

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 5, ZONING REGULATIONS  
SET FORTH IN CHAPTERS 2, 3 AND 10  
REGARDING HORSE BOARDING – DRURY TEXT AMENDMENT**

**WHEREAS**, the Village of Barrington Hills (hereinafter the “Village”) is a duly organized and existing Illinois home rule municipality pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

**WHEREAS**, the Village of Barrington Hills is authorized and empowered, under the Municipal Code and the Code of Ordinances of the Village of Barrington Hills, to regulate properties located within the municipal boundaries of the Village; and

**WHEREAS**, in furtherance of this authorization, the Village of Barrington Hills has adopted a zoning code, set forth in Title 5 Zoning Regulations of the Village’s Municipal Code to, among other purposes, effectuate the Village’s planning program and to regulate individual property use by establishing use districts, building site requirements, setback, density, parking and height regulations, and by specifying external impact standards for noise, smoke, odor, glare and vibration; and

**WHEREAS**, the Village has established zoning classifications within the Village, which provide for allowable uses and conditional uses in each zoning district; and

**WHEREAS**, Section 5-10-6 of the zoning code of the Village of Barrington Hills authorizes the Village Zoning Board of Appeals to recommend in writing, upon the making of appropriate findings of fact, and the Board of Trustees to approve, amendments to the text of the zoning code; and

**WHEREAS**, horse boarding is regulated in the Village, as set forth in the zoning code, as a home occupation; and

**WHEREAS**, upon review of the Title 5 Zoning Regulations, and particularly, its authorization regarding horse boarding as a home occupation, the Village’s Zoning Board of Appeals has received four Applications for amendment to the existing text concerning horse boarding; and

**WHEREAS**, the four applications were tendered for consideration in accordance with Section 5-10-6 of the zoning code; and

**WHEREAS**, among the applications was one submitted for consideration by resident James Drury (“Drury Text Amendment”), which application is attached hereto and incorporated herein as Exhibit “A;” and

**WHEREAS**, Notice of Public Hearing with respect to the Drury Text Amendment was published in the Daily Herald Newspaper in the Village of Barrington Hills, and additional notice of the hearing was provided, all as required by the statutes of the State of Illinois and the ordinances of the Village; and

**WHEREAS**, pursuant to said Notices, the Zoning Board of Appeals of the Village of Barrington Hills conducted a Public Hearing on th Drury Text Amendment on September 9, 2014 as required by the statutes of the State of Illinois and the ordinances of the Village, and after hearing the application, voted unanimously against recommending approval of the Drury Text Amendment, said vote resulting in a recommendation to deny the application; and

**WHEREAS**, the Zoning Board of Appeals has forwarded its findings and recommendation in regard to the Drury Text Amendment to the Village Board, in the Findings and Recommendation, attached hereto and incorporated herein by reference as Exhibit “B;” and

**WHEREAS**, the President and Village Board of Trustees has considered the matter and determined that the recommended text amendment to Title 5 Zoning Regulations, Chapters 2, 3 and

10 be granted notwithstanding the recommendation of the Zoning Board of Appeals, as such action is believed to be in the best interests of the Village and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Barrington Hills, a home rule community located in Cook, Lake, Kane and McHenry Counties, Illinois, duly assembled at a regular meeting, as follows:

**SECTION ONE:** That the forgoing recitals are hereby incorporated by reference as if fully set forth herein.

**SECTION TWO:** That Title 5 Zoning Regulations, Chapters 2, 3 and 10 be amended as set forth in Exhibit "A," attached hereto and incorporated herein by reference.

**SECTION THREE:** That all other ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, expressly repealed.

**SECTION FOUR:** That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Barrington Hills, this 18th day of December, 2014.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

AYES: \_\_\_\_\_

NAYES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**EXHIBIT A**

**TEXT AMENDMENT**

**ORDINANCE AMENDING SECTIONS 5-2-1, 5-3-4, 5-5-3 and 5-10-7**

*(Drafting Note: all changes underlined and in bold; while not changed section titles are also in bold for reviewer convenience)*

**5-2-1 Definitions:**

That the definition of Agriculture be amended to state in its entirety:

**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; **but not the boarding of horses**) 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.

