injure or damage persons or property.

### **§ 535-41 Noise.**

All noise shall be so muffled or otherwise controlled as not to become objectionable due to sound level, intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

### **§ 535-42 Odors.**

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside its premises (property line) in accordance with the applicable provisions of Ch. 285, Wis. Stats., and Chs. NR 400 to 499, Wis. Adm. Code.

### **§ 535-43 Radioactivity and electrical disturbances.**

No activity shall emit radioactivity or electrical disturbances outside its premises (property line) that are dangerous or adversely affect the use of neighboring premises.

### **§ 535-44 Vibration.**

No activity in any district shall emit vibrations which are discernible without instruments outside its premises (property line).

## Article IX Off-Street Parking

### **§ 535-45 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

#### **AUTOMOBILE**

A motor vehicle, legally allowed for use on the public street, designed and used primarily for

carrying persons, for recreational or personal purposes, but which does not include a motor bus, motorcycle, moped or motor bicycle.

### **EMPLOYEES, NUMBER OF**

The greatest number of persons to be employed at any one period during the day or night on the premises.

### **FLOOR AREA**

Unless otherwise specified herein, shall mean the sum of the gross horizontal area of the several floors of the building or structure, excluding all areas that are devoted exclusively to storage or other accessory uses; all horizontal dimensions shall be measured from the inside of the exterior walls.

### **MOBILE HOME**

A vehicle designed to be driven or drawn upon a highway by a motor vehicle and designed, equipped and used or intended to be used primarily for sleeping, eating and living quarters, and shall include trailers, campers, motor homes and the like.

### **MULTIUNIT RESIDENTIAL BUILDING**

Housing facilities for more than two households, including apartment houses, cooperatives, condominiums, row houses, townhouses and similar dwellings.

### **NUISANCE**

The act of spreading or depositing stones, rocks, loose materials or dust from or upon said parking facilities, lots or spaces; or permitting, causing or making disturbing noises resulting from the use of said parking facilities, lots or spaces; or lighting of said parking facilities, lots or spaces or the use of vehicular lights which shall be so bright or glaring as to disturb the comfort, quiet and repose of persons in the vicinity; or permitting, causing or allowing said parking facilities, lots or spaces or surrounding areas or vehicles parked or stored thereon to become unsightly or in disrepair due to inadequate maintenance. Each such act is hereby declared to be detrimental to the public health, safety and welfare.

### **NURSING HOME**

Any place which is devoted primarily to the maintenance and operation of facilities for the care of the elderly, chronically ill, infirm individuals or incurable persons, or a place of rest for those persons suffering bodily disorders, in which three or more persons, not members of the household residing on the premises, are received and provided with food, shelter and care, but such facilities shall not include hospitals, clinics, diagnostic treatment centers, or other like uses.

### **PARKING FACILITY**

An area used for the parking of vehicles contained in a building or structure designed or adopted for the purpose of parking vehicles, or an area of land where the parking of vehicles is permitted under Village ordinances and subject to all of the provisions and conditions thereof.

### **PARKING LOT**

Any outdoor area or uncovered plot, place or parcel of land or any portion thereof where more than two vehicles may be parked, but shall not include approved driveways thereunder, and shall be permitted in accordance with the provisions of § 535-29 of this chapter.

### **PARKING SPACE**

An area used for the parking of an automobile.

### **PARKING STRUCTURE**

Parking spaces and adjacent access drives, aisles and ramps that are located in a structure with

two or more levels where the parking structure is not the principal use of the premises; this term may include parking spaces that are integrated into a larger structure that houses the principal use of the premises.

### **SUBSTANTIAL ENLARGEMENT**

An addition that adds 25% or more to the building's total floor area or 2,500 square feet, whichever is less.

### **VEHICLE**

Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, and shall include boats and mobile homes but not bicycles for which separate storage space shall be provided.

