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# Model Residential Beekeeping Ordinance for

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JUNE 2018



## **FOREWORD**

Backyard beekeeping occurs throughout many local communities across the state. Municipal regulation of beekeeping practices ranges from outright bans to unrestricted allowance with a more recent trend towards the latter.

In 2015, the Oregon Legislature passed HB 2653 to address the growth of residential beekeeping. Oregon State University Extension Service was tasked to develop guidelines for residential beekeepers,<sup>1</sup> that “if followed, would ensure beekeeping activities do not develop into a nuisance.”<sup>2</sup> These guidelines were published in 2018 and are “designed to supplement beekeeping education by making people aware of specific management practices that greatly reduce the risk of residential beekeeping turning into either a private or public nuisance.”<sup>3</sup> In addition, HB 2653 required all cities to review their regulation of residential beekeeping using the guidelines to help direct any policy changes. There was not a requirement that new regulations be adopted, only that cities best reflect the needs of their communities. Cities have either opted to not institute regulations or have relied on their current nuisance ordinances instead of a separate beekeeping ordinance. When a city is interested, the Oregon State Beekeeper Association is available to discuss the guidelines with the city and residents ([www.orsba.org](http://www.orsba.org)).

In response to requests from League members for guidance on developing ordinances to address the rise of residential beekeeping, this model ordinance is intended to balance the ability of residents to responsibly manage their backyard bee colonies with a city’s role in preventing and mitigating potential nuisance. Honeybees, while non-aggressive, are for the most part wild animals, and strict compliance with any model ordinance or best practices guidelines may not guarantee the prevention or elimination of all problematic situations. For this reason, cities should be aware that a “one size fits all” approach to beekeeping may not be appropriate, and are encouraged to work with their local beekeepers to maintain proper apiary management techniques and remediate community complaints and concerns.

## **DISCLAIMER**

Any model document provided by the League is intended to be used as a starting point in an individual city’s development of its own documents. Each city is unique, and any adopted document or policy should be individually tailored to meet a city’s unique needs.

This model is not intended as a substitute for legal advice. Cities should consult with their city attorney before adopting a beekeeping ordinance to ensure that the ordinance submitted complies with all aspects of federal, state, and local law.

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<sup>1</sup> Available at: <https://catalog.extension.oregonstate.edu/em9186/html>.

<sup>2</sup> Oregon State University Extension Service, *Residential Beekeeping: Best-Practice Guidelines for Nuisance-Free Beekeeping in Oregon 2*, (February 2018).

<sup>3</sup> *Id.*

## MODEL BEEKEEPING ORDINANCE

### SECTIONS

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[Insert your City’s Ordaining Clause, e.g., “*The People of the City of \_\_\_\_\_ ordain as follows*”]

**Section 1. Purpose.** The purpose of this ordinance is to establish certain requirements for beekeeping within the City and to avoid issues which might otherwise be associated with beekeeping in populated areas.

#### **Section 2. Definitions.**

- A. “Apiary” means the place where bee colonies are located.
- B. “Applicant” means the person applying for a residential beekeeping permit.
- C. “Bees” means honey-producing insects of the species *apis mellifera* commonly known as honeybees.
- D. “Beekeeper” means a person who owns or has charge of one or more colonies of bees.
- E. “Beekeeping equipment” means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards, and extractors.
- F. “Colony” or “colonies of bees” refers to any hive occupied by bees.
- G. “Flight path” means the route taken by bees to and from the colony to gather water, nectar, pollen, or propolis.
- H. “Hive” means a container or collection of boxes for housing honeybees.
- I. “Lot” means a contiguous parcel of land under common ownership.

- J. “Nucleus colony” means a small colony that only contains a few thousand honeybees and a queen that is used primarily to produce new queens or workers for the purpose of starting a new colony or adding to an existing colony.
- K. “Robbing” means the process by which bees collect honey from colonies other than their own, from frames of extracted honey, or from spills of sugar syrup or honey
- L. “Swarm” means a collection of bees from a colony that has divided and is seeking to start a new colony elsewhere.

### **Section 3. Permit Required.**

- A. Every person who owns or is in charge of one or more colonies within the City, shall register with the City and hold a permit for beekeeping.
- B. The registration runs from June 1 to May 31 and must be renewed each year.
- C. The registration fee for apiaries consisting of 5 or more colonies is \$10 per application plus \$.50 per colony. There is no registration fee for apiaries consisting of less than 5 colonies.
- D. Each beekeeper shall comply with all Oregon Department of Agriculture registration requirements.
- E. Renters must provide written approval from the property owner.

### **Section 4. Apiary Location.**

- A. Apiaries must be managed in the interests of ensuring that they do not become a nuisance to neighbors and the public.
- B. Flight paths shall be managed by:
  - 1. Establishing and maintaining a flyaway barrier at least 6 feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the lot line and extends 10 feet beyond the apiary in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the lot lines in the vicinity of the apiary;
  - 2. Elevating the apiary to a height of 10 feet or more above ground level;<sup>4</sup> or
  - 3. Other means to prevent flight paths from interfering with neighbors and the public.

