

**EDGERTON CITY COUNCIL
MEETING AGENDA
CITY HALL, 404 EAST NELSON STREET
September 22, 2016**

Call to Order

1. **Roll Call** ____ Roberts ____ Longanecker ____ Crooks ____ Troutner ____ Brown ____ Crist
2. **Welcome**
3. **Pledge of Allegiance**

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action)*

4. Agenda Approval
5. Approve City Council Meeting Minutes September 8, 2016

Regular Agenda

6. **Public Comments.** Persons who wish to address the City Council regarding items not on the agenda and that are under the jurisdiction of the City Council may do so when called upon by the Mayor. Comments on personnel matters and matters pending before court or other outside tribunals are not permitted. Please notify the City Clerk before the meeting if you wish to speak. Speakers are limited to three (3) minutes. Any presentation is for informational purposes only. No action will be taken.
7. **Declaration.** At this time Council members may declare any conflict or communication they have had that might influence their ability to impartially consider today's issues.

Business Requiring Action

8. **CONSIDER ORDINANCE NO. 1035 AMENDING CHAPTER II OF THE EDGERTON, KANSAS MUNICIPAL CODE TO INCLUDE NEW ARTICLE 2 REGULATING THE KEEPING OF BEEHIVES WITHIN THE CITY**

Motion: _____ Second: _____ Vote: _____

9. **CONSIDER ORDINANCE AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC XIV, LLC PROJECT) SERIES 2016, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE REMAINING COST OF A WAREHOUSE AND DISTRIBUTION FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL TRUST INDENTURE; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL BASE LEASE AGREEMENT AND A FIRST SUPPLEMENTAL LEASE AGREEMENT; AUTHORIZING THE CITY TO ENTER INTO A BOND PURCHASE AGREEMENT, AND AUTHORIZING AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS**

Motion: _____ Second: _____ Vote: _____

10. Report by the City Administrator

- LKM Annual Conference Voting Delegate
- 2017 CDBG Recommendations – Nelson Street Waterline Replacement
- Report on exploration of options to provide economic development services to City for 2017
- Joint Work Session with Planning Commission rescheduled

11. Report by the Mayor

12. Future Meeting/Event Reminders:

- September 24th 10 AM – Noon – Cops N’ Bobbers Fishing Derby
- October 11th 7:00 PM – Planning Commission
- October 13th 7:00 PM – City Council meeting
- October 19th Noon – Senior Lunch
- October 27th 7:00 PM – City Council Meeting
- October 30th 4:00 PM – Halloween Fest

**13. CONSIDER RECESSING INTO EXECUTIVE SESSION PURSUANT TO K.S.A. 75-4319
(b) (6) FOR PRELIMINARY DISCUSSION RELATED TO ACQUISITION OF REAL
PROPERTY TO INCLUDE CITY ATTORNEY AND CITY ADMINISTRATOR**

Motion: _____ Second: _____ Vote: _____

RECONVENE INTO OPEN SESSION

14. Adjourn Motion: _____ Second: _____ Vote: _____

**City of Edgerton, Kansas
Minutes of City Council Regular Session
September 8, 2016**

A Regular Session of the City Council was held in the Edgerton City Hall, 404 E. Nelson, Edgerton, Kansas on September 8, 2016. The meeting convened at 7:00 p.m. with Mayor Roberts presiding, and City Clerk Janeice L. Rawles recording.

1. ROLL CALL

Charlie Troutner	present
Clay Longanecker	present
Cindy Crooks	present
Jody Brown	present
Darius Crist	present

With a quorum present, the meeting commenced.

Staff in attendance:	City Administrator Beth Linn
	City Attorney Patrick Reavey
	Public Works Superintendent Trey Whitaker
	Jeff White, Columbia Capital
	Scott Anderson, SA Legal Advisors

2. WELCOME

3. PLEDGE OF ALLEGIANCE

CONSENT AGENDA

4. The agenda for September 8, 2016 was considered.
5. City Council meeting Minutes of August 25, 2016 was considered.
6. Ordinance No. 1031 Amending Chapter XI, Article 1, Section 11-101 of The Code of The City of Edgerton, Kansas, concerning The Uniform Public Offense Code was considered.
7. Ordinance No. 1032 amending Chapter XIV of The Edgerton, Kansas Municipal Code to Incorporate The 2016 Standard Traffic Ordinance, subject to existing local traffic provisions in The City Code which Supplement and/or modify certain sections thereof was considered.

Motion by Crooks, seconded by Crist, to approve Consent Agenda.

Motion was approved 5-0.

8. PUBLIC COMMENTS

None

9. DECLARATION

None

BUSINESS REQUIRING ACTION

ORDINANCE NO 1033 - G.O. BONDS SERIES 2016-B

- 10. ORDINANCE NO 1033 AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2016-B, OF THE CITY OF EDGERTON, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SAID BONDS AS THEY BECOME DUE; AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO WAS CONSIDERED.**

City Administrator Beth Linn and Gina Riekhof, bond counsel Gilmore & Bell, indicated the two items on tonight's agenda were considered and approved on August 25, but noted due to publication issues, the matter would need to be reconsidered. It was noted the issue is scheduled for closing on September 22, 2016. Ms. Riekhof informed the Council that her firm would cover any additional costs.

It was noted the ordinance would authorize General Obligation Bonds, Series 2016-B and also repeal the ordinance approved on August 25, 2016.

Motion by Longanecker, seconded by Brown, to approve Ordinance No. 1033 authorizing and providing for the issuance of General Obligation Bonds, Series 2016-B.

Motion was approved, 5-0.

RESOLUTION NO 09-08-16A- SALE G.O. BONDS

- 11. RESOLUTION NO 09-08-16A PRESCRIBING THE FORM AND DETAILS OF AND AUTHORIZING AND DIRECTING THE SALE AND DELIVERY OF GENERAL OBLIGATION BONDS, SERIES 2016-B, OF THE CITY OF EDGERTON, KANSAS, PREVIOUSLY AUTHORIZED BY ORDINANCE NO 1033 OF THE ISSUER; MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS CONNECTED THEREWITH WAS CONSIDERED.**

Ms. Linn and Ms. Riekhof indicated this matter accompanies the previous action.

Motion by Crooks, seconded by Longanecker, to approve Resolution No. 09-08-2016 prescribing the form and details and authorizing and directing the sale and delivery of General Obligation Bonds, Series 2016-B.

Motion was approved, 5-0.

PUBLIC HEARING – INDUSTRIAL REVENUE BONDS

RESOLUTION NO. 09-08-16B – CONSENTING TO PARTIAL ASSIGNMENT

12. OPENING OF A PUBLIC HEARING REGARDING AND CONSIDERATION OF RESOLUTION NO. 09-08-16B CONSENTING TO THE PARTIAL ASSIGNMENT OF A RESOLUTION OF INTENT FROM EDGERTON LAND HOLDING COMPANY, LLC TO ELHC XIV, LLC OR ITS SUCCESSORS IN INTEREST WAS CONSIDERED.

Scott Anderson, SA Legal Advisors, overviewed the cost benefit analysis report. It was noted that due to the delay in receiving this report, the matter was continued from August 25, 2016.

Mayor Roberts opened the public hearing.

No one appeared to support or oppose.

The public hearing was closed.

The Council was informed the public hearing notice was published at least seven (7) days prior to the hearing, and that the Board of County Commissioners and the School Board received notification previous to the seven days, as required under state law. It was noted the City received comments from the School District representatives.

Motion by Crooks, seconded by Longanecker, to approve Resolution No. 09-08-16B consenting to the partial assignment of the Resolution of Intent from Edgerton Land Holding Company, LLC to ELHC XIV, LLC, or its successors.

Motion was approved, 5-0.

ORDINANCE NO 1034—ACQUISITION OF EASEMENTS

13. ORDINANCE NO 1034 APPROVING THE DESCRIPTION AND SURVEY OF LANDS NECESSARY FOR ACQUISITION OF EASEMENTS NEEDED FOR EXPANSION OF THE CITY'S SANITARY SEWER COLLECTION SYSTEM AND ASSOCIATED IMPROVEMENTS WAS CONSIDERED.

Ms. Linn informed the Council the ordinance was prepared by the City Attorney.

Motion by Brown, seconded by Longanecker, to approve Ordinance No. 1034 approving description and survey of lands necessary for acquisition of easements needed for expansion of the city's sanitary sewer collection system and associated improvements.

