

CHAPTER 2

General Provisions

SEC. 8-2-1 JURISDICTION AND GENERAL PROVISIONS.

- (a) **Jurisdiction.** The jurisdiction of this Chapter shall apply to all structures, lands, water and air within the corporate limits of the Village of Hales Corners.
- (b) **Compliance.** No new structure, new use of land, water or air or change in the use of land, water or air shall hereafter be permitted and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a permit and without full compliance with the provisions of this Chapter and all other applicable local, county and state regulations.
- (c) **District Regulations to be Complied With.** Except as otherwise provided, the use and height of buildings hereafter erected, converted, moved, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such building or land is located.
- (d) **One Main Building per Lot.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one (1) main building on one (1) lot, except as may be approved by the Plan Commission.

SEC. 8-2-2 USE REGULATIONS.

Only the following uses and their essential services may be allowed in any district:

- (a) **Permitted Uses.** Permitted uses, being the principal uses, specified for a district.
 - (1) B-1, B-2, B-3, B-4, M-1, and P-1 uses are permitted only after a site plan/building plans are approved by the Plan commission, to certify that such a site, building and use complies with the provisions of this zoning code. This shall apply to all building construction and all improvements and/or expansions and/or all changes of use or expansion of parking areas. Excepted from this requirement are minor repairs, interior revisions, exterior changes that do not require aesthetic or square footage revisions and normal maintenance. In considering the application, the Plan Commission shall take into account the basic intent of this zoning code to ensure aesthetically pleasing, efficient and appropriate development of land in the community and ensure that every reasonable step has been taken to avoid depreciating effects on surrounding property values.
- (b) **Accessory Uses.** Accessory uses and structures as specified are permitted in any district but not until their principal structure is present or under construction.
- (c) **Conditional Uses.** Provisions applicable to conditional uses.
 - (1) Conditional uses and their accessory uses are considered as special uses requiring, for their authorization, review, public hearing and approval by the Plan Commission in accordance with Chapter 5 of this Code excepting those existing at time of adoption of the Zoning Code.
 - (2) Conditional use(s), when replaced by permitted use(s), shall terminate. In such

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case(s), the reestablishment of any previous conditional use(s), or establishment of new conditional use(s) shall require review, public hearing and approval by the Plan Commission in accordance with Chapter 5 of this Code.

- (3) Conditional uses authorized by Plan Commission resolution shall be established for a period of time to a time certain or until a future happening or event at which the same shall terminate.
 - (4) Conditional uses authorized by the Plan Commission shall not be subject to substitution with other conditional uses, either regular or limited, whether similar type or not, without Plan Commission approval and the procedures required in Chapter 5 of this Code.
- (d) **Uses Not Specified in Code.**
- (1) Uses not specified in this Chapter which are found by the Plan Commission to be sufficiently similar to specified permitted uses for a district shall be allowed by the Zoning Administrator.
 - (2) Uses not specified in this Chapter and which are found sufficiently similar to specified conditional uses permitted for a district may be permitted by the Plan Commission after public hearing and approval in accordance with Chapter 5 of this Code.

SEC. 8-2-3 SITE REGULATIONS.

- (a) **Street Frontage.** To be buildable, a lot shall comply with the frontage requirements of the zoning district in which it is located.
- (b) **Principal Structures.** All principal structures shall be located on a lot. Only one (1) principal structure shall be located, erected or moved onto a lot. The Plan Commission may permit more than one (1) principal structure per lot in any district where more than one (1) such structure is needed for the orderly development of the parcel or when a condominium is planned. Where additional structures are permitted, the Plan Commission may impose additional yard requirements, landscaping requirements or parking requirements, or require a minimum separation distance between principal structures.
- (c) **Dedicated Street.** Building permits shall only be issued for a lot which abuts a public street dedicated to its proposed width.
- (d) **Site Suitability.** No land shall be used or structure erected where the land is held unsuitable for such use or structure by the Plan Commission 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. The Plan Commission, in applying the provisions of the Section, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.
- (e) **Preservation of Topography.** In order to protect the property owner from possible damage

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due to change in the existing grade of adjoining lands and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than one and one-half (1-1/2) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the written consent of the owner of the abutting property and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion. Retaining walls may be permitted on a site-specific basis as allowed by the Director of Public Works.

- (f) **Decks.** For purposes of this Chapter, decks and porches, when covered by a roof and/or elevated 24" or more from grade, shall be considered a part of a building or structure.
- (g) **Service Station and Public Parking Lot Locations.** No service station, mechanical garage or public parking lot shall be erected, operated or maintained where an entrance or exit for motor cars is located on the same side of the street within two hundred (200) feet of a pedestrian entrance or exit from a public or private school, park, parkway, playground, public library, church, hospital, home for children or the aged or other public or semi-public institution.
- (h) **Transmission Lines; Railroads.** No high-tension steel tower transmission lines, railroads or railways shall be constructed on rights-of-way acquired after December 10, 1956, unless authorization therefor is obtained from the Plan Commission.
- (i) **Corner Lots.** Specific setbacks for corner lots shall conform to the requirements of each particular use district wherever possible. Where specific setbacks as therein defined are impossible, no building shall be erected, altered or moved so as to be nearer the street line on the long side of the lot than one-fifth (1/5) of the width of the lot or so as to be nearer the street line on the short side of the lot than the front setback requirement for such street in the particular use district.
- (j) **Vehicular Circulation Between Adjacent Properties.** The provision for circulation between adjacent nonresidential uses, lots, and parcels shall be provided through coordinated land access drives and access easements and/or jointly used off-street parking lots as may be required by the Plan Commission in the B-1, B-2, B-3, and B-4 Districts.
- (k) **Prohibition of Long-Term Truck Parking Unless Screened from View.** In all zoning districts:
 - (1) No truck, trailer, or commercial vehicle of any kind shall be permitted to be parked on the property for a period of more than twenty-four (24) hours unless said vehicle is temporarily present for the purpose of loading or unloading. No truck, trailer, or commercial vehicle shall be parked overnight, except within screened enclosures.
 - (2) Trucks, trailers, or commercial vehicles of any kind shall be permitted to be parked on the property for a period of more than 24 hours if said trucks, trailers, or commercial vehicles are located within areas screened from view of any public street right-of-way, public park or public open space area, and from the view from all residential zoning districts. The screening of all such areas shall consist of the following:

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- a. Solid walls or solid fences of at least the height of the trucks, trailers, or

commercial vehicles proposed to be screened as approved by the Plan Commission. In addition, all such areas shall provide a contiguous landscape bufferyard with a minimum width of fifteen (15) feet. The following minimum number, types, and sizes of plant materials shall be provided per one-hundred (100) linear feet of landscape bufferyard length and fraction thereof. Fractional plants resulting from this computation of required plant materials shall be rounded to the next whole number. Preserved existing plants shall be credited towards these requirements on a one-for-one basis based upon plant type.

Type of Plants Required	Minimum Quantity Required Per 100 Feet of Bufferyard Length	Minimum Size Required at Time of Installation
Canopy/Shade Trees	2	3 inch caliper
Understory Trees	3	2 inch caliper
Evergreen Trees	3	6 feet tall
Shrubs	14	2 feet tall

- b. Walls, fencing, and landscaping for screening shall be maintained in good condition and kept litter-free.
- c. Required landscape plant material types for the above required landscape bufferyard may be substituted for other types based upon the following:

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Required Plant Material Type	Acceptable Substitutions
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1 Canopy Tree: Single Stem or Multi-stem Clump:	2 Understory Trees 2 inch caliper each or 2 Coniferous Trees 6 feet in height each or 1 Understory Tree 2 inch caliper each Plus 1 Coniferous Tree 6 feet in height each
1 Coniferous Tree	1 Understory Tree 1.5 inch caliper each
1 Understory Tree	1 Coniferous Tree 6 feet in height each
1 Shrub	1 Understory Tree 1.5 inch caliper each or 1 Coniferous Tree 4 feet in height each

(1) **Outdoor Trash Dumpster and Garbage Receptacles (Trash and Garbage Storage).** The following requirements shall be met for all outdoor trash dumpsters and garbage receptacles located in the R-4, B-1, B-2, B-3, B-4, M-1, and P-1 Districts:

- (1) Trash Dumpster and Garbage Receptacle Enclosures Required. All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids and shall be concealed or suitably screened from public view. Where such facilities are provided outside a building, they shall be screened by an enclosure consisting of sight-proof fencing (wood or masonry) and/or coniferous landscaping materials of an adequate height (at the time of installation) to totally screen the trash storage areas from view from public rights-of-way and adjacent property.
- (2) Trash Dumpster and Garbage Receptacle Maintenance Required. Fencing and landscaping for such areas shall be maintained in good condition and kept litter-free. All garbage cans, trash containers, and other garbage storage devices shall be emptied and the contents thereof properly disposed of not less than once every seven days.
- (3) Unenclosed Storage of Trash or Waste Prohibited. No portion of the lot shall be used for open or unenclosed storage of trash or waste of any kind.
- (4) Trash Dumpster and Garbage Receptacle Location in Off-street Parking Space or Drive Prohibited. No trash dumpster or other trash or waste receptacle shall be permitted in any off-street parking space or drive.

