



AGENDA
WATAUGA CITY COUNCIL
WORKSHOP MEETING
MONDAY, NOVEMBER 13, 2023
CITY HALL COUNCIL CHAMBER, 7105 WHITLEY ROAD
5:30 PM

This notice is posted pursuant to the Texas Open Meetings Act. Notice is hereby given that a **City Council Workshop Meeting** of the City of Watauga, Texas will be held at which time the following subjects will be discussed and may be acted upon.

CALL TO ORDER (Council Members, City Staff, Members of the Public - when speaking during the meeting please speak directly into the microphones on the dais or podium)

ROLL CALL

ANNOUNCEMENTS

PUBLIC COMMENT If speaking for an organization or group, the speaker should identify the group represented. If speaking during Public Comment (for matters not posted on that particular meeting's agenda), members of the City Council and Staff may only provide a statement of factual information in response to the inquiry or recite existing policy in response (e.g., to correct a factual misstatement made by the citizen or provide factual information requested by the citizen). Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a future meeting. If necessary, the Chair will task the City Manager to respond to the citizen and report back to the City Council as soon as practicable. Such report to the City Council shall not constitute a meeting called by the City Council nor shall it constitute deliberation or formal action. Individual citizens addressing the City Council during Public Comment shall not exceed three (3) minutes in their comments; however, the Chair may extend or reduce the speaker's allotted time in order to conduct an efficient and effective public meeting. The time allotted shall not be donated to others desiring to speak. Public Comment is not established to engage in a conversation with the Council and no formal Council action will be taken.

PUBLIC TESTIMONY FOR ACTION ITEMS Only those persons who submit a completed Request to Speak form prior to the agenda item being introduced by the Chair will be allowed to speak on agenda items set for action (this doesn't include presentations or reports). The Chair shall ask each person requesting to speak to approach the podium when called to speak. Speakers time shall generally not exceed three (3) minutes in their comments and all comments must be germane to the specific agenda item being discussed; however, the Chair may extend

or reduce the speaker's allotted time. Speakers shall not be permitted to donate their time to other speakers. Members of the City Council may ask questions or discuss the item directly with the citizen during the citizen's testimony if necessary. Any discussion between a Council member and the citizen will not count toward the time limit and Council Members are encouraged not to speak until the citizen has first utilized their allocated time.

PRESENTATIONS

1. Animal Services will give a presentation and discuss an ordinance on beekeeping within residential areas.

Robert Parker, Police Chief

ACTION ITEMS

ADJOURNMENT

Meeting Notices and Reservation of Rights

The City Council may retire to executive session any time between the meeting's opening and adjournment for the purpose of consultation with legal counsel pursuant to Chapter 551.071 of the Texas Government Code; discussion of personnel matters pursuant to Chapter 551.074 of the Texas Government Code if the requisite information is otherwise posted; deliberation regarding real property pursuant to Chapter 551.072 of the Texas Government Code; deliberation regarding economic development negotiations pursuant to Chapter 551.087 of the Texas Government Code; and/or deliberation regarding the deployment, or specific occasions for implementation of security personnel or devices pursuant to Chapter 551.076 of the Texas Government Code (as applicable) when determined necessary by the [City Council/Board/Commission/Committee] to address a subject matter on the agenda. Action, if any, will be taken in open session.

Attendance by Other Elected or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city council, boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a possible meeting of the other body, board, commission and/or committee, whose members may be in attendance, if such numbers constitute a quorum. The members of the city council, boards, commissions and/or committees may be permitted to participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that city council, body, board, commission or committee subject to the Texas Open Meetings Act.

NOTICE

THIS FACILITY IS WHEELCHAIR ACCESSIBLE AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT THE CITY SECRETARY'S OFFICE AT (817) 514-5825, OR FAX (817) 514-3625.

I, Linda Proskey, City Secretary for the City of Watauga, hereby certify that this agenda was posted on the bulletin boards at City Hall, 7105 Whitley Road, Watauga, Texas, on November 10, 2023, before 5:00 p.m., in accordance with Chapter 551 of the Texas Government Code.