Motion was approved, 5-0.

14. REPORT BY THE CITY ADMINISTRATOR

Ms. Linn spoke about the Mike & Johnnies Annual "Adopt the Children Charity Clay Shoot" on September 24, 2016. It was noted the City's donation allows for four participants. Councilmember Brown indicated he would attend.

The City Administrator reminded the Council of the upcoming League of Kansas Municipalities Conference at Overland Park Convention Center. She indicated that at the September 22 meeting, the delegate would need to be named.

Ms. Linn spoke about the monument signage at Amazon. She noted a discussion regarding the monument sign would be discussed at the joint meeting with the Planning Commission.

Mayor Roberts informed the Council, the Planning Commission approved the use of storage containers for buildings. Mr. Brown indicated it was for JB Hunt. Mayor Roberts opposed this use. The City Attorney indicated the City would need to amend the city code to not allow the use of shipping containers as construction material within the City. The consensus of the Council was to look into this.

Earlier in the year the council had agreed to contract with the Gardner Edgerton Chamber of Commerce and the Southwest Johnson County Economic Development Corporation for a total price of \$50,000. The City of Edgerton is now exploring the idea of out sourcing or perhaps having their own Economic Development Department. Mayor Roberts and City Council have agreed that they would like more information on this subject.

15. REPORT BY THE MAYOR

None

16. FUTURE MEETING/EVENT REMINDERS



September 13th 7:00 pm – Planning Commission with Joint Work Session Immediately following City Council/Planning Commission.



September 17th 10:00 am until Noon – Food Pantry- Methodist Church



September 20th 5:30-7:30 – Parks Master Plan Open House



September 21st Noon – Senior Lunch



September 22nd 7:00 pm – City Council Meeting

23. ADJOURN

Motion by Crooks, seconded by Troutner, to adjourn the meeting.

Motion was approved, 5-0.

The meeting adjourned at 7:45 p.m.

Approved by the Governing Body on

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider Ordinance No. 1035 Amending Chapter II Of The Edgerton, Kansas Municipal Code To Include New Article 2 Regulating The Keeping Of Beehives Within The City

Department: Community Development

Background/Description of Item: During a City Council meeting, Council Member Troutner requested that beekeeping within the city limits be added to a future council meeting agenda. City Council directed staff to research industry standards, any relevant state statutes, best practices from other communities, etc. Staff brought the research initially to the June 23rd City Council meeting. City Council tabled the discussion regarding beekeeping within the city limits to the July 14, 2016 City Council meeting to allow council members further time to review materials provided.

At the June meeting, staff arranged to have members of the Northeastern Kansas Beekeepers Association (NEKBA) present to serve as experts with regard to beekeeping and answer questions from City Council. At that meeting, the representatives from NEKBA distributed the regulations regarding bees from the City of Lawrence and the City of Overland Park. Those regulations are included in this packet. For more information about NEKBA, please see their website at <http://www.nekba.org/>.

At the July 14th City Council meeting, City Council directed staff to work with City Attorney to draft an ordinance regulating the keeping of bees within the city limits. Please find enclosed a draft ordinance with the following requirements.

ANNUAL PERMIT

- Annual permit is required
- To apply for permit must submit:
 - Application Form
 - Diagram of the applicant's property lines
 - Location/materials of the proposed Beehive(s) and Flyaway Barrier. Flyaway Barrier defined as a solid wall or fence built, or dense hedge grown, to a height of six feet and within 10 feet of the property line, and which faces the front of the Beehive where the Bees enter and leave the Beehive.
 - Measurements showing the distances between each of these.
 - Copies of notifications (completed application form with required diagram) and proof of mailing (all owners of property within 300 feet) that they have 14 days from receipt to provide the City Clerk with a written objection, identifying themselves, and indicating why they object to the application.

REQUIREMENTS FOR WATER AND IDENTIFICATION

- Required to provide fresh, clean, watering facilities for the Bees within 25 feet of each Beehive
- Required to signage on each Beehive to prominently display the name, address, and phone number of the owner of the Beehive.

APPROVAL

- For one beehive: If all application requirements have been met and no written objection is received, the City Clerk is authorized to approve the application and issue the Beehive permit.
- For more than one beehive and/or written objection to an application is received, then the application will be considered and decided by the Governing Body. Governing Body is authorized to place any conditions it believes are appropriate on approval of the application.

ITEMS NEED COUNCIL DIRECTION

- **Number of Beehives:** The draft ordinance leaves a blank for the number of beehives permitted on residential property (defined as less than 3 acres) and nonresidential property (defined as more than 3 acres). Other cities seem to have 1-2 hives for under ½ acre; 3-5 hives more than ½ acre.
- **Permit Fee:** The draft ordinance references the Fee Resolution. Once City Council provides direction on the permit fee, staff will bring the Fee Resolution to the first council meeting in October. Other cities range from \$10-25 annually.

Also enclosed with this packet is information previously included in June 23rd City Council packet including a recent article from the League of Kansas Municipalities magazine and a model ordinance from the state of Louisiana.

Enclosure: Draft Ordinance No. 1035

Regulations from City of Lawrence and City of Overland Park

League of Kansas Municipalities article regarding Municipal Regulations on beekeeping

Model Beekeeping Ordinance from Louisiana

Related Ordinance(s) or Statute(s):

Recommendation:

Funding Source: N/A

Prepared by: Beth Linn, City Administrator

Date: September 22, 2016

ORDINANCE NO. 1035

AN ORDINANCE AMENDING CHAPTER II OF THE EDGERTON, KANSAS MUNICIPAL CODE TO INCLUDE NEW ARTICLE 2 REGULATING THE KEEPING OF BEEHIVES WITHIN THE CITY

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EDGERTON, KANSAS:

SECTION 1: Chapter II of the Edgerton, Kansas Municipal Code is hereby amended to include new Article 2, which shall read as follows:

ARTICLE 2. BEEHIVES

2-201. DEFINITIONS. For the purpose of this chapter, the following words shall have the following meanings.

- (a) Beehive means any container placed or maintained by a resident which is used for housing bees, and in which any bees are found.
- (b) Bees means any insect of the family Apidae.
- (c) Flyaway Barrier means a solid wall or fence built, or dense hedge grown, to a height of six feet and within 10 feet of the property line, and which faces the front of the Beehive where the Bees enter and leave the Beehive.
- (c) Nonresidential Property means premises having a land area of three acres or more.
- (d) Residential Property means premises with less than three acres of land.

2-202. LEGISLATIVE FINDINGS. The Governing Body of the City of Edgerton, Kansas, finds that there is a need to regulate and set minimum standards for the keeping of bees within the corporate limits of the City to protect the public health, safety, and welfare of the residents of Edgerton.

2-203. ANNUAL PERMIT REQUIRED. It shall be unlawful for any person to place, establish, or maintain any Beehive upon any premises within the corporate limits of the City unless and until an annual permit has been approved by the City, and the Beehive is kept in accordance with the provisions of this Article.

2-204. APPLICATION REQUIREMENTS; PROCEDURE. (a) Before an application for a Beehive permit will be considered by the City, the applicant must submit the following:

- (1) A completed application form (maintained in the City Clerk's office), and a diagram of the applicant's property lines, the

location and materials of the proposed Beehive(s) and Flyaway Barrier, and measurements showing the distances between each of these.

- (2) If applicable, the Permit Fee provided for in the City Fee Resolution.
- (3) Copies of notifications (which should include the completed application form and diagram required by Subsection (a)(1) above), and proof of mailing, sent to all owners of property within 300 feet of the applicant's property, notifying said owners that they have 14 days from receipt of their notification to provide the City Clerk with a written objection, identifying themselves, and indicating why they object to the application.

(b) If all application requirements have been met, the application is for one Beehive, and no written objection is received by the City Clerk, the City Clerk is authorized to approve the application and issue the Beehive permit. If the application is for more than one Beehive and/or a written objection to an application is received by the City Clerk, then the application will be considered and decided by the Governing Body and, in so deciding, the Governing Body is authorized to place any conditions it believes are appropriate on approval of the application.

2-205. NUMBER OF BEEHIVES. No more than Beehives shall be allowed on any Residential Property, and no more than Beehives shall be allowed on any Nonresidential Property.

