

ORDINANCE NO. 10393 (N.S.)

**SAN DIEGO
COUNTY CODE OF
REGULATORY ORDINANCES RELATING TO
BEES AND APIARIES**

Chapter 9, Division 2 of Title 6 effective Nov. 14, 2015.

CHAPTER 9. BEEKEEPING AND APIARIES

SEC. 62.901. PURPOSE

The State Legislature found in Food and Agricultural Code section 29000 that a healthy and vibrant apiary industry is important to the economy and welfare of the people of the State of California and the protection of the industry is in the interest of the people of the State. Food and Agricultural Code sections 29000 et seq., as well as California Code of Regulations Title 3 Food and Agriculture, Article 3, establish regulations for apiaries that are enforced by the Director of the State Department of Agriculture, California Department of Pesticide Regulation and county agricultural commissioners. This chapter establishes regulations intended to implement and supplement State regulations and ensure that beekeepers maintain apiaries in a responsible manner as to protect the health, safety, and welfare of the citizens of the County of San Diego.

SEC. 62.902. DEFINITIONS

Any word or phrase used in this chapter and not defined in this section shall be given the meaning established for such word or phrase by Chapter 1 (commencing with Section 29000) of Division 13 of the Food and Agricultural Code.

The following definitions shall apply to this chapter:

(a) "Abandoned Apiary" includes, but is not limited to, a colony(s) or hive(s) and equipment a beekeeper has ceased to manage, is deserted, not maintained and/or left unattended, remains without authorization on the property of another, is without proper identification and/or registration, and/or where the owner is unable to be located and/or contacted.

Hives will be considered abandoned when the owner fails to contact the Commissioner within 30 calendar days of a notice posted at the apiary requesting the beekeeper to do so.

(b) "Abate" means to eliminate a public nuisance or to reduce the degree or intensity of a public nuisance.

(c) "Apiary" is where one or more managed colony(s) or hive(s) is located. An apiary consists of managed honey bee colony(s) or hive(s) that are kept in a structure(s) intentionally provided by the beekeeper for honey bee housing. The honey bee housing structure has movable-frames to allow the beekeeper and inspector complete access to the inner living area of colony(s) or hive (s) and its contents for manipulations such as requeening, viewing, evaluation, and/or sampling.

(d) "Apiary Pests" means any agent or characteristic in a managed honey bee colony(s) or hive(s) that makes the

existence of such colony(s) or hive(s) detrimental to the apicultural industry, other neighboring apiaries, the environment, or public safety by being kept in a manner as to contain any unhealthy condition or be a source of honey bee pests which include but is not limited disease, parasites, fungi, foulbrood, bacteria, microsporidia, virus, insect, nematode, mites, or other organisms that damage honey bees or honey bee products.

(e) "Bee Smoker" means an appliance utilizing smoke or fire used to aid in manipulating or moving honey bees.

(f) "Bees" are the domesticated European sub-species of *Apis mellifera* honey bee with a cooperative temperament historically managed and kept by beekeepers for agricultural purposes.

(g) "Beekeeper" is any person or persons who owns, operates, maintains, possesses or otherwise controls an apiary and/or the owner of property upon which an apiary is situated.

(h) "BMP Checklist" is a Best Management Practices (BMP) list issued and periodically updated by the Commissioner pursuant to this chapter that beekeepers are required to review, sign, and submit with the required annual apiary registration.

(i) "Colony" has the same meaning as the term "colony" in Food and Agricultural Code section 29006 and is a single managed colony or hive consisting of a queen and all life stages to support sustenance and reproduction kept by a beekeeper and synonymous with "hive."

(j) "Commissioner" means the San Diego County Agricultural Commissioner and any inspector or person the Commissioner employs or appoints to implement or enforce this chapter.

(k) "Flyover Barrier" is a solid wall, fence, or dense vegetation or combination thereof that provides an obstruction through which honey bees cannot readily fly. Barrier must surround the immediate vicinity of the colony(s) or hive(s) yet leave sufficient space for beekeeper to maintain colony(s) or hive(s). Property line fences or barriers do not constitute flyover barriers.

