



NORWOOD, OHIO

Ordinance No. 7 20 20

AN ORDINANCE REPEALING THE PROHIBITION AGAINST THE KEEPING OR HARBORING OF HONEY BEES AND THE DECLARATION THAT ANY BEEHIVE WITHIN THE CITY OF NORWOOD IS A PUBLIC NUISANCE, AND REGULATING THE KEEPING AND HARBORING OF HONEY BEES WITHIN THE CITY OF NORWOOD

WHEREAS, Honey Bees (*Apis mellifera*) are of benefit to mankind, and to Ohio in particular, by providing agriculture, fruit and garden pollination services and by furnishing honey, and other useful products; and

WHEREAS, Ohio has a rich history of Beekeeping with many advancements occurring in Ohio that have shaped modern Beekeeping worldwide; 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 by the Council of the City of Norwood:

SECTION 1. Ordinance 63-1986 and Section 1 of Ordinance 13-2010, as they are codified in Norwood Codified Ordinances Section 505.14, to the extent that they prohibit the keeping or harboring of Bees, and that they declare any Bee Hive within the corporate limits of the City of Norwood to be a public nuisance, are hereby repealed.

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 any place where one or more Colonies or Nucleus Colony of Bees are kept.
- 2.2 "Honey Bees" or "Bees" means any stage of any species of the genus *Apis*.
- 2.3 "Beekeeper" means a person who owns or has charge of one or more Colonies of Bees.
- 2.4 "Hive" means any modern frame Hive, box Hive, box, barrel, log gum, skep, or any other natural or artificial receptacle, or any part thereof, that may be used as a domicile for Bees.
- 2.5 "Colony" means the Hive and its equipment, including Bees, combs and brood.
- 2.6 "Beekeeping Equipment" means anything used in the operation of an Apiary, such as Hive bodies supers, frames, top and bottom boards, Hive tools, smoker, gloves, veil, protective clothing, and extracting equipment.
- 2.7 "Tract" means a contiguous parcel or land under common ownership.
- 2.8 "Nuc" or "Nucleus Colony" means a small Hive smaller than the 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 use occupancy and the grounds maintained in association 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 alleged 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 Beekeepers in the State of Ohio.

SECTION 4. Standards of Practice.

4.1 Each Beekeeper must abide by Ohio Revised Code, including Chapter 909.

4.2 Each Beekeeper may not opt out of the annual inspection by the county or state bee inspector as part of the Ohio Department of Agriculture's inspection program.

4.3 Each Beekeeper shall ensure that a convenient source of water is available to the Colony at all times Bees remain active outside of the Hive. The water source shall be closer to the Hives than a neighboring source where Bees could become a nuisance such as a pool or pet water bowl. The water source may be natural such as a pond, stream, or artificial source.

4.4 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.

4.5 For each Colony permitted to be maintained under this ordinance, there may also be maintained one Nuc upon the same Apiary Tract.

4.6 Each Beekeeper shall maintain all 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.

4.7 Each Beekeeper should practice best Hive management practices which includes: replacing queens in Colonies exhibiting defensive behavior, practicing swarm control measures, and avoiding disturbing Hives when such disturbance is more likely to cause issues with neighbors or the general public.

SECTION 5. Colony Density.

5.1 Number: No person is permitted to keep more than the following numbers of Colonies on any Tract within the City, based upon the size or configuration of the Apiary Tract:

- a. Up to 7,000sq ft. = 2 Colonies
- b. Over 7,000 sq. ft. = 2 Colonies + additional Colony per 3,000 sq. ft.

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

No Hives are permitted on any Tract where the setback requirements cannot be satisfied regardless of Tract size.

5.2 Setbacks & Locations: No Colony shall be kept closer than 10 feet from any lot line or within 30 feet of any public sidewalk or roadway. The front of the Hive shall face away from the property line of the residential lot closest to the Bee Hive.

5.3 Flyway Barrier: 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 between the Hives and the adjacent lots. 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. Alternately, locating the Hive 8 feet or more above the ground shall also be considered a suitable barrier. Such location must be at least 20 feet from any windows, doors or sidewalks on the adjacent property.

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.

5.4 Exemption: The Beekeeper may be exempt from the setback to adjacent lot lines and requirements for a flyway barrier by obtaining written permission from the adjacent lot owner(s). The setback to public sidewalks and roadways may not be waived.

5.5 Swarms: 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. Compliance.

6.1 Upon receipt of credible information that any Colony located within the City is not being kept in compliance with this ordinance, the Health Department shall cause an investigation to be conducted. If the investigation shows that a violation may exist and will continue, the Health Department 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 Health Department finds that Bees 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.

6.2 The hearing shall be conducted by the Health Commissioner or his or her designee. 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 Health Commissioner or his or her designee finds a violation, then he or 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, unless 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.

6.3 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 Health Department within 15 days of the date the order is placed in

U.S. Mail to the Beekeeper, or 10 days if the decision is announced at the hearing by Health Commissioner or his or her designee. An appeal shall not stay the Health Commissioner's or his or her designee's decision, and the Beekeeper shall be required to comply with such order pending the outcome of the appeal.

6.4 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 7. Savings Clause.

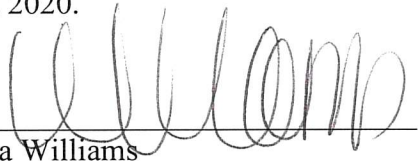
In the event any part of this ordinance or its application to any person or property is held to be unenforceable for any reason, the unenforceability thereof will not affect the enforceability and application of the remainder of this ordinance, which will remain in full force and effect.

PASSED 2-25-20
Date



Ken Miracle
President of Council

ATTEST:

Maria Williams, the duly appointed Clerk of Council, attests that this ordinance was passed at a regular/special meeting of Norwood City Council on the 25 day of February, 2020 in compliance with the rules of Norwood City Council and the laws of the State of Ohio. The foregoing ordinance was submitted to the Mayor of the City of Norwood, Ohio for his signature on the 3 day of March, 2020.

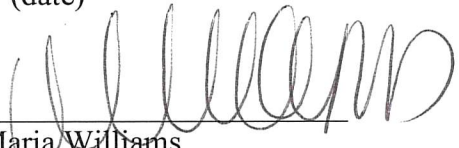

Maria Williams
Clerk of Council

APPROVED 04 MAR 20
Date


Victor Schneider
Mayor

CERTIFICATION OF PUBLICATION:

Maria Williams, the duly appointed Clerk of Council, attests that this ordinance was published in the Enquirer on 3/4/20 and 3/10/20.
(Name of Newspaper) (date) (date)


Maria Williams
Clerk of Council

1st Reading 1-28-2020
Date

2nd Reading 2-11-2020
Date

3rd Reading 2-25-2020
Date

All 3 Readings _____
Date

Tabled _____
Date

Vetoed _____
Date