

CITY OF BENICIA

ORDINANCE NO. 15- 4

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA REPEALING SECTION 6.32.060 (BEE KEEPING) AND ADDING CHAPTER 6.33 (BEEKEEPING) OF TITLE 6 (ANIMAL CONTROL REGULATIONS) OF THE BENICIA MUNICIPAL CODE ESTABLISHING STANDARDS AND PERMIT REQUIREMENTS FOR HONEYBEE MANAGEMENT WITHIN THE CITY OF BENICIA

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA HEREBY ORDAINS AS FOLLOWS:

Section 1.

Section 6.32.060 of Chapter 6.32 (Animal Keeping) of Title 6 (Animal Control Regulations) of the Benicia Municipal Code is hereby repealed in its entirety.

Section 2.

Chapter 6.33 (Beekeeping) of Title 6 (Animal Control Regulations) is hereby added to the Benicia Municipal Code to read as follows:

Chapter 6.33

BEEKEEPING

Sections:

- 6.33.010 Permit required.
- 6.33.020 Application.
- 6.33.030 Standards.
- 6.33.040 Permit fee.
- 6.33.050 Right of entry for enforcement.
- 6.33.060 Notice of noncompliance.
- 6.33.070 Revocation of permit.
- 6.33.090 Public nuisance and abatement.
- 6.33.100 Non-transferability.

6.33.010 Permit required.

A. No person shall keep, maintain or allow any hive of bees on any lot or parcel of land within any zoning district within the city without first obtaining a Beekeeping Permit in accordance with this chapter. Notwithstanding the foregoing, beekeeping shall not be permitted at any apartment complex, mobile home park, condominium or other common interest development not consisting of single family homes.

B. Persons maintaining apiaries as of the effective date of this chapter shall, within one hundred and eighty days of such date, either: (i) apply for and obtain approval of a Beekeeping Permit from the city; or (ii) remove such apiaries from the city.

C. The director shall issue a Beekeeping Permit for the keeping of bees as specified in such permit and this chapter when the director determines that such use: (i) meets the standards set forth in BMC 6.33. Such permit shall be personal to the applicant and shall not run with the land.

6.33.020 Application. Applications for Beekeeping Permit required under the chapter shall be initiated by submitting the following materials to the director:

A. A completed application form signed by an owner and, if applicable, any lawful tenant of the property, lot or parcel of land for which the application is submitted, and shall be accompanied by a fee established by resolution of the city council; and

B. A map showing the location of the proposed apiary(ies) on the parcel.

6.33.030 Standards. An applicant for a Beekeeping Permit shall declare under penalty of perjury that the apiary(ies) for which a Beekeeping Permit is sought shall, at all times, comply the requirements of such permit and this chapter. The criteria set forth below shall be conditions of approval of any Beekeeping Permit issued hereunder, whether or not such criteria are specified or referred to in such permit. Failure to adhere to such standards or other conditions of approval set forth in the Beekeeping Permit or this chapter shall be a violation of such permit and this chapter.

A. No more than the maximum number of colonies of bees as shown in Table 1 shall be maintained on any property, lot or parcel of land.

Table 1. Maximum number of bee colonies in relation to lot size

Lot/Acreage	Number of Colonies
Up to ¼ acre (1/4 acre = 10,890 sq. ft.)	3 colonies
More than ¼ acre, less than ½ acre (1/2 acre = 21,780)	5 colonies
More than ½ acre, less than 1 acre (1 acre= 43,560 sq. ft.)	7 colonies
1 acre or more	10 colonies per acre maximum

B. All apiaries shall be located in the rear yard and shall be a minimum of 10 feet from the rear and side property lines.

C. The permittee shall also register the apiaries with the Solano County Agriculture Commissioner as required by Food and Agriculture Code section 29040.

D. It shall be the duty of the permittee owning, controlling or maintaining an apiary to maintain bees in a condition that will reasonably prevent swarming and aggressive behavior.

E. It shall be the responsibility of the permittee to provide adequate water for the bees to prevent bees from seeking water in neighborhood swimming pools, birdbaths, ponds or other community bodies of water.

F. Apiaries shall consist of moveable comb hives in sound and useable condition. Failure to properly maintain or to abandon apiaries shall be cause for revocation of the permit, abatement or other enforcement proceedings.

G. Apiaries shall be situated behind screening that is six feet in height and that such screening, barriers, fencing and establishment of flyways be designed to direct the flight paths of bees away from neighbors and the public.