Linda Proskey, City Secretary



AGENDA MEMORANDUM

DATE: November 8, 2023
TO: Honorable City Council Members
FROM: Robert Parker, Police Chief
THROUGH: Joshua Jones, City Manager
SUBJECT: Animal Services will give a presentation and discuss an ordinance on beekeeping within residential areas.

BACKGROUND/INFORMATION:

The city of Watauga has received concerns from citizens about residential bee keeping. Currently, the city has no ordinance or rules pertaining to the subject. Council requested the City Manager to have staff research topic or locate a subject matter expert to present to the Council information that would aid in decision making to determine if an ordinance is needed and recommendations for an ordinance. The staff extensively researched the topic due to the lack of availability of a subject matter expert on short notice.

FINANCIAL IMPLICATIONS:

RECOMMENDATION/ACTION DESIRED:

This item does not require a recommendation as it is a presentation/report.

ATTACHMENTS/ SUPPORTING DOCUMENTATION:

1. Beekeeping ordinance 2023
2. Watauga Ordinance Bee Keeping

REVIEWED BY:

Tonya DeGrand, ACO

Robert Parker, Police Chief

Joshua Jones, City Manager

Linda Proskey, City Secretary

Approved - 11/9/2023

Approved - 11/9/2023

Approved - 11/9/2023

Final Approval - 11/10/2023

Approved as to form for inclusion on Agenda

Beekeeping Ordinance

DEFINITIONS.

In this chapter:

- (1) APIARY means a place where a bee colony is kept.
- (2) BEE means any stage of the common domestic honey bee, *Apis mellifera* species.
- (3) COLONY means a hive and related equipment and appurtenances including bees, comb, honey, pollen, and brood.
- (4) HIVE means a structure intended to house a colony.
- (5) TRACT means a contiguous parcel of land under common ownership.
- (6) UNDEVELOPED PROPERTY means any property that is not improved or under improvement for human use or occupancy, including property developed as a street or highway, or used for a commercial agricultural purpose.

APIARY MAINTENANCE.

- (A) A person shall keep a colony in a Langstroth-type hive with removable frames that are maintained in sound and usable condition.
- (B) A person shall provide a source of water within 15 feet of a colony to prevent the bees from congregating at a water source used by a human, bird, or domestic pet.
- (C) A person shall store or dispose of bee comb or other material removed from a hive in a sealed container, building, or other bee-proof enclosure.

HIVE LOCATION.

A person may not locate a hive within 10 feet of the property line of a tract or any other structure, as measured from the nearest point of the hive to the property line, and must not be placed within any building line, yard setback, right-of-way, and/or easement. The hive must be located in the rear yard of the residence and the location must be properly fenced and not less than four feet in height.

CONSTRUCTION OF FLYWAY BARRIER.

- (A) Except as provided in Subsection (B), a person who keeps a colony within 25 feet of the property line of a tract, as measured from the nearest point of a hive to the property line, shall establish and maintain a flyway barrier parallel to the property line.
- (B) A person is not required to construct a flyway barrier if the apiary tract is adjoined by undeveloped property for a distance of at least 25 feet from the property line of a tract that is closest to the location of the colony.
- (C) A flyway barrier created under this section must:
 - (1) consist of a solid wall, fence, dense vegetation, or combination of these materials at least eight feet high; and
 - (2) extend at least 10 feet beyond the hives on each end of the colony.

CONTROL OF AGGRESSIVE COLONY.

- (A) A person shall immediately replace the queen in a colony that exhibits aggressive characteristics, including stinging or attempting to sting without provocation, or a disposition towards swarming. A person required to replace a queen under this subsection shall select the replacement from bee stock bred for gentleness and non-swarming characteristics.

Beekeeping Ordinance

(B) As required for swarm management, a person may maintain a nucleus colony for the colony allowed under this chapter. A person may house a nucleus colony in a structure not exceeding a standard 9 $\frac{5}{8}$ -inch depth ten-frame hive body with no supers attached. A person shall dispose of or combine a nucleus colony with an authorized colony not later than the 30th day after the date the nucleus colony is acquired.

COLONY DENSITY.

(A) A person may not keep more than one colony on a residential lot, tract, or individual property.

HIVE IDENTIFICATION AND OWNERSHIP.

