

**CHAPTER 6**

## Conditional Uses

**SEC. 8-6-1 STATEMENT OF PURPOSE – CONDITIONAL USES.**

The development and execution of this Chapter is based upon the division of the Village into districts, within which districts the use of land and buildings, and bulk and location of buildings and structures in relation to the land, are mutually compatible and substantially uniform. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use of a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses. Such uses are classified as conditional uses.

**SEC. 8-6-2 AUTHORITY OF THE PLAN COMMISSION; REQUIREMENTS.**

- (a) The Plan Commission may authorize the Zoning Administrator to issue a conditional use permit for either regular or limited conditional use after review and public hearing, provided that such conditional use and involved structure(s) are found to be in accordance with the purpose and intent of this Zoning Code and are further found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community. In the instance of the granting of a limited conditional use, the Plan Commission in its findings shall further specify the delimiting reason(s) or factors which resulted in issuing limited rather than regular conditional use. Such Plan Commission resolution, and the resulting conditional use permit, when, for limited conditional use, shall specify the period of time for which effective, if specified, the name of the permittee, the location and legal description of the affected premises. Prior to the granting of a conditional use, the Commission shall make findings based upon the evidence presented that the standards herein prescribed are being complied with.
- (b) Any development within five hundred (500) feet of the existing or proposed rights-of-way of freeways, expressways and within one-half (1/2) mile of their existing or proposed interchange or turning lane rights-of-way may be specifically reviewed by the highway agency that has jurisdiction over the traffic way. The Plan Commission may request such review and await the highway agency's recommendation for a period not to exceed twenty (20) days before taking final action.
- (c) Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Chapter.

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- (d) Compliance with all other provisions of this Chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access and performance standards shall be required of all conditional uses.

### **SEC. 8-6-3 INITIATION OF CONDITIONAL USE.**

Any person, firm, corporation or organization having a freehold interest or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest, or an exclusive possessory interest, and which is specifically enforceable in the land for which a conditional use is sought may file an application to use such land for one (1) or more of the conditional uses in the zoning district in which such land is located.

### **SEC. 8-6-4 APPLICATION FOR CONDITIONAL USE.**

- (a) **Required Application Materials.** An application for conditional use shall be filed in duplicate on a form prescribed by the Village. Such applications shall be forwarded to the Plan Commission on receipt by the Village Administrator. Such applications shall include where applicable:
  - (1) A statement, in writing, by applicant and adequate evidence showing that the proposed conditional use shall conform to the standards set forth in Section 8-6-7 hereinafter.
  - (2) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all property owners of record within one hundred (100) feet.
  - (3) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees and the zoning district within which the subject site lies.
  - (4) Plat of survey prepared by a registered land surveyor showing all of the information required for a building permit and existing and proposed landscaping.
  - (5) Additional information as may be required by the Plan Commission or other boards, commissions or officers of the Village. The Plan Commission may require such other information as may be necessary to determine and provide for an enforcement of this Chapter, including a plan showing contours and soil types; high water mark and ground water conditions; bedrock, vegetative cover, specifications for areas of proposed filling, grading, and lagooning; location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping; plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
  - (6) Fee receipt in the amount of Two Hundred Dollars (\$200.00).
- (b) **Plans.** In order to secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building permit, the following information:
  - (1) A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetation cover;

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- (2) Location of buildings, parking areas, traffic access, driveways, walkways, open spaces, landscaping, lighting;
- (3) Plan for buildings, sewage disposal facilities, water supply systems and arrangements of operations;
- (4) Specifications for areas of proposed filling, grading, lagooning or dredging;
- (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this Chapter.

**SEC. 8-6-5 HEARING ON APPLICATION.**

All requests for conditional uses shall be made to the Plan Commission. The Plan Commission can, on its own motion, apply conditional uses when applications for rezoning come before it. Nothing in this Chapter shall prohibit the Village Board, on its own motion, from referring the request for conditional use to the Plan Commission. Upon receipt of the application and statement referred to in Section 8-6-4 above, the Plan Commission shall hold a public hearing on each application for a conditional use at such time and place as shall be established by such Commission. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Plan Commission shall, by rule, prescribe from time to time.

**SEC. 8-6-6 NOTICE OF HEARING ON APPLICATION.**

Notice of the time, place and purpose of such hearing shall be given by publication of a Class 2 Notice under the Wis. Stats. in the official Village newspaper. Notice of the time, place and purpose of such public hearing shall also be sent to the applicant, the Zoning Administrator, members of the Village Board and Plan Commission, and the owners of record as listed in the office of the Village Assessor who are owners of property in whole or in part situated within one hundred (100) feet of the boundaries of the properties affected, said notice to be sent at least five (5) days prior to the date of such public hearing. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

**SEC. 8-6-7 STANDARDS – CONDITIONAL USES.**

No application for a conditional use shall be approved by the Plan Commission unless such Commission shall find that the following conditions are present:

- (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (b) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use and the proposed use is compatible with the use of adjacent land.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have

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been or are being provided.

- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (f) That the conditional use shall, except for yard requirements, conform to all applicable regulations of the district in which it is located.
- (g) That the proposed use does not violate floodplain regulations governing the site.
- (h) That, when applying the above standards to any new construction of a building or an addition to an existing building, the Plan Commission and Board shall bear in mind the statement of purpose for the zoning district such that the proposed building or addition at its location does not defeat the purposes and objective of the zoning district.
- (i) That, in addition to passing upon a Conditional Use Permit, the Plan Commission shall also evaluate the effect of the proposed use upon:
  - (1) The maintenance of safe and healthful conditions.
  - (2) The prevention and control of water pollution including sedimentation.
  - (3) Existing topography, drainage features and vegetative cover on the site.
  - (4) The location of the site with respect to floodplains and floodways of rivers and streams.
  - (5) The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
  - (6) The location of the site with respect to existing or future access roads.
  - (7) The need of the proposed use for a shoreland location.
  - (8) Its compatibility with uses on adjacent land.
  - (9) The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems.

**SEC. 8-6-8 DENIAL OF APPLICATION FOR CONDITIONAL USE PERMIT.**

When a decision of denial of a conditional use application is made, the Plan Commission shall furnish the applicant, in writing when so requested, those standards that are not met and enumerate reasons the Commission has used in determining that each standards was not met.

**SEC. 8-6-9 APPEALS.**

Any action of the Plan Commission in granting or denying a conditional use permit may be appealed to the Board of Appeals, if a written request for an appeal is filed within ten (10) days after the date of the Plan Commission's action in granting or denying the permit. Such request for an appeal shall be signed by the applicant or by the owners of at least twenty percent (20%) of the land area immediately adjacent extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land. The request shall be filed with the Zoning Administrator who shall submit it to the Board of Appeals at its next meeting, together with any documents and other data used by the Plan Commission in reaching its decision. The Board of Appeals may consider the matter forthwith, refer the matter to a subsequent meeting or set a date for a public hearing thereon.

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In the event the Board of Appeals elects to hold a public hearing, notice thereof shall be given by

mail to the known owners of the lands immediately adjacent thereto and directly opposite any street frontage of the lot or parcel in question and by publication of a Class 1 notice in the official newspaper at least ten (10) days before the date of the hearing. The Board of Appeals may either affirm or reverse in whole or in part the action of the Plan Commission and may finally grant or deny the application for a conditional use permit.

## **SEC. 8-6-10 CONDITIONS AND GUARANTEES.**

The following provisions shall apply to all conditional uses:

- (a) **Conditions.** Prior to the granting of any conditional use, the Plan Commission, or the Board of Appeals on appeal, may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in Section 8-6-7 above. In all cases in which conditional uses are granted, the Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with. Such conditions may include specifications for, without limitation because of specific enumeration:
- (1) Landscaping;
  - (2) Type of construction;
  - (3) Construction commencement and completion dates;
  - (4) Sureties;
  - (5) Lighting;
  - (6) Fencing;
  - (7) Operational control;
  - (8) Hours of operation;
  - (9) Traffic circulation;
  - (10) Deed restrictions;
  - (11) Access restrictions;
  - (12) Setbacks and yards;
  - (13) Type of shore cover;
  - (14) Specified sewage disposal and water supply systems;
  - (15) Planting screens;
  - (16) Piers and docks;
  - (17) Increased parking; or
  - (18) Any other requirements necessary to fulfill the purpose and intent of this Chapter.
- (b) **Site Review.** In making its decision, the Plan Commission shall evaluate each application and may request assistance from any source which can provide technical assistance. The Commission may review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation/use.
- (c) **Alteration of Conditional Use.** No alteration of a conditional use shall be permitted unless  
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approved by the Plan Commission.
- (d) **Architectural Treatment.** Proposed architectural treatment will be in general harmony

with surrounding uses and the landscape. To this end, the Plan Commission may require the use of certain general types of exterior construction materials and/or architectural treatment.

- (e) **Sloped Sites; Unsuitable Soils.** Where slopes exceed six percent (6%) and/or where a use is proposed to be located on areas indicated as having soils which are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided which clearly indicate that the soil conditions are adequate to accommodate the development contemplated and/or that any inherent soil condition or slope problems will be overcome by special construction techniques. Such special construction might include, among other techniques, terracing, retaining walls, oversized foundations and footings, drain tile, etc.
- (f) **Conditional Uses to Comply with Other Requirements.** Conditional uses shall comply with all other provisions of this Chapter such as lot width and area, yards, height, parking and loading. No conditional use permit shall be granted where the proposed use is deemed to be inconsistent or conflicting with neighboring uses for reasons of smoke, dust, odors, noise, vibration, lighting, health hazards or possibility of accident.

#### **SEC. 8-6-11 VALIDITY OF CONDITIONAL USE PERMIT.**

Where the Plan Commission has approved or conditionally approved an application for a conditional use, such approval shall become null and void within twelve (12) months of the date of the Commission's action unless the use is commenced, construction is underway or the current owner possesses a valid building permit under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted. Approximately forty-five (45) days prior to the automatic revocation of such permit, the Zoning Administrator shall notify the holder by certified mail of such revocation. The Plan Commission may extend such permit for a period of ninety (90) days for justifiable cause, if application is made to the Village at least thirty (30) days before the expiration of said permit.

