

**CITY OF CEDAR SPRINGS
CITY COUNCIL
Kent County, Michigan**

Councilmember _____ supported by Councilmember _____, moved the adoption of the following ordinance:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND Chapter 8 – ANIMALS. OF THE CODE.

THE CITY OF CEDAR SPRINGS ORDAINS:

Section 1. Amendment to Chapter 8 to add an Article 3 “Beekeeping,” sections 8-73 to 8-79.

That the Code of the City of Cedar Springs is amended to add a new Article 3, Chapter 8 sections 8-73 through 8-79 inclusive to read as follows:

Sec. 8-73. Purpose.

The purpose of this ordinance is to permit the keeping of honey bees in the City, on the conditions stated herein, on an experimental basis for two (2) years. To strike a balance between those who desire to keep honeybees and the concerns raised by others regarding possible problems with allowing honeybees to be kept in the City – and to allow the City Council to assess whether honeybees should be allowed to be kept in the City on a permanent basis – the City Council finds that permitting the keeping of honeybees on an experimental two (2) year basis is the appropriate intermediate compromise solution.

Sec. 8-74. Honeybee Permits.

Any person wanting to keep honeybees within the City shall first apply for and obtain a permit from the Planning Commission before that person may legally keep honeybees within the City. The Planning Commission shall examine the totality of circumstances surrounding each application prior to approving or denying an application to keep honeybees. This ordinance applies to and permits animals of the Apis Genus (commonly referred to as “Honeybees”) but excludes animals of the Megapis subgenus and excludes any of the hybrid bee species or subspecies of the Apis mellifera variety (commonly referred to as “Africanized Bee” or “Killer Bee”). Regulations pertaining to permits shall be as follows.

(a) Any person applying for a permit to keep bees within the City shall submit a permit application on a form promulgated by the City Manager or his / her designee, and shall pay an application fee established by resolution of the City Council.

(b) If the applicant is not the owner of the real property on which he or she wants to keep honeybees, the applicant must provide the written consent of the owner of the real property. Without such written consent, the permit application shall not be granted.

(c) Once a completed application form, application fee, and written consent of the owner of the real property, if necessary, have been submitted to the City Manager or his / her designee, the City shall, within ten (10) business days, send written notice of the application for a permit to keep honeybees to the following:

1. The physical property address of all adjacent real properties. For purposes of this sub-section, "adjacent real properties" includes all properties sharing a common lot line with the real property on which honeybees are proposed to be kept, but shall not include properties sharing only a common corner point, without footage on a common lot line.
2. The address of record for the owner of all adjacent real properties, if that address of record is different from the physical property address.
3. If the bees are proposed to be kept on a lot containing a two-family dwelling, written notice of the application for a permit to keep honeybees shall be sent or delivered to the physical property address of the other unit within that two-family dwelling.

(d) If the City Manager or his/her designee receives an objection to the issuance of a permit from any person required to be notified of the permit application, within twenty-one (21) days from mailing the written notice of the permit application, the City Manager must include that objection as part of the application request to be given to the Planning Commission for their approval or denial.

(e) The Planning Commission shall review the permit application in light of the following factors:

1. The number of honeybees the applicant desires to keep;
2. The size of the lot on which honeybees are proposed to be kept;
3. The adequacy of the applicant's plans for housing and confining the honeybees, specifically the intention to follow the guidelines promulgated and known as the Generally Accepted Agricultural and Management Practices for the Care of Farm Animals January 2015 - Beekeeping and Apiary Management as published by the Michigan Department of Agriculture and Rural Development
4. Input received from adjacent property owners; and
5. Other factors relevant to the applicant's particular circumstances.

(f) If the Planning Commission grants the request for the permit, the City Manager shall confirm the action in writing, the writing shall state the property address at which honeybees may be kept, as well as the number of honeybees allowed to be kept, and any other conditions of the permit to keep honeybees.

(g) If the Planning Commission denies the request for the permit, the City Manager shall confirm the action in writing, and the writing shall state the reasons for such denial.

(h) If the Planning Commission denies the request for the permit, the applicant may appeal to the City Council. In reviewing the decision of the Planning Commission, the city council shall base its decision upon the following criteria:

(1) Was the decision based upon proper procedure?

(2) Was the decision supported by competent material and substantial evidence on the record?

(3) Does the decision represent the reasonable exercise of discretion granted by law to the planning commission? The city council is not to replace the judgment of the Planning Commission; instead it is to ensure a fair and reasonable decision was made based on the facts.

(i) An initial permit shall be valid for a period of two (2) years. If, in the judgment of the Planning Commission, the permittee has abided by all ordinance provisions and permit conditions, and has not created a nuisance to the owners or occupants of adjacent properties or the neighborhood, the permit may be renewed for an additional two (2) year period. A person who wishes to continue keeping honeybees shall obtain a new permit on or before the expiration date of the previous permit. Application for a renewal permit shall be pursuant to the procedures and requirements that are applicable at the time the person applies for a renewal permit.

(j) Any permit may be suspended or revoked by the Planning Commission, by written notice to the permit holder, upon a finding that the permittee has violated applicable City ordinance provisions or permit conditions.