### **§ 535-46 Applicability and authority to require parking facilities.**

Unless otherwise specified, the provisions of this chapter related to required parking facilities, lots or spaces shall apply only to new buildings or structures, substantially enlarged buildings or structures or changes in use classification. However, all facilities, lots or spaces used for the parking of vehicles shall be used, maintained, and operated as required under this chapter.

#### **A. Building and occupancy permits.**

- (1) No building permit shall be issued for a new building or for a substantial enlargement to any existing building, unless there is included with the application and plans for such structure or enlargement a plan showing the required off-street parking spaces, in accordance with § 535-47 hereof.
- (2) No occupancy permit shall be issued involving a change of use classification, unless the required parking spaces shall have been provided on the approved plan or as hereinafter allowed.
- (3) The maximum number of parking spaces which may be included within a parking lot is 100 parking spaces. Where the total required parking under § 535-47 exceeds 100 spaces, no permit may be issued unless the plans for construction, alteration or enlargement include a parking structure as part of the plan. At a minimum, 50% of the total required parking spaces shall be in the structure. Where the parking structure borders or fronts the street, at least 50% of the street level area shall be occupied by one or more permitted uses or uses otherwise approved.

B. A permit shall be obtained by an owner or agent for the construction of any parking space, parking lot, parking facility, or appurtenance thereto, and for any driveway. A permit fee as provided by the Village Fee Schedule shall be payable upon the filing of an application for such permit.

### **§ 535-47 Schedule of requirements.**

#### **A. Dwelling and lodging uses.**

- (1) Apartment hotels, hotels, motels and private clubs: one parking space per room or suite of rooms comprising a lodging unit, plus such additional spaces as may be required herein for affiliated uses, such as restaurant and bar facilities, meeting rooms and retail sales areas.
- (2) Multi-unit residential buildings: 1.00 parking space per dwelling unit.
  - (a) A minimum of 50% of parking in areas defined as River Shorelands [see 535-24K(3)] shall be underground or in an enclosed parking facility.
  - (b) All required parking for multi-unit residential buildings, except guest parking, shall be

provided in an approved garage, except in areas defined as River Shorelands. See 535-24K(3).

(3) One- and two-unit residential buildings:

- (a) There shall be a minimum of one parking space per dwelling unit in an approved garage.
- (b) No vehicle except an automobile may be parked in the front setback or between adjacent residences when the parking area parallels an existing residence on the adjoining property. In addition, on corner lots, no vehicle except an automobile may be parked within the front setback of the property where located nor within the front setback of any adjacent property.

B. Educational, institutional and other assembly uses.

(1) Assembly and institutional uses, including religious institutions, libraries and funeral homes, and auditoriums, gymnasiums, stadiums, grandstands, meeting halls, exhibition halls and said categories as accessory uses.

- (a) One parking space for every 500 square feet of floor area or five seats at maximum capacity in the main area of assembly, whichever is most applicable, unless specifically listed.
- (b) When such facilities for public assembly are accessory to a school, church or other institution, and when approved by the Planning and Development Department, the required number of parking spaces may be reduced by the number of spaces provided as herein required for the applicable school, church or other institution.

(2) Hospitals and nursing homes: one parking space for each four beds, plus one parking space for each four employees.

(3) Schools.

- (a) Primary schools (junior high schools, elementary schools and nursery schools): one parking space for each faculty member or other employee.
- (b) Secondary schools (colleges, universities, junior colleges, high schools and other institutions for higher learning): one parking space for every seven students, based upon the maximum number of students that can be accommodated in accordance with designed capacity, and one space for each four faculty members or other employees.

C. Business district uses: one parking space per 500 square feet of floor area above 2,500 square feet for retail, service or office uses not specifically listed below.

- (1) Vehicle service stations: one parking space for each island of gasoline pumps, plus three parking spaces for each service stall.
- (2) Medical, dental, and veterinary clinics: Four parking spaces per doctor, dentist or veterinarian.
- (3) Other uses. Parking spaces for other uses that are not retail or office, or not listed herein shall be provided in accordance with the requirements of the use most similar to the use proposed, to be determined by the Planning and Zoning Administrator or their designee.