(l) "Inspector" means any person who is employed or appointed by the San Diego County Agricultural Commissioner to implement or enforce this chapter.

(m) "Location" means any property upon which an apiary is located.

(n) "Neighboring Dwellings" means a place where a person resides and may include, but is not limited to, the following: any part of an attached home, unattached residential office, unattached garage, mobile home, guest home, granny flat, inhabited boat or other waterborne vessel, a condominium, or apartment.

(o) "Property Line" is the demarcation, whether natural or artificial (man-made), of legal ownership between two contiguous estates, usually contained in a grant deed or shown on a subdivision map of record.

(p) "Road" is a public or private thoroughfare, paved or non-paved travel way, route, trail, pathway, easement or way on land between two places, which allows travel by foot or some conveyance, including a horse, bicycle, motorcycle or other motor vehicles, by the public or local neighbors. A roadway will include sidewalks and roadside paths where people travel.

(q) "Sensitive Sites" are areas where people such as the elderly, small children, individuals with medical conditions or confined animals inhabit or frequent that are more at risk if stinging incidents were to occur. Sensitive sites are characterized by demonstrated need for a greater safety buffer. These areas include, but are not limited to, schools, playgrounds, picnic areas, outdoor sports facilities, daycare centers, senior care facilities, medical facilities, kennels and horse-boarding facilities. Property operators, owners, or residents who have medical reasons may apply to have their locations designated as sensitive sites. Businesses with employees who have medical reasons or where bees could cause a nuisance during normal work activities may also apply to have their locations designated as sensitive sites. The Commissioner may remove sites previously approved or designated as sensitive sites upon request. The Commissioner has final discretion to approve designation of locations as sensitive sites upon review of supportive documentation.

(r) "Undesirable Honey Bee Behavior(s)" is any behavior exhibited by honey bees from a managed hive, colony or apiary that may result in harm to others. Undesirable honey bee behaviors include, but are not limited to, characteristics of Africanized honey bees guarding a larger territorial perimeter around the hive in greater numbers than is typical of European honey bees, responding to minimal or no provocation into over-defensiveness, aggressiveness, repeated swarming, unpredictability, reactivity, and agitation during, but not limited to, apiary inspection. Honey bees foraging on flowering vegetation is considered normal and desirable.

SEC. 62.903. REGISTRATION AND REQUEST FOR PESTICIDE NOTIFICATION

Beekeepers located in all jurisdictions in the County of San Diego shall register with the Commissioner the number of colonies and the location of each apiary on the first day of January of each year or within 30 calendar days of acquiring an apiary consistent with Food and Agricultural Code Sections 29040-29056.

Every beekeeper in all jurisdictions of the County who desires advance notice of qualified pesticide applications shall inform the Commissioner consistent with Food and Agricultural Code Sections 29100-29103.

SEC. 62.904. BEEKEEPERS IN UNINCORPORATED COUNTY

Other than section 62.903 which applies to all jurisdictions, this ordinance applies to apiary locations in the unincorporated areas in the County of San Diego. This ordinance is not meant to regulate undomesticated or feral honey bee swarms or hives.

SEC. 62.905. APPROVED HIVES, COLONIES, OR APIARIES

Beekeepers shall maintain honey bees in a structure(s) intentionally provided by the beekeepers for honey bee housing. The honey bee housing structure shall have movable-frames to allow full access to the inner honey bee living quarters by the inspector for viewing, evaluation, and/or sampling of the structure and its contents including but not limited to brood, drones, queens, workers, beeswax, comb, honey, and pollen.

SEC. 62.906. APIARY TIERS DEFINED

The following are tiered levels of apiaries applicable to this chapter.

Tier A: 1-2 colonies per apiary location with up to 5 colonies on a temporary basis (up to 30 calendar days) to prevent swarming.

Tier B: 3-20 colonies per apiary location.

Tier C: More than 20 colonies per apiary location.

SEC. 62.907. DISTANCE OF APIARY FROM ROADS

Apiaries must be located at or greater than the following distances from roads:

- (a) Tier A: Twenty-five (25) feet.
- (b) Tier B: Fifty (50) feet.
- (c) Tier C: One hundred (100) feet.

