

ORDINANCE NO.

AN ORDINANCE OF THE TOWN OF LOS GATOS UPDATING CHAPTER 4 ARTICLE VIII – "BEEKEEPING"

WHEREAS, on _____ the Town Council adopted ordinance # _____ providing a comprehensive update to Chapter 4 entitled Animals and Fowl, and:

WHEREAS, Chapter 4 Article VIII entitled Beekeeping was not part of the comprehensive update; and

WHEREAS, the Town of Los Gatos recently annexed in 24 County islands into Town jurisdiction; and

WHEREAS, the recently annexed Los Gatos properties were formerly governed by County of Santa Clara beekeeping regulations; and

WHEREAS, beekeeping has been deemed to be an important activity to promote plant pollination which is necessary to food supply; and

WHEREAS, nationally, there has been a decline in pollinator health and local jurisdictions are encouraged to aid in efforts to rebuild pollinator health;

NOW THEREFORE, it is the intent of the Town Council, in amending this ordinance, to regulate beekeeping compliance with best practices and in closer compliance with surrounding jurisdictions' regulations; and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN AS FOLLOWS:

0020ARTICLE0020 ARTICLE VIII. - BEEKEEPING

Sec. 4.80.002. – "Abandoned Apiary" defined.

As used in this article, "abandoned apiary" includes but is not limited to, a colony(s) or hive(s) and equipment a beekeeper has ceased to manage, is deserted, not maintained and/or left unattended, remains without authorization on the property of another, is without proper identification and/or registration, and/or where the owner is unable to be located and/or contacted.

Sec. 4.80.005. - "Apiary" defined.

As used in this article, "apiary" means bees, hives and appliances wherever the same are kept, located or found, including a fresh water source on the same property not more than one hundred (100) feet away from the hives (not a pool, hot tub nor spa.).

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#))

Sec. 4.80.010. - "Bees" defined.

As used in this article, "bees" means honey-producing insects of the species *Apis mellifera-mellifera*, including the adults, eggs, larvae, pupae or other immature states thereof, together with such materials as are deposited into hives by their adults, except honey and rendered beeswax.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#))

Sec. 4.80.012. – "Flight dispersing barrier.

As used in this article, "flight dispersing barrier", also called flyover barrier, means a device such as a wall, fence, or dense vegetation or combination thereof that provides an obstruction through which honey bees cannot readily fly. Such barrier must be constructed at a minimum height of six feet from the ground and a maximum height in accordance with Town regulations for fences and accessory dwelling units. Barrier must surround the immediate vicinity of the colony(s) or hive(s) yet leave sufficient space for beekeeper to maintain colony(s) or hive(s). Property line fences or barriers may constitute flight dispersing barriers, if they are sufficiently close to the hive to

redirect bee flight up and away from sensitive areas or neighboring properties. Barrier must conform with setback requirements for fences and accessory dwelling units as defined by Town regulations.

Sec. 4.80.015. - "Hive" defined.

As used in this article, "hive" means any receptacle or container made or prepared for the use of bees, or a box or similar container of which bees have taken possession.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#))

Sec. 4.80.020. - "Location" defined.

As used in this article, "location" means any premises upon which an apiary is located.

Sec. 4.80.022. – "Undesirable honey bee behavior" defined.

As used in this article, "undesirable honey bee behavior" means any behavior exhibited by honey bees from a managed apiary that may result in harm to others. Such behaviors include, but are not limited to, characteristics of Africanized honey bees, bees exhibiting unusually aggressive defensive behavior, such as stinging or attempting to sting without provocation or exhibiting an unusual disposition toward swarming.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#))

Sec. 4.80.025. - Notice required when moving apiaries.