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- (5) Paved Slab Required. All trash dumpsters and garbage receptacles shall be placed

upon a paved slab.

- (6) Adequate Size to Accommodate Recycling Materials. All trash dumpster and garbage receptacle areas shall be of an adequate size to accommodate the storage of materials to be recycled.
 - (7) Building Permit Required for the Construction of Garbage, Trash, Waste, and Dumpster Enclosures. A Building Permit shall be required for the construction of any garbage, trash, waste, or dumpster enclosure.
 - (8) Materials of Enclosures. All outdoor trash dumpsters and garbage receptacle enclosures shall be constructed of masonry materials of a type and color which match the building to which they are accessory to.
 - (9) Maximum Height of Enclosure. All outdoor trash dumpsters and garbage receptacle enclosures shall be of a height necessary to completely visually screen the outdoor trash dumpsters and garbage receptacles which they enclose. In no case, however, shall such enclosures be higher than eight (8) feet nor less than six (6) feet in height.
- (m) **Exterior Lighting Standards.** The following requirements shall be met for all exterior lighting located in the B-1, B-2, B-3, B-4, M-1, and P-1 Districts:
- (1) Exterior Lighting Limited to Total Cutoff-type Luminaires (With Angle Greater than 90°). The maximum permitted illumination shall be two (2) footcandles as measured at the property line and may be as high as five (5) footcandles at illuminated entryways from public street rights-of-way to the off-street parking lot as measured at the right-of-way line.
 - (2) Maximum Permitted Luminaire Height. The maximum permitted luminaire height shall be twenty-eight (28) feet as measured from surrounding grade to the bottom of the luminaire except that said height shall be reduced to a maximum height of fifteen (15) feet when said luminaire is placed within fifty (50) feet of a residential zoning district. *[Note: This standard does not address illumination levels or fixture height which may be required by the Village of Hales Corners for the adequate lighting of public street rights-of-way. It represents maximum illumination levels on private property.]*
 - (3) Light Measurement. For the purposes of this Ordinance, light shall be measured as follows:
 - a. Metering Equipment. Lighting levels shall be measured in footcandles with a direct-reading, portable light meter. The meter shall be read within an accuracy of plus or minus five (5) percent. The meter shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within thirty (30) days of its use.
 - b. Method of Measurement. The meter sensor shall be mounted not more than six inches above ground level in a horizontal position at the interior line of the bufferyard or at the property line, as required herein. Readings shall be taken only after the cell has been exposed long enough to provide a constant reading. In order to eliminate the effects of moonlight and other ambient light, measurements shall be made after dark with the light source in question
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on, then with the same source off. The differences between the two (2) readings shall be compared to the maximum permitted illumination allowed

under this Ordinance.

- (n) **Building Design Requirements.** The following standards and requirements for architectural review are used by the Plan Commission in its review of the architecture for proposed new buildings and building expansions located in the B-1, B-2, B-3, and B-4 Districts. These standards are also intended to be a design aid for builders and owners to use in the preparation of architectural plans. A Building Permit shall not be issued for any building which does not meet the requirements of this Section. To implement this Ordinance, the following architectural review standards and requirements are hereby established and shall be met:

(1) Exterior Building Materials and Material Compatibility.

- a. No less than seventy (70) percent of any building facade elevation (excluding window areas) shall be clad with full-size masonry units or natural stone.
- b. All sides of the exterior of buildings shall be of compatible materials with equal design consideration and consistent architectural detailing of the building facades. No building shall be permitted where any exposed building facade is constructed or faced with a finished material which is aesthetically incompatible with other building facades in the area or which presents an unattractive appearance to the public and surrounding properties.
- c. Building elevations clad with a singular exterior surface material shall provide some additional architectural design element(s) to break up the plane of the wall. This may be done by the addition of window(s), gable end wall treatments, siding design and accent panels, or other architectural design treatments consistent with the principal building design.

(2) Prohibited Exterior Building Materials. The use of the following building materials shall be prohibited on the exterior facades of buildings:

- a. Plain concrete.
- b. Plain concrete block.
- c. Metal siding.
- d. Corrugated metal building skins.
- e. Plywood and wood panel composite siding.
- f. Vinyl and fiber cement siding.
- g. Reflective glass which may pose a safety hazard or nuisance due to glare.
- h. More than thirty (30) percent of any building facade (excluding window areas) clad with exterior insulation and finish system (E.I.F.S.) materials.

(3) Building Colors.

- a. Since the selection of building colors has a significant aesthetic and visual impact upon the public and neighboring properties, color shall be selected in general harmony with the other colors used on the building as well as the existing area or neighborhood buildings.
- b. Building colors shall be non-reflective, neutral, or earth tones. The use of high intensity colors, metallic colors, or fluorescent colors on building facade

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elevations shall be prohibited. Building trim and architectural accent features may be brighter colors, but such colors shall not be metallic or fluorescent, and shall not be specific to particular uses or tenants. Standard corporate and

trademark colors shall be permitted only on sign face and sign copy areas only.

- (4) Related Building Elements. Down spouts, roof ladders, and related elements shall be designed to be compatible with building architecture and shall function to avoid staining the building facades. These various elements shall be painted in order to blend with the building's architecture and complement the color scheme of the building's trim and detail.
- (5) Rear Service Doors. Rear service doors may be solid doors but shall be compatible in door style with the main entrance doors of the building. In addition, such rear service doors shall also complement the architecture of the building and contribute to its overall visual appearance.
- (6) Meters and Valves. All utility meters, gas valves, etc. are to be painted in a color which blends with the architecture and color of the building.
- (7) Building Rooftop Equipment. All rooftop equipment, antennas, and similar protrusions shall not be visible to a person standing on the ground in an area the public frequents. Parapet walls, individual screens, or building elements shall be used to completely screen these elements from view. Individual screens shall relate to the building's style of architecture and (when located on the ground) be landscaped appropriately as determined by the Plan Commission. Solar collectors shall only be permitted at locations on structures as are approved by the Plan Commission. Additional screening of building rooftop equipment may be required by the Plan Commission due to the proximity of multi-story buildings.
- (8) Mechanical Penthouses or Accessory Buildings. Where mechanical penthouses are installed, they shall be designed to blend into the building's architecture and shall not cause the building's total height to exceed the maximum height allowed. A penthouse shall not be counted as a story, provided that:
 - a. The penthouse is less than ten (10) feet in height; and,
 - b. The penthouse floor area covers less than twenty-five (25) percent of the roof area.
 - c. In the event that a ground-located mechanical accessory building is used, it shall be fully screened from view by a combination of earthen berms and evergreen trees or shrubs.
- (9) Waiver of Standards. The Plan Commission may waive any of the above building design standards by a three-quarters (3/4) vote of Plan Commission members in attendance, but only if supplemental design elements or improvements are incorporated into the project which compensate for the waiver of the particular standard.

Reference: Ordinance 05-18

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SEC. 8-2-4 HEIGHT AND AREA EXCEPTIONS.