#### **SEC. 8-6-12 COMPLAINTS REGARDING CONDITIONAL USES.**

The Plan Commission shall retain continuing jurisdiction over all conditional uses for the purpose of resolving complaints against all previously approved conditional uses. Such authority shall be in addition to the enforcement authority of the Zoning Administrator to order the removal or discontinuance of any unauthorized alterations of an approved conditional use, and the elimination, removal or discontinuance of any violation of a condition imposed prior to or after approval or violation of any other provision of this Code. Upon written complaint by any citizen or official, the Plan Commission shall initially determine whether said complaint indicates a reasonable probability that the subject conditional use is in violation of either one (1) or more of the standards set forth in Section 8-6-7 above, a condition of approval or other requirement imposed hereunder. Upon reaching a positive initial determination, a hearing shall be held upon notice as provided in Section 8-6-6 above. Any person may appear at such hearing and testify in person or represented by an agent or attorney. The Plan Commission may, in order to bring the subject conditional use into compliance

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with the standards set forth in Section 8-6-7 or conditions previously imposed by the Plan Commission, modify existing conditions upon such use and impose additional reasonable conditions

upon the subject conditional use. Additionally, the offending party may be subjected to a forfeiture as set forth in this Chapter and Chapter 19. In the event that no reasonable modification of such conditional use can be made in order to assure that Standards (a) and (b) in Section 8-6-7 will be met, the Plan Commission may revoke the subject conditional approval and direct the Village Administrator and the Village Attorney to seek elimination of the subject use. Following any such hearing, the decision of the Plan Commission shall be furnished to the current owner of the conditional use in writing stating the reasons therefor. An appeal from a decision of the Plan Commission under this Section may be taken to the Board of Appeals.

### **SEC. 8-6-13 BED AND BREAKFAST ESTABLISHMENTS.**

- (a) **Conditional Use.** Bed and breakfast establishments shall be considered conditional uses and may be permitted in Residence Districts pursuant to the requirements of this Chapter.
- (b) **Definitions.**
  - (1) "Bed and Breakfast Establishment" means any place of lodging that provides six (6) or fewer rooms for rent for more than ten (10) nights in a twelve month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.
  - (2) "Agent" shall mean the person designated by the owner as the person in charge of such establishment and whose identity shall be filed in writing with the Zoning Administrator upon issuance of the permit and updated five (5) days prior to a designated agent taking charge.
- (c) **Regulations.**
  - (1) Compliance with State Standards. All bed and breakfast establishments and licensees shall be subject to and comply with Chapter HSS 197, Wis. Adm. Code, relating to bed and breakfast establishments or Wis. Adm. Code HSS 195 relating to hotels, motels and tourist rooming houses.
  - (2) Registry. Each bed and breakfast establishment shall provide a register and require all guests to register their true names and addresses before assigned quarters. The register shall be kept intact and available for inspection by a Village representative for a period of not less than one (1) year.
- (d) **Permit Required.**
  - (1) Village Permit Required. In addition to the permit required by Chapters HSS 195 or HSS 197, Wis. Adm. Code, before opening for business, every bed and breakfast establishment shall obtain a permit from the Zoning Administrator by application made upon a form furnished by said officer and shall obtain a conditional use permit.
  - (2) Application Requirements. The following is required to be furnished at the time an application is filed for a conditional use permit in addition to the other application requirements of this Chapter:
    - a. Site plan showing location and size of buildings, parking areas and signs.
    - b. Number, surfacing and size of parking stalls.
    - c. Number, size and lighting of signs.
    - d. A fee of Two Hundred Dollars (\$200.00).
  - (3) Display of Permit. The permit issued by the Zoning Administrator shall be

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conspicuously displayed in the bed and breakfast establishment.

- (e) **Off-Street Parking Required.** Permits shall be issued only to those establishments that provide a minimum of one (1) improved off-street parking space for each room offered for occupancy. Establishments otherwise qualifying under this Section regulating bed and breakfast establishments shall not be subject to the other requirements of the Zoning Code with respect to traffic, parking and access.
- (f) **On-Site Signs.** Total signage shall be limited to a total of twelve (12) square feet and may be lighted in such manner and nature as to not alter or deteriorate the nature of the surrounding neighborhood. Establishments otherwise qualifying under this Section regulating bed and breakfast establishments shall not be subject to the requirements of this Zoning Code with respect to signs.
- (g) **Termination of Permit.** A bed and breakfast permit shall be void upon the sale or transfer of the property ownership. The Plan Commission shall review and conditionally approve or disapprove an application submitted by a person anticipating the purchase of premises for such use. A permit issued in accordance with Subsection (c) above shall be valid until terminated by action of the Zoning Administrator for violation of the provisions of this Section, or of State of Wisconsin regulations as set forth in Chapter HSS 195 or Chapter HSS 197, Wis. Adm. Code, or as above provided.

**SEC. 8-6-14 REQUIREMENTS FOR BUILDINGS OR USES WHICH ARE FIFTY THOUSAND (50,000) SQUARE FEET OR GREATER IN AREA AND WHICH ARE USED FOR THE PERMITTED OR CONDITIONAL USE IN THE B-1 SHOPPING CENTER DISTRICT.**

(a) **Applicability and Standards.**

- (1) Any building or use which is a permitted or conditional use in the B-1 Shopping Center District where the size of an enclosed structure used for the permitted or conditional use is fifty thousand (50,000) square feet or greater in area [and seventy-five thousand (75,000) square feet or greater in area for the permitted or conditional use(s) for any single use or multiple uses located within two (2) or more attached structures,] shall also meet the requirements of this Section in order to obtain a Conditional Use Permit. This provision shall apply as an overlay over the entire zoning lot upon which said use or structure is located and as a requirement for any single use or multiple uses located within one (1) enclosed structure or two (2) or more attached structures, if that structure or attached structures exceeds fifty thousand (50,000) square feet in area or seventy-five thousand (75,000) square feet in area, respectively.