(A) Except as provided in Subsection (B), a person shall:

- (1) brand, paint, or otherwise clearly mark the apiary owner's name or telephone number on the hive; or
- (2) post a conspicuous sign displaying the apiary owner's name and telephone number at the entrance to the apiary tract.
- (3) The owner notifies the animal services department, in writing, of the location of where the hive is kept.
- (4) The owner provides the department with a certificate of participation in beekeeper training which can include an online program.

(B) A person is not required to place owner identification on or near a colony located on a tract on which the owner resides.

INSPECTION OR ENFORCEMENT.

- (A) The animal control officer, or any police officer, may inspect an apiary between the hours of 8:00 a.m. and 5:00 p.m. If the owner of the apiary resides on the tract or the owner's name is marked on the colony, the animal control officer, or any police officer, shall attempt to give the owner notice of inspection.
- (B) The animal control officer, or any police officer, may investigate a complaint of a violation of this chapter.
- (C) For enforcement actions under this chapter, the animal control officer, or any police officer, may presume that the person who owns or has a present right of possession or control of a tract on which an unidentified colony is located is the owner of the colony. A person may rebut the presumption of ownership by presenting the animal control officer, or the police officer, with a written agreement identifying the name, address, and telephone number of the owner of the unidentified colony.
- (D) A person commits an offense if a person violates any section of this chapter.
- (E) The animal control officer, or any police officer, shall have the authority to issue citations for any violation(s) under this chapter.

DESTRUCTION OF WILD OR ABANDONED BEES.

- (A) The animal control officer, or any police officer, will order the relocation of bees described in Subsection (B)(1)—(3) if the relocation of the bees can be done without threatening human or animal health or interfering with the normal use and enjoyment of public or private property.
- (B) If relocation of bees under Subsection (A) is not possible then, without notice and a hearing, the animal control officer, or any police officer, may order the destruction of:
- (1) a colony not residing in a hive;
 - (2) a swarm of bees; or
 - (3) a colony residing in an abandoned standard or man-made hive.

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NOTICE OF VIOLATION OR HEARING.

- (A) Except as provided in Section “*Destruction of Wild or Abandoned Bees*,” the animal control officer, or any police officer, shall issue written notice to a person the animal control officer, or any police officer, believes to be in violation of this chapter. Notice of violation issued under this section must include:
- (1) a description of the alleged violation;
 - (2) a description of the required corrective action;
 - (3) a statement that compliance is required within 10 days of the date of the notice; and
 - (4) a statement that the person may request a hearing to determine if a violation of this chapter exists.
- (B) If a person requests a hearing or fails to correct an alleged violation within 10 days of the date a notice of violation is issued, the animal control officer, or any police officer, shall issue a notice of hearing to the person. Notice of hearing issued under this section must include:
- (1) the date, time, and place of the hearing;
 - (2) a description of the alleged violation;
 - (3) a statement that the person may appear in person or through counsel, present evidence, cross-examine witnesses, and request that the proceeding be recorded; and
 - (4) a statement that the bees may be ordered relocated, destroyed, or removed if the animal control officer, or any police officer, finds a violation of this chapter has occurred.
- (C) Except as provided in Subsection (D), the animal control officer, or any police officer, shall send notice under this section by certified mail.
- (D) If the animal control officer, or any police officer, is unable to locate the owner of a colony, notice under this chapter may be given by posting a notice on the tract where the colony is located.

ENFORCEMENT PROCEDURE.

- (A) The animal control officer, or any police officer, shall conduct a hearing requested under this chapter under the preponderance of credible evidence standard of proof.
- (B) If the animal control officer, or any police officer, finds that a person has committed a violation of this chapter, the animal control officer, or any police officer, may:
- (1) issue an enforcement order;
 - (2) order that the person's bees be relocated, destroyed or removed not later than the 20th day after the date of the decision; and
 - (3) prohibit the person from locating a colony on the same tract for a period of two years following the date of the decision.
- (C) The animal control officer, or any police officer, may issue a warning if the animal control officer, or any police officer, determines that a person did not intentionally commit a violation and that the person has implemented corrective action sufficient to cure the alleged violation.
- (D) If a person fails to comply with an enforcement order issued under this chapter, the animal services officer, or any police officer, may destroy or relocate a colony subject to the order.
- (E) After the destruction or relocation of a colony by the animal control officer, or any police officer, the owner of the hive is to pay all related expenses and request that the animal control officer, or any police officer, return all usable components of the hive structure that are not damaged or unsafe for use.

