

Title 5 AGRICULTURE

Chapter 5.04 BEES*,**

*Note to Chapter 5.04

* Chapter 1 of Division 13 of the Agricultural Code of the state of California (Section 29000 et seq.) permits a county to identify apiaries, permits a county to have county apiaries inspectors, permits the agricultural commissioner of the county under the Secretary of Agriculture to enforce the provisions of said Chapter 1, and makes the agricultural commissioner of the county an ex officio state apiary inspector.

** Article 1 of Chapter 1 of the California Health and Safety Code (Section 101040 et seq.) permits the county health officer, in an emergency, to take any preventive measure to preserve the public health from any public health hazard by means of abatement, correction, removal of any other protective step.

5.04.010 Purpose.

The unregulated and improper keeping of bees and apiaries in numerous locations throughout the unincorporated and incorporated territories of the county becomes a nuisance and a hazard to the safety of landowners, road users and the public generally. (Ord. 2791 § 1 (part), 1997: Ord. 2271 § 1 (part), 1986)

5.04.020 Definitions.

Any word or phrase hereafter used and not defined in this chapter shall be given the meaning established for such word or phrase by the California Food and Agricultural Code and California Health and Safety Code as it is now or may hereafter be amended. Whenever in this chapter the term "commissioner" is used, it means the county agricultural commissioner and regularly appointed employees of the county department of agriculture acting pursuant to the commissioner's instructions. Whenever in this chapter the term "health officer" is used, it means the county health officer and regularly appointed employees of the county department of environmental health acting pursuant to the health officer's instructions. Whenever in this chapter the term "public health" is used, it includes stinging from hymenopterous insects. Whenever in this chapter the term "person" is used, it includes landowner, tenant, renter, lessee and licensee. Whenever in this chapter the term "dwelling" is used, it shall include an occupied structure. (Ord. 2791 § 1 (part), 1997: Ord. 2271 § 1 (part), 1986)

5.04.030 Provisions supplement laws.

This chapter shall in all respects be construed to supplement and harmonize with the provisions of law of the state pertaining to public health, bees and the beekeeping industry. (Ord. 2791 § 1 (part), 1997: Ord. 2271 § 1 (part), 1986)

5.04.040 Entry on premises.

The commissioner is empowered to enter upon any premises where bees are kept, or upon which he has reason to believe that bees are kept, in order to carry into effect

the provisions of this chapter. (Ord. 2791 § 1 (part), 1997; Ord. 2271 § 1 (part), 1986)

5.04.050 Administration.

Complaints to the Commissioner. Complaints against bees searching for water or causing a public health hazard or a public nuisance may, after review and at the commissioner's discretion, be investigated. The commissioner may, after investigation, determine whether an apiary constitutes a public health hazard or a public nuisance and may cause removal of any apiary where the bees are not in compliance with the provisions of this chapter.

(a) Inspection Authorized. The commissioner is authorized, and may upon request of an agricultural producer or the owner or shipper of an apiary who requires a certificate of apiary inspection, to inspect and certify as to colonies being apparently free from Africanized honey bees, or any regulated honey bee disease or parasite.

(b) Inspection Fee. A certificate of inspection fee is established by the board of supervisors. (Ord. 2791 § 2, 1997)

5.04.060 Regulations.

(a) Interference. It is unlawful for any person to interfere with the official acts or duties of the commissioner.

(b) Identification Sign. Every person owning, operating or controlling an apiary located on premises other than where such person resides shall identify such apiary as is now provided or hereafter may be provided by the laws of the state.

(c) Distance from Roads and Property Lines. No person shall place or keep an apiary, or cause or allow an apiary to remain, so close to a property boundary or a public or private road used by the public as to constitute a public nuisance or public hazard to persons using such road or property. Except when pollinating crops, no apiary shall be located within two hundred feet of any public road.

(d) Distance from Building. Other than buildings owned or occupied by such person, no person shall place or keep an apiary, or cause or allow an apiary to remain, so close to any building used as a dwelling as to constitute a public nuisance or public hazard to persons using such dwelling.