That the following defined terms be added:

**AFFECTED PARTIES:** Adjacent property owners, private road association (if there is private road access from any Boarding Facility), and non-adjacent property owners located on the same public road as the Boarding Facility within one-quarter (1/4) mile in either direction.

**BOARDED HORSES:** Horses that are not owned by the landowners or occupants of the property where the horses are kept.

**BOARDING FACILITY:** Any facility or property space proposed to be used or used in connection with a Commercial Boarding operation.

**COMMERCIAL BOARDING:** The boarding of five (5) or more boarded horses on any property; provided that the maximum number of boarded horses shall not exceed twenty (20). Commercial Boarding is permitted where the landowner receives a Special Use Permit.

**GRAZING ACRE:** That fenced-in portion of a property onto which horses are normally allowed during daylight hours. Grazing acres include pastures, mud lots and paddocks, but not those portions of the property that include the residence, pool, tennis court or other sports fields, nor shall it include agricultural or hay fields, streams and wetlands, or other portions of the property not suitable for the pasturing of horses.

**HORSE BOARDING:** Supplying food and lodging to boarded horses for pay. Boarding of four (4) or fewer horses is permitted under and subject to the Home Occupation Ordinance.

**5-3-4 REGULATIONS FOR SPECIFIC USES**

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**Section 5-3-4 (D) (3) (g)** (Small-scale Horse Boarding permitted by the Home Occupation Ordinance) shall be amended to state in its entirety:

Boarding And Training Of Horses: ~~Notwithstanding anything to the contrary contained in this subsection (D), The boarding of horses-~~ **The Horse Boarding of four (4) or fewer** 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 **Horse B**boarding, other than the immediate family residing on the premises, shall be permitted **on the property to carry out their functions** except between the hours of **eight six** o'clock (**68:00**) A.M. and **eight seven** o'clock (**78:00**) 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 nine o'clock (98:00)** A.M. and **eight five o'clock (58:00)** P.M. ~~or sunset, whichever is later.~~ **No horse boarding customers shall be permitted on the property except between the hours of eight o'clock (8:00) A.M. and seven o'clock (7:00) P.M.** (Ord. 06-12, 6-26-2006; Amended: \_\_\_\_\_, 2014)

**5-5-3 SPECIAL USES**

Section 5-5-3 (A) shall be amended to include the term "**Commercial Boarding**" to the list of Special Uses.

**5-10-7 SPECIAL USES**

*(Drafting Note: Since all of the following is new text the proposed Text Amendment language is shown as clean and non-redlined)*

A new subsection (J), Commercial Boarding, shall be added to Section 5-10-7, as follows:

Commercial Boarding is a permitted Special Use in R1 Districts within the Village, provided such Commercial Boarding operation complies with the provisions of this Section 5-10-7 (J). Special Use permits issued under this subsection (J) shall not exceed a period of five (5) years from the date of issuance, and thereafter, the property owner will need to reapply for another Special Use permit. In addition, no Special Use permit for Commercial Boarding shall be granted to any property owner or boarding operator who has been found in violation of Village zoning laws or for whom their Boarding Facilities do not or have not complied fully with the building permits issued them.

**1. PURPOSE, INTENT AND INTERPRETATION:** The purpose of this Section is to provide specific regulations for the operation of Commercial Boarding facilities within the Village. The boarding of horses for a Commercial Boarding operation must be managed in the context of the residential nature of the Village and its desire to maintain the peace, quiet and domestic tranquility within all of the Village's residentially zoned areas. In permitting Commercial Boarding, this Section shall be interpreted to respect

## Proposed Commercial Boarding Text Amendment

and protect the rights of all residents to live in a peaceful, quiet and tranquil environment, and enjoy freedom from fire hazards, excessive noise, light and traffic and other nuisances associated with commercial operations.