- (a) **Height.** The district height limitation stipulated elsewhere in this Chapter may be exceeded, but such modifications shall be in accord with the following:

- (1) Architectural projections, such as spires, belfries, parapet walls, cupolas, domes and flues are exempt from the height limitations of this Chapter.
 - (2) Special structures, such as elevator penthouses, gas tanks, grain elevators, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, smoke stacks and flag poles are exempt from the height limitations of this Chapter.
 - (3) Essential services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Chapter.
 - (4) Communication structures, such as radio and television transmission and relay towers, aerials and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line. No structure or tower shall be erected closer than thirty (30) feet from any property line.
 - (5) Public or semi-public facilities, such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.
- (b) **Yards.** The yard requirements stipulated elsewhere in this Chapter may be modified as follows:
- (1) Uncovered stairs, landings and fire escapes may project into any yard but not to exceed six (6) feet and not closer than three (3) feet to any lot line.
 - (2) Architectural projections, such as flues, sills, eaves, belt courses and ornaments, may project into any required yard, provided, however, that none of the aforesaid projections shall project into the minimum side yard more than one-third of the width of such side yard and in no case more than thirty six (36) inches.
 - (3) Essential services, utility electric power and communication transmission lines are exempt from the yard and distance requirements of this Chapter.
 - (4) Landscaping and vegetation are exempt from the yard requirements of this Chapter, with the exception that any landscaping or vegetation shall be subject to the restrictions in Section 8-8-1.
 - (5) Required street yards may be decreased to the average of the existing street yards of the abutting structures on each side but in no case less than fifteen (15) feet.
- (c) **Uses.** The following uses shall be permitted in any district provided that such uses do not alter the character of the premises in respect to their use for the purpose permitted in such respective district.
- (1) Real estate offices of a temporary character not to exceed two (2) years when located on premises being offered for sale.
 - (2) Temporary buildings and uses for construction purposes for a period not to exceed one (1) year.

Reference: Ordinance 97-11

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- (d) **Lots of Record.** Any such lot shown upon a recorded subdivision or any lot for which a deed is of record in the office of the Register of Deeds of Milwaukee County as of December 10, 1956, may be used as a building site, subject to the required setbacks and other regulations for the District in which the lot is located.

Reference: Ordinance 06-07

SEC. 8-2-5 REDUCTION OR JOINT USE.

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

SEC. 8-2-6 SCREENS AND BUFFERS.

- (a) **Required Screens and Buffers.** Where screens or buffers are required by this Chapter or are required as a condition by the Plan Commission to reduce the impact of proposed uses on adjacent properties, the following standards shall be followed. Buffer yards and screens may be required jointly or separately.
- (b) **Buffer Yards.** Buffer yards are horizontal separations along lot lines that are intended to increase the physical separation between incompatible uses. The width of a required buffer yard shall be determined by the Plan Commission. The minimum width shall be ten (10) feet.
- (c) **Screens.** Screens are barriers located in a limited space [ten (10) feet or less] intended to perform a buffering effect, particularly for noise reduction or visual screening. Screens may consist of existing or planted vegetation, fences, walls, earth berms or similar techniques. Plant screens shall be sufficient to provide a year-round screen within three (3) years of installation. Walls or earth berms shall be required where noise reduction is necessary. Screen plantings shall be permanently maintained by the owner of the property, and any plant materials which do not live shall be replaced within six (6) months.

SEC. 8-2-7 AUTOMOBILE SERVICE STATIONS REQUIREMENTS.

- (a) No gasoline in excess of fifty (50) gallons shall be stored in tanks or containers above ground, unless specifically permitted by the Plan Commission.
- (b) The building height shall not exceed twenty-five (25) feet.
- (c) No gasoline pumps shall be located closer than twenty (20) feet (measured from the centerline of said pumps) to the nearest lot line or an established street or highway where the width of such street or highway has been established pursuant to Section 80.64, Wis. Stats. On a corner lot when a gasoline pump or series of pumps is placed in a pump island parallel to the lot line or at an angle to the lot line, the end pump nearest to the street shall be located no closer than thirty (30) feet (measured along the axis of said pump island) to the street line of said street.
- (d) There shall be no storage or display of items which would detract from the aesthetic appearance, such as, but not limited to, used tires, storage drums, replaced mufflers, used car parts, etc.
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- (e) No automotive or vehicle repairs shall be permitted unless they are conducted within the building.
- (f) Advertising displays shall only be related to the business conducted on the premises.
- (g) The premises shall not be used in the used car business.

- (h) Wrecked vehicles shall not remain on the premises for a period in excess of twenty-four (24) hours.
- (i) All illuminations shall be so shielded or directed that it will not unduly interfere with neighboring residential property used for residential purposes.
- (j) No such station shall be erected, operated or maintained where an entrance or exit for motor cars is located on the same side of the street within two hundred (200) feet to a pedestrian entrance or exit from a public or private school, park, parkway, playground, public library, church, hospital, home for children or the aged or other public or semi-public institutions.

SEC. 8-2-8 HISTORICAL PRESERVATION.

(a) **Purpose and Intent.** It is hereby declared a matter of public policy that the protection, enhancement, perpetuation, and use of improvements or sites of special character or special architectural, archeological, or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety, and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement, and preservation of such improvements, sites, and districts which represent or reflect elements of the cultural, social, economic, political, and architectural history of the Village.
- (2) Safeguard the Village’s historic, prehistoric, and cultural heritage, as embodied or reflected in such historic structures, sites, and districts.
- (3) Stabilize and improve property values and enhance the visual and aesthetic character of the Village.
- (4) Protect and enhance the Village’s attractions to residents, tourists, and visitors and serve as a support and stimulus to business and industry.

(b) **Definitions.** The definitions shall be as follows:

- (1) “Certificate of Appropriateness” means the certificate issued by the Village Board upon recommendation of the Commission approving alteration, rehabilitation, construction, reconstruction, or demolition of a historic structure, historic site, or any improvement in a historic district.
- (2) “Commission” means the Historic Preservation Commission created under this section.
- (3) “Historic district” is an area designated by the Village Board on recommendation of the Commission that contains two or more historic improvements or sites.
- (4) “Historic site” means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred, and which has been designated as a historic site under this section, or an

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improvement parcel or part thereof on which is situated a historic structure and any abutting improvement parcel or part thereof used as and constituting part of the premises on which the historic structure is situated.

- (5) “Historic structure” means any improvement which has special character or special historic interest or value as part of the development, heritage, or cultural characteristics of the Village, State, or nation and which has been designated as a historic structure pursuant to the provisions of this chapter.

- (6) “Improvement” means any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.
- (c) **Historic Preservation Commission Composition.** A Historic Preservation Commission is hereby created, consisting of seven (7) members. Of the membership, if reasonably available in the community, one shall be a registered architect, one shall be a historian, one shall be a licensed real estate broker, one shall be a Village Trustee, and three shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Village President shall appoint the Commissioners subject to confirmation by the Village Board. Commissioners shall serve staggered two (2) year terms expiring April 30. The Village Trustee shall serve during the Trustee’s elected term.
- (d) **Historic Structure, Historic Site, and Historic District Designation Criteria.**
- (1) For purposes of this ordinance, a historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement, or structure located thereon, or any area of particular historic, architectural, archeological, or cultural significance to the Village, such as historic structures, sites, or districts which:
- a. Exemplify or reflect the broad cultural, political, economic, or social history of the nation, State, or community; or
 - b. Are identified with historic personages or with important events in national, State, or local history; or
 - c. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
 - d. Are representative of the notable work of a master builder, designer, or architect who influenced his or her age; or
 - e. Have yielded or may be likely to yield information important to prehistory or history.
- (2) The Commission shall adopt specific operating guidelines for historic structure, historic site, and historic district designation providing such are in conformance with the provisions of this ordinance, which guidelines shall be in effect upon approval by the Village Board and the filing of a copy thereof in the office of the Village Clerk.
- (e) **Powers and Duties.**
- (1) Designation. The Commission shall have the power, subject to subsection (f), to recommend the designation of historic structures, historic sites, and historic districts within the Village limits. Such designations shall be made based upon the criteria set
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- forth under subsection (d). Historic structures, sites, and districts shall be approved as so designated by the Village Board. Once designated, such historic structures, sites, and districts shall be subject to all the provisions of this ordinance.
- (2) Regulation of Construction, Reconstruction, Alteration, and Demolition.
- a. No person or entity and no person or entity owning or in charge of a historic structure, historic site, or structure within a historic district shall reconstruct, alter, or demolish all or any part of the exterior of such property or construct any improvements upon such designated property or properties or cause to

permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Also, unless such Certificate has been granted by the Commission, the Building Inspector shall not issue a permit for any such work.