(e) Permission of Landowners or Tenants in Possession. No person shall place or keep an apiary, or cause or allow an apiary to remain on land not owned or possessed by such person, without first obtaining permission by the owner or person lawfully in possession of such land. The permission must be verifiable by the agricultural commissioner.

(f) Transportation of Bees. Except in the case of an emergency, hives of bees being transported on, or parked adjacent to, public roads or highways at a time when the bees are flying shall have the bees substantially confined by screens or other means to the vehicle by which the bees are being transported.

(g) Water Supply and Flight Path.

(1) Every apiary shall be provided with an adequate quantity of water by the apiary owner or his employee(s) prior to the time the apiary is set on a property; unless, in the event the property is leased, the landowner gives verifiable permission to use existing water situated on the land where the apiary is located.

(2) The water supply at each apiary site shall be located near the apiary and the water shall be maintained by the apiary owner so long as the apiary stays

on the property. The water shall be of a quality acceptable to and must be used by the bees.

(3) Every apiary shall be located and maintained so as to cause the bees to fly in a direction or at an altitude that does not cause a public health hazard.

(h) Abatement of a Public Hazard Causing Stings. If the commissioner or health officer determines that the presence of honey bees constitutes an immediate public health hazard to the extent that the health, safety or welfare of the public is endangered through such a condition, the commissioner or health officer may forthwith take such steps to abate such hazard as seems necessary and proper in the circumstances. The health officer is empowered to enter upon any premises in order to carry into effect the provisions of this section. It is unlawful for any person to interfere with the official acts or duties of the health officer. (Ord. 2791 § 1 (part), 1997; Ord. 2271 § 1 (part), 1986)

5.04.070 Notice of violation.

Any person who violates any provisions of this chapter may be served with a written or verbal notice to cease or remedy such violation by the commissioner. Except for a public hazard or nuisance to the extent that the health, safety or welfare of the public is endangered, such notices shall require that such person cease or remedy the violation within forty-eight hours. The notice may also specify whether the identified violation will be treated as a misdemeanor or an infraction. The determination of misdemeanor or infraction status shall be made by the commissioner prior to the issuance of a citation, taking into consideration all the factors known to the commissioner relative to the violation, including gravity, severity, quality and nature of an aggravation of the circumstances of the violation and any matters in mitigation. The notices shall require that such persons cease or remedy the violation within forty-eight hours unless the circumstances immediately endanger the public and necessitate abatement. Any person who fails to cease or remedy the violation within the forty-eight-hour time period is guilty of a misdemeanor or infraction as specified in the provisions of the notice. The notices required by this section shall be served personally on such person, or, if he cannot be found, shall be served by United States mail, first class, postage prepaid to the most recent address of the person known to the commissioner; or if said person is actually determined not to have been served by mail, then service shall be accomplished by posting a notice in a conspicuous place on or near the apiary where the violation occurred. The forty-eight-hour period referred to in this section shall commence to run from the time on a day when notice is served pursuant to this section. (Ord. 2791 § 1 (part), 1997; Ord. 2271 § 1 (part), 1986)

5.04.080 Penalties.

Pursuant to County Code Chapters 1.04 and 1.08 and Government Code Section 25132, any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provisions of this chapter shall be guilty of a misdemeanor or infraction as specified herein and, upon conviction thereof, shall be punishable by a fine, if a misdemeanor, of not more than one thousand dollars or by imprisonment for a term of not more than six months, or by a fine of not more than one hundred dollars, if an infraction. Such person, firm or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is committed, continued or permitted by such person, firm or corporation, and shall be punished as provided in this section. The remedies provided under this section shall be cumulative and not exclusive. For purposes of this section, a bail

forfeiture shall be deemed to be a conviction of the offense charged. (Ord. 2791 § 1 (part), 1997; Ord. 2271 § 1 (part), 1986)

5.04.090 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such holding and decision shall not affect the validity of the remaining portions of this chapter. The board of supervisors declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause or phrase hereof irrespective of and independent of any section, subsection, sentence, clause or phrase determined to have been unconstitutional or invalid. (Ord. 2791 § 1 (part), 1997; Ord. 2271 § 1 (part), 1986)