

DEVILS LAKE SIOUX LAW AND ORDER CODE

TITLE 12: BEEKEEPING

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DEVILS LAKE SIOUX LAW AND ORDER CODE

TITLE 12: BEEKEEPING

CHAPTER ONE FINDINGS, APPLICATION, DEFINITIONS

§12-1-101. Findings.

The Devils Lake Sioux Tribal Council finds:

- (1) That the conduct of persons who engage in beekeeping for commercial and noncommercial purposes on trust lands and on fee lands within two miles (3.22 kilometers) of trust land on the Reservation directly affects the health, safety and welfare of the Tribe, and its members and all other persons in the Reservation.
- (2) That the regulation of beekeeping on the Reservation is important to avoid the spread of disease among bees and to regulate their safety and welfare.
- (3) That the regulation of beekeeping activities on trust land and on fee lands within two miles (3.22 kilometers) of trust land on the Reservation is vital to the protection of persons within the exterior boundaries of the Reservation and the interests of the Tribe and its members.

§12-1-102. Application.

This Title applies to:

- (1) Any apiary owned or maintained by or any beekeeping activity conducted by any person within the exterior boundaries of the Reservation.
- (2) Any apiary owned or maintained by or beekeeping activity conducted by any person on trust land outside the exterior boundaries of the Reservation.

§12-1-103. Definitions.

In this Title unless the context requires otherwise, the following definitions apply:

- (1) "Apiary" means a place where one or more colonies of bees are kept or one or more hives containing honeycombs or bee combs are kept.
- (2) "Bee diseases" means American or European foulbrood, sacbrood, bee paralysis, or other diseases or abnormal condition of egg, larval, pupal, or adult stages of bees.
- (3) "Bee inspector" means the Tribal bee inspector appointed pursuant to §12-2-101.

- (4) "Beekeeper" means any person who owns, leases, or manages one or more colonies of bees for pollination or the production of honey, beeswax or byproducts, either for personal or commercial use.
- (5) "Bees" means any stage of the bees in the genus *Apis*.
- (6) "Colony" means the hive and its equipment including bees, comb and honey, and brood.
- (7) "Commercial apiary" means an apiary where 24 or more colonies of bees are kept.
- (8) "Commercial operator" means any beekeeper who maintains 24 or more colonies of bees.
- (9) "Equipment" means hives, supers, frames, veils, gloves or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax and hives, and also includes any containers of honey and wax which may be used in any apiary or in transporting bees and their products and apiary supplies, and those items used in the operation of a honey house.
- (10) "Family unit" means two or more persons residing together.
- (11) "Hive" means a frame hive, box hive, box, barrel, log gum, skep, or other receptacle or container or a part of a container, natural or artificial, which may be used as a domicile for bees.
- (12) "Noncommercial apiary" means an apiary where 24 or fewer colonies of bees are kept.
- (13) "Noncommercial operator" means any beekeeper who maintains 24 or fewer colonies of bees.
- (14) "Persons" means any individual, association, partnership or corporation.
- (15) "Pollination apiary" means an apiary operated for pollination of a commercial seed, fruit or other commercial agricultural product.

CHAPTER TWO BEE INSPECTOR

§12-2-101. Appointment.

The Tribal Council shall appoint a person qualified by scientific training or practical experience as tribal bee inspector. The bee inspector shall be furnished with all supplies, equipment, and support necessary to carry out this Title. The Tribal Council may, on the recommendation of the inspector, appoint and dismiss such deputy inspectors as are necessary to assist the inspector in performing the inspector's duties.

§12-2-102. Bee Inspector--Duties--Powers.