- (2) The Conditional Use Permit set forth herein shall be required for all new construction; for any existing building exceeding fifty-thousand (50,000) [(seventy-five thousand (75,000) square feet for the permitted or conditional use(s) for any

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single use or multiple uses located within two (2) or more attached structures)] square feet in area if that building is expanded or if the present use of the building ceases for more than one (1) year; and for any building which is expanded to over fifty (50,000) [(seventy-five thousand (75,000) square feet for the permitted or

conditional use(s) for any single use or multiple uses located within two (2) or more attached structures)] square feet in area. A Conditional Use Permit as set forth herein shall be required for any building, the footprint of which exceeds [fifty-thousand (50,000)] [(seventy-five thousand (75,000) square feet for the permitted or conditional use(s) for any single use or multiple uses located within two (2) or more attached structures)] square feet in area, even when such building contains separate enclosed uses. Realignment of any interior use of the building without changes to the exterior walls of the building shall not be considered an expansion of the building.

(3) The standards of development set forth in this Section shall apply to the review of requests for Conditional Use Permits for uses specified in this Section. These standards are intended to ensure that large retail and commercial sales and service buildings, and the sites they occupy, are properly located and compatible with the surrounding neighboring area and the Village of Hales Corners.

(4) These standards are in addition to those standards set forth under the provisions of Section 8-2-3 titled "Site Regulations" of the Village Zoning Code.

(b) **Compatibility with Adopted Village of Hales Corners Master Plan Elements Required.**

The proposed development shall be compatible with the adopted Village of Hales Corners Master Plan and/or elements of the Village of Hales Corners Master Plan. The applicant shall provide, through a written report submitted with the petition for a Conditional Use Permit, adequate evidence that the proposed building and overall development project shall not hinder or undermine the Village's community character, existing retail and commercial sales and service development, or community facility objectives as set forth in adopted elements of the Village of Hales Corners Master Plan. Building and site design shall be compatible with the Village of Hales Corners' urban design objectives for the area in which the site is located, as expressed through adopted elements of the Village of Hales Corners Master Plan.

(c) **Dimensional, Bulk, and Landscape Surface Ratio Standards.**

(1) The following dimensional, bulk, and landscape surface ratio standards shall be followed:

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Type of Standard	Standard
<b>Landscape Surface Ratio</b>	

Type of Standard	Standard
<b>Minimum Landscape Surface Ratio (LSR)</b>	0.25 (a)
<b>Lot Dimensional Requirements</b>	
<b>Minimum Lot Area (s.f.)</b>	40,000
<b>Minimum Lot Width at Public Street Right-of-Way Line (feet)</b>	200
<b>Minimum Building Setback (Front Yard and Side Yard on a Corner Lot) from Public Street Right-of-Way (feet)</b>	50
<b>Minimum Off-Street Parking Setback from a Public Street Right-of-Way (feet)</b>	25
<b>Minimum Side Yard (feet)</b>	10 (b)
<b>Minimum Rear Yard (feet)</b>	25 (b)
<b>Maximum Building Height</b>	
<b>Principal Structure (stories/ft.):</b>	
<b>Retail</b>	2.0/35
<b>Office</b>	3.0/45
<b>Accessory Structure (stories/ft.)</b>	1.0/25

- a. The minimum required landscape surface ratio (LSR) may be reduced by 0.05 if primary access to the property is afforded by a single access drive shared with an abutting property which is not part of the same zoning lot. Proof of the grant of such access easement from the abutting property owner shall be required by the Village.
  - b. Where any portion of the lot abuts a residential zoning district, the minimum required side yard or rear yard adjoining such residential zoning district shall be a minimum of 25 feet in width and which minimum required side yard and/or rear yard shall not be used for driveway, parking, or accessory building purposes.
- (2) Landscape Surface Ratio (LSR) Requirements. The minimum required landscape surface ratio (LSR) shall be twenty-five (25) percent, subject to the following:
- a. Developed Parcels of Land, Lots, or Zoning Lots Less than Forty Thousand (40,000) Square Feet in Area. The landscape surface ratio (LSR) of developed parcels of land, lots, or zoning lot land area which are less than forty thousand (40,000) square feet in area shall not be reduced below the existing landscape surface ratio (LSR) at the time of the adoption of this Ordinance or reduced below a landscape surface ratio (LSR) of twenty-five  
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(25) percent, whichever is less.
  - b. Developed Parcels of Land, Lot, or Zoning Lots Forty Thousand (40,000)

Square Feet in Area or Greater.

