



# CITY OF RAPID CITY

RAPID CITY, SOUTH DAKOTA 57701-2724

## OFFICE OF THE CITY ATTORNEY


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### MEMORANDUM

TO: Planning Commission

FROM: Carla Cushman, Assistant City Attorney 

DATE: April 9, 2015

RE: 14OA009 – Ordinance Amendment to Permit Hobby Beekeeping in Residential Areas by Amending Sections 17.04.035, 17.08.020 and 17.10.020 of the Rapid City Municipal Code

Ordinance No. 6013 will explicitly permit hobby beekeeping in residential districts. A companion ordinance, No. 6010, imposes regulations upon the practice of hobby beekeeping within the City limits. I wanted to share the background of these two ordinances with you.

Last spring, staff investigated a citizen complaint about a hobby beekeeping operation in a residential neighborhood and determined that such a use is not permitted within the City limits. To my knowledge, this was the only complaint received by the City about hobby beekeepers in recent memory. Through that complaint, the City was made aware that there were many hobby beekeepers maintaining hives within the City limits. In July, 2014, hobby beekeepers appeared before Council to request amendment of the zoning ordinances to allow for hobby beekeeping in residential districts. At the Legal and Finance meeting on July 2, and at the Council meeting on July 7, the bodies heard from many hobby beekeepers urging such an ordinance amendment. The Council voted to authorize staff to prepare ordinance amendments to permit hobby beekeeping and to stay enforcement of the zoning ordinance.

Thereafter, I reviewed hobby beekeeping ordinances adopted by other jurisdictions, and I met with representatives from the local hobby beekeeping group to discuss the proposed ordinances. Both Ordinance 6013 and 6010 in their current forms have been submitted to the hobby beekeeping group, and I shared the meeting times at which the ordinances will be considered. I have not heard back from any beekeepers with concerns or negative comments about the proposed ordinances.

## State regulation

The State regulates apiaries, or places where bees were kept, on a limited basis through SDCL Chapter 38-18 and companion regulations. Specifically, hobby beekeepers are required to register each apiary and its location with the State on an annual basis. SDCL 38-18-3.1 states that no apiary may be located within 3 miles of any other apiary, unless the SD Secretary for the Department of Agriculture permits a closer proximity or unless the beekeeper places the apiary on property he/she owns. Furthermore, each beekeeper must place a prominent sign within the apiary with the name, address, and phone number of the beekeeper in charge of maintaining the apiary. *SDCL 38-18-3.3*. Additional regulations can be found at SDCL Chapter 38-18 and S.D. Administrative Rules Article 12:41.

## Hobby beekeeping in other jurisdictions

As I stated above, I reviewed hobby beekeeping ordinances adopted by other jurisdictions to assist me in drafting the ordinances for Rapid City. If you would like to review the other ordinances, they are available at the City Attorney's Office. Some general observations about these ordinances are provided below:

- Ordinance No. 6010 incorporates some provisions found in many other jurisdictions. Specifically, 6.12.010 Definitions and 6.12.030 Apiary management come from what must be a model ordinance, for many jurisdictions have identical provisions.
- Many jurisdictions limit the number of hives in some way:
  - o *Evanston, IL*: No more than 8 hives per ward.
  - o *Aurora, CO*: If lot is less than ¼ acre, 2 colonies; less than ½ acre, 4 colonies; more than ½ acre, 6 colonies; more than 1 acre, 8 colonies (very similar provisions found in Littleton, CO's ordinance and in a Model Beekeeping Ordinance from Minnesota).
  - o *Ypsilanti, MI*: No more than 2 colonies on any tract.
  - o *Jefferson County, AL* (draft): On a 10,000 square feet tract, 2 colonies; one additional hive per additional 4,000 square feet, to a maximum of 10 hives.
  - o *Lincoln, NE*: One hive per 1,500 square feet of lot area.
  - o *Redmond, WA*: No more than 4 hives per residential lot.
  - o *Lake Forest Park, WA*: Maximum of 4 hives maximum, plus an additional hive for each 2,500 square feet of lot area in excess of 10,000 square feet (similar to Seattle, WA).
  - o *Salt Lake City, UT*: No more than 5 hives on a residential lot, except if lot is larger than ½ acre, can have up to 10 hives.
- There was a variety of ways cities addressed the proximity between hives and residences. Some jurisdictions, such as Littleton, CO, do not permit any hobby beekeeping on a

multiple-family lot. San Diego requires that hives be no closer than 600 feet from a residence, other than residence located on same premises as beehives, and 100 feet from right of way. Other jurisdictions permitted much closer proximity between the hives and residences.

- Some jurisdictions require the fencing of flyways. This means that if a colony is within a certain distance from the property line (often 25 feet), the beekeeper is to maintain a flyway barrier, or a solid wall or fence at least 6 feet in height, to force the bees to fly at least 6 feet above ground level over the sidewalk, road, or neighboring property. Section 6.12.020.C in Ordinance No. 6010 encourages the use of screening between the hive and neighboring properties/rights of way, but does not require any flyway screening or fencing.
- Many jurisdictions require a hobby beekeeper permit or license issued by the City. A hobby beekeeping license would give the City an additional enforcement mechanism – suspension or revocation of the license – if problems arise. Because Ordinance No. 6010 does not require a license, the City’s options for enforcement would be filing a criminal complaint or pursuing a nuisance claim.

If you have any further questions on this matter, please feel free to give me a call at any time. My number is 394-4140, and my email is [carla.cushman@rcgov.org](mailto:carla.cushman@rcgov.org).