2-206. WATER AND IDENTIFICATION SIGNAGE PROVIDED. (a) Fresh, clean, watering facilities for the Bees shall be provided within 25 feet of each Beehive. (b) Each Beehive shall prominently display the name, address, and phone number of the owner of the Beehive.

2-207. VIOLATIONS AND PENALTY. The violation of any provision of this Article is a public offense and any person convicted thereof shall be punished as provided in Section 1-112 of Article 1 of Chapter I of the Edgerton, Kansas Municipal Code. Each day that any violation of this Article shall continue shall constitute a separate offense.

SECTION 2: Effective Date. This Ordinance shall be effective after its passage, approval and publication once in the City's official paper.

ADOPTED BY THE GOVERNING BODY AND APPROVED BY THE
MAYOR OF EDGERTON, KANSAS ON THE _____ DAY OF SEPTEMBER,
2016.

Donald Roberts, Mayor

ATTEST:

Janeice Rawles, City Clerk

APPROVED AS TO FORM:

Patrick G. Reavey, City Attorney

Bees

- (i) Africanized honey bees are not permitted.
- (ii) (ii) Up to 2 colonies may be located on a lot of $\frac{1}{4}$ acre or less; 4 colonies on lots between $\frac{1}{4}$ and $\frac{1}{2}$ acre; 6 colonies on lots of $\frac{1}{2}$ to full acre. 8 colonies are permitted on any property larger than an acre (except that additional colonies are permitted when they are set back at least 200 ft from all property lines.)
 - a. For every 2 colonies permitted on a tract there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one standard 9 5/8 inch depth 10-frame hive body with no supers, the part of the beehive that is used to collect honey, attached as required from time to time for swarm management.
 - b. Each such nucleus colony shall be moved to another tract or combined with another colony on the subject tract within 30 days after the date made or acquired.
- (iii) Every person owning a hive, stand, box or apiary on property other than their residence shall identify such hive, stand box or apiary by a sign or other prominent marking stating in letters at least one inch high on a contrasting background the name and phone number of the owner of such equipment
- (iv) (iv) The following locational requirements apply to all hives:
 - a. No hive shall exceed 20 cubic feet in volume.
 - b. Hives are permitted only in the side and rear yards, unless roofmounted.
 - c. No hive shall be located closer than 3 ft from any property line.
 - d. No hive shall be located closer than 10 ft from a public sidewalk or 25 ft from a principal building on an abutting lot. (Hives must be relocated as needed as abutting lot develops.)
 - e. If a hive is within 10 ft of a property line and is located less than 10 ft off the ground, a flyway barrier is required.
- (v) (v) A flyway barrier, when required, shall be at least 6 ft tall and extend 10 feet beyond the colony location on each side. It can be solid, vegetative, or any Attachment C Draft Language Pg 5 combination of the two that forces the bees to cross the property line at a height of at least 6 ft.
- (vi) (vi) The beekeeper shall promptly requeen the colony if the colony exhibits unusual defensive behavior without due provocation.

- (vii) (vii) A constant supply of water shall be provided for all hives within 25 ft of each hive between March 1 and October 31 of each year.
- (viii) (viii) Bee hotels are not subject to these regulations.

Overland Park Municipal Code Chapter 6.14

Overland
Park

BEEKEEPING

Sections:

- 6.14.010 Legislative Findings.
- 6.14.020 Keeping of Bees.
- 6.14.030 Keeping of a Hive, Stand, Box or Apiary.
- 6.14.040 Multiple Number of Beehives.
- 6.14.050 Subsequent Development of Adjacent Properties.
- 6.14.060 Owner's Hives on Other Properties.
- 6.14.070 Water Facilities.
- 6.14.080 Exemptions.
- 6.14.085 Severability.
- 6.14.090 Violations and Penalty.

6.14.010 Legislative Findings.

The Governing Body of the City of Overland Park, Kansas, finds that there is a need to regulate and set minimum standards for the keeping of bees within the corporate limits of the City to protect the public health, safety, and welfare of the residents of Overland Park. (History: Ord. BK-1198 '1, 83)

6.14.020 Keeping of Bees.

It shall be unlawful for any person to place, establish, or maintain any hive, stand, box, or apiary or keep any bees in or upon any premises within the corporate limits of the City unless the bees are kept in accordance with the provisions of this chapter. (History: Ord. BK-1198 '2, 83)

6.14.030 Keeping of a Hive, Stand, Box, or Apiary.

No hive, stand, or apiary shall be placed or kept:

- A. Closer than 25 feet to the property line of adjoining residential property if a house or other building used for residential purposes is located on such property;
 - B. Or closer than 75 feet to any house or other building used for residential purposes other than the residence of the keeper of such bees without first obtaining written permission of such land, which permission may be revoked at any time;
 - C. Or closer than 100 feet to the exterior line of the traveled portion of a public street;
 - D. Or upon land not owned or possessed by the keeper of such bees without first obtaining written permission to do so from the owner or person lawfully in possession of such land, which permission may be revoked at any time.
- (History: Ord. BK-1198 '3, 83)

6.14.040 Multiple Number of Beehives.

No more than three beehives shall be placed or kept in a location which is between 75 feet and 600 feet from a house or other building used for residential purposes other than the residence of the keeper of such bees. (History: Ord. BK-1198 '4, 83)

Chapter 6.14 – continued.

6.14.050 Subsequent Development of Adjacent Properties.

Provided that should adjacent property be later developed, or residential structures located closer than the distances herein prescribed, the keeper shall move such hives, stands, boxes, or apiaries to comply with these regulations.
(History: Ord. BK-1198 '5, 83)

6.14.060 Owner's Hives on Other Properties.

Every person owning a hive, stand, box, or apiary located on premises other than where he resides shall identify such hive, stand, box or apiary by a sign or other prominent marking stating in letters at least one inch high on a contrasting background the name, address, and phone number of the owner of such equipment.
(History: Ord. BK-1198 '6, 83)

6.14.070 Water Facilities.

Fresh, clean, watering facilities for the bees shall be provided within 25 feet of each hive, stand, box or apiary.
(History: Ord. BK-1198 '7, 83)

6.14.080 Exemptions.

Nothing in these regulations shall be deemed or construed to prohibit the keeping of bees within a school or university building for the purpose of study or observation, or within a physician's office or laboratory for the purpose of medical research, treatment, or other scientific purposes.
(History: Ord. BK-1198 '8, 83)

6.14.085 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this chapter or any part thereof.
(History: Ord. DAC-1311 '23, 85)

6.14.090 Violations and Penalty.

The violation of any provision of 6.14.030 through 6.14.080 is a public offense and any person convicted thereof shall be punished as provided in 1.12.010 of the Overland Park Municipal Code. Each day that any violation of these sections shall continue shall constitute a separate offense.

(History: Ord. BK-1198 '9, 83)

http://www.opkansas.org/_Assets/law/opmc/opmc_by_chapter/06-14.pdf

The Buzz About Bees: Effective Municipal Beekeeping Regulations

by Helen Clemens



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In early 2007, beekeepers and researchers alike began to notice a significant problem of widespread losses of honey bee colonies throughout the country.¹ This problem, termed “Colony Collapse Disorder” (CCD), entailed the failure of more than 30% of hives across the United States during the winter of 2006-2007,² without any evidence or symptoms of known causes of colony death.³ Losses were observed at a slightly higher rate the following year,⁴ and by 2009, CCD had become a widely recognized problem not only inside the beekeeping and agricultural research communities, but also in mainstream media coverage.⁵ Because the honey bee pollinates 80% of all flowering crops, which equates to one-third of food consumed in the United States,⁶ this CCD phenomenon produced much cause for alarm. Several different companies produced educational and fundraising campaigns in support of honey bees⁷ and Congress required the USDA to research causes and solutions to CCD.⁸ To date, there is no confirmed explanation for this disappearance of honey bees.

Interestingly, in the time since CCD became a known problem for honey bees, there has been an incredible rise in backyard apiculture.⁹ In fact, the backyard beekeeper provides an important service in caring for and cultivating bees that allows them to thrive and pollinate throughout the local ecosystem. Not only do bees help to safeguard local food sources, some scientists believe that healthy, strong local bees may help to strengthen the species,¹⁰ which is particularly important in this time of crisis.