D. Adjustments to requirements. For any use except one- and two-unit residential buildings the number of parking spaces required for a particular use may be reduced in accordance with the

following credit:

- (1) One space for each newly created on-street parking space that is located immediately adjacent to the site of the use, provided that such on-street space is available for public use during the hours of operation of the use. To qualify for this credit, an on-street parking space shall be in compliance with all village parking regulations and shall measure at least 20 feet long if a parallel space.

**§ 535-48 Nuisances.**

- A. All parking facilities, lots or spaces shall be constructed and maintained so as not to cause, create or permit a nuisance as defined in this article.
- B. In the event that any parking facility, lot or space becomes a nuisance as defined herein, the Building Inspector shall notify the owners or persons in charge of the parking facility, lot or space, by certified mail, to maintain, repair or beautify the same. If such notice is not complied with in a reasonable time from the date thereof, the Building Inspector shall maintain, repair, remove or replace, as the case may require, either by contract or by Village forces, and shall certify the costs thereof as provided by law, to have them levied as special charges against such property, and the Village Clerk is hereby authorized and directed to enter such charges onto the tax roll.

**§ 535-49 General requirements for all parking areas.**

- A. All parking spaces shall be directly accessible to driveways, alleys or streets without passing through other parking spaces, unless controlled by the same household/dwelling unit. Driveways, truck loading spaces and other required work and open spaces shall not be considered as parking spaces.
- B. In the Commercial and Mixed-Use Districts (MX, CX, GX and RX) at least 25% and in all other districts at least 75% of all parking facilities or spaces required hereunder shall be located on the same premises as the building to which assigned and shall either be owned by the person, firm or corporation required to provide such parking facilities or spaces pursuant to this article or such person, firm or corporation shall have use of such parking facilities or spaces during normal business hours and for so long a period as the use exists for which the parking spaces or facilities are required. In the Commercial and Mixed-Use Districts (MX, CX, GX and RX) no more than 75% and in all other districts no more than 25% of the parking facilities or spaces required herein shall be located off of the premises of the building to which assigned and in no case more than 400 feet from said building. More than one person, firm, or corporation may share a parking facility or space required hereunder, but in no event shall the total number of spaces available be less than the total number required under this article for each person, firm, or corporation sharing such facility. Further, in those cases where the person, firm, or corporation required to provide parking facilities or spaces must lease or rent them in order to comply with the parking code provisions, no building or occupancy permit shall be issued until a copy of a written agreement to lease said required facilities or spaces is filed with the Village; said agreement shall be kept in full force and effect for so long as said use and occupancy shall continue.
- C. All parking facilities, lots and spaces, and driveways serving the same, shall be hard surfaced, having a good and sufficient subbase with a concrete or asphaltic concrete overlay or asphaltic penetrating coat thereon, free of dust, loose stones or gravel; said facilities, lots or spaces shall be adequately drained, subject to the approval of the Building Inspector.
  - (1) R-1 through R-6 Districts. All residential parking spaces and driveways shall have a good and sufficient subbase with overlay composed of concrete, asphalt, brick or stone pavers thereon; such spaces and driveways shall be adequately drained subject to the approval of the Building Inspector.

