

# CREATING A MODEL BEEKEEPING ORDINANCE

## PART 1 OF THREE PARTS



by SYLVIA A. EZENWA, J.D.



Sylvia A. Ezenwa, J.D.

In Letters to the Editor, in the November 2006 issue of American Bee Journal (Volume 146, No. 11), the Minnesota Hobby Beekeepers Association requested help from people worldwide in researching current and former beekeeping laws. Apparently, several cities in the State of Minnesota have been considering enacting ordinances either limiting or eliminating the keeping of honey bee colonies in their respective cities. Although, through education, the Association has thus far been successful in stopping any new ordinances, its goal is to create a model ordinance, if needed.

**W**hen is a model ordinance needed? To answer, understand that an "ordinance" is a municipal or local government law or statute, passed or "enacted" by a city council or equivalent municipal or local government body (e.g., town board), which governs matters affecting the municipality (e.g., zoning, building, and safety), that are not already covered by federal or state law. However, city council members are probably not beekeepers! Therefore, in order for them to enact a law placing specific restrictions and requirements on beekeeping, that are based on proven honey bee behavior and biology, and not on the negative media stereotype of aggressive or killer bees, they will need advice from you—area beekeepers and state or local beekeeping associations. That advice can be given in the form of a pattern or "model" beekeeping ordinance that you create, in which you propose beekeeping restrictions and requirements that DO address the city's interest in protecting public health and safety, but are nonetheless FAIR to beekeepers, and not potentially ruinous to their hobby, sideline, or commercial operations.

The goal is to create a model ordinance that contains beekeeping restrictions and requirements which strike the proper balance between public health and safety, and fairness to beekeepers, in the hope that a city council will subsequently adopt some or all

of your (beekeepers') model when enacting an official version of the law.

### STEP ONE: Follow basic rules

When creating a model beekeeping ordinance, the first step is to follow four basic rules:

1. **Provide** beekeeper's rights and responsibilities in language that is clear and easily understood.<sup>4</sup>
2. **Organize** those rights and responsibilities into separate sections that can be found by users quickly and easily.<sup>5</sup>
3. **Begin** with a "Definitions" section that allows users to look up beekeeping terms, like "apiary," and "colony" or "hive," used in the ordinance.<sup>6</sup>
4. **End** with an "Enforcement" or "Compliance" section that: (i) imposes penalties for violating or failing to comply with the ordinance; and (ii) provides a mechanism for beekeepers to seek review or "appeal" of an adverse local government decision.<sup>7</sup> This section should make it clear that the opportunity to challenge an adverse decision is a right that has been granted to each beekeeper (e.g., a right to appeal to a zoning board of appeals a decision by a zoning inspector that you are keeping bees in violation of a mu-

nicipal zoning ordinance; or the right to request a hearing upon receipt of written notice by a city health officer that your bees constitute a public nuisance.<sup>8</sup>)

**TIP:** Before attempting to draft an "Enforcement" or "Compliance" section, please familiarize yourself with common administrative and judicial review procedures involved in resolving zoning and nuisance conflicts, by reading Chapters 4 and 5 of *HONEY BEE LAW: PRINCIPLES AND PRACTICE* By Sylvia A. Ezenwa, J.D. (The A.I. Root Company 2005), available at <http://www.beeeculture.com/store/>, or call 1-800-289-7668.

### STEP TWO: Use good neighbor practices

So you begin with a section on "Definitions," and end with one on "Enforcement" or "Compliance," but what kinds of restrictions and requirements on beekeeping should make up the body of your ordinance? Understand, that any restrictions or requirements that you come up with will really represent each beekeeper's responsibilities under the law. In other words, each beekeeper will have a responsibility either NOT to engage in a restricted behavior, or TO fulfill a specific requirement. For example, in a particular municipality, a beekeeper may have a responsibility

life-threatening allergic or anaphylactic shock reaction.

Learn which, if any, of the neighbors (or their visiting family members) are truly allergic to bee stings.

- Obtain an insurance policy that provides coverage for damage, death, or injuries that are caused by the bees to any third party, regardless of whether the damage, death, or injury occurs on a neighbor's or on the beekeeper's property.

