



TOWN OF HAMILTON Conservation Commission

POLICY FOR NEW EQUESTRIAN USES WITHIN CONSERVATION COMMISSION JURISDICTION

INTRODUCTION

The Hamilton Conservation Commission adopts the following as a policy to assist applicants and the Commission with proposed new equestrian land uses which will occur within Commission jurisdiction.

The Commission seeks to balance its duty to protect the interests named in the Wetlands Protection Act ("WPA") and the Hamilton Conservation By Law Chapter 17 ("By Law") with its desire to enhance and protect the open spaces of Hamilton that are a direct result of equestrian land use. To that end the Commission advises all applicants who propose a new equestrian land use of the policy as follows:

EQUESTRIAN USES NEW & PRE-EXISTING USES

Any area of stabling, paddocking, or pasturing of horses, horse-ass hybrids or asses (this group hereafter termed "horses"), which includes the areas in which horses shall be "turned out", or any other area which shall be used by horses in any way, is considered an equestrian use of land. This policy covers **ONLY** new equestrian land uses ("new uses"). New uses shall mean, in the context of this policy only, any proposed equestrian use of land that is to occur **AFTER** May 14, 2003, which is the effective date of this policy. Pre-existing equestrian uses (land in such use on the effective date) are not affected by this policy. However, an expansion or extension of a pre-existing equestrian use within Commission jurisdiction after the effective date will be considered a new use. A **LAPSE** in pre-existing equestrian use creates a new use. A pre-existing use shall be considered as **LAPSED** only if the use has been discontinued, or abandoned, for 5 consecutive years.

THIS POLICY IS NOT A REGULATION CHANGE

This policy is **NOT** a **REGULATION** issued pursuant to the By Law. The Regulations as they exist on the effective date are unchanged.

PERMIT REQUIREMENTS IN GENERAL

Under the WPA and the By Law any land use alteration that occurs within 100 feet of statutorily (whether by state or local statute) defined wetlands, or within 200 feet of a river as that is defined under the WPA and the By Law, must receive Commission review and approval prior to the commencement of the alteration. New equestrian land uses fall within this general rule.

PERMIT REQUIREMENTS IN CASES INVOLVING NEW EQUESTRIAN USES

The Commission emphasizes that this policy will not cover all cases and all circumstances. Given that, Commission policy involving new equine uses, is:

Use Outside Jurisdiction

If the use is entirely outside of Commission jurisdiction the Applicant need not seek Commission approval at all. By “entirely outside of Commission jurisdiction”, the Commission includes any grading or landscaping work associated with the new use; in other words that type of work must also be outside the jurisdictional area to avoid Commission review and approval.

The Commission will require that an Applicant demonstrate that an entire equestrian use area is outside jurisdiction. This may include the professional delineation of adjacent resources areas. The Commission seeks to avoid expense to Applicants, but in some situations a delineation may be necessary even to ascertain that no filing will be required. Professional delineations, which are less than three years old, may be used to make this initial determination.

Use Within Jurisdiction

The Commission prefers to utilize, in the case of new equestrian uses within jurisdiction, a performance standards criteria rather than a strict setback or specific square footage criteria. Although specific facts such as distances to wetlands and total square footage of use area will undoubtedly be critical in making proper permitting decisions, the Commission prefers to see them as part of a larger picture and not as stand alone decisive factors.

Finally, this policy does not relieve any applicant of the legal requirement of following the procedures mandated under the WPA and the By Law. Essentially this means that equestrian land uses shall be subject to Commission review and approval in the normal course just the same as the Commission reviews and approves (or denies) any other land use within their jurisdiction. The following performance standards are likely to be imposed by the Commission although all filings will be reviewed on a case-by-case basis.