**2. APPLICATION:** All landowners seeking a Commercial Boarding Special Use permit must comply with subsections (A) through (H) of this Section 5-10-7, and in addition to the requirements set forth in subsection (C) must submit to the ZBA with applicant's permit application:

- (i) A site plan clearly indicating the size, location and setback from property lines of any buildings and other improvements, structures or facilities, such as pasturage, parking areas and riding arenas, intended by the applicant to be used in connection with the operation of a Commercial Boarding facility, as well as the current on-site land uses and zoning, current adjacent land uses and zoning, adjacent roadways, location of existing utilities, existing and proposed means of access, fencing and landscaping/screening.
- (ii) A survey of the property prepared by an Illinois licensed land surveyor dated within ninety (90) days of the application.
- (iii) Written statements by all Affected Parties granting their permission to the proposed Commercial Boarding.
- (iv) A fire emergency plan developed in conjunction with and approved by the local fire department covering the subject property.
- (v) Proof of availability of business insurance with the Village as named the party being covered sufficient to protect the Village from liabilities arising from the operation of the Commercial Boarding facility. The amount of insurance coverage shall be specified by the Village based on the size of the Commercial Boarding operation and such other factors as deemed relevant by the Village after consultation with its auditors and or insurance advisors.
- (vi) Such other additional information as shall be requested by the ZBA.

**3. CONSIDERATION:** In considering a request for a Commercial Boarding Special Use permit, the ZBA shall consider the following factors:

- (i) location of the property
- (ii) configuration of the property
- (iii) character of the surrounding neighborhood
- (iv) proximity of each Boarding Facility to wetlands, artificial lakes or other watercourses

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- (v) vehicular access to each Boarding Facility
- (vi) available parking
- (vii) available pasture Grazing Acres
- (viii) manure disposal plan
- (ix) access, shared or otherwise
- (x) such other relevant factors as the ZBA may deem appropriate.

In addition, the Village Board of Trustees shall have the right to place further restrictions or requirements on the applicant as conditions for granting a Special Use permit.

In considering each Commercial Boarding Special Use, the ZBA will record in the public record the number and names of Affected Parties who have granted and denied their permission. If less than all Affected Parties have granted permission to the proposed Commercial Boarding, then the applicant shall have the burden of proving that the proposed operation will NOT interfere with the peace, quiet and domestic tranquility of all Affected Parties. Overriding the failure to obtain the unanimous permission of the Affected Parties shall require a unanimous (100%) vote by both the ZBA and Village Board of Trustees.

#### **4. USE LIMITS:** Special Use permits shall not exceed the following restrictions:

- a. Horses
  - (i) One (1) horse (boarded or resident/landowner-owned ) per Grazing Acre
  - (ii) A maximum of twenty (20) boarded horses per Commercial Boarding operation regardless of the total amount of Grazing Acres
- b. Hours of operation:
  - (i) Employees: from 6:00 A.M. to 7:00 P.M.; animal health emergencies may be addressed at any hour, if needed
  - (ii) Boarding customers: from 8:00 A.M. to 7:00 P.M.
  - (iii) Use of machinery: from 9:00 A.M. to 5:00 P.M.

#### **5. FACILITIES AND OPERATIONS**

- a. Barn, riding, auxiliary buildings and parking area size: A Commercial Boarding FAR of 0.04, with a maximum combined Boarding Facility (not including the residence or other buildings not involved in the Commercial Boarding operation) limit of 25,000 square feet for barns, riding arenas, auxiliary buildings and parking areas, regardless of total property acreage. Larger existing Boarding Facilities may be grandfathered through a one-time

