

## MODEL BEEKEEPING ORDINANCE

WHEREAS, honey bees (*apis mellifera*) are of benefit to mankind, and to Wisconsin in particular, by providing agriculture, fruit and garden pollination services and by furnishing honey, and other useful products; and

WHEREAS, Wisconsin is among the leading states in honey production and agricultural by products associated with beekeeping throughout the United States; and

WHEREAS, domestic strains of honey bees have been selectively bred for desirable traits, including gentleness, honey production, tendency not to swarm and non-aggressive behavior, characteristics which are desirable to foster and maintain; and

WHEREAS, gentle strains of honey bees can be maintained within populated areas in reasonable densities without causing a nuisance if the bees are properly located and carefully managed;

NOW THEREFORE, be it ordained and enacted by \_\_\_\_\_:

Section 1. Preamble Adopted.

That the findings contained in the preamble of this ordinance are hereby adopted as a part of this ordinance.

Section 2. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage indicates another usage.

2.1 "Apiary" means the assembly of one or more colonies of bees at a single location.

2.2 "Beekeeper" means a person who owns or has charge of one or more colonies of bees.

2.3 "Beekeeping equipment" means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

2.4 "Colony" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.

2.5 "Hive" means the receptacle inhabited by a colony that is manufactured for that purpose.

2.6 "Honey bee" means all life stages of the common domestic honey bee, *apis mellifera* species.

2.7 "Lot" means a contiguous parcel of land under common ownership.

2.8 "Nucleus colony" means a small quantity of bees with a queen housed in a smaller than usual hive box designed for a particular purpose.

2.9 "Undeveloped property" means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

### Section 3. Purpose of Ordinance.

3.1 The purpose of this ordinance is to establish certain requirements for beekeeping within the City, to avoid issues which might otherwise be associated with beekeeping in populated areas.

3.2 Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any proven nuisance.

3.3 Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Wisconsin.

### Section 4. Standards of Practice.

4.1 Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.

4.2 Each beekeeper shall ensure that a convenient source of water is available to the colony so long as colonies remain active outside of the hive.

4.3 Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other insect-proof container.

4.4 For each colony permitted to be maintained under this ordinance, there may also be maintained upon the same apiary lot, one nucleus colony in a hive structure not to exceed one standard 9-5/8 inch depth 10-frame hive body with no supers.

4.5 Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall not be a defense to this ordinance that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

### Section 5 Colony Density.

5.1 Except as otherwise provided in this ordinance, in each instance where a colony is kept less than 25 feet from a property line of the lot upon which the apiary is located, as measured from the nearest point on the hive to the property line, the

beekeeper shall establish and maintain a flyway barrier at least 6 feet in height. The flyway barrier may consist of a wall, fence, dense vegetation or a combination thereof, such that bees will fly over rather than through the material to reach the colony. If a flyway barrier of dense vegetation is used, the initial planting may be 4 feet in height, so long as the vegetation normally reaches 6 feet in height or higher. The flyway barrier must continue parallel to the apiary lot line for 10 feet in either direction from the hive, or contain the hive or hives in an enclosure at least 6 feet in height. A flyway barrier is not required if the property adjoining the apiary lot line (1) is undeveloped, or (2) is zoned agricultural, industrial or is outside of the City limits, or (3) is a wildlife management area or naturalistic park land with no horse or foot trails located within 25 feet of the apiary lot line.

5.2 No person is permitted to keep more than the following numbers of colonies on any lot within the City, based upon the size or configuration of the apiary lot:

- a. One half acre or smaller lot 2 colonies
- b. Larger than 1/2 acre but smaller than 3/4 acre lot 4 colonies
- c. Larger than 3/4 acre lot but smaller than 1 acre lot 6 colonies
- d. One acre but smaller than 5 acres 8 colonies
- e. Larger than 5 acres no restriction

5.3 Regardless of lot size, so long as all lots within a radius of at least 200 feet from any hive, measured from any point on the front of the hive, remain undeveloped, there shall be no limit to the number of colonies. No grandfathering rights shall accrue under this subsection.

5.4 If the beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall not be considered in violation the portion of this ordinance limiting the number of colonies if he temporarily houses the swarm on the apiary lot in compliance with the standards of practice set out in this ordinance for no more than 30 days from the date acquired.

## Section 6. Inspection.

A designated City official shall have the right to inspect any apiary for the purpose of ensuring compliance with this ordinance between 8 a.m. and 5 p.m. once annually upon prior notice to the owner of the apiary property, and more often upon complaint without prior notice.

## Section 7. Presumed Colony/Hive Value.

For the purpose of enforcing City ordinances against destruction of property, each colony/hive shall be presumed to have a value of \$275.

## Section 8. Compliance.

8.1 Upon receipt of credible information that any colony located within the City is not being kept in compliance with this ordinance, [the designated City official] shall

cause an investigation to be conducted. If the investigation shows that a violation may exist and will continue, [the designated City official] shall cause a written notice of hearing to be issued to the beekeeper, which notice shall set forth:

- a. The date, the time and the place that the hearing will be held, which date shall be not less than 30 days' from the date of the notice;
- b. The violation alleged;
- c. That the beekeeper may appear in person or through counsel, present evidence, cross examine witnesses and request a court reporter, and
- d. That if [the designated City official] finds that they have been kept in violation of this ordinance, and if the violation is not remediated within the time allowed, the bees may be ordered removed and/or destroyed.

Notices shall be given by certified US Mail return receipt requested or personal delivery. However, if the beekeeper cannot be located, then notice may be given by publication in a legal newspaper for the county in which the apiary property is located, at least seven days before the hearing.

8.2 The hearing shall be conducted by [the designated City official]. The burden shall be on the City to demonstrate by a preponderance of evidence that the colony or colonies have been kept in violation of this ordinance. If [the designated City official] finds a violation, then he/she may order that the bees be removed from the City or such other action as may address the violation, and that the apiary lot be disqualified for permitting under this ordinance for a period of 2 years from the date of the order, the apiary lot ownership changes, in which case the prohibition shall terminate. If the order has not been complied with within 20 days of the order, the City may remove or destroy the bees and charge the beekeeper with the cost thereof. Upon destruction of bees by the City, all equipment shall be returned by the City to the beekeeper, with expenses of transportation to be paid by the beekeeper. The City's destruction of the bees shall be by a method that will not damage or contaminate the equipment, include wax foundation.

8.3 The decision of the hearing officer may be appealed by the beekeeper as provided in the City's rules and procedures. If no provision for appeal exists, then the beekeeper may file a notice of appeal with the City secretary within 15 days of the date the order is placed in US Mail to the beekeeper, or 10 days if the decision is announced at the hearing by [the designated City official]. An appeal shall not stay [the designated City official]'s decision, and the beekeeper shall be required to comply with such order pending the outcome of the appeal.

8.4 No hearing and no order shall be required for the destruction of honey bees not residing in a hive structure that is intended for beekeeping.

#### Section 9. Savings Clause.

In the event any part of this ordinance or its application to any person or property is held to be unenforceable for any reason, the unenforceability thereof will not affect the enforceability and application of the remainder of this ordinance, which will remain in full force and effect.

#### Section 10. Effective Date.

This ordinance shall become effective on \_\_\_\_\_, 20\_\_\_\_\_.