The distance will be measured from the nearest edge of the road as defined by this chapter.

SEC. 62.908. DISTANCE FROM NEIGHBORING DWELLINGS

Apiaries must be located at or greater than the following distances from a neighboring dwelling:

- (a) Tier A: Thirty-five (35) feet.
- (b) Tier B: One hundred (100) feet.
- (c) Tier C: Three hundred (300) feet.

The distance will be measured from the nearest portion of the neighboring dwelling.

SEC. 62.909. DISTANCE FROM PROPERTY LINES

Apiaries must be located at or greater than the following distances from the property line of the adjacent neighbor(s) as:

- (a) Tier A: Twenty-five (25) feet.
- (b) Tier B: Fifty (50) feet.

If the property line extends into a thoroughfare or road, the distance will be measured from the nearest edge of the road, as defined by this chapter.

The Commissioner may allow the placement of apiaries closer than the distance requirements from the property line if the Commissioner finds that the location is on an open-space-adjacent property that would not endanger public health or safety or create a nuisance.

SEC. 62.910. DISTANCE FROM SENSITIVE SITES

Apiaries must be located at or greater than the following distances from a sensitive site:

- (a) Tier A: One-hundred-fifty (150) feet.
- (b) Tier B: One-hundred-fifty (150) feet, if between three (3) and ten (10) colonies.
- (c) Tier B: Three hundred (300) feet if between eleven (11) and twenty (20) colonies.
- (d) Tier C: Four-hundred-fifty (450) feet.

The distance will be measured from the nearest edge of the property line of the sensitive site.

SEC. 62.911. BMP CHECKLIST

Beekeepers shall complete, sign and submit the BMP Checklist for their respective tier at the time of annual registration. The beekeeper shall implement all the BMPs as required by the BMP Checklist.

SEC. 62.912. IDENTIFICATION SIGNS

Beekeepers shall identify the beekeeper's name and telephone number information on all apiary hives in black letters, not less than one inch high, on a background of contrasting color.

SEC. 62.913. REGULAR HIVE CHECK

Beekeepers shall inspect each colony at least once a month to detect objectionable honey bee behavior and/or apiary pests in order to take corrective action(s) in a timely manner. Beekeepers shall practice swarm prevention techniques and provide additional space for colony growth to minimize honey bee swarming. Tier A may maintain up to five (5) colonies for up to thirty (30) calendar days for swarm prevention.

SEC. 62.914. FLYOVER BARRIER

Apiaries in Tier A or B with twenty (20) or fewer colonies in a residential area within three hundred feet (300') of a neighboring dwelling shall maintain a six foot (6') vertical-flyover barrier.

SEC. 62.915. WATER SUPPLY REQUIRED

Beekeepers shall maintain an adequate and accessible supply of fresh water available at all times, including prior to introduction to a new location. If the property on which the apiary is located does not contain sufficient natural water, the beekeeper shall provide one or more water containers or water

sources. The water supply shall provide landing sites for the honey bees to drink without drowning, undue competition, or over-crowding. It is unlawful for a beekeeper to allow a water source to become stagnant or a mosquito breeding site.

SEC. 62.916. FIREBREAK

Beekeepers shall maintain apiaries with a fire break that meets the following specifications:

- (a) The area within ten feet (10') surrounding apiaries shall be cleared to bare earth and free from all other combustible material. This shall be the only firebreak required for five (5) colonies or less in residential areas.
- (b) The area beginning from ten feet (10') surrounding apiaries out to thirty feet (30') surrounding apiaries shall have all combustible vegetation maintained to a height of six inches (6") above the ground or less.
- (c) Vegetation along the route being traveled by motor vehicles to any apiary location shall have all combustible vegetation maintained to a height of six inches (6") above the ground or less.
- (d) Subsections (a) and (b) shall not be construed to require the owner or operator to remove live trees, unless the fire official having jurisdiction requires trees to be removed to eliminate a fire hazard.

