

CHAPTER 8

Zoning Code

Chapter 1

Introduction

- 8-1-1 Authority
- 8-1-2 Title
- 8-1-3 General Purpose
- 8-1-4 Intent and Purpose in View
- 8-1-5 Abrogation and Greater Restrictions
- 8-1-6 Interpretation
- 8-1-7 Severability and Non-liability
- 8-1-8 Repeal and Effective Date

Chapter 2

General Provisions

- 8-2-1 Jurisdiction and General Provisions
- 8-2-2 Use Regulations
- 8-2-3 Site Regulations
- 8-2-4 Heights and Area Exceptions
- 8-2-5 Reduction or Joint Use
- 8-2-6 Screens and Buffers
- 8-2-7 Automobile Service Station Requirements
- 8-2-8 Historical Preservation
- 8-2-9 Home Occupations
- 8-2-10 Landscaping
- 8-2-11 Stormwater Management Requirements
- 8-2-12 Construction Site Erosion Control and Storm Water Management

Chapter 3

Zoning Districts

- 8-3-1 Establishment of Districts
- 8-3-2 Vacation of Streets; Annexations
- 8-3-3 Zoning Map
- 8-3-4 Rules for Interpretation of District Boundaries
- 8-3-5 R-1 Residence District
- 8-3-6 R-2 Residence District
- 8-3-7 R-3 Residence District
- 8-3-8 R-4 Residence District
- 8-3-9 B-1 Shopping Center District
- 8-3-10 B-2 General Business District
- 8-3-11 B-3 Automobile Oriented Business
- 8-3-12 B-4 Office and Professional Services
- 8-3-13 M-1 Light Manufacturing
- 8-3-14 P-1 Parks and Institutional
- 8-3-15 RCO Redevelopment/Conservation Overlay District

Chapter 4

PUD Planned Unit Development Overlay District

- 8-4-1 Purpose of the PUD Overlay District
- 8-4-2 Types of Planned Unit Developments
- 8-4-3 Physical Requirements for Planned Unit Developments
- 8-4-4 Signs
- 8-4-5 Off-Street Parking
- 8-4-6 Subsequent Land Division
- 8-4-7 Criteria for Approval
- 8-4-8 Procedural Requirements for a Planned Unit Development Overlay District
- 8-4-9 Basis for Approval of the Petition for Planned Unit Development
- 8-4-10 Recording and Implementation Plan

Chapter 5

Floodplain-Wetland Code

- 8-5-1 Statutory Authorization, Concurrent Jurisdiction, Finding of Fact, Statement of Purpose
- 8-5-2 General Provisions
- 8-5-3 General Floodplain-Wetland District
- 8-5-4 Nonconforming Uses
- 8-5-5 Administration
- 8-5-6 Amendments
- 8-5-7 Definitions

Chapter 6

Conditional Uses

- 8-6-1 Statement of Purpose - Conditional Uses
- 8-6-2 Authority of the Plan Commission; Requirements
- 8-6-3 Initiation of Conditional Use
- 8-6-4 Application for Conditional Use
- 8-6-5 Hearing on Application
- 8-6-6 Notice of Hearing on Application
- 8-6-7 Standards - Conditional Uses
- 8-6-8 Denial of Application for Conditional Use Permit
- 8-6-9 Appeals
- 8-6-10 Conditions and Guarantees
- 8-6-11 Validity of Conditional Use Permit
- 8-6-12 Complaints Regarding Conditional Uses
- 8-6-13 Bed and Breakfast Establishments
- 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

Chapter 7

Nonconforming Uses, Structures and Lots

- 8-7-1 Existing Use Permitted
- 8-7-2 Classification and Regulation
- 8-7-3 Removal of Hazards
- 8-7-4 Front Setback Deviations

Chapter 8 **Traffic Visibility, Loading, Parking and Access**

- 8-8-1 Traffic Visibility
- 8-8-2 Loading Requirements
- 8-8-3 Parking Requirements
- 8-8-4 Highway Access
- 8-8-5 Storage and Parking of Recreational Vehicles
- 8-8-6 Storage of Trucks, Tractors and Road Machinery

Chapter 9 **Signs and Billboards**

- 8-9-1 Purpose of Sign and Billboard Regulations
- 8-9-2 Signs and Billboards - Definitions
- 8-9-3 Sign Permit Required
- 8-9-4 Signs Excepted
- 8-9-5 Sign Setbacks Required
- 8-9-6 General Prohibitions
- 8-9-7 Permit Procedures and Fees
- 8-9-8 Construction Standards
- 8-9-9 Specific Sign Restrictions
- 8-9-10 Temporary Signs
- 8-9-11 Campaign Signs
- 8-9-12 Dangerous and Abandoned Signs
- 8-9-13 Variances or Exceptions
- 8-9-14 Construction and Maintenance Regulation for Signs
- 8-9-15 Nonconforming Signs
- 8-9-16 Abandoned Billboards and Signs
- 8-9-17 Enforcement

Chapter 10 **Performance Standards - Industrial and Business Developments**

- 8-10-1 Chapter Intent
- 8-10-2 Vibration
- 8-10-3 Cellular Telephone, Microwave, and Related Communication Towers and Accessory Ground Structures
- 8-10-4 External Lighting
- 8-10-5 Odor
- 8-10-6 Particulate Emissions
- 8-10-7 Visible Emissions
- 8-10-8 Hazardous Pollutants

Chapter 11 **Satellite Earth Stations; Television or Radio Antenna Towers; Wind Energy Systems**

- 8-11-1 Satellite Earth Stations
- 8-11-2 Radio or Television Antenna Towers
- 8-11-3 Conditional Use Permits Required - Wind Energy Systems
- 8-11-4 Permit Procedure - Wind Energy Systems
- 8-11-5 Specific Requirements Regarding Wind Energy Systems

Chapter 12 **Accessory Uses and Structures; Fences and Hedges**

- 8-12-1 Accessory Uses or Structures
- 8-12-2 Outside Storage of Firewood
- 8-12-3 Outside Storage
- 8-12-4 Fences and Hedges
- 8-12-5 Swimming Pools

Chapter 13 **Administration**

- 8-13-1 General Administration System
- 8-13-2 Zoning Administrator
- 8-13-3 Role of Specific Village Officials in Zoning Administration
- 8-13-4 Occupancy Permit
- 8-13-5 Site Plan Approval
- 8-13-6 Official Map
- 8-13-7 Violations and Penalties

Chapter 14 **Changes and Amendments to the Zoning Code**

- 8-14-1 Authority
- 8-14-2 Initiation of Changes or Amendments
- 8-14-3 Procedure for Changes or Amendments
- 8-14-4 Protest

Chapter 15 **Appeals**

- 8-15-1 Appeals to the Zoning Board of Appeals
- 8-15-2 Application for Hearings
- 8-15-3 Hearings
- 8-15-4 Decision and Disposition of Cases
- 8-15-5 Variations
- 8-15-6 Review by Court of Record

Chapter 16 **Definitions**

- 8-16-1 Definitions

Code Amendments

Zoning District Summaries

Type of Zoning District	Principal Permitted Uses	Conditional Uses	Minimum Lot Size		Minimum Yard Requirement		
			Total Area (Square Feet)	Width at Frontage (Feet)	Front Yard (Feet)	Side Yard (Feet)	Rear Yard (Feet)
R-1 Resident District	two-family dwellings; single family dwellings; public parks	Churches; Schools; Libraries, museums, community buildings; CLAS for 9-15 persons	10,000	75	35	with attached garage-10; with detached garage-10 (north or west sides) or 20 (south or east sides)	40
R-2 Resident District	single family dwellings; public parks.	Churches; Schools; Libraries, museums, community buildings; Private recreational uses; Two-family dwellings; CLAS for 9-15 persons	15,000	90	45	with attached garage-10 (north or west sides) or 15 (south or east sides); with detached garage-10 (north or west sides) or 25 (south or east sides)	40
R-3-Resident District	single family dwellings	Churches; Schools; Libraries, museums, community buildings; Private recreational uses; CLAS for 9-15 persons	20,000	100	60	with attached garage-15; with detached garage-15 (north or west sides) or 30 (south or east sides)	40
R-4 Resident District	Public Parks	Multi-family dwellings for more than 2 families or housekeeping units; Private clubs; Convalescent homes; Planned residential development projects; Funeral homes; Senior Housing; Private recreational uses	10,000	n/a	35	20	40
B-1 Shopping Center District	Large general merchandise stores, food stores, general retail, personal services, banks/savings and loan institutions, restaurants, offices	Private clubs; Drive-in uses; Parking and storage lots; Mechanical garages; Undertaking establishments with attached living quarters; Veterinarian offices and/or animal hospitals; Building supply stores	2 acres	200	50	corner lot-50; non-corner-10; bordering residentially zoned parcel-25	25
B-2 General Business District	Large general merchandise stores, food stores, general retail, personal services, banks/savings and loan institutions, restaurants, offices	Financial Institutions with drive-in facilities, veterinary services, child day care centers, building supply stores, boat sales and recycling drop off centers	7,200	60	20	corner lot-20; other-10	25
B-3 Automobile-oriented District	none	Automobile-oriented retail sales and services, including automotive sales and service, car washes, gasoline stations, drive-in banking and drive-in restaurants	15,000	100	40	corner lot-40; non-corner-10	25
B-4 Office & Professional Services	Offices, personal service shops, beauty shops, real estate agencies, travel services, consulting services, funeral homes, and other professional and similar offices, financial institutions	Veterinary services, contractors offices, laboratories, and child day care centers.	7,200	60	20	corner lot-20; other-10	25

Zoning District Summaries

Type of Zoning District	Principal Permitted Uses	Conditional Uses	Minimum Lot Size		Minimum Yard Requirement		
			Total Area (Square Feet)	Width at Frontage (Feet)	Front Yard (Feet)	Side Yard (Feet)	Rear Yard (Feet)
M-1 Light Manufacturing	Light manufacturing, building supply yards, bakeries, laundries, warehouses and similar uses	Outside storage and laboratories; All B-1, B-2, B-3, B-4 permitted and conditional uses	10,000	75	50	corner lot-50; non-corner-10	25
P-1 Parks & Institutional	Schools, day care centers, churches, hospitals, nursing homes, clinics, museums, art galleries, cemeteries, lodges, public buildings, private and public recreation and forest preserves	Gift shops, florists, and food service when directly associated with permitted uses; Funeral homes; Communication towers, solid waste management, and recycling facilities; Amphitheaters, amusement parks & aquariums	10,000	n/a	35	corner lot-50; non-corner-10	40
RCO Redevelopment/Conservation Overlay	superimposed upon basic districts to provide certain additional permissive uses and regulatory standards applicable thereto without disturbing the underlying basic district regulations and zoning	none	n/a	n/a	n/a	n/a	n/a
PUD Planned Unit Development Overlay	Residential, Business, Institutional, Industrial, Planned Unit Developments and Mixed Compatible Use Developments	Any use allowed only as a conditional use in any of the other Districts	1-3 acres	n/a	n/a	n/a	n/a
FW Floodplain/Wetland	Agriculture, Recreation, Parking Lots	none	n/a	n/a	n/a	n/a	n/a

CHAPTER 1

Introduction

SEC. 8-1-1 AUTHORITY.

This Chapter is adopted under the authority granted by Sections 61.35, 62.23(7) and 87.30 of the Wis. Stats. and amendments thereto.

State Law Reference: Sections 61.35 and 62.23(7), Wis. Stats.

SEC. 8-1-2 TITLE.

This Chapter shall be known as, referred to and cited as the "Zoning Code, Village of Hales Corners, Wisconsin" and is hereinafter referred to as the "Code" or "Chapter."

SEC. 8-1-3 GENERAL PURPOSE.

The purpose of this Chapter is to promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of the people of the Village of Hales Corners, Wisconsin.

SEC. 8-1-4 INTENT AND PURPOSES IN VIEW.

The general intent and purposes in view of this Chapter are to regulate and restrict the use of all structures, lands and waters and to:

- (a) Promote and protect the comfort, public health, safety, morals, prosperity, aesthetics and general welfare of the people;
- (b) Divide the Village into zones or districts restricting and regulating therein the location, erection, construction, reconstruction, alteration and use of buildings, structures and land for residence, business and manufacturing and other specified uses;
- (c) Protect the character and the stability of the residential, business, manufacturing and other districts within the Village and to promote the orderly and beneficial development thereof;
- (d) Regulate lot coverage, the intensity of use of lot areas and the size and location of all structures so as to prevent overcrowding and to provide adequate sunlight, air, sanitation and drainage;
- (e) Regulate population density and distribution so as to avoid sprawl or undue concentration and to facilitate the provision of adequate public services, utilities and other public requirements;
- (f) Regulate parking, loading and access so as to lessen congestion in and promote the safety and efficiency of streets and highways;
- (g) Secure safety from fire, panic, flooding, pollution, contamination and other dangers;
- (h) Stabilize and protect existing and potential property values and encourage the most appropriate use of land throughout the Village;
- (i) Preserve and protect the beauty of the Village of Hales Corners;

- (j) To prohibit uses, buildings or structures incompatible with the character of development or intended uses within specified zoning districts;
- (k) To provide for the elimination of nonconforming uses of land, buildings and structures which are adversely affecting the character and value of desirable development in each district;
- (l) Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters;
- (m) Further the maintenance of safe and healthful water conditions;
- (n) Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects;
- (o) Provide for and protect a variety of suitable business and industrial sites;
- (p) Protect the traffic-carrying capacity of existing and proposed arterial streets and highways;
- (q) Implement those municipal, county, watershed and regional comprehensive plans or components of such plans adopted by the Village of Hales Corners;
- (r) Provide for the administration and enforcement of this Chapter; and to provide penalties for the violation of this Chapter.

SEC. 8-1-5 ABROGATION AND GREATER RESTRICTIONS.

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

SEC. 8-1-6 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power now possessed by the Village of Hales Corners.

SEC. 8-1-7 SEVERABILITY AND NON-LIABILITY.

- (a) If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- (b) If any application of this Chapter to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgement shall not be applicable to any other structure, land or water not specifically included in said judgement.
- (c) The Village does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Village of Hales Corners, its agencies or employees for any flood damages, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this Chapter.

SEC. 8-1-8 REPEAL AND EFFECTIVE DATE.

All other ordinances or parts of ordinances of the Village inconsistent or conflicting with this Chapter, to the extent of the inconsistency or conflict only, are hereby repealed.

CHAPTER 10

Performance Standards -- Industrial and Business Developments

SEC. 8-10-1 CHAPTER INTENT.

It is the intent of this Chapter to use performance standards for the regulation of industrial uses to facilitate a more objective and equitable basis for control and to insure that the community is adequately protected from potential hazardous and nuisance-like effects.

SEC. 8-10-2 VIBRATION.

- (a) No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- (b) Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

SEC. 8-10-3 CELLULAR TELEPHONE, MICROWAVE, AND RELATED COMMUNICATION TOWERS AND ACCESSORY GROUND STRUCTURES.

- (a) Cellular Telephone transmission, microwave and related communication towers, antennas and accessory ground structures shall be allowed as Conditional Uses only in the M-1 Light Manufacturing District, P-1 Parks & Institutional and on Municipal property. Fencing must secure each site with accessory ground structures not to exceed dimensions of 12 x 20 feet with a maximum height of 10 feet. Ground structures shall have a stone aggregate or masonry exterior and must be in conformance with other ground structures on each site with respect to size and exterior materials. Landscaping shall be incorporated at each location. There shall be a limit of 6 ground structures for each site. Antennas shall have a maximum height of 125 feet. All obsolete or unused facilities must be removed within 90 days of cessation of operations at the site.
- (b) Cellular telephone transmission, microwave and related antennas shall be allowed as Conditional Uses in B-1, B-2, B-3 and B-4 Zoning Districts when installed upon a building roof top. Said structures shall not extend 10 feet beyond the upper most portion of the roof.

Reference: Ordinance 00-12

SEC. 8-10-4 EXTERNAL LIGHTING.

No operation or activity shall produce any intense glare or lighting with the source directly visible beyond the boundary of an Industrial or Business District.

SEC. 8-10-5 ODOR.

No operation or activity shall emit any substances or combination of substances in such quantities that create an objectionable odor as defined in Chapter NR 154.18, Wis. Adm. Code.

SEC. 8-10-6 PARTICULATE EMISSIONS.

No operation or activity shall emit into the ambient air from any direction or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11, Wis. Adm. Code.

SEC. 8-10-7 VISIBLE EMISSIONS.

No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 154.11(6), Wis. Adm. Code.

SEC. 8-10-8 HAZARDOUS POLLUTANTS.

No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Chapter NR 154.19, Wis. Adm. Code.

CHAPTER 11

Satellite Earth Stations; Television or Radio Antenna Towers; Wind Energy Systems

SEC. 8-11-1 SATELLITE EARTH STATIONS.

- (a) **Permit Required.** No owner shall, within the Village of Hales Corners, build, construct, use or place any type of satellite earth station until a building permit has first been obtained.
- (b) **Definitions.**
- (1) For purposes of this Section, a "satellite television dish" or "earth station" is defined as an apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. They are also commonly referred to as disks, satellite communications systems or home earth stations.
 - (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.
- (c) **Installation Restrictions.** Satellite earth stations installed in any zoning district within the Village shall comply with the following provisions:
- (1) Number of Units. Not more than one (1) satellite earth stations may be allowed per individual recorded lot except additional stations may be permitted by the Board of Appeals upon application for a variance in non-residential zones.
 - (2) Location and Setbacks.
 - a. Any satellite dish mounting post shall only be located in the rear yard of a residential lot. Satellite dishes shall comply with the front, rear and side yard requirements applicable to accessory buildings in that district.
 - b. If the dish cannot receive a usable satellite signal in the rear yard of any residential lot but can receive such a signal while located in a side yard, it may be located only in a side yard after receiving approval from the Board of Appeals. For corner lots, a side yard is only a yard that does not face a street.
 - c. No dish shall be placed in the front yard of any residential, business or industrial lot in the Village.
 - (3) Mounting. Satellite earth stations attached to the wall or roof of any principal or accessory structure shall be subject to the structure being constructed to carry all imposed loading. The Zoning Administrator may require engineering calculations.
 - (4) Diameter. The diameter of the satellite television dish shall not exceed ten (10) feet for the ground-mounted dish and six (6) feet for the roof-mounted dish, except for stations used to provide community antenna television services.
 - (5) Height.
 - a. A ground-mounted satellite dish may not exceed twelve (12) feet in height, as

Section 8-11-1

measured from the ground to the highest point of the dish.

- b. A roof-mounted satellite dish may not exceed eight (8) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.
- (6) Wind Pressure. All satellite earth stations shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
- (7) Electrical Installations. Electrical installations in connection with earth satellite receiving stations, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from the satellite earth station to the receivers shall be installed underground unless installation site conditions preclude underground. If a satellite earth station is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All satellite earth stations shall be grounded against direct lightning strikes.
- (8) Temporary Placement. No portable or trailer-mounted satellite earth station shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section. Failure to comply shall result in a citation being issued for violation of this Section. Any person making such temporary placement shall give written notice to the Zoning Administrator of the date when such placement shall begin and end.
- (9) Advertising. No form of advertising or identification, sign or mural is allowed on the dish or framework other than the customary manufacturer's identification plates.
- (10) Interference with Broadcasting. Satellite earth stations shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the satellite earth station shall promptly take steps to eliminate the harmful interference in accordance with Federal Communication Commission regulations.
- (11) Compliance with Federal Regulations. The installation and use of every satellite earth station shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.
- (12) Color. The color of any satellite dish shall be such that it blends into its surroundings and shall be approved by the Zoning Administrator as part of the application.
- (d) **Variances.** Request for variances from the standards established by this Section may be made to the Board of Appeals pursuant to Section 8-15-1 of this Chapter.
- (e) **Enforcement.**
 - (1) It shall be unlawful to construct, use, build or locate any satellite television dish in
Section 8-11-1

violation of any provisions of this Section. In the event of any violation, the Village Board, Zoning Administrator or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.

- (2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Chapter 19.

SEC. 8-11-2 RADIO OR TELEVISION ANTENNA TOWERS.

- (a) No radio or television antenna tower shall be erected or installed within the front yard. No tower shall be erected closer than thirty (30) feet from any property line. Anchor locations for guy wires shall be located no closer than five (5) feet from any property line. The exact location of the antenna tower shall be subject to approval by the Zoning Administrator.
- (b) No radio or television tower shall exceed a height of sixty (60) feet above the ground measured at grade level, whichever is the minimum.
- (c) Radio or television antenna towers shall be erected and installed in accordance with the Wisconsin State Electrical Code, National Electrical Safety Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern.

Reference: Ordinance 97-11

SEC. 8-11-3 CONDITIONAL USE PERMITS REQUIRED -- WIND ENERGY SYSTEMS.

- (a) **Approval Required.** No owner shall, within the Village, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **Separate Permit Required for Each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **Basis of Approval.** The Plan Commission shall base their determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the Village and of the immediate neighborhood in which such use would be located. Considerations as to the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

SEC. 8-11-4 PERMIT PROCEDURE - WIND ENERGY SYSTEMS.

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the Village. The application shall include the following
Section 8-11-4

information:

- (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable.
 - (6) Any other information which the Zoning Administrator, Plan Commission or Building Inspector may deem necessary to the proper review of the application.
 - (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Plan Commission.
- (b) **Hearing.** Upon referral of the application, the Plan Commission shall schedule a public hearing thereof following the procedures for conditional use permits in Chapter 6.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Plan Commission shall, as soon as practical, render its decision and a copy be made a permanent part of the Commission's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Plan Commission may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Plan Commission following a public hearing thereon.
- (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Plan Commission and if, in the opinion of the Commission, such change or addition constitutes a substantial alteration, a public hearing before the Plan Commission shall be required and notice thereof be given.
- (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Chapter shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

Section 8-11-5

SEC. 8-11-5 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS.

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as "windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Chapter.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of this application for a conditional use permit.

CHAPTER 12

Accessory Uses and Structures; Fences and Hedges

SEC. 8-12-1 ACCESSORY USES OR STRUCTURES.

- (a) **Building Permit Required.** No owner shall, within the Village of Hales Corners, build, construct, use or place any type of an accessory building, including prefabricated accessory buildings, until a permit shall have first been obtained from the Zoning Administrator. Application for an accessory building permit shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a complete set of plans and specifications, including a plot plan or drawing accurately showing the location of the proposed accessory building with respect to adjoining alleys, lot lines and buildings.
- (b) **Principal Use to be Present.** An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (c) **Placement Restrictions -- Residential District.** An accessory use or structure in Residence Districts R-1 to R-4 inclusive, and P-1 Institutional, may be established subject to the following regulations:
- (1) Accessory Building Number Limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one (1) additional accessory building and one (1) children's play structure may be placed on a lot.
 - (2) Attached Accessory Buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
 - (3) Detached Accessory Buildings; Lot Area Coverage.
 - a. No detached accessory building shall occupy any portion of the required front or side yard.
 - b. In the case of an interior lot abutting upon one (1) street, no detached accessory building shall be erected, altered, or moved so as to encroach upon the front setback of that lot.
 - c. In the case of a corner lot, no detached accessory building shall be erected, altered or moved so as to encroach upon the front setback or the side street setback.
 - d. Garages and other detached accessory buildings shall be less than fifteen (15) feet in height.
 - e. No detached accessory building(s) shall occupy more than fifty percent (50%) of the required rear yard. The dimensions of any swimming pool, children's play structure, detached garage, tennis court and other detached accessory buildings/structures shall be included in the determination of available lot area coverage for accessory structures.
 - f. An accessory building shall not be nearer than ten (10) feet to the principal structure unless the applicable building code regulations in regard to one (1)

Section 8-12-1

hour fire-resistive construction are complied with. In no event, can the accessory uses or structures be forward of the front line of the principal structure.

- g. No detached accessory building shall be erected, altered or moved so as to be within five (5) feet of any side or rear lot line, or alley way.
 - h. Any detached accessory building in excess of one hundred (100) square feet must conform to the construction requirements of a garage.
- (d) **Use Restrictions - Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit. Accessory buildings shall not be used for residential purposes.
- (e) **Placement Restrictions – Nonresidential Districts.** Accessory buildings located in B-1, B-2, B-3, B-4, M-1 or P-1 Districts shall have a side yard setback and rear yard setback of not less than ten (10) feet. Front yard setbacks shall conform to the setback requirements and regulations for that district.
- (f) **Landscaping Units.** Accessory vegetation used for landscaping and decorating may be placed in any required yard area. Permitted vegetation include trees, shrubs and flowers and gardens. Under no circumstances may a tent be used as a dwelling or an accessory structure.
- (g) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (h) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (i) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided, however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls.
- (j) **Children's Play Structures.** For purposes of this Section, children's play structures, including play houses, tree houses or elevated play structures and climbing gyms, shall be considered accessory structures and shall comply with the requirements of this Section, whether such play structures are placed on a foundation or not. Swing sets, slides and sandboxes are not considered children's play structures for purposes of this Section. A building permit is not required for the construction of a play structure. Play structures shall not be used for storage or be constructed out of materials that would constitute a nuisance.
- (k) **Terrace Area Restrictions.** In addition to the definitions and restrictions contained in this Code of Ordinances, no person shall place any accessory structure or use, including landscaping ornaments, stones and basketball backboard/hoops, in the terrace area or street right-of-way.

SEC. 8-12-2 OUTSIDE STORAGE OF FIREWOOD.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that
Section 8-12-2

firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.

- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. Fences as used in this Section shall not include hedges and other vegetation.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.
- (d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code of Ordinances.
- (e) Not more than ten percent (10%) of the side and rear yard may be used for storage of firewood at any one (1) time.

SEC. 8-12-3 OUTSIDE STORAGE.

No manure, rubbish, inoperable vehicles, salvage material or miscellaneous refuse may be stored within any residential district when the same may be construed as a menace to the public health or safety or may be held to have a depressing influence upon property values in the area. Junk shall be placed in properly zoned junkyards only.

SEC. 8-12-4 FENCES AND HEDGES.

- (a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as any enclosing or partially enclosing barrier, regardless of kind or type of material used for construction, except that barriers composed solely of living plants, shrubs, bushes or trees shall not be construed a fence under this Chapter. The height of a fence shall be determined by measurements from the uppermost point of the fence to the existing immediately adjacent ground level of the adjoining property.
- (b) **Permit Required.** A permit from the Building Inspector shall be required for the construction or erection of any fence in excess of forty-eight (48) inches in height or of any fence of any height to be located closer to the road than the building setback line established by this Zoning Code. The fee shall be Fifty Dollars (\$50.00).
- (c) **Building Board.** No permit for a fence shall be issued unless it has been found as a fact by the Building Board, by at least a majority vote, after a review of the property site and an examination of the application for the fence permit, which shall include exterior elevations of the proposed structure, that the height or the architectural appeal and functional plan of the proposed fence or its location on the site will, when so constructed or erected, not be such as to cause a substantial depreciation in property values in the immediate neighborhood or as to cause a traffic hazard.
- (d) **General Requirements.**
 - (1) All fences erected in the front setback and side street setbacks (for corner lots) require a permit regardless of height.

Section 8-12-4

- (2) The structural side of the fence must be facing inward, or toward the owners'

property.

- (3) A five foot fence must be set one (1) foot off the property line. A six foot fence must be set two (2) feet off the property line. Fences four feet or under can be placed up to the property line.
- (e) **Security Fences.** Security fences are permitted, with Plan Commission approval, on the property lines in all districts except residential districts, but shall not exceed eight (8) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (f) **Prohibited Fences.** No fence shall be constructed which is in a dangerous condition, or which conducts electricity or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are eight (8) feet above the ground in height and project toward the fenced property and away from any public area. In no case shall the barbed wire protrude over any public walk, road or thoroughfare, nor overhang any adjoining property lines.
- (g) **Fences to be Repaired.** All fences shall be maintained and kept safe and in a good state of repair, and the finished side or decorative side of a fence shall face adjoining property.
- (h) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than sixty (60) days.
- (i) **Snow Fences.** Snow fences shall be permitted from November 15th through April 15th, at which time all structures shall be removed.
- (j) **Nonconforming Fences and Hedges.** Any fence or hedge lawfully existing on the effective date of this Code of Ordinances and not in conformance with this Section may be maintained, but alterations, modifications or improvements of said fence shall comply with this Section.

SEC. 8-12-5 SWIMMING POOLS.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet. Its use is exclusive for the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.
- (c) **Permit Required.** Before work is commenced on the construction or erection of private or
Section 8-12-5

residential swimming pools or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter,

remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The permit fee pursuant to the Village Building Code shall accompany such application.

(d) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:

- (1) All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the Village now in effect or hereafter enacted.
- (2) All plumbing work shall be in accordance with all applicable Ordinances of the Village and all State Codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.
- (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and Village Ordinances regulating electrical installations.

(e) **Setbacks and Other Requirements.**

- (1) Private swimming pools shall be erected or constructed on rear or side yards only and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than five (5) feet from any lot line.

(f) **Fences Required.**

- (1) Pools within the scope of this Section which are not enclosed with a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool, or shall have a cover or other protective device over such swimming pool of such a design and material that the same can be securely fastened in place and when in place shall be capable of sustaining a person weighing two hundred fifty (250) pounds. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. Such fence or wall shall not be less than four (4) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one (1) dimension. Gates or doors shall be kept locked while the pool is

Section 8-12-5

not in actual use.

- (2) The pool enclosure may be omitted where portable pools are installed above ground

and have a raised deck around the entire pool perimeter with an attached enclosed railing or uncovered sidewalls a minimum of thirty-six (36) inches high.

- (g) **Compliance.** All swimming pools existing at the time of passage of this Code of Ordinances not satisfactorily fenced shall comply with the fencing requirements of this Section or when water is placed in the pool.
- (h) **Draining.** No private swimming pool shall be constructed so as to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer.
- (i) **Filter System Required.** All private swimming pools within the meaning of this Chapter must have, in connection therewith, some filtration system to assure proper circulation of water therein and maintenance of the proper bacterial quality thereof.
- (j) **Dirt Bottoms Prohibited.** All swimming pools of a permanent nature shall have the sides and bottom of a smooth finish, and no sand or dirt bottom shall be permitted.

CHAPTER 13

Administration

SEC. 8-13-1 GENERAL ADMINISTRATIVE SYSTEM.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and recommendation by the Plan Commission and ultimate action by the Village Board. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

SEC. 8-13-2 ZONING ADMINISTRATOR.

The Village Board shall designate a Village official to serve as the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter. The Zoning Administrator shall further:

- (a) Maintain records of all permits issued, inspections made, work approved and other official actions.
- (b) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (c) Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
- (d) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the Village Attorney in a manner specified by him.
- (e) Prohibit the use or erection of any structure, land or water until he has approved such use or erection.
- (f) Request assistance and cooperation from the Police Department, Village Engineer and Village Attorney as deemed necessary.

SEC. 8-13-3 ROLE OF SPECIFIC VILLAGE OFFICIALS IN ZONING ADMINISTRATION.

- (a) **Plan Commission.** The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village to the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, its functions are primarily recommendatory to the Village Board pursuant to guidelines set

forth in this Chapter as to various matters and, always, being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing. The Plan Commission shall hold all public hearings for conditional use permit requests.

- (b) **Village Board.** The Village Board, the governing body of the Village, subject to recommendations by the Plan Commission and the holding of public hearings, may amend the zoning map and supplementary floodland zoning map and to amend the text of this Chapter. The Village Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this Chapter.
- (c) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Chapter 15 of this Code for additional provisions.

SEC. 8-13-4 OCCUPANCY PERMIT.

- (a) **Occupancy Permit Required.** The use or occupancy of any building which is in a B-1, B-2, B-3, B-4, M-1 or P-1 District under the Zoning Code or the use or occupancy of any building which is a nonconforming use shall not be changed until a certificate of occupancy permitting the new use or occupancy is issued by the Zoning Administrator. No such certificate of occupancy shall be issued unless the building shall comply with the requirements of this Code and any other ordinance of the Village governing the use and occupancy of buildings. The provisions of this Zoning Code with respect to time limitations on permits, renewals, appeals, penalties and enforcement shall apply to occupancy permits.
- (b) **Application.** Application shall be made to the Zoning Administrator on forms provided by him and the payment of a permit fee of \$190.00.

SEC. 8-13-5 SITE PLAN APPROVAL.

- (a) **Site Plan Approval.** All applications for Building Permits for any construction, reconstruction, expansion or conversion, except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this Section.
- (b) **Application.** The applicant shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- (c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Plan Commission within twenty (20) days. The Plan Commission shall review the application and may refer the application and plans to any consultants selected by the Village Board

to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within thirty (30) days of its receipt of the application, the Commission shall authorize the Zoning Administrator to issue or refuse a Permit.

- (d) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:
- (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section. A tree survey and preservation plan shall be submitted in accordance with the requirements of Section 8-2-10.
- (e) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Village Board and shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.
- (f) **Validity of Site Plan Approvals.** Where the Plan Commission has approved or conditionally approved an application for a site plan, 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 expiration of such approval, the Zoning Administrator shall notify the holder by certified mail of such expiration. The Plan Commission may extend such approval 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 approval.
- (g) **Site Plan Requirements.** In addition to the requirements for Site Plan Approval set forth under the provisions of Section 8-13-5 "Site Plan Approval" of the Village of Hales Corners Zoning Code, detailed site plans pertaining to the proposed structure shall be

presented to the Village Plan Commission for review and approval indicating the following information and data:

- (1) Scale and Name of Project. Site Plan drawn to a recognized engineering scale with the name of project noted.
- (2) Owner's and/or Developer's Name and Address. Owner's and/or developer's name and address noted on the Site Plan.
- (3) Architect and/or Engineer's Name and Address. Architect and/or engineer's name and address noted on the Site Plan.
- (4) Date. Date of Site Plan submittal with all dates of revision.
- (5) Vicinity Sketch. A vicinity sketch (drawn to scale) which clearly indicates the subject property within the context of the larger community of which the subject property is a part showing abutting and nearby streets and street names as well as any major public facilities (i.e., schools, public parks, public buildings, etc.).
- (6) Scale and Site Size. The scale of drawing and the size of the site (in square feet or acres) noted on the Site Plan.
- (7) Existing and Proposed Topography. Existing and proposed topography shown at a contour interval of not more than two (2) feet at National Geodetic Vertical Datum of 1929 (mean sea level). A site grading plan may also be required by the Village Planner/Zoning Administrator and/or Plan Commission.
- (8) Soils Data. The characteristics and types of soils related to contemplated specific uses. Soil borings may be required by the Village Engineer, Village Planner/Zoning Administrator, and/or Plan Commission.
- (9) Off-Street Parking Spaces, Loading, Ingress and Egress, and Driveway Locations of Adjoining Properties. The total number of off-street parking spaces, loading areas, drives, curb cuts, and vehicular ingress and egress locations to the site. If the proposed development abuts an existing or planned collector or arterial street or highway, as identified on the Village of Hales Corners Master Plan or component thereof, all driveway locations of all adjoining properties within two hundred (200) feet of the site shall be graphically indicated and dimensioned (with distances and widths noted) on the Site Plan.
- (10) Type, Size, and Location of All Structures and Signs.
 - a. The type, size, and location of all structures and signs with all building and ground-mounted sign dimensions noted on the Site Plan.
 - b. All building overhangs (such as, but not limited to, building eaves, soffits, overhanging roofs, and bay windows) including, but not limited to, the location of all exterior building columns and all other building protrusions (with or without foundations or footings) shall be graphically indicated on the Site Plan with their respective dimensions indicated.
 - c. A tabular calculation of the total maximum allowable sign area for each type of allowable sign(s) and/or signage for the property shall be provided and presented on the Site Plan as an integral part of said Site Plan. Chapter 9 "Signs and Billboards" of the Village of Hales Corners Zoning Code shall be consulted by the applicant and all such tabular calculations shall be based

upon the requirements of Chapter 9 "Signs and Billboards" of the Village of Hales Corners Zoning Code as amended.

- (11) Building Height. Height of all building(s), including both principal and accessory, expressed in both feet and stories.
- (12) Existing and Proposed Street Names. Existing and proposed street names (if any new streets are proposed).
- (13) Existing and Proposed Public Street Rights-of-Way or Reservations. Existing and proposed public street rights-of-way or reservations (if any new streets are proposed) and widths with existing or proposed centerline elevations, pavement type, fire lanes, walks, curbs, gutters, culverts, etc.
- (14) Building and Yard Setbacks. All building and yard setback lines graphically indicated on the Site Plan.
- (15) North Arrow. North arrow.
- (16) Proposed Sanitary Sewers, Storm Sewers, and Water Mains. Existing and general location of proposed sanitary sewers, storm sewers (including direction of flow), water mains, and fire hydrants. All locations for the proposed connections to such utilities shall be indicated on the Site Plan.
- (17) Proposed Stormwater Management Facilities. A stormwater management plan shall be prepared for all proposed development meeting all applicable Village Code requirements. Plans shall indicate the location of any proposed stormwater management facilities, including detention/retention area(s).
- (18) "Landscape Plan" Required. A "Landscape Plan" meeting the following requirements shall be submitted with the Site Plan for Plan Commission review and approval:
 - a. Proposed Name. The proposed name of the development.
 - b. Location. The location of the proposed development.
 - c. Names, Addresses, and Telephone Numbers of the Owners, Subdividers, Lessee and/or Developer. The names, addresses, and telephone numbers of the owners, subdividers, lessee and/or developer(s) of the property and of the designer of the plan.
 - d. Date. Date of the "Landscape Plan" submittal and all applicable revision dates.
 - e. Site Boundary. The boundary line of the site with dimensions and bearings, indicated by a solid line, and the total land area encompassed by the site.
 - f. Landscape Bufferyard Areas. All proposed "Landscape Bufferyards" shall be clearly delineated and dimensioned and graphically shown in relation to all proposed lot lines and lots upon which said "Landscape Bufferyards" are located.
 - g. Location, Extent, Type, and Sizes of Existing Trees and Natural Resource Features. Location, extent, type (common name and scientific name in the case of plant materials), and sizes of all existing trees in all areas of the proposed development which are designated as a "Landscape Bufferyard." If any existing vegetation is to be demolished, the extent of such

demolition shall be properly delineated and so noted on the "Landscape Plan."

- h. Location, Extent, Type, and Sizes of Proposed Landscape Materials and Plantings. Location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape plantings in all areas of the proposed development which are designated as "Landscape Bufferyards" or for areas which are to serve as landscaped entrances or other special landscaped features of the development. A summary table of all types and total number of plant materials to be used shall be clearly indicated.
 - i. Landscape Plant Material Specifications. All new landscape plant material shall be grown in a nursery located in Plant Hardiness Zone 4 (as defined by the U.S. Department of Agriculture) and shall conform to the applicable requirements as specified in the current edition of *American Standard for Nursery Stock* as approved by the American National Standards Institute, Inc. and sponsored by the American Association of Nurserymen, Inc. Botanical plant names shall be in accordance with the current edition of *Standardized Plant Names* prepared by the American Joint Committee on Horticultural Nomenclature.
 - j. Maintenance. Areas of a development designated as landscape areas shall be maintained by the property owner and kept free of all debris, rubbish, weeds, and tall grass.
- (19) Pedestrian Sidewalks and Walkways. The location of pedestrian sidewalks and walkways.
- (20) Architectural Plans, Elevations, and Perspective Drawings and Sketches. Architectural plans, elevations, and perspective drawings and sketches illustrating the design, character, materials, and dimensions of proposed which meet the following submission requirements:
- a. Owner/Developer. Owner's and/or developer's name and address noted.
 - b. Architect/Engineer. Architect's name and address noted.
 - c. Date. Date of submittal of plans.
 - d. Scale. Scale of drawings noted on each drawing.
 - e. Building Type, Size, and Location. The type, size, and location of all structures with all building dimensions shown.
 - f. Height. The height of building(s).
 - g. Exterior Materials Samples May be Required. Samples of exterior materials and their colors may be required to be brought to the Plan Commission meeting.
 - h. Additional Information May be Required. Additional information and data which may be required by the Plan Commission, Village Administrator, or Village Planner/Zoning Administrator may include, but not be limited to, the following upon request:
 - 1. Photographs from the site of adjacent neighboring structures and/or property.

2. Detailed drawings of decorative elements of the building(s) or structure(s).
 3. Sectional building or site drawings drawn to a recognized engineering or architectural scale.
- (21) "Lighting Plan" Required. A "Lighting Plan" which meets the lighting regulations set forth in this Ordinance shall be prepared and submitted to the Plan Commission for review and approval. Said Lighting Plan shall have, at a minimum, the following elements:
- a. A catalog page, cut sheet, or photograph of the luminaire including the mounting method.
 - b. A photometric data test report of the proposed luminaire graphically showing the lighting distribution at all angles vertically and horizontally around the luminaire.
 - c. A plot plan, drawn to a recognized engineering or architectural scale, indicating the location of the luminaire(s) proposed, mounting, and/or installation height in feet, the overall illumination levels (in footcandles) and uniformities on the site, and the illumination levels (in footcandles) at the property boundary lines. This may be accomplished by means of an isolux curve or computer printout projecting the illumination levels.
 - d. A graphic depiction of the luminaire lamp (or bulb) concealment and light cut-off angles.
- (22) Easements. The location of all existing and proposed easements on the site including landscape easements, access easements, utility easements, and all other easements.
- (23) Covenants and Deed Restrictions Required. Written documentation of any proposed agreements, provisions, declarations, deed restrictions, or covenants which will govern the use, maintenance, and continued protection of the development.
- (24) Highway Access. Copies of any letters of review or permits granted by applicable federal, State, or County regulatory agencies having jurisdiction over highway access, if applicable.
- (25) Schedule. A development schedule shall be submitted indicating the following:
- a. Project Phasing Plan Required. A project phasing, or staging, plan is required indicating when various areas, landscape areas, densities, intensity of development, uses, and public facilities which are planned to be developed with each phase or stage. The overall design of each stage shall be shown on the plan and through supporting graphic material.
 - b. Project Phase Dates and Timing of Development. The approximate dates for the beginning and completion of each development phase, or stage, shall be indicated.
 - c. Land Use Schedule Required. If different land use types are to be included, the schedule must include the mix of uses to be built in each stage.
- (26) Special Studies May be Required. Fiscal and economic impact analyses, traffic

impact analyses studies performed by a transportation engineer, and/or environmental impact studies may be required when deemed appropriate by the Village Administrator, Village Planner/ Zoning Administrator, Village Engineer, Plan Commission, or the Village Board.

- (27) Project Summary. A written project summary indicating operational information, building schedule, and estimate of project value (including all site improvement costs) shall be submitted with the Site Plan materials.
- (28) Statement of Compatibility with the Adopted Elements of the Village of Hales Corners Master Plan. A written report shall be submitted with the petition for a Conditional Use Permit which provides 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.
- (29) Additional Data May be Required by the Village. Additional data as may be required by the Plan Commission, Village Administrator, Village Planner/Zoning Administrator, or Village Engineer to review the Site Plan.

Reference: Ordinance 05-18

SEC. 8-13-6 OFFICIAL MAP.

- (a) **Purpose.** Pursuant to Section 62.23(6), Wis. Stats., the official map of the Village is established to provide for orderly, safe and economical expansion of the built-up area of the community designating the location and extent of existing and proposed streets, highways and parks; to ensure proper legal descriptions and monumenting of land; to facilitate adequate provision for transportation, parks, playgrounds and storm water drainage; and to facilitate further subdivision of larger tracts into smaller parcels of land.
- (b) **Effect.** The official map shall be final and conclusive with respect to the location and extent of streets, highways and parks shown on the map. The Village Board may change or add to the map if it is determined to be in the public interest. Changes or additions shall be made in accordance with procedures in Section 62.23, Wis. Stats. The placing of proposed streets, highways or parks upon the official map shall not constitute or be deemed to constitute the opening or establishment of such streets, highways or parks, or the taking or acceptance of any land for such purposes.
- (c) **Subdivision Plats and Building Permits.** The Plan Commission shall require that all subdivision plats conform to the official map. All streets within recorded subdivisions approved by the Plan Commission and Village Board shall become a part of the official map. No building permit shall be issued for any structure in the bed of any street or highway shown on the official map, and no permit for the erection of any structure shall be issued unless a street or highway giving access to the structure has been duly placed on such map, except as provided in Section 62.23, Wis. Stats. The Building Inspector shall require each applicant to submit a plot plan or certified survey plat, certified by a registered surveyor, showing accurately the location of any proposed building with reference to adjacent streets, highways or parks shown on the official map.

- (d) **Appeals.** The Board of Zoning Appeals shall have the power to grant relief from the requirements of this Section in accordance with the provisions of Sec. 62.23(6)(d), (f) and (g), Wis. Stats.

SEC. 8-13-7 VIOLATIONS AND PENALTIES.

- (a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Village Board, the Zoning Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceedings to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Village Board, the Zoning Administrator or the Village Attorney may institute appropriate legal action or proceedings.
- (c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Chapter 19 of this Code or Ordinances. Each violation and each day a violation continues or occurs shall constitute a separate offense. The Village shall have any and all other remedies afforded by the Wis. Stats. in addition to the forfeitures and costs of prosecution provided for in Chapter 19.

CHAPTER 14

Changes and Amendments to the Zoning Code

SEC. 8-14-1 AUTHORITY.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village Board may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

SEC. 8-14-2 INITIATION OF CHANGES OR AMENDMENTS.

The Village Board, the Plan Commission, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying Zoning Map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

SEC. 8-14-3 PROCEDURE FOR CHANGES OR AMENDMENTS.

- (a) **Request for Changes.** Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Village Board and shall be filed with the Village Administrator. Petitions shall describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
- (1) Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
 - (2) Owners' names and addresses of all properties lying within one hundred (100) feet of the area proposed to be rezoned.
 - (3) Together with additional information as may be required by the Plan Commission or Village Board.
- (b) **Recommendations.** The Village Administrator shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and zoning map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording or the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the

Section 8-14-3

Commission may on occasion, of its own volition, conduct its own public hearing on proposed amendment(s).

(c) **Hearings.**

(1) The Village Board, following receipt of recommendation of the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wis. Stats. At least ten (10) days prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment. Failure to comply with this provision shall not, however, invalidate any previous or subsequent action on the application.

(2) The Village Board shall hold public hearings as required under this Section.

(d) **Board's Action.** Following such hearing and after consideration of the Plan Commission's recommendations, the Village Board shall vote on the proposed ordinance effecting the proposed change or amendment.

(e) **Fee.** The fee for a zoning change or amendment shall be Two Hundred Dollars (\$200.00).

SEC. 8-14-4 PROTEST.

(a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) or more of the land exclusive of right-of-way directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full Village Board membership.

(b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Village Board membership to adopt such amendment.

CHAPTER 15

Appeals

SEC. 8-15-1 APPEALS TO THE ZONING BOARD OF APPEALS.

- (a) **Scope of Appeals.** Appeals to the Board of Appeals may be taken by any person aggrieved by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeal shall be taken within reasonable thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) **Meetings.**
- (1) **Open to Public.** All meetings and hearing of the Board of Appeals shall be open to the public, except that the Board may go into executive session to deliberate after a hearing or an appeal. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the Board's office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meeting Law.
 - (2) **Special Meetings.** Special meetings may be called by the Chairman or by the Secretary of the Board of Appeals at the request of two (2) members. Notice of a special meeting shall be mailed to each member at least forty-eight (48) hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.
 - (3) **Hearings.** Hearings may be held at any regular or special meeting at the time set by the Chairman.
 - (4) **Quorum.** A quorum for any meeting or hearing shall consist of four (4) members, but a lesser number may meet and adjourn to a specified time.
- (d) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
- (1) **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator, Building Inspector or other administrative officials in the enforcement of the Zoning Code or any ordinance adopted under Sections 61.35, 62.23, 62.231 (wetlands), 87.30 or

Section 8-15-1

144.26 (flood plains) or Chapter 91 (farmland preservation), Wis. Stats.

- (2) **Variances.** To hear and rule on appeals for variances not contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured.
 - (3) **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (4) **Substitutions.** To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (5) **Unclassified Uses.** To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Plan Commission has made a review and recommendation.
 - (6) **Temporary Uses.** To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.
- (e) **Board Action.** In exercising the powers under Subsection (d), the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.
- (f) **Voting.**
- (1) **Personal Interest.** No Board of Appeals member shall participate in the decision of, or vote upon, any case in which the member is financially interested, directly or indirectly. The Chairman shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.
 - (2) **Record of Vote.** The Secretary shall record the vote of each member on every question in the minutes or, if the member is absent or fails to vote, shall indicate such fact in the record of the proceedings.

SEC. 8-15-2 APPLICATIONS FOR HEARINGS.

- (a) **Time of Appeal.** Appeals shall be filed within thirty (30) days after the date of receipt of the written decision or order from which the appeal is taken by filing in duplicate a notice of
- Section 8-15-2

appeal with the Village Administrator. The date of receipt of the decision shall not be counted in determining the time for filing of the appeal. Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day.

- (b) **Who May Appeal.** Appeals or applications to the Board may be made by:
 - (1) The owner, mortgagee, purchaser under a land contract, optionee or occupant under a written lease for one (1) year or more of the property for which relief is sought.
 - (2) Any officer (other than the Zoning Administrator), department, board or bureau affected by a decision or order of the Zoning Administrator.
 - (3) Any person aggrieved and whose use and enjoyment of property within the Village is directly and adversely affected by a decision or order of the Building Inspector, Zoning Administrator or the requested Board action.
- (c) **Appeal and Application Forms.** Every appeal or application shall be made upon forms furnished by the Village Administrator which have been approved by the Board of Appeals. A scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the Chairman or Secretary of the Board of Appeals which is necessary to inform the Board of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application.
- (d) **Filing Appeal or Application.** The appellant or applicant shall file the required appeal form in duplicate with the Village Administrator. The Village Administrator shall deliver one (1) copy to the Zoning Administrator or other officer or body from whose decision an appeal is taken. Upon receipt of an appeal, the Zoning Administrator or other officer or body responsible for the original determination shall transmit to the Secretary of the Board of Appeals all notes or papers relating to the order or decision from which the appeal is being taken.
- (e) **Election to Have Appeal or Application Handled as a Contested Case.** The applicant or appellant may elect to have the appeal or application handled as a contested case. A contested case includes the right of all parties to cross-examine witnesses, to object to improper evidence and to have a record of the proceedings made by a court reporter or qualified stenographer or by tape recording. Election to have the matter treated as a contested case must be made in writing at the time of filing of the appeal or application.
- (f) **Fee.** All appeals and applications filed with the Village Administrator shall be accompanied by payment as established by the Village Board. If the appellant or applicant elects the contested-case method, he or she shall also pay the amount determined by the Board of Appeals to cover the additional administrative costs involved.
- (g) **Insufficient Notice.** No appeal or application shall be considered by the Board of Appeals unless it is made on the required form. Upon receipt of any communication purporting to be an appeal or application, the Village Administrator shall supply the applicant with the proper forms which must be filed within ten (10) days, in addition to the thirty (30) days specified in Subsection (a), in order to be considered by the Board of Appeals.

Section 8-15-3

SEC. 8-15-3 HEARINGS.

- (a) **Notice of Hearing.** Notice of time, date and place of the hearing of an appeal or application shall be given in the following manner:
- (1) By mail or personal service to the appellant or applicant and to the Zoning Administrator or other administrative official or body from whose decision an appeal is taken and Secretary of the Plan Commission not less than ten (10) days prior to the date of the hearing.
 - (2) In every case involving a variance, exception, planned unit development or public utility exception, the Village Administrator shall mail notice to the owners of record of all land within the area included in the application and within one hundred (100) feet of any part of the building or premises affected not less than ten (10) days prior to the hearing. Names and last-known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application.
 - (3) By publication of a Class 2 notice under Chapter 985, Wis. Stats.
 - (4) Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in the official newspaper not less than fifteen (15) days prior to the hearing.
 - (5) Notice of an application for a proposed special exception in a shoreland-wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources at least ten (10) days prior to the hearing.
- (b) **Time of Hearing, Docketing.** Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefor and placed upon the calendar by the Secretary of the Board of Appeals. Cases docketed more than fifteen (15) days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed seven (7) days or less prior to a regular meeting shall be scheduled by the Secretary, or his designee, for a hearing on the second regular meeting day thereafter unless otherwise directed by the Chairman.
- (c) **Appearances.** The appellant or applicant may appear in person or by his agent or attorney. In the absence of an appearance for or against an appeal or application, the Board of Appeals may dismiss the appeal or application or may dispose of the matter on the record before it.
- (d) **Oath.** Unless waived by the appellant or applicant and the Chairman, all witnesses shall be sworn before testifying by the Chairman or presiding officer.
- (e) **Compelling Attendance of Witness.** The Chairman, or, in his absence, the presiding officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Secretary of the Board of Appeals not less than two (2) days prior to the hearing except by special permission of the Chairman.
- (f) **Order of Hearing.** Appeals and applications shall be heard in numerical order except for good cause shown.
- (g) **Order of Business.**
- (1) General Hearing. At the hearing, the order of business shall be as follows:
 - a. Statement of the nature of the case by the Chairman.
 - b. Appellant's side of the case.
 - c. Questions by Board members.

Section 8-15-3

- d. Zoning Administrator's side of the case.
 - e. Questions by Board members.
 - f. Statements by interested persons such as neighbors or abutting landowners.
 - g. Questions by Board members.
 - h. Appellant's or applicant's rebuttal.
- (2) **Contested Cases.** If the applicant or appellant elects to have his or her appeal or application treated as a contested case, the order of business shall be as follows:
- a. Call to order by the Chairman.
 - b. Appellant or applicant's opening statement.
 - c. Zoning Administrator's opening statement.
 - d. Opening statement of persons aggrieved and other interested parties. The right to make an opening statement is limited to persons who will present evidence.
 - e. Applicant's or appellant's case-in-chief.
 - f. Questions by Board members.
 - g. Cross-examination. No more than one (1) person for each party shall cross-examine witnesses. The Chairman may limit the number of parties who may cross-examine.
 - h. Zoning Administrator's case-in-chief.
 - i. Questions by Board members.
 - j. Cross-examination as under (2)g.
 - k. Case-in-chief of other parties.
 - l. Questions by Board members.
 - m. Cross-examination under (2)g.
 - n. Rebuttal by appellant or applicant. Rebuttal is limited to matters raised by the adverse parties by way of evidence or argument.
 - o. Statements of opinion of neighbors or abutting land owners -- not subject to cross-examination.
 - p. Closing statements of those who made or waived opening statements.
- (h) **Evidence and Official Notice.** Except in contested case hearings, written and oral testimony will be received. In contested case hearings, no hearsay evidence will be allowed or relied upon as the sole evidence of any factual determination. The Board of Appeals may take official notice of the ordinances of the municipality, the zoning and location of the subject property and geographical features or other facts which are common knowledge in the municipality or can be verified by reference to public record. In contested case hearings, all witnesses shall be sworn and no person shall be permitted to testify unless he or she submits to cross-examination. See Section 227.08, Wis. Stats.
- (i) **Adjournments.** When all appeals or applications cannot be disposed of on the day set, the Board of Appeals may adjourn from day to day or to a day certain, as it may order and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board of Appeals.
- (j) **Withdrawal.** An appellant or applicant may withdraw an appeal at any time prior to the
Section 8-15-3

decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to

remission of the filing fee.

SEC. 8-15-4 DECISION AND DISPOSITION OF CASES.

- (a) **Time of Decision.** The Board of Appeals shall render its decision either at the termination of the hearing or within thirty (30) days thereafter and shall notify the parties in interest and the Zoning Administrator in writing of its decision.
- (b) **Form of Decision.** The final disposition of an appeal or application shall be in the form of a written decision or order signed by the Chairman and Secretary of the Board of Appeals. Such decision shall state the reasons for the Board's determination with findings of fact and conclusions of law and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal or grant or deny the special exception, conditional use or variance. Copies of the decision shall be sent to the applicant, Village Administrator, and any Village committee involved.
- (c) **Basis of Decision; Findings.** At the conclusion of a hearing, the Board should reduce to writing its findings of fact and conclusions of law regarding the proper interpretation and application of the Zoning Code.
- (d) **Vote Required.** All orders or decisions of the Board of Appeals granting a variance, exception or reversing any action or order of the administrator require the affirmative vote of four (4) members. Whenever only four (4) members of the Board are present and the vote stands three (3) to one (1) in favor of the appellant or applicant, the matter shall be laid over for consideration and final determination at the next meeting of the Board or a special meeting noticed and called for that purpose.
- (e) **Conditions.** Variances or conditions imposed in any permit shall be stated in the decision or order embodying the Board's decision and shall also be set forth in the building, or occupancy permit issued under that order by the Zoning Administrator. A permit shall be valid only as long as the conditions upon which it is granted are observed. Whenever the Board grants an application or appeal affecting the use of any premises, such authorization shall be deemed revoked unless the owner, occupant or his agent shall, upon request, file with the Board Secretary a written report certifying that all conditions or limitations imposed by the Board have been conformed to and maintained. Variances or substitutions approved by the Board shall expire six (6) months after issuance if the performance of work is required and substantial work has not commenced.
- (f) **Filing of Decision.** Every order or decision of the Board of Appeals shall be immediately filed with the Secretary who shall thereupon forward the decision to the Village Administrator and mail a copy to the applicant or appellant. Copies of decisions granting variances in a floodplain, shoreland or wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources.
- (g) **Reconsideration.**
 - (1) Resubmission. No appeal or application which has been dismissed or denied shall be considered again without material alteration or revision within one (1) year of the
Section 8-15-4
Board's decision, except pursuant to court order or by motion to reconsider made by a member voting with the majority or as provided in Subsection (g)(2) below.
 - (2) Rehearing. No rehearing shall be held except upon the affirmative vote of four (4) or

more members of the Board upon finding that substantial, new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing, shall state the reasons for the request and shall be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice requirements as original hearings.

SEC. 8-15-5 VARIATIONS.

(a) **Purpose.**

- (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
- (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the particular area or permit standards lower than those required by state law.
- (3) For the purpose of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

(b) **Application for Variation.** The application for variation shall be filed pursuant to Section 8-15-2.

(c) **Public Hearing of Application.** The public hearing for a variance shall be conducted pursuant to Section 8-15-3.

(d) **Prohibited Variances.** The Board of Appeals shall not grant use variances in floodplain or wetland and conservancy districts. In all other districts, no use variance shall be granted unless the applicant has first petitioned for a zoning amendment or a conditional use permit, if applicable, and upon a showing that no lawful and feasible use of the subject property can be made in the absence of such variance. Any use variance granted shall be limited to the specific use described in the Board's decision and shall not permit variances in yard, area or other requirements of the district in which located.

(e) **Action of the Board of Appeals; Standards.** For the Board of Appeals, it must find that:

- (1) Denial of variation may result in hardship to the property owner due to

Section 8-15-5

physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest

- that the Zoning Code should be changed.
- (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
 - (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (5) The proposed variation will not undermine the general spirit and specific purposes of the Zoning Code, specifically the standards of Section 8-6-7.
- (f) **Conditions.** The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

SEC. 8-15-6 REVIEW BY COURT OF RECORD.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the offices of the Board of Appeals.

CHAPTER 16

Definitions

SEC. 8-16-1 DEFINITIONS.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for in a section. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.
- (1) Abutting. Have a common property line or district line.
 - (2) Accessory Use or Structure. A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.
 - (3) Acre, Net. The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
 - (4) Alley. A public way which affords only a secondary means of access to abutting property.
 - (5) Amusement Places, Outdoor. A place in the open air used for entertainment or recreation and, by way of illustration but not of exclusion, the following shall be included: amusement go-carts, trampolines, ferris wheels and merry-go-rounds.
 - (6) Apartment. A room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.
 - (7) Arterial Street. A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.
 - (8) Basement. That portion of any structure located partly below the average adjoining lot grade which is not designed or used primarily for year-around living accommodations.
 - (9) Berm. A mound of earth typically located within a bufferyard to shield noise, lights, or other nuisances.
 - (10) Block. A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
 - (11) Boarding House. A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement for compensation for four (4) or more persons not members of a family, but not exceeding twenty (20) persons and not open to transient customers.
 - (12) Buffering Area. An area designated to neutralize the transition from a business use site to a residential use site. Planting in this area shall be, among others, for the purpose of shielding of lights of the business area from the residential area and the business operations. Such area shall be landscaped and maintained in an attractive

Section 8-16-1

manner and shall be planted with trees, bushes and shrubs forming an effective screen. Plantings shall not be made of seedlings but from stock that is capable of attaining a good growth within a period of five (5) years. Such plantings to be made from lilacs, honeysuckle or other native varieties that will, at maturity reach a height of ten (10) to fifteen (15) feet and form a dense growth.

No accessory buildings or vehicular parking shall be permitted thereon. Replacement shall be required for any subsequently destroyed, eroded or dead plantings in order to preserve the protective shield between properties. In the event such screening is provided by a solid fence or masonry wall, the owner must maintain or replace such fence or wall in order to maintain an attractive buffer.

- (13) Bufferyard, Landscape. An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences, walls, and/or earthen berms, or other visual and/or sound barriers designed to limit continuously the view and/or sound from the lot, site, or land use to adjacent lots, sites, or land uses. Landscape bufferyards are delineated graphically on the face of the Site Plan, Landscape Plan, Certified Survey Map (a delineated easement), Subdivision Plat (a delineated easement), or Condominium Plat (as a common element). Landscape bufferyards are to be counted towards the landscape surface ratio (LSR) and setback requirements set forth herein.
- (14) Buildable Lot Area. The portion of a lot remaining after required yards have been provided.
- (15) Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.
- (16) Building Area. The total area bounded by the exterior walls of a building at the floor levels, but not including basement, garages, porches, and unfinished attics.
- (17) Building, Detached. A building surrounded by open space on the same lot.
- (18) Building, Heights of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.
- (19) Building, Principal. A building in which the principal use of the lot on which it is located is conducted.
- (20) Building Setback Line. A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
- (21) Building Site Area. The ground area of a building or buildings, together with all open spaces, as required by this Chapter.
- (22) Business. An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (23) Caliper. A measurement of the diameter of a tree taken six (6) inches from the

Section 8-16-1

ground level for trees up to and including four (4) inch caliper sizes, and twelve (12) inches above ground level for larger sizes.

- (24) Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
- (25) Club. An association of persons for some common purpose, but not including a group organization primarily or which is actually engaged to render a service which is customarily carried on as a business. A road-house or tavern shall not be construed as a club.
- (26) Commercial. Any use of structure or premises in which commodities are raised, produced, manufactured, rented, sold or stored for profit or in which plants or animals are propagated or raised, in excess of the consumption requirements of the family or families residing in said structure or on said premises.
- (27) Community Living Arrangement. The following facilities licensed or operated or permitted under the authority of the Wis. Stats: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wis. Stats., including Sections 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wis. Adm. Code.
- (28) Conditional Uses. Uses of a special nature as to make impractical their predetermination as a permitted use in a district.
- (29) Conservation Standards. Guidelines and specifications for soil and water conservation practices and management enumerated in the Technical Guide, prepared by the USDA Soil Conservation Service for Milwaukee County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.
- (30) Controlled Access Arterial Street. The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.
- (31) Corner Lot. On corner lots, the front and street side setback shall be measured from the street lines. The setback from the side street shall be equal to the required front set back where ever possible. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135°). Corner lots shall meet front yard setback requirements for all street sides.
- (32) Cut-off. The point at which all light rays emitted by a lamp, light source, or luminaire are completely eliminated (cut-off) at a specific angle above the ground.
- (33) Cut-off Angle. The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.

Section 8-16-1

- (34) Cut-off Type Luminaire. A luminaire with elements such as shields, reflectors, or

refractor panels which direct and cut off the light at an angle that is less than ninety (90) degrees.

- (35) dB_A. The A-weighting scale of sound measurement as expressed in decibels.
- (36) Development. Any man-made change to improved or unimproved real estate, including but not limited to construction of additions or substantial improvements to buildings, structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.
- (37) District, Basic. A part or parts of the Village for which the regulations of this Chapter governing the use and location of land and building are uniform.
- (38) District, Overlay. Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district.
- (39) Drive-in Uses. Any business establishment where the normal operation thereof encourages the customer to remain in an automobile while purchasing, being served or consuming products sold on the premises. By way of illustration, but not of limitation, such use shall include gasoline service stations, gasoline filling stations, custard stands, drive-in banks and savings and loans, drive-in restaurants where food is consumed outside the building even when the drive-in operation is seasonal or only part of the overall operation, frozen milkstands, mechanical garages when gasoline is sold as an incidental service and any other use determined by the Plan Commission to be of the same general character as the foregoing.
- (40) Dwelling. A building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins or mobile homes.
- (41) Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
- (42) Dwelling Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (43) Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.
- (44) Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (45) Dwelling, Multiple-Family. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.
- (46) E.I.F.S. Exterior insulation and finish systems for buildings which are multi-layered exterior wall systems that are used on both commercial buildings and residential buildings.
- (47) Essential Services. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary

Section 8-16-1

sewerage, storm water drainage, and communications systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers,

pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

- (48) Family. The body of persons who live together in one (1) dwelling unit, not to exceed five (5) persons not related, as a single housekeeping entity.
- (49) Farming -- General. General farming shall include floriculture, forest and game management, orchards, raising of grain, grass, mint and seedcrops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
- (50) Farmstead. A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.
- (51) Floor Area -- Business and Manufacturing Buildings. For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.
- (52) Floor Area, Gross. The gross floor area of a building or buildings shall be the sum of the gross horizontal areas of the several floors of such building or buildings--measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings. In particular, "gross floor area" shall include:
- a. Basement space if at least one-half (0.5) of the basement story height is above the established curb or ground level;
 - b. Elevator shafts and stairwells at each floor;
 - c. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half (7.5) feet; except equipment, open or enclosed, located on the roof; i.e., bulkheads, water tanks, and cooling towers;
 - d. Attic floor space where the structural headroom exceeds seven and one-half (7.5) feet;
 - e. Interior balconies and mezzanines;
 - f. Enclosed porches, but not terraces and breezeways;
 - g. Accessory structures.
- (53) Footcandle. A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.
- (54) Foster Family Home. The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wis. Stats. and Section 8-16-1

amendments thereto.

- (55) Frontage. All the property abutting on one (1) side of a street between two (2)

intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.

- (56) Garage, Mechanical. Any building or premises where automotive vehicles are repaired, rebuilt, reconstructed or stored for compensation.
- (57) Garage -- Private. A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.
- (58) Garage -- Public. Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.
- (59) Group Foster Home. Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.
- (60) Home Occupation. Any occupation for gain or support conducted entirely and only by members of a family within a residential building, provided that no article is sold or offered for sale, except such as may be produced in the household by members of the family, and that no display of products shall be visible from the street and that no accessory building shall be used for such home occupation.
- (61) Hotel. A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (62) Impervious Surface. Impervious surfaces are those which do not absorb water. Impervious surfaces consist of all buildings, parking areas, driveways, packed stone, roads, sidewalks, decks, and any areas of concrete or asphalt. For lumberyards or similar uses, areas of stored lumber constitute impervious surfaces.
- (63) Institution. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
- (64) Junk. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.
- (65) Junkyard. Any area, lot, land, parcel, building or structure or part thereof used for the storage, collecting, processing, purchase, sale or abandonment of wastewater, rags, scrap metal or other scrap or discarded goods, materials, machinery or two (2) or more unregistered, inoperable motor vehicles or other type of junk.
- (66) Land Consolidation. The combining of two (2) or more separate existing parcels of land or existing lots, or portions thereof, through the act or process of the combination of tax key numbers, lot line adjustment, the exchange of property between abutting property owners, Subdivision platting, Certified Survey Map, or Condominium platting.

Section 8-16-1

- (67) Landscape Surface Area. Surface area of land not covered by any building or impervious surface; pervious surface that is maintained as a natural area and left undisturbed or to support plant life.

- (68) Landscape Surface Ratio (LSR). The ratio derived by dividing the area of landscaped surface by the base site area.
 - (69) Landscaping. Living material, such as grass, groundcover, flowers, shrubs, vines, hedges, and trees; and nonliving durable material such as rocks, pebbles, sand, mulch, wood chips or bark, walls, and fences, but not including paving.
 - (70) Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.
 - (71) Lodging House. A building where lodging only is provided for compensation for not more than four (4) persons not members of the family.
 - (72) Lot. A parcel of land having frontage on a public street or other officially approved means of vehicular access, occupied or intended to be occupied by a principal structure or use and of sufficient size to meet minimum zoning requirements for use, width, frontage, area, yard, and open space provisions as set forth in this Ordinance and the Village Zoning Code as pertaining to the zoning district wherein located.
 - (73) Lot Area. The area contained within the exterior, or peripheral, boundaries or lot lines of a lot excluding street and/or alley rights-of-way and excluding land under navigable bodies of water.
 - (74) Lot, Corner. A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees (135°) or less, measured on the lot side.
 - (75) Lot, Interior. A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.
 - (76) Lot, Substandard. A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas of other open space provisions of this Code as pertaining to the district wherein located.
 - (77) Lot, Through. A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
 - (78) Lot Coverage (residential). The area of a lot occupied by the principal building or buildings and accessory building.
 - (79) Lot Coverage (except residential). The area of a lot occupied by the principal building or buildings and accessory buildings including any driveways, parking areas, loading areas, storage areas and walkways.
 - (80) Lot Line. A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.
- Section 8-16-1
- (81) Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
 - (82) Lot of Record. An area of land designated as a lot on a plat of Subdivision or Certified Survey Map recorded or registered pursuant to statute existing at the time

of the adoption of this Ordinance.

- (83) Lot Width. The horizontal distance between the side lot lines measured at the building setback line.
- (84) Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.
- (85) Minor Structures. Any small, movable accessory erection or construction such as birdhouses, tool houses, pet houses, play equipment, arbors and walls and fences under four (4) feet in height.
- (86) Mobile Home. A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), building on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.
- (87) Mobile Home Lot. A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (88) Mobile Home Park. A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park are rented to individual mobile home users.
- (89) Mobile Home Subdivision. A land subdivision, as defined by Chapter 236 of the Wis. Stats. and any Village Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (90) Modular Unit. A modular unit is a factory fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, business, educational or industrial purposes.
- (91) Nonconforming Uses. Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.
- (92) Nursing Home. An establishment used as a dwelling place by the aged, infirm, chronically ill or incurably afflicted, in which not less than three (3) persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment or the care of the sick or injured.

Section 8-16-1

- (93) Parking Lot (Business). A lot where automobiles are parked temporarily, but not including the wrecking of automobiles.
- (94) Parties in Interest. Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (95) Professional Office. When conducted in a residential district, a professional office

shall be incidental to the residential occupation; shall be conducted by a member of a resident family entirely within a residential building; and shall include only the offices of doctors or practitioners, ministers, architects, landscape architects, professional engineers, lawyers, authors, musicians and other recognized professional occupations occasionally conducted within residences.

- (96) Public Airport. Any airport which complies with the definition contained in Section 114.013(3), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.
- (97) Rear Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one (1) of the street yards on a corner lot.
- (98) Retail. The sale of goods or merchandise in small quantities to the consumer.
- (99) Roofline. The top or bottom edge of a roof or building parapet, whichever, excluding any cupolas, pylons, chimneys, or other minor projections.
- (100) Service Stations. Any building, structure, premises or other place used for dispensing, sale or offering for sale of any motor fuel or oils having pumps and storage tanks of a total capacity of not more than six thousand (6,000) gallons; also where battery, tire and other similar services are rendered, located wholly within lot lines. When such dispensing, sale or offering for sale of any fuels or oils is incidental to the conduct of a mechanical garage, the premises shall be classified as a mechanical garage.
- (101) Setback. The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed thirty-six (36) inches. Any overhang of the cornice in excess of thirty-six (36) inches shall be compensated by increasing the setback. Uncovered steps shall not be included in measuring the setback.
- (102) Side Yard. A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.
- (103) Signs. Any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.
- (104) Storage, Outdoor. The keeping of goods or materials, excluding junk, outside of a building, and which shall be considered as an accessory use, unless specifically indicated as a principal use under this Ordinance.

Section 8-16-1

- (105) Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.

- (106) Story, Half. That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.
- (107) Street. Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.
- (108) Street Yard. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.
- (109) Structural Alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders which affects the structural strength, fire hazard, internal circulation or exits of such building.
- (110) Structure. Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.
- (111) Temporary Structure. A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.
- (112) Tree. Any self-supporting, woody plant together with its root system, growing upon the earth usually with one (1) trunk, or a multi-stemmed trunk system, supporting a definitely formed crown.
- (113) Tree, Canopy. A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. This type of tree is often referred to as a shade tree.
- (114) Tree, Evergreen. A tree which is coniferous, has needles, and retains its foliage year-round. This type of tree is often referred to as an evergreen trees.
- (115) Tree, Understory. A tree whose leaves would occupy the lower level of a forest in a natural ecological situation. This type of tree is often referred to as an ornamental tree.
- (116) Use. The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.
- (117) Use, Accessory. A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when

Section 8-16-1

permitted by district regulations.

- (118) Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.
- (119) Utilities. Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including

sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.

- (120) Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.
- (121) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.
- (122) Yard, Front. A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building. The side where the address is shall be considered the front yard.
- (123) Yard, Rear. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.
- (124) Yard, Side. That part of the yard lying between the main buildings and a side lot line, and extending from the required front yard (or from the front lot line, if there is no required front yard) to the required rear yard.
- (125) Zero Lot Line. The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
- (126) Zoning Lot. A single tract of contiguous land located within a single block which is a tract to be used, developed, or built upon as a unit, under single ownership or control. Therefore, a "zoning lot" may or may not coincide with a lot of record.

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

Section 8-2-2

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

Section 8-2-3

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:

Section 8-2-3

- 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:

Section 8-2-3

Required Plant Material Type	Acceptable Substitutions
-------------------------------------	---------------------------------

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.

Section 8-2-3

- (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
Section 8-2-3

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

Section 8-2-3

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

Section 8-2-4

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

Section 8-2-4

- (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.
Section 8-2-7
- (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

Section 8-2-8

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
Section 8-2-8
- 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.

Section 8-2-8

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.

Section 8-2-8

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

Section 8-2-9

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

Section 8-2-9

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”

Section 8-2-10

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
Section 8-2-10
 - 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.

Section 8-2-12

(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

Section 8-2-12

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.

Section 8-2-12

- 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.

Section 8-2-12

- (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

Section 8-2-12

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
- Section 8-2-12

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
Section 8-2-12

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:

Section 8-2-12

- 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.

Section 8-2-12

- 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

Section 8-2-12

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”

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.

Section 8-2-12

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.

Section 8-2-12

- 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.

Section 8-2-12

- 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

Section 8-2-12

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.

Section 8-2-12

- 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,

Section 8-2-12

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.

Section 8-2-12

- 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
Section 8-2-12

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

Section 8-2-12

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

Section 8-2-12

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,

Section 8-2-12

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

Section 8-2-12

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

Section 8-2-12

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.

Section 8-2-12

- 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

Section 8-2-12

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

Section 8-2-12

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.

Section 8-2-12

- 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

Section 8-2-12

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
Section 8-2-12

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
Section 8-2-12

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

CHAPTER 3

Zoning Districts

SEC. 8-3-1 ESTABLISHMENT OF DISTRICTS.

- (a) **Districts.** For the purpose of this Chapter, present and future, provision is hereby made for the division of the Village of Hales Corners into the following ten (10) basic zoning districts:
- R-1 Residence District
 - R-2 Residence District
 - R-3 Residence District
 - R-4 Residence District
 - B-1 Shopping Center District
 - B-2 General Business District
 - B-3 Automobile Oriented Business District
 - B-4 Office and Professional Services District
 - M-1 Light Manufacturing District
 - P-1 Park and Institutional District
 - RCO Redevelopment/Conservation Overlay District
 - PUD Planned Unit Development Overlay District (Chapter 4)
 - FW Floodplain-Wetland District (Chapter 5)

SEC. 8-3-2 VACATION OF STREETS; ANNEXATIONS.

- (a) **Vacation of Streets.** Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- (b) **Annexations.** Annexations to or consolidations with the Village subsequent to the effective date of this Chapter shall be placed in the R-1 Residence District, unless the annexation ordinance places the land in another district.

SEC. 8-3-3 ZONING MAP.

- (a) **Official Zoning Map.** The Village of Hales Corners is hereby divided into Zoning Districts as shown upon a map designated as the Official Zoning Map of the Village of Hales Corners, dated May 11, 1957, and made a part of this Chapter. The Official Zoning Map and all the notations, references, amendments and other information shown thereon are a part of this Ordinance and shall have the same force and effect as if the matters and information set forth by said map were fully described herein. The Official Zoning Map shall be properly attested and kept on file along with the text of the Official Zoning Regulations in the office of the Village Administrator.
- (b) **District Boundaries.** The District boundaries shall be determined by measurement from and as shown on the Official Zoning Map, and in case of any question as to the interpretation of

such boundary lines, the Village Board shall interpret the map according to the reasonable intent of this Chapter. Unless otherwise specifically indicated or dimensioned on the map, the district boundaries are normally lot lines; section, quarter section or sixteenth section lines; or the centerlines of streets, highways, railways or alleys.

SEC. 8-3-4 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Where a district boundary line divides a lot in a single ownership on December 10, 1956, the regulations for either portion of such lot may extend to the entire lot, but not more than twenty-five (25) feet beyond the boundary line of the district for which such regulations are established, otherwise the more restrictive district regulations to the property owner will apply.
- (d) In unsubdivided property, unless otherwise indicated, the district boundary lines are the centerlines of streets, highways, railroads, section lines, quarter section lines or such lines extended. Whenever a portion of any district is indicated upon the Zoning Map as a strip paralleling an opened or unopened street or highway, the width of this strip, unless otherwise indicated, shall be assumed to be one hundred twenty (120) feet, measured at right angles from the nearest street or right-of-way of the street or highway to which it is parallel and adjacent.
- (e) In unsubdivided property, districts shown as narrow strips adjacent to streets or highways are intended to stop at lines which would mark an alley or the end of a block when platted. The normal length of a block, center to center of street, is six hundred sixty (660) feet in a north and south direction and three hundred thirty (330) feet in an east and west direction. A district may extend one (1) or more blocks or fraction of a block as indicated by the length of the district shown on the Zoning Map.
- (f) Where uncertainty exists with respect to the boundaries of the various districts shown on the Zoning Map, such boundaries shall be determined by use of the scale contained on such Map.

SEC. 8-3-5 R-1 RESIDENCE DISTRICT.

- (a) **Definition and Purpose.** The intent of the R-1 Residence District is to provide for the blend of one and two-family dwelling units. The minimum lot size of slightly less than one quarter acre provides the greatest density of dwelling units in one and/or two family districts.
- (b) **Permitted Uses.**
 - (1) Two (2) family dwellings.
 - (2) Single-family dwellings.
 - (3) Public parks, playgrounds, recreational buildings and grounds; golf courses, country

clubs, tennis courts and similar recreational uses, all of a non-business nature, provided that any principal building used therefor shall be located not less than forty (40) feet from any other lot in any Residence District.

- (4) Private non-business recreational uses and facilities other than swimming pools may be permitted if specifically authorized by the Plan Commission based upon a finding that the intent of residential zoning shall be preserved.
- (5) Community living arrangements for eight (8) or fewer persons.
- (c) **Conditional Uses.**
 - (1) Churches.
 - (2) Schools, colleges or universities conducted not for profit and not including private music, dancing, business or vocational schools.
 - (3) Libraries, museums, community buildings.
 - (4) Community living arrangements for nine (9) to fifteen (15) persons.
- (d) **Building Height Limitations.** Not to exceed thirty (30) feet.
- (e) **Building Site Area Required.** The minimum lot or building site area shall be ten thousand (10,000) square feet. The minimum frontage shall be seventy-five (75) feet. No building shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, nor in excess of forty percent (40%) of the area of a corner lot. Accessory buildings may not exceed ten percent (10%) of the area of an interior or a corner lot.
- (f) **Front Yard Requirements.** No building or other structure shall be erected or structurally altered whose front wall is closer than thirty-five (35) feet to a street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than sixty-five (65) feet to the centerline of the street or highway upon which the building site fronts.
- (g) **Side Yard Requirements.** There shall be a side yard on each side of the building:
 - (1) For a building with an attached garage, on all sides, a yard of not less than ten (10) feet.
 - (2) For a building where there is a detached garage, on the north or west side, a yard of not less than ten (10) feet and, on the south or east side, a yard of not less than twenty (20) feet.
- (h) **Rear Yard Requirements.** There shall be a rear yard of not less than forty (40) feet.
- (i) **Population Density Limitations.** No building shall be erected or structurally altered on a lot which provides less than five thousand (5,000) square feet of land area per family or housekeeping unit and less than forty (40) feet of lot width per building for each family or housekeeping unit.

SEC. 8-3-6 R-2 RESIDENCE DISTRICT.

- (a) **Definition and Purpose.** The intent of the R-2 Residence District is to consist mainly of single family dwelling units on lots slightly large than one third acre. Two family construction is permitted on main arterials and streets along section lines as a conditional use.
- (b) **Permitted Uses.**
 - (1) Single-family dwellings.
 - (2) Public parks, playgrounds, recreational buildings and grounds; golf courses, country

clubs, tennis courts and similar recreational uses, all of a non-business nature, provided that any principal building used therefor shall be located not less than forty (40) feet from any other lot in any Residence District.

(c) **Conditional Uses.**

- (1) Churches.
- (2) Schools, colleges or universities conducted not for profit and not including private music, dancing, business or vocational schools.
- (3) Libraries, museums, community buildings.
- (4) Private non-business recreational uses and facilities, other than swimming pools, may be permitted if specifically authorized by the Plan Commission based upon a finding that the intent of residential zoning shall be preserved.
- (5) Two (2) family dwellings.
 - a. The Plan Commission may permit the construction of new two (2) family dwellings or the conversion of existing residences or buildings to two (2) family dwellings on lots abutting federal, state or county trunk highways, and on lots abutting those traffic arteries running along quarter section and section lines in either north-south or east-west directions. The height, building site area and coverage and required yards for single-family dwelling in this district shall also apply to two (2) family dwellings where sanitary sewers are available to service the lot. Attached or detached accessory buildings may be provided on the lot for all new construction to house at least one (1) car per unit.
 - b. The following criteria and any other criteria the Plan Commission deems appropriate shall be evaluated in the determination to grant or deny:
 1. The zoning in effect in the area abutting or in the immediate neighborhood of the proposed construction.
 2. Existing uses on the land in the immediate neighborhood of the proposed construction.
 3. The architectural design of the proposed building and its acceptability with the existing architectural character of the neighborhood considering building height, exterior architecture and building elevations.
 4. Location of the proposed residence or addition on the lot and its relationship to adjacent and abutting buildings and properties.
 5. Abutting street actually functions as a major traffic artery.
 6. Proximity to the other two (2) family residences, multi-family residences and business or industrial uses.
- (6) Community living arrangements for nine (9) to fifteen (15) persons.
- (7) Radio stations provided that buildings in which such uses are housed shall be located on lots not less than twenty (20) acres in size, abut two arterial streets and adjacent to P-1 Parks and Institutional District.

(d) **Building Height Limitations.** Not to exceed thirty (30) feet.

(e) **Building Site Area Required.** The minimum lot or building site area shall be fifteen thousand (15,000) square feet. The minimum frontage shall be ninety (90) feet. No building shall occupy in excess of thirty-five percent (35%) of the area of an interior lot, nor

in excess of forty percent (40%) of the area of a corner lot. Accessory buildings may not exceed ten percent (10%) of the area of an interior or a corner lot.

- (f) **Front Yard Requirements.** No building or other structure shall be erected or structurally altered whose front wall is closer than forty-five (45) feet to a street or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than ninety (90) feet to the centerline of the street or highway upon which the building site fronts.
- (g) **Side Yard Requirements.** There shall be a side yard on each side of the building:
 - (1) For a building with an attached garage, a side yard of not less than ten (10) feet on the north or west and fifteen (15) feet on the south or east.
 - (2) For a building where there is a detached garage, on the north or west side, a yard of not less than ten (10) feet and, on the south or east side, a yard of not less than twenty-five (25) feet.
- (h) **Rear Yard Requirements.** There shall be a rear yard of not less than forty (40) feet.

SEC. 8-3-7 R-3 RESIDENCE DISTRICT.

- (a) **Definition and Purpose.** The intent of the R-3 Residence District is to be restrictive to single family dwelling units. The minimum lot size of slightly less than one half acre provides for a spacious residential neighborhood.
- (b) **Permitted Uses.**
 - (1) Single-family dwellings.
 - (2) Public parks, playgrounds, recreational buildings and grounds; golf courses, country clubs, tennis courts and similar recreational uses, all of a non-business nature, provided that any principal building used therefor shall be located not less than forty (40) feet from any other lot in any Residence District.
- (c) **Conditional Uses.**
 - (1) Churches.
 - (2) Schools, colleges or universities conducted not for profit and not including private music, dancing, business or vocational schools.
 - (3) Libraries, museums, community buildings.
 - (4) Private non-business recreational uses and facilities, other than swimming pools, may be permitted if specifically authorized by the Plan Commission based upon a finding that the spirit of residential zoning shall be preserved.
 - (5) Community living arrangements for nine (9) to fifteen (15) persons.
- (d) **Building Height Limitations.** Not to exceed thirty (30) feet.
- (e) **Building Site Area Required.** The minimum lot or building site area shall be twenty thousand (20,000) square feet. The minimum frontage shall be one hundred (100) feet. No building shall occupy in excess of thirty-five percent (35%) of the rear of an interior lot, nor in excess of forty percent (40%) of the area of a corner lot. Accessory buildings may not exceed ten percent (10%) of the area of an interior lot or corner lot.
- (f) **Front Yard Requirements.** No building or other structure shall be erected or structurally altered whose front wall is closer than sixty (60) feet to a street line or front lot line. If the property is unplatted and no street or lot line is on record, then no building shall be erected or structurally altered whose front wall is nearer than ninety (90) feet to the centerline of the

street or highway upon which the building site fronts.

- (g) **Side Yard Requirements.** There shall be a side yard on each side of the building:
 - (1) For a building with an attached garage, on all sides, a yard of not less than fifteen (15) feet.
 - (2) For a building where there is a detached garage, on the north or west side, a yard of not less than fifteen (15) feet and, on the south or east side, a yard of not less than thirty (30) feet.
- (h) **Rear Yard Requirements.** There shall be a rear yard of not less than forty (40) feet.

SEC. 8-3-8 R-4 RESIDENCE DISTRICT.

- (a) **Definition and Purpose.** The intent of R-4 Residence District is to provide for multi-family developments, (three or more dwelling units per building), as a conditional use. Other private and public recreational uses and residential facilities may be permitted.
- (b) **Permitted Uses.**
 - (1) Public parks, playgrounds, recreational buildings and grounds; golf courses, country clubs, tennis courts and similar recreational uses, all of a non-business nature, provided that any principal building used therefor shall be located not less than forty (40) feet from any other lot in any Residence District.
- (c) **Conditional Uses.**
 - (1) Private clubs, fraternities, lodges, excepting those the major activity of which is a service customarily carried on as a business, provided that buildings in which such uses are housed shall be located at least forty (40) feet from any other lot in any Residence District. At least one (1) automobile off-street parking space for every one hundred (100) square feet of floor area shall be provided with no portion of said paved parking area closer than twenty (20) feet to any other lot in any Residence District, and said twenty (20) feet shall be landscaped and maintained in an attractive manner.
 - (2) Convalescent homes, homes for the aged and rest homes, subject to licensing by the State Board of Health and designed for the care and treatment of the ill, the aged or the infirm, but shall not include institutions for the care and treatment of contagious or infectious diseases, of drug addiction, alcoholism, epilepsy, insanity or feeble mindedness. Provided, further, that buildings in which such uses are housed shall be located forty (40) feet from any other lot in any Residence District. At least one (1) automobile off-street parking space for every two (2) beds planned for patients shall be provided with no portion of said paved parking area closer than twenty (20) feet to any other lot in any Residence District, and said twenty (20) feet shall be landscaped and maintained in an attractive manner.
 - (3) Multi-family dwellings for more than two (2) families or housekeeping units constructed of brick, split-rock, stone or other acceptable material so as to minimize exterior maintenance problems and designed with staggered studding, woven insulation, acoustical materials, separate plumbing stacks or other acceptable means of reducing the level of noise transmitted between individual units to a significant degree.
 - (4) Planned residential development projects pursuant to Chapter 4.

- (5) Funeral homes provided that buildings in which such uses are housed shall be located at least forty (40) feet from any other lot in any Residence District.
- (6) Development projects for the elderly may be permitted on tracts of land containing at least two (2) acres, provided the proposed residential development will not adversely affect adjacent properties and is reviewed under the procedures outlined in Chapter 4.
- (7) Private non-business recreational uses and facilities, other than swimming pools, may be permitted if specifically authorized by the Plan Commission based upon a finding that the spirit of residential zoning shall be preserved.
- (8) Churches, provided that buildings in which such uses are housed shall be located at least forty (40) feet from any other lot in any Residence District. At least one (1) automobile off-street parking space for every one hundred (100) feet of floor area shall be provided with no portion of said paved parking area closer than twenty (20) feet from any other lot in any Residence District, and said twenty (20) feet shall be landscaped and maintained in an attractive manner.
- (d) **Building Height Limitations.** Not to exceed thirty-five (35) feet.
- (e) **Building Site Area Required.** The minimum lot or building site area shall be ten thousand (10,000) square feet. The minimum lot width shall be eighty (80) feet. No building or combination of buildings shall occupy in excess of thirty percent (30%) of the area of the lot, excluding all of the area within street rights-of-way. No building shall be erected or structurally altered on a lot which provides less than two thousand five hundred (2,500) square feet of land for each efficiency or one (1) bedroom unit and three thousand five hundred (3,500) square feet of land area of each unit with two (2) or more bedrooms. If sanitary sewers are not available to service the site, the applicant shall provide percolation tests to provide the capabilities of the soil to serve the intended use.
- (f) **Off-Street Parking and Buffering Areas.** Off street parking areas, excluding necessary access drives, but including maneuvering areas, shall not encroach into the required front setback for interior and corner lots and not into the required side street setback for corner lots. Two (2) off-street parking stalls shall be provided for each residential unit with the stalls for each unit for the sole use of occupants of the buildings or guests thereto. The Building Board may require that off-street parking areas for multiple-family dwellings or other conditional uses be screened from abutting properties located in residence districts by a buffering area or by a solid fence or masonry wall of acceptable design and material. The off-street parking areas and access drives for all conditional uses shall be surfaced to conform to Board of Public Works' specifications so as to provide a durable and dustless surface satisfactorily drained. Prior to the issuance of an occupancy permit, the above improvements must have been completed or a surety filed to guarantee to the Village that these improvements will be installed within one (1) year of occupancy.
- (g) **Front Yard Requirements.** No building or other structure shall be erected or structurally altered whose front wall is closer than thirty-five (35) feet to a street line or front lot line. If the property is unplatted and no street or lot line is of record, then no building shall be erected or structurally altered whose front wall is nearer than seventy (70) feet to the centerline of the street or highway upon which the building site fronts.

- (h) **Side Yard Requirements.** There shall be a side yard of twenty (20) feet on each side of the building.
 - (i) **Rear Yard Requirements.** There shall be a rear yard of not less than forty (40) feet.
- Reference: Ordinance 01-14

SEC. 8-3-9 B-1 SHOPPING CENTER DISTRICT.

- (a) **Definition and Purpose.** The intent of the B-1 Shopping Center District is to provide for groupings of retail and customer service establishments in a shopping center setting. The district promotes on-site parking for customer automobiles combined with a pedestrian-oriented shopping environment.
- (b) **Permitted Uses.** Subject to the provisions of Sec. 8-2-2(a)(1).
 - (1) Permitted uses in this district include large general merchandise stores, food stores, apparel and accessory stores, drug stores, department stores, gift shops, personal services, banks/savings and loan institutions, restaurants, offices for insurance agents, accountants, dentists, doctors, lawyers, chiropractors, parking lots, personal service shops, clinics, studios, tailor shops, clothing cleaning and pressing stores (provided no cleaning or pressing equipment is kept on the premises), beauty shops, utility offices, contractors' offices (no yards), manufacturers' representatives, real estate agencies, and other professional and similar offices.
 - (2) Signs, or other advertising medium complying with this Code of Ordinances.
 - (3) Any other business enterprise, which is similar in character to those listed in Subsection (b)(1) above, but the following types of uses shall not be permitted:
 - a. Amusement, outdoor.
 - b. Automobile wrecking or automobile dismantling or selling of used automobile parts, and automobile body shops.
 - c. Bakeries employing more than seven (7) persons on the premises.
 - d. Bottling works.
 - e. Building material storage yards.
 - f. Carpet, rug or bag cleaning establishment.
 - g. Coal, coke, lumber or wood yards.
 - h. Commercial dairies.
 - i. Commercial dog kennels for propagating or raising or boarding dogs; rabbits, foxes, minks, goats and other animal propagating or raising or boarding farms.
 - j. Commercial production of eggs, or hatching, raising, fattening or butchering of chickens, turkeys or other poultry or fowl on a commercial scale. Any poultry house or houses on any building site area having an aggregate floor area of four hundred fifty (450) square feet or more shall be considered to be a commercial poultry or fowl house under this Section.
 - k. Contractor's plant or storage yard.
 - l. Clothes cleaning stores with more than four (4) persons, including owners working in the business.
 - m. Farms for the raising, feed or fattening of hogs for market on a wholesale or commercial basis.

- n. Ice plant or storage house of more than twenty-five (25) ton capacity.
- o. Laundry employing more than four (4) persons on the premises.
- p. Live poultry or fowl market.
- q. Machine shops.
- r. Sheet metal or tin shops or furnace works.
- s. Stone yard or monument works.
- t. Stone dressing of paint grinding stones.
- u. Storage of iron, bottles, rags or junk.
- v. Trucking contractor's garage or storage yard.
- w. Any kind of manufacture or treatment other than the manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises.
- x. All uses excluded from the M-1 Light Manufacturing District.
- y. Outdoor theaters.

(c) **Conditional Uses.**

- (1) Private clubs, fraternities and lodges.
- (2) Drive-in uses. In determining the application for drive-in use, the Plan Commission shall consider the width of and the speed limits on the street or streets abutting the property; the proximity of other drive-in uses; the number of driveways existing and proposed in the immediate vicinity; the proximity of public and semi-public buildings, institutions, churches, hospitals, sanitariums, schools and colleges; the effect and control of certain aspects of the proposed operations such as lighting, litter, vehicle lights, loitering, etc., on adjacent properties; and any other factor which the Plan Commission deems pertinent. In addition, the following requirements shall apply to the proposed driveways and areas to be used by vehicles; no curb cuts or driveways shall be located within ten (10) feet of an adjoining property line as extended to the curb; driveways shall be at least one hundred fifty (150) feet from any other driveway and one hundred fifteen (115) feet from the point of intersection of the two (2) street lines on a corner lot; a raised curb of at least six (6) inches in height shall be erected along all the street property lines except for driveway openings; and the entire area used by vehicles shall be paved with permanent surface conforming to specifications of the Board of Public Works.
- (3) Parking and storage lots. The requirements for curb cuts and driveways under Subsection (c)(2) above shall be applicable.
- (4) Mechanical garages. The requirements for curb cuts and driveways under Subsection (c)(2) above shall be applicable.
- (5) Undertaking establishments with attached living quarters.
- (6) Veterinarian offices and/or animal hospitals.
- (7) Building supply stores.
- (8) Any building or use which is a permitted use or a 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. This provision shall apply as an overlay over the entire zoning lot upon which said use or structure is located. This provision shall also apply 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.] [Any building or use which is a permitted use or a conditional use in the B-1 Shopping Center District where the size of an enclosed structure used for the permitted or conditional use(s) for any single use or multiple uses located within one (1) enclosed structure 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. This provision shall apply as an overlay over the entire zoning lot upon which said use or structure is located.] All such uses shall follow the requirements set forth under the provisions of Section 8-6-14 of the Village of Hales Corners Zoning Code.

- (9) Churches.
- (d) **Building Height Limitations.** Not to exceed fifty (50) feet.
- (e) **Building Site Area Required.** The minimum site development area shall be two (2) acres. Minimum site frontage shall be two hundred (200) feet. Lots shall provide sufficient area for the principal structure and its accessory structures, off-street parking, loading areas, and all required yards.
- (f) **Front Yard Requirements.** For public safety and convenience, no building or other structure shall be erected or structurally altered whose front wall is closer than fifty (50) feet to the street line or front lot line.
- (g) **Side Yard Requirements.**
- (1) On corner lots, no building or other structure shall be erected or structurally altered whose side wall is closer than fifty (50) feet from the side street line or side lot line.
 - (2) Ten (10) foot side yards are required for buildings to be used for business purposes for other than corner lots. In such cases, however, where any portion of the local business districts abuts a residential district, a side yard requirement adjoining such residential district of twenty-five (25) feet shall be required, which said twenty-five (25) feet shall not be used for driveway or parking purposes.
- (h) **Rear Yard Requirements.** There shall be a rear yard having a depth of not less than twenty five (25) feet. Accessory buildings with an entrance or exit to an alley shall be placed not nearer than five (5) feet to the alley.

Reference: Ordinance 04-07, Ordinance 05-18

SEC. 8-3-10 B-2 GENERAL BUSINESS DISTRICT.

- (a) **Definition and Purpose.** The intent of the B-2 General Business District is to provide orderly development of individual general retail sales and service establishments. the district encourages the use of shared entrances and parking lots. Drive-in and drive-through uses are not permitted.
- (b) **Permitted Uses.** Subject to the provisions of Section 8-2-2(a)(1).
- (1) Small customer service establishments, retail stores, restaurants (no drive-in facilities), and shops.
 - (2) Offices for insurance agents, accountants, dentists, doctors, lawyers, chiropractors, parking lots, personal service shops, clinics, studios, tailor shops, clothes cleaning

and pressing stores (providing no cleaning or pressing equipment is kept on the premises), beauty shops, utility offices, contractors' offices (no yards), manufacturers' representatives, real estate agencies and other professional and similar offices, financial institutions.

- (3) Signs, or other advertising medium complying with this Code of Ordinances.
- (c) **Conditional Use.** Financial Institutions with drive-in facilities, veterinary services, child day care centers, building supply stores, boat sales and recycling drop off centers are subject to the provisions of Chapter 6.
- (d) **Building Height Limitations.** Not to exceed thirty five (35) feet.
- (e) **Building Site Area Required.** The minimum business site area shall be seven thousand two hundred (7,200) square feet. A minimum street frontage of sixty (60) feet shall be provided.
- (f) **Front Yard Requirements.** For public safety and convenience, no building or other structure shall be erected or structurally altered whose front wall is closer than twenty (20) feet to the street line or front lot line.
- (g) **Side Yard Requirements.**
 - (1) On corners lots, no building or other structure shall be erected or structurally altered whose side wall is closer than twenty (20) feet from the side street line or side street lot line.
 - (2) For other than corner lots for buildings to be used for business purposes and for mixed purposes, on all sides, a yard of not less than ten (10) feet.
- (h) **Rear Yard Requirements.** There shall be a rear yard not less than twenty five (25) feet. Accessory buildings with an entrance or exit to an alley shall be placed no nearer than five (5) feet to the alley.

SEC. 8-3-11 B-3 AUTOMOBILE ORIENTED BUSINESSES.

- (a) **Definition and Purpose.** The intent of the B-3 Automobile Oriented Business District is to provide appropriate locations for drive-in and drive-through uses and those uses which are directly associated to the automobile and not a pedestrian-oriented shopping environment.
- (b) **Permitted Uses.**
 - (1) None.
- (c) **Conditional Uses.** Automobile-oriented retail sales and services, including automotive sales and service, car washes, gasoline stations, drive-in banking and drive-in restaurants subject to the provisions of Chapter 6.
- (d) **Building Height Limitations.** Not to exceed thirty five (35) feet in height.
- (e) **Building Site Area.** The minimum business site area shall be fifteen thousand (15,000) square feet. A minimum street frontage of one hundred (100) feet shall be provided.
- (f) **Front Yard Requirements.** For public safety and convenience, no building or other structure shall be erected or structurally altered whose front wall is closer than forty (40) feet from the street line or front lot line.
- (g) **Side Yard Requirements.**
 - (1) On corner lots, no building or other structure shall be erected or structurally altered whose side wall is closer than forty (40) feet from the side street line or side street lot line.
 - (2) For other than corner lots for building to be used for business purposes, on all sides,

a yard of not less than ten (10) feet.

- (h) **Rear Yard Requirements.** There shall be a rear yard of not less than twenty five (25) feet. Accessory buildings with an entrance or exit to an alley shall be placed no nearer than five (5) feet to the alley.

SEC. 8-3-12 B-4 OFFICE AND PROFESSIONAL SERVICES.

- (a) **Definition and Purpose.** The intent of the B-4 Office and Professional Service District is to provide for individual or grouped office and professional business service uses where compatible with surrounding uses.
- (b) **Permitted Uses.** Subject to the provisions of Section 8-2-2(a)(1).
 - (1) Offices for insurance agents, accountants, dentists, doctors, lawyers, chiropractors and chiropodists, personal service shops, clinics, studios, tailor shops, beauty shops, real estate agencies, travel services, consulting services, funeral homes, and other professional and similar offices, financial institutions.
- (c) **Conditional Uses.** Veterinary services, contractors offices, laboratories, and child day care centers.
- (d) **Building Height Limitations.** Not to exceed fifty (50) feet.
- (e) **Building Site Area Requirement.** The minimum business site area shall be seven thousand two hundred (7,200) square feet. A minimum street frontage of sixty (60) feet shall be provided.
- (f) **Front Yard Requirements.** For public safety and convenience, no building or other structure shall be erected or structurally altered whose front wall is closer than twenty (20) feet to the street line or front property line.
- (g) **Side Yard Requirements.**
 - (1) On corner lots, no building or other structure shall be erected or structurally altered whose side wall is closer than twenty (20) feet from the side street line or side street lot line.
 - (2) For other than corner lots for buildings to be used for business purposes and for mixed purposes, on all sides, a yard of not less than ten (10) feet.
- (h) **Rear Yard Requirements.** There shall be a rear yard of not less than twenty five (25) feet. Accessory buildings with an entrance or exit to an alley shall be placed no nearer than five (5) feet to the alley.

SEC. 8-3-13 M-1 LIGHT MANUFACTURING

- (a) **Definition and Purpose.** The intent of the M-1 Light Manufacturing District is to provide for warehousing, light manufacturing, and construction-related industries.
- (b) **Permitted Uses.** Subject to the provisions of Sec. 8-2-2(a)(1).
 - (1) Light manufacturing, processing, carpenter shops, tool and die, building supply yards, bakeries, laundries, cleaning and dyeing plants, bottling plants, warehouses and similar uses.
 - (2) Any other trade, industry or use that is not obnoxious or offensive by reason of odor, dust, smoke, gas or noise, but the following types of uses are prohibited:
 - a. Acid manufacture.

- b. Auto wrecking or dismantling, commercial junk or scrap iron storage.
 - c. Blast furnace, foundry.
 - d. Boiler works.
 - e. Brewery.
 - f. Cement, lime, gypsum or plaster of paris manufacture.
 - g. Coke ovens, lime kiln.
 - h. Crematory, other than a crematory located in a cemetery.
 - i. Electric central power stations or bulk substations.
 - j. Forage plants.
 - k. Gasoline or oil storage above ground.
 - l. Glue manufacture, fat, grease, lard or tallow rendering or refining.
 - m. Gravel pits and stone quarries.
 - n. Incineration or reduction of garbage, dead animals.
 - o. Manufacture of acetylene gas, acid, ammonia, rockwool, fiberglass insulation, asbestos, asphalt or products thereof, bleaching powder, graphite, celluloid, concrete ready-mix plants, chlorine or products thereof, clay brick, clay tile, coal tar or products thereof, dextrine, disinfectant, emery cloth or sandpaper, explosives, fertilizer, gas, gelatine, glucose, lime or products thereof, linoleum, matches, oil cloth, paint, varnish or shellac, paper or pulp, perfume, poison, potash, printing ink, pyroglin or products thereof, sauerkraut, soda compounds, tar or waterproofing products, turpentine, vinegar, yeast.
 - p. Outdoor theaters.
 - q. Outdoor amusement places.
 - r. Residential dwellings or apartments.
 - s. Rolling mill.
 - t. Salt works.
 - u. Soap works.
 - v. Stockyards or slaughter of animals, tannery.
 - w. Storage of explosives.
 - x. Structural steel or pipe works.
 - y. Sugar refining.
 - z. Trailer camp, trailer park or trailer lot.
- (c) **Conditional Use.**
- (1) Outside storage and laboratories.
 - (2) All B-1, B-2, B-3, B-4 permitted and conditional uses.
- (d) **Building Height Limitations.** Not to exceed thirty five (35) feet.
- (e) **Building Site Area Required.** The minimum manufacturing site area shall be ten thousand (10,000) square feet. A minimum street frontage of seventy five (75) feet shall be provided.
- (f) **Front Yard Requirements.** No building shall be erected or structurally altered whose front wall is closer than (50) feet to the street line or front lot line.
- (g) **Side Yard Requirements.**
- (1) On corner lots, no building or other structure shall be erected or structurally altered whose side wall is closer than fifty (50) feet to the side street line or side street lot line.

- (2) No building or other structures shall be erected or structurally altered whose side wall is closer than ten (10) feet to the side lot line.
- (h) **Rear Yard Requirements.** No building or other structure shall be erected or structurally altered whose rear wall is closer than twenty five (25) feet to the rear lot line.

SEC. 8-3-14 P-1 PARKS AND INSTITUTIONAL.

- (a) **Definition and Purpose.** The intent of the P-1 Parks and Institutional District is to provide for the outdoor recreational needs of the community and to establish areas for facilities and operations which are of public or public-related ownership.
- (b) **Permitted Uses.** Subject to the provisions of Section 8-2-2(a)(1).
 - (1) Permitted uses in this district include schools, day care centers, churches, hospitals, nursing homes, clinics, museums, art galleries, cemeteries, lodges, public buildings, private and public recreation and forest preserves.
 - (2) Woodlands, wildlife habitat, nature preserves and related scenic areas.
- (c) **Conditional Use.**
 - (1) Gift shops, florists, and food service when directly associated with permitted uses.
 - (2) Funeral homes.
 - (3) Communication towers, solid waste management, and recycling facilities.
 - (4) Amphitheaters, amusement parks, aquariums, and other recreational uses requiring substantial buildings or structures or intense use.
 - (5) Farmers' markets, seasonal sales, or other periodic special fundraising events when directly associated with permitted uses or community events.
- (d) **Building Height Limitations.** Not to exceed sixty (60) feet.
- (e) **Building Site Area Requirements.** The minimum building site area shall be ten thousand (10,000) square feet.
- (f) **Front Yard Requirements.** For public safety and convenience no building or other structure shall be erected or structurally altered whose front wall is closer than thirty five (35) feet to the street line or front property line.
- (g) **Side Yard Requirements.**
 - (1) On corner lots, no building or other structure shall be erected or structurally altered whose side wall is closer than fifty (50) feet to the side street line or side street lot line.
 - (2) No building or other structures shall be erected or structurally altered whose side wall is closer than ten (10) feet to the side lot line.
- (h) **Rear Yard Requirements.** No building or other structure shall be erected or structurally altered whose rear wall is closer than forty (40) feet to the rear lot line.

Reference: Ordinance 04-03

SEC. 8-3-15 RCO - REDEVELOPMENT/CONSERVATION OVERLAY DISTRICT.

- (a) **Definition and Purpose.** The district is superimposed upon basic districts to provide certain additional permissive uses and regulatory standards applicable thereto without disturbing the underlying basic district regulations and zoning. The intent of the overlay district is similar

to that upon which conditional use grants are premised.

The RCO district is intended to be used on a limited basis in the Village in existing areas that have been developed for decades, including structures and areas of historic value; and where structures and uses are nearing the end of their economic life as a result of age, obsolescence of use, irregularly shaped or insufficient lot size, the encroachment of other non-compatible uses, poor or unsafe access for vehicles and pedestrians, and substandard or deteriorating structures; and where conserving the remaining life of other structures and uses is hampered by these factors; and where detailed comprehensive planning has shown that only through a concerted and coordinated effort between local government and private ownership can a new use and development pattern be evolved which will resolve the incompatibilities and permit a natural and healthy renewal of the neighborhood; and where the sole use of conventional basic zoning districts would be insufficient to resolve aforementioned use and development problems and insufficient to address renewal efforts.

Therefore, this district permits existing uses and structures to continue, but requires all remodeling or additions to structures, changes of use, and new development or use to be processed under Section 8-2-2(a)(1). In addition, the Village shall consider the compatibility with any adopted redevelopment plans and the "Land Use, Urban design, and Transportation Plan for Selected Arterial Street Corridors" (SEWRPC, May 1993) and amendments.

CHAPTER 4

PUD Planned Unit Development Overlay District

SEC. 8-4-1 PURPOSE OF THE PUD OVERLAY DISTRICT.

The PUD Planned Unit Development Overlay District is established to encourage and promote improved environmental design in the Village of Hales Corners by allowing for greater freedom, imagination and flexibility in the development of land while insuring substantial compliance to the basic intent of the zoning ordinance and the general plan for community development. The District allows diversification and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived and implemented as comprehensive and cohesive, unified projects. It is further intended to encourage more rational and economic development in regard to public services and encourage and facilitate preservation of open land.

SEC. 8-4-2 TYPES OF PLANNED UNIT DEVELOPMENTS.

This Chapter contemplates that there may be a Residential, Business, Industrial, Planned Unit Developments and Mixed Compatible Use Developments.

SEC. 8-4-3 PHYSICAL REQUIREMENTS FOR PLANNED UNIT DEVELOPMENTS.

- (a) **Minimum Total Area Requirements.** Areas designated as planned unit developments shall contain a minimum total development area as follows:

<u>Principal Uses</u>	<u>Minimum Area of PUD</u>
Residential PUD	1 acre
Business PUD	1½ acres
Industrial PUD	3 acres
Mixed Compatible Use PUD	2 acres
Parks & Institutional PUD	1 ½ acres

- (b) **Lot Area, Lot Width, Heights and Yard Requirements.** In the PUD Overlay District, there shall be no specific lot area, lot width, height, floor area ration, yard and usable open space requirements, but such requirements as are made a part of an approved recorded precise development plan shall be construed to be and enforced as a part of this Chapter.
- (c) **Permitted Uses.** Any use permitted in any of the other Districts of this Chapter may be permitted subject to the criteria as established in Section 8-4-7 following, but such requirements as are made a part of an approved precise development plan shall be construed to be and enforced as a part of this Chapter.
- (d) **Conditional Uses.** Any use allowed only as a conditional use in any of the other Districts of this Chapter may be permitted subject to the criteria as established in Section 8-4-7 following, but such requirements as are made a part of an approved recorded precise

Section 8-4-3

development plan shall be, along with the recorded plan itself, construed to be and enforced as a part of the Chapter.

- (e) **Single Parcel, Lot or Tract.** Each PUD Overlay District shall be considered as one (1) tract, lot or parcel, and the legal description must define said PUD as a single parcel, lot or tract and be so recorded with the Milwaukee County Register of Deeds.

SEC. 8-4-4 SIGNS.

In the Planned Unit Development Overlay District, signs shall be permitted in accordance with the requirements of the sign regulations of the Village, and such requirements as are made a part of an approved recorded precise development plan shall be, along with the recorded plan itself, construed to be and enforced as a part of this Chapter.

SEC. 8-4-5 OFF-STREET PARKING.

In the PUD Overlay District, off-street parking facilities shall be provided as set forth in an approved recorded precise development plan which shall be, along with the recorded plan itself, construed to be and enforced as a part of this Chapter.

SEC. 8-4-6 SUBSEQUENT LAND DIVISION.

The division of any land or lands within a planned unit development for the purpose of change or conveyance of ownership may be accomplished pursuant to the land division/subdivision regulations of the Village when such division is contemplated.

SEC. 8-4-7 CRITERIA FOR APPROVAL.

As a basis for determining the acceptability of a Planned Unit Development Overlay District application to the Plan Commission and Village Board, the following criteria shall be applied to the application for such district with specific consideration as to whether or not it is consistent with the spirit and intent of this Chapter, is consistent with the policies of the Village development plan, has been prepared with professional advice and guidance and produces significant benefits in terms of environmental design:

- (a) **Character and Intensity of Land Use.** In a Planned Unit Development Overlay District, the uses proposed and their intensity and arrangement on the site shall be of a visual and operation character which:
 - (1) Are compatible to the physical nature of the site with particular concern for preservation of natural features, tree growth and open space.
 - (2) Would produce an attractive environment of sustained aesthetic and ecologic desirability, economic stability and functional practicality compatible with the general development plans for the area as established by the community.
 - (3) Would not adversely affect the anticipated provision for school or other municipal services.

Section 8-4-7

- (4) Would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
- (b) **Economic Feasibility and Impact.** The proponents of a Planned Unit Development Overlay District application shall provide evidence satisfactory to the Plan Commission and Village Board of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the Village or the values of surrounding properties.
- (c) **Engineering Design Standards.** The width of street rights-of-way, width of paving, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provision for storm water drainage or other similar environmental engineering consideration shall be based on standards necessary to implement the specific function in the specific situation, provided, however, in no case shall standards be less than those necessary to insure the public safety and welfare as determined by the Village Engineer.
- (d) **Preservation and Maintenance of Open Space.** In a Planned Unit Development Overlay District, adequate provisions shall be made for the permanent preservation and maintenance of "open space" either by private reservation or dedication to the public.
 - (1) In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the Village as part of the conditions for project approval an open space easement over such open areas restricting the area against any future building or use except as consistent with that of providing landscaped open space for the aesthetic and recreational satisfaction of the surrounding residences. Buildings or uses for non-business, recreational or cultural purposes compatible with the open space objective may be permitted only where specifically authorized as part of the development plan or, subsequently, with the express approval of the Village Board following approval of building, site and operational plans by the Plan Commission.
 - (2) The care and maintenance of such open space reservations shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost to individual properties shall be included in any contractual agreement with the Village and shall be included in the title to each property.
 - (3) Ownership and tax liability of private open space reservations shall be established in a manner acceptable to the Village and made a part of the conditions of the plan approval.
- (e) **Implementation Schedule.** The proponents of a Planned Unit Development Overlay District shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Village Board, including suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in an adverse effect upon the community as a result of termination at that point.

Section 8-4-8

SEC. 8-4-8 PROCEDURAL REQUIREMENTS FOR A PLANNED UNIT

DEVELOPMENT OVERLAY DISTRICT.

- (a) **Pre-Petition Conference.** Prior to the official submission of the petition for the approval of a Planned Unit Development Overlay District, the owner or his agent making such petition should meet with the Plan Commission or its staff to discuss the scope and proposed nature of the contemplated development.
- (b) **Petition for Approval.** Following the pre-petition conference, the owner or his agent may file a petition with the Village Administrator for approval of a Planned Unit Development Overlay District. Such petition shall be accompanied by a review fee of Two Hundred Dollars (\$200.00). The procedure for rezoning to a Planned Unit Development Overlay District shall be as required for any other zoning district change under this Chapter, except that, in addition thereto, the following information shall be filed by the applicant with the Village Administrator with the petition for rezoning:
 - (1) Informational Statement. A statement which sets forth the relationship of the proposed PUD to the Village's adopted master (comprehensive land use and thoroughfare plan) plan, neighborhood plan, or any adopted component thereof, and the general character of and the uses to be included in the proposed PUD, including the following information:
 - a. Total area to be included in the PUD, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and other similar data pertinent to a comprehensive evaluation of the proposed development.
 - b. A general summary of the estimated value of structures and site improvements costs, including landscaping and special features.
 - c. A general outline of the organizational structure of a property owner's or management's association, which may be proposed to be established for the purpose of providing any necessary private services.
 - d. Any proposed departures from the standards of development as set forth in the Village zoning regulations, land subdivision requirements, other Village regulations or administrative rules, or other universal guidelines.
 - e. The expected date of commencement of physical development as set forth in the proposal and also an outline of any development staging which is planned.
 - f. Appropriate statistical data on the size of the development, residential density in the various parts of such development, ratio of land uses, percentages of multi-family units by number of bedrooms, economic analysis of the development, expected staging and any other plans or data required by the Plan Commission or Village Board.
 - (2) A General Development Plan Including:
 - a. A legal description of the boundaries of the subject property included in the proposed PUD and its relationships to surrounding properties.
 - b. The location of public and private roads, driveways, sidewalks and parking facilities.
Section 8-4-8
 - c. The size, arrangement and location of any individual building sites and

- d. proposed building groups on each individual site.
- d. The location of institutional, recreational and open space areas and areas reserved or dedicated for public uses, including schools, parks and drainageways.
- e. The type, size and location of all structures.
- f. General landscape treatment.
- g. The existing and proposed location of public sanitary sewer, water supply facilities and stormwater drainage facilities.
- h. The existing and proposed location of all private utilities, exterior lighting or easements of any nature.
- i. Characteristics of soils related to contemplated specific uses.
- j. Existing topography on the site with contours at no greater than two (2) foot intervals.
- k. Anticipated uses of adjoining lands in regard to roads, surface water drainage and compatibility with existing adjacent land uses.
- l. If the development is to be staged, a staging plan.
- m. A plan showing how the entire development can be further subdivided in the future.

SEC. 8-4-9 BASIS FOR APPROVAL OF THE PETITION FOR PLANNED UNIT DEVELOPMENT

- (a) **Requirements.** The Plan Commission, in making recommendations for approval, and the Village Board, in making a determination approving a petition for planned unit development, shall find as follows:
 - (1) That the applicable physical requirements made and provided in Section 8-4-3 will be met;
 - (2) That the requirements as to public services and facilities made and provided in Section 8-4-7 will be met.
- (b) **Proposed Construction Schedule.** The Plan Commission and Village Board, in making their respective recommendation and determination, shall consider the reasonableness of the proposed construction schedule and any staging plan for the physical development of the proposed PUD, commencement of the physical development within one (1) year of approval being deemed reasonable.
- (c) **Residential PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed residential planned unit development, shall further consider whether:
 - (1) Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space and coordination with overall plans for the community.

Section 8-4-9

- (2) The total net residential density within the planned unit development will be compatible with the Village master plan (comprehensive land use and thoroughfare plan), neighborhood plan, or components thereof, and shall be compatible with the

- density of the district wherein located.
 - (3) Structure types will be generally compatible with other structural types permitted in the underlying basic use district.
 - (4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities if privately owned.
 - (5) Provision has been made for adequate, continuing fire and police protection.
 - (6) The population density of the development will or will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
 - (7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the general development plan as approved either by private reservation and maintenance or by dedication to the public.
- (d) **Business PUD, Parks and Institutional PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed business planned unit development, shall further consider whether:
- (1) The economic practicality of the proposed development can be justified.
 - (2) The proposed development will be served by off-street parking and truck service facilities in accordance with this Chapter.
 - (3) The proposed development shall be adequately provided with, and shall not impose any undue burden on, public services and facilities such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.
 - (4) The locations of entrances and exists have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets and that the development will not create any adverse effect upon the general traffic pattern of the surrounding neighborhood.
 - (5) The architectural design, landscaping, control of lighting and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood.
- (e) **Industrial PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendations and determination as to a proposed industrial planned unit development, shall further consider whether:
- (1) The operational character and physical plan arrangement of buildings will be compatible with the latest in performance standards and industrial development design and will not result in an adverse effect upon the property values of the surrounding neighborhood.
 - (2) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

Section 8-4-9

- (3) The proposed development will include provision for off-street parking and truck service areas in accordance with this Chapter and will be adequately served by easy-access rail and/or arterial highway facilities.
- (4) The proposed development is properly related to the total transportation system of

the community and will not result in an adverse effect on the safety and efficiency of the public streets.

- (f) **Mixed Use PUD, Considerations.** The Plan Commission and Village Board, in making their respective recommendation and determination as to a proposed mixed use planned unit development, shall further consider whether:
- (1) The proposed mixture of uses produces a unified composite which is compatible with the zoning district and which, as a total development entity, is compatible with the surrounding neighborhood.
 - (2) The various types of uses conform to the general requirements as hereinbefore set forth, applicable to projects of such use and character.
 - (3) The proposed development shall be adequately provided with and shall not impose any undue burden on public services and facilities, such as fire and police protection, street maintenance, water, sanitary sewer and storm water drainage and maintenance of public areas.

SEC. 8-4-10 RECORDING AND IMPLEMENTATION PLAN. Before any building permit shall be issued, the applicant and the owner shall enter into an appropriate contract with the Village to guarantee the implementation of the development according to the terms and conditions established as a part of the Specific Implementation Plan. The Village shall have the right, if deemed appropriate, to require the inclusion of a performance bond satisfactory to the Village Attorney. Such contract shall be recorded by the developer in the Milwaukee County Register of Deeds' office within ten (10) days after its execution. Any subsequent change of use of any lot or parcel of land shall be subject to the procedure provided in Sections 8-4-8 and 8-4-9 above and, in this subsection, before the use is changed. Any subsequent change of or addition to or modification of the plans shall be submitted for approval to the Village Board following review by the Plan Commission and if the Village Board determines that such change, addition, or modification constitutes a substantial alteration of the original plans or plans previously approved, the procedure provided in Sections 8-4-8 and 8-4-9 above and, in this subsection, shall be required before the plans are so altered. If the Village Board determines that such proposed change, addition, or modification does not constitute a substantial alteration of the original or previously approved plans, the Village Board may act upon such proposal forthwith. A determination as to whether any alteration is substantial shall be made upon the consideration of the proposed change, addition, or modification to plans in relation to the scope of the General Plan and original Purpose of and applicable Considerations given to the previously approved Planned Unit Development under this Chapter. Any such subsequent change of use or addition to or modification of plans may only be made upon the favorable vote of a majority of all the members of the Village Board.

- (a) **Recording.** Upon final approval of the application and adoption of a zoning change to the Planned Unit Development Overlay district by the Village Board, the building, site and operational plans for the development, as approved, as well as all other commitment and

Section 8-4-10

contractual agreements with the Village offered or required with regard to components, project value, character and other factors pertinent to an assurance that the proposed development will be carried out basically as presented in the official submittal plans shall be recorded by the developer within ten (10) days in the Milwaukee County Register of Deeds' office. Unless and until all of said plans and documents have been recorded, no building

permit shall be issued for any construction within said Planned Unit Development Overlay District. Detailed construction and engineering plans need not necessarily be completed at the time the zoning is approved, but the approval and recording of the above plans shall be conditioned upon the subsequent submittal and approval of more specific and detailed plans as the development progresses.

(b) **Specific Implementation Plan After Approval of Zoning.** The applicant shall file with the Plan Commission, through the Zoning Administrator:

- (1) A precise plan of development.
- (2) Proof of financial capability.
- (3) A scale map of the area.
- (4) A final plat of the entire development showing detailed lot layout and the intended use of each lot or parcel of land, public dedications, public and private streets, driveways, walkways and parking facilities.
- (5) The location and treatment of open space areas and recreational or other special amenities.
- (6) The arrangement of building groups, other than single-family residences and all final landscape plans.
- (7) Architectural drawings and sketches illustrating the design and character of proposed structures.
- (8) Location of all utility installations.
- (9) A development schedule indicating:
 - a. The approximate date when construction of the project can be expected to begin;
 - b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
 - c. The anticipated rate of development;
 - d. The approximate date when the development of each of the stages will be completed; and
 - e. The area and location of open space that will be provided at each stage.
- (10) Agreements, bylaws, provisions or covenants which govern the organizational structure, use, maintenance and continued protection of the Planned Unit Development and any of its common services, open areas or other facilities.
- (11) Any other plans, documents or schedules required by the Plan Commission or Village Board.

(c) **Development Contract.** Before any building permit shall be issued, the applicant and the owner shall enter into an appropriate contract with the Village to guarantee the implementation of the development according to the terms and conditions established as a part of the Specific Implementation Plan. The village shall have the right, if deemed

Section 8-4-10

appropriate, to require the inclusion of a performance bond satisfactory to the Village Attorney. Such contract shall be recorded by the developer in the Milwaukee County Register of Deeds' office within ten (10) days after its execution. Any subsequent change of use of any lot or parcel of land or addition or modification of the plans shall first be submitted for approval to the Plan Commission and if, in the opinion of the Plan Commission, such change or modification constitutes a substantial alteration of the original

plans, the procedure provided in Sections 8-4-8 and 8-4-9 above and, in this Subsection, shall be required before the use is changed or the plans modified. If, in the opinion of the Plan Commission, such change or modification does not constitute a substantial alteration of the original plans and if such change or modification is recommended by the Plan Commission, the change or modification may be made without the approval of the Village Board.

Reference: Ordinance 02-13; 02-17

CHAPTER 5

Floodplain-Wetland Code

SEC. 8-5-1 STATUTORY AUTHORIZATION, CONCURRENT JURISDICTION, FINDING OF FACT, STATEMENT OF PURPOSE.

- (a) **Statutory Authorization.** This Ordinance for floodplain-wetland protection is adopted pursuant to the authorization contained in Sections 61.35, 61.351, 62.23 and 87.30 of the Wis. Stats.
- (b) **Controlling Maps.**
 The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Hales Corners Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file at the Village Hall in the Village of Hales Corners. If more than one map or revision is referenced, the most restrictive information shall apply.
- (1) United States Geological Survey Quadrangle Maps.
 - (2) Wisconsin Wetland Inventory Maps stamped "Final" on February 22, 1989.
 - (3) Milwaukee County Flood Insurance Rate Map (FIRM), panel numbers (55079C0129E, 55079C0133E, 55079C0134E, 55079C0137E, 55079C0141E, 55079C0142E), dated September 26, 2008; with corresponding profiles that are based on the Milwaukee County Flood Insurance Study (FIS) dated (September, 2008), volume numbers (55079CV001A, 55079CV002A, 55079CV003A, 55079CV004A, 55079CV005A) as amended by a certain FEMA Letter of Map Revision (LOMR) dated December 14, 2009 (and effective on March 22, 2010) from FEMA Case No. 10-05-1009X (amending Panel No. 55079C0133E).
- (c) **Finding of Fact.** The uncontrolled development or use of the floodplain, rivers, streams or wetlands of the Village of Hales Corners, Wisconsin, adversely affects the public health, safety, convenience and general welfare and impairs the tax base of this Village.
- (d) **Statement of Purpose.** The purpose of these rules is to provide a uniform basis for the preparation, implementation and administration of sound floodplain-wetland regulations for all Hales Corners floodplain-wetlands to:
- (1) Protect the public health, safety, convenience and general welfare.
 - (2) Minimize expenditures of public monies for costly flood control projects by maintaining storm and flood water storage capacity.
 - (3) Minimize rescue and relief efforts, generally undertaken at the expense of the general public.
 - (4) Minimize business interruptions.
 - (5) Minimize damage to public facilities in the floodplain such as water mains, sewer lines, streets and bridges.

- (6) Minimize the occurrence of future flood blight areas in floodplains.
- (7) Discourage the victimization of unwary land and home buyers.
- (8) Prohibit certain uses detrimental to the floodplain-wetland area.
- (9) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that will otherwise drain into waters of the state.
- (10) Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat.
- (11) Prevent increases in regional flood heights which could increase damage during floods and which may result in conflicts or litigation between property owners.
- (12) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

SEC. 8-5-2 GENERAL PROVISIONS.

- (a) **Areas to be Regulated.** Areas regulated by this Ordinance include all lands within the corporate limits of the Village of Hales Corners, Wisconsin, that would be inundated by the "regional flood" or "base flood" defined in the "Definitions" Section 8-5-7 of this Chapter. Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.
- (b) **District Boundaries.** The general floodplain-wetland district shall include: All lands lying within the A-Zones as shown on the Official Floodplain Zoning Map which is based on Flood Insurance Study Maps or Flood Hazard Boundary Maps showing the river(s) and its tributaries in Hales Corners, Wisconsin, prepared by the Federal Emergency Management Agency (FEMA) dated June 15, 1988, and approved by the Department of Natural Resources; and "Final" Wisconsin Wetland Inventory Maps for the Village of Hales Corners, prepared by the Wisconsin Department of Natural Resources (DNR), dated February 22, 1989. These boundaries may be amended following the procedure outlined in this Ordinance. Within this district, all uses not listed as "permitted uses" shall be prohibited.
 - (1) The floodplain-wetland boundary lines on the map shall be determined by the use of the scale appearing on the map. Where there is a conflict between the floodplain boundary illustrated on the map and actual field conditions, the dispute shall be settled according to Section 8-5-5(e), "mapping disputes" of this Ordinance.
 - (2) Compliance with the provisions of this Ordinance shall not be grounds for the removal of lands from the floodplain-wetland district unless; such lands are filled to a height of at least two (2) feet above the elevation of the "regional flood" for the particular area and are contiguous to other lands lying outside the floodplain district, approval has been granted by the DNR pursuant to this Ordinance, and, where required, an "official letter of map amendment" has been issued by the FEMA.

- (c) **Effect of Floodplain-Wetland District Regulations.** The regulations set forth in this Ordinance shall apply to all floodplain-wetlands mapped on the "official floodplain-wetland zoning map".
- (d) **Compliance.** No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered and no development as defined in this Ordinance shall commence without full compliance with the terms of this ordinance and other applicable regulations.
- (e) **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.
- (f) **Abrogation and Greater Restrictions.**
 - (1) This Ordinance supersedes provisions of any zoning ordinance relating to floodplain-wetlands. However, any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive.
 - (2) It is not otherwise intended by this Ordinance to repeal, abrogate, or impair any existing deed restrictions; however, where this Ordinance imposes greater restrictions the provisions of this Ordinance shall prevail.
- (g) **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by Wis. Stats. and NR 116 & 117, Wis. Adm. Codes. If a provision of this Ordinance, required by Ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.
- (h) **Warning and Disclaimer of Liability.** The degree of floodplain-wetland protection intended to be provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside floodplain-wetland zoning district boundaries or land uses permitted within each district will always be totally free from flooding or flood damages, nor shall this Ordinance create a liability on the part of or a cause of action against the Village of Hales Corners that may result from reliance on this Ordinance.
- (i) **General Development Standards.** The Village of Hales Corners shall review all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood

Section 8-5-2

damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this Ordinance.

(j) **Special Provisions Applicable to the General Floodplain-Wetland District.**

- (1) No developments in general floodplain-wetland areas shall materially affect the storage capacity of floodplain, based upon an equal degree of hydrologic encroachment (volume of the storage area which is lost). For the purpose of this subsection, "materially" is defined as any increase in discharge of the regional flood which causes a rise in the water surface profile of 0.01 foot. Such developments may be permitted only if amendments are made to this Ordinance pursuant to Section 8-5-6 herein; provided further that the total cumulative allowable increase in height of the regional flood for any given reach of a stream shall not exceed one (1) foot.
- (2) Utility facilities such as dams, flowage areas, transmission lines, pipelines, and water monitoring devices are permitted subject to regulations pursuant to Chapter 30, Wis. Stats., and applicable federal regulations.
- (3) Navigational and drainage aids such as channels, channel markers, buoys and other such devices are permitted, provided that prior to any alteration or relocation of a watercourse, the Village shall notify adjacent communities, the DNR and the FEMA, and require the applicant to secure necessary permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.
- (4) Other water related uses such as docks, piers, wharves, bridges, culverts, and river crossings are permitted subject to any pier or dockline regulations, or any other regulations that are required pursuant to Chapter 30, Wis. Stats., and applicable federal regulations.

(k) **Hydraulic and Hydrologic Analyses.**

- (1) Except as allowed in sub. (3) below, no floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height.
 - b. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless provisions of sub. (3) are met.
- (3) Obstructions or increases equal to or greater than 0.01 foot may be permitted if amendments are made to this Ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section 8-5-6.

- (1) **Watercourse Alterations.** No land use permit to alter or relocate a watercourse in a

Section 8-5-2

mapped floodplain shall be issued until the local official has notified in writing all adjacent

municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(m) **Chapters 30, 31. Wis. Stats., Development**

Development which requires a permit from the Department, under Chs. 30 and 31, Wis Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Section 8-5-6.

SEC. 8-5-3 GENERAL FLOODPLAIN-WETLAND DISTRICT.

(a) **Applicability.** The provisions for this district shall apply to all identified floodplain-wetlands in the Village of Hales Corners, Wisconsin.

(b) **Description of District.** The general floodplain-wetland district shall include:

(1) All A-Zones shown on the Official Floodplain Zoning Map which is based on Flood Insurance Study Maps or Flood Hazard Boundary Maps showing the river(s) and its tributaries in Hales Corners, Wisconsin, prepared by the FEMA dated July 1978; and approved by the DNR.

(2) All wetlands which are five (5) acres or more in area and are shown on the "Final" Wetland Inventory Maps prepared by the DNR, dated February 22, 1989, that have been adopted and made a part of this Ordinance and which are:

a. Within 1,000 feet of the ordinary high water mark of Kelly Lake.

b. Within 300 feet of the ordinary high water mark of navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the U.S. Geological Survey Quadrangle Map. FEMA floodplain maps and any other subsequent floodplain studies shall be used to determine the extent of floodplain areas.

(c) **Permitted Uses.** The following uses are permitted subject to the provisions of Chapters 30 and 31 of the Wis. Stats., and the provisions of other local, state and federal laws; if applicable:

(1) Wetlands.

a. Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:

1. Hiking, fishing, trapping, hunting, swimming, snowmobiling and
Section 8-5-3

boating.

2. The harvesting of wild crops such as: marsh hay, ferns, moss, wild

- rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
3. The cultivation of agricultural crops.
 4. The practice of silviculture including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected.
 5. The maintenance and repair of existing drainage systems where permissible under Chapter 30.20, Wis. Stats., to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Chapter 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible.
 6. The installation and maintenance of sealed tiles for the purpose of draining lands outside the floodplain-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the floodplain-wetlands.
- b. Uses which are allowed upon the issuance of a land use permit and any additional permits as required under federal, state or local laws. All construction and maintenance must be done in a manner that will minimize the adverse effect upon the natural function of the wetland.
1. The construction and maintenance of walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance.
 2. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
 3. The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services, or to provide access to permitted uses.
 4. The construction and maintenance of residential buildings provided that:
 - a) The building is used solely in conjunction with a use permitted in the floodplain-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals.
 - b) The building cannot, as a practical matter, be located outside the wetland.
 - c) The building does not exceed 500 square feet in floor area.
- Section 8-5-3
- d) Only limited filling and excavating necessary to provide structural support for the building is allowed.
 5. The establishment and development of public and private parks and

recreational areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps.

6. The construction and maintenance of electric and telephone transmission lines and water, gas and sewer lines, and related facilities.

(2) Non-Wetlands Within Floodplain.

- a. Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- b. Nonstructural, industrial, commercial uses, such as loading areas, parking areas, airport landing strips.
- c. Nonstructural private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
- d. Uses or structures accessory to open space uses.
- e. Extraction of sand, gravel and/or other materials.
- f. Functionally water –dependent uses, such as marinas, boat rentals, docks, piers, wharves, dams, flowage area, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Chs. 30, 31, Stats.
- g. Public utilities, streets, bridges and railroads that comply with Section 8-5-3(d)

- (3) All Other Lands. Permitted uses for lands lying within the jurisdiction of this ordinance, but being neither wetlands nor lands within the 100 year floodplain, shall be governed by the underlying zoning.

(d) **Standards for Development in the General Floodplain-Wetland District.**

- (1) All of the provisions of Section 8-5-2(j) shall apply hereto.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to Section 8-5-2(k):
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for sub. (2) above.
- (4) Structures which are accessory to permitted open space use may be permitted,
Section 8-5-3

providing the structures:

- a. Are not designed for human habitation.
- b. Have a low flood-wetland damage potential.
- c. Are to be constructed and placed on the building site so as to increase flood

heights less than 0.01 foot and minimally obstruct the flow of flood- waters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of floodwaters, and will be placed with their longitudinal axis approximately on the same line as those of adjoining structures.

- d. Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.
 - e. Have all service facilities, such as electrical and heating equipment, at or above the flood protection elevations for the particular area.
- (5) Uses permitted by the DNR pursuant to Chapters 30 and 31, Wis. Stats., provided that the necessary permits are obtained and amendments approved by the Village, DNR, and FEMA to the official water surface profiles, floodplain zoning maps and floodplain-wetlands zoning ordinance, or "Final" Wetlands Inventory Map.
- (6) Public utilities, streets and bridges provided that:
- a. Adequate flood proofing measures are provided to the flood protection elevation.
 - b. Construction shall not cause any increase of 0.01 foot or greater in the height of the regional flood, except that reasonable increases up to one (1) foot may be approved if the amendment procedures and all conditions of Section 8-5-6(b) are met.
 - c. The Village, DNR and FEMA amend their water surface profiles, floodplain zoning maps and floodplain zoning ordinance to reflect any changes resulting for such construction.
 - d. The construction, as a practical matter, cannot be located outside the wetland and is designed and constructed to minimize adverse impacts on wetlands.
- (7) Fills or depositions of materials which do not adversely affect wetlands may be permitted provided that;
- a. The provisions of Section 8-5-2(j)(1) are met.
 - b. Fill or disposition of materials does not encroach between the ordinary high water mark on each bank of the stream unless a permit has been granted by the DNR pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this section are met.
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion and leachate.
- (8) All other uses not listed herein as permitted are prohibited, included but not limited to:

Section 8-5-3

- a. Habitable structures, structures with high flood damage potential, or those not
- b. associated with permanent open-spaces uses;

- c. Storing materials that are buoyant flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- d. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- e. Any private or public sewage system, except portable latrines that are moved prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Ch. COMM 83, Wis. Admin. Code.
- f. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chs. NR 811 and NR 812, Wis. Admin. Code;
- g. Any solid or hazardous waste disposal sites;
- h. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Admin. Code;
- i. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

SEC. 8-5-4 NONCONFORMING USES.

(a) **General.** Insofar as the standards in this Section are not inconsistent with the provisions of Section 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming uses. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

(1) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this Section. For the purpose of this Section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing structure or accessory use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(2) If a nonconforming use is discontinued for twelve (12) consecutive months, it is no

Section 8-5-4

longer permitted and any future use of the structure or building shall conform with the appropriate provisions of this Ordinance.

(3) No modifications or additions shall be allowed to any existing structures which are not in compliance with permitted general floodplain standards or uses, unless such

modifications or additions meet all of the following criteria:

- a. The modifications or additions to a structure will not increase the amount of obstruction to flood flows pursuant to Section 8-5-2(j)(1) of this ordinance.
 - b. Any addition to a structure shall be flood proofed, pursuant to Section 8-5-5(g) by means other than the use of fill, to the flood protection elevation.
 - c. No structural repairs, modifications or additions to a structure, which exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming use. The costs for elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.
 - d. If any nonconforming structure is destroyed or is substantially damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless permanently changed to a conforming use. For the purpose of this Subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty percent (50%) of the present equalized assessed value of said structure.
 - e. Mechanical and utility equipment must be elevated or floodproofed to or above the regional flood elevation.
 - f. It must not obstruct the flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
 - g. Its use must be limited to parking and/or limited storage.
 - h. If any nonconforming structure is damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.
 - i. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with 8-5-3(d) of this Ordinance, flood resistant materials are used, and construction practices and floodproofing that comply with 8-5-5(g) of this Ordinance are used.
 - k. Has been granted a permit or variance which meets all ordinance requirements.
- (4) No new on-site sewage disposal systems, or additions to existing on-site sewage disposal systems, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodplain area. Any replacement, repair or maintenance of an on-site sewage disposal system shall meet the applicable provisions of local ordinances and Wis. Adm. Code.
- Section 8-5-4
- (5) No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in the general floodplain area. Any replacement, repair or maintenance of a well shall meet the applicable provisions of local ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code.
- (6) The municipality shall keep a record which lists all nonconforming uses and

nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

(b) **Floodfringe areas.**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 8-5-3, except where s. 8-5-4(b)(2) is applicable.
- (2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 8-5-5, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, will not be installed;
 - (d) Flood depths will not exceed two feet;
 - (e) Flood velocities will not exceed two feet per second; and
 - (f) The structure will not be used for storage of materials as described in s. 8-5-3(8).
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 - (a) Meets all other regulations and will be granted by permit or variance;
 - (b) Does not exceed 60 square feet in area; and
 - (c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.

Section 8-5-4

- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the

applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

SEC. 8-5-5 ADMINISTRATION.

- (a) **Zoning Administrator.** The Building Inspector shall administer the provisions of this Ordinance. The building inspector, for the purposes of this Ordinance, shall be designated the Zoning Administrator. The Zoning Administrator shall exercise the following duties and powers:
- (1) Advise applicants as to the provisions of this Ordinance, assist them in preparing permit applications and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with this Ordinance and issue a Certificate of Compliance when appropriate.
 - (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (4) Keep the official records of all water surface profiles, floodplain-wetland zoning maps, floodplain-wetland zoning ordinances, nonconforming uses and changes thereto, permit applications, permits, appeals, variances and amendments related to the floodplain-wetland zoning ordinances.
 - (5) Submit copies of any required data, variances, appeals, amendments, annual reports, and any other required information to the DNR. An annual summary showing only the number and types of zoning actions taken by the Village shall be submitted to that department by the Zoning Administrator. Copies of substantial damage assessments performed and all related correspondence concerning the assessments shall be submitted to the DNR.
 - (6) Investigate, prepare reports and report violations of the floodplain-wetland zoning ordinance to the appropriate Village committee and to the municipal attorney, with copies to the appropriate regional office of the DNR.
 - (7) Submit copies of map or text amendments and annual reports to the FEMA.
 - (8) Maintain on file a list of all documentation of certified elevations.
 - (9) Notify adjacent communities and the DNR prior to any alteration or relocation of a watercourse or wetland, and submit evidence of such notification to the FEMA.
 - (10) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (b) **Administrative Procedures.**
- (1) Land Use Permit. A land use permit shall be obtained from the Zoning Administrator before any new land use, change in use, or development as defined in Chapter 15 of this Ordinance, subject to the provisions of this Ordinance, may be initiated. An
Section 8-5-5

application for a land use permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

- a. Names and addresses of the applicant, property owner and contractor.
- b. Legal description of the property, type of proposed use and whether it is new

construction or a modification.

- c. A site plan drawn to scale containing the dimensions of the lot and locations of buildings from lot line, center line abutting highways, high-water mark of any abutting watercourse, location of all mapped wetlands, location and elevation of existing or future access roads, elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD), data sufficient to determine the regional flood elevation in NGVD at the location of the development, data to determine if the proposed development will cause obstruction to flow or an increase in regional flood height or discharge, and extent and elevation of floodplain boundaries.
 - d. All information concerning any private water or on site sewage disposal system to be installed, including a sketch showing surveyed location of wells, streams, lakes, buildings, private and septic tank systems within 100 feet of proposed sewage disposal site.
 - e. Specifications and dimensions for areas of proposed wetland alteration.
 - f. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
 - 1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 - 2. A map showing location and details of vehicular access to lands outside the floodplain; and
 - 3. A surface drainage plan showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.
 - g. All permits issued under the authority of this Ordinance shall expire one (1) year after issuance.
- (2) Certificate of Compliance. No development as defined in this Chapter shall take place, no vacant land in the floodplain-wetland shall be occupied or used, and no building hereafter erected, altered or moved, shall be occupied until the applicant obtains a Certificate of Compliance from the Zoning Administrator. The Certificate of Compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Ordinance. The application for such certificate shall be concurrent with the application for a permit. If all Ordinance provisions are met, the certificate of compliance shall be issued within ten (10) days

Section 8-5-5

after written notification that the permitted work is completed. The Zoning Administrator shall require that the applicant submit a certification by a registered professional engineer or architect that all floodplain-wetland regulatory factors were accomplished in compliance with appropriate floodplain-wetland zoning provisions. The applicant shall submit such certification for all new construction and substantial improvements. Upon written request from the owner, the Zoning Administrator shall

issue a Certificate of Compliance for any building or premises existing at the time of the adoption of this Ordinance certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions for this Ordinance.

- (3) Other Permits. It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies, including those required under Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (c) **Plan Commission.** The Plan Commission shall have the duties and powers to:
- (1) Oversee the functions of the office of the Zoning Administrator.
 - (2) Review and make recommendations to the Village Board on all proposed amendments to the floodplain-wetland zoning ordinances.
 - (3) Maintain a complete public record of all proceedings.
- (d) **Board of Appeals.** The powers of the Board of Appeals shall be pursuant to Chapter 15 of the Village Zoning Code and Section 62.23(7), Wis. Stats.
- (1) Appeals to the Board. Refer to Chapter 15 of the Village Zoning Code.
 - (2) Hearing Appeals. In addition to the procedures outlined in Chapter 15, the following procedures shall be used for appeals within a Floodplain-Wetland district.
 - a. Written notice shall be given to the Southeast Regional Headquarters of the DNR at least (10) days prior to hearings on proposed variances, conditional uses, and appeals for map or text amendments.
 - b. A copy of all decisions by the Board of Appeals shall be mailed to the appropriate regional office of the DNR within ten (10) days of the decision.
- (e) **Mapping Disputes.** The following procedure shall be used by the Zoning Board of Appeals in disputes of a floodplain zoning district boundary:
- (1) Floodplain-wetland district boundaries: when the location of the floodplain-wetland boundary is established by flood maps, wetland maps, or engineering studies pursuant to Section 8-5-3(b) of this Ordinance, the flood elevations or "flood profiles" for the point in question so related to actual ground elevations shall be the governing factor in locating the district boundary. If no elevation or profiles are available to the Board, any other available evidence may be examined.
 - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Zoning Board of Appeals and if so chooses, submit technical evidence. The Board shall not allow deviations from the boundary line as mapped unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect, approval has been granted by the DNR, and an official letter of map amendment has been issued by the FEMA.

Section 8-5-5

- (f) **Variance.** Any deviation from the standards of this Ordinance, for which a permit has been denied by the Zoning Administrator, may be allowed only upon written request for a variance submitted to the Zoning Administrator, public hearing, and issuance of a variance by the

Board of Appeals. The Board may authorize in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special

conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance:

- (1) Shall be consistent with the spirit and intent of this floodplain-wetland zoning ordinance.
 - (2) Shall not permit any change in established flood elevations or profiles.
 - (3) Shall only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE.
 - (4) Shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this Ordinance.
 - (5) Shall not be granted for a use that is common to a group of adjacent lots or premises. (In such case, the zoning ordinance would have to be amended through proper procedures.)
 - (6) Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.
 - (7) Shall not be granted for actions which require an amendment to the floodplain-wetland zoning ordinance.
 - (8) Shall not have the effect of allowing or expanding a use or structure which is prohibited in that zoning district by the floodplain-wetland zoning ordinance.
 - (9) Shall not be granted solely on the basis of economic gain or loss.
 - (10) Shall not be granted for a self-created hardship.
 - (11) Shall not grant, extend or increase any use prohibited in the zoning district.
 - (12) Shall not allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
 - (13) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.
- (g) **Flood Proofing.** Flood proofing measures such as the following shall be designated consistent with the flood protection elevation for the particular area as described in Section 8-5-8(xx) to withstand the flood velocities, forces and other factors associated with the flood protection elevation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are adequately designed to protect to the flood protection elevation for the particular area. All flood proofing shall provide anchorage to resist flotation and lateral movement. Flood proofing shall insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention. Other flood proofing
Section 8-5-5

measures may include:

- (1) Installation of watertight doors, bulkheads, and shutters.
- (2) Reinforcement of walls and floors to resist pressure.
- (3) Use of paint, membranes or mortars to reduce seepage of water through walls.
- (4) Addition of mass or weight to structures to prevent flotation.
- (5) Placement of essential utilities above the flood protection elevation.

- (6) Pump facilities and/or subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures and lower water levels in structures.
 - (7) Construction of water supply and waste treatment systems to prevent the entrance of floodwaters.
 - (8) Construction to resist rupture or collapse caused by water pressure or floating debris.
 - (9) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.
- (h) **Public Information.**
- (1) Place marks on structures to show depth of inundation during regional flood.
 - (2) All maps, engineering data and regulations shall be available and widely distributed.
 - (3) All real estate transfers shall show what floodplain zoning district any real property is located in.

SEC. 8-5-6 AMENDMENTS.

- (a) **General.** The Village Board of the Village of Hales Corners, Wisconsin, may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this Ordinance in the manner provided by law. Official amendments are required for any changes in water surface profiles, floodplain zoning maps or floodplain zoning ordinance. Actions which require an amendment include, but are not limited to, the following:
- (1) Any change in the boundary of the floodplain-wetland area.
 - (2) Settlement of conflicts between the water surface profiles and floodplain-wetland zoning maps, in accordance with Section 8-5-5(e) or this Ordinance.
 - (3) Any fill or encroachment that will cause a change equal to or greater than 0.01 foot in the water surface profiles of the regional flood.
 - (4) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
 - (5) Any upgrading of floodplain-wetland zoning ordinances required by law.
 - (6) Amendments petitioned by any interested party in accordance with the provisions of Section 62.23 of the Wis. Stats.
 - (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
 - (8) Rezoning Wetlands. Rezoning of a wetland shall require amendment of the "Final" Wisconsin Wetland Inventory Map. No rezoning shall be permitted when the result will have a significant adverse impact upon any of the following:

Section 8-5-6

- a. Storm and flood water storage capacity.
- b. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland.
- c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.
- d. Shoreland protection against soil erosion.

- e. Fish spawning, breeding, nursery or feeding grounds.
- f. Wildlife habitat.
- g. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(b) **Duties of Zoning Administrator.** The Zoning Administrator shall:

- (1) Require the applicant to submit, at the time of application, two (2) copies of an aerial photograph, or a plan which accurately locates the floodplain-wetland proposal with respect to the floodplain-wetland district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, wetland delineation, building flood elevations and flood proofing measures.
- (2) Require the applicant to furnish any of the following additional information as is deemed necessary by the DNR for evaluation of the effects of the proposal upon flood flows, wetlands and to determine the boundaries of the floodplain-wetland.
 - a. A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, cross-section area to be occupied by the proposed development, and high water information.
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structures, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures of the site, location and elevations of streets, water supply and sanitary facilities; soil types; and other pertinent information.
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream.
 - d. Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply, sanitary facilities, and wetland improvements.
- (3) Transmit one (1) copy of the application and additional information required to the DNR along with a written request to have that agency provide technical assistance to establish floodplain-wetland boundaries and, where applicable, provide regional flood elevation. Where the provisions of Section 8-5-2(j)(3) of this Ordinance apply, the applicant shall provide all required information and computations.

(c) **Amendment Procedure.**

- (1) Copies of any amendment proposed to the Village Board shall be referred to the Plan Commission which shall be forwarded by the secretary of the Plan Commission, together with the first notice of the public hearing thereon, to the main office and

Section 8-5-6

appropriate regional office of the DNR within five (5) days of the submission to the Village, and to the FEMA. The amendment procedure shall comply with the provisions of Section 62.23, Wis. Stats. No amendment to the text or maps shall become effective until approved by the DNR, the FEMA, and, in the case of map amendments, until an official letter of map amendment has been issued by the FEMA.

- (2) Wetland Rezonings.
 - a. If the regional office of the DNR determines that a proposed rezoning may

have a significant adverse effect on the wetlands, the DNR shall so notify the Village of its determination either prior to or during the public hearing on the proposed amendment.

- b. A copy of the Village Plan Commission recommendation on a rezoning shall be mailed to the regional office of the DNR within ten (10) days of its submission to the Village Board. A copy of the Village Board decision shall be mailed within ten (10) days of the decision.
- c. If the DNR notifies the Village Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the wetland criteria, that proposed amendment, if approved by the Village, shall not become effective until more than thirty (30) days have elapsed since written notice of the Village Board approval was mailed to the DNR. If, within the thirty (30) day period, the DNR notifies the Village Board that the DNR intends to adopt a superseding shoreland-wetland zoning ordinance for the Village under Chapter 62.231(6) or 61.351(6), Wis. Stats., the proposed amendment shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the Village Board decision on the proposed amendment shall advise the petitioner of the provisions of this Section.

SEC. 8-5-7 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this Ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$10.00 and not more than \$400.00, together with the costs of prosecution. Each day of continued violation shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

SEC. 8-5-8 DEFINITIONS.

Unless specifically defined below, or in Chapter 16 of the Village Zoning Code, words or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have in common law and to give this ordinance its most reasonable application.

Section 8-5-8

- (a) **A-Zones.** A-zones are those areas shown on a community's "Official Floodplain Zoning Map" which could be inundated by the "base flood" or "regional flood" as defined herein. These areas may be numbered as A0, A1 to A30, A99, or be unnumbered A-Zones. The A-Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (b) **Accessory Structure or Use.** A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- (c) **Base Flood.** A flood having a one percent (1%) chance of being equaled or exceeded in any

- given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (d) **Base Flood Elevation.** An elevation equal to that which reflects the height of the base flood.
 - (e) **Basement.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
 - (f) **Building.** See Structure.
 - (g) **Bulkhead Line.** A geographic line along a reach of a navigable body of water that has been adopted by a municipal ordinance and approved by the DNR pursuant to Chapter 30.11, Wis. Stats., and which allows complete filling between the bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this Ordinance.
 - (h) **Certificate of Compliance.** Certification by the Zoning Administrator that a structure and/or use of development are in compliance with all provisions of this Ordinance.
 - (i) **Channels.** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
 - (j) **Crawlways or Crawl Space.** An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
 - (k) **Deck.** An unenclosed exterior structure that has no roof or sides, but has permeable floor which allows the infiltration of precipitation.
 - (l) **Department or DNR.** Wisconsin Department of Natural Resources.
 - (m) **Development.** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
 - (n) **Dryland Access.** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
 - (o) **Encroachment.** Any fill, structure, equipment, building, use or development in the floodway.

Section 8-5-8

- (p) **Existing Mobile Home Park or Mobile Home Subdivision.** A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which construction of facilities for serving the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of floodplain management regulations adopted by a community.
- (q) **Expansion to Existing Mobile/Manufactured Home Park.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final

- site grading, or the pouring of concrete pads.
- (r) **FEMA.** Federal Emergency Management Agency.
 - (s) **Filled Wetlands.** Any wetlands which were filled prior to the date on which the Village receives final wetland inventory maps from the DNR in a manner which offsets their characteristics as wetlands and not subject to this Ordinance.
 - (t) **Flood or Flooding.** A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; or the unusual and rapid accumulation or runoff of surface waters from any source; or the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or the sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
 - (u) **Flood Frequency.** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
 - (v) **Flood Fringe.** That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.
 - (w) **Flood Hazard Boundary Map.** A map prepared by the FEMA, designating areas of special flood hazard within a given community. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and/or the insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
 - (x) **Flood Insurance Rate Map.** A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
 - (y) **Flood Insurance Study.** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Program, form both the regulatory and the insurance aspects of the National Flood Insurance Program.

Section 8-5-8

- (z) **Flood Profile.** A graph or longitudinal profile showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (aa) **Flood Proofing.** Any combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the purpose of reducing or eliminating flood damage to properties, water and sanitary facilities, structures and contents of buildings in flood hazard areas.
- (bb) **Flood Protection Elevation.** An elevation of two (2) feet of freeboard above the water surface profile designated for the regional flood.

- (cc) **Flood Storage.** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (dd) **Floodplain, General.** The land which has been or may be hereafter covered by flood water during the regional flood. It includes the floodway and the flood fringe, and may include other designated floodplain areas for regulatory purposes.
- (ee) **Floodplain Island.** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (ff) **Floodplain Management.** Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (gg) **Floodway.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (hh) **Freeboard.** A factor of safety usually expressed in terms of a certain amount of feet above calculated flood level. Freeboard compensates for many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.
- (ii) **Habitable Structure.** Any structure or portion thereof used or designed for human habitation.
- (jj) **Hearing Notice.** Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (kk) **High Flood Damage Potential.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- (ll) **Historic Structure.** Any structure that is either listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as

Section 8-5-8

a registered historic district; individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

- (mm) **Increase in Regional Flood Height.** A calculate upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- (nn) **Land Use.** Any use of land and water or development as defined in Section 8-16-1(a)(28) of the Village Zoning Code.

- (oo) **Mobile/Manufactured Home.** A structure transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Ordinance, it does not include recreational vehicles or travel trailers.
- (pp) **Mobile Recreational Vehicle.** A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as a temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of “mobile recreational vehicles.”
- (qq) **Municipality or Municipal.** The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (rr) **National Geodetic Vertical Datum or NGVD.** Elevations referenced to mean sea level datum, 1929 adjustment.
- (ss) **Navigable Waters.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Sections 61.351 or 62.221, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - (1) Such lands are not adjacent to a natural navigable stream or river.
 - (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.
 - (3) Such lands are maintained in nonstructural agricultural use.
- (tt) **New Construction.** For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the start of construction commenced on or after the

Section 8-5-8
- effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (uu) **Nonconforming Structure.** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies.
- (vv) **Nonconforming Use.** An existing lawful use of a structure, building or accessory use which is not in conformity with the provisions of the floodplain zoning ordinance for the area of the floodplain which it occupies.
- (ww) **Obstruction to Flow.** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (xx) **Official Floodplain Zoning Map.** That map, adopted and made part of this Ordinance,

which has been approved by the DNR and the FEMA, and which delineates those areas which would be inundated by the base or regional flood, including but not limited to: numbered and unnumbered A Zones. This map may be a "Flood Hazard Boundary Map", "Flood Insurance Study Map" or approved community floodplain map.

- (yy) **Official Letter of Map Amendment.** Official notification from the FEMA that a Flood Hazard Boundary Map or Flood Insurance Study Map has been amended.
- (zz) **Open Space Use.** Those uses having a relatively low flood damage potential and not involving structures.
- (aaa) **Ordinary High Water Mark.** The point on the bank or shore up to which the present and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (bbb) **Person.** An individual or group of individuals, corporation, partnership, association, municipality or state agency.
- (ccc) **Private Sewage System.** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than structure.
- (ddd) **Public Utilities.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (eee) **Reasonably Safe from Flooding.** Means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (fff) **Regional Flood.** A flood determined to be representative of large floods shown to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year there is a one percent (1%) chance that the regional flood may occur or be exceeded, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Section 8-5-8

- (ggg) **Shorelands.** Lands lying within 1,000 feet from the ordinary high water mark of a lake, pond or flowage, and 300 feet from the ordinary high water mark of a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (hhh) **Start of Construction.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start date means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as

dwelling units or nt part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- (iii) **Storage Capacity of a Floodplain.** The volume of space above an area of floodplain land that can be occupied by flood water or a given storage at a given time, regardless of whether the water is moving.
- (jjj) **Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (kkk) **Subdivision.** Has the meaning given in s. 236.02(12). Wis. Stats.
- (lll) **Substantial Damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- (mmm) **Unnecessary Hardship.** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (nnn) **Variance.** An authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- (ooo) **Violation.** The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (ppp) **Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.
- (qqq) **Water Surface Profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood

Section 8-5-8

flow. A water surface profile of the regional flood is used in regulating floodplain areas.

- (rrr) **Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.
- (sss) **Wetland Alteration.** Any filling, flooding, draining, dredging, ditching, tilling, excavation, temporary water level stabilization measures or dike and dam construction in a wetland area.
- (ttt) **Wetland Maps.** That map, adopted and made a part of this Ordinance, which has been approved by the DNR and stamped "Final" on February 22, 1989. Only those wetlands lying within the 100 year floodplain are controlled by this Ordinance.
- (uuu) **Wetlands.** Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

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.

Section 8-6-2

- (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;

Section 8-6-4

- (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

Section 8-6-7

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.

Section 8-6-9

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
Section 8-6-10
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

Section 8-6-12

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

Section 8-6-13

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
- Section 8-6-14

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:

Section 8-6-14

Type of Standard	Standard
Landscape Surface Ratio	

Type of Standard	Standard
Minimum Landscape Surface Ratio (LSR)	0.25 (a)
Lot Dimensional Requirements	
Minimum Lot Area (s.f.)	40,000
Minimum Lot Width at Public Street Right-of-Way Line (feet)	200
Minimum Building Setback (Front Yard and Side Yard on a Corner Lot) from Public Street Right-of-Way (feet)	50
Minimum Off-Street Parking Setback from a Public Street Right-of-Way (feet)	25
Minimum Side Yard (feet)	10 (b)
Minimum Rear Yard (feet)	25 (b)
Maximum Building Height	
Principal Structure (stories/ft.):	
Retail	2.0/35
Office	3.0/45
Accessory Structure (stories/ft.)	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
Section 8-6-14
(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

Section 8-6-14

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

Section 8-6-14

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.

Section 8-6-14

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	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

Section 8-6-14

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.

Section 8-6-14

- (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.

Section 8-6-14

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.

Section 8-6-14

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
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

- (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

Section 8-6-14

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

Section 8-6-14

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
Section 8-6-14

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

CHAPTER 7

Nonconforming Uses, Structures and Lots

SEC. 8-7-1 EXISTING USE PERMITTED.

The existing lawful use of a structure or land at the time of the enactment of this Ordinance or any amendment applicable thereto which is not in conformity with the provisions established by this Ordinance may be continued in the manner and for the purposes then existent subject to the conditions hereinafter stated.

SEC. 8-7-2 CLASSIFICATION AND REGULATION.

For the purpose of administration, such non-conformity shall be classified and regulated as follows:

(a) **Non-Conforming Structures.**

- (1) No such structure shall be expanded, enlarged, reconstructed, substituted, moved or structurally altered, except in conformity with the regulations of the district in which it is located.
- (2) When such structure is damaged to the extent of more than 50% of its current full market value, it shall not be restored except in conformity with the regulations of the district in which it is located.

(b) **Non-Conforming Use of Structure.**

- (1) No such use shall be expanded or enlarged.
- (2) Upon petition to and approval of the Board of Appeals, such use may be changed to another use provided the Board determines that the new use would result in an equal or lesser degree of non-conformity and provided further that such new use shall thereafter determine the degree of legal non-conformity.
- (3) Where any such use is discontinued for a period of 12 consecutive or for 18 accumulative months during any three-year period, any future use of the structure shall conform to the regulations of the district in which it is located.
- (4) Where the structure in which such use is carried on is damaged to the extent of more than 50% of its current full market value, it shall not be restored for use except in conformity with the regulations of the district in which it is located.
- (5) Structural repairs and alterations to a structure housing such use shall not, as long as such use continues, exceed 50% of the full market value of the structure at the time the use became non-conforming.

(c) **Non-Conforming Lots.**

- (1) No such lot shall be conveyed to a new owner except in conformity with the applicable provisions of the Land Division and Subdivision Ordinance of the Village.
- (2) No building or occupancy permit shall be issued except in conformity with the "General Provision" of this Ordinance and the standards of the individual zoning district.
- (3) The size and shape of such lot shall not be altered in any way so as to increase the

Section 8-7-2

degree of non-conformity except with the approval of the Board of Appeals.

(d) **Non-Conforming Use of Land.**

- (1) No such use shall be expanded or enlarged.
- (2) Upon petition to and approval of the Board of Appeals, such use may be changed to another use provided the Board determines that the new use would result in an equal or lesser degree of non-conformity and provided further that such new use shall thereafter determine the degree of legal non-conformity.
- (3) Where any such use is discontinued for a period of 12 consecutive or for 18 accumulative months during any three year period, any future use of the land shall conform to the regulations of the district in which it is located.

SEC. 8-7-3 REMOVAL OF HAZARDS.

Where, upon complaint of the Building Inspector, any non-conforming structure or use shall be found by the Board of Appeals as a matter of fact to be a detriment to the public health, safety or general welfare, such structure shall be ordered to be removed or such use to be discontinued within such time as the Board may deem reasonable. Upon failure to carry out such order, the Village may take such steps as are necessary to remove such structure or discontinue such use and assess the cost thereof against the property owner.

SEC. 8-7-4 FRONT SETBACK DEVIATIONS.

Where the front setback requirements of this Chapter deviate more than ten percent (10%) from established front setbacks of buildings within the immediate area and facing on the same side of a street, the Zoning Administrator shall establish front setbacks within ten percent (10%) in line with existing buildings.

CHAPTER 8

Traffic Visibility, Loading, Parking and Access

SEC. 8-8-1 TRAFFIC VISIBILITY.

- (a) On a corner lot in all zoning districts, no fence, wall, parking, vegetation, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the edge of right-of-way street lines of such corner lots and a line joining the points along said street lines fifteen (15) feet from the joint of intersection.
- (b) In the case of arterial streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to thirty (30) feet.
- (c) This regulation shall not apply to the trunks of trees and posts not over six (6) inches square or in diameter.

SEC. 8-8-2 LOADING REQUIREMENTS.

- (a) **Loading Space Requirements.** On every lot on which a business or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way:

<u>Gross Floor Areas</u>	<u>No.</u>	<u>Minimum Size</u>	<u>Min. Vert. Clearance</u>
3,000 - 10,000 sq. ft.	1	10 ft. x 35 ft.	13 ft.
10,001 - 25,000 sq. ft.	2	10 ft. x 35 ft. ea.	15 ft.
25,001 - 40,000 sq. ft.	2	12 ft. x 65 ft. ea.	15 ft.
40,001 - 99,000 sq. ft.	3	12 ft. x 65 ft ea.	15 ft.

For each additional one hundred thousand (100,000) square feet of gross floor area or fraction thereof over one hundred thousand (100,000) square feet, one (1) additional loading space shall be provided.

- (b) **Multiple or Mixed Uses.** Where a building is devoted to more than one (1) use or for different uses and where the floor area for each use is below the minimum required for a loading space but the aggregate floor area of such uses is above such a minimum, then off-street loading space shall be provided as if the entire building were devoted to that use in the building for which the most loading spaces are required.
- (c) **Location.** Required off-street loading spaces shall be located on the same lot with the principal use requiring such space. No loading space shall be located within thirty (30) feet of the nearest point of intersection of two (2) streets or require any vehicle to back into a public street.
- (d) **Surfacing.** All open off-street loading berths shall be improved with a compacted gravel

Section 8-8-2

base, not less than seven (7) inches thick, surfaced with not less than two (2) inches of asphalt or treated with some comparable all-weather dustless material.

- (e) **Repair and Service.** No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any Residential District.
- (f) **Utilization.** Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (g) **Central Loading.** Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:
 - (1) Each zoning lot served shall have direct access to the Central Loading Area without crossing streets or alleys at grade.
 - (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Areas of types of uses may be totaled before computing number of loading berths.)
 - (3) No zoning lot served shall be more than three hundred (300) feet removed from the Central Loading Area.
 - (4) The tunnel or ramp connecting the Central Loading Area with the zoning lot served shall be not less than seven (7) feet in width and have a clearance of not less than seven (7) feet.

SEC. 8-8-3 PARKING REQUIREMENTS.

- (a) **General Requirements.**
 - (1) No building permit shall be issued for a new building or for substantial alternations or enlargements for any existing building unless there is included with the application and plans for such structure, alteration or enlargement a plot plan showing the off-street parking spaces and loading areas in accordance with this Section. Such plan shall address landscaping, drainage provisions and driveway locations. No occupancy or building permit shall be issued unless the required parking areas shall comply with the requirements of this Section.
 - (2) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement, such additional parking and loading facilities as required herein shall be provided.
 - (3) Whenever the existing use of a building or structure shall be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said building or structure was erected prior to the effective date of this Chapter, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use exceed those for the existing use.
 - (4) The Plan Commission, upon review, may require any additional number of parking stalls than those listed in 8-8-3(h) for the purpose of ensuring that adequate facilities are provided to serve the intended use of the site.
- (b) **Access.** Each required off-street parking stall shall open directly upon an aisle or driveway of a width and design in accordance with Village of Hales Corners standards of design. All

Section 8-8-3

off-street parking facilities shall be provided with appropriate means of vehicular access to a street or alley.

- (c) **Design Standards.** The size of each parking stall shall be not less than one hundred eighty (180) square feet exclusive of the space required for ingress and egress. Minimum width of aisles providing access to stalls for one-way traffic shall be as follows: Eleven (11) feet for thirty degree (30°) parking; and twenty (20) feet for ninety degree (90°) parking. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty-four (24) feet. No parking area of more than two (2) stalls shall be designed as to require any vehicle to back into a public street. Large expanses of unchanneled parking areas shall be avoided by interior landscaping and safety islands.

(d) **Location.**

- (1) Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use.
- (2) Off-street parking is permitted in all yards of all districts except in the front yards of single-family and two-family residence district but shall not be closer than five (5) feet to a nonresidential side lot line, right-of-way, or rear lot line. No parking stall or driveway, except in residential districts, shall be closer than twenty-five (25) feet to a residential district lot line. A reduced setback of no less than ten (10) feet upon nonresidential district property and from a residential district lot line may be permitted by the Plan Commission, if there is a finding that an adequate provision can be made for effective screening, snow storage, preservation of existing vegetation, topography, drainage, vision triangles, vehicular training radii, the effect of street salting, utility location, and exterior lighting. Screening must be consistent with the character and scale of the properties in the adjacent residential district by incorporating natural vegetative screens, non-metal fences, or combinations thereof.
- (3) Off-street parking in the single-family and two-family residence districts is permitted in the front yard driveway, even though closer than five (5) feet to a side lot line.

- (e) **Surfacing.** All off-street parking areas, except a single parking stall accessory to a single-family dwelling, shall be surfaced with a compacted macadam base, or equal, not less than four (4) inches thick and surfaced with at least a two (2) inch thick asphaltic concrete or comparable hard-surfaced, all-weather, dustless materials as approved by the Village Engineer. A parking area serving four (4) or more vehicles shall have the aisles and spaces clearly marked. Compacted stone or gravel may be used only with the approval of the Plan Commission. Completion of surfacing is required prior to the issuance of an occupancy permit. However, for required surfacing during the period between November 1st and April 1st, the owner shall enter into an agreement with the Village agreeing to complete all required surfacing by no later than the following June 1st.

(f) **Landscaping.**

(1) General Screening Requirements.

- a. The Plan Commission shall determine whether the paved parking and loading areas are to be screened from abutting residential districts by a buffering area of at least ten (10) feet in width and landscaped and maintained in a manner as specified in this Section or screened by a solid fence or masonry wall or

Section 8-8-3

acceptable material and design to be maintained in a manner as determined

by the Plan Commission.

- b. Prior to the issuance of a building permit, the applicant shall submit a landscape plan for planting prepared by a registered landscape architect or a fence design with detailed specifications, whichever is applicable, together with a firm bid for installation of the required improvement buffering the business site from the abutting residence site, and shall post a bond guaranteeing performance of such installation within one (1) year of the issuance of the building permit. Prior to the issuance of an occupancy permit, the parking area improvements must be completed or a surety filed to guarantee to the Village that these improvements will be installed within one (1) year of occupancy.
 - c. Buffering areas shall be designed to neutralize the transition from a business use site to a residential use site. Planting in this area shall be, among others, for the purpose of shielding of lights of the business area from the residential area and the business operations. Such area shall be landscaped and maintained in an attractive manner and shall be planted with trees, bushes and shrubs forming an effective screen. Plantings shall not be made of seedlings but from stock that is capable of attaining a good growth within a period of five (5) years. Such plantings to be made from varieties that will, at maturity, reach a height of ten (10) to fifteen (15) feet and form a dense growth. Planting shall occur during the first planting season after construction is completed. Where a solidly constructed decorative fence is provided along the interior lot line, the minimum setback for the parking area shall be five (5) feet from said lot line. Said fence shall be located a minimum of one (1) foot from the said lot line. No accessory buildings or vehicular parking shall be permitted therein. After the initial planting, the owner and occupant, jointly and severally, shall be required to maintain such buffer strip by preserving it in the manner contemplated by the Plan Commission and, by way of illustration but not of limitation, maintenance shall include cutting, trimming and fertilizing, if necessary. Replacement shall be required for any subsequent destroyed, eroded or dead plantings in order to preserve the protective shield between properties. In the event such screening is provided by a solid fence or masonry wall, the owner must maintain an attractive buffer.
- (2) Location. The location of landscape areas, plant materials and protection afforded the plantings, including curbing and provision for maintenance by the property owner, shall be subject to approval by the Village Engineer.
 - (3) Plans. All plans for such proposed parking areas, at the discretion of the Village Engineer, shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs and other natural vegetation in the parking area may be included in the calculation of the required minimum landscape area.

Section 8-8-3

- (4) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in association with parking facilities provided in Residence Districts.

- (5) **Lighting.** Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and public streets in such a way as not to create a nuisance. However, in no case shall such lighting exceed three (3) footcandles measured at the lot line.
- (6) **Street Setback Area.** No parking shall be permitted between the street right-of-way line and the building setback line prevailing in the zone in which the proposed parking area is to be located. The resulting open area shall be planted in grass or otherwise landscaped to create a permanent green area.
- (g) **Curbs.** Curbs or barriers shall be installed a minimum of four (4) feet from a property line so as to prevent the parked vehicles from extending over any lot lines.
- (h) **Number of Stalls.** Number of parking stalls required are shown in the following table:

<u>Use</u>	2 stalls for each dwelling unit
Dwellings: Single-family and two-family	0.75 stall for each dwelling with one-half of these stalls to be built before occupancy and the balance shall be reserved until such time as the Village Board may order them installed
Dwellings: Multi-family	1 stall for each guest room plus 1 stall for each 2 employees
Housing for the elderly	1 stall for each 2 sleeping rooms plus 1 stall for each 2 employees
Hotels, motels	1 stall per 2,000 square feet of principal floor area
Sororities, dormitories, rooming and boarding houses	1 stall for each 3 beds plus 1 stall for each employee
Retirement homes, orphanages, covenants and monasteries	5 stalls for each doctor or dentist
Hospitals, sanitariums, institutions, rest and nursing homes	Theaters, auditoriums, community centers, sports arenas, and other places of public assembly
Medical and dental clinics	Colleges, secondary, and elementary schools
2 stalls for each dwelling unit	

Restaurants, bars, clubs and lodges, places of entertainment	1 stall for every 4 seats, plus 1 stall for every employee
Office buildings, professional offices, banks, and savings institutions	At least 1 parking stall per 300 square feet of floor area
Drive-in establishments	At least 1 stall for each 15 square feet of floor area in the building
Manufacturing and processing plants (including meat and food processing), laboratories, and warehouses	1.5 stalls for every employee; number of employees shall be construed to mean the maximum number on the premises at one time
Libraries, museums, art galleries, etc.	1 stall for each 3 employees, plus 1 stall for each 4 seats, plus 1 stall for each 500 square feet of floor area not having seats
Washing and cleaning establishments	1 stall for each 2 employees, plus 1 stall for every wash machine or 1 for each 150 square feet of floor area, whichever is greater
Funeral homes, mortuaries, and similar-type uses	1 stall for each 100 square feet of floor area in parlors or assembly rooms
Retail stores	1 stall per 300 square feet if under 1,000 square feet total area, or 1 stall per 200 square feet if over 1,000 square feet total area, plus 1 stall for every employee

Section 8-8-3

1 stall for each 4 seats or spaces equal to 20% of capacity in persons, whichever is greater

1 stall for every faculty member and employee, plus 1 stall for every 4 seats in an auditorium, plus 1 stall for every 5 students in high school or college

Other business uses

Churches and other places of religious assembly

Cartage, express, and parcel delivery, freight terminals

Business, technical, and trade schools	1 stall for each 5 students plus 1 stall for each 2 employees
Financial institutions, business, government and professional offices	1 stall for each 300 square feet of floor area and 1 stall for each 2 employees
Motor vehicle sales (new and used)	1 stall for each 500 square feet of floor area used plus 1 stall for each 300 square feet of outdoor display area for each motor vehicle to be displayed (This requirement does not include service garages.)
Repair shops, retail and service stores	1 stall for each 200 square feet of net floor space
Automobile repair garages and service stations	1 stall for each 2 employees plus 3 stalls for each service bay
Recreational uses – business	1 stall for every 3 persons based on maximum capacity, plus 2 stalls for every 2 employees
Bowling alleys	4 stalls for each alley, plus additional stalls for affiliate uses

Section 8-8-3

1 stall for each 300 square feet of floor area

1 stall for each 5 seats or 1 for each 90 lineal inches of pew space

1 stall for each 2 employees (on the largest shift for which the building is designed) plus 1 stall for each motor vehicle maintained on the premises

- (i) **Uses Not Listed.** In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Floor space or area shall mean the gross floor area inside the exterior walls, where floor space is indicated above as a basis for determining the amount of off-street parking required.
- (j) **Combined Uses.** Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Two (2) or more uses may provide required off-street parking stalls in a common parking facility less than the sum of the stalls required for each use individually, provided such uses are not operated during the same hours. The following conditions must be met for any joint use:
 - (1) The proposed joint parking stall is within five hundred (500) feet of the use it will serve.
 - (2) The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
 - (3) A properly drawn legal instrument approved by the Village Board, executed by the parties concerned, for joint use of off-street parking facilities shall be filed with the Village Clerk. Said instrument may be a three (3) party agreement, including the Village and all private parties involved. Such instrument shall first be approved by the Village Attorney.
- (k) **Handicapped Parking Requirements.** In addition to any other requirements relating to parking spaces contained in these Ordinances, the provisions contained in Sections 101.13, 346.503 and 346.56, Wis. Stats., and any Wis. Adm. Code sections adopted pursuant thereto are hereby adopted by reference and made applicable to all parking facilities whenever constructed.
- (l) **Changes in Buildings or Use.** Whenever a building or use is changed, structurally altered or enlarged to create a need for an increase of twenty-five percent (25%) or more in the number of existing parking stalls, such stalls shall be provided on the basis of the enlargement or change. Whenever a building or use is enlarged to the extent of fifty percent (50%) or more in the floor area, said building or use shall then comply with the parking requirements set forth in the district in which it is located.
- (m) **Off-Lot Parking.**
 - (1) Required off-street parking stalls shall be located on the same lot with the principal use, or when this requirement cannot be met, such stalls may be located off-lot provided the stalls are located in the same district and not over five hundred (500) feet from the principal use. In cases where off-street parking facilities are permitted on land other than the same lot as the principal use, such facilities shall be in the same possession as the lot occupied by the use to which the parking facilities are necessary or in the possession of the controller of the principal use to which the parking facilities are accessory. Such possession shall be by deed whereby the owner of the land on which the parking facilities are to be located shall be bound by a covenant filed and recorded in the Office of the Milwaukee County Register of Deeds requiring such owner, his heirs or assigns to maintain the required facilities for the duration of the use served.

- (2) Off-lot parking stalls for residential uses shall be within two hundred fifty (250) feet of the principal entrance or the entrance for the individual occupants for whom the stalls are reserved while the farthest portions of a parking lot for all other uses shall be within four hundred (400) feet of the entrance of the establishment.
- (3) Accessory parking may be located in residential districts provided that said lots or property are immediately adjacent to a business or industrial zoning district.
- (4) All off-street parking lots adjoining lots zoned for residential use shall have a minimum setback of ten (10) feet from any interior lot line, except if the adjoining lot is used for legally conforming parking purposes.
- (n) **Signs.** Signs located in parking areas necessary for orderly operation of traffic movement shall be permitted in addition to others permitted in this Chapter.
- (o) **Lighting.** Lighting used to illuminate off-street parking shall have no direct source of light visible from a street or adjacent land.
- (p) **Reduction of Parking Areas.** Off-street parking stalls shall not be reduced in number unless said number exceeds the requirements set forth herein.

Reference: Ordinance 03-10

SEC. 8-8-4 HIGHWAY ACCESS.

- (a) **Highway Access.** No direct private access shall be permitted to the existing or proposed rights-of-way of expressways, nor to any controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of freeways, interstate highways and their interchanges or turning lanes nor to intersecting or interchanging streets within 1,500 feet of the most remote end of the taper of the turning lanes (such as exit and entrance ramps). No driveway openings shall be permitted within one hundred (100) feet of the intersection of an arterial street right-of-way line.
- (b) Access barriers, such as curbing, fencing, ditching, landscaping or other topographic barriers shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- (c) Temporary access to the above rights-of-way may be granted by the Zoning Administrator after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

SEC. 8-8-5 STORAGE AND PARKING OF RECREATIONAL VEHICLES.

- (a) **Definitions – Recreational Vehicles.** For purposes of this section, a “recreational vehicle” means all types of trailers, all types of mobile homes and motor homes, all types of campers, boats, snowmobiles, personal water crafts, all-terrain vehicles, motorbikes and motorcycles, and the like, not exceeding 32 feet in length, eight (8) feet in width, and 13 feet six (6) inches in height, provided that each such recreational vehicle to qualify as such shall be operable and kept in a good state of maintenance and repair, and be owned by the resident or occupant

Section 8-8-5

of the property. An empty or unloaded trailer is one recreational vehicle; a trailer designed to carry personal water craft(s), snowmobile(s), all-terrain vehicle(s), or the like, is one recreational vehicle when such other recreational vehicle(s) are mounted thereon; no more than four (4) such other recreational vehicles may be mounted or loaded on a single trailer.

(b) **Permitted Parking or Storage of Recreational Vehicles.** In all residential and business districts provided for in this Zoning Code, it is permissible to park or store a recreational vehicle on private property in the following manner:

- (1) No recreational vehicle shall be parked or stored on the public right-of-way. Any recreational vehicle, when parked or stored within the front or side setback, must be placed on a properly improved driveway and be at least fifteen (15) feet away from any adjacent dwelling. Recreational vehicles parked in the rear setback area must be at least five (5) feet from any property line.
- (2) The body of the recreational vehicle must be at least fifteen (15) feet from the face of any curb or pavement edge.
- (3) No part of the unit may extend over the public sidewalk or public right-of-way.
- (4) Parking is permitted only for storage purposes. Recreational vehicles shall not be:
 - a. Used for dwelling purposes, except for overnight sleeping for a maximum of fourteen (14) days in any one (1) calendar year. Cooking is not permitted at any time.
 - b. Permanently connected to sewer lines, water lines or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (5) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (6) The recreational vehicle shall be owned by the resident on whose property the unit is parked for storage and shall be kept in good repair.

(c) **Limitation of Parking and Storage of Recreational Vehicles in Residential Districts.** No more than two recreational vehicles may be parked or stored on a residential lot at any time, provided that only one of the recreational vehicles may exceed 16 feet in length. In addition to the foregoing two recreational vehicle limitation, one utility trailer recreational vehicle with a bed not exceeding eight (8) feet by six and a half (6½) feet in area may be parked on a residential zoned lot.

State Law Reference: Sec. 30.50, Wis. Stats., and HSS 177 and 178, Wis. Adm. Code.

SEC. 8-8-6 STORAGE OF TRUCKS, TRACTORS AND ROAD MACHINERY.

(a) **Truck Parking in Residential Areas.** Passenger automobiles and panel, enclosed or pickup trucks for personal use. One (1) panel, enclosed, or pickup truck when used by the occupant in his business or occupation, in operable condition, shall be permitted in any residence

Section 8-8-6

district. Trucks shall be limited to those with a wheel base of one hundred twenty-nine (139) inches or less and a gross vehicle weight of ten thousand (10,000) pounds or less. No commercially licensed trailer, including semi-trailers, shall be parked or stored in a residential district, except when loading, unloading or rendering a service [Ref. Sec. 8-2-9(e)(2)].

- (b) **Tractors and Road Machinery.** No person, firm or corporation shall park, keep or maintain, on properties zoned as residential or multiple residential dwellings, the following types of vehicles: tractors, tractor trailers, semi-trailers, dump trucks, auto wreckers and road machinery. Said vehicles may not be kept or parked on said premises whether or not they are in enclosed buildings, except for the purposes of unloading or servicing the premises.

CHAPTER 9

Signs and Billboards

SEC. 8-9-1 PURPOSE OF SIGN AND BILLBOARD REGULATIONS.

The purpose of this Chapter is to establish standards to promote public safety, the aesthetic appearance of the Village, high quality area development, preservation of property values, and the general welfare of the Village. It is intended to: aid in traffic control and traffic safety; preserve and protect property values; lessen congestion of land and air space; provide against undue concentrations of signs which distract and endanger traffic safety and traffic flow; establish reasonable standards for commercial and other advertising through the use of signs in order to maintain and encourage business activity and area development; avoid uncontrolled proliferation of signs; preserve the wholesome and attractive character of the Village; and to recognize that the general welfare of the Village of Hales Corners includes the desire to be beautiful as well as healthy, spacious as well as clean, and to be well-balanced in its growth and development. This Chapter, therefore, establishes minimum standards by regulating the design, size, area, number, location, construction, and maintenance of signs in the Village.

SEC. 8-9-2 SIGNS AND BILLBOARDS - DEFINITIONS.

Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Chapter:

- (a) **Advertising or Advertisement.** Any public notice which informs, notifies, or announces to the public or attracts public attention.
- (b) **Awning.** A hood or cover which projects from the wall of the building, which can be retracted, folded, or collapsed against the face of the supporting structure. The lowest part of any awning shall be at least seven (7) feet above the sidewalk or adjacent grade. Signs are allowed directly on the awning or hanging on the frame, but not less than seven (7) feet above the sidewalk or adjacent grade.
- (c) **Billboard.** A board on which notices or advertising are posted, including, but not limited to, a sign which advertises goods, products or facilities, or services not necessarily available on the premises where the sign is located or directs persons to a different location from where the sign is located.
- (d) **Blanketing.** The unreasonable obstruction of view of a sign caused by the placement of another sign. Blanketing of signs shall not be allowed
- (e) **Building Elements.** Graphics, architectural details, or illumination affixed to a building and visible from the exterior of the building including, but not limited to, lighted panels, neon or other lighting product and all attaching fixtures, arranged in a pattern that promotes, calls attention, or is in the nature of an announcement, direction, or advertisement. These elements shall be considered an integral part of a building façade and are subject to review requirements under 8-2-2(a)(1).
- (f) **Business Sign.** A sign which directs attention to a business or profession conducted upon

- the premises.
- (g) **Business Site.** A property in single ownership or control on which one (1) or more business establishments are located.
 - (h) **Canopy Sign.** A sign mounted on a canopy which is a permanent part of a building or structure.
 - (i) **Directional Sign.** A sign not exceeding three (3) square feet in area intended solely for directing patrons, members or customers to an establishment off the main traveled road and not including promotional advertising unnecessary to such directional purpose.
 - (j) **Directly Illuminated Sign.** Any sign designed to show any artificial light directly through any transparent or translucent material from a source of light originating within or on such sign.
 - (k) **Directory Sign.** Any sign on which the names or locations of occupants or the use of a building are stated. This shall include office and church directories.
 - (l) **Electronic Message Unit Sign.** Any sign whose message may be changed by electronic process.
 - (m) **Flashing Sign.** Any directly or indirectly illuminated sign on which artificial light is not maintained stationary and constant in intensity and color at all times when in use.
 - (n) **Free Standing Sign.** Any sign which is, wholly or partially, supported by structures or supports in or upon the ground and which is independent of support from any building.
 - (o) **Identification Sign.** Any sign which carries only the name of the business, brand, institution, and/or principal products or services offered on the premises.
 - (p) **Indirectly Illuminated Sign.** Any sign that is illuminated from an artificial light source outside of the actual sign.
 - (q) **Major Highway.** A county trunk highway, a state highway or a federal highway.
 - (r) **Marquee Sign.** Any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against weather.
 - (s) **Monument Sign.** A free standing sign less than eight (8) feet in height which is placed directly on a foundation base.
 - (t) **Non-accessory Sign.** A sign is non-accessory when it directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than on the premises or only incidentally on the premises, if at all.
 - (u) **Nonconforming Sign.** Any sign which does not conform to the regulations of this Chapter.
 - (v) **Portable Sign.** Any sign not permanently attached to the ground which is designed to be easily moved from one location to another. Portable signs are defined as being on wheels, or a trailer, or motor vehicle and parked on a street or property for the purpose of advertising any object, product, place, activity, person, institution or business. Signs mounted on trucks, taxicabs or other motor vehicles as a secondary or incidental use of said vehicle shall not be considered as a portable sign for purposes of this Chapter. Any motor vehicle or trailer having a nonpermanent or detachable sign and parked for a period in excess of seventy-two hours in the same site within a ninety-six (96) hour period is be presumed to be a portable sign; such presumption may be rebutted by clear and convincing evidence that such parking

- was not for advertising purposes.
- (w) **Projecting Sign.** Any sign extending more than twelve (12) inches, but less than five (5) feet from the face of a wall or building.
 - (x) **Pylon Sign.** A sign which is erected on a pole or structure and is more than eight (8) feet in height.
 - (y) **Real Estate Sign.** Any sign which is used to offer for sale, lease or rent the property upon which the sign is placed.
 - (z) **Roof Sign.** Any sign erected upon or over the roof or parapet of any building.
 - (aa) **Rummage Sale Signs.** Any sign used to advertise or direct a private sale of household goods and items on a residential property. Signs may only be placed on private property with the owner's consent.
 - (bb) **Sign.** A sign shall include anything that supports advertising, including, but not limited to, that which promotes, calls attention, or invites patronage (or anything similar to the aforementioned) to a business, message, location, or product. This includes any structure or natural object such as a tree, brush, rock, or the ground itself or part hereof or device attached thereon or painted or represented thereon, used to advertise any object, product, place, activity, message, person, institution, organization, or business, or used to display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation which is in the name of announcement, direction, or advertisement.
 - (cc) **Sign Area.** The exposed face area, including any background or backing constructed or installed as an integral part of such sign, but not any structural elements lying outside the display area of the sign. The sign area of a double-faced sign shall be the area of the larger single face. For signs composed of individually mounted letters, the sign area shall be computed as the sum of the areas of the individual letters with the area for the individual letters computed as the area within a single continuous perimeter enclosing the extreme limits of the words or symbols.
 - (dd) **Sign Height.** The vertical distance measured from the ground level adjacent to the sign to the highest part of the sign, including all illuminators and embellishments.
 - (ee) **Temporary Sign.** Any sign intended to be displayed for a short period of time, including, but not limited to, real estate, political, or construction site signs, and manners, decorative-type displays, or anything similar to the aforementioned.
 - (ff) **Wall Sign.** Any sign attached to, erected on or painted on the wall of a building or structure and projecting not more than eighteen (18) inches from such wall. No wall sign shall be located so as to project above the parapet line, unless approved by the Plan Commission, considering the purposes and intent of this Chapter.
 - (gg) **Window Sign.** Any sign, including, but not limited to, a painted scene, paper advertising, neon elements, or graphics placed inside or upon an interior or exterior window surface, which is or is intended to be seen from the exterior of the building.
 - (hh) **Changeable Copy Sign.** A sign or portion thereof which has a readerboard for the display of text information in which each alphanumeric character, graphic, or symbol is defined by objects, not consisting of an illumination device and may be changed or rearranged manually or mechanically with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

- (ii) **Changeable Copy Sign, Electronic.** A sign or portion thereof that displays electronic, nonpictorial, text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs do not include official governmental, time, or temperature signs. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or other objects.
- (jj) **Electronic Graphic Display Sign.** A sign or portion thereof that displays electronic, static images, static graphics, or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light emitting diodes (LED's), fiber optics, light bulbs, or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization, or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other signs.
- (kk) **Video Display Sign.** A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effort to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion or motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

SEC. 8-9-3 SIGN PERMIT REQUIRED.

Except those specified in Section 8-9-4, no signs shall hereafter be located, maintained or allowed to exist, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a sign permit and without being in conformity with the provisions of this Chapter. The sign shall also meet all other structural requirements of other applicable codes and ordinances of the Village of Hales Corners. Signs of a type defined in this chapter with characteristics other than as specifically described in this Chapter, i.e., a directional sign greater than 3 feet in area or a monument sign greater than 8 feet in height, are prohibited.

SEC. 8-9-4 SIGNS EXCEPTED FROM PERMIT REQUIREMENT.

All signs must have a sign permit, except the following, provided that the following exempt signs may not be located on or over a public road right-of-way or in, on or over public water:

- (a) **Memorial Signs.** Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface of a building or when constructed of metal and affixed flat against the structure of a building.
- (b) **Professional or Business Signs.** A sign not exceeding one and one-half (1-1/2) square feet

in area stating only the name and business or profession of the occupant or the character of the use of the premises on which the sign is maintained. These signs shall be set back at least three (3) feet from any lot line.

- (c) **Municipal, Religious, Schools, Etc.** Signs used for directional purposes not in excess of two (2) square feet when located off the premises. In all cases, these signs shall not be subject to the approval of the Building Inspector in regard to design and location. Signs located off the premises shall be set back at least five (5) feet from any lot line.
- (d) **Utility Signs.** Utility signs, if necessary for the safety or convenience of premises invitees, frequenters, or the public, as approved by the Building Inspector, the approval including design and location, considering the purpose and intent of this Chapter.
- (e) **Building Construction Signs.** A sign not exceeding forty (40) square feet in area pertaining to the construction of a building on the premises, placed entirely on the premises with a minimum of at least five (5) feet from the lot lines and maintained only during the construction of the building, but not to exceed eighteen (18) months in any instance.
- (f) **Contractor's Signs.** A sign not exceeding sixteen (16) square feet in the area pertaining to contractual work being performed on a property. Allowed only during the duration of the work activity.
- (g) **Interior Signs.** Signs completely within the interior of a mercantile establishment except as otherwise specifically set forth, shall not be subject to a permit requirement or the other provisions of this Chapter.
- (h) **Real Estate/Lease Signs.** One (1) sign advertising only the premises upon which the sign is located for sale or for rent, constructed in a neat and workmanlike manner. In all residential districts, not more than six (6) square feet and in business districts, not more than sixteen (16) square feet in area and set back at least five (5) feet from any lot line.
- (i) **Official Signs.** Signs required by federal, state, county, Administrative Code or local ordinance which include, but are not limited to, traffic signs, street signs, Civil Defense signs and notices required by law.
- (j) **Election and Political Campaign Signs.** Except as provided in Section 8-9-11 herein.
- (k) **Rummage Sale Signs.** As defined in Section 8-9-2(aa)
- (l) **Window Signs.** Signs located behind the window areas for the purpose of being viewed from the outside of the building provided it does not exceed 25% of the total window area, including all windows and doors on each side of the building. Neon signage not to exceed 10% of the total window area, with the exception of "open" and "closed" signage.
- (m) **Other Special Use Signs.**
 - (1) Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, or names of occupants or premises.
 - (2) Flags and insignia of any government, except when displayed in connection with business promotion not exceeding 60 square feet in area.
 - (3) Legal notices, identification information, or directional signs erected by governmental bodies.
 - (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
 - (5) Signs directing and guiding traffic and parking on private property, but bearing no

- product or message advertising matter.
- (6) The temporary use of searchlight for advertising purposes may be permitted by the Building Inspector in commercially zoned districts, provided that the searchlight will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property and will not cause a hazard to traffic or adjoining properties. Searchlights shall not be permitted for a period of more than five (5) days in any six (6) month period.

SEC. 8-9-5 SIGN SETBACKS REQUIRED.

- (a) **Side and Rear Yard Setbacks.** All signs, except when specified otherwise in this Chapter, shall conform to the district requirements of this Zoning Code for side yards and rear yards, except in the case of unaltered signs on or near structures existing on October 28, 1963, that themselves do not conform to such requirements.
- (b) **Front Yard Setbacks.** All monument signs shall be located at least ten (10) feet from the front property line. All pylon signs shall be located at least twenty-five (25) feet from the front property line. All other signs, except when specified otherwise in this Chapter, shall not project beyond the front lot line. When the building line on a structure existing on October 28, 1963 is within eight (8) inches of the lot line, a wall sign may project no more than eight (8) inches beyond the building line. *Note: All ground mount sign locations are subject to review regarding vehicular hazard and obstruction.*

SEC. 8-9-6 GENERAL PROHIBITIONS.

- (a) **Compliance.** No person shall erect, maintain, or allow to exist on premises owned by the person, any sign within the Village which is defective or dangerous or otherwise not in conformity with this Chapter.
- (b) **Access Hindrance.** No sign, or any part of such sign, or any anchor, brace or guy rod shall be attached, fastened or anchored to any fire escape, fire ladder or standpipe. No sign or any part of a sign or any anchor, brace, or guy rod shall be erected or maintained so as to cover or obstruct any door, doorway or window of any building so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such buildings by the fire department as necessity may require.
- (c) **Illumination Limitation.** Directly illuminated signs, including, but not limited to, exposed or bare neon, fluorescent, incandescent, and mercury sodium halogen bulbs are prohibited unless specifically approved by the Plan Commission in business and manufacturing districts to ensure architectural compatibility with building and surrounding area. Indirectly illuminated signs that illuminate only the immediate areas of the sign, concentrating light within or upon the sign, without radiating light upon adjacent public or private property, or public rights-of-way, are permitted in business and manufacturing districts. Illuminated signs located within residential districts are prohibited. Floodlighting of residences offered for sale shall not be permitted between 10:00 p.m. and 7:00 a.m.
- (d) **Traffic Hazard and Nuisance Signs.** No signs shall be allowed which create a hazard or

dangerous distraction to vehicular traffic or which creates a nuisance. Such signs are prohibited and subject to immediate removal by the Police Department and shall include, but not be limited to, signs that are intermittent, flashing, rotating, mobile or moving, except signs that give information on time and temperature.

- (e) **Intoxicating Beverage Signs.** No sign advertising intoxicating beverages or an establishment for the sale thereof shall be permitted within three hundred (300) feet of the property line of a school or church. However, where there is an intoxicating beverage licensed premises within three hundred (300) feet of the property line of a school or church by reason of a nonconforming use, signs shall be permitted with size, illuminations, locations, etc., subject to other provisions of this Chapter.
- (f) **Non-accessory Signs.** Non-accessory signs are prohibited, except on immediately abutting the premises supporting the principal use to which the sign directs attention, if both premises are identically zoned.
- (g) **Roof signs.** Roof signs are prohibited except as would be approved by appeal under Section 8-9-13.
- (h) **Painted Wall Signs.** Signs painted on any wall of a building are prohibited, except where permitted under Section 8-9-14.
- (i) **Residential Districts.** Only nonilluminated signs permitted by Sections 8-2-9(e)(4), 8-9-6(c), 8-9-9(g), 8-9-10 and 8-9-11 are permitted.
- (j) **Balloons, Flags, and Streamers.** No advertising display of balloons, flags, and streamers are permitted unless approved under Section 8-9-10.
- (k) **Signs placed in Right-of-Way.** No banners, flags, streamers, balloons, or signs of any type shall be placed on the right-of-way of any street or attached to any pole, tree, lamppost, street sign, or railing within said right-of-way unless specifically approved by the Building Inspector or Plan Commission, considering the safety of the public and the purposes and intent of this Chapter.
- (l) **Neon Displays.** The use of neon to outline, enclose, or draw attention to a window is prohibited.

SEC. 8-9-7 PERMIT PROCEDURES AND FEES.

- (a) **Permit Procedure.**
 - (1) **Application.** Any person desiring to erect, alter or relocate a sign shall make application to the Building Inspector stating full information relating to the construction, size and dimension and the kind of materials to be used in such sign and the number(s) of the building or premises upon which such sign is to be erected. A detailed sketch, in true color and to scale, shall accompany the application and shall indicate the appearance of the sign and its location on the premises and its relationship to other structures and property lines. The application shall further include the number of existing signs on the premises on which the new sign is to be located, including the location and size of each such existing sign.
 - (2) **Review and Approval.** It shall be the duty of the Building Inspector, upon filing of an application for a sign permit, to examine such plans, specifications, and other

pertinent data. He shall determine whether the proposed structure is in compliance with the requirements of this ordinance and all other regulations of the Village of Hales Corners. Following the review of the sign permit application, the Building Inspector shall take one of the following actions:

- a. If the proposed sign does not conform to the requirements of the sign ordinance or other regulations of the Village, the Building Inspector shall deny such permit stating the specific items of noncompliance.
 - b. If the proposed sign complies with all dimensional and structural requirements, the Building Inspector shall consider the purpose, appearance, location, lighting, height, size, and impact of the sign relative to the purposes and intent of this ordinance. If the Building Inspector determines there is a question as to whether or not the proposed sign is in accordance with the purposes or intent of this ordinance, he shall refer the sign permit application to the Plan Commission. The Plan Commission shall approve, approve with modifications, or deny the sign application, considering the purposes and intent of this ordinance.
 - c. If the Building Inspector determines that the sign is in compliance with the purposes and intent of this ordinance and all other regulations of the Village of Hales Corners, he shall issue the permit.
 - d. If the proposed sign is directly illuminated with exposed or bare lights, the Plan Commission must approve as to whether or not the design is compatible with the building's architectural character and the colors have been selected to the complement of the building's exterior.
- (3) **Permits.** Upon approval of the application and upon payment of the fee hereunder prescribed, the Building Inspector shall issue a sign permit which shall authorize the erection, alteration or relocation of the exact sign for which application was made. Any alteration, modification or improvement, including any change in wording or design but not including the repainting of existing display matter, shall require a new permit, except for signs so constructed or designed as to accommodate a preprinted message. An electrical permit shall be obtained for an illuminated sign prior to the installation of such sign.
- (b) **Permit Fee.** Permit fees for signage shall be assessed at \$1.50 per square foot with a \$50.00 minimum fee. Temporary signs shall be assessed a fee one-half (1/2) of the regular fee. An additional fee, as specified in the Electrical Code, shall be paid for all illuminated signs.

SEC. 8-9-8 DESIGN, CONSTRUCTION, AND MAINTENANCE STANDARDS.

- (a) **Design.** All signs erected in the Village of Hales Corners shall be well maintained and aesthetically attractive. Every sign shall have satisfactory scale and proportion in its design and visual relationship to buildings and surroundings. Every sign must be designed as an integral architectural element of the buildings and the site to which it principally relates. The colors, materials, and the lighting of every sign shall be constrained and in conformance with the building and site to which it principally relates. The number of graphic elements on a sign

shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face. Each sign must be compatible with signs on or adjoining premises and shall not compete for attention. Identification signs of prototype design or corporation logos must conform to the criteria for all other signs. Site identification signs shall utilize through design, colors, or materials, the architectural identity of the buildings on the site and adjacent areas.

- (b) **Materials.** All projecting and wall signs shall be constructed of steel, galvanized iron, copper, brass or any non-corrosive incombustible material and shall be maintained free of defects. Ground signs may be constructed of combustible materials provided they are erected upon posts, poles and standards sunk in concrete at least four (4) feet below the natural surface of the ground. All posts, anchors and bracing of wood shall be treated to protect them from moisture by approved methods when they rest upon or enter the ground. Temporary, directional and utility signs shall conform to the same standards to the extent deemed practical by the Building Inspector.
- (c) **Stability.** Signs shall be so constructed that they will withstand a wind pressure of at least thirty (30) pounds per square foot of surface and will be otherwise structurally safe and shall be securely anchored or otherwise fastened, suspended or supported so that they will not be a menace to persons or property.
- (d) **Illumination.** All illuminated signs and the materials and fitting therefor shall be constructed and maintained in accordance with the Wisconsin State Electrical Code and the Electrical Code of the Village of Hales Corners.
- (e) **Grounding.** Adequate provision shall be made for grounding signs.
- (f) **Sign Maintenance.** All signs shall be properly secured, supported, and braced and shall be kept in a reasonable structural condition and shall be kept clean and well painted at all times. All electrical components shall be in a safe and operable condition. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors, and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the Building Inspector.

SEC. 8-9-9 SPECIFIC SIGN RESTRICTIONS.

- (a) **Single Business Sites.**
 - (1) Gasoline/Service Stations/Convenience Stores.
Allowed: One (1) monument sign not exceeding thirty-five (35) square feet in area, no greater than eight (8) feet in height. Two (2) canopy signs not exceeding five (5) square feet in area per sign. Two (2) building signs not exceeding forty (40) square feet in area per sign.
 - (2) Restaurants with drive-thru use.
Allowed: One (1) monument sign not exceeding thirty-five (35) square feet in area, no greater than eight (8) feet in height. Two building signs not exceeding forty (40) square feet in area per sign.
 - (3) Restaurants/Night Clubs/Hotel.
Allowed: One (1) monument sign not exceeding forty (40) square feet in area, no

greater than eight (8) feet in height. Two building signs not exceeding forty (40) square feet in area per sign or One (1) building sign not exceeding seventy-five (75) square feet in area. *Note: One (1) pylon sign not exceeding sixty (60) square feet in area, no greater than twenty (20) feet in height may be permitted after determination by the Plan Commission that site considerations warrant pylon signs.*

- (4) Office/Professional.
 Allowed: One (1) monument sign not exceeding thirty-five (35) square feet in area, no greater than eight (8) feet in height. One (1) building sign not exceeding sixty (60) square feet in area.
- (5) Retail Stores.
 Allowed: One (1) monument sign not exceeding thirty-five (35) square feet in area, no greater than eight (8) feet in height. One (1) building sign not exceeding sixty (60) square feet in area. *Note: One (1) pylon sign not exceeding forty (40) square feet in area, no greater than twenty (20) feet in height may be permitted after determination by the Plan Commission that site considerations warrant a pylon sign.*
- (b) **Multiple Tenant Business Sites. (Four (4) units or less with common entrance.)**
 - (1) Office/Professional/Retail Stores/Mixed Use.
 Allowed: One (1) monument sign not exceeding forty (40) square feet in area, no greater than eight (8) feet in height. Four (4) building signs, one (1) per tenant, not exceeding sixteen (16) square feet per sign. *Note: One (1) pylon sign not exceeding sixty (60) square feet in area, no greater than twenty (20) feet in height may be permitted after determination by the Plan Commission that site considerations warrant a pylon sign.*
- (c) **Multiple Tenant Business Sites. (Four (4) units or less with individual entrances.)**
 - (1) Office/Professional/Retail Stores/Mixed Use.
 Allowed: One (1) monument sign not exceeding forty (40) square feet in area, no greater than eight (8) feet in height. Four (4) building signs, one (1) per tenant, not exceeding forty (40) square feet per sign.
- (d) **Multiple Tenant Business Sites. (More than four (4) units with common entrance.)**
 - (1) Office/Professional/Retail Stores/Mixed Use.
 Allowed: One (1) monument sign, for site identification only, not exceeding sixty (60) square feet in area, no greater than eight (8) feet in height. Two (2) building signs, for identification only, not exceeding sixty (60) square feet per sign.
- (e) **Multiple Tenant Business Sites. (More than four (4) units with individual entrances.)**
 - (1) Office/Professional/Retail Stores/Mixed Use.
 Allowed: One (1) monument sign, for site identification only, not exceeding sixty (60) square feet in area, no greater than eight (8) feet in height. One (1) building sign per tenant. Allowable square footage is determined by the length of façade. Sign areas for individual tenants shall be determined in accordance with the following table:

required to be served by this Code may be served. Service shall be made on such registered agent by mail. Sub-dividers for new plats shall file such information with the data required under Subsection (3) hereof. For an existing subdivision, any six (6) owners of lots therein may act on behalf of the subdivision and designate the registered office and agent for the purpose of these sign regulations, but only the first person so designated shall be such agent unless a majority of the owners in such subdivision designates a successor office and agent. A registered agent may resign by filing such resignation with the Village Administrator.

- (2) Existing Subdivision Signs. Any subdivision sign presently in place which was in existence before September 9, 1963 which has not been moved from its original site or which was placed at a new site within one (1) year from the date of removal shall be deemed to conform to this requirement of this Chapter.
- (3) New Subdivision Signs. Subdivision signs shall not exceed twelve (12) square feet in area and shall conform with the construction standards under Section 8-9-8 hereof. Any registered agent desiring to erect or maintain a subdivision identification sign shall make application to the Plan Commission stating full information relating to the construction, size, or dimension and the kind of materials to be used in such signs. A sketch to scale shall accompany the application and shall indicate the appearance of the sign and the location within the subdivision; the application shall further include the number, location, and size of each existing subdivision identification sign within such subdivision.
- (4) Approval Authority. The Plan Commission may approve an application upon expressed findings that such sign meets all of the following requirements: it conforms to the construction standards under Section 8-9-8 hereof; it has aesthetic appeal; it will not constitute a traffic hazard; it will not create a nuisance to any owner of abutting lands. The Plan Commission shall notify by mail at least five (5) days prior to its hearing the owners of all lands within three hundred (300) foot radius of the proposed site of the sign, the time, and place of such hearing.
- (5) Maintenance Requirements. Each subdivision shall be responsible for the maintenance of all subdivision identification signs. No relocation shall be permitted without complying with all requirements for a new subdivision identification sign. The governing body or the Building Inspector or other designated officer who, in his judgment, finds any such sign so old, dilapidated, unpainted, out of repair, or a traffic hazard or nuisance by reason of change of conditions may order the designated agent to make the necessary repairs or remove such sign; the order shall specify a time within which the agent shall comply therewith and specify repairs, if any; it shall be served on the registered agent by registered mail; if the agent fails or refuses to comply within the time prescribed, the Building Inspector or other designated officer shall cause such sign to be removed. In the event a subdivision fails to designate a registered office and agent, the Building Inspector or other designated officer shall serve such order by registered mail on the four (4) owners of subdivision lands nearest such subdivision identification sign.

SEC. 8-9-10 TEMPORARY SIGNS.

Temporary signs may be placed on a property, but shall not be located on or over a public right-of-way and shall not interfere with public or private street or driveway vision clearance. Temporary signs may be authorized by the Building Inspector and shall conform to the intent of the Zoning Code and specifically the purposes and intent of this Chapter. Permits are required for temporary signs and are assessed at one-half (1/2) the regular permit fee. Temporary signs are permitted for the duration of fourteen (14) days, except signs erected due to highway construction, which may be placed for the term of the construction project. Temporary signs shall not exceed 35 square feet in area.

- (a) Temporary Grand Opening banners or flags shall be allowed for new businesses or new multi-family occupancies provided that no such advertising shall cause a traffic or other hazard. Such Grand Opening displays shall be limited to a time period not to exceed fourteen (14) days for businesses and four (4) months for multi-family occupancies. Said Grand Opening signage shall require the procurement of a permit and approval of the Building Inspector. "Grand Opening" means an event for the purpose of advertising a new business, a new occupant or a new owner of new construction, or when major renovation or alterations have taken place in an existing structure.
- (b) Transient merchants, farmers markets, and peddlers are permitted two (2) single sided signs of sixteen (16) square feet in area per sign or one (1) double faced or sandwich board of sixteen (16) square feet per side. All signs must be located at least five (5) feet from the street or curb and be removed when unattended. Signs must have a clean and professional appearance.

SEC. 8-9-11 CAMPAIGN SIGNS.

Notwithstanding the other provision of this Chapter, any person who shall place election campaign signs within the Village shall comply with the requirements of this Section:

- (a) **Definition.** An "election campaign sign" is a sign advocating the selection of a person or persons for public office or the advocacy of a referendum issue.
- (b) **Permitted Placements.** An election campaign sign may be placed upon any private property in any zoned district within the Village, subject to electioneering laws. An election campaign sign shall not exceed 11 square feet in area, excepting a sign which is affixed to a permanent structure and does not extend beyond the perimeter of the structure, if the sign does not obstruct a window, door, fire escape, ventilation shaft or other area which is required by the Building Code(s) to remain unobstructed. The property owner upon whose property an election campaign sign is placed, must consent to such installation.
- (c) **Permit Exemptions.** No permit shall be required for an election campaign sign.
- (d) **Prohibitions.** Campaign/election signs shall:
 - (1) Not be placed within any public right-of-way.
 - (2) Be placed more than fifteen (15) feet from the edge of the pavement or the curb, or more than two (2) feet from the inside edge of a sidewalk.

- (3) Not be of a flashing or rotating type.
- (4) Be limited to two (2) single signs or one (1) double-faced sign for any one (1) candidate or referendum issue on any individual property site.
- (e) **Time Limitations.** An election campaign sign shall not be placed within the Village more than two (2) weeks preceding the primary election date and shall be removed within five (5) days after the succeeding general election date.
- (f) **Enforcement.** The Building Inspector shall cause an election campaign sign violating the provisions of this Chapter to be removed without the necessity of giving any notice. In the event the owner of the property fails voluntarily to remove such sign violating the provisions of this Chapter or in the event the sign has been placed within a prohibited area, the Building Inspector shall cause the immediate removal of any such sign violating the provisions of this Chapter. The Building Inspector shall store such sign and return it to the candidate on demand until ten (10) days after the general election, when the Building Inspector shall no longer have any duty to store such sign and may dispose of same without any liability therefore to any person.

SEC. 8-9-12 DANGEROUS AND ABANDONED SIGNS.

- (a) **Removal.** All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of six (6) months or when, in the judgement of the Building Inspector, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the Building Inspector may remove the sign at the cost of the owner, following fourteen (14) days written notice. The owner may appeal the Building Inspector's decision to the Board of Appeals.

SEC. 8-9-13 VARIANCES OR EXCEPTIONS.

The Plan Commission may, in its judgment, waive or modify the provisions of this chapter where it would further the public interest and uphold the purposes of this ordinance as put forth in Section 8-9-1. Such waiver or modification may be based on, among other things, site specific hardships such as topographic aberrations, visual encumbrances, and design complications.

SEC. 8-9-14 NONCONFORMING SIGNS.

- (a) **Signs Eligible for Characterization as Legal Nonconforming.** Any sign located within the limits of the Village of Hales Corners prior to the date of adoption of his Chapter or located in an area annexed to the Village of Hales Corners hereafter which does not conform with the provisions of this Chapter shall be characterized as a legal nonconforming sign provided it meets the following requirements:
 - (1) The sign was permitted by a legally required and issued sign permit prior to the date of adoption of this Chapter.
 - (2) If no permit was required under the applicable law for the sign in questions and the

sign was, in all respects, in compliance with applicable law on the date of adoption of this Chapter.

- (b) **Legal Nonconforming Status.** A sign loses its nonconforming status if one (1) or more of the following occurs:
 - (1) The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Chapter than it was before alteration or the cost or value of such alternation exceeds 50% of the value of such sign before alteration as determined by the Village Assessor;
 - (2) The sign is relocated;
 - (3) The sign fails to conform to the Village requirements regarding maintenance and repair, abandonment, or dangerous or defective signs;
 - (4) The sign is destroyed or damaged, by any cause, to the extent that the cost of repair or replacement would exceed 50% of the value of such sign before such damage or destruction as determined by the Village Assessor.
- (c) **Compliance.** On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Chapter with a new permit secured therefore or shall be removed.

SEC. 8-9-15 CHANGEABLE COPY, ELECTRONIC GRAPHIC, AND VIDEO DISPLAY SIGNS. All electronic changeable copy and electronic graphic display signs require Plan Commission review and approval.

- (a) Video display signs are not permitted.
- (b) **Location and Placement.**
 - (1) Electronic changeable copy and electronic graphic display signs shall not be permitted within 300 feet of an illuminated traffic control.
 - (2) Electronic changeable copy and electronic graphic display signs shall not be permitted within 150 feet of a residential district.
 - (3) Electronic changeable copy and electronic graphic display signs must be separated from other such electronic message signs by a minimum of 35 feet.
 - (4) Electronic changeable copy and electronic graphic display signs are prohibited in R-1, R-2, R-3, and R-4 residential districts.
 - (5) Electronic changeable copy and electronic graphic display signs are not permitted as part of building signage.
 - (6) Signs shall be located 10 feet from the property line.
- (c) **Size/Percentage of Sign Allocated for Electronic Changeable Copy or Electronic Graphic Display Signs.**
 - (1) The following table shows the allowable square footage for single business sites, multi-tenant sites, and institutional and governmental sites:

MONUMENT SIGNS

Site Categories	Total Allowable Square Feet	30% of Sign Allocated for LED/Digital Message
Single Business Sites		
Retail	35	10.5
Gasoline/Convenience	35	10.5
Restaurant	40	12
Restaurant with Drive-thru	35	10.5
Office	35	10.5
Churches/Schools	50	15
Government	35	10.5
Multi-tenant Sites		
4 or less with Common Entrance	40	12
4 or less with Individual Entrances	40	12
4 or more with Common Entrance	60	18
4 or more with Individual Entrances	60	18
Institutional and Governmental		
Churches/Schools	50	15
Lodges/Clubs/Fraternal Organizations/Other Governmental Uses	35	10.5

PYLON SIGNS

Site Categories	Total Allowable Square Feet	30% of Sign Allocated for LED/Digital Message
Retail	40	12
Gasoline/Convenience		0
Restaurant	60	18
Restaurant with Drive-thru		0
Office		0
Churches/Schools		0
Government		0
<i>* Requires determination by Plan Commission that site considerations warrant a pylon sign.</i>		

- (2) The electronic changeable copy and electronic graphic display signs shall be secondary to the tenant identification.

- (3) Fuel pricing shall not be included in the percentage requirement subject to fuel prices not exceeding nine (9) inches.
- (d) **Number of Messages.**
 - (1) Electronic changeable copy and electronic graphic display signs shall not display off-premise commercial advertising.
- (e) **Frequency of Messages.**
 - (1) The electronic changeable copy and electronic graphic display signs may be changed no more than once every five (5) seconds.
 - (2) The electronic changeable copy and electronic graphic display signs shall not flash, scroll, twirl, or otherwise move during the change in messages.
- (f) **Illumination/Brightness.**
 - (1) The electronic changeable copy and electronic graphic display signs shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to ambient outdoor illumination.
 - (2) Periodic inspections of the software settings may be required by the Village of Hales Corners.
- (g) **Text and Graphic Images.**
 - (1) The text of the sign must be limited to 10 words.
- (h) Electronic changeable copy and electronic graphic display signs shall be integral to and part of the original approved monument sign.

SEC. 8-9-16 ENFORCEMENT.

- (a) **Enforcement Officer.** The Building Inspector may remove or cause to be removed any sign not in compliance with this Chapter or any defective or dangerous sign if not repaired or brought into compliance by the owner, operator or licensee within five (5) days after deposit in the public mail of a letter addressed to the licensee, operator or owner of record of the premises upon which such sign is located. The Building Inspector may refuse a permit for any sign which may imperil life or property. The Building Inspector shall enforce the provisions of this Chapter.
- (b) **Enforcement.** Any violation of any term or provision of this Chapter shall be subject to the penalty provisions under section 19.04 of the Municipal Code. Any substantial or repeated violation of this chapter as it pertains to a single sign, sign structure or premises is hereby declared to be a public nuisance, subject to an action for abatement and damages. In addition to such actions, the Village may obtain compliance with this Chapter by way of all other available legal and equitable actions.