- (1) Subject to the supervision of the Tribal Council, the bee inspector shall be responsible for the administration and enforcement of this Title.
- (2) An apiary, bees and equipment may be inspected for the purpose of ascertaining the existence of any disease, for the treatment or destruction of such disease of bees or brood, or for the purpose of enforcing this Title.
- (3) The inspector or any deputy inspector may enter upon private property during reasonable hours for the purpose of inspection. Access may not be denied or hindered by any person while the inspector or the inspector's deputy is acting in an official capacity.
- (4) The beekeeper shall follow the instructions and supervision of the inspector or deputy inspector for the treatment, control and eradication of any disease found in or on an apiary, equipment or bees.
- (5) If the beekeeper does not comply with the instructions given by the inspector or the deputy inspector, the inspector may cause the specified treatment to be applied, or if necessary, may cause the infected colonies to be destroyed. A beekeeper may not recover damages or compensation for the loss of any diseased colonies or equipment destroyed or damaged pursuant to this title or any rules adopted pursuant to this Title.
- (6) After the inspection or handling of any diseased apiary, bees, equipment or building, the inspector or deputy inspector shall take those measures which are necessary to prevent the spread of any bee disease.

CHAPTER THREE LICENSES AND FEES

§12-3-101. License Required.

No person shall own or maintain any apiary or engage in or conduct any beekeeping activities subject to this Title unless duly licensed to do so by the Tribe in accordance with the terms of this Title.

§12-3-102. Commercial License.

- (1) A commercial license shall entitle the license holder to maintain any number of commercial apiaries, subject to the requirements and limitation of Chapter Three. A commercial operator shall not maintain a noncommercial apiary.
- (2) The fee for a commercial license shall be \$150.00 per year.

§12-3-103. Noncommercial License.

- (1) A noncommercial license shall entitle the license holder to maintain one noncommercial apiary, subject to the restrictions of Chapter Three. No more than two persons in the same family unit may hold a noncommercial license, and no person may hold a noncommercial license if a member of the same family unit holds a commercial license issued by the Tribe or by the State of North Dakota.
- (2) The fee for a noncommercial license shall be \$75.00 per year.

§12-3-104. Application for License--Renewal of License.

- (1) An application for a beekeeper's license shall contain the following information:
 - (a) The name and address of the person applying for the license and whether the application is for a commercial or noncommercial license.
 - (b) The total number of colonies to be maintained within the Reservation by the applicant and the applicant's family unit.
 - (c) The total number of sites the applicant intends to operate.
 - (d) The number of colonies to be kept at each site.
 - (e) The location of each site.
 - (f) Whether the applicant owns or leases each site.
 - (g) A statement of the applicant's qualifications for engaging in beekeeping activities, including his experience, if any, in beekeeping in the ten (10) years preceding the application.
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- (h) A statement that the applicant is familiar with the terms of this Title, and agrees to comply with and be bound by it.
- (2) Each application shall be accompanied by a certified check or money order, payable to the Tribe, for the license fee specified in §12-3-102 or §12-3-103, whichever is applicable together with the fee specified in Subsection (5) below. In the event the application is denied, the fees shall be refunded to the applicant.
- (3) Each license shall be for a period of one year and shall be renewed annually on the anniversary of its issuance. A renewal application will be granted as a matter of course, absent special circumstances such as a history of violations of this Title.
- (4) In determining whether to recommend approval of a license application the bee inspector shall consider:
- (a) the total number of colonies to be maintained by the applicant and by those within the applicant's family unit.
 - (b) the total number of colonies to be kept at each site by the applicant, the applicant's family unit and by others.
 - (c) the applicant's qualifications and past beekeeping activities as well as any violations of this Title or any state law involving beekeeping, within the preceding 10 years.
- (5) Each licensed beekeeper shall pay a fee of \$.20 each for each colony maintained at an apiary subject to this Title.

§12-3-105. Registration of Apiary.

- (1) Each beekeeper shall register all apiaries which are under his control and subject to this Title. An application for registration shall be filed whenever a new apiary is established.
- (2) The application shall identify the applicant by name and address, and shall contain the following information:
- (a) The exact location of the apiary, including the section, quarter-section, township and range.
 - (b) The type of apiary.
 - (c) The name of the property owner upon whose property the apiary is located. Where the applicant is not the owner, a copy of the lease or other document granting the owner permission to use the property to an apiary shall be included.