- b. Upon filing of any application for a Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:
 - 1. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy, or adversely affect any exterior feature of the improvement or site upon which said work is to be done;
 - 2. In the case of the construction of a new improvement upon a historic site or within a historic district, the exterior of such improvement would adversely affect or not harmonize with the external appearance of other neighboring improvements on such site or within the district;
 - 3. In the case of any property located in a historic district, the proposed construction, reconstruction, exterior alteration, or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;
 - 4. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the Village and State; or
 - 5. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair.
- c. If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The Commission shall make this decision within forty-five (45) days of the filing of the application.
- d. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the Village.

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A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

- e. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of a historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

- (3) Appeals. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Village Board within thirty (30) days of the date of such decision. In addition, if the Commission fails to issue a Certificate of Appropriateness, the Commission shall, with the cooperation of the applicant, reasonably work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this ordinance.
 - (4) Recognition of Historic Structures, Sites, and Districts. At such times as a historic structure, site, or district has been properly designated, the Commission and Village Board, in cooperation with the property owner, may cause to be prepared and erected on such property at Village expense, a suitable plaque declaring that such property is a historic structure, site, or district.
- (f) **Procedures.** Designation of Historic Structures, Historic Sites, and Historic Districts.
- (1) Historic Structures and Sites.
 - a. The Commission may, upon receipt of an application by itself, the Village Board, or any other interested person or entity, after written notice by mail to affected property owners as set forth below, recommend the designation of historic structures and historic sites, or recommend to rescind such prior designation, after consideration of the criteria in subsection (d) above. At least ten (10) days prior to such action, the Commission shall notify the owners of record, as listed in the office of the Village Assessor, who are owners of property in whole or in part within the boundaries of the property affected.
 - b. The Commission may in addition to the notified persons, hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission.
 - c. Upon receipt of a recommendation from the Commission, the Village Board shall hold a public hearing upon the application. Notice of the hearing shall be made pursuant to subsection (f)(1) above 10 days prior to the hearing. Following the hearing, the Village Board may approve, deny, or modify the Commission's recommendation, considering the criteria set forth under subsection (d) above. After the designation or rescission has been made by the Village Board, notification shall be sent to the property owner or owners.

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Notification shall also be given to the Building Inspector, Plan Commission, Assessor, and Village Administrator. The Village Board shall cause the designation or rescission to be recorded, at Village expense, in the office of the Milwaukee County Register of Deeds.
 - (2) Historic Districts.
 - a. For preservation purposes, the Historic Preservation Commission shall recommend the selection of geographically defined areas within the Village to be designated as Historic Districts and shall prepare a historic preservation plan for each area. A Historic District may be designated for any geographical area of particular historic, architectural, or cultural significance

to the Village, after application of the criteria in subsection (d) above. Each historic preservation plan prepared for or by the Historic Preservation Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives. All designations and plans under this subsection shall be subject to the approval of the Village Board.

- b. The Village Board shall hold a public hearing when considering the plan for a Historic District as recommended by the Commission. Notice of the time, place, and purpose of the public hearing shall be sent by the Village Clerk to members of the Commission, the owners of record as listed in the office of the Village Assessor, who are owners of the property within the proposed Historic District or are situated in whole or in part within two hundred (200) feet of the boundaries of the proposed Historic District. Said notice is to be sent at least ten (10) days prior to the date of the public hearing. Following the public hearing, the Village Board shall vote to approve, deny, or modify the plan. After the designation has been made by the Village Board, notification shall be sent to the property owner or owners. Notification shall also be given to the Building Inspector, Plan Commission, Assessor, and Village Administrator. The Village Board shall cause the designation to be recorded at Village expense in the office of the Milwaukee County Register of Deeds.
- (g) **Interim Control.** No building permit shall be issued by the Building Inspector for alternation, construction, demolition, or removal of a nominated historic structure, historic site, or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination by application form is first presented until the final disposition of the nomination by the Village Board, unless such alteration, removal, or demolition is authorized by formal resolution of the Village Board as necessary for public health, welfare, or safety. In no event shall the delay be for more than one hundred eighty (180) days.
- (h) **Penalties for Violations.** Any person or entity violating any provision of this section shall be fined fifty dollars (\$50.00) for each separate violation. Each and every day during which a violation continues shall be deemed a separate offense. Notice of violations shall be issued by the Building Inspector. Reference: Ordinance 99-07 & 00-06

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SEC. 8-2-9 HOME OCCUPATIONS.

- (a) **Intent.** The intent of this Section is to provide a means to accommodate a small family business in a residential district without the necessity of a rezone into a business district. Approval of an expansion of a limited family business or home occupation at a future time beyond the limitations of this Section is not to be anticipated; relocation of the business to an area that is appropriately zoned may be necessary.
- (b) **Definition.** An occupation or office for gain or support conducted entirely and only by the resident(s) of and within a residential dwelling unit in a residential zoning district. Home Occupations and Residential Professional Offices include but are not limited to: home office which conduct answering services, resume and document typing, computer programming,

bookkeeping and accounting, and design services; offices for attorneys, doctors, and architects; production of hand made crafts and goods; home offices for contractors, surveyors, and landscapers; and any activity similar in nature to the aforesaid enumerated uses, all of which are accessory to a principal residential use.

(c) **Occupations Prohibited.** Notwithstanding the forgoing subsection (b), the following Home Occupations and Residential Offices are prohibited.

(1) Any occupation or office which promotes or requires customers or clients to visit the residential property on a continuous or congregate basis, whereby the number of pedestrian or vehicular visits or persons per visit tends to unreasonably disturb or disrupt the peace and quiet of the residential neighborhood and surrounding properties.

(2) Any occupation or office which promotes or requires employees to visit or work at the residential property or to be dispatched from said residential property.

(3) Any occupation which creates loud or obnoxious noise or odors or unreasonable glare of illumination.

(4) Any occupation or office which generates unusual numbers of deliveries or pick-ups by parcel carriers, whereby the number of deliveries or pickups tends to unreasonably disturb or disrupt the peace and quiet of the residential neighborhood and surrounding properties.

(5) Any occupation involving vehicle mechanical repair, body work or painting.

(d) **Exception.** Baby-sitting, day care, and community-based residential facilities activities are exempt from subsections (c)(1) and (2) above, providing that such occupations comply with all other state and local requirements.

(e) **Requirements.** All Home Occupations and Residential Professional Offices not prohibited under this section shall be subject to the following additional requirements:

(1) The home occupation or office must be located within the principal dwelling unit.

(2) Only one motor vehicle (auto, truck, or van) per residential dwelling unit, utilized in the operation of a Home Occupation or Residential Professional Office, may be parked or stored upon residential property. Vehicles with a gross weight of more than 8,000 lbs. or a wheel base greater than 129 inches are prohibited for any Home Occupation or Residential Professional Office use. Trailers used in the operation of a Home Occupation or Residential Office shall not be parked outside on any residential

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property.

(3) No waste materials or debris arising from a Home Occupation or Residential Professional Office use are to be brought to or stored upon any residential property.

(4) One non-illuminated sign (identification plate) of not more than one and one-half (1-1/2) sq. ft. in area is permitted. Said sign shall state only the name or profession of the home occupation or office and is to be used for identification purposes only. Said identification plate must be placed at least three (3) feet back of the front property line.

SEC. 8-2-10 LANDSCAPING.