#### PART VIII: GUIDELINES FOR BEEKEEPER-GOVERNMENT RELATIONS

- Register the colonies or apiary with the state agricultural official or agency, when required by law.
- Comply with all local, state, and federal laws regulating beekeeping.
- Keep detailed records of all colony management activities, including robbing and swarming prevention measures. The records may serve as documentary evidence in administrative and judicial proceedings involving a beekeeping operation.<sup>10</sup>

As I said, good neighbor practices can and should be used as the basis for any beekeeping restrictions and requirements to appear in the body of your model ordinance. But do not just rely on this list. Instead, also research good neighbor practices lists created by other reputable sources, like U.S. Department of Agriculture's Cooperative Extension System Offices (locate offices in your state at <http://www.csreea.usda.gov/Extension/index.html> (last visited Jan. 11, 2007)), and how-to beekeeping books and web sites. Check out the following:

- Malcolm T. Sanford, *Good Neighbor Guidelines and Ordinances*, Publication ENY-115, Entomology and Nematology Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida (Reviewed May 1, 2003), available at <http://edis.ifas.ufl.edu/AA137> (last visited Jan. 4, 2007).
- Dr. Ken Lightle, Ph.D., *Buckeye Bee Basic Beekeeping Course* ch. 7, available at <http://www.buckeyebee.com/basic.html> (last visited Jan. 11, 2007) (also a great source of information on bee biology and behavior).

The purpose of researching good neighbor practices is to eventually use them to develop beekeeping restrictions and requirements covering some or all of the following areas: location or placement of colonies; provision of a water source; positioning of colonies; manipulation of flight patterns; prevention of overcrowding; working of bees; beekeeper-neighbor interactions (including notification requirements); and beekeeper-government relations (including registration requirements).

Considering that an "ordinance" is a municipal or local government law, any ordinance you create will have to contain

## Attachment 3

some legal terminology, and incorporate some legal theories and concepts, which means that, if you choose not to hire a lawyer to help, you will definitely have to look at other model and current municipal beekeeping ordinances or laws to show you different and proper ways to use good neighbor practices to develop restrictions and requirements appropriate for your own city. In Step Three (in Part 2 of the article), I discuss where to find such laws, and explain how best to use them.

#### References:

1. Dan Malmgren, *Looking For Beekeeping Laws*, Letters to the Editor, *AMERICAN BEE JOURNAL*, Vol. 146, No. 11, at p. 898 (November 2006).
2. *Id.*
3. Black's Law Dictionary 1097, 1017 (6<sup>th</sup> ed. 1990).
4. Rebecca F. Wisch, *Overview of Municipal Animal Control Ordinances*, Animal Legal & Historical Center, Michigan State University College of Law (2005), available at <http://www.animallaw.info/articles/ovusodmunicipalordinances.htm> (last accessed Jan. 4, 2007).
5. *Id.*
6. *Id.*
7. *Id.*
8. Sylvia A. Ezenwa, J.D., *HONEY BEE LAW: PRINCIPLES AND PRACTICE* 64, 72-76 (The A.I. Root Company 2005).
9. Sylvia A. Ezenwa, J.D., *HONEY BEE LAW: PRINCIPLES AND PRACTICE* 85-86, 87-91 (The A.I. Root Company 2005).
10. Sylvia A. Ezenwa, J.D., *HONEY BEE LAW: PRINCIPLES AND PRACTICE* 140-143 (The A.I. Root Company 2005).

**BIOGRAPHY:** *Sylvia A. Ezenwa is an attorney and writer based in Wyoming. She is licensed to practice law in the State of Texas.*

**DISCLAIMER:** *The information in this article is not intended to constitute legal advice. Please consult an attorney regarding your specific situation.*

# Attachment 3



The aerial photograph shows a coastal area with a large, irregularly shaped landmass in the center. The landmass has a complex, somewhat star-like shape with several smaller protrusions. The surrounding water is dark, and the sky is light. The image is grainy and has a high-contrast, black-and-white appearance.

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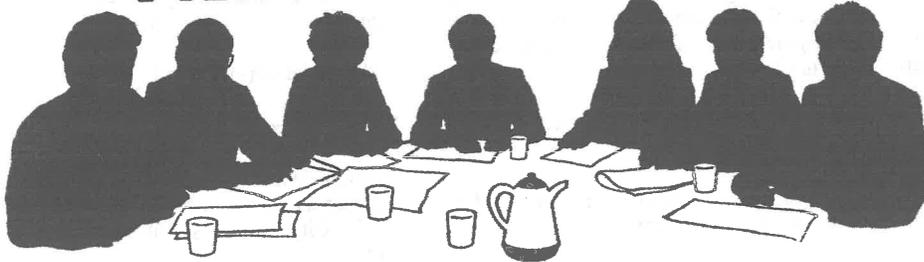


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# CREATING A MODEL BEEKEEPING ORDINANCE

## PART 2 OF THREE PARTS



by SYLVIA A. EZENWA, J.D.

