

CHAPTER 3-6. BEEKEEPING.

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ARTICLE 1. GENERAL PROVISIONS.

§ 3-6-1 DEFINITIONS.

In this chapter:

- (1) APIARY means a place where a bee colony is kept.
- (2) BEE means any stage of the common domestic honey bee, *Apis mellifera* species.

(3) COLONY means a hive and related equipment and appurtenances including bees, comb, honey, pollen, and brood.

(4) HIVE means a structure intended to house a colony.

(5) TRACT means a contiguous parcel of land under common ownership.

(6) UNDEVELOPED PROPERTY means any property that is not improved or under improvement for human use or occupancy, including property developed as a street or highway, or used for a commercial agricultural purpose.

Source: 1992 Code Section 3-4-1; Ord. 031009-9; Ord. 031211-11.

§ 3-6-2 RESTRICTIONS.

A person may not keep a colony that causes a threat to human or animal health, or interferes with normal use and enjoyment of public or private property.

Source: 1992 Code Section 3-4-2; Ord. 031009-9; Ord. 031211-11.

§ 3-6-3 APIARY MAINTENANCE.

(A) A person shall keep a colony in a Langstroth-type hive with removable frames that is maintained in sound and usable condition.

(B) A person shall provide a source of water to a colony to prevent the bees from congregating at a water source used by a human, bird, or domestic pet.

(C) A person shall store or dispose of bee comb or other material removed from a hive in a sealed container, building, or other bee-proof enclosure.

Source: 1992 Code Section 3-4-3, 3-4-5, and 3-4-6; Ord. 031009-9; Ord. 031211-11.

§ 3-6-4 CONSTRUCTION OF FLYWAY BARRIER.

(A) Except as provided in Subsection (B), a person who keeps a colony within 25 feet of the property line of a tract, as measured from the nearest point of a hive to the property line, shall establish and maintain a flyway barrier parallel to the property line.

(B) A person is not required to construct a flyway barrier if the aviary tract is adjoined by undeveloped property for a distance of at least 25 feet from the property line of the tract that is closest to location of the colony.

(C) A flyway barrier created under this section must:

(1) consist of a solid wall, fence, dense vegetation, or combination of these materials at least six feet high; and

- (2) extend at least 10 feet beyond the hives on each end of the colony.

Source: 1992 Code Section 3-4-4; Ord. 031009-9; Ord. 031211-11.

§ 3-6-5 CONTROL OF AGGRESSIVE COLONY.

(A) A person shall immediately replace the queen in a colony that exhibits aggressive characteristics, including stinging or attempting to sting without provocation, or a disposition towards swarming. A person required to replace a queen under this subsection shall select the replacement from bee stock bred for gentleness and non-swarmling characteristics.

(B) As required for swarm management, a person may maintain a nucleus colony for each two colonies allowed under this chapter. A person may house a nucleus colony in a structure not exceeding a standard 9 5/8-inch depth ten-frame hive body with no supers attached. A person shall dispose of or combine a nucleus colony with an authorized colony not later than the 30th day after the date the nucleus colony is acquired.

Source: 1992 Code Section 3-4-7, and 3-4-8; Ord. 031009-9; Ord. 031211-11.

§ 3-6-6 COLONY DENSITY.

(A) Except as provided in Subsection (B), a person may not keep more than:

- (1) two colonies on a tract one-quarter acre or smaller;
- (2) four colonies on a tract larger than one-quarter acre but smaller than one-half acre;
- (3) six colonies on a tract one-half acre or more but smaller than one acre;
- (4) eight colonies on a tract one acre or more.

(B) A person may keep an unlimited number of colonies on a tract:

- (1) on which all hives are located at least 200 feet from each property line of the tract; or
- (2) adjacent to undeveloped property for at least 200 feet from any hive.

Source: 1992 Code Section 3-4-8; Ord. 031009-9; Ord. 031211-11.

§ 3-6-7 HIVE IDENTIFICATION AND OWNERSHIP.

(A) Except as provided in Subsection (B), a person shall:

(1) brand, paint, or otherwise clearly mark the apiary owner's name or telephone number on at least two hives placed at opposite ends of an apiary; or

(2) post a conspicuous sign displaying the apiary owner's name and telephone number at the entrance to the apiary tract.

