

ORDINANCE NO. 1106

AN ORDINANCE OF THE CITY OF GENEVA, FILLMORE COUNTY, NEBRASKA TO REGULATE THE KEEPING OF BEES IN THE CITY OF GENEVA; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE THE TIME WHEN THIS ORDINANCE SHALL BE IN EFFECT.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF GENEVA, FILLMORE COUNTY, NEBRASKA that:

The keeping by any person of bee colonies in the City of Geneva not in strict compliance with this Ordinance is hereby prohibited and unlawful.

WHEREAS, honey bees (*apis mellifera*) are of benefit to mankind by providing agriculture, fruit and garden pollination services and by furnishing honey, and other useful products; 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 honeybees may be maintained within populated areas in reasonable densities without causing a nuisance if the bees are properly located and carefully managed;

Definitions.

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

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

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

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

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

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

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

"Langstroth type hive" means any vertically modular beehive that has the key features of:

1. Vertically hung frames
2. Bottom board with entrance for the bees
3. Boxes containing frames for brood and honey: the lowest box of the hive for the queen to lay eggs, and boxes above where honey may be stored.
4. Inner cover and top cap to provide weather protection.

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

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

"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.

Purpose of Ordinance.

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

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.

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 City of Geneva, Nebraska.

Hive Type

Honeybee colonies shall be kept in a Langstroth type hives with removable frames, which shall be kept in sound and usable condition.

Water

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. The beekeeper shall ensure that the convenient source of water is available to the colony at all times during the year so that the colony will not congregate at swimming pools, outdoor water faucets, pet watering bowls, bird baths or other water sources where the colony may cause human, bird or domestic pet contact. The water source as provided by the beekeeper shall not be stagnant water or shall the beekeeper allow the colony's water source to become stagnant water.

General Maintenance

Each beekeeper shall ensure that no wax comb, bee 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 promptly disposed and stored in sealed containers, or placed within a building or other insect-proof container.

Queens

All colonies shall be maintained with marked queens. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, it shall be the duty of the beekeeper to promptly re-queen the colony with another marked queen. Queens shall be selected from stock bred for gentleness and non-swarmling characteristics.

Fencing of Flyways

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.

Set Backs

All hives of the beekeeper shall be set back from the lot upon which the apiary is located at least five (5) feet from the lot line with the back of the hive facing the nearest building.

Colony Densities

No person is permitted and it shall be unlawful 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. More 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
- f. Regardless of lot size, so long as all land 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.

g. For each two colonies authorized above there may be maintained upon the same tract one nucleus colony in a hive structure, nuc boxes, typically five frame hive body with no supers attached, as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within 30 days after the date it is acquired.

Inspection

The City Administrator 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. Where practicable, prior notice shall be given to the beekeeper if the beekeeper resides at the apiary or if the beekeeper's name is marked on the hives.

Posting Hives, Presumption of Beekeeping

a. The beekeeper shall conspicuously post a sign in the beekeeper's apiaries setting forth the beekeeper's name and telephone number. A colony kept upon the same lot upon which the beekeeper resides shall not be required to post the above sign.

b. Unless marked in accordance with subsection (a) it shall be presumed for purposes of this Ordinance that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the lot upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the lot setting forth the name, address, and telephone number of the other person who is acting as the beekeeper.

Compliance

Upon receipt of credible information that any colony located within the City is not being kept in compliance with this ordinance, the City Administrator shall cause an investigation to be conducted. If the investigation shows that a violation may exist and will continue, the City Administrator 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 the bees may be ordered destroyed or removed from the City if the hearing officer finds that the bees have been kept in violation of this Ordinance

e. 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 City in which the apiary property is located, at least seven days before the hearing.

The hearing shall be conducted by the City Administrator. 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 City Administrator finds a violation, then the City Administrator may order that the bees be removed by the beekeeper from the City or such other action as may address the violation, and that the apiary lot be disqualified for colonizing 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 cause the least amount of damage or contaminate to the beekeeper's equipment, include wax foundation.

The decision of the City Administrator may be appealed by the beekeeper. The beekeeper may file a notice of appeal with the City Clerk within 10 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 City Administrator and the beekeeper is present at the hearing. An appeal shall stay the City Administrator's decision until the appeal is heard by the City Council at its next scheduled meeting.

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 or for any colony residing in a standard or man-made hive, which by virtue of its condition has obviously been abandoned by the beekeeper.

Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or homemade hive, which by virtue of its conditions, has obviously been abandoned by the beekeeper, is deemed a hazard to the health and welfare of the community and is unlawful. The above described colony may be removed from the City.

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.

All Ordinances and Resolutions or parts thereof in conflict herewith are hereby repealed.

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

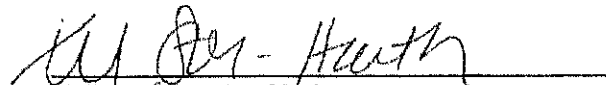
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Passed and approved this 2nd day
of April, 2018.



Rodney Norrie, Mayor

ATTEST:



Kelly Stroh, City Clerk