

7/1/2016
6/15/2016
6/1/2016
4/28/2016

Effective Date: July 28, 2016

46-O-16

AN ORDINANCE

**Amending City Code Title 9, Chapter 4, Sections 19 and 20,
“Beekeeping,” to Include Requirement for Notice to
Adjacent Property Owners**

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: *Legislative Statement.* The Illinois Supreme Court provides that “[i]f a subject pertains to local government and affairs, and the [Illinois] legislature has not expressly preempted home rule, municipalities may exercise their power.” *Palm v. 2800 Lake Shore Drive Condominium Ass’n*, 988 N.E.2d 75, 82-83 (2013), citing *City of Chicago v. StubHub, Inc.*, 979 N.E.2d 844 (2011). The powers of a home rule unit such as Evanston are to be construed liberally pursuant to Article VII, § 6(m) of the Illinois Constitution, and Evanston’s powers as a home rule authority are: “...to be given the broadest powers possible.” *Scadron v. City of Des Plaines*, 153 Ill. 2d 164, 174 (1992). Home rule municipalities are constitutionally conferred with tremendous authority and latitude to address local issues and concerns.

The Illinois Constitution provides that a home rule unit may: exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals, and welfare; to *license*; to tax; and to incur debt. Ill. Const. art. VII, § 6. A city’s power to regulate and license for the protection of public health and safety is drawn

directly from the Constitution, and any such power must be expressly limited by the General Assembly. See Ill. Const. art. VII, § 6(i). Evanston's police power also authorizes it to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens.

The City Council previously found that honeybees can be maintained within populated areas in reasonable densities without causing a nuisance if the bees are properly located and carefully managed. The City Council finds that bee stings can be a potential medical risk to Evanston citizens, so to the extent that beekeeping may take place, notice to adjacent property owners is necessary to be aware of the potential medical risk. The City Council finds that there is a compelling governmental interest in the protection of the public health of Evanston citizens to implement additional reasonable regulations in the licensing of beekeepers in the City by requiring license applicants to provide proof of notice to adjacent property owners. The City Council finds that the passage of this ordinance is in the interests of the health, safety, and welfare of Evanston citizens.

The City Council held meetings in compliance with the provisions of the Illinois Open Meetings Act, considered the statements, points and authorities made in the legislative Record, and received additional input from the public.

SECTION 2: That Title 9, Chapter 4, Sections 19, "Beekeeping," of the Evanston City Code of 2012, as amended, are hereby amended to read as follows:

9-4-19. - BEEKEEPING.

- (A) Definitions: As used in this Section, the following words, terms and phrases must have the meanings ascribed to them in this Subsection:

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|--------------------------|--|
| ADJACENT PROPERTY OWNER: | All persons or entities that own real property that share a property line(s) with the beekeeping applicant's property. Municipalities and/or utilities are not considered adjacent property owners under Section 9-4-19 of this Chapter. |
| APIARY: | A place where bee colonies are kept. |
| BEE: | Any stage of the common domestic honeybee, <i>Apis mellifera</i> species. |
| COLONY: | A hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood. |
| HIVE: | A structure intended for the housing of a bee colony. |

- (B) Hives: All bee colonies must be kept in inspectable type hives with removable combs, which must be kept in sound and usable condition.
- (C) Annual Licensing: Beekeepers must apply for a City beekeeping license upon bringing any colony into the City. For bee colonies existing within the City prior to the effective date of this Section, beekeepers must have two (2) weeks from the date this Section goes into effect to apply for a City beekeeping license. Applications must be submitted to the City Manager or his/her designee. At the time of application for a City beekeeping license, the applicant must:
1. Submit proof of registration of the colonies with the state of Illinois Department of Agriculture;
 2. Be in compliance with the other requirements of this Section;
 3. Pay a twenty five dollar (\$25.00) nonrefundable application fee;
 4. Submit written proof of notice to all adjacent property owners, in a form provided by the City Manager or his/her designee. This written proof of notice requirement applies to all applicants following the effective date of this Subsection (C)(4). Notification to adjacent property owners is not required for renewals by any applicant that previously complied with this notification requirement in receiving a prior valid beekeeping license from the City.