- (a) **Intent.** The general intent and purposes of this section are to preserve existing trees and vegetation and to establish and maintain new landscaping in the Village to control soil erosion and water pollution, abate air pollution, moderate climate, conserve energy, buffer noise, protect wildlife and ecosystems, preserve historic features, provide visual and aesthetic value, protect and enhance property values, and preserve and reinforce the historic part setting of the community.
- (b) **Landscape Plan Submittal.** A landscape plan shall be submitted for all development for which an application is required for a site plan under sub. 8-2-2(a)(1); Chapter 6, “Conditional Uses”; and Chapter 4, “Planned Unit Developments”. The Plan Commission shall review all landscape plans and may approve, modify, or deny any landscape plan application, considering the intent, purposes, and provisions of this section. Landscape plan approval and implementation is a required condition for any development for which a landscape plan must be submitted.
- (c) **Tree Preservation.**
 - (1) Definitions.
 - a. “Specimen Trees” as used in this subsection are as follows:

<u>Botanical Name</u>	<u>Common Name</u>	<u>Minimum DBH</u>
Acer rubrum	Red Maple	10”
Acer saccharum	Sugar Maple	12”
Amelanchier	All Serviceberry	6”
Betula allerghaniensis	Yellow Birch	8”
Betula nigra	River Birch	10”
Carya species	All Hickory	12”
Celtis species	All Hackberry	12”
Fagus species	All Beech	12”
Fraxinus americana	White Ash	16”
Juglans cinerea	Butternut	12”
Juniperus virginiana	Eastern Red Cedar	8”
Latrix species	All Tamarack	10”
Ostrya virginiana	Ironwood	6”
Pinus strobus	White Pine	12”

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Prunas serotina	Black Cherry	12”
Quercus species	All Oak	12”
Robina pseudoacacia	Black Locust	10”
Thuja species	All Arborvitae	8”
Tilia americana	Basswood	20”

A specimen tree is also any tree determined by the Village Forester to be of high value relative to the purposes of this section, because of its species, size, age, location, or historical significance.

- b. “Woodlands” as used in this section means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Woodlands include areas that have at least 100 trees

per acre with at least 50 percent of those trees having a two-inch or greater diameter-at-breast-height and such ratio and percent shall be prorated in determining the existence of woodlands areas greater than or less than one acre.

- c. “Diameter-at-breast-height (DBH)” is tree diameter measured in inches at a height of 4.5 feet above the ground.
 - d. “Village Forester” as used in this section shall have the meaning as set forth in section 12.13 of the Municipal Code, or his/her designee.
- (2) The provisions of this Tree Preservation subsection shall apply to all developments of one acre or greater, for which a landscape plan must be submitted under sub. 8-2-10(b) above. This subsection does not apply to any development or application for development for detached single-family homes or government uses.
 - (3) A landscape plan required under sub. 8-2-10(b) shall include a tree inventory, specifying the location, size, and type of all specimen trees and woodlands. The inventory shall include a reference to any listed tree that the applicant believes to be damaged, diseased, or dying.
 - (4) Every reasonable effort shall be made to retain and preserve specimen trees and woodlands on the property to be developed, through the integration of those specimen trees and woodlands existing on the site into the proposed development. The landscape plan shall include information specifying the methods to be used to preserve specimen trees and woodlands and shall identify any specimen trees and woodlands proposed to be removed. Removal of any specimen trees and woodlands may only be performed pursuant to an approved landscape plan specifying such removal. No person or entity shall in any way remove any specimen tree or woodlands or portion of woodlands not specified for removal under an approved landscape plan.
 - (5) Any specimen tree or woodlands which have been identified upon an approved landscape plan for removal must be replaced by the planting of a tree or trees in accordance with the following criteria:
 - a. Replacement trees shall either:
 - 1. Equal or exceed 75% of the DBH of each tree removed; or
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 - 2. Consist of smaller trees, not less than 2.5 inches in diameter, which in total equal or exceed the DBH of the original tree(s) removed.
 - b. If subs. a.1. or 2. above are not physically feasible for a development, due to limited planting area to support proper replacement tree spacing and such development is found by the Plan Commission to be of benefit in promoting the health, safety, welfare, and economic well-being of the community, the Plan Commission may authorize a \$100 per removed tree inch fees-in-lieu of tree replacement to be paid to the Village Tree Fund. The Village Tree Fund shall be held in a segregated account by the Village Treasurer for disbursement only for the purchase and planting of trees within the Village pursuant to the direction of the Village Board, with expenditures of such funds to be made within a reasonable time from their receipt. Such fees-in-lieu of tree replacement shall be paid by a developer to the Village prior to

the issuance of any building permit. The Plan Commission may consult with the Ecology Committee, Village Forester, and others in making its determinations under this subsection.

- c. Replacement trees shall be of a type and size suitable for the site as determined by the Plan Commission. The use of native species is encouraged.
- d. The Village Forester shall inspect sites to verify tree inventories submitted by applicants and to examine trees reported as damaged, diseased, or dying. The Village Forester may exempt or partially exempt existing tree(s) from the requirements of this subsection, where the Village Forester determines such tree(s) are damaged, diseased, or dying and such written determination shall either be set forth upon or be attached to a landscape plan submitted for approval.

Reference: Ordinance 01-05

SEC. 8-2-11 STORMWATER MANAGEMENT REQUIREMENTS. Chapter 13 of the Milwaukee Metropolitan Sewerage District (MMSD) Rules on Surface Water and Storm Water runoff management (effective 1/1/02) are hereby adopted by reference. Future amendments to the MMSD rules are also adopted by reference.

The MMSD Rules on stormwater runoff management and plan submittal requirements shall be complied with in addition to the other stormwater provisions of this ordinance including, but not limited to, plat approval under Chapter 236, construction site erosion control, and post construction stormwater quality best management practices to abate pollutant runoff. A violation of MMSD Rules shall be a violation of this chapter.

Reference: Ordinance 02-19

8-2-12 CONSTRUCTION SITE EROSION CONTROL AND STORM WATER MANAGEMENT.

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(a) Authority.

- (1) This ordinance is adopted under the authority granted by s. 61.354, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 61.35 Wis. Stats., that relate to construction site erosion control and storm water management regulations. Except as otherwise specified in s. 61.354, Wis. Stats., s. 61.35, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Village of Hales Corners hereby designates the Zoning Administrator, or designee, as may be so designated by the Village Clerk or by the Village Board, to serve as necessary in the absence of the Zoning Administrator, from time to time, to administer and enforce the provisions of this ordinance.

- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control and storm water management requirements that may be imposed by any of the following:
 - a. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - b. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

(b) **Findings of Fact.**

- (1) The Village of Hales Corners finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the Village of Hales Corners.
- (2) The Village of Hales Corners finds that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:
 - a. Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
 - b. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
 - c. Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
 - d. Reduce the quality of groundwater by increasing pollutant loading.
 - e. Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
 - f. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
 - g. Undermine floodplain management efforts by increasing the incidence and

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levels of flooding.

(c) **Purpose and Intent**

- (1) Purpose. The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment and to minimize the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activity to waters of the state in and of the Village of Hales Corners. Specific purposes are to:
 - a. Further the maintenance of safe and healthful conditions.
 - b. Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic

growth.

- c. Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

- (2) Intent. It is the intent of the Village of Hales Corners that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The Village of Hales Corners recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Village of Hales Corners, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

(d) **Applicability and Jurisdiction.**

(1) Erosion Control Applicability.

- a. This ordinance applies to the following land disturbing construction activities except as provided under sub. b.:
 - i. A construction site, which has 5 or more acres of land disturbing construction activity.
 - ii. A construction site, which has one or more acres of land disturbing construction activity.
- b. This ordinance does not apply to the following:
 - i. Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under s. COMM 21.125 or COMM 50.115, Wis. Adm. Code.
 - ii. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
 - iii. Nonpoint discharges from agricultural facilities and practices.
 - iv. Nonpoint discharges from silviculture activities.
 - v. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- c. Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, in the opinion of the

Zoning Administrator or designee, or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

- d. Jurisdiction. This ordinance applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the Village of Hales Corners.

(2) Post-Construction Applicability.

- a. Where not otherwise limited by law, this ordinance applies after final stabilization to a site of land disturbing construction activity meeting any of the criteria in this paragraph, unless the site is otherwise exempt under paragraph (b).
 - i. A post construction site that had 5 or more acres of land disturbing construction activity.
 - ii. A post-development construction site that had one or more acres of land disturbing construction activity.
- b. A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.
 - i. A redevelopment post-construction site with no increase in exposed parking lots or roads.
 - ii. A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.
 - iii. Nonpoint discharges from agricultural facilities and practices.
 - iv. Nonpoint discharges from silviculture activities.