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<sup>4</sup> A city should verify that this 10-foot allowance complies with any applicable height standards in the city’s development codes.

- C. Apiaries must comply with all other City accessory structure standards and setback requirements that may apply.

**Section 5. Standard of Care.**

- A. Each beekeeper shall ensure that a convenient source of water is available to the bees at all times during the months of March through October.<sup>5</sup>
- B. Colonies shall be maintained in hives with adequate space and management techniques to prevent overcrowding.
- C. All hives shall be kept in sound and usable condition.
- D. Each beekeeper shall ensure that no bee comb, wax or other materials that might encourage robbing or predators are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall properly be disposed of in a sealed container and relocated away from bee access.
- E. Beekeepers are encouraged to keep records of all colony management activities taken in accordance with any best-practice guidelines issued by Oregon State University Extension Service or recommendations by the Oregon State Beekeepers Association.
- F. Beekeepers are encouraged to speak with neighbors regarding their apiaries to address concerns and avoid misunderstandings.
- G. Beekeepers are required to respond immediately to remediate nuisance conditions including but not limited to hive placement or bee movement that interferes with pedestrian traffic or persons residing on or adjacent to the apiary premises.

**Section 6. Approval, Denial, and Revocation.**

- A. The city may grant a permit pursuant to this section only after the applicant has met all requirements provided in this ordinance.
- B. The city may deny or revoke a permit upon finding that:
  - 1. The applicant or permittee fails to comply with the standards of care provided in this ordinance and/or standards of care developed by the Oregon State Beekeepers Association and Oregon State University Extension Service.

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<sup>5</sup> March to October is intended to encompass the period of time where honeybees forage for sources of water. Foraging occurs in the spring and summer, when daytime temperatures increase. A city should determine, based on its geographic location and climate, when local honeybees are foraging and amend this time period as appropriate.

2. The applicant has provided false or misleading material information, or has omitted disclosure of a material fact on the application, related material or permit;
3. The permitted activity would endanger property or the public health or safety;
4. The permitted activity is determined to be a nuisance pursuant to law.

## **Section 7. Violations and Penalties.**

A. **Inspection and Right of Entry.** Whenever they shall have cause to suspect a violation of any provision of this ordinance, or when necessary to investigate an application, or revocation of a permit under any of the procedures prescribed in this ordinance, officials for the enforcement or administration of this ordinance, or their duly authorized representatives, may enter on any site, or into any structure used for beekeeping, for the purpose of investigation providing they do so in a reasonable manner. If an owner or occupant denies access for an inspection, the city will seek a warrant. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant.

### **B. Violations.**

1. **Failure to Hold a Valid Permit.** Any beekeeper who fails to hold a valid permit may be punished by a fine not to exceed \$100 per day.
2. **All Other Violations.** If after an investigation and officials for the enforcement of administration of this ordinance determine that provisions of this ordinance have been violated, the City Administrator may issue a citation, but only if a written warning has been issued to the beekeeper by the City within the previous 365 days. A warning shall be served upon the beekeeper responsible for the condition or violation by personal service or by first class mail, addressed to the beekeeper's last known address. If the address of the beekeeper is unknown and cannot be found after a reasonable search, the warning may be served by posting a copy at a conspicuous place on the property where the violation occurred. If a warning is directed to the beekeeper who is not the owner of the property where the violation is occurring, a copy of the warning may be sent to the owner of the property. The warning is effective on the earliest date of: the date of personal service, the date of posting, three days after mailing by the City, or the day the notice is actually received. Any person found in violation of any of the provisions of this ordinance may be punished by a fine not to exceed \$100 for any one offense, with each day constituting as separate offense.

### **C. Compliance with this ordinance may be offered in:**

1. A proceeding alleging that a given colony constitutes a nuisance, as evidence of the beekeeper's efforts to abate any proven nuisance; or

2. A proceeding alleging that a given colony violates applicable ordinances regarding public health and safety, as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Oregon.

D. Legal Proceedings by City Attorney. In addition to enforcement provisions of this ordinance, upon request by the City Council, the City Attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this ordinance.

**Section 8. Appeal.** In the event an application for a permit under this ordinance is denied or revoked, or in the event a fine is assessed, the applicant, permittee, or beekeeper shall have the right to appeal.

- A. The written notice of appeal to the City Council shall be filed with the City Administrator within 15 days after the permit denial or revocation.
- B. The City Council shall hear and make a determination in regard to the appeal at its next regular meeting immediately following the filing of the notice of appeal.
- C. The decision of the City Council on appeal shall be final and conclusive.

**Section 9. Severability Clause.** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this ordinance shall not affect the validity of the remaining parts of this ordinance.

**Sections 10. Savings Clause.** A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determined as if the ordinance had not been repealed.

**Section 11. Effective Date.** This ordinance is effective on \_\_\_\_\_.