

ORDINANCE NO. 3519
(ZOA-18-001202 – Development Code Update – Subsection 19.5.5.D.12 –
Animals and Related Services - Apiaries)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HENDERSON,
NEVADA, TO AMEND TITLE 19 OF THE HENDERSON MUNICIPAL CODE –
HENDERSON DEVELOPMENT CODE - BY ADDING A NEW USE
CATEGORY, 19.5.5.D.12 – ANIMALS AND RELATED SERVICES –
APIARIES.

- WHEREAS, it is the intent of the City of Henderson to maintain a zoning ordinance for the safe and orderly development of property; and
- WHEREAS, the City of Henderson adopted a new zoning ordinance on January 19, 2010; and
- WHEREAS, a zoning ordinance is considered a “living document” and will invariably need amending to make minor corrections, revisions, and updates as necessary; and
- WHEREAS, the City of Henderson has determined that it is in the interests of its citizens to ensure local food security by supporting residential, neighborhood and community gardening and food production; to this end, the purpose and intent of these regulations is to create standards that allow apiaries to safely operate in residential and non-residential zones in the City of Henderson; and
- WHEREAS, the City of Henderson acknowledges the efforts of the US Fish and Wildlife Service, which has encouraged support of all pollinators, including honey bees, declaring that they are “nearly as important as sunlight, soil and water to the reproductive success of over 75% of the world’s flowering plants” and “crucial to the production of most fruits, nuts, and berries on which people and wildlife depend”; and
- WHEREAS, the City of Henderson acknowledges the Nevada Managed Pollinator Protection Plan to mitigate the risk of pesticide exposure to bees and other managed pollinators in accordance with “Creating a Federal Strategy to Promote the Health of Honey Bees and Other Pollinators”, a June 2014 Presidential Memorandum calling attention to the issue of pollinator health and directing federal efforts to reverse pollinator losses and help restore populations to healthy levels; and
- WHEREAS, the City of Henderson has witnessed increasing and rapid acceptance of beekeeping activities at hobby and commercial scales by municipal, county and state governments in the United States and other nations, including in desert settings such as Palm Desert, CA and Tucson, AZ, which are permitting beekeeping on small lot residences as well as larger lot residences and commercial and/or agricultural zoned lands within their jurisdiction in accordance with rules to ensure public safety and secure necessary natural resources for agriculture and food production; and

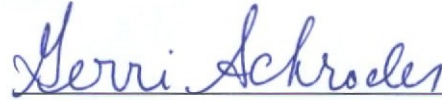
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Animals and Related Services - Apiaries

WHEREAS, the City of Henderson has determined the proposed regulations and standards will provide the necessary safeguards and best practice requirements to ensure apiaries are operating in a safe manner to protect the public health and safety of surrounding property owners; and

NOW, THEREFORE, the City Council of the City of Henderson, Nevada, does ordain:

- SECTION 1. Title 19 - Henderson Development Code, Subsection 19.5.5.D.12 Animal and Related Services – Apiaries is hereby amended as depicted in Exhibit A, attached hereto, consisting of 5 pages.
- SECTION 2. If any section, subsection, sentence, clause, phrase, provision or portion of this Ordinance, or the application thereof to any person or circumstances, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or provisions of this Ordinance or their applicability to distinguishable situations or circumstances.
- SECTION 3. All ordinances, or parts of ordinances, sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Henderson, Nevada, in conflict herewith are repealed and replaced as appropriate.
- SECTION 4. A copy of this Ordinance shall be filed with the office of the City Clerk, and notice of such filing shall be published once by title in the Review Journal, a newspaper having general circulation in the City of Henderson, at least ten (10) days prior to the adoption of said Ordinance, and following approval shall be published by title (or in full if the Council by majority vote so orders) together with the names of the Councilmen voting for or against passage for at least one (1) publication before the Ordinance shall become effective. This Ordinance is scheduled for publication on August 24, 2018, in the Review Journal.

PASSED, ADOPTED, AND APPROVED THIS 21TH DAY OF AUGUST, 2018.



Gerri Schroder, Mayor Pro Tem

ATTEST:



Stacey Brownfield, Assistant City Clerk

The above and foregoing Ordinance was first proposed and read in title to the City Council on August 7, 2018, which was a Regular Meeting, and referred to a Committee of the following Councilmen:

“COUNCIL AS A WHOLE”

Thereafter on August 21, 2018, said Committee reported favorably on the Ordinance and forwarded it to the Regular Meeting with a do-pass recommendation. At the Regular Meeting of the Henderson City Council held August 21, 2018, the Ordinance was read in title and adopted by the following roll call vote:

Those voting aye:

Gerri Schroder, Mayor Pro Tem

Councilmembers:

John F. Marz

Dan K. Shaw

Dan H. Stewart

Those voting nay: None

Those abstaining: None

Those absent: Debra March,
Mayor



Gerri Schroder, Mayor Pro Tem

ATTEST:



Stacey Brownfield, Assistant City Clerk

EXHIBIT A

19.5.5.D.12 – Animal and Related Services- Apiaries

12. Apiaries

RESIDENTIAL											PUBLIC	
RS-1	RS-2	RS-4	RS-6	RS-8	RM-10	RM-16	RH-24	RH-36	RMH	DH	PS	DP
<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>							<u>S</u>	<u>S</u>	<u>S</u>
COMMERCIAL						INDUSTRIAL			MIXED-USE			
CN	CO	CC	CH	CT	CA	IL	IG	IP	MC	MN	MR	
<u>S</u>		<u>S</u>	<u>S</u>	<u>S</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	

(a) Definitions

- (1) Apiary means any hive box or other place where bees are kept by any person, and all beekeeping equipment used in connection therewith.
- (2) Bees means honey-producing insects of the genus Apis, and includes adults, eggs larvae, pupae, and all material, excluding honey and rendered beeswax, that is deposited into colonies by the adults. Beekeeping of anything other than bees as defined herein and regulated by this Section is not permitted within the boundaries of the City.
- (3) Beekeeper means a person who owns or has charge of one or more apiaries.
- (4) Beekeeping equipment means anything used in the operation of an apiary, including, but not limited to, hive boxes, supers, frames, top and bottom boards, and extractors.
- (5) Colony means the bees, comb and honey contained in the hive box.
- (6) Disease means any condition adversely affecting bees, or their brood, which may become epidemic, including, without limitation, bacteria, viruses or invertebrate pests and the presence of undesirable genetic characteristics including those associated with Apis Mellifera Scutellata or hybrids of this subspecies.
- (7) Feral bee means wild bees, which are generally aggressive, have a tendency to swarm and are of little value for commercial honey production or for pollination of crops.
- (8) Flyway barrier means a solid wall, fence or dense vegetation that will modify bees' flight patterns. Flyway barriers must be at least 6 feet in height as measured from the ground adjacent to where the hive box is located and must run along the adjacent property lines and extend 10 feet in either direction beyond the hive box. If a different height is needed for commercial purposes it must be approved by the city through the zoning approval.
- (9) Hive box means the structure with movable frames in which a bee colony lives and which may not exceed a height of 56 inches. It shall be unlawful for any person to have in the person's possession any bees kept in other than hive boxes.

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- (10) Aggressive bees or aggressive bee behavior means defensive actions such as unprovoked attacks, robbing of hives, significantly increased flying speed, formation of a dark cloud above the hives, and reaction to carbon dioxide.

(b) City approval and Registration

- (1) Community Development and Services Department approval (zoning approval) described in this section is required prior to housing an apiary on any real property within the City boundaries. No person shall participate in any beekeeping activity or otherwise keep, maintain, or allow to be kept any hive box or other facility for the housing of bees on or in any property within the City without first obtaining zoning approval. A home occupation license and other approvals required through the City's Business Licensing division may also be applicable.
- (2) Participation in the Nevada Department of Agriculture Voluntary Apiary Registration Program is required.
- (3) Zoning approval shall not be transferable. Only the owner of the real property where the apiary is proposed, or an occupant of the real property where the apiary is proposed, with the owner's written permission, is eligible to apply for an apiary zoning approval. Each beekeeper shall be responsible for obtaining a separate zoning approval for his or her apiaries. Only one (1) apiary approval shall be approved per parcel.
- (4) Applicants shall provide at a minimum the following information with the submittal for zoning approval to demonstrate compliance with the requirements of this Section:
- i. A detailed lot diagram or site plan including location, materials and height of flyway barrier, location of hive box and beekeeping equipment with distances to property lines and from nearby structures on neighboring properties, and type and number of flowering plants and description of water source.
 - ii. Sufficient proof in staff's discretion of beekeeping education/training from a local technical college, university or beekeeping association or organization to obtain competency in beekeeping must be submitted at the time of submittal for zoning approval. Beekeeping training and membership is encouraged to promote recognized best management practices that provide safe and healthy living conditions for the bees while avoiding nuisance impacts on surrounding properties and persons and protecting the public health, safety and welfare.
 - iii. Sufficient documentation to demonstrate that all standards have been met,
 - iv. Additional items as deemed necessary by staff in their discretion for the subject location.

(c) Standards

(1) All Districts

- i. Apiaries are limited to the following numbers of hive boxes, based upon the size of the lot.
 - 1. Hive boxes are not permitted on lots that are less than 5,500 square feet.
 - 2. A lot that is 5,500 square feet or larger but equal to or smaller than ½ acre may have a maximum of 2 hive boxes.
 - 3. A lot that is larger than ½ acre but equal to or smaller than 2 acres may have a maximum of 4 hive boxes.
 - 4. A lot that is larger than 2 acres but equal to or smaller than 5 acres may

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have a maximum of 6 hive boxes.