No apiary shall be moved into the Town or within the confines of the Town without notice in writing being given to the Agricultural Commissioner of the County within five-thirty (630) days from the date movement is begun, stating:

- (a) The number of colonies of bees to be moved into or within the Town.
- (b) The location of the property in the Town to which bees are to be moved, and the name and address of the owner of the property or person in possession thereof.
- (c) The distance of the proposed location of the apiary from the nearest public road intersection.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#))

Sec. 4.80.027. – Number of apiaries

- (a) Only two (2) hives may be kept or maintained on parcels over 5,000 square feet but less than 10,000 square feet in size.
- (b) Only three (3) hives may be kept or maintained on parcels over 10,000 square feet in size but less than 40,000 square feet in size.
- (c) Four (4) hives may be kept on parcels over 40,000 square feet in size. One (1) additional hive may be kept for each ½ acre over one acre.
- (d) Apiaries on properties under 10,000 square feet must be surrounded by a flight dispersing barrier. Apiaries on property over 10,000 square feet but under 40,000 square feet may require a flight dispersing barrier.
- (e) No hives may be kept on multi-family properties without the consent of the owner and all tenants in possession thereof.

Sec. 4.80.030. - Location of apiary.

No apiary shall be located:

- (a) (a) At a distance less than one thousand (1,000) feet from the nearest residence, church, school, public building, corral or water area in the corral unless the owner or persons in possession thereof has given written permission to the location of said apiary at a closer distance. In any required front

or side setbacks. Apiaries shall only be located in the rear yard of any appropriately sized residential property.

(b) No apiary may be kept or maintained within six (6) feet of a side property line nor within ten (10) feet of a rear property line without written consent of adjoining property owner/resident.

(c) If an apiary is within 20 feet of a property line, either a flight dispersing barrier may be required or the entrance of the apiary may not face a property line.

(db) On any lands not owned by the beekeeper without the written consent of the owner or person in possession thereof.

(ee) Closer than ~~three hundred twenty-five (30025)~~ feet from any public road.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#).)

Sec. 4.80.035. - Water supply.

A water supply adequate in quantity for the apiary should be provided and maintained. If the property on which the apiary is located does not contain sufficient natural water, the beekeeper shall provide one or more water containers or water sources. The water supply shall provide landing sites for the honey bees to drink without drowning, undue competition, or over-crowding. It is unlawful for a beekeeper to allow a water source to become stagnant or a mosquito breeding site.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#).)

Sec. 4.80.040. - Identification of premises.

Every person maintaining any apiary on premises other than their own residence shall identify the apiary by affixing and maintaining signs thereto showing the name of owner or person in possession of the apiary, the owner or person's ~~address and telephone number~~ current contact information, ~~or a statement that the owner or person has no phone~~. These signs shall be prominently placed and maintained on each entrance side of the apiary and immediately adjoining the same and lettered in black at least one (1) inch in height on a white or light background.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#).)

Sec. 4.80.043. – Nuisance.

No beekeeper shall own or operate an apiary that exhibits undesirable honey bee behavior, contains apiary pests, does not comply with all local, state and federal laws, or otherwise constitutes a health and safety hazard or nuisance.

Sec. 4.80.045. - Notice, correction of violation.

Any person transporting or maintaining an apiary who violates any of the provisions of this article may be given verbal or written notice by the agricultural commissioner of the county or any law enforcement officer or animal control officer or code enforcement officer. A written notice shall also be posted on the location for forty-eight (48) hours, and it shall be unlawful for the owner or person in possession of said apiary to fail to correct the violations within that period. The provisions of this article, however, shall not authorize the keeping of bees in areas where they are not otherwise allowed by law. Remedies for violation of any of the provisions of this article may include administrative warnings, citations, maintenance by any party of civil cause of action, criminal prosecution or required removal of the nuisance apiary at owner's expense.

(Ord. No. 1971, § II, 2-22-94; [Ord. No. 2276, § 1, 9-18-18](#).)

Sec. 4.80.050. - Penalty, ~~abatement~~, abatement.

Every person violating any provision of this article who has been given notice thereof as prescribed herein shall be guilty of a misdemeanor or infraction in the discretion of the Town Attorney and Office of Code Compliance.

Sec. 4.80.055. - Penalty, destruction of another's apiary

It is illegal to kill an apiary that is not owned by yourself or without the permission from the apiary owner. No person may knowingly poison a hive with chemicals or any other substances with the intent to cause its death (or demise). Any person found guilty of this is subject to prosecution per municipal code as a misdemeanor. This section does not preclude or preempt prosecution under any relevant Penal Code sections or the maintenance of civil action by the apiary owner.

(Ord. No. 1971, § II, 2-22-94; Ord. No. 2276, § 1, 9-18-18.)