1. Increases in Floor Area of Ten (10) Percent or Less. Additions and cumulative additions to existing buildings and/or existing uses located on parcels of land, lots, or zoning lot land area that are forty thousand (40,000) square feet or greater in area and where the total gross floor area existing at the time of the adoption of this Ordinance is not increased more than ten (10) percent of the existing total floor area shall be exempt from the twenty-five (25) percent minimum required landscape surface ratio (LSR) but shall not result in a loss of any existing LSR.
  2. Increases in Floor Area of Greater than Ten (10) Percent. Additions and cumulative additions to existing buildings and/or existing uses located on parcels of land or lots that are forty thousand (40,000) square feet or greater in area and where the total floor area existing at the time of the adoption of this Ordinance is increased greater than ten (10) percent of the existing total floor area shall:
    - (a) Not result in a loss of existing LSR and shall comply with the landscape surface ratio (LSR) specified in this Ordinance to the maximum extent possible for the total parcel, lot, or zoning lot land area; and
    - (b) Comply with the minimum required landscape surface ratio (LSR) of twenty-five (25) percent for that portion of the parcel, lot, or zoning lot land area upon which the new development is proposed to occur. When determining the land area of that portion of the parcel, lot, or zoning lot upon which the new development or redevelopment is proposed to occur, all existing building coverage, existing off-street parking areas, existing drives and loading areas, and existing setback areas which are not proposed to be disturbed by the proposed new development shall be excluded.
- (d) **Concrete Curb and Gutter Required for Off-Street Parking Areas.** Concrete curb and gutter meeting Village of Hales Corners specifications shall be required for off-street parking areas serving more than five (5) vehicles. This requirement shall also apply to the expansion of any existing off-street parking lot where the number of off-street parking spaces is increased by twenty (20) spaces or more.
- (e) **Cart Corrals and Outdoor Cart Storage Areas.**
- (1) Cart corrals and outdoor cart storage areas shall not occupy any required off-street parking spaces.
  - (2) A minimum of one (1) one hundred and eighty (180) square foot cart corral/cart storage area shall be provided for every fifty (50) off-street parking spaces. Cart corrals shall be of a durable, all season construction, and shall be designed and

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colored so as to be compatible with the building and parking lot luminaires and pole standards. There shall be no exterior cart corral or cart storage areas located within forty (40) feet of the building.

- (f) **Provision of Adequate On-Site Automobile Queuing Area.** The following standards shall apply:
- (1) Queuing Space Entering from Public Collector or Arterial Street. There shall be sufficient on-site space to accommodate at least three (3) queued vehicles waiting to park or exit the parking lot without utilizing any portion of the collector or arterial street right-of-way or in any other way interfere with collector or arterial street traffic and safety.
  - (2) Drive-in and Drive-Through Establishments. The following standards shall apply:
    - a. Drive-in and drive-through establishments for banks, savings and loans, and financial institutions shall provide a minimum of six (6) automobile stacking or queuing spaces on-site per teller or customer service area.
    - b. Drive-in and drive-through establishments for restaurants shall provide a minimum of ten (10) automobile stacking or queuing spaces on-site per service area.
- (g) **Pedestrian and Bicycle Access.**
- (1) The development shall provide for safe pedestrian and bicycle access to all uses within the development, connections to existing and planned public pedestrian and bicycle facilities, and connections to adjacent properties.
  - (2) Sidewalks shall be provided along the entire length of any building facade elevation containing a public entrance.
  - (3) Internal pedestrian walkways shall be distinguished from vehicular driving surfaces through the use of brick pavers, stone pavers, or concrete.
  - (4) The development shall provide secure, integrated bicycle parking and pedestrian furniture in appropriate quantities and location as determined by the Plan Commission.
- (h) **Minimum Required Off-Street Parking Separation From On-Site Buildings.** All off-street parking areas shall be separated from buildings with pedestrian walkways and planting areas not less than fifteen (15) feet in total width. The foundation landscape planting area along the building shall be a minimum of ten (10) feet in width and the walkway shall be a minimum of five (5) feet in width.
- (i) **Loading Docks, On-Site Loading Spaces, and/or Building Service Areas.**
- (1) No loading dock, on-site loading space, and/or building service area shall be located so as to face or front upon an abutting public street right-of-way (except as may be the case for a lot for which both the front and rear lot lines abut such public rights-of-way) or so as to be visible from said abutting public street rights-of-way (in the case of a lot for which both the front and rear lot lines abut such rights-of-way). All loading spaces shall be located in either the side or rear yard but not within required side or rear yard setbacks.
  - (2) Loading docks, on-site loading spaces, and/or building service areas shall be screened from view from abutting residential properties and/or public street rights-of-way with

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either a wall or sight-proof fence and associated landscaping approved by the Village Plan Commission. All loading and unloading service area walls shall be constructed

of masonry materials of a type and color which match the building to which they are accessory to and are compatible with the building architecture to which they are accessory to. All outdoor loading/unloading service area screening walls shall not be less than fifteen (15) feet in height.

- (3) No truck shall be allowed to have its engine or other motorized equipment running (such as a refrigeration unit) which exceeds the maximum permitted exterior sound level of fifty (50) dBA (A-weighting scale of sound measurement as expressed in decibels and not to be exceeded more than 30 minutes out of 24 hours) as measured at the property line.