In response to this rising interest in beekeeping, many cities have introduced new regulations to permit beekeeping in residential areas.¹¹ This paper will survey and analyze different models for municipal beekeeping regulations (looking to examples from Melbourne, Florida; Hillsboro, Oregon; Savannah, Georgia and Baton Rouge, Louisiana) and balance the competing interests of the beekeeper, neighbors, and the municipal government; and will propose a model policy for municipal governments to adopt in order to best protect each of these interests.

Part I: Relevant Facts and Information about Honey Bees

As with any effort to regulate, the local government must first understand what it is regulating and how regulations may affect the activity being regulated. In terms of beekeeping, we need to understand the nature of bees and the art and science of beekeeping.

Beekeeping has been described as, “[an] art... to guide bees’ natural behavior into patterns of activity desired by the beekeeper.”¹² Beekeepers may induce bees to produce excess amounts of honey or provide them with food sources during nectar dearth, they may inspect hives to notice if the colony is threatened by an infection or parasite, and they may choose to introduce a new queen to ensure quality eggs are being laid.¹³ However, bees are largely left on their own. A beekeeper can provide resources, but the beekeeper cannot control the activities of the 60,000 bees that may occupy the hive during the months when the colony is most productive.¹⁴

Wild, or feral honey bees exist naturally throughout the United States. Honey bees will commonly fly up to four miles away from their hive to forage for nectar and honey.¹⁵ This is significant in terms of making decisions about beekeeping regulations, because bees will continue to move throughout any area in a municipality, whether or not they have keepers in residential areas.

An important component of apiology relevant to the regulation of hives, is that bees create flight patterns (“flyways” or “bee lines”) to and from the hive.¹⁶ These patterns can be manipulated by the manner in which the hive is situated on a property and what structures or impediments are near the hive.¹⁷ To an individual who observes a hive for any length of time during the busy nectar season, these patterns are almost immediately obvious, and can be likened to a runway at an airport where planes take off to and land from various locations.

It is a common misconception that bees are dangerous or threatening when they swarm, and will become aggressive and attack an unknowing passerby. Numerous depictions of bees include the image of a killer swarm attacking someone running away. When bees swarm however, they are generally docile,¹⁸ as they have no hive or home to defend when they swarm. An additional concern in the popular conscience is the idea of “killer bees.” Killer bees are a name given to the Africanized honey bee, which is admittedly more aggressive than the European varieties, reacting to disturbances ten times faster than other varieties of bees.¹⁹

In addition to the biological and behavioral aspects of bees, nuisance issues have a tendency to percolate around the keeping of bees—in other words, neighbors with real or perceived reasons to complain require the local government to have some sort of regulatory function for beekeeping in residential areas. Neighbors may lodge various complaints about bees.²⁰ Of these, the most serious (and perhaps most obvious) are the considerations of those individuals who have an allergy to bee stings. The incidence of immediate systematic allergic reactions to insect stings is estimated to be between 1-7% of the population,²¹ and a low estimate of annual

deaths caused by anaphylactic shock following a sting published by the World Allergy Organization postulates one per every ten million.²² Once individuals are aware that they have an immediate reaction to bee stings, they should be certain to guard against future stings by having a plan to use an adrenaline auto-injector (epi pen) in the event that an insect does sting them in the future.²³

(Local governments will be called upon to address issues of nuisance in terms of regulating beekeeping while the issues of importing and exporting different types of bees and tracking bee borne diseases will most likely be left to the state and federal governments putting the characteristics of bees relevant to that type of regulation outside the scope of this article).

The legal intersection between beekeeping and neighbors seeking to enjoy their respective property rights and local government regulation has a long history. Over one hundred years ago, Arkadelphia, a city in Arkansas, sought to address the issue by prohibiting beekeeping as a nuisance. After being challenged, the city lost when the court concluded that beekeeping cannot be regulated as a nuisance:

Neither the keeping, owning or raising of bees is, in itself, a nuisance. Bees may become a nuisance in a city, but whether they are so or not is a question to be judicially determined in each case. The ordinance under consideration undertakes to make each of the acts named a nuisance without regard to the fact whether it is so or not, or whether bees in general have become a nuisance in the city. It is, therefore, too broad, and is invalid.²⁴

However, in 1938, a California court concluded that the City of Los Angeles’ regulation of beekeeping, including a prohibition in some areas of the city but not others, survived constitutional challenge:

The Hadacheck decisions, above cited, sufficiently demonstrate that the facts appearing herein justify the ordinance prohibiting beekeeping within the city except in the designated areas, and that the ordinance is not unconstitutional for any reason. (See, also, *Brown v. City of Los Angeles*, 183 Cal. 783 [192 Pac. 716]; *Reiman v. Little Rock*, 237 U.S. 171, 176 [35 Sup. Ct. 511, 59 L. Ed. 900].)²⁵

In the same year that the Arkansas court decided the Arkadelphia case concluding that beekeeping cannot be legislatively defined as a nuisance, a New York court confirmed an injunction issued against a beekeeper in a case where a jury found beekeeping to be a nuisance.²⁶ Close to 70 years later, a Pennsylvania court concluded

that beekeeping is not a nuisance *per se* and denied an injunction that the township sought:

The keeping of bees in a residential neighborhood is not a nuisance *per se* and the strong arm of the chancellor should not be exerted to eliminate a legitimate business or occupation unless compelling reasons require it, that is, that the injury caused is real and substantial: [cited cases omitted.]²⁷

These cases illustrate the varying approaches to regulation, geographical and temporal development of judicial philosophy and the continuing likelihood for neighborly (or not) interaction between beekeepers and adjacent property owners. As time has passed, the development of zoning laws and a greater tendency to support governmental police powers no doubt have allowed many communities to regulate beekeeping in various ways that may be at odds with these cases from the distant past. What follows are some examples of different regulatory approaches to beekeeping.

Part II: Municipal Approaches to Beekeeping

Cities and counties have adopted a variety of different approaches to the question of how to manage the presence of beekeepers and their hives within their communities. While this article cannot begin to encompass the entirety of approaches within the approximately 20,000 municipal governments in the country,²⁸ the following examples provide illustrations of the different general approaches that municipalities may elect to take in the regulation of beekeeping.²⁹ These include a prohibition on beekeeping, requiring permission of neighbors to be able to keep bees, state preemption of municipal regulation of bees, and a robust regulatory scheme at the city and county government level.

Outright Ban on Beekeeping: Melbourne, Florida

The city of Melbourne, Florida is located on the eastern central coast of the Florida peninsula stretching across to a barrier island. About an hour away from the Kennedy Space Center,³⁰ Melbourne has a population of 76,354.³¹ Melbourne also has an outright ban on beekeeping. The city code states, "It shall be unlawful for any person to operate an apiary or otherwise maintain bees within the city limits, except in an agricultural estate use (AEU) zoning district, or as may otherwise be provided in this article."³² The exceptions, however, must be related to medical or educational purposes, rendering backyard beekeeping essentially illegal:

Sec. 10-53-Exceptions to section 10-52

(a) Nothing contained in section 10-52 shall prohibit the maintenance of one hive of bees under the following conditions:

(1) Upon the premises of any public or private educational institution for use by students for educational purposes.

(2) Upon such premises as may be required for medical research or scientific purposes.

(3) Upon the premises of a building or residence, provided that the person seeking to maintain the hive upon the premises shall first make application for permit to maintain such hive. No application for permission to maintain such hive shall be granted unless the use for educational purposes is clearly established.

(b) The use of bees for educational, medical or scientific purposes, as provided for herein, shall be permitted so long as no hazard or nuisance, public or private, is created.³³

Thus, the backyard beekeeper, or a resident who is interested in helping the environment by maintaining a beehive has no options in Melbourne.

This means the concerns of any individuals with allergies to bees, or neighbors who would prefer not to live near a beehive are almost fully met; should any individual try to keep bees without a scientific or educational permit, the neighbor need only report the instance to the city government, who will rule it illegal. But a prohibition on beekeeping does not necessarily equate to a lack of bees in a city, because feral honey bees require no license or permit to exist anywhere.

Melbourne's approach does nothing to address the CCD problem. As backyard beekeepers can play an important role in helping the local ecosystem, a complete prohibition on the practice during this period of expansive colony collapse could be harmful. Obviously, each community must measure its regulatory mission by its residents' wishes and in Melbourne, at least so far, instead of balancing the interests of property owners the community has concluded it is best served by a complete ban.