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- v. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- vi. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- c. Notwithstanding the applicability requirements in paragraph a., this ordinance applies to post-construction sites of any size that, in the opinion of the Zoning Administrator or designee, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- d. Jurisdiction. This ordinance applies to post construction sites in the Village of Hales Corners.

- (3) Exclusions. This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

(e) **Definitions.**

- (1) “Administering authority” means a governmental employee, agent, assign, or a regional planning commission empowered under s. 61.354 Wis. Stats., that is designated by the Village of Hales Corners, to administer this ordinance.
- (2) “Agricultural facilities and practices” has the meaning in s. 281.16(1), Wis. Stats.
- (3) “Average annual rainfall” means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
- (5) “Business day” means a day the office of the Village of Hales Corners is routinely and customarily open for business.
- (6) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (7) “Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.
- (8) “Connected imperviousness” means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (9) “Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

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- (10) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (11) “Development” means residential, commercial, industrial or institutional land uses and associated roads.
- (12) “Division of land” means any lawful division of land, whether constituting a subdivision or a division by certified survey map, as defined and/or otherwise authorized under Ch. 236, Stats., and/or the Municipal Code, or such other division as may be allowed under the Municipal Code, if any, all of the foregoing Statutes and Code, as amended from time to time.
- (13) “Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms, or pretreatment
- (14) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.

- (15) “Erosion and sediment control plan” means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (16) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.
- (17) “Final stabilization” means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- (18) “Financial guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the Zoning Administrator or designee, by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (19) “Governing body” means the Village of Hales Corners Board of Trustees.
- (20) “Impervious surface” means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.
- (21) “In-fill area” means an undeveloped area of land located within existing development.
- (22) “Infiltration” means the entry of precipitation or runoff into or through the soil.
- (23) “Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (24) “Karst feature” means an area or surficial geologic feature subject to bedrock

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dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

- (25) “Land disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (26) “Maintenance agreement” means a legal document that provides for long-term maintenance of storm water management practices.
- (27) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows

flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

- (28) "New development" means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (29) "Off-site" means located outside the property boundary described in the permit application.
- (30) "On-site" means located within the property boundary described in the permit application.
- (31) "Ordinary high-water mark" has the meaning given in s. NR 115.03(6), Wis. Adm. Code.
- (32) "Outstanding resource waters" means waters listed in s. NR 102.10, Wis. Adm. Code.
- (33) "Percent fines" means the percentage of a given sample of soil, which passes through a # 200 sieve.

Note to Users: Percent fines can be determined using the "American Society for Testing and Materials", volume 04.02, "Test Method C117-95 Standard Test Method for Materials Finer than 75-mum (No. 200) Sieve in Material Aggregates by Washing". Copies can be obtained by contacting the American society for testing and materials, 100 Barr Harbor Drive, Conshohocken, PA 19428-2959, or phone 610-832-9585, or on line at: "<http://www.astm.org/>".

- (34) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
 - (35) "Permit" means a written authorization made by the Zoning Administrator or designee, to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
 - (36) "Permit administration fee" means a sum of money paid to the Village of Hales Corners by the permit applicant for the purpose of recouping the expenses incurred
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by the authority in administering the permit.

- (37) "Pervious surface" means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (38) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (39) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- (40) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (41) "Pre-development condition" means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (42) "Preventive action limit" has the meaning given in s. NR 140.05(17), Wis. Adm. Code.
- (43) "Redevelopment" means areas where development is replacing older development.
- (44) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or

other agreement as this ordinance applies to erosion control; and “Responsible party” under this ordinance as it applies to storm water management means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMP’s.

- (45) “Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (46) “Sediment” means solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (47) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - a. Is designed or used for collecting water or conveying runoff.
 - b. Is not part of a combined sewer system.
 - c. Is not draining to a storm water treatment device or system.
 - d. Discharges directly or indirectly to waters of the state.
- (48) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (49) “Stop work order” means an order issued by the Zoning Administrator or designee, which requires that all construction activity on the site be stopped.
- (50) “Storm water management plan” means a comprehensive plan designed to reduce the discharge of pollutants from storm water after the site has undergone final stabilization following completion of the construction activity.
- (51) “Storm water management system plan” is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (52) "Technical standard" means a document that specifies design, predicted performance
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and operation and maintenance specifications for a material, device or method.

- (53) “Top of the channel” means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (54) “TR-55” means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
- (55) “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (56) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.
- (57) “Zoning Administrator” means the person or entity occupying the Office of Zoning Administrator of the Village of Hales Corners or being authorized by the Village Clerk or the Village Board in the absence of the Zoning Administrator, to perform the duties of the Office of Zoning Administrator of the Village of Hales Corners.

(f) **Technical Standards.**

(1) Construction Site Erosion Control Design Criteria, Standards, and Specifications. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

- a. Applicable design criteria, standards and specifications identified in the *Wisconsin Construction Site Best Management Practice Handbook*, WDNR Pub. WR-222 November 1993 Revision.
- b. Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- c. For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

Note to Users: The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion. A design storm can be statistically calculated to provide an equivalent R factor as an average annual calculation.

(2) Other Standards. Other technical standards not identified or developed in sub. (1) may be used provided that the methods have been approved by the Zoning Administrator or designee.

(3) Storm Water Management Technical Standards. The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of storm water practices needed to meet the water quality standards of this ordinance:

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- a. Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- b. Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the Zoning Administrator or designee.
- c. In this ordinance, the following year and location has been selected as average annual rainfall(s): Milwaukee, 1969 (Mar. 28-Dec. 6).

(g) **Erosion Control Performance Standards.**

(1) Responsible Party. The responsible party shall implement an erosion and sediment control plan, developed in accordance with Section (k) that incorporates the requirements of this section.

(2) Plan. A written plan shall be developed in accordance with Section (k) and implemented for each construction site.

(3) Erosion and Other Pollutant Control Requirements. The plan required under sub. (2) shall include the following:

- a. BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual

basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

Note to Users: Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V. of ch. NR 151, Wis. Adm. Code, may be used to calculate sediment reduction.

- b. Notwithstanding par. a., if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
- c. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
 - i. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 - ii. Prevent the discharge of sediment as part of site de-watering.
 - iii. Protect the separate storm drain inlet structure from receiving sediment.

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- d. The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

- (4) Location. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

Note to Users: While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.

- (5) Alternate Requirements. The Zoning Administrator or designee, may establish storm water management requirements more stringent than those set forth in this section if the Zoning Administrator or designee, determines that an added level of protection is needed for sensitive resources.

(h) **Storm Water Management Performance Standards.**

- (1) Responsible Party. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- (2) Plan. A written storm water management plan in accordance with Section (1) shall be developed and implemented for each post-construction site.

- (3) Requirements. The plan required under sub. (2) shall include the following:
- a. **Total Suspended Solids.** BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
 - i. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.
 - ii. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.
 - iii. For in-fill development under 5 acres that occurs within 10 years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.
 - iv. For in-fill development that occurs 10 or more years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.
 - v. Notwithstanding subs. i. to iv., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

Note to Users: Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids.
 - b. **Peak Discharge.**
 - i. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions for the 2-year, 24-hour design storm applicable to the post-construction site. Pre-development conditions shall assume “good hydrologic conditions”

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for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

Note to Users: The curve numbers in Table 1 represent mid-range values for soils under a good hydrologic condition where conservation practices are used and are selected to be protective of the resource waters.

- ii. This subsection of the ordinance does not apply to any of the following:
 - A. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the 2-year, 24-hour storm event. Note to Users: Hydraulic models such as HEC-RAS or another methodology may be used to determine the change in surface water elevations.
 - B. A redevelopment post-construction site.
 - C. An in-fill development area less than 5 acres.

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Note to Users: The intent of the peak discharge standard is to minimize streambank erosion, under bank-full conditions. For water quantity concerns, the post-development peak flow rate for the 10, 25, 50 and 100 year - 24 hour storm events should also be controlled either at or below pre-development discharge rates.

- c. Infiltration. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subs. i. through viii.
 - i. For residential developments one of the following shall be met:
 - A. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - B. Infiltrate 25% of the post-development runoff from the 2 year -24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be

used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

- ii. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
 - A. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - B. Infiltrate 10% of the runoff from the 2 year - 24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

iii. Pre-development condition shall be the same as in par. b.

Note to Users: A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used.