Sylvia A. Ezenwa, J.D.

In Part 1 of this article (*American Bee Journal*, Vol. 137, No. 4 (April 2007)), I explained that, because the beekeeping restrictions and requirements in an ordinance really represent each beekeeper's responsibilities under the law (i.e., each beekeeper has a responsibility either NOT to engage in a restricted behavior, or TO fulfill a specific requirement), they should be based on industry-accepted good neighbor practices.

But considering that an "ordinance" is a municipal or local government law, any ordinance that is created will ultimately have to contain some legal terminology, and incorporate some legal theories and concepts. Therefore, if *you*—area beekeepers and state and local beekeeping associations—choose not to hire a lawyer to help, you will definitely have to look at other model and current municipal beekeeping ordinances or laws to show you different and proper ways to both follow the basic rules (given in Step One) and use good neighbor practices (listed in Step Two) to develop beekeeping restrictions and requirements appropriate for your own city.

### STEP THREE: Look at beekeeping ordinances

A good source of model beekeeping ordinances is state agricultural agencies. Perhaps because of concerns about Africanized honey bee spread and control, the State of Florida is at the forefront. The Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Apiary Inspection Program, has created a *Model Beekeeping Ordinance For Florida (Local and Municipal) Governments*, available at [http://www.doacs.state.fl.us/pi/plantinsp/apiary/beekeep\\_ord.pdf](http://www.doacs.state.fl.us/pi/plantinsp/apiary/beekeep_ord.pdf) (last visited Jan. 4, 2007), and reprinted here with permission of Jerry Hayes, chief of Apiary Inspection:

### MODEL BEEKEEPING ORDINANCE

*For Florida (Local and  
Municipal) Governments*

Whereas, honey bees are beneficial to mankind and to Florida in particular, by providing agricultural fruit and vegetable pollination services in tandem with home garden vegetable and fruit production and by furnishing honey, beeswax and other useful products; and

Whereas, Florida is among the leading states in honey production and honey bee assisted agricultural products through out the United States and the World; and

Whereas, domestic strains of honey bees have been selectively bred for desirable traits, including gentleness, honey production, reduced swarming, pollination attributes and other characteristics which are desirable to foster and maintain; and

Whereas, gentle strains of honey bees can be maintained within populated areas in reasonable densities to fill the ecological niche and exclude unwanted and undesirable races of bees, without causing a nuisance if the honey bees are properly located, carefully managed and maintained:

Now, Therefore, Be It Ordained and Enacted By

\_\_\_\_\_  
Name of Governmental Entity

**Section 1.** That the finding contained in the preamble of this ordinance is hereby adopted as a part of this ordinance.

**Section 2.** That Chapter No. (Health) of the Code of Ordinances,

\_\_\_\_\_, Florida, 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 time many drones, including brood, combs, honey and the receptacle inhabited by the bees.
5. Honey bee 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 practices, which 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 beekeepers 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 with the Florida Department of Agriculture and Consumer Services.

**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.

**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, 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 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 non-swarmling 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 - 2 colonies,
- 2. more than one-quarter acre but less than one-half acre tract size— 4 colonies.
- 3. more than one-half acre but less than one acre tract size - 6 colonies.
- 4. one acre or larger tract size - 8 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) In addition to State of Florida Apiary Inspection Law regarding identification of honey bee hives: the beekeeper shall conspicuously post a sign setting forth his/her name and phone number. It is a defense against prosecution under this subsection that a colony is kept upon the same tract upon which the owner resides.

(c) 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**

Each Florida Apiary shall be inspected and a report issued by an authorized representative of the Department at such intervals as the Department deems best for detection of honey bee pests and unwanted races of honey bees.

**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 cause an investigation to be conducted. If he finds that grounds exist to believe that one or more violations have occurred, he shall cause a written notice of hearing to be issued to the beekeepers.

(b) The notice of 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 Rule of Procedure, and
- 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.

Notice shall be given by certified United States mail or personal delivery. However, if the health officer is unable to locate the beekeeper, then 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 health officer that he may designate. 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, then 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 employed corrective actions that will probably be effective to cure the violations alleged, then 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 hives 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, then within 15 days following at the date that 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 \_\_\_\_.