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- (3) Registration shall be refused, and the apiary closed down if the apiary is so located as to violate Chapter Four of this Title. If two or more applicants for registration propose apiary locations too close to each other under the standard provided by §12-4-101, the first filed application may be granted and the rest shall be denied.

**CHAPTER FOUR
REQUIREMENTS AND LIMITATIONS**

§12-4-101. Limitations on Commercial Apiary Locations.

- (1) No beekeeper may establish a commercial apiary subject to this Title within two miles (3.22 kilometers) of a commercial apiary (whether or not subject to this Title) operated by another beekeeper.
- (2) A beekeeper may sell or transfer a commercial apiary only to another commercially licensed beekeeper, and only with the written permission of the owner of the land upon which the apiary is located. The bee inspector shall be notified immediately of any such transfer.

§12-4-102. Pollination Apiary.

The bee inspector may waive the two-mile (3.22 kilometer) radius restriction of §12-4-101 for a pollination apiary if the following conditions are met:

- (1) The applicant must own, lease or rent the land on which the pollination apiary is located.
- (2) The applicant shall provide the bee inspector with all pertinent data and information necessary for him to determine that a pollination apiary is needed to adequately pollinate the applicant's crop.
- (3) The bee inspector may refuse to register a pollination location if the application does not demonstrate justification for the pollination location or specify the number and location of pollination locations needed for the purpose of adequately pollinating the applicant's crop.
- (4) A pollination location may not be sold, leased, transferred or rented to another person.

§12-4-103. Identification of Hives.

All hives shall be identified by (a) painting the beekeeper's name and address or phone number on the hive; (b) posting the beekeeper's name and address or phone number in the apiary; or (c) branding the hives with a brand submitted to the bee inspector's office for identification.

§12-4-104. Abandoned Apiary and Abandoned Equipment.

Any apiary, equipment or bees not regularly maintained and attended in accordance with this Title or any rules adopted pursuant to this Title or which comprise a hazard or threat to disease control in the beekeeping industry may be considered abandoned and will be subject to seizure by the bee inspector. Any bees not properly hived, or hives or equipment not properly stored, so as to prevent possible spread of disease may be considered abandoned bees or

equipment. Any diseased bees and equipment which have been seized may, when necessary, be immediately burned or otherwise destroyed and any bees or equipment not destroyed may be sold at public auction. The proceeds, after the costs of sale are deducted, shall be returned to the former owner or the former owner's estate; provided, however, that before causing the bees or equipment to be sold, the bee inspector must give the beekeeper or agent a written notice at least five (5) days prior to that date on which the property will be sold. This notice is to be given by registered mail or by personal service upon the owner or person in charge of such property.

**CHAPTER FIVE
ENFORCEMENT**

§12-5-101. Civil Penalties for Violations.

Any person who violates this Title shall be subject to the following sanctions:

- (1) Suspension or revocation of beekeeper's licenses.
- (2) Suspension or revocation of any or all apiary registrations.
- (3) Forfeiture of all beekeeping equipment involved in the violation.

§12-5-102. Criminal Penalties.

In addition to the civil penalties set forth above, any Indian found guilty by the Tribal Court of violating this Title shall be fined not more than \$500 or imprisoned for not more than six months, or both.

§12-5-103. Enforcement Hearings.

- (1) The bee inspector, after notifying the accused of the violations charged and affording him a hearing at which he has the opportunity to confront and cross-examine the witnesses against him and call witnesses on his behalf, may impose any of the penalties set forth in §12-5-101.
- (2) Any accused person aggrieved by a decision of the bee inspector under Subsection (2) may appeal that decision to the Tribal Court. The Tribal Court shall reverse the decision of the bee inspector only if it finds he acted arbitrary or capriciously, or that the substantial evidence of the whole record does not support a finding that the accused violated the Title.
- (3) Notice of violations and of the right to a hearing on these violations may be given by mailing it, certified mail return receipt requested, to the address shown on the most recent beekeeper's license application. If the accused is not a licensed beekeeper, notice shall be mailed, certified mail return receipt requested, to the accused's last known address.