Neighborhood Permission: Hillsboro, Oregon

The city of Hillsboro, Oregon, population 93,340³⁴ and located about a thirty minute drive east³⁵ of the state's largest city, Portland, has adopted a more nuanced approach to the regulation of beekeeping within the municipal limits. The city code includes regulations for the maintenance of beekeeping equipment, total number of hives, and instructions as to where the beehive may be located on an individuals' property. Most significantly, before a hive can be registered, any neighbors who live within 300 feet

"As backyard beekeepers can play an important role in helping the local ecosystem, a complete prohibition on the practice during this period of expansive colony collapse could be harmful"

of the residence must be notified of the plan to have a colony near their homes.³⁶ With adequate medical certification of a bee sting allergy, at-risk individuals may request that hives be removed from a neighbor's property.³⁷

The clarity and cohesiveness of this particular portion of the code merits a review of the language itself:

6.20.080 Bees

A. Keeping Bees. Bees may be kept in the city consistent with the following standards:

1. The keeper is in compliance with HMC 6.20.080(B);
2. Bee hives/colonies may only be kept on single family residential property;
3. No more than three bee hives / colonies may be kept;
4. Bee hives/colonies may not be kept when a person who has a medically certified allergy to the sting of bees resides within 300 feet of the hives/colonies and has submitted to the city medical documentation and a written request that the hives/colonies be removed;
5. Products generated, such as honey, may not be sold from a residential property;

6. Bees must be contained consistent with the following standards:

- a. All portions of the hives/colonies enclosure must be located behind the front building plane of the dwelling; and
- b. All portions of the hives/colonies must either be located a minimum of 10 feet from any property line unless there is no barrier, such as a fence or hedge, that is at least six feet in height on all relevant property lines, in which case a minimum of 15 feet applies.

7. Beekeeping equipment must be kept consistent with the following standards:

- a. All portions of the hives/colonies enclosure must be kept and maintained in a clean and sanitary condition at all times to prevent any condition which may be dangerous or detrimental to the health of the public or animals or constitute a nuisance; and
- b. Unused equipment may not be in the open or otherwise accessible to bees.

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B. Notification Process. Prior to keeping bees, a person must:

1. Prepare a notice stating intent to keep bees and the type of bee kept and mailing list, utilizing city approved templates;
2. Mail notice to adjacent property owners within 300 feet of the site two weeks prior to commencing bee keeping; and
3. Submit a written declaration to the city of compliance with the notification requirements in HMC 6.20.080(B)(1) and (2).³⁸

These regulations have several important implications. First, because a neighbor with a bee allergy can seek relief from the government to avoid living in proximity to beehives, the concerns of those with allergies are entirely met.³⁹ The notice process is quite clearly stipulated on the city's website; a copy of a form letter that the prospective beekeeper must send out states specifically: "[I am] considering keeping bees on this property. This notice is to allow person(s) with a medically certified allergy the opportunity to submit a written request that hives not be located on this site."⁴⁰ This letter, sent with an attachment listing the full text of Hillsboro's code regulating bees leaves no ambiguity. In order to have a beehive on one's property, the individual must alert neighbors to their right to have that action stopped or prevented. Additionally, the beekeeper does not have full flexibility to use any portion of a property to keep bees: hives must be situated 10-15 feet away from any property lines. This limits a beekeeper's ability make best use of the landscape or situate the bees in the best manner possible. Furthermore, this will do little to contain the bees to the beekeeper's property, as bees will fly as far as four miles away from their hives in the search for nectar.⁴¹

Examining these regulations from the perspective of the benefits that bees bring to the environment, Hillsboro beekeepers may legally keep bees and help to promote their presence in Oregon, but these interests may be trumped by those of an individual with a bee sting allergy. Furthermore, the restrictions on where a beehive may be placed within a yard may make beekeeping impossible based on the size of the yard and its relation to the home on the property.

State Control: Savannah, Georgia

Savannah, Georgia is a coastal city in the Deep South, with a population of 142,772.⁴² A beekeeper in Savannah does not need to apply for registration or be subject to any regulation by the city's government. The State of Georgia preempted local control over beekeeping:

No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution prohibiting, impeding, or restricting the establishment or maintenance of honeybees in hives. This

Code section shall not be construed to restrict the zoning authority of county or municipal governments.⁴³

Thus, local governments in Georgia cannot address the concerns of their residents about beekeeping.⁴⁴

Although Georgia preempts local regulation, it allows local governments to impose zoning regulations that can help to alleviate nuisance and on one occasion proved problematic for beekeepers. Specifically, the code states, "This Code section shall not be construed to restrict the zoning authority of county or municipal governments (emphasis added)."⁴⁵ This proved problematic for Nicholas Weaver, a hobby beekeeper from the age of 13, residing in Forsyth County.⁴⁶ After a decade of backyard beekeeping, with a total of six hives on his own and neighbors' properties, Weaver received a notice from the Forsyth County government stating that he had to remove his bees.⁴⁷ Absent any zoning regulations for beekeeping, the county had determined that the bees were livestock,⁴⁸ and that Weaver's residence was not zoned for that use. Ultimately the problem was resolved when Weaver worked with the local authorities and was granted a reprieve;⁴⁹ yet this illustrates that even when the state law directly preempts local governments from prohibiting bees, a neighbor's complaint (which triggered Forsyth County's response),⁵⁰ can still cause some problems for beekeepers.

Permission with Explicit and Nuanced Requirements: Baton Rouge, Louisiana

Baton Rouge, Louisiana, has a population of 229,169.⁵¹ The Baton Rouge Municipal Code includes a variety of incredibly nuanced requirements for backyard beekeepers, based on the state's Model Beekeeping Ordinance for Louisiana Local and Municipal Governments.⁵² These provisions on beekeeping, (§§ 6:660- 6:671 of the Baton Rouge Municipal Code) are too lengthy to reproduce here, but include the following regulations: annual registration of all honeybee hives with the Louisiana Department of Agriculture and Forestry,⁵³ stipulations on what kind of hive beekeepers may use (Langstroth⁵⁴ hives),⁵⁵ requirements for where the colony may be located on the beekeeper's property (at least 25 feet from the property line),⁵⁶ requirements for the creation of a fence or barrier to deflect the bee line,⁵⁷ provision of water for the colony,⁵⁸ limits to the number of hives that may be on a property based on its size,⁵⁹ requirements for signage near the apiary⁶⁰ and procedures for non-compliance with the section.⁶¹ Notably, the Baton Rouge Municipal Code does not require notification of neighbors nor does it provide protections for nearby residents with bee sting allergies. Baton Rouge may not include each regulation that other cities have employed, but it demonstrates how a city can provide instruction for beekeepers on how they must conduct their activities.

Other local governments include regulations that address the species of bees that a beekeeper may keep within a municipality⁶² and the requirement of a firebreak⁶³ to address the beekeepers' use of smokers to calm the bees prior to working the hives.⁶⁴ While

other regulatory features may exist, those discussed in this article highlight regulatory trends and patterns that different municipalities around the country take regarding bees.

Part III: Best Practices for Municipal Regulation of Beekeeping.

After reviewing the practice of bee keeping and how local governments have addressed the issue, this article proposes that in order to best capture the needs of the beekeeper and the community, the following measures should be incorporated into municipal regulations for beekeeping. As the individual needs of each community may require specific tailoring, these are presented as principles for best practices. As an initial point, all should adopt measures addressing beekeeping rather than prohibiting it, especially as the popularity of this activity rises; this will help to avoid any gray areas and unnecessary, costly litigation surrounding beekeeping.⁶⁵

1. Legalize Beekeeping.

Little rationality exists in a complete prohibition on beekeeping. Wild honey bees will exist, roam and pollinate in communities despite regulations to prohibit either commercial or hobby bee keeping. Although legalizing beekeeping may make bees more commonplace, the option of prohibition provides only a false sense of security since there is no safe way to completely eradicate the presence of bees. Beekeeping provides many benefits for the environment and local community; if it is not encouraged, it should at least be permitted. Beekeeping can be conducted safely even in the densest of municipalities, such as New York City, and laws that prohibit beekeeping ought to be changed to provide a reasonable regulatory environment for the activity.

2. Municipalities should require the registration of beehives with the local government, and make this list available to citizens upon request (in addition to any state registration requirements).

