



# *Ohio State Beekeepers Association*

## **Beekeeping in Urban/Sub-Urban Environments**

Honey bees have played a vital role in Ohio's agricultural industry for over 100 years. Pollinators are critical to Ohio and our Nation's economy, food security, and environmental health. Honeybee pollination alone adds more than \$15 billion dollars annually nationally in value to agricultural crops each year, and provides the foundation to healthy diets, abundant with fruits, nuts, and vegetables.

Ohio has a rich history of beekeeping with many advancements occurring in Ohio that have shaped national approaches to beekeeping. Records indicate that honeybees were present in Ohio as early as 1788. In fact, the "Father of American Beekeeping", Lorenzo Langstroth developed the modern beehive in Oxford, Ohio around 1860.

Honey bees have successfully and safely been kept in urban and sub-urban settings for many years. They contribute to the success of individual and community gardens and pollinate fruit and nut trees in yards. Beekeeping is a growing in popularity with more than 1000 new beekeepers picking up the hobby in Ohio alone every year. As of 2015 there were over 36,000 bee hives in the state, averaging more than 400 colonies per County.

Honey bees are kept safely in many large cities worldwide including New York City, Paris France, Downtown Chicago Illinois, Boston Massachusetts, Seattle Washington and closer to home, on the Statehouse property in Columbus, and at the InterContinental Hotel in Cleveland next door to the Cleveland Clinic.

Ohio already has legislation in the Ohio Revised Code (Section 909), regulating the practice in beekeeping in Ohio and providing for inspection of bee hives in Ohio. However, some practical guidelines are required when keeping bees within an urban or sub-urban area. This includes providing a water source, offsets, and flyway barriers. They are designed to reduce the already small chance of encountering a honey bee. These practices are outlined in OSBA's Best Management Practices found on the OSBA website (<http://www.ohiostatebeekeepers.org/resources/beekeeping-best-management-practices/>) and are reflected in the following Model Beekeeping Ordinance.

The following model ordinance was developed after reviewing existing local laws in Ohio, as well as laws and model ordinances found in other states. This ordinance encourages responsible beekeeping within an urban/sub-urban environment while placing reasonable requirements and restrictions to address the safety of the public. It also addresses the flaws and/or weaknesses found in many of Ohio's existing local laws.

# MODEL BEEKEEPING ORDINANCE

prepared by the Ohio State Beekeepers Association

adapted from the model ordinances prepared by the Minnesota Hobby Beekeepers Association, model ordinances from Florida and Louisiana, and in consideration of existing ordinances in Ohio

This model ordinance is not intended to be adopted without legal review by counsel representing the jurisdiction considering it. Like any proposed ordinance, it must be reconciled with existing ordinances and may be revised to fit community standards and needs. Our purpose in advancing the model ordinance is to offer a document with the apicultural framework we believe will enable hobbyist and sideliner beekeepers to safely and successfully pursue this pleasurable and economically, culturally and agriculturally critical activity in urban and suburban areas.

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 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 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 Beekeeper must abide by Ohio Revised Code, including Chapter 909.
- 4.2 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 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.
- 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 there of 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 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.

- 6.2 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.

- 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 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.
- 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 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\_\_\_\_\_.

## Questions and Answers?

### **Why isn't registration required?**

The model ordinance requires beekeepers to follow all state laws. Ohio Revised code 909.02 requires registration of every apiary with the Ohio Department of Agriculture within 10 days of obtaining bees and yearly thereafter. Furthermore, permits and inspections are required for any sale, barter or gift of honey bees, queens or used equipment (909.09). Failure to comply with these sections is a 4<sup>th</sup> degree misdemeanor on the 1<sup>st</sup> offense, and 3<sup>rd</sup> degree misdemeanor on subsequent offenses. Information on apiaries registered in a county or municipality is available from the Ohio Department of Agriculture. They can also verify if a given apiary is registered with ODA.

### **Why doesn't the model ordinance prohibit Africanized bees?**

Ohio revised code 909.03 already prohibits Africanized honey bees and provides means to destroy them without remuneration (909.99) should the beekeeper fail to take care of the problem. The ordinance actually goes further and encourages beekeepers to replace any queen that exhibits undesirable behavior.

### **Why doesn't the model ordinance require removable frames or certain hive types or sizes?**

Ohio revised code 909.12 requires all hives have frames that can readily be removed for inspection and furthermore requires hives not be situated where inspection is difficult, impractical or impossible. It furthermore provides means to seize or destroy hives in violation with this section.

### **Why doesn't the ordinance require posting ownership of the hives on properties the beekeeper doesn't own?**

Ohio revised code 909.02 already requires the apiary identification number be posed: "No person shall maintain an apiary located on premises other than that of his residence unless such apiary is identifiable by an apiary identification number assigned to such person by the director. Such identification number shall be posted in a conspicuous location in the apiary."

### **Why are additional nucs permitted? Doesn't this significantly increase the number of hives an apiary may have?**

Nucs are an important part of managing beehives, are much smaller in population than standard bee hives and are typically are only used for a portion of the season.

Nucs allow beekeepers to keep or raise replacement queens so they are available when needed to quickly deal with aggressive or queen less hives. This is important because queens are often hard or impossible to obtain during certain times of the year.

They may also be used for swarm control, allowing the beekeeper to reduce crowding in the standard hive as well as being used to capture swarms before they become a nuisance. While it's impossible to prevent all swarms, management techniques such as swarm traps and splitting hives require the use of nucs.

### **What is a swarm trap?**

A swarm trap is simply a small hive or similarly sized container that is placed outside in the hopes of capturing a swarm. Typically, swarm traps are placed 8 to 20 feet off the ground, in the shade and have comb or swarm lures to attract a swarm. Once bees are discovered living in the trap, it should be taken down and moved into an apiary at which point it would count towards the number of hives or nucs permissible by the ordinance.

### **Why is there no minimum tract size to keep bees?**

While there is not an explicit minimum tract size for keeping bees, the minimum setbacks still must be followed. Therefore, tracts that are too small to satisfy these setback requirements may not have bee hives. This minimum size will vary based on the specific geometry of the property.

### **Why are there no recommendations for maximum hive density?**

The ordinance only provides a maximum number of hives per apiary that aims to ensure there are not too many bees as to cause a nuisance. The number of hives an apiary can support may be less or many more than the allowed number.

The maximum number of hives an area can reasonably support throughout the year depends on the forage (blooms providing nectar and pollen) available up to 5 miles from the hive. Understandably this varies significantly from area to area making it impossible to provide any general recommendations. This is additionally impacted by the goals of the beekeeper, for example if they are looking to just pollinate their garden or to produce lots of honey. When there are too many hives for an area to support, honey production will drop, and the beekeeper may have to feed their bees more or will move them to another location. As such, overall colony density in an area will tend to be self-regulating.