(j) **Maximum Area of Outdoor Storage, Location, and Screening Requirements.**

- (1) No outdoor storage area shall exceed an area which is five (5) percent of the gross floor area of the principal structure to which said outdoor storage is accessory to, or five thousand (5,000) square feet, whichever is less.
- (2) An outdoor storage area shall not be allowed within any areas required to meet the minimum landscape surface ratio (LSR) and cannot occupy any off-street parking area or driveway area.
- (3) No portion of any lot shall be used for open or unscreened storage of any kind. Outdoor storage areas shall be 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 and design requirements of all such areas shall consist of the following:
  - a. Solid walls or solid fences a minimum of eight (8) feet in height and in no case lower in height than the enclosed storage area when a height exceeding eight (8) feet is approved by the Plan Commission. In no case, however, shall a solid wall exceed a height of fourteen (14) feet or solid fence exceed a height of eight (8) feet.
  - b. Access to such storage areas shall be through solid gates that shall be closed except when said outdoor storage area is in use for the transport of stored materials.
  - c. All such outdoor storage 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.

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

- d. Walls, fencing, and landscaping for outdoor storage areas shall be maintained in good condition and kept litter-free.
- (4) Outdoor storage areas are not outdoor sales and display areas that are regulated separately by this Ordinance.
- (k) **Outdoor Display of Merchandise.** Outdoor display of merchandise includes the outdoor display of merchandise (except bulk inventory), materials, and equipment including items for customer pick-up on that day, or the site of, and operated by a legally established business. The Plan Commission shall consider as part of any Site Plan review those requests for outdoor display areas as authorized by this Ordinance subject to the following:
  - (1) No outdoor display shall be permitted that is not accessory to an enclosed principal building.
  - (2) No outdoor display area shall exceed an area greater than five (5) percent of the gross floor area of the principal structure to which said outdoor sales and display area is accessory to.
  - (3) No outdoor display area shall encroach into areas set aside for compliance with other criteria, such as but not limited to, required yard setbacks, sidewalks, building entrances and exits, vision setbacks, landscaping, green space and landscape surface ratio areas, stormwater detention or retention areas, pedestrian areas, emergency vehicle lanes, and motor vehicle and bicycle parking areas and access.
  - (4) Outdoor sales and display areas shall not impede the growth or maintenance of required landscaping.
  - (5) Outdoor sales and display areas shall not include bulk merchandise (either packaged or unpackaged), such as topsoil, fertilizer, ornamental stone, mulch, firewood and other similar items unless the area is screened pursuant to the following screening requirements:
    - a. Solid walls or solid fences a minimum of eight (8) feet in height and in no case lower in height than the enclosed outdoor display area when a height exceeding eight (8) feet is approved by the Plan Commission. In no case, however, shall a solid wall exceed a height of fourteen (14) feet or solid fence exceed a height of eight (8) feet.
    - b. All such outdoor sales and display areas shall provide contiguous landscape bufferyards 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

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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

- c. Walls, fencing, and landscaping for outdoor sales and display areas shall be maintained in good condition and kept litter-free.
- (6) Decorative fencing shall not include the use of chain-link or wire-mesh fencing. The use of barbed or razor-wire fencing is prohibited.
- (7) Access to such outdoor sales and display areas shall be through gates that shall be closed and secured except when said outdoor area is in use.
- (8) No products or materials shall be stored or displayed between a wall or fence located adjacent to a lot line and the lot line.
- (9) All outdoors sales and display areas shall be required to be improved with pavement of either asphalt or concrete.
- (10) Outdoor storage of equipment or vehicle parts, parts salvage or supplies unless specifically allowed herein is prohibited.
- (11) Permitted repair, installation, manufacturing, and assembly uses shall be conducted within a completely enclosed building.
- (12) Signage is subject to approval by the Zoning Administrator subject to the requirements of Chapter 9 "Signs and Billboards" of the Village of Hales Corners Zoning Code.
- (13) Outdoor sales and display areas are not storage areas that are regulated separately by this Ordinance.
- (14) Exceptions. The other provisions of this Section notwithstanding, outdoor sales and display shall be allowed to provide for the temporary outdoor display of seasonal merchandise pursuant to the following requirements.
  - a. Seasonal merchandise defined as "merchandise that is sold only part of the year during one of the four seasons: winter, spring, summer or fall." Seasonal merchandise shall include firewood, Christmas trees, fruits and vegetables, outdoor plants, packaged mulch, packaged garden fertilizer, packaged ornamental stone, packaged charcoal, lawnmowers, roto-tillers, bicycles, wading pools, lawn furniture, and other similar items.
  - b. Temporary outdoor display of seasonal merchandise.

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- (1) **Minimum Required Public Areas and Pedestrian Features.** Each development shall provide a central area(s) or feature(s) such as public seating area, pedestrian plaza with benches, water feature, and/or other such designated pedestrian area(s) or focal point(s). All such areas shall be openly accessible to the public, connected to the public and private

sidewalk system, designed with materials compatible with the building and site landscaping, and maintained over the life of the building and project. Such area(s) shall not be less than two and one-half (2.5) percent of the total site area and shall be counted towards the minimum required landscape surface ratio (LSR) regardless of impervious surface area.