\_\_\_\_\_  
Signature of Mayor

Florida's Model Ordinance may be more comprehensive than those being considered by municipalities in other States, particularly in States with temperate climates, not yet infested by Africanized honey bees. But compare with the much simpler model by Malcolm T. Sanford in *Good Neighbor Guidelines and Ordinances*, Publication ENY-115, Entomology and Nematology Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida (Reviewed May 1, 2003), available at <http://edis.ifas.ufl.edu/AA137> (last visited Jan. 4, 2007).

Also, the Animal Legal & Historical Center ([www.animallaw.info](http://www.animallaw.info)) has provid-

**Attachment 3**  
Control Ordinances, with ordinances for two municipalities—one large, and one small or more recent—given for each state, available at <http://www.animallaw.info/articles/arpusmunicipalordinances.htm> (last visited Jan. 4, 2007).

To make best use of such ordinances:

1. Look, at a minimum, at one comprehensive (e.g., Florida's) and one simpler (e.g., Dr. Sanford's) model ordinance, as well as one municipal ordinance from a large municipality and one from a smaller one.
2. Select several ordinances which contain the kinds of beekeeping restrictions and requirements that you feel would be appropriate for your own city.
3. Use the ordinances you have selected as patterns or models for the one you will create, by modifying (if necessary) their restrictions and requirements to fit the particular size

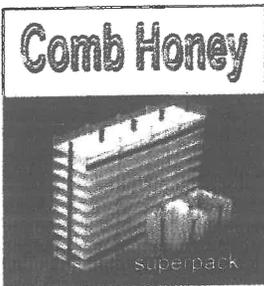
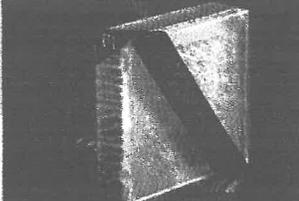
(square mileage), population (number and density), zoning (regulation of land usage and physical dimensions of buildings and structures, including height setback and minimum area<sup>1</sup>), topography, and other characteristics of your own city. In Step Four (in Part 3 of the article), I will discuss how, and the proper forum in which to do this.

**References:**

1. Black's Law Dictionary 1618 (6th ed. 1990).

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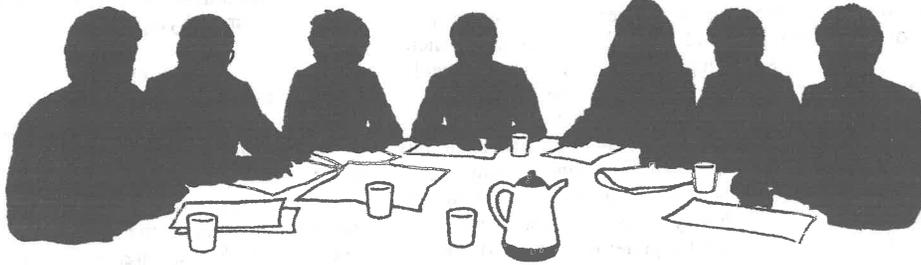


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# BEEKEEPING ORDINANCE

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by SYLVIA A. EZENWA, J.D.



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In this Part, I conclude my discussion of the process whereby *you*—area beekeepers and state and local beekeeping associations—can create a model beekeeping ordinance. The goal, of course, is for you to create a model ordinance that contains beekeeping restrictions and requirements which strike the proper balance between public health and safety, and fairness to beekeepers, in the hope that a city council will subsequently adopt some or all of your (beekeepers’) model when enacting an official version of the law.

Before discussing Step Four, the final step of the process, let’s review the previous three steps, along with tips to help you along.

In Step One, in Part 1 of the article (*American Bee Journal*, Vol. 137, No. 4 (April 2007)), I gave four basic rules to follow:

1. Provide beekeeper’s rights and responsibilities in language that is clear and easily understood.<sup>1</sup>
2. Organize those rights and responsibilities into separate sections that can be found by users quickly and easily.<sup>2</sup>
3. Begin with a “Definitions” section that allows users to look up beekeeping terms, like “apiary,” and “colony” or “hive,” used in the ordinance.<sup>3</sup>
4. End with an “Enforcement” or “Compliance” section that: (i) imposes penalties for violating or failing to comply with the ordinance; and (ii) provides a mechanism for beekeepers to seek review or “appeal” of an adverse local government decision.<sup>4</sup> This section should make it clear that the opportunity to challenge an adverse decision is a right that has been granted to each beekeeper (e.g., a right to appeal to a zoning board of appeals a decision by a zoning inspector that you are

keeping bees in violation of a municipal zoning ordinance<sup>5</sup>; or the right to request a hearing upon receipt of written notice by a city health officer that your bees constitute a public nuisance.<sup>6</sup>)

TIP: Before attempting to create an “Enforcement” or “Compliance” section, please familiarize yourself with common administrative and judicial review procedures involved in resolving zoning and nuisance conflicts, by reading Chapters 4 and 5 of *HONEY BEE LAW: PRINCIPLES AND PRACTICE* By Sylvia A. Ezenwa, J.D. (The A.I. Root Company 2005), available at <http://www.beeeculture.com/store/>, or call 1-800-289-7668.