(k) A permit as described above is personal to the applicant. Such a permit may not be transferred to another individual. If ownership of the underlying real property on which the honeybees are kept is transferred, the permit does not run with the land, and a person desiring to keep honeybees on the property must apply for a new permit.

Sec. 8-75. Keeping of Honeybees.

A person who keeps or houses honeybees on his or her property shall comply with all of the following requirements:

(a) Have been issued the permit required from the Planning Commission.

(b) Keep no more than a total of two hives on real property less than 10,890 square feet, no more than 4 hives on real property less than 21,780 square feet, no more than 6 hives on real property less than 43,560 square feet and no more than eight hives on real property more than 43,561 square feet.

(c) The principal use of the person's property is for a single-family dwelling or two-family dwelling. No person shall allow honeybees to be kept on a lot containing a multi-family dwelling.

(d) Honeybees may only be kept by an occupant of a dwelling unit located on the real property on which the honeybees are kept.

(e) Honeybees must be housed in a properly designed and constructed hive which may be located only in the "rear yard" of the property, as that term is defined in the City's Zoning Ordinance.

(f) No hive shall be located closer than 10 feet to any property line of an adjacent property.

(g) Hives must be oriented so that a direct line of flight from the hive entrance does not impact living areas on neighboring properties.

(h) A 6 foot privacy fence is required to completely surround the bee hives in all directions. A fencing or zoning permit is necessary to place any required fence.

(i) Hives placed in elevated locations need to be placed so bees do not have a direct line of flight to neighboring properties with elevated living areas.

(j) Do not place hives next to roads, sidewalks, and public rights of way.

(k) Beekeepers shall assure an adequate source of fresh water for their bees prior to establishing an apiary.

(l) For purposes of this section, "adjacent property" means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street.

(m) All waste materials must be disposed of in an environmentally responsible manner by bagging the materials and disposing of same in the trash. Waste materials shall not accumulate on the property, and all areas must remain in sanitary condition.

(n) The person keeping the honeybees shall abide by all health and safety standards of the City's Property Maintenance Code.

(o) Shall not situate hives on or next to utility right-of-ways (power lines, pipelines or underground cables) or in such a way that it interferes with the work of Department of Public Works employees.

(p) Maintain gentle colonies. If hives become defensive, determine the cause and requeen with gentle stock if necessary.

(q) Work bees when neighbors are not in their yard. Minimize robbing behavior.

(r) Manage hives for swarm prevention.

(s) The beekeeper shall leave natural honey in the hive during the winter.

(t) The person keeping honeybees shall follow the Generally Accepted Agricultural and Management Practices For Beekeeping and Apiary Management as published by the Michigan Commission of Agriculture & Rural Development in the Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, January 2015, to the best of their abilities.

Sec. 8-76. Violation to be a Municipal Civil Infraction.

(a) No person shall keep honeybees, or allow honeybees to be kept on real property under his or her control, unless a permit to keep honeybees is first obtained from the City in the manner provided for herein.

(b) A violation of this Article shall be a municipal civil infraction.

Sec. 8-77. Applicability of the Property Maintenance Code.

A violation of this Article shall be subject to all enforcement mechanisms and provisions set forth in the Property Maintenance Code. However, so long as this Article shall remain in effect, its provisions regarding the keeping of honeybees shall supersede any conflicting provisions regarding keeping of honeybees that may be set forth in local amendments to the Property Maintenance Code.

Sec. 8-78. Miscellaneous .

(a) This being a regulatory ordinance, no person shall acquire non-conforming rights to continue keeping honeybees in the City after the expiration date hereof, or at an earlier date if the ordinance is repealed.

(b) Upon the expiration date of this ordinance, or upon the effective date of an earlier repeal, all persons keeping honeybees in the City shall have ninety (90) days to come into compliance with the then current ordinance provisions, unless City Council grants an extension of time.

(c) No person keeping honeybees pursuant to this ordinance shall have a claim against the City or any of its officers, employees, or agents for any reason due to their reliance on the ordinance provisions.

(d) No person seeking a permit to keep honeybees pursuant to this ordinance shall have a claim against the City or any of its officers, employees, or agents for denial of such permit or denial of an extension of such permit.

(e) That this ordinance shall automatically expire two (2) years from its effective date, unless earlier repealed. The City Council may extend this ordinance by passage of an ordinance to that effect.

Sec. 8-79 Severability.

Should any section, clause, or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, the same shall not affect the validity of the rest of this Ordinance as a whole, or any part thereof other than that part declared to be invalid or unconstitutional.

Section 2 Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed to the extent that they conflict or are inconsistent with this ordinance.

Section 3. Effective Date. This ordinance shall take effect upon its publication in The Cedar Springs Post, a newspaper of general circulation in the City of Cedar Springs, consistent with state law and the City Charter.

YEAS: Councilmembers: _____

NAYS: Councilmembers: _____

ABSENT: Councilmembers: _____

ABSTAIN: Councilmembers: _____

Ordinance No. _____ declared adopted

Dated _____, 2017

Rebecca Newland, City Clerk

CERTIFICATION

I certify that this is a true and complete copy of a resolution adopted by the City Council of the City of Cedar Springs at a Regular Meeting held _____, 2017 and that public notice of the meeting was given pursuant to and in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended.

Dated: _____, 2017

Rebecca Newland, City Clerk