(m) **Minimum Required Landscaping.**

(1) Required Landscape Bufferyards Required Between the B-1 Shopping Center District and Any Abutting Residential Zoning Districts. Landscape bufferyards with a minimum width of twenty-five (25) feet are required between the B-1 Shopping Center District and any abutting residential zoning districts. The following minimum number, types, and sizes of plant materials and fencing 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 and Landscape Structures Required	Minimum Quantity Required Per 100 Feet of Bufferyard Length	Minimum Size Required at Time of Installation
Canopy/Shade Trees	3	3 inch caliper
Evergreen Trees	6	6 feet tall
Shrubs	16	2 feet tall
Board-on-Board Solid Wood Fence	1	6 feet tall

(2) Required Landscape Bufferyards Between Off-Street Parking Areas and Public Street Rights-of-Way. Landscape bufferyards with a minimum width of thirty (30) feet are required between all off-street parking areas and public street rights-of-way. 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.

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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
Evergreen Trees	4	6 feet tall
Shrubs	10	2 feet tall

(3) Required Landscape Areas and Landscape Plant Materials for Off-Street Parking Spaces.

- a. The minimum required landscape area required within an off-street parking area per twenty (20) off-street parking spaces, or fraction thereof, shall be seven hundred (700) square feet.
- b. The following minimum number, types, and sizes of plant materials shall be provided per twenty (20) off-street parking spaces. 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 Twenty (20) Off-Street Parking Spaces	Minimum Size Required at Time of Installation
Canopy/Shade Trees	2	3 inch caliper
Understory Trees	4	2 inch caliper
Shrubs	16	18 inches tall

- (4) Other On-Site Landscape Plant Materials. The following minimum number, types, and sizes of plant materials shall be provided per one (1) acre of site area, or fraction thereof, (*excluding site area occupied by all impervious surface areas, stormwater detention/retention areas, required landscape bufferyard areas, and required off-street parking landscape areas*). 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.

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Type of Plants Required	Minimum Quantity Required Per One (1) Acre of Land or Fraction Thereof	Minimum Size Required at Time of Installation

Canopy/Shade Trees	4	3 inch caliper
Understory Trees	4	2 inch caliper
Evergreen Trees	4	6 feet tall
Shrubs	24	18 inches tall

- (5) **Building Foundation Landscaping Required.** Building foundation landscaping for all building frontages facing public streets, off-street parking lots, or residential zoning districts is required. Building foundation landscaping shall be placed in a landscape bed no less than ten (10) feet in width along the facade of the building.
- (6) **Plant Material Substitution.** Required landscape plant material types may be substituted for other types based upon the following:

Required Plant Material Type	Acceptable Substitutions
<b>1 Canopy Tree:</b> 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
<b>1 Coniferous Tree</b>	1 Understory Tree 1.5 inch caliper each
<b>1 Understory Tree</b>	1 Coniferous Tree 6 feet in height each
<b>1 Shrub</b>	1 Understory Tree 1.5 inch caliper each or 1 Coniferous Tree 4 feet in height each

- (n) **Building Design Requirements.** The following standards and requirements for Section 8-6-14

architectural review are used by the Plan Commission in its review of the architecture for proposed new buildings and building expansions. 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) Building Compatibility. All buildings on lots and parcels shall be designed to be compatible with one another.
- (2) Aesthetic Design of All Building Elevations Required. All buildings on all lots shall be aesthetically designed on all sides of the building and on all building facade elevations which are visible by the general public either on-site or from the public street right-of-way or which are visible from abutting residential properties. All buildings facing public streets and public areas shall continue the major front elevation design elements to those other elevations facing the public streets or public areas. Building facades and elevations which appear as a "blank wall" with no architectural delineation, articulation, and architectural detail shall be avoided.
- (3) Building Scale, Mass, and Facade Articulation.
  - a. The relative proportion of a building to its neighboring existing buildings, to pedestrians or observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
  - b. A minimum of twenty (20) percent of the length of each building facade elevation which is visible by the general public either on-site or from a public street right-of-way or which is visible from abutting residential properties shall have facade protrusions or recesses which shall be a minimum of three (3) feet in depth.
- (4) Building Entrances for the Public.
  - a. Public entryways to the building shall be clearly defined and highly visible.
  - b. Two (2) or more of the following design features shall be incorporated into all public entryways to the building: canopies or porticos, roof or canopy overhangs, projections, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details.
  - c. In order to encourage pedestrian use of the building and to maximize building access, all sides of the building that directly face or abut a public street or on-site off-street parking area shall have at least one (1) public entrance to the building, except that the Village shall not require public entryways to the building on more than two (2) elevations of any building.
- (5) Building Rooflines and Roof Shapes.
  - a. Building rooflines may be required by the Plan Commission to complement existing building rooflines in the surrounding area.
  - b. The visual continuity of roofs and their contributing elements (parapet walls, coping, cornices, etc.) shall be maintained in building development, redevelopment, and building additions. However, no building facade

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elevations which are visible by the general public either on-site or from the public street right-of-way or which are visible from abutting residential properties shall have not less than three (3) independent major rooflines. A minimum of twenty (20) percent of all of the total length of any building facade elevation which is visible by the general public either on-site or from the public street right-of-way or which is visible from abutting residential

properties shall employ differences in roofline height with such differences being a minimum of six (6) feet of height as measured from eave to eave or parapet to parapet. The following types of differences in the roof lines of a building may be deemed sufficient by the Plan Commission to meet these requirements:

1. Providing intersecting roof(s) with the main roof.
2. A building which has three (3) independent major roof areas with the changing of two (2) out of the three (3) roof lines. Acknowledging certain design elements may prevent the changing of all three (3) roof lines, it is desired that the roofs with the greatest impact visual exposure to the public be changed.