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- (F) In issuing orders under this section, the animal control officer, or any police officer, will order the relocation of bees, instead of their destruction, if relocation can be done without threatening human or animal health or interfering with the normal use and enjoyment of public or private property.

APPEAL.

- (A) A person may appeal the animal control officer's, or any police officer's, decision under this chapter to a court of competent jurisdiction. An appeal under this section shall stay the animal control officer's, or any police officer's, decision.
- (B) The animal control officer, or any police officer, may not require a person to remove a colony subject to a decision under appeal pending the determination of the appeal.

CITY OF WATAUGA, TEXAS
ORDINANCE NO. 2023-_____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WATAUGA, TEXAS, AMENDING THE CODE OF ORDINANCES, WATAUGA, TEXAS, BY AMENDING SECTION 6.4 OF ARTICLE I (“IN GENERAL”) OF CHAPTER 6 (“ANIMALS”), TO ADD PROVISIONS REGULATING THE KEEPING OF BEES TO PREVENT THE ENDANGERMENT OF HEALTH AND SAFETY; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED (\$500.00) DOLLARS FOR EACH OFFENSE; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Council finds and determines that bees kept and maintained on private property have the potential to occupy adjacent properties other than the property on which the bees are kept, and may attack and sting residents on adjacent and nearby properties; and

WHEREAS, the City Council finds that the City’s existing animal control regulations do not contain provisions regulating the keeping of bees or the prevention of animal nuisances; and

WHEREAS, the City Council finds and determines that the adoption of reasonable regulations regarding the practice of bee-keeping should be adopted to protect the public health and safety.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WATAUGA, TEXAS, THAT:

I.

The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

II.

Section 6-4 (“Health Hazards”) of Article I (“In General”) of Chapter 6 (“Animals”) of the Code of Ordinances, Watauga, Texas, be and is hereby amended to renumber the existing language as subsection (a) and to add a new subsection (b), regulating the keeping of bees, such that Section 6-4 shall henceforth read in its entirety as follows:

“CHAPTER 6
ANIMALS

ARTICLE I
IN GENERAL

Section 6-4. – Health hazards.

- (a) Any person who shall harbor or keep on his premises, or in or about premises under his control, any dog or cat or pet animal, and who shall allow his premises to become a hazard to the general health and welfare of the community, or who shall allow his premises to give off noxious or offensive odors due to the activity or presence of such animals, shall be guilty of a misdemeanor.
- (b) It shall be considered a public nuisance and it shall be unlawful for any person to own, harbor or keep bees in such a manner as to deny the lawful use of adjacent property or endanger the health and safety of others.”

III.

This Ordinance shall be and is hereby cumulative of all other Ordinances of the City of Watauga, Texas, and this Ordinance shall not operate to repeal or affect any such other Ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event, such conflicting provisions, if any, in such other Ordinance or Ordinances are hereby repealed.

IV.

If any section, sub-section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

V.

Any person, firm or corporation who violates or who causes or allows another person to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in section 1-7 of the City Code of Ordinances, and shall upon conviction be punished by a fine not to exceed the sum of Five Hundred (\$500.00) Dollars for each offense. Each occurrence of any violation of this Ordinance shall constitute a separate offense. Each day in which any violation of this Ordinance occurs shall constitute a separate offense.

VI.

This Ordinance shall become effective and be in full force and effect from and after the date of passage and adoption by the City Council and upon approval thereof by the Mayor of the City of Watauga, Texas and the publication of the hereof as prescribed by law and Charter.

PASSED AND ADOPTED by the City Council of the City of Watauga, Texas, the ____ day of _____, 2023.

APPROVED:

ARTHUR L. MINER, MAYOR

ATTEST:

LINDA PROSKEY, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

DAVID BERMAN, CITY ATTORNEY