Although bees exist in the wild and cannot be eradicated, both the government and public benefit from knowing where bees are kept. This serves several purposes. First, any individual who suffers from a bee allergy, or has a child who does, clearly benefits from information as to where a bee colony or small apiary exists. This improves the goals inherent in the system enacted by Hillsboro, Oregon, because it looks not only at the immediate area surrounding the residence of someone with a bee sting allergy, but instead at a neighborhood or city as a whole. Children especially are known to play outside well beyond an arbitrary setback such as the 300 foot radius of their home. Parents can better focus on the areas in which they may instruct their young children to avoid, and may be certain to have epi pens available at locations at which their kids regularly play

that are near beehives (for instance, at a friend's home). For those adults that are affected with an allergy, by noting which properties contain beehives, they can conduct their activities to avoid these locations. Ideally, if the resident is concerned about new hives, the municipality could set up a notification list, such that individuals may request to be informed of any new colony registrations and installations. If a municipality keeps this kind of registry, individuals bear the burden of responsibility for informing themselves about where bee colonies exist, instead of placing an unreasonable burden or prohibition on the beekeeper.

Not only does this system better serve the needs of those with bee sting allergies, it protects the rights of individuals who would like to keep bees on their property. The Hillsboro code provisions that

A Kansas Bee Keeper checking on his bees. Photo by Andrey Ukrazhenko.



allow individuals with a bee allergy to prevent their neighbors from keeping bees poses a high burden without a clear indication that the measure provides sufficient protection to the allergic individuals. Notably, a feral bee colony may occupy a tree, stump or log—all without the property owners' or the neighbors' knowledge. Those with allergies to bee stings must be alert regardless of whether they live close to a bee keeper's hive or a feral hive, but only the bee keeper's hive will be regulated based on the neighbors' concerns.

Furthermore, though most inspection of beehives relating to disease occurs by a state agency, with the diseases and parasites that plague the American honey bee, it would be helpful to require beekeepers to notify other beekeepers nearby if their hives have been affected by any of these problems through a locally required notification system. A locally maintained register of all bee colonies would help with this goal, and generally to make the beekeeping community aware of all other beekeepers in their vicinity. As some states, like Georgia, do not require registration of bee colonies if they are not commercial entities, this also provides a localized list that is useful outside of traditional state purposes.

3. Avoid stipulations regarding setbacks; make them available to neighbors' as a right only on demonstration of need.

A beekeeper should be able to situate a beehive on the bee keeper's property in the area that is best suited for the colony; the mandate that there be a setback rests on a presumption that the beehive is an inherent nuisance to neighbors and that separation from the property line provides some protection. In fact, a prudent beekeeper will not want to keep a hive near a property line that borders a nosy dog, or that allows people to easily interfere with the hive and the bees' activities. And, depending on the set up of a yard a location close to the property line may be the safest place for the bees to

be maintained. However, if a neighbor is able to demonstrate a compelling reason to move or relocate a hive, the local government should be able to impose a setback requirement based on the specific facts including the lot size, location within the neighborhood, bee line and other localized concerns.

While neighbors ideally should be able to work together without municipal intervention, if that cooperation fails, neighbors ought to be able to request a setback based on individualized concerns and specific facts. By requiring individualized and specific facts to govern the decision, the law will not create an unintended prohibition on beekeeping by making it impossible to locate a hive on a small property without much yard space.

4. Enact a Flyway Requirement.

As mentioned above, a particular feature of bees is their "bee line" to and from the hive. This phenomenon is something around which municipalities should provide some regulatory framework, as it poses the most likely reason that regular human-bee interaction can be negative. If the bee line from the entrance of the hive to the flowering plants nearby is situated so that the public or neighbors may regularly interrupt this flight path, the location is not ideal (both for the beekeeper and the people walking between these spaces).

By requiring the beekeeper to have a flyway barrier, this will help to eliminate routine contact that would be out of the ordinary in a feral hive of bees. This can be flexible: a fence, shrubbery or other arrangement can prevent bees from establishing a flight pattern that causes this unnecessary contact. By putting the height requirement at about six feet, this will eliminate most possibilities for a bee to encounter (and perhaps sting) a human. If the beekeeper can demonstrate that the flight pattern of the bees will cause insignificant public contact based on where the hive sits on their property, this

A look inside the beehive. Photo by Andrey Ukrazhenko.




should serve in place of satisfying the flyway requirement. Should a beekeeper violate this flexibility, substantial penalties and abatement orders can apply.

5. Regulations Regarding the Species of Bees.

A municipality should ban Africanized honey bees (especially if the state has not done so). These bees are more aggressive and their prohibition will help to alleviate the neighbors' concerns and provide an added protection against Africanized honey bees mating with the European varieties that occupy most of the United States.

Conclusion

Honey bees add much value to communities and municipalities should adopt an inclusive series of regulations to clarify the rights of beekeepers and their neighbors, following the principles described above. This is particularly important in light of the increased popularity of backyard beekeeping, urban agriculture and in response to Colony Collapse Disorder.

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 60 *Id.* § 6:669.
 61 *Id.* § 6:671.
 62 *See* Salt Lake City Code § 8.04.010. “HONEYBEE: The common honeybee, *Apis mellifera* species, at any stage of development, but not including the African honeybee, *Apis mellifera scutellata* species, or any hybrid thereof.” The relevant provisions of the code permit the keeping of honeybees with a series of registration requirements, and by the exclusion of the African honeybee within that definition, make its presence illegal in Salt Lake City. European race varieties, however would be included. *Id.*
 63 59 *See* Patricia Salkin, *Honey It’s All the Buzz: Regulating Neighborhood Beehives*, 39 B.C. ENVTL. AFF. L. REV. 55, 71 (2012) (quoting San Diego, Cal., Mun. Code §44.0413(a)).
 64 *See* KIM FLOTTUM, *THE BACKYARD BEEKEEPER: AN ABSOLUTE BEGINNER’S GUIDE TO KEEPING BEES IN YOUR YARD AND GARDEN* 32 (2010).
 65 This also ensures that bees will be treated differently from “undomesticated animals” or “agriculture” which are generally prohibited in city codes, and do not adequately encompass the nature of honey bees and the practice of bee keeping. This is akin to the Weaver case described *supra* Part II.



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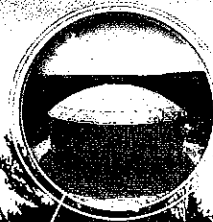
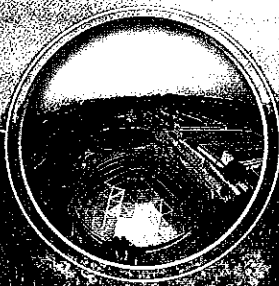
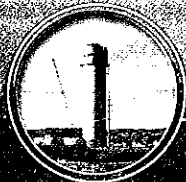
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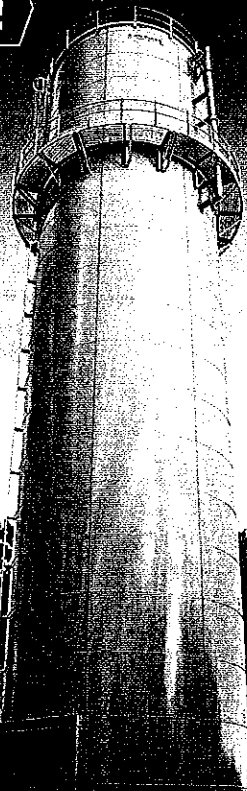
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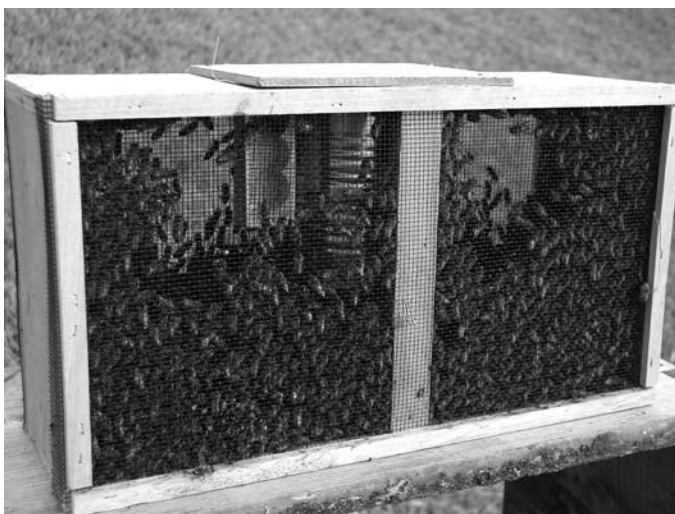
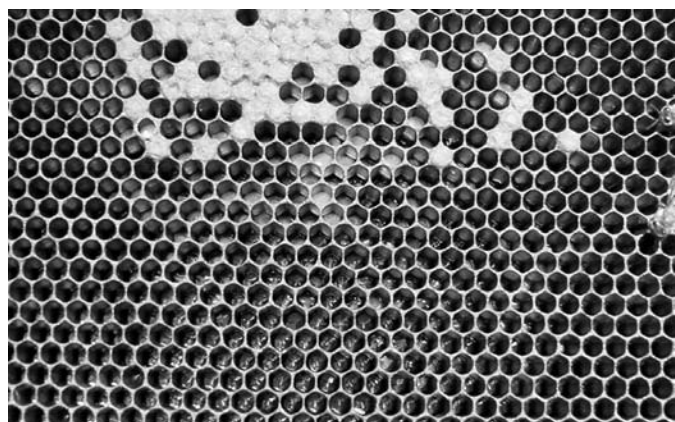
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Model Beekeeping Ordinance