SEC. 62.917. FIRE FIGHTING SUPPLIES

Beekeepers shall keep and maintain the following fire-fighting equipment, in good working condition, located at the apiary or in any motor vehicle used for apiary maintenance, so as to be immediately available in case of fire:

- (a) A shovel;
- (b) A fire extinguisher or backpack type firefighting pump;
Or
- (c) An operable water supply such as a charged garden hose with a nozzle that is extended to the apiary site.

SEC. 62.918. BEE SMOKERS

Beekeepers shall maintain apiaries free from fire hazards due to use of a bee smokers by complying with the following regulations:

- (a) The bee smoker shall be plugged with a noncombustible or fire resistive plug such as metal or hardwood, while being transported to or from an apiary so as to prevent sparks or embers from escaping.
- (b) During hand-carry transport of a bee smoker containing burning or smoldering substances to or from an apiary, the smoker shall be carried in a noncombustible secondary container with the lid securely fastened in the closed position to prevent the smoker from spilling its contents when tipped over.

(c) During motorized vehicle transport of a bee smoker containing burning or smoldering substances to or from an apiary, the smoker shall be placed in a noncombustible secondary container with the lid securely fastened in the closed position.

(d) All burning or smoldering substances within a bee smoker shall be completely extinguished with water and cold to touch after use.

SEC. 62.919. REQUESTED INSPECTION

Beekeepers and/or the owner (s) and/or occupant (s) of an apiary location or premises may voluntarily request an inspection of the apiary to ensure the apiary is maintained in accordance with the terms set forth in this chapter.

SEC. 62.920. INSPECTION TERMS

In accordance with Food and Agricultural Code 29201, inspectors may enter any location where an apiary is maintained and make an inspection of the apiary including ancillary buildings. The inspector may give prior notice of the inspection where the notice would not interfere with the purpose of the inspection. The right of inspection shall occur at reasonable times. No person shall interfere with the entry of an inspector in the official course of his or her duty. No person shall maintain an apiary in any manner that prevents or hinders access to the inside of any colony(s) or hive(s) for inspection by an apiary inspector.

SEC. 62.921. TRANSPORTATION OF HONEY BEES

No person shall transport a colony of honey bees between sunrise and sunset or cause honey bees to be transported during that time period unless the honey bees are transported in a vehicle with bee-tight screens or other devices that will prevent honey bees from escaping from the vehicle.

SEC. 62.922. TRANSPORT CERTIFICATE INSPECTION AND FEE

The Commissioner may inspect and certify an apiary when requested by the owner or shipper of an apiary, pursuant to Food and Agricultural Code sections 29140 et seq., who requires an exportation certificate to transport an apiary to another state or country. Before the inspection, the person requesting the inspection shall pay the Commissioner the fee the Board of Supervisors has established for the inspection and certification.

SEC. 62.923. UNDESIRABLE HIVES, COLONIES, OR APIARIES

No beekeeper shall own or operate an apiary that exhibits undesirable honey bee behavior, contains apiary pests, or is an abandoned apiary, as determined by the Commissioner.

SEC. 62.924. ADMINISTRATIVE COMPLIANCE

The Commissioner may issue administrative citations for any violation of this chapter pursuant to sections 18.101 et seq. of the San Diego County Code of Administrative Ordinances.

SEC. 62.925. ENFORCEMENT

Any person who violates section 62.921 of this chapter shall be guilty of a misdemeanor pursuant to Food and Agricultural Code sections 29300-29311. Any person who violates this chapter shall be guilty of a misdemeanor pursuant to sections 11.116 et seq. of the San Diego County Code of Regulatory Ordinances.

SEC. 62.926. ABATEMENT

In addition to the authority granted the Commissioner to abate an infested hive or bee colony under Food and Agricultural Code sections 29200 et seq., the Commissioner may abate a violation of this chapter pursuant to sections 16.201 et seq. of the San Diego County Code of Regulatory Ordinances.

SEC. 62.927. REMEDIES CUMULATIVE

The Commissioner may utilize any enforcement procedure authorized by San Diego County Code or State law. If the Commissioner abates a nuisance under this chapter, the Commissioner may also institute administrative penalties or criminal prosecution against any person responsible for the public nuisance.