

ORDINANCE NO. 2021-15

AN ORDINANCE OF THE CITY OF OVILLA, TEXAS, AMENDING CHAPTER 2 (“AMINAL CONTROL”), OF THE CODE OF ORDINANCES OF THE CITY OF OVILLA, PROVIDING BEEKEEPING REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERANCE CLAUSE; PROVIDING FOR IMMEDIATE EFFECT; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City’s staff periodically reviews the City’s ordinances and recommends revisions thereto based on current needs, outdated provisions, changes in the law, advances in technology, changes in costs and necessary fees, administrative needs, and for the protection of citizens of the City; and

WHEREAS, City staff has recommended the adoption of regulations pertaining to beekeeping in the city; and

WHEREAS, the City Council finds and determines that it is in the best interest of the health, safety and welfare of the citizens of the City of Ovilla to adopt beekeeping regulations.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVILLA, TEXAS, THAT:

SECTION 1. AMENDMENT OF CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF OVILLA

Chapter 2 of the Code of Ordinances of the City of Ovilla is hereby amended by the adoption of article 2.07 (“Beekeeping) to read as follows.

ARTICLE 2.07 BEEKEEPING.

Sec. 2.07.001 – Definitions.

The following definitions shall apply to this article:

Apiary means a place where a bee colony is kept.

Bee means any stage of the common domestic honey bee, *Apis mellifera* species.

Colony means a hive and related equipment and appurtenances including bees, comb, honey, pollen, and brood.

Hive means a structure intended to house a colony.

Tract means a contiguous parcel of land under common ownership.

Undeveloped property means any property that is not improved or under improvement for human use or occupancy, including property developed as a street or highway, or used for a commercial agricultural purpose.

Sec. 2.07.002 – Offense.

A person commits an offense if the person keeps or allows bees, their hives, or any abandoned hives within the city limits other than as provided in this article.

Sec. 2.07.003 - Apiary Maintenance.

- (a) A person shall keep a colony in a Langstroth-type hive with removable frames that is maintained in sound and usable condition.
- (b) A person shall provide a source of water to a colony to prevent the bees from congregating at a water source used by a human, bird, or domestic pet.
- (c) A person shall store or dispose of bee comb or other material removed from a hive in a sealed container, building, or other bee-proof enclosure.

Sec. 2.07.004 - Hive Location.

A person may not locate a hive within 10 feet of the property line of a tract, as measured from the nearest point of the hive to the property line.

Sec. 2.07.005 - Construction of Flyway Barrier.

- (a) Except as provided in Subsection (b) hereof, a person who keeps a colony within 25 feet of the property line of a tract, as measured from the nearest point of a hive to the property line, shall establish and maintain a flyway barrier parallel to the property line.
- (b) A person is not required to construct a flyway barrier if the apiary tract is adjoined by undeveloped property for a distance of at least 100 feet from the property line of the tract that is closest to location of the colony.
- (c) A flyway barrier created under this section must:
 - (1) consist of a solid wall, fence, dense vegetation, or combination of these materials at least ten (10) feet high; and
 - (2) extends at least 10 feet beyond the hives on each end of the colony.

Sec. 2.07.006 - Control of Aggressive Colony.

- (a) A person shall immediately replace the queen in a colony that exhibits aggressive characteristics, including stinging or attempting to sting without provocation, or a disposition towards swarming. A person required to replace a queen under this subsection shall select the replacement from bee stock bred for gentleness and non-swarming characteristics.

- (b) As required for swarm management, a person may maintain a nucleus colony for each two colonies allowed under this chapter. A person may house a nucleus colony in a structure not exceeding a standard 9 5/8-inch depth ten-frame hive body with no supers attached. A person shall dispose of or combine a nucleus colony with an authorized colony not later than the 30th day after the date the nucleus colony is acquired.

Sec. 2.07.007 – Colony Density.

- (a) Except as provided in Subsection (b) hereof, a person may not keep more than three (3) colonies per lot in the city.
- (b) A person may keep an unlimited number of colonies on a tract:
 - (1) on which all hives are located at least 200 feet from each property line of the tract;
or
 - (2) adjacent to undeveloped property for at least 200 feet from any hive.

Sec. 2.07.008 - Hive Identification and Ownership.

- (a) Except as provided in subsection (b) hereof, a person shall:
 - (1) brand, paint, or otherwise clearly mark the apiary owner's name or telephone number on at least two hives placed at opposite ends of an apiary; or
 - (2) post a conspicuous sign displaying the apiary owner's name and telephone number at the entrance to the apiary tract.
- (b) A person is not required to place owner identification on or near a colony located on a tract on which the owner resides.

Sec. 2.07.009 - Inspection and Enforcement by Humane Officer.

- (a) A humane officer, as defined in Article 2.01 Section 2.01.001, may inspect an apiary between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. If the owner of the apiary resides on the tract or the owner's name is marked on the colony, the humane officer shall attempt to give the owner notice of inspection.
- (b) A humane officer may investigate a complaint of a violation of this chapter.
- (c) For enforcement actions under this chapter, a humane officer may presume that the person who owns or has a present right of possession or control of a tract on which an unidentified colony is located is the owner of the colony. A person may rebut the presumption of ownership by presenting the humane officer with a written agreement identifying the name, address, and telephone number of the owner of the unidentified colony.

Sec. 2.07.010 - Destruction of Wild or Abandoned Bees.

- (a) A humane officer may order relocation of bees described in subsection (b)(1)-(3) hereof if the relocation of the bees can be done without threatening human or animal health or interfering with the normal use and enjoyment of public or private property.
- (b) If relocation of bees under subsection (a) above is not possible, then, without notice or hearing, the health authority may order destruction of:
 - (1) a colony not residing in a hive;
 - (2) a swarm of bees; or
 - (3) a colony residing in an abandoned standard or man-made hive.

Sec. 2.07.011 – Penalty; Injunctive Relief

Any owner, custodian, person, firm, corporation, or business entity violating this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding \$2,000.00. Each continuing day's violation under this chapter shall constitute a separate offense. This penalty provision shall not preclude the city from filing suit to enjoin any violation of this article. The city retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 2. SAVINGS CLAUSE

In the event that any other Ordinance of the City of Ovilla, Texas, heretofore enacted is found to conflict with the provisions of the Ordinance, this Ordinance shall prevail.

SECTION 3. SEVERANCE CLAUSE

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. EFFECTIVE DATE

Because of the nature of interest and safeguard sought to be protected by this Ordinance and in the interest of the citizens of the City of Ovilla, Texas, this Ordinance shall take effect immediately after passage, approval and publication, as required by law.

SECTION 5. PUBLICATION

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The City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause hereof as an alternative method of publication provided by law.

PASSED, APPROVED and ADOPTED by the City Council of Ovilla, Texas on this the 12th day of July, 2021.



Richard Dormier, Mayor

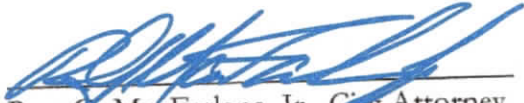
ATTEST:



G Miller, City Secretary



APPROVED AS TO FORM:



Ron G. MacFarlane, Jr., City Attorney