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- iv. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. viii. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

Note to Users: To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

- v. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:
 - A. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.

- B. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.
- C. Fueling and vehicle maintenance areas.
- D. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
- E. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. v.E. does not prohibit infiltration of roof runoff.
- F. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
- G. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
- H. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.

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- I. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subd. V.I. does not prohibit infiltration of roof runoff.

Note to Users: The areas listed in subd. v. are prohibited from infiltrating runoff due to the potential for groundwater contamination.

vi.

- Exemptions. The following are not required to meet the requirements of this paragraph:
- A. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - B. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - C. Redevelopment post-construction sites.
 - D. In-fill development areas less than 5 acres.
 - E. Infiltration areas during periods when the soil on the site is frozen.

- F. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
- vii. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
- viii. A. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
- B. Notwithstanding subd. par. A., above, the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- d. Protective Areas.
 - i. “Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated

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wetland boundary to the closest impervious surface. However, in this paragraph, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

- A. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.
- B. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
- C. For lakes, 50 feet.
- D. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for

wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

- E. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 - F. In subd. i.A., D. and E., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.
 - G. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
- ii. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. iv.
 - iii. The following requirements shall be met:
 - A. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

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- B. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note to Users: It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

- C. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

Note to Users: Other regulations, such as ch. 30, Wis. Stats., and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may apply in the protective area.

- iv. This paragraph does not apply to:
 - A. Redevelopment post-construction sites.
 - B. In-fill development areas less than 5 acres.
 - C. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - D. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
 - E. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note to Users: A vegetated protective area to filter runoff pollutants from post-construction sites described in subd. 4.E. is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.

- e. Fueling and Vehicle Maintenance Areas. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed,

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installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

Note to Users: A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

- f. Swale Treatment for Transportation Facilities.
 - i. Applicability. Except as provided in subd. ii., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 - A. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

Note to Users: It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

- B. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200

feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.

Note to Users: Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the design requirements of this paragraph. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.

- ii. Exemptions. The Zoning Administrator or designee, may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - A. An outstanding resource water.
 - B. An exceptional resource water.
 - C. Waters listed in s. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.

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- D. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.

Note to Users: The Department of Natural Resource's regional storm water staff can determine if additional BMPs, beyond a water quality swale, are needed under this paragraph.

- (4) General Considerations for On-site and Off-site Storm Water Management Measures.
The following considerations shall be observed in managing runoff:

- a. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
- b. Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

- (5) Location and Regional Treatment Option.

- a. The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
- b. Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.
- c. Except as allowed under par. d., post-construction runoff from new

development shall meet the post-construction performance standards prior to entering a navigable surface water.

- d. Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:
 - i. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and
 - ii. The BMP is designed to provide runoff treatment from future upland development.
- e. Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 - i. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 - ii. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

Note to Users: This allows the location of BMPs in navigable surface waters
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where necessary to augment management practices upstream of the navigable surface water to meet the performance standards.

- f. The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.

Note to Users: This section does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

- g. The Zoning Administrator or designee, may approve off-site management measures provided that all of the following conditions are met:
 - i. The Zoning Administrator determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Zoning Administrator or designee, and that contains management requirements consistent with the purpose and intent of this ordinance.
 - ii. The off-site facility meets all of the following conditions:
 - A. The facility is in place.
 - B. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
 - C. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- h. Where a regional treatment option exists such that the Zoning Administrator or designee, exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay

a fee in an amount determined in negotiation with the Zoning Administrator or designee. In determining the fee for post-construction runoff, the Zoning Administrator or designee, shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

- (6) Alternate Requirements. The Zoning Administrator or designee, may establish storm water management requirements more stringent than those set forth in this section if the Zoning Administrator or designee, determines that an added level of protection is needed to protect sensitive resources.

(i) Erosion Control Permitting Requirements, Procedures, and Fees.

- (1) Permit Required. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Zoning Administrator or designee.

- (2) Permit Application and Fees. At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Section (k) and shall pay an application fee of \$150.00 to the Village of Hales Corners. By submitting an application, the applicant is authorizing the

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Zoning Administrator or designee, to enter the site to obtain information required for the review of the erosion and sediment control plan.

- (3) Review and Approval of Permit Application. The Zoning Administrator or designee, shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
- a. Within five business days of the receipt of a complete permit application, as required by sub. (2), the Zoning Administrator or designee, shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
 - b. If the permit application and plan are approved, the Zoning Administrator or designee, shall issue the permit.
 - c. If the permit application or plan is disapproved, the Zoning Administrator or designee, shall state in writing the reasons for disapproval.
 - d. The Zoning Administrator or designee, may request additional information from the applicant. If additional information is submitted, the Zoning Administrator or designee, shall have five business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
 - e. Failure by the Zoning Administrator or designee, to inform the permit applicant of a decision within five business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

- (4) Surety Bond. As a condition of approval and issuance of the permit, the Zoning Administrator or designee, may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved

erosion control plan and any permit conditions.

(5) Permit Requirements. All permits shall require the responsible party to:

- a. Notify the Zoning Administrator or designee, within 48 hours of commencing any land disturbing construction activity.
- b. Notify the Zoning Administrator or designee, of completion of any BMPs within 14 days after their installation.
- c. Obtain permission in writing from the Zoning Administrator or designee, prior to any modification pursuant to Section (k)(3) of the erosion and sediment control plan.
- d. Install all BMPs as identified in the approved erosion and sediment control plan.
- e. Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
- f. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
- g. Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each

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week, make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.

- h. Allow the Zoning Administrator or designee, to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan at the construction site.

(6) Permit Conditions. Permits issued under this section may include conditions established by Zoning Administrator or designee, in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in Section (g).

(7) Permit Duration. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Zoning Administrator or designee, may extend the period one or more times for up to an additional 180 days. The Zoning Administrator or designee, may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(8) Maintenance. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

(j) **Storm Water Management Permitting Requirements, Procedures, and Fees**

(1) Permit Required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the Zoning Administrator prior to commencing the proposed activity.

- (2) Permit Application and Fees. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the Zoning Administrator or designee, a permit application made on a form provided by the Zoning Administrator or designee, for that purpose.
- a. Unless otherwise excepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.
 - b. The storm water management plan shall be prepared to meet the requirements of Sections (h) and (l), the maintenance agreement shall be prepared to meet the requirements of Section (m), the financial guarantee shall meet the requirements of Section (n), and fees shall be those established by the Village of Hales Corners as set forth in Section (o).
- (3) Review and Approval of Permit Application. The Zoning Administrator or designee, shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
- a. Within five business days of the receipt of a complete permit application,

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including all items as required by sub. (2), the Zoning Administrator or designee, shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
 - b. If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Zoning Administrator or designee, shall issue the permit.
 - c. If the storm water permit application, plan or maintenance agreement is disapproved, the Zoning Administrator or designee, shall detail in writing the reasons for disapproval.
 - d. The Zoning Administrator or designee, may request additional information from the applicant. If additional information is submitted, the Zoning Administrator or designee, shall have five business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - e. Failure by the Zoning Administrator or designee, to inform the permit applicant of a decision within five business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) Permit Requirements. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Zoning Administrator or designee, may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the Zoning Administrator or designee, to suspend or revoke this permit may be appealed in accordance with section (r).

- a. Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- b. The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
- c. The responsible party shall notify the Zoning Administrator or designee, at least five business days before commencing any work in conjunction with the storm water management plan, and within five business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the Zoning Administrator or designee, so that practice installations can be inspected during construction.
- d. Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the Zoning

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Administrator or designee, or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The Zoning Administrator or designee, or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

- e. The responsible party shall notify the Zoning Administrator or designee, of any significant modifications it intends to make to an approved storm water management plan. The Zoning Administrator or designee, may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
- f. The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Village of Hales Corners or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- g. The responsible party authorizes the Zoning Administrator or designee, to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under Section (n).
- h. If so directed by the Zoning Administrator or designee, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.

- i. The responsible party shall permit property access to the Zoning Administrator or designee, or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - j. Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the Zoning Administrator or designee, may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 - k. The responsible party is subject to the enforcement actions and penalties detailed in Section (q), if the responsible party fails to comply with the terms of this permit.
- (5) Permit Conditions. Permits issued under this subsection may include conditions established by Zoning Administrator or designee, in addition to the requirements needed to meet the performance standards in Section (h) or a financial guarantee as Section 8-2-12

provided for in section (k).