6.33.040 Permit fee. The fee for a beekeeper permit shall be set by resolution of the city council and shall be paid to the city before a permit is issued.

6.33.050 Right of entry for enforcement. City enforcement officers shall be empowered to enter upon any premises where honey bees are kept, or upon which there is reason to believe that bees are kept, in order to carry into effect the provisions of this chapter, in accordance with BMC 6.08.040.

6.33.060 Notice of noncompliance. The director may issue a notice of noncompliance to the holder of a Beekeeping Permit should such holder:

- A. Fail to comply with the terms and conditions of the permit; the provisions of this chapter, or any state or local law, rule, ordinance or regulation pertaining to the keeping of bees; or
- B. Such notice shall direct the holder to comply with the permit, this chapter, or such law, rule, ordinance or regulation or to abate the nuisance within a reasonable period of time. Such notice of noncompliance shall be in writing and shall be given or delivered by personal service, United States mail, or other reliable means of service to the permit holder at the address shown in the permit or such other address as the holder may, from time to time, provide in writing to the director.

6.33.070 Revocation of permit.

A. Upon reaching the determination that a specific violation of this chapter and/or applicable statute, rule, code, regulation or permit condition warrants suspension, modification or revocation of a beekeeper permit, the director or his or her designee shall prepare and serve a written notice of action recommendation upon the subject permittee.

B. The notice of action recommendation should include all of the following information:

1. The name and business address of the subject permittee;
2. A description of the code section(s) violated and/or the actions or conditions which warrant suspension, modification or revocation of the subject permit;
3. The action proposed (i.e., suspension, modification or revocation of the subject permit or license);
4. A description of any prior action taken by the director or the department to gain compliance with regards to the subject violation(s);
5. A description of the procedures involved in taking the proposed action, including the permittee's right to attend an administrative hearing on the proposed action; and
6. The name, title and telephone number of the director.

C. The director or his or her designee shall cause a copy of the notice of action recommendation to be provided to the subject permittee by causing a copy of the notice to be delivered to the permittee personally or by causing a copy of the notice to be delivered to the permittee via certified mail, postage prepaid, return receipt requested, and addressed to permittee at the address shown on the permit.

D. Proof of service of the notice of action recommendation shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration shall be affixed to a copy of the notice and retained by the director or his or her designee.

E. As soon as practicable after service of the notice of action recommendation, the director or his or her designee shall submit a copy of the notice of action recommendation to the city clerk, who, as soon as practicable after receiving said notice, shall fix a date, time and place for the hearing to consider suspension, modification or revocation of the subject permit or license. Such date shall be not less than 10 calendar days and not more than 30 calendar days from the date the notice was submitted to the city clerk.

F. A hearing on the notice of action recommendation shall thereafter be noticed and conducted in accordance with the procedures set forth at Chapter 1.44 BMC.

G. The director or his or her designee shall prepare an administrative hearing packet for the hearing officer to review prior to the hearing. The packet shall include a copy of the notice of action recommendation and a staff report, which should include a description of the violations and any actions taken by the subject permittee subsequent

to the service of the notice, a record of conversations or correspondence between the director, the department and the permittee concerning the violations and/or the notice of action recommendation.

H. If a beekeeper permit is revoked for cause, the director shall not accept a new application by the same person for the same activity at the same location less than one year after such denial or revocation. On revocation of a permit, no part of the fee is refundable.

6.33.090 Public nuisance and abatement. The provisions of this chapter, shall not authorize the keeping of honey bees in a manner constituting a public nuisance as defined in BMC 1.08.040. The city shall retain the right to abate any common law nuisance, or any nuisance as defined under California Civil Code Sections 3479 through 3480 and BMC 8.04.010 et seq.

6.33.100 Non-transferability. A permit issued hereunder may not be transferred or assigned.

Section 3.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

On motion of Council Member **Strawbridge**, seconded by Council Member **Schwartzman**, the foregoing ordinance was introduced at a regular meeting of the City Council on the 7th day of July, 2015, and adopted at a regular meeting of the Council held on the 21st day of July, 2015, by the following vote:

Ayes: **Council Members Campbell, Hughes, Schwartzman, Strawbridge, and Mayor Patterson**

Noes: **None**

Absent: **None**



Elizabeth Patterson, Mayor

Attest:



Lisa Wolfe, City Clerk

7-30-15
Date