Upon receipt of notice from the applicant, any adjacent property owner may file a written objection to the applicant's license application. In order to object to the applicant's license application, the adjacent property owner must file, within 30 days' receipt of notice, a written objection with the Director of the Health and Human Services Department. If an adjacent property owner files a timely written objection to the applicant's license application, then the City's Human Services Committee must hear the objection. The authority to review any objection from any adjacent property owner, and the authority to grant or deny any applicant's license application based on any objection in this Subsection (C)(4)(a) must vest with the Human Services Committee.

The City beekeeping license must be renewed each year by submitting a renewal application to the City Manager or his/her designee no more than two (2) weeks prior to the one year anniversary date of the then current City beekeeping license. At the time of applying for a renewal City beekeeping license, the applicant must submit the same documents, comply with the same requirements, and pay the same fee set forth in this Subsections (C)(1)-(3).

- (D) Fencing, Gates, And Signage: All hives must be enclosed by fencing with a secure gate and prominent signage warning of the presence of a hive.
- (E) Water: Each beekeeper must ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcocks, pet water bowls, birdbaths or other water sources where they may cause human, bird, or domestic pet contact. The water must be maintained so as not to become stagnant.
- (F) Maintenance: Each beekeeper must ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials must promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
- (G) Queens: In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation, or exhibits an unusual disposition towards swarming, it must be the duty of the beekeeper to requeen the colony. Queens must be selected from stock bred for gentleness and non-swarming characteristics.
- (H) Colony Densities:
 1. There must be no more than eight (8) apiary sites in each ward in Evanston.
 2. For each two (2) colonies, there may be maintained one nucleus colony in a hive structure not exceeding one standard nine and five-eighths inch (9 5/8") depth ten (10) frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony must be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.
- (I) Prohibited: The keeping by any person of bee colonies in the City not in compliance with this Section is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing

in a standard or homemade hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, is unlawful.

SECTION 2: That Title 9, Chapter 4, Section 20, "Violation – Fine," of the Evanston City Code of 2012, as amended, are hereby amended to read as follows:

9-4-20. - VIOLATION; FINE.

- (A) Any person violating the provisions of this Chapter except for Section 9-4-19, "Beekeeping", of this Chapter, must be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense must be deemed committed upon each and every day such violation continues.
- (B) For violations of Section 9-4-19, "Beekeeping", of this Chapter any person not in strict compliance with this Section must be fined not less than five hundred dollars (\$500.00) for each offense, and a separate offense must be deemed committed upon each and every day such violation continues. Additionally, any City beekeeping license must be mandatorily revoked and no new City beekeeping license must be issued to that person, or to any person living on the property where the apiary from which the violation(s) arose was located, for a minimum of one year.
- (C) In the event a person is found guilty of a violation of Section 9-4-14 of this Chapter, his/her permit to own, keep or harbor or have custody of animals must be mandatorily revoked, and no new permit must be issued to that person for a minimum of one year.

SECTION 3: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and must be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 4: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: This ordinance must be in full force and effect after its passage, approval, and publication in the manner provided by law.

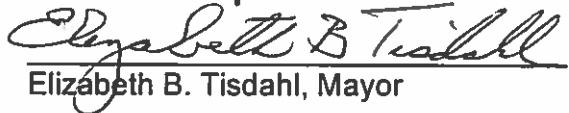
SECTION 6: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity must not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

Introduced: June 27, 2016


Adopted: July 11, 2016

Approved:

July 11, 2016


Elizabeth B. Tisdahl, Mayor

Attest:


Rodney Greene, City Clerk

Approved as to form:


W. Grant Farrar, Corporation Counsel