- D. There shall be sufficient space and sight distance provided at all times to permit safe and ready access to each parking space and to the public highway; the premises shall be provided with a minimum number of entrances and exits, the width of which shall be in accordance with accepted design standards; that which is included under this subsection shall be subject to the approval of the Building Inspector.
- E. In the Commercial and Mixed-Use Districts (MX, CX, GX and RX), where illumination from streetlights to adjacent parking facilities, lots or spaces is no less than one footcandle power, no additional illumination of the premises will be required. Where such illumination is not available, a minimum illumination of one footcandle power of such premises shall be provided, installed and maintained in a manner so as not to reflect or glare onto adjoining streets or premises. When night parking is permitted on such premises, the same shall at all times be adequately lighted as herein required.
- F. Parking facilities shall provide marked parking spaces no less than nine feet wide and 18 feet in length.
- G. Parking lots shall conform to the following additional requirements and regulations:
- (1) It shall be a violation of this article if any vehicle is not parked within the lines of a marked parking space or if parked in more than one marked space. Excepted from the parking space dimensions set forth herein shall be spaces located in the parking lots not governed by the use requirements of § 535-47 of this article. In such cases, market considerations shall control the size of parking spaces in parking lots as determined by the Planning and Development Department of the Village but subject to approval of the Village Board.
  - (2) The premises shall be screened from any public street upon which it abuts or from any adjoining residential property, except for openings for ingress and egress, as required per 535-24.
    - (a) Such screening as required hereunder shall be required upon construction or new occupancy and shall be subject to the approval of the Design Review Board.
- H. Other requirements.
- (1) Parking on a lot is prohibited, except on approved driveways or approved parking spaces.
  - (2) Parking of vehicles other than automobiles is prohibited, except in the rear yard of a lot.
  - (3) Outdoor parking spaces other than approved driveways shall not be constructed in the front yard or side yard of a lot; provided, however, that on corner lots outdoor parking spaces may be constructed in a the street side yard of a lot.
  - (4) Parking spaces for up to two motor vehicles may be permitted in the R-1 through R-6 Residential Districts, subject to required open space requirements. Outside parking spaces in the R-1 through R-6 Residential Districts shall only be permitted if they are in addition to the required parking in an approved garage.
  - (5) Parking spaces within the street side yard of a corner lot shall be screened as provided in Subsection G(2) of this section.
  - (6) Parking in the public way is prohibited, except upon the public highway where permitted.
- I. It shall be unlawful for any person to park any vehicle at any time on any land of which he is not the owner, without the owner's permission.

- J. The parking of mobile homes or any other vehicles in the Village of Shorewood while the same are being used or occupied as living quarters by any person or persons is expressly prohibited.
- K. The parking of mobile homes or other vehicles unless legally licensed under Wisconsin Statutes on any land in the Village of Shorewood shall be prohibited except on licensed used car lots, as provided for in Chapter **506**, Article **I** of this Code.
- L. The parking facilities, lots or spaces required pursuant to this article shall be provided and maintained so long as the use exists for which the same is designed.
- M. Such use for which parking facilities, lots or spaces are provided shall not be changed to any use requiring more parking space unless additional parking space is provided as required herein.
- N. The control of abandoned and inoperable motor vehicles shall be subject to the provisions of Article **IX** of Chapter **500** of the Village Code.

**§ 535-50 Reserved.**

**§ 535-51 Reserved.**

## Article X Board of Appeals

**§ 535-52 Establishment and purpose.**

There is hereby established a Board of Appeals for the Village of Shorewood for the purpose of hearing appeals by any person feeling aggrieved by any administrative order, decision or determination and, further, for the purpose of hearing applications and granting variances and exceptions to the provisions of this chapter in harmony with the purpose and intent of this chapter.

**§ 535-53 Membership; terms of office.**

- A. The Board of Appeals shall consist of five members appointed by the Village President and confirmed by the Village Board.
- B. Terms shall be for staggered three-year periods commencing annually on the first day of June.
- C. The Chair shall be designated by the Village President.
- D. Alternative members, two in number, shall be appointed by the Village President and confirmed by the Village Board for a term of three years who shall act only when a regular member is absent or refuses to vote because of a personal interest in the matter.
- E. The Secretary of the Board shall be the Village Clerk.
- F. A member of the Planning and Development Department shall attend all meetings for the purpose of providing technical assistance when requested by the Board.
- G. Official oaths shall be taken by all members in accordance with § 19.01, Wis. Stats., within five days of receiving notice of their appointment.
- H. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term. Members shall continue to serve until their successors are appointed.
- I. Members of the Board shall be residents of the Village.

**§ 535-54 Organization.**

The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this chapter.