*for Louisiana Local and
Municipal Governments*



This publication is intended to help local and municipal governments address potential concerns or problems between the public and beekeepers. It was adopted from the Texas beekeeping ordinance and modified by the Louisiana Beekeepers Association, the Louisiana Department of Agriculture and Forestry (LDAF), the USDA/ARS Honey Bee Breeding Genetic and Physiology Lab and the Louisiana Cooperative Extension Service. Because the honeybee industry is vital to Louisiana agriculture, the four organizations are willing to assist any local, municipal state government in the use or implementation of this program.

Proposed Model Beekeeping Ordinance for Louisiana Local and Municipal Governments

Whereas, honeybees are of benefit to mankind, and to Louisiana in particular, by providing agriculture, fruit and garden pollination services and by furnishing honey, wax and other useful products; and

Whereas, Louisiana is among the leading states in honey production and agricultural byproducts associated with beekeeping throughout the United States; and

Whereas, domestic strains of honeybees have been selectively bred for desirable traits, including gentleness, honey production, tendency not to swarm and nonaggressive behavior, characteristics that are desirable to foster and maintain; and

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

Now, Therefore, Be It Ordained and Enacted By

(Insert name of governmental entity)

Section 1. That the findings contained in the preamble of this ordinance are hereby adopted as a part of this ordinance.

Section 2. That Chapter No. _____ (Health) of the Code of Ordinances,
_____, (city), _____ (state), is hereby
amended by adding a new article No., which reads as follows:

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 clearly indicates another meaning:

1. "Apiary" means the assembly of one or more colonies of bees at a single location.
2. "Beekeeper" means a person who owns or has charge of one or more colonies of bees.
3. "Beekeeping equipment" means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.
4. "Colony" or "hive" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.
5. "Honeybee" means all life stages of the common domestic honey bee, *Apis mellifera* species.
6. "Tract" means a contiguous parcel of land under common ownership.
7. "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.

Certain Conduct Declared Unlawful

- (a) The purpose of this article is to establish certain requirements of sound beekeeping practice that are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas.
- (b) Notwithstanding compliance with the various requirements of this article, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others or interfere with the normal use and enjoyment of any public property or property of others.

Hive Registration

All honey bee colonies shall be registered annually with the Louisiana Department of Agriculture and Forestry. IT IS THE LAW!

Hive Type

All honey bee colonies shall be kept in Langstroth-type hives with removable frames, which shall be kept in sound and usable condition.

Fencing of Flyways

In each instance in which any colony is situated within 25 feet of a public or private property line of the tract upon which the apiary is situated, 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 consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the property lines in the vicinity of the apiary. It is a defense against prosecution under this section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least 25 feet from the property line of the apiary tract.

Water

Each beekeeper shall ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, bibcocks, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact.

General Maintenance

Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

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 European stock bred for gentleness and nonswarming characteristics.

Colony Densities

- (a) It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the tract on which the apiary is situated:
 1. One-quarter acre or less tract size – two colonies.
 2. More than one-quarter acre but less than one-half acre tract size – four colonies.
 3. More than one-half acre but less than 1 acre tract size – six colonies.
 4. One acre or larger tract size – eight colonies.
 5. Regardless of tract size, where all hives are situated at least 200 feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.
 6. Regardless of tract size, so long as all property other than the tract upon which the hives are situated – that is, within a radius of at least 200 feet from any hive – remains undeveloped property, there shall be no limit to the number of colonies.
- (b) For each two colonies authorized under Colony Densities [subsection (a)] there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one standard 9 5/8 inch depth 10-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 is acquired.

Marking Hives, Presumption of Beekeeping

- (a) In apiaries the beekeeper shall conspicuously post a sign setting forth his name and telephone number. In addition, the beekeeper's registration yard marker, provided by the LDAF, shall be posted on a sign within the apiary. It is a defense against prosecution under this subsection that a colony is kept upon the same tract upon which the owner resides.
- (b) Unless marked in accordance with subsection (a) it shall be presumed for purposes of this article that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the tract 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 tract setting forth the name, address and telephone number of the other person who is acting as the beekeeper.

Inspection

The health officer shall have the right to inspect any apiary between 8 a.m. and 5 p.m. Where practicable, prior notice shall be given to the beekeeper if he resides at the apiary or if his name is marked on the hives.

Compliance

- (a) Upon receipt of information that any colony situated within the city is not being kept in compliance with this article, the director shall initiate an investigation. If he finds grounds to believe that one or more violations have occurred, he will have a written notice of a hearing issued to the beekeeper.
- (b) The notice of a hearing shall set forth:
1. The date, time and place at which the hearing will be conducted.
 2. The violation(s) alleged.
 3. That the beekeeper may appear in person or through counsel, present evidence, cross-examine witnesses and request a court reporter as provided by Rule No. _____ of the city council's rules of procedure.
 4. That the bees may be ordered destroyed or removed from the city if the hearing officer finds that they have been kept in violation of this article. Notices shall be given by certified U. S. mail or personal delivery. If the health officer is unable to locate the beekeeper, however, the notice may be given by publication one time in a newspaper of general circulation at least five days before the date of the hearing.
- (c) The hearing shall be conducted by the director or a designated health officer. The burden shall be on the city to demonstrate by a preponderance of credible evidence that the colony or colonies have in fact been kept in violation of this article. If the hearing officer finds that the colony or colonies have been kept in violation of this article, he may order that the bees be destroyed or removed from the city, not to exceed 20 days and that bees not thereafter be kept upon the tract for a period of two years.
- In instances where the hearing officer finds that the violations were not intentional and that the beekeeper has taken corrective actions to cure the alleged violations, he may issue a warning in lieu of ordering the bees destroyed or removed. Upon failure of the beekeeper to comply with the order, the health officer may cause the bees to be destroyed and the hive structures to be removed. In each instance in which a bee colony is destroyed, all usable components of the hive structure that are not damaged or rendered unhealthy by the destruction of the bees shall upon the beekeeper's request be returned to the beekeeper, provided that the beekeeper agrees to bear all transportation expenses for their return.

- (d) The decision of the hearing officer may be appealed in accordance with the provision of Rule No. of the city council's rules and procedures by filing a notice of appeal with the city secretary within 10 days following the date that the hearing officer announces his decision, or if the decision is not announced at the conclusion of the hearing, within 15 days following at the date the hearing officer places written notice of his decision in the mail to the beekeeper. An appeal shall not stay in the hearing officer's decision, and it shall not be the responsibility of the beekeeper to remove the bees from the city pending the determination of the appeal.
- (e) The provisions of this section shall not be construed to require the conduct of a hearing for the destruction of (1) any bee colony not residing in a hive structure intended for beekeeping or (2) any swarm of bees or (3) any colony residing in a standard or man-made hive, which by virtue of its condition, has obviously been abandoned by the beekeeper.

Section 3. If any provisions, section, subsection, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the city council in adopting this ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this ordinance are declared to be servable for the purpose.

Section 4. This ordinance shall become effective at _____ (hour) on _____ (date).