In Step Two, also in Part 1 of the article, I explained that the beekeeping restrictions and requirements in an ordinance really represent each beekeeper’s responsibilities under the law. In other words, each beekeeper has a responsibility either NOT to engage in a restricted behavior, or TO fulfill a specific requirement. For example, in a particular municipality, a beekeeper may have a responsibility NOT to exceed a restriction on the number of hives permitted on a city lot, or TO fulfill a state requirement that he register his hives.

One way to develop such restrictions and requirements is to base them on industry-accepted good neighbor practices. Therefore, you will have to research good neighbor practices that you can potentially use to develop restrictions and requirements covering some or all of the following areas: location or placement of colonies; provision of a water source; positioning of colonies; manipulation of flight patterns; prevention of overcrowding; working of bees; beekeeper-neighbor interactions (including notification requirements); and beekeeper-government relations (including registration requirements).

TIP: Research good neighbor practices in:

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- Malcolm T. Sanford, *Good Neighbor Guidelines and Ordinances*, Publication ENY-115, Entomology and Nematology Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida (Reviewed May 1, 2003), available at <http://edis.ifas.ufl.edu/AA137> (last visited Jan. 4, 2007).
- Dr. Ken Lightle, Ph.D., *Buckeye Bee Basic Beekeeping Course* ch. 7, available at <http://www.buckeyebee.com/basic.html> (last visited Jan. 11, 2007) (also a great source of information on bee biology and behavior).

In Part 2 of the article (*American Bee Journal*, Vol. 137, No. 5 (May 2007)), I emphasized that an “ordinance” is a municipal or local government law. Therefore, any ordinance that you create will have to contain some legal terminology, and incorporate some legal theories and concepts, which means that, if you choose not to hire a lawyer to help, you will definitely have to proceed to Step Three, in which I ask you to look at other model and current municipal beekeeping ordinances or laws to show you different and proper ways to use good neighbor practices to develop restrictions and requirements appropriate for your own city.

TIP: Look at model and municipal ordinances in:

- *Model Beekeeping Ordinance For Florida (Local and Municipal) Governments*, The Florida Department of Agriculture and Consumer Services, Division of Plant Industry, Apiary Inspection Program, available at [http://www.doacs.state.fl.us/pi/plantinsp/apiary/beekeep\\_ord.pdf](http://www.doacs.state.fl.us/pi/plantinsp/apiary/beekeep_ord.pdf) (last visited Jan. 4, 2007) (a comprehensive model,

# Attachment 3

containing most elements of an ideal ordinance).

- Malcolm T. Sanford, *Good Neighbor Guidelines and Ordinances*, Publication ENY-115, Entomology and Nematology Department, Florida Cooperative Extension Service, Institute of Food and Agricultural Sciences, University of Florida (Reviewed May 1, 2003), available at <http://edis.ifas.ufl.edu/AA137> (last visited Jan. 4, 2007) (a much simpler model, lacking some elements of an ideal ordinance).
- *Map of Municipal Animal Control Ordinances*, The Animal Legal & Historical Center, available at <http://www.animallaw.info/articles/armpusmunicipalordinances.htm> (last visited Jan. 11, 2007) (gives ordinances of two municipalities—one large, and one small or more recent—for each state, but not all contain provisions on beekeeping).

In Step Three, I also explained how to make best use of such ordinances:

1. **Look**, at a minimum, at one comprehensive (e.g., Florida's) and one simpler (e.g., Dr. Sanford's) model ordinance, as well as one municipal ordinance from a large municipality and one from a smaller one.
2. Select several ordinances which contain the kinds of beekeeping restrictions and requirements that you feel would be appropriate for your own city.
3. Use the ordinances you have selected as patterns or models for the one you will create, by **modifying** (if necessary) their restrictions and requirements to fit the particular size (square mileage), population (number and density), zoning (regulation of land usage and physical dimensions of buildings and structures, including height setback and minimum area<sup>7</sup>), topography, and other characteristics of your own city.