5. A lot that is larger than 5 acres may have a maximum of 25 hive boxes if the Beekeeper can support the number of hives boxes with sufficient water (approximately 1 gallon per hive box per day) and with available forage.
- ii. Apiaries are permitted only as an accessory use for all zoning districts with the exception of Development Holding (DH). On land zoned DH, apiaries may be the primary or only use.
- iii. All apiaries located adjacent to parks, trails, or schools; or within or adjacent to a PS zoning district shall be located and maintained behind 6 foot barriers (natural or otherwise) to encourage bees to fly above such places. Additional setbacks may be required if determined necessary for the protection of public health and safety.
- iv. In order to ensure the appropriate height of the bee flight path, hive boxes must face away from, or be parallel to, the nearest property line adjacent to another lot.
- v. Hive boxes must be located a minimum of 20 feet from any street.
- vi. If hive boxes are located less than 30 feet from any street, or less than 15 feet from any property line, a flyway barrier is required. If flyway barriers are comprised of vegetation on latticework or shrubbery or other plantings, they must be maintained and pruned around the hive box except as needed to allow reasonable access.
- vii. Hive boxes, related beekeeping equipment, and the entire lot where the apiary is located must be clean, maintained in good condition, and kept free of any build-up of wax, comb or other materials that might encourage robbing by other bees (including bees other than honey bees). The area must be clear of remnant boxes or other debris that are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers or placed within a building or other insect-proof container.
- viii. Water shall be made available to the bees on the lot at all times throughout the year and in a location that minimizes the potential for bees to seek water on other properties.
- ix. Colonies shall be re-queened biannually or as often as necessary to prevent swarming or other aggressive behavior. Queens shall be selected from stock bred for non-aggressive behavior.
- x. Beekeepers shall maintain all receipts and records related to beekeeping activities for at least two years from the date of such record. Beekeepers may be required by the City and the Nevada Department of Agriculture to submit such records in response to a nuisance complaint or regulatory enforcement activities.
- xi. No beekeeper shall own or operate an apiary that exhibits aggressive bee behavior, contains apiary pests, or is an abandoned apiary.

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- xii. No grandfathering rights shall be attached to any property, lot, entity, organization, person, business or institution under this section.
- xiii. High pollen and nectar producing plants must be provided on site for purposes of pollination and avoiding nectar dearths that could cause aggressive behavior. Beekeepers shall maintain such flowering plants in proportion to the number of hive boxes they possess, to support bee foraging and as reflected in their site plan.
- xiv. An apiary establishment that offers products for sale must obtain a producer's certification from the Nevada Department of Agriculture.
- xv. Beekeepers shall comply with all applicable federal, state and city code, laws, regulations and requirements.

(2) Commercial and Industrial Districts

- i. Hive boxes and beekeeping equipment shall be kept in a secure location on the premises that is inaccessible to the public.
- ii. Beekeepers shall identify the beekeeper's name and telephone number on all hive boxes in a manner that is clearly readable. A copy of the zoning approval shall be placed in a conspicuous place near the hive box.
- iii. An apiary establishment that offers products for sale must comply with City business licensing requirements.

(3) Residential Districts

- i. Hive boxes shall not be located in a front yard.
- ii. Bees shall not be raised or bred for sale. Bees may be raised or bred for the cultivation and sale of honey and other products in compliance with the home occupation provisions of Section 19.5.7.D.5, and any other applicable law. However, the honey extraction process may be performed in the same outdoor area where the hive boxes are permitted to be maintained. Approval of the City's Business Licensing division may also be required prior to commencing any sales of bee products.
- iii. Hive boxes and beekeeping equipment shall be kept a minimum of 10 feet from the side and 5 feet from the rear property lines and in a gated area that is inaccessible to the public.

(d) Public Nuisance

The following may be declared to be public nuisances subject to abatement, removal, and/or destruction:

- i. Bees other than as defined in this Section, abandoned colonies, diseased bees, feral bees, or aggressive bees found to be living in hive boxes.
- ii. Honey, honeycombs and beeswax containing honey, if any of these items are exposed to robber bees.
- iii. Any bees lacking an adequate fresh and clean supply of water on the premises

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at all times.

The cost of abatement, removal, and/or destruction of any of the above may be assessed against the beekeeper and/or the property owner through the lien and special assessment provisions of Title 15.

(e) Off-Street Parking Requirement

No additional requirement beyond the applicable residential, commercial or industrial use requirement.

(f) Off-Street Loading Group

None

(g) Penalty for Violation

Failure to comply with the provisions of this Section or the terms of the zoning approval will result in a fine up to \$500 per day per violation for each day the violation continues, and could result in revocation of the zoning approval for the apiary. With respect to violations that are continuous, each day that the violation continues is a separate offense. Nothing in this section shall be deemed to limit the City's right to exercise remedies under Title 7, Title 15 or Section 19.11, including the imposition of criminal penalties.