## Proposed Commercial Boarding Text Amendment

- process (if approved for a Special Use permit before December, 2015), provided, however, that in no circumstance shall any new construction on the property be allowed in excess of the 25,000 square foot limit.
- b. Setback requirements for barn, arenas, auxiliary buildings and parking area: Minimum of one-hundred (100) feet PLUS thirty-seven (37) feet for each 5,000 square feet of combined barn/arena/auxiliary buildings/parking area, calculated proportionally, from all non-public road property lines. Setback requirements from public road property lines shall be as specified in the Village Zoning Code for R1 properties. However, if the Affected Parties grant their written permission for an exception, this setback may be reduced, provided the minimum setback is one hundred (100) feet. If an existing Commercial Boarding operator cannot meet the setback requirements and the Affected Parties will not provide their written permission to a reduction, the Village may grant the applicant a waiver, provided the applicant otherwise meet all other zoning requirements, there were no past or existing complaints by the Affected Parties with respect to the subject Commercial Boarding operation, and there are no current or past violations of the applicant with respect to compliance with the Village's zoning ordinances.
  - c. Fire Safety: Every Boarding Facility stable (not including the indoor arena) over 5,000 square feet must be equipped with readily accessible Fire Department approved fire extinguishers (1 for each 1,500 square feet of stable), an automated fire monitoring system connected to the local fire department system, and illuminated fire exits (signs and area emergency lighting). In addition, barns over 10,000 square feet must be equipped with a sprinkler or other fire suppressant system that covers all fire escape routes. Boarding Facilities must work with the Fire Department to train employees on evacuation procedures and extinguisher operation, and conduct drills quarterly. Upon request, the Commercial Boarding operator shall provide written procedures and logs demonstrating the conduct of the quarterly drills.
  - d. Traffic and Parking: The limits shall be:
    - (i) Parking lot size: Limited to 1 car space per boarded horse stall with a maximum of ten (10) spaces.
    - (ii) Events will require a Special User permit. Event parking can use paddock/pasture areas.
    - (iii) Private road access: Requires written permission of the road association
    - (iv) Class size: Will be limited to maximum size of 6; and no more than two classes per day.
  - e. Horse Trailer Parking: No overnight parking of non-resident horse trailers is permitted.
  - f. Lighting: The area immediately around entrances and walkways may be lighted for safety purposes. No other exterior night lighting is permitted. Outdoor arenas may not be lighted at night. Further, no light may emanate from the interior, such as from riding arena windows or translucent panels, if that light presents a non-residential profile or non-residential lumen levels.

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- g. Indoor bathroom facilities: Facilities shall be provided for employees and customers. Outdoor portable facilities shall not be used for Commercial Boarding operations.
- h. Waste & Manure:
  - (i) Stalls must be cleaned (mucked) daily and the waste manure/bedding mix stored in an appropriately sized dumpster, then hauled to a public waste processing facility not less than once a week. Storage or spreading of manure on the property is not permitted. If manure is kept on premise, placement cannot be closer than 300 feet to neighboring properties
  - (ii) Piles of manure in pastures or paddocks are not allowed, and must be picked up and disposed of in accordance with the terms of subsection (viii)(a) above.
  - (iii) For all Commercial Boarding operations with an average of more than ten (10) horses (Boarded Horses or applicant-owned horses), the Village reserves the right to test nearby well water and streams and ponds for manure and animal related pollutants in excess of federal EPA and Illinois EPA guidelines and regulations. If there are excess levels that reasonably appear to be the result of the Commercial Boarding operation, the Commercial Boarding operation shall be closed immediately and remain closed until the remedies are implemented to avoid future problems, and the pollutants abate.
- i. Facilities Upkeep: All Boarding Facilities must be maintained to a high level, inside and out, including painting or staining all wooden fences and walls, and sound roofing materials.

**6. LIABILITIES:** Each Commercial Boarding operator shall maintain business liability insurance to protect the Village from negligence and other lawsuits in amounts specified by the Village auditor or insurance advisor, which amount shall not be less than \$1,000,000.

**7. NON-COMPLIANCE:** In the case of non-compliance with the provisions of this Section and/or any additional restrictions imposed in the Special Use permit, the Village shall provide written notice to the Commercial Boarding operator. The written notice shall specify the area(s) of non-compliance and provide the operator with fourteen (14) calendar days to remedy the non-compliance (the "cure period"). If, after the expiration of the 14 day period, the Commercial Boarding operator has not complied with the terms of this Section or any additional restrictions imposed in the Special Use permit, the Village shall issue a cease and desist letter and such operator shall immediately suspend all Commercial Boarding operations until a compliance plan is submitted to the Village and approval of such plan is voted on by the Village Board of Trustees. If the Commercial Boarding operator continues to operate in non-compliance with the terms of this Section and any additional restrictions imposed in the Special Use permit beyond the 14 day cure period, the operator shall be subject to a fine of \$1,000 per day. Further, in connection with any enforcement action required to be taken by the Village against

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operator for continued violations after the cure period, operator shall reimburse the Village for any and all enforcement costs, including attorneys' fee and expenses.

**EXHIBIT B**

**ZBA FINDINGS OF FACT/RECOMMENDATION**

December 11, 2014

To: President and Board of Trustees  
Village of Barrington Hills

RE: Application for Text Amendment -  
Drury Horse Boarding Amendment

This is to advise you that the Zoning Board of Appeals (ZBA) held four separate Public Hearings regarding proposed amendments to the zoning code relative to horse boarding. Applications for such purpose have been submitted by Benjamin LeCompte, the Barrington Hills Riding Club and Jason Elders, James Drury and James Hammond. Public hearings on the LeCompte and Riding Club Applications were held on July 21, 2014, and Public Hearings on the Drury and Hammond Applications were held on September 9, 2014. The hearings were held at Countryside Elementary School, where a quorum was present for each Hearing. Notice of the Hearings was published in compliance with the Open Meetings Act, and published in a timely manner in the Daily Herald Newspaper.

At each hearing, the ZBA heard testimony from the Applicants and/or their representatives, and from the public at large.

### **FACTS**

The Village zoning code, Title 5 – Zoning Regulations, Chapter 5 Administration, Section 5-10-6 allows for amendments to the zoning code. Section 5-10-6 (A) provides:

Authority: For the purposes of promoting the public health, safety, morals, comfort and general welfare, conserving the values of property throughout the village, and lessening or avoiding congestion in the public roads and highways, the president and the board of trustees of the village may, from time to time, in the manner hereinafter set forth, amend the regulations imposed and the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this section, due allowance shall be made for existing conditions, the conservation of property values, the directions of building development to the best advantage of the entire Village, and the uses to which property is devoted at the time of the effective date hereof. (Ord. 63-1, 4-1-63)

For purposes of an amendment to the text of the zoning code, the ZBA must make findings of fact and its recommendation to the Board of Trustees in writing, pursuant to section 5-10-6(F), which provides:

F) Findings of Fact and Recommendations of the Zoning Board of Appeals:  
Within a reasonable time after the close of the hearing on a proposed

Exhibit B

amendment, the Zoning Board of Appeals shall make written findings of fact and shall submit same together with its recommendation to the Board of Trustees of the Village. . . .

The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. . . .

On September 11, 2014, the ZBA met in public session to commence discussion on the facts presented on each of the four Applications for Text Amendment. Discussion continued to a meeting of the ZBA held on October 20, 2014. Concerning the application for Text Amendment filed by James Drury (“Drury Text Amendment”), the ZBA discussed the proposed amendment, adopted Findings of Fact, and held a vote to recommend that the Village Board adopt the Drury Text Amendment. Based on the Findings adopted, the ZBA vote to recommend adoption of the Drury Text Amendment failed.

### **FINDING**

The ZBA, after having examined the Drury Text Amendment, and taking into consideration the testimony heard in the public hearing, adopted the following finding as to the Drury Text Amendment:

Motion by Member Anderson that the ZBA find that it is not in the public’s interest to recommend the text amendment as presented because it identifies and targets a particular parcel, and addresses issues that had not been testified to, in particular, the setbacks, and that it is based on arbitrary and capricious determinations, for example, the limitation of the number of horses to 20 regardless of the number of acres. The Motion was seconded by Member Rosene.

Roll Call: Members Benkendorf, Anderson, Rosene, Chambers, Chairman Freeman voting “aye,” Members Stieper and Wolfgram voting “nay.” The Motion Carried.

### **RECOMMENDATION**

A motion to recommended adoption of the Text Amendment to the Village Board was made by Member Anderson, seconded by Member Benkendorf. Roll Call: Members Benkendorf, Anderson, Rosene, Stieper, Wolfgram, Chambers, Chairman Freeman voting “nay.” The vote was unanimous.

The Motion to recommend this Text Amendment for adoption by the Village Board Failed.

President and Board of Trustees  
Village of Barrington Hills  
December 11, 2014  
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Respectfully submitted,

Zoning Board of Appeals  
Village of Barrington Hills