In practice, modifying the restrictions and requirements contained in the ordinances you select (per #3 above) to fit the particular characteristics of your own city may prove controversial, especially when it comes to negotiating with city or other local government officials to adopt some or all of *your* model ordinance's proposed restrictions and requirements for the official version of the law. Fortunately, such negotiations have a designated forum—a public hearing, to which beekeepers should always go and be vocal participants.

## STEP FOUR:

### PARTICIPATE AT PUBLIC HEARINGS

A municipal legislative body, such as a city council, or other governing body, is responsible for passing or enacting a municipal beekeeping ordinance. The procedures by which ordinances are enacted

can be fairly complex, and often vary widely from municipality to municipality. However, there are two elements of such procedures that are nearly universal: (i) a public hearing on the proposed ordinance; and (ii) written notice of time and place of the hearing. Usually, these two elements are required in order for a municipal ordinance to be considered constitutional.<sup>8</sup> As an area beekeeper and/or representative of a state or local beekeeping association, you should attend any public hearing at which a beekeeping ordinance is being considered; and to participate, you can:

1. **Educate** city council members, neighbors, and the public about the benefits (agricultural, economic, nutritional, medicinal) of honey bees, and the truth (not media-generated myths) about Africanized honey bees.
2. **Argue** to limit the amount of mandatory restrictions and requirements placed on beekeeping, emphasizing instead voluntary adherence to good neighbor practices.
3. **Introduce** the model ordinance you created.
4. **Argue** the rationale (using proven bee behavior and biology) behind the proposed restrictions and requirements in your model ordinance; and their appropriateness for the particular size (square mileage), population (number and density), zoning (regulation of land usage and physical dimensions of buildings and structures, including height setback and minimum area<sup>9</sup>), topography, and other characteristics of your own city.
5. **Support** your arguments for the city's adoption of your ordinance's proposed restrictions and requirements with scientific information about bee behavior and biology from: (i) a how-to beekeeping book or manual from an apiary expert, preferably affiliated with a university or state or local government agency; and/or (ii) a publication from a U.S. Department of Agriculture Cooperative Extension System Office (locate offices in your state at <http://www.csreca.usda.gov/Extension/index.html> (last visited Jan. 11, 2007)). For example, *Honey Bee Information Site*, Department of Entomology, Texas Cooperative Extension, The Texas A&M University System, available at <http://honeybee.tamu.edu/> (last visited Jan. 11, 2007).
6. **Support** your arguments for the city's adoption of your ordinance's proposed restrictions and requirements by introducing the model and current municipal ordinances which you selected and relied upon for the creation of your own.

7. **Lobby** for the city council to adopt, for the official version of the law, as many of the provisions contained in your model ordinance as possible.
8. **Distribute** free honey to city council members, neighbors, and the public. Ostensibly, to demonstrate the benefits of beekeeping. Although, it could also boost your lobbying efforts!

## CONCLUSION

With the spread of the Africanized honey bee, and the increasing urbanization of former agricultural, rural, and suburban areas, more municipalities will consider enacting ordinances that place restrictions and requirements on the keeping of honey bees. In which case, area beekeepers and state and local beekeeping associations should, instead of only contributing to the problem, become part of the solution. How? By working with city officials to create ordinances that address legitimate concerns about public health and safety while still being fair to beekeepers steadfastly pursuing their hobbies or businesses.

## REFERENCES:

1. Rebecca F. Wisch, *Overview of Municipal Animal Control Ordinances*, Animal Legal & Historical Center, Michigan State University College of Law (2005), available at <http://www.animallaw.info/articles/ovusodmunicipalordinances.htm> (last accessed Jan. 4, 2007).
2. *Id.*
3. *Id.*
4. *Id.*
5. Sylvia A. Ezenwa, J.D., HONEY BEE LAW: PRINCIPLES AND PRACTICE 64, 72-76 (The A.I. Root Company 2005).
6. Sylvia A. Ezenwa, J.D., HONEY BEE LAW: PRINCIPLES AND PRACTICE 85-86, 87-91 (The A.I. Root Company 2005).
7. Black's Law Dictionary 1618 (6th ed. 1990).
8. See Sylvia A. Ezenwa, J.D., HONEY BEE LAW: PRINCIPLES AND PRACTICE 64 (The A.I. Root Company 2005).
9. Black's Law Dictionary 1618 (6th ed. 1990).

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*DISCLAIMER:* The information in this article is not intended to constitute legal advice. Please consult an attorney regarding your specific situation.



## Attachment 3