Section 5. There exists a public emergency requiring that this ordinance be passed finally on the date of its introduction as requested in writing by the mayor; therefore, this ordinance shall be passed finally on such date and shall take effect as provided in Section 4, above.

Passed and approved this _____ day of 20____.

(Mayor)

Author: Dale K. Pollet, Specialist (Entomology)

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CITY OF EDGERTON, KANSAS

COUNCIL AGENDA ITEM

Council Meeting Date: September 22, 2016

Agenda Item: Ordinance Authorizing Series 2016 Bonds and Bond Documents

Subject: Additional Bonds for ELHC XIV Project (Amazon)

Summary:

The City issued \$38,000,000 in industrial revenue bonds for the ELHC XIV, LLC project in December 2015. ELHC XIV used the proceeds of the bonds to construct an approximately 822,500 sq. ft. warehouse and distribution facility, to be located at 19400 Montrose Street in Edgerton, Kansas (the "Project"). ELHC XIV has leased the Project to Amazon.

ELHC XIV has requested that the City issue an additional \$25,000,000 in industrial revenue bonds to complete the acquisition, construction and equipping of the Project.

Ordinance:

The Ordinance authorizes the City to issue an additional \$25,000,000 of industrial revenue bonds for the Project. The bonds will be limited obligations of the City. This means that the City has to make payments on the bonds to ELHC XIV as the owner of the bonds only to the extent the City receives payments from ELHC XIV pursuant to the lease. If lease payments from ELHC XIV are insufficient to cover scheduled debt service on the bonds, the City is not obligated to make up any shortfall from any other funds of the City. The bonds are not a general obligation of the City and do not count against the City's debt limit.

The original Indenture allows for the issuance of Additional Bonds. In order to issue Additional Bonds, the City must amend the existing bond documents. The Ordinance authorizes the City to enter into the following documents:

- (a) First Supplemental Trust Indenture;
- (b) First Supplemental Base Lease Agreement;
- (c) First Supplemental Lease Agreement;
- (d) Bond Purchase Agreement whereby ELHC XIV agrees to acquire the Bonds.

This bond issue has no impact on the existing property tax abatement for the Project.

ORDINANCE NO. 1036

AN ORDINANCE AUTHORIZING THE CITY OF EDGERTON, KANSAS, TO ISSUE INDUSTRIAL REVENUE BONDS (ELHC XIV, LLC PROJECT) SERIES 2016, IN AN AGGREGATE MAXIMUM PRINCIPAL AMOUNT NOT TO EXCEED \$25,000,000, FOR THE PURPOSE OF PROVIDING FUNDS TO PAY THE REMAINING COST OF A WAREHOUSE AND DISTRIBUTION FACILITY, INCLUDING LAND, BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES, MACHINERY AND EQUIPMENT; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL TRUST INDENTURE; AUTHORIZING THE CITY TO ENTER INTO A FIRST SUPPLEMENTAL BASE LEASE AGREEMENT AND A FIRST SUPPLEMENTAL LEASE AGREEMENT; AUTHORIZING THE CITY TO ENTER INTO A BOND PURCHASE AGREEMENT, AND AUTHORIZING AND APPROVING THE EXECUTION OF CERTAIN DOCUMENTS AND THE TAKING OF OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS.

WHEREAS, the City of Edgerton, Kansas (the “City”), is authorized pursuant to the provisions of K.S.A. 12-1740 to 12-1749d, inclusive, as amended (the “Act”), to acquire, purchase, construct, install and equip certain commercial and industrial facilities, and to issue industrial revenue bonds for the purpose of paying the cost of such facilities, and to lease such facilities to private persons, firms or corporations; and

WHEREAS, the City issued its Industrial Revenue Bonds (ELHC XIV, LLC Project) Series 2015, in an aggregate maximum principal amount not to exceed \$38,000,000 (the “Series 2015 Bonds”), pursuant to a Trust Indenture dated as of December 1, 2015 (the “Original Indenture”), between the City and UMB Bank, n.a., as trustee (the “Trustee”); and

WHEREAS, the Series 2015 Bonds were issued for the purpose of acquiring, constructing and equipping a commercial project, consisting of an approximately 822,500 sq. ft. warehouse and distribution facility, to be located at 19400 Montrose Street in Edgerton, Kansas, including land, buildings, structures, improvements, fixtures, machinery and equipment (the “Project”); and

WHEREAS, the City leased the Project from ELHC XIV, LLC, a Kansas limited liability company (the “Company”), pursuant to a Base Lease Agreement dated as of December 1, 2015 (the “Original Base Lease”), and the City subleased the Project to the Company pursuant to a Lease Agreement dated as of December 1, 2015 (the “Original Lease”); and

WHEREAS, the Company has requested that the City issue additional bonds under the Original Indenture to complete the acquisition, construction and equipping of the Project; and

WHEREAS, the governing body of the City has heretofore and does now find and determine that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the City and the State of Kansas that the City issue its Industrial Revenue Bonds (ELHC XIV, LLC Project) Series 2016, in an aggregate maximum principal amount not to exceed \$25,000,000 (the “Series 2016 Bonds”), for the purpose of completing the acquisition, construction and equipping of the Project; and

WHEREAS, the governing body of the City further finds and determines that it is necessary and desirable in connection with the issuance of the Series 2016 Bonds that the City enter into certain agreements, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EDGERTON, KANSAS, AS FOLLOWS:

Section 1. Authorization of and Security for the Series 2016 Bonds. The City is hereby authorized to issue and sell the Series 2016 Bonds for the purpose of providing funds to pay the cost of completing the acquisition, construction and equipping of the Project. The Series 2016 Bonds shall be issued and secured pursuant to the herein authorized First Supplemental Indenture and the Original Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rates, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Original Indenture and the hereafter defined First Supplemental Indenture. The Series 2016 Bonds shall be issued on a parity with the Series 2015 Bonds and shall be payable solely out of the rents, revenues and receipts derived by the City from the Project, and the Project and the net earnings derived by the City from the Project shall be pledged and assigned to the Trustee as security for payment of the Series 2016 Bonds as provided in the Indenture and on a parity with the Series 2015 Bonds.

Section 2. Authorization of Documents. The City is hereby authorized to enter into the following documents, in substantially the forms presented to and reviewed by the Council of the City (copies of which documents, upon execution thereof, shall be filed in the office of the City Clerk), with such changes therein as shall be approved by the officers of the City executing such documents, such officers' signatures thereon being conclusive evidence of their approval thereof:

(a) First Supplemental Trust Indenture dated the date set forth therein (the "First Supplemental Indenture"), between the City and the Trustee, which supplements and amends the Original Indenture, pursuant to which the Series 2016 Bonds shall be issued;

(b) First Supplemental Base Lease Agreement dated the date set forth therein (the "First Supplemental Base Lease"), between the Company and the City, which supplements and amends the Original Base Lease;

(c) First Supplemental Lease Agreement dated the date set forth therein (the "First Supplemental Lease"), between the City and the Company, which supplements and amends the Original Lease; and

(d) Series 2016 Bond Purchase Agreement dated the date set forth therein (the "Bond Purchase Agreement"), between the City and the Company, as Purchaser.

Section 3. Execution of Series 2016 Bonds and Documents. The Mayor of the City is hereby authorized and directed to execute the Series 2016 Bonds and to deliver the Series 2016 Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Original Indenture, as supplemented by the First Supplemental Indenture. The Mayor of the City is hereby authorized and directed to execute the First Supplemental Indenture, the First Supplemental Base Lease, the First Supplemental Lease, the Bond Purchase Agreement, and such other documents, certificates

and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Series 2016 Bonds, the First Supplemental Indenture, the First Supplemental Base Lease, the First Supplemental Lease, the Bond Purchase Agreement, and such other documents, certificates and instruments as may be necessary.

Section 4. Further Authority. The City shall, and the officers, employees and agents of the City are hereby authorized and directed to, take such action, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Series 2016 Bonds, the First Supplemental Indenture, the First Supplemental Base Lease, the First Supplemental Lease and the Bond Purchase Agreement.

Section 5. Effective Date. This Ordinance shall take effect and be in force from and after its passage, approval and publication in summary form in the official City newspaper.

PASSED by the Council of the City of Edgerton, Kansas, this 22nd day of September, 2016.

Donald Roberts, Mayor

[SEAL]

ATTEST:

Janeice Rawles, City Clerk

Approved as to form:

Scott W. Anderson, Bond Counsel