(B) A person is not required to place owner identification on or near a colony located on a tract on which the owner resides.

Source: 1992 Code Section 3-4-9; Ord. 031009-9; Ord. 031211-11.

ARTICLE 2. ENFORCEMENT AND PENALTIES.

§ 3-6-21 INSPECTION OR ENFORCEMENT BY HEALTH AUTHORITY.

(A) The health authority may inspect an apiary between the hours of 8:00 a.m. and 5:00 p.m. If the owner of the apiary resides on the tract or the owner's name is marked on the colony, the health authority shall attempt to give the owner notice of inspection.

(B) The health authority may investigate a complaint of a violation of this chapter.

(C) For enforcement actions under this chapter, the health authority may presume that the person who owns or has a present right of possession or control of a tract on which an unidentified colony is located is the owner of the colony. A person may rebut the presumption of ownership by presenting the health authority with a written agreement identifying the name, address, and telephone number of the owner of the unidentified colony.

Source: 1992 Code Section 3-4-9, 3-4-10, and 3-4-11(A); Ord. 031009-9; Ord. 031211-11.

§ 3-6-22 DESTRUCTION OF WILD OR ABANDONED BEES.

Without notice and a hearing, the health authority may destroy:

(A) a colony not residing in a hive;

(B) a swarm of bees; or

(C) a colony residing in an abandoned standard or man-made hive.

Source: 1992 Code Section 3-4-11(F); Ord. 031009-9; Ord. 031211-11.

§ 3-6-23 NOTICE OF VIOLATION OR HEARING.

(A) Except as provided in Section 3-6-22 (*Destruction of Wild or Abandoned Bees*), the health authority shall issue written notice to a person the health authority believes to be in violation of this chapter. Notice of violation issued under this section must include:

(1) a description of the alleged violation;

- (2) a description of the required corrective action;
- (3) a statement that compliance is required within 10 days of the date of the notice; and
- (4) a statement that the person may request a hearing to determine if a violation of this chapter exists.

(B) If a person requests a hearing or fails to correct an alleged violation within 10 days of the date a notice of violation is issued, the health authority shall issue a notice of hearing to the person. Notice of hearing issued under this section must include:

- (1) the date, time and place of the hearing;
- (2) a description of the alleged violation;
- (3) a statement that the person may appear in person or through counsel, present evidence, cross examine witnesses, and request that the proceeding be recorded; and
- (4) a statement that the bees may be ordered destroyed or removed if the health authority finds a violation of this chapter has occurred.

(C) Except as provided in Subsection (D), the health authority shall send notice under this section by certified mail.

(D) If the health authority is unable to locate the owner of a colony, notice under this chapter may be given by:

- (1) a single publication in a newspaper of general circulation at least five days before the date of the hearing; and
- (2) posting a notice on the tract where the colony is located.

Source: 1992 Code Section 3-4-11(A), (B), and (C); Ord. 031009-9; Ord. 031211-11.

§ 3-6-24 ENFORCEMENT PROCEDURE.

(A) The health authority shall conduct a hearing requested under this chapter under the preponderance of credible evidence standard of proof.

(B) If the health authority finds that a person has committed a violation of this chapter, the health authority may:

- (1) issue an enforcement order;
- (2) order that the person's bees be destroyed or removed not later than the 20th day after the date of the decision; and

(3) prohibit the person from locating a colony on the same tract for a period of two years following the date of the decision.

(C) The health authority may issue a warning if the health authority determines that a person did not intentionally commit a violation and that the person has implemented corrective action sufficient to cure the alleged violation.

(D) If a person fails to comply with an enforcement order issued under this chapter, the health authority may destroy or relocate a colony subject to the order.

(E) After destruction or relocation of a colony by the health authority, a person may agree to pay all related expenses and request that the health authority return all usable components of the hive structure that are not damaged or unsafe for use.

Source: 1992 Code Section 3-4-11(D); Ord. 031211-11.

§ 3-6-25 APPEAL.

(A) A person may appeal the health authority's decision under this chapter to a court of competent jurisdiction. An appeal under this section shall stay the health authority's decision.

(B) The health authority may not require a person to remove a colony subject to a decision under appeal pending the determination of the appeal.

Source: 1992 Code Section 3-4-11(E); Ord. 031009-9; Ord. 031211-11.

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