

ENTERPRISE PLANNING COMMISSION

AGENDA

SPECIAL CALLED MEETING

June 6, 2022 @ 8:30 A.M.

1. Roll Call

2. **Old Business:**

3. **New Business:**

A request by the City Engineer to make an amendment to Ordinance 10-05-21 regