

**PROPOSAL RE HORSE BOARDING**  
**Corrected version May 6, 2010**

Bruce R. Pfaff  
254 Otis Road, Barrington Hills

The current Village Code 5-3-4 permits boarding of horses under the home occupation ordinance.<sup>1</sup> The key provision is 5-3-4(g) which states:

g. Boarding And Training Of Horses: Notwithstanding anything to the contrary contained in this subsection (D), the boarding of horses in a stable and the training of horses and their riders shall be a permitted home occupation; provided that no persons engaged to facilitate such boarding, other than the immediate family residing on the premises, shall be permitted to carry out their functions except between the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. or sunset, whichever is later, and further provided that no vehicles or machinery, other than that belonging to the immediate family residing on the premises shall be permitted to be operated on the premises except during the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. or sunset, whichever is later. (Ord. 06-12, 6-26-2006)

Due to issues raised in the Village over the past two years, the ZBA, Legal Committee and Equestrian Commission studied whether there should be code changes. The study was in part motivated to evaluate some perceived contradictions in the Code raised by Dr. and Mrs. LeCompte about the meaning of the term "agriculture." The Legal Committee and Equestrian Commission both approved recommendations I – IV below in March 2009. The ZBA approved recommendations I – III below in the summer 2009 and referred the issues to the Board of Trustees. The Board has not acted on the recommendations to date.

In recent months, there have been additional discussions concerning the topic of horse boarding. The purpose of this memorandum is to summarize what has occurred and to make recommendations about what the author<sup>2</sup> believes should occur.

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<sup>1</sup> The text of 5-3-4 is reproduced in the Appendix at the end of this document.

<sup>2</sup> Disclaimer: the author is a past member of the Legal Committee and his wife owns two horses that reside on their property. They do not do commercial boarding.

The purpose of the recommended changes set forth in paragraphs I – IV is:

1. To permit equestrians to breed, raise, train and board horses as a home occupation with greater flexibility (I, section 5-3-4(D)(3)(g) and III, section 5-2-1);
2. To give explicit recognition of the Village’s right to regulate commercial agricultural activities and structures used for agricultural purposes (II, section 5-3-4(A)); and
3. Exempt from new regulations current agricultural activities and structures used for agricultural purposes that have not been designated as non-conforming by the Village (IV, section 5-9-3).

NB: proposed deletions shown by strike outs, proposed additions underlined.

**I.  
Expand the Home Occupation Ordinance to provide that  
breeding, raising, training and boarding certain domestic  
livestock, including horses, is a permitted home  
occupation.**

The current home occupation ordinance allows the boarding and training of horses. The amendment proposed below broadens the rule to also permit breeding and raising horses and certain specified domestic livestock. It also changes the starting hour at which workers can assist in the activities to 6 a.m. from 8 a.m. It permits more than two workers on the premises and permits more than four clients or trainees on the premises. It also permits harvesting of crops after sunset to allow for those times when a crop must get in before bad weather arrives.

This proposed rule applies whether the boarding operation involves one horse or more than one horse. Many residents of the village board their horses at barns in the village. The availability of horse boarding facilities locally is a great benefit to equestrians living here.

**Proposed 5-3-4(D)(3)(g) Home Occupation**

~~Notwithstanding anything to the contrary contained in this subsection (D), the boarding of horses in a stable and the training of horses and their riders shall be~~

The breeding, raising, training and boarding of certain domestic livestock<sup>3</sup> is a permitted home occupation subject to the provisions of subsections 3(a) - 3(f), excluding 3(a)(2) and 3(c)(2), of this section 5-3-4(D); provided that no persons engaged to facilitate such boarding, breeding, raising or training other than the immediate family residing on the premises, shall be permitted to carry out their activities except between the hours of ~~six~~ eight o'clock a.m. and eight o'clock p.m. or sunset, whichever is later, other than in emergency situations. It is further provided that no person engaged to facilitate such boarding, breeding, raising or training shall operate machinery or vehicles on the premises other than passenger cars or light trucks except between the hours of seven o'clock a.m. and eight o'clock p.m. or sunset, whichever is later. Harvesting crops after sunset is permitted under this rule.

## II.

### **Revise the Code to expressly permit the Village to regulate commercial agricultural uses of property and to regulate all buildings used for agricultural purposes.**

Our current code regulates agriculture in certain provisions, but also disclaims the ability to regulate agriculture in Section 5-3-4(A). Section 5-3-4(A) allows a landowner to argue that if his property is “agricultural,” the Village is powerless to regulate even commercial uses of it. This proposal modifies Section 5-3-4(A) and would authorize the Village to regulate buildings used for agricultural purposes and all commercial agricultural activities. This proposal keeps the current rule that the Village is authorized to regulate structures used for agricultural purposes.

**Section 5-3-4 (A) Agriculture:** The provisions of this title shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for non-commercial agricultural purposes, except ~~or~~ with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for any agricultural purposes upon such land. ~~—except that such buildings or structures for agricultural purposes may be required to conform to building setback lines. In the event that the land ceases to be used solely for agricultural purposes, then, and only then, shall the provisions of the zoning title apply.~~

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<sup>3</sup> Horses, cattle, sheep, llama, alpacas, donkeys, or other livestock that create a similar impact on property and adjoining landowners.

### III.

#### **Redefine “animal husbandry” to encompass breeding, raising, training and boarding of domestic livestock.**

The Village currently defines agriculture broadly and in a way that is consistent with Illinois common law. It is not proposed that we change the current definition of “agriculture.”<sup>4</sup> The definition of agriculture incorporates the term “animal husbandry” which is also defined in the code. This proposal amends the definition of “animal husbandry:”

**5-2-1 ANIMAL HUSBANDRY:** The breeding, and raising, training and boarding of domestic livestock, including horses, cattle, sheep, llama, alpacas, donkeys, or other livestock that create a similar impact on property and adjoining landowners, but specifically excluding dogs and cats. (Ord. 05-05, 6-27-2005)

### IV.

#### **The Code should exempt current activities and facilities that have not been deemed in violation of Village rules from compliance with these proposed code rules.**

Uses that are non-conforming have been tolerated, enjoyed or ignored by the vast majority of Village residents. If they have not created issues that warranted Village intervention before the effective date of new rules, it makes sense to let the situation continue. This protects homeowners who have invested a substantial sum to own property in the Village and who have enjoyed the benefits of the unhindered use of their property without causing hardship on their neighbors. The following is proposed:

#### **5-9-3: NONCONFORMING AGRICULTURAL ACTIVITIES AND STRUCTURES**

Any lawfully existing building or structure which does not conform to the regulations of the district in which it is located may be continued, subject to the provisions of this Section.

Any non-conforming agricultural activity or structure used for an agricultural purpose in existence when this ordinance becomes

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<sup>4</sup> AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry (including the breeding and raising of horses as an occupation) and the necessary accessory uses for handling or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. (Ord. 72-16, 12-18-1972)

effective that has not been designated non-conforming by Village authorities shall be permitted to continue only so long as such activity or structure continues to exist on the property. Replacement or repair of any non-conforming agricultural structure that has become unusable due to Act of Nature, God or age shall be permitted.

## **V.**

### **Other Proposals**

Barrington Hills has a long history permitting landowners to have relatively unfettered freedom to do what they want with their property, relying on civility and good manners to prevail when the activities of one person interferes with the quiet enjoyment of another's property. It is hoped that this can continue.

In the recent past, some have proposed a large group of regulations on structures and horse boarding activities that discriminate against equestrian activities in ways that are contrary to our history and best interests as a village. The proposed changes set out above, in addition to other current village code provisions, will protect neighbors from any perceived harmful effects of commercial boarding operations. Some additional proposals are listed below:

## **A.**

### **Village rules regarding manure management can be improved.**

Currently, the Village has rules concerning manure and Illinois also has regulations that apply. Our Code is adequate except that it is too limited: it should apply to all domestic livestock, not merely "horses and ponies." While most barn owners in the Village have their manure hauled away and there have been no reported problems with manure, it would be a good idea to broaden our current rule to include all domestic livestock.

#### **7-2-5: MANURE PILES:**

It shall be unlawful to:

(A) Pile manure from ~~horses or ponies~~ domestic livestock, or permit it to accumulate, closer than one hundred feet (100') from the property line of the property on which ~~a horse~~ domestic livestock is kept.

(B) Permit a pile or accumulation of manure for more than one week except in the months of December through March inclusive at any location within three hundred fifty feet (350') of the nearest dwelling house of another.

(C) Pile manure or permit it to accumulate within one hundred feet (100') of a watercourse, lake or pond if surface drainage is from the point or area of accumulation to said body of water; this provision shall not authorize or legalize the piling or accumulation of manure at any closer location in violation of any other law, ordinance or regulation of the Village or State. (Ord. 75-11, 11-24-1975)

**B.**

**Outdoor portable toilets should be limited.**

Outdoor portable toilets should be for temporary use only, such as during active construction work.

**C.**

**Outdoor storage of horse trailers should be limited to the extent that outdoor storage of other vehicles is limited.**

Rules for the outdoor storage of horse trailers should be the same as other village ordinances concerning outdoor parking of vehicles.

**D.**

**Sign and lighting requirements should be the same for equestrian activities as for other activities.**

Signs for boarding facilities and outdoor lighting for equestrian activities should be regulated only to the same extent as outdoor lighting for ornamental or safety purposes is regulated.<sup>5</sup>

**E.**

**No barn/arena or accessory building shall be permitted to exceed the size of the residence without a special use permit.**

The floor area ratio rules of the village apply to all properties, whether the buildings are used for a home, for horses, or for other outdoor

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<sup>5</sup> 7-1-5 regulates outdoor lighting in the Village. The author proposes no change in that rule.

structures. For R1 properties, the FAR maximum is 5% of the building's lot size.<sup>6</sup> As an example, a 10 acre parcel contains 435,600 square feet. A person could build structures totaling 21,780 square feet on that property and comply with the FAR rule. It wouldn't matter if there was a home that was that large or a home and barn combined.

We would have a better code than the one currently being litigated in the Appellate Court if we were to require landowners who wished to build non-residence structures with more square feet than their residence to apply for and obtain a special use permit. The current Code regulates special use permits in section 5-10-7 and the provisions are fair both to the applying landowner and to neighbors and other members of the village. There are substantial due process protections in our code concerning notice to neighbors. The standards for granting a special use permit are specific:

(E) Standards: No special use shall be recommended by the Zoning Board of Appeals unless said Board shall find:

1. That the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided.
5. 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 and roads.
6. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the board of trustees pursuant to the recommendation of the zoning board of appeals.

(F) Conditions And Guaranties: Prior to the granting of any special use, the zoning board of appeals may recommend, and the board of trustees shall stipulate, such conditions and restrictions upon the establishment, location, construction, maintenance and operation

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<sup>6</sup> Section 5-5-10-1.

of the special use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in subsection (E) of this section. In all cases in which special uses are granted, the board of trustees shall require such evidence and guaranties as it may deem necessary as proof that the conditions stipulated in connection therewith are being, and will be, complied with.

It is proposed that the Village permit non-residence structures to exceed the square footage of a residence structure only after a special use permit has been issued. Two examples might clarify this proposal:

Example #1: A person buys a vacant 10 acre parcel. He wishes to build a 15,000 square foot home and a 5,000 square foot barn. Under the FAR rules, this is allowed because the total square footage is less than 21,780. No special use permit needs to be issued since the home is larger than the barn.

Example #2: A person buys a vacant 10 acre parcel. He wishes to build a 5,000 square foot home and a 15,000 square foot barn/arena structure. Under the FAR rules, this is allowed because the total square footage is less than 21,780. However, under my proposal, the buildings would not be allowed until after the village issued a special use permit since the barn is larger than the home. This will permit interested neighbors to be notified of the proposed project and give their input to the Village. No construction would be allowed until a special use permit is issued.

**APPENDIX:  
HOME OCCUPATION ORDINANCE**

5-3-4: REGULATIONS FOR SPECIFIC USES:

(A) Agriculture: The provisions of this title shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land, except that such buildings or structures for agricultural purposes may be required to conform to building or setback lines. In the event that the land ceases to be used solely for agricultural purposes, then, and only then, shall the provisions of the zoning title apply.

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(D) Home Occupation: The intent of this subsection is to provide peace, quiet and domestic tranquility within all residential neighborhoods within the village and in order to guarantee to all residents freedom from nuisances, fire hazards, excessive noise, light and traffic, and other possible effects of business or commercial uses being conducted in residential districts. It is further the intent of this subsection to regulate the operation of a home occupation so that the general public will be unaware of its existence. A home occupation shall be conducted in a manner which does not give an outward appearance nor manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent or character of the residential district.

1. Authorization: Subject to the limitations of this subsection, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any residential zoning district.

2. Definition: A "home occupation" is any lawful business, profession, occupation or trade conducted from a principal building or an accessory building in a residential district that:

- a. Is conducted for gain or support by a full time occupant of a dwelling unit; and
- b. Is incidental and secondary to the principal use of such dwelling unit for residential occupancy purposes; and
- c. Does not change the essential residential character of such dwelling unit or the surrounding neighborhood.

3. Use Limitations:

a. Employee Limitations:

(1) The owner of every home occupation shall be a person that is a full time occupant of the dwelling unit where such occupation is conducted.

(2) No more than two (2) employees or subcontractors, other than the full time occupants of a dwelling unit shall be engaged or employed in connection with, or otherwise participate in the operation of, a home occupation at any one time. This limitation on the number of employees or subcontractors shall not apply to employees or subcontractors who are not present and do not work at the dwelling unit devoted to such home occupation.

b. Structural Limitations:

(1) No alteration of any kind shall be made to the dwelling unit where a home occupation is conducted that would change its residential character as a dwelling unit, including the enlargement of public utility services beyond that customarily required for residential use.

(2) No separate entrance from the outside of the building where the home occupation is located shall be added to such building for the sole use of the home occupation.

c. Operational Limitations:

(1) Every home occupation shall be conducted wholly within either: a) a principal building or b) an accessory building, but not both.

(2) The floor area ratio (FAR) of the area of the building used for any such home occupation shall not exceed .01 (exclusive of garage floor area devoted to permissible parking of vehicles used in connection with the home occupation).

(3) There shall be no direct retail sales of merchandise, other than by personal invitation or appointment, nor any permanent display shelves or racks for the display of merchandise to be sold in connection with the home occupation.

(4) No routine attendance of patients, clients, customers, subcontractors, or employees (except employees and subcontractors as provided in subsection (D)3a(2) of this section) associated with any home occupation shall be permitted at the premises of the home occupation, provided, however, that the attendance of up to four (4) persons at any one time may be allowed for the purpose of receiving private instruction in any subject of skill. "Routine attendance" means that the conduct of the home occupation requires persons, other than the owner or permitted employees and subcontractors, to visit the premises of the home occupation as part of the regular conduct of the occupation, without regard to the number, frequency, or duration of such visits.

(5) No vehicle or mechanical, electrical, or other equipment, that produces noise, electrical or magnetic interference, vibration, heat, glare, emissions, odor, or radiation outside the principal building or accessory building containing the home occupation that is greater or more frequent than that typical of vehicles or equipment used in connection with residential occupancy shall be used in connection with any home occupation.

(6) All storage of goods, materials, products or merchandise used or sold in conjunction with a home occupation shall be wholly within the principal building or accessory building containing the home occupation.

(7) No refuse in excess of the amount permitted under section [5-3-9](#) of this chapter shall be generated by any home occupation.

d. Signage And Visibility:

(1) No exterior business signs on a principal building, accessory building or vehicle used in connection with the home occupation, shall be permitted in connection with any home occupation unless otherwise permitted under section [5-5-11](#) of this title.

(2) There shall be no exterior indications of the home occupation or exterior variations from the residential character of the principal building or accessory building containing the home occupation.

e. Traffic Limitations: No home occupation shall generate significantly greater vehicular or pedestrian traffic than is typical of residences in the surrounding neighborhood of the home occupation.

f. Nuisance Causing Activities: In addition to the foregoing specific limitations, no home occupation shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under [title 7, chapter 1](#) of this code.

g. Boarding And Training Of Horses: Notwithstanding anything to the contrary contained in this subsection (D), the boarding of horses in a stable and the training of horses and their riders shall be a permitted home occupation; provided that no persons engaged to facilitate such boarding, other than the immediate family residing on the premises, shall be permitted to carry out their functions except between the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. or sunset, whichever is later, and further provided that no vehicles or machinery, other than that belonging to the immediate family residing on the premises shall be permitted to be operated on the premises except during the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. or sunset, whichever is later. (Ord. 06-12, 6-26-2006)