The following changes shall not be deemed sufficient to be a major roofline change:

3. Small gable or hip projections above windows or parapet walls.
4. Window dormers or window awnings.
5. Change in soffit or canopy overhangs, minor variations in eave heights, or minor variations in top of parapet wall.
6. Skylights and cupolas.

(6) Ground Floor Building Facade Elevations Facing Public Streets. Ground floor building facade elevations that face and are within one hundred twenty-five (125) feet of public streets shall have display windows, pedestrian walkways and covered pedestrian walkways, public entry areas to the building, canopies, awnings, or other such features along no less than forty (40) percent of the total length of the building facade elevation facing said public street.

(7) Building Plans to Be Prepared by a Wisconsin Registered Architect. All buildings shall be designed by a registered architect of the State of Wisconsin.

(o) **Developer's Agreement Required.** The developer and the owner of the property upon which the establishment will be located shall enter a Developer's Agreement with the Village of Hales Corners which shall be binding upon the developer, the owner, and their mortgagees, land contract vendors, lessees, contractors, agents, officers, employees, personal representatives, guardians, heirs, successors (whether individual, firm, partnership, or corporation) and assigns. The Developer's Agreement shall include, but not be limited to, the following:

- (1) A provision that, if the building stands unused for the use for which the original Conditional Use Permit was issued, the developer shall restore the property to a developable condition by either razing the building and restoring the land or remodeling the building for a use permitted or conditionally permitted in the B-1

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Shopping Center District, obtaining the appropriate permits, and actually using the property for the new use. No new use for warehousing shall be allowed pursuant to this section unless it is incidental and accessory to a retail use at the same site.

- a. This provision shall also provide that, if the developer has not razed the building or put the structure to use pursuant to this subsection within three (3) years from the time of cessation of the original use, the Village Board of the Village of Hales Corners may demand that the developer raze the

building and restore the land at the developer's expense, and if the developer fails to do so after such notice by the Village of Hales Corners, the Village Board of the Village of Hales Corners may cause the building to be razed and the land to be restored and shall assess the cost against the real estate as a special charge. The Village may, as a condition of the Conditional Use Permit, demand a performance bond to ensure fulfillment of this requirement.

- b. The intermittent use of the building for less than fifty (50) percent of days in the calculation of the three (3) year period shall constitute an unused condition for purposes of this Section, and the burden of establishing periods of use shall be upon the developer.
- (2) A provision that, if the property is within five hundred (500) feet of a residential property, the Plan Commission may consider limiting the hours of operation of the business, which limits shall be strictly enforced.
- (3) A provision setting forth a requirement for a noise buffer over and above provisions set forth elsewhere in the Village Code.
- (4) A provision reciting traffic flow patterns of delivery trucks which shall be strictly enforced.
- (5) A requirement that no outside container storage shall be permitted unless it is screened from neighboring properties, which screening shall be based upon a Site Plan submitted, reviewed and approved by the Plan Commission prior to issuance of the Conditional Use Permit.
- (6) A requirement for a cash bond or letter of credit, at the developer's discretion, to be maintained permanently or until revision of the terms of the conditional use permit by the Plan Commission, and established initially in the amount of ten (10) percent of the costs of the landscaping and stormwater drainage facility installation, as determined by the Village Engineer, to maintain landscaping and stormwater drainage facilities, with a provision that the cash bond balance be replenished by the property owner upon notice by the Village of Hales Corner if the Village of Hales Corners draws the bond down due to the property owner's failure to perform such maintenance. (The developer's agreement specific provision shall provide for 150% of costs to Village of Hales Corners per draw, to compensate for overhead).
- (7) A provision for limitation of the type and configuration of signage to be allowed and which limitation may allow lesser signage than would otherwise be allowed under the provisions of the Village of Hales Corners Zoning Code.
- (8) A provision that the Plan Commission and Village Board approval of the developer's agreement shall constitute the incorporation of the Developer's Agreement into the  
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Conditional Use Permit as a condition of such Conditional Use Permit and that any violation of the provisions of the Developer's Agreement shall be a violation of the Conditional Use Permit and shall be enforced by the Zoning Administrator in addition to all other remedies set forth in the Developer's Agreement or allowed by law.

- (p) **Impact on Existing Village of Hales Corners Business Locations.** Where such a building is proposed as a replacement location for a business already located within the Village of Hales Corners, the Village shall prohibit any privately imposed limits on the type of reuse of

the previously occupied building through conditions of sale or lease. If the applicant requires such limits, the applicant may seek Village approval to demolish the previously occupied structure and prepare the site for future redevelopment.

- (q) **Existing Nonconforming and Substandard Lots.** Existing nonconforming and substandard lots which comprise the site area for the proposed development shall be combined by "land consolidation" as a condition of the issuance of a Conditional Use Permit. No Building Permit shall be issued for the conditional use until said land consolidation has occurred.
- (r) **Waiver of Standards.** The Plan Commission may waive any of the above 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