- (6) Permit Duration. Permits issued under this section shall be valid from the date of issuance through the date the Zoning Administrator or designee, notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)d.

(k) **Erosion and Sediment Control Plan, Statement, and Amendments.**

(1) Erosion and Sediment Control Plan.

- a. An erosion and sediment control plan shall be prepared and submitted to the Zoning Administrator or designee.
- b. The erosion and sediment control plan shall be designed to meet the performance standards in Section (g) and other requirements of this ordinance.
- c. The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
 - i. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
 - ii. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 - iii. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of

- clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- iv. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
- v. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
- vi. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
- vii. Existing data describing the surface soil as well as subsoils.
- viii. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
- ix. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- d. The erosion and sediment control plan shall include a site map. The site map

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shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.

- i. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
- ii. Boundaries of the construction site.
- iii. Drainage patterns and approximate slopes anticipated after major grading activities.
- iv. Areas of soil disturbance.
- v. Location of major structural and non-structural controls identified in the plan.
- vi. Location of areas where stabilization practices will be employed.
- vii. Areas which will be vegetated following construction.
- viii. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
- ix. Locations of all surface waters and wetlands within one mile of the construction site.
- x. An alphanumeric or equivalent grid overlying the entire construction site map.
- e. Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:

- i. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
- ii. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Zoning Administrator or designee, or designee, structural measures shall be installed on upland soils.
- iii. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
- iv. Trapping of sediment in channelized flow.
- v. Staging construction to limit bare areas subject to erosion.
- vii. Protection of downslope drainage inlets where they occur.

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- vii. Minimization of tracking at all sites.
 - viii. Clean up of off-site sediment deposits.
 - ix. Proper disposal of building and waste materials at all sites.
 - x. Stabilization of drainage ways.
 - xi. Control of soil erosion from dirt stockpiles.
 - xii. Installation of permanent stabilization practices as soon as possible after final grading.
 - xiii. Minimization of dust to the maximum extent practicable.
- f. The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

Note to Users: The plan requirements of this subsection will meet the erosion control plan requirements of [s. NR 216.46](#), Wis. Adm. Code, when prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the Wisconsin Construction Site Best Management Practice Handbook (WDNR Pub. WR-222 November 1993 Revision).

- (3) Erosion and Sediment Control Plan Statement. For each construction site identified under Section (d)(1)c., an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Zoning Administrator or designee. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.
- (4) Amendments. The applicant shall amend the plan if any of the following occur:
 - a. There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
 - b. The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

- c. The Zoning Administrator or designee, notifies the applicant of changes needed in the plan.

(1) **Storm Water Management Plan.**

(1) Plan Requirements. The storm water management plan required under section (h)(2) shall contain at a minimum the following information:

- a. Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.
- b. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers

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within a recorded land subdivision plat.

- c. Pre-development site conditions, including:
 - i. One or more site maps at a scale of not less than 1 inch equals 40 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.
 - ii. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- d. Post-development site conditions, including:
 - i. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
 - ii. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
 - iii. One or more site maps at a scale of not less than 1 inch equals 40 feet

showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed two feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet

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such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

- iv. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
 - v. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
 - e. A description and installation schedule for the storm water management practices needed to meet the performance standards in section (h).
 - f. A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
 - g. Cost estimates for the construction, operation, and maintenance of each storm water management practice.
 - h. Other information requested in writing by the Zoning Administrator or designee, to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
 - i. All site investigations, plans, designs, computations, and drawings shall be certified by a [licensed professional engineer] to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) Alternate Requirements. The Zoning Administrator or designee, may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under section (h)(5).

(m) **Maintenance Agreement.**

- (1) Maintenance Agreement Required. The maintenance agreement required under section (j)(2) for storm water management practices shall be an agreement between the Village of Hales Corners and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- (2) Agreement Provisions. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by section (l)(1)f.:

a. Identification of the storm water facilities and designation of the drainage area served by the facilities.

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- b. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under section (j)(2).
- c. Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under section (j)(2).
- d. Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. b.
- e. Authorization for the Zoning Administrator or designee, to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- f. A requirement on the Zoning Administrator or designee, to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
- g. Agreement that the party designated under par. c., as responsible for long term maintenance of the storm water management practices, shall be notified by the Zoning Administrator or designee, of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the Zoning Administrator or designee.
- h. Authorization of the Zoning Administrator or designee, to perform the corrected actions identified in the inspection report if the responsible party designated under par. c. does not make the required corrections in the specified time period. The Zoning Administrator or designee, shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(n) **Financial Guarantee.**

- (1) Establishment of the Guarantee. The Zoning Administrator or designee, may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Zoning Administrator or designee. The financial guarantee shall be in an amount determined by the Zoning Administrator or designee, to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Village of Hales Corners the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the Zoning Administrator or designee, that the

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requirements of this ordinance have not been met.

- (2) Conditions for Release. Conditions for the release of the financial guarantee are as follows:
- a. The Zoning Administrator or designee, shall release the portion of the financial guarantee established under this section, less any costs incurred by the Village of Hales Corners to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The Zoning Administrator or designee, may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - b. The Zoning Administrator or designee, shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the Village of Hales Corners, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.
- (o) **Fee Schedule.** The fees referred to in other sections of this ordinance shall be established by the Village of Hales Corners and may from time to time be modified by resolution of the Governing Body. A schedule of the fees established by the Village of Hales Corners shall be available for review in the Office of the Village Clerk.
- (p) **Inspection.** If land disturbing construction activities are being carried out without an erosion control permit required by this ordinance, the Zoning Administrator or designee, may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.
- (q) **Enforcement.**
- (1) Erosion Control Requirements Enforcement.
- a. The Zoning Administrator or designee, may post a stop-work order if any of the following occurs:
 - i. Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.
 - ii. The erosion and sediment control plan is not being implemented in a good faith manner.
 - iii. The conditions of the permit are not being met.
 - b. If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and

sediment control plan or permit conditions, the Zoning Administrator or designee, may revoke the permit.

- c. If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Zoning Administrator or designee, or designee, or if a responsible party violates a stop-work order posted under sub. (1), the Zoning Administrator or designee, may request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- d. The Zoning Administrator or designee, may retract the stop-work order issued under sub. (1) or the permit revocation under sub. (2).
- e. After posting a stop-work order under sub. (1), the Zoning Administrator or
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designee, may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Zoning Administrator or designee, may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Zoning Administrator or designee, or designee, plus interest at the rate authorized by the Village shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(2) Storm Water Management Requirements Enforcement.

- a. Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- b. The Zoning Administrator or designee, shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- c. Upon receipt of written notification from the Zoning Administrator or designee, under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the Zoning Administrator or designee, in the notice.
- d. If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the Zoning Administrator or designee, may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the Zoning Administrator or designee, plus interest and legal costs shall be billed to the responsible party.
- e. The Zoning Administrator or designee, is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the Village Attorney to obtain a cease and desist

order in any court with jurisdiction.

- f. The Zoning Administrator or designee, may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- g. Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Zoning Administrator or designee, or by a court with jurisdiction.
- h. The Zoning Administrator or designee, is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Village Attorney for the commencement of
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further legal proceedings in any court with jurisdiction.

- (3) Forfeiture. Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$50.00 or more than \$500.00 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (4) Injunctive Relief. Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction, as authorized pursuant to Section 61.365, Stats. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (5) Abatement Relief. When the Zoning Administrator or designee, determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, or has failed to follow the practices set forth in the erosion and sediment control plan, the Zoning Administrator or designee, or a party designated by the Zoning Administrator or designee, may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan(s). The Zoning Administrator or designee, shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to Section (k) of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(r) **Appeals.**

- (1) Board of Appeals. The Board of Appeals shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Zoning Administrator or designee, in administering this ordinance, except for cease and desist orders obtained under subd.(q)(1)b. of this ordinance. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.
- (2) Who May Appeal. Appeals to the Board of Appeals may be taken by any aggrieved

person or by an officer, department, board, or bureau of the Village of Hales Corners affected by any decision of the Zoning Administrator or designee.

Reference: Ordinance 05-12