- A. Meetings shall be held at the call of the Chair and shall be open to the public, except as provided by law.
- B. Minutes of the proceedings and a record of all actions shall be kept by the Secretary showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Secretary and shall be a public record.
- C. If a quorum is present, the Board of Appeals may take action by a majority vote of the members present.

**§ 535-55 Powers.**

- A. The Board of Appeals shall have the following powers:
  - (1) Errors and interpretations. To hear and decide appeals where it is alleged that there is an error in any administrative order, decision, determination or interpretation of zoning districts or other code regulations.
  - (2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
  - (3) Special exceptions. To hear and decide special exceptions to the terms of this chapter upon which said Board is required to pass under this chapter.
- B. Permits. The Board may reverse, affirm wholly or partly, or modify the requirements appealed from and may issue or direct the issuance of a permit.
- C. Assistance. The Board may request assistance from other Village officers, departments, commissions and boards.
- D. Oath. The Chair may administer oaths and compel the attendance of witnesses.

**§ 535-56 Appeals.**

- A. Appeals from an administrative decision concerning the literal enforcement of this chapter or of any other Village Code provisions may be made by any person aggrieved or by any officer, department, board, commission or bureau of the Village.
- B. Such appeals shall be filed with the Secretary within 30 days after the date of written notice of the administrative decision or order. Such appeals shall include the following:
  - (1) Name and address of the appellant.
  - (2) Additional information required by the Village Plan Commission, Planning and Development Department, Board of Appeals or other Village employees having an interest in the matter.
  - (3) Fee receipt from the Village Treasurer in an amount as set forth in the Village Fee Schedule.

**§ 535-57 Hearings.**

The Board of Appeals shall fix a reasonable time and place for the hearing, give public notice thereof as required by law, and shall give due notice to all abutting property owners within 250 feet of the subject property at least 10 days before the hearing and the Planning and Development Department. At the hearing the appellants may appear in person, by agent, or by attorney.

**§ 535-58 Findings.**

No variance to the provisions of this chapter shall be granted by the Board unless it finds that all of the following facts and conditions exist and so indicates in the minutes of its proceedings:

- A. Exceptional circumstances. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot, parcel or structure that do not apply generally to other properties in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
- B. Absence of detriment. The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and the spirit of this chapter or the public interest.

**§ 535-59 Decision.**

The Board of Appeals shall decide all appeals and applications within 30 days after final hearing and shall transmit a signed copy of the Board's decision to the appellant and the Planning and Development Department.

- A. Conditions may be placed upon any permit ordered or authorized by this Board.
- B. Variances granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.

**§ 535-60 Review by court of record.**

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a verified petition setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Secretary.

**Article XI  
Changes and Amendments**

**§ 535-61 Authority.**

- A. Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village Board of Trustees may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto.
- B. Such change or amendment shall be referred to the Village Plan Commission for review and recommendation.

**§ 535-62 Initiation.**

A change or amendment may be initiated by the Village Board or Village Plan Commission or by a petition of one or more of the owners of property within the area proposed to be changed.

**§ 535-63 Petitions.**

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

- A. Plot plan drawn to a scale showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
- B. Additional information required by the Village Plan Commission or Village Board.
- C. Fee receipt from the Village Treasurer in an amount as set forth in the Village Fee Schedule.

**§ 535-64 Recommendations.**

The Village Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the Village Board.

**§ 535-65 Public hearing.**

The Village Board shall hold a public hearing upon each recommendation, giving public notice as required by law, including notice to all property owners within 250 feet of the subject property at least 10 days prior to the hearing if sought by petition, listing the time and place and the changes or amendments proposed. The Village Board shall also give at least 10 days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

**§ 535-66 Village Board action.**

Following such hearing and after careful consideration of the Village Plan Commission's recommendations, the Village Board shall vote on the passage of the proposed change or amendment, in accordance with the requirements of law.

**§ 535-67 Protest.**

In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed change or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by a favorable vote of the Village Board in accordance with the requirements of law.