- Soil from eroding pastures and rainwater runoff from unmanaged animal wastes carry bacteria, nutrients and sediments to wetlands. The effects can be environmentally devastating if not controlled and managed properly. In situations where the equestrian use is within 100 feet of wetlands the Commission may order manure to be daily stored in a covered area or covered container. The manure may also be ordered removed from Commission jurisdiction on a regularly scheduled basis. Areas of jurisdiction are, by definition, almost always low-lying areas that are often subject to seasonal flooding. In order to promote the growth of grasses and vegetation on pasture areas and prevent the erosion of sensitive areas adjacent to wetlands by intensive equestrian use, seasonal pasture use may be ordered by the Commission. Applicants may be ordered to keep their

horses in an upland paddock area until lower pasture areas are sufficiently dry and re-vegetated to allow the equine use.

- Vegetative buffer strips have proven to be an effective and inexpensive way to protect adjacent wetlands. The buffer strip serves as a filter straining out sediments, nutrients, and other pollutants before they reach the wetlands. As a general rule of thumb, the Commission, consistent with their regulations, may order that at least a 25 foot vegetative buffer strip be established from the edge of wetlands to a point up-gradient 25 feet. Simply allowing the 25-foot strip to naturally re-vegetate will often result in an effective buffer strip. The function of the buffer strip is best maintained by annual mowing in the fall to control the establishment of woody vegetation within this zone. The applicant will likely be ordered to refrain from any additional mowing or from causing any other disturbance in the strip.
- In appropriate parcels, the Commission may order the creation of berms or swales to control and treat contaminated run-off. The installation of professionally designed water run-off treatment systems in the 25-foot zone may be an alternative in particularly stressed parcels.
- As a general rule of thumb Applicants should understand that the Commission is usually extremely reluctant to allow any new land use, including new equestrian uses, within the 25-foot No Disturb Zone as that is defined in the By Law regulations. Therefore, any project proposing any land use for whatever purpose within that 25-foot zone must be filed as a Notice of Intent with the Commission, this shall include new equestrian use projects.

Nothing in this Policy shall be construed as a limitation on the legal authority of the Commission to issue orders and conditions to protect the interests named in the WPA and the By Law, even if such orders and/or conditions are at variance with the terms of this policy.



TOWN OF HAMILTON Conservation Commission

POLICY ON ENFORCEMENT PROCEDURE

It shall be the policy of the Hamilton Conservation Commission to utilize the following procedure in all enforcement matters arising under the Wetlands Protection Act M.G.L. Ch. 131 §40 (hereafter "WPA") and the Town of Hamilton By Laws Chapter 17 entitled "Conservation" (hereafter "By Law"):

1. In the exercise of their legal authority to protect and preserve environmentally sensitive areas in the Town of Hamilton, the Commission also seeks to settle all disputes and violations amicably and expeditiously. To that end the following procedures are adopted.
2. Enforcement actions by the Conservation Commission are commenced by the issuance of a "Violation Notice", except in circumstances described below in paragraph number 7.
3. A Violation Notice shall, in all cases, be issued to the landowner of the property at which the alleged violation occurred. To the extent that the party who allegedly committed the Violation can be reasonably ascertained that party shall also be issued a Violation Notice.
4. The Violation Notice shall contain: (a) a brief description of the conduct alleged to be in violation of the WPA and/or the By Law, (b) notice of the time, date and place of the next regularly scheduled Conservation Commission Meeting, (c) interim Orders including but not limited to a Cease and Desist all activity Order within Commission jurisdiction and an Order requiring appearance at site walks and/or Commission meetings, (d) a signature by any Member(s) of the Commission or by the Coordinator of the Commission, with the phone number and email and post office address of the Commission office readily apparent.
5. All Violation Notices shall be placed on the Agenda of the next regularly scheduled Conservation Commission meeting after the date of issuance of the Violation Notice.
6. Violation Notices shall be issued by certified mail, return receipt requested.
7. If the alleged violation occurs on land which has been the subject of Violation Notices or Enforcement Orders within the past 3 years, OR the alleged violation was allegedly committed by any party who has been the subject of Violation Notices or Enforcement Orders within the past 3 years, OR the activity occurs in resource areas as those are described in 310 CMR 10.02 (1)(a-f), 10.54, 10.55, 10.56, 10.57, 10.58, 10.59 then any Commission Member(s) or Coordinator may issue any and all appropriate Enforcement Orders as those are described in 310 CMR 10.00 *et seq.* Such Enforcement Orders shall include all the information described in paragraph 4 and they shall also result in formal notification to the Massachusetts Department of Environmental Protection of the issuance of the Order, and possible recording of the Executed Enforcement Order at the Essex Registry of Deeds.
8. Failure to comply with the requirements of any Violation Notice or Enforcement Order will result in increasingly stringent enforcement actions, up to and including judicial action and state civil and criminal enforcement.
9. The Commission retains the right to adjust Enforcement process and substantive actions to fit each case, but it is their intention to adhere to the procedures described herein whenever possible.

Approved: **OCTOBER 12, 2005**



TOWN OF HAMILTON Conservation Commission

POLICY ON SCHEDULING MEETINGS AND SITE WALKS FOR APPLICATIONS

In order to effectively and efficiently administer the Conservation Commission office and to provide applicants with predictable deadline information, the following shall be the Commission's policy on scheduling applications for Commission meeting time and Commission site walk time.

- All administratively complete Notices of Intent (NOI), Abbreviated Notices of Intent (ABNOI), Abbreviated Notices of Resource Area Determination (ANRAD), or Requests for Determination of Applicability (RDA) filed with the Commission shall be placed on the next available Conservation Commission Meeting Date.
- The Next Available Meeting Date is the first previously scheduled Commission meeting date which allows for the required legal notice to be published in a local newspaper no later than 5 days prior to the noticed meeting date.
- Only an administratively complete NOI, ABNOI, ANRAD or RDA will be placed on the Commission's monthly site walk agenda. The only exception to this rule is when there are 10 or more days between the scheduled site walk day and the next meeting date. In that case, the Commission Coordinator may use his/her discretion in scheduling site walks without first receiving an administratively complete application.
- An administratively complete NOI, ABNOI, ANRAD or RDA contains the following, (a) a final site plan; (b) a completed form (c) a full fee check (d) all required signatures of applicants and owners and (e) in the case of NOI, ABNOI, or ANRAD an Assessors certified list of abutters within 300' of the subject parcel.
- Coordinator only site inspections during the work week, in the following circumstances, will continue to be conducted pursuant to previously published Guidelines: Septic System reviews: Grading no closer than 25 feet, leaching field no closer than 50; Certificates of Compliance: All Certificates EXCEPT (a) residential or commercial subdivisions; (b) Certificates which are final step in regulatory process that began with an Enforcement Order (c) Projects of significant public interest (example construction of Middle School and High School playing fields). Requests for Determination: Any RDA which describes (a) disturbance no closer than 75' from EOW or (b) total AURA disturbance of less than 400 S.F. (total disturbance includes landscaping, grading,) and all work no closer than 50' from EOW.

EFFECTIVE DATE: December 13, 2007



TOWN OF HAMILTON
Conservation Commission

POLICY ON FILING SUPPLEMENTAL MATERIALS

In order to provide sufficient time for Commissioners to fully review all material provided by Applicants or other interested parties, and to provide Applicants, their Consultants and other interested parties, with a straightforward rule regarding the filing of such material, the Commission adopts the following policy:

- If an Applicant, their Consultant or any other interested party files supplemental material for Commission review **after the opening** of a public hearing, or **after the commencement** of the first meeting at which the Commission considers any matter, a minimum of seven calendar days must pass before the public hearing is closed, or before the matter is brought forward for final vote and resolution. The seven calendar days includes the date of filing of the supplemental material. The Commission may waive application of this policy in any specific situation by majority vote at a public meeting.

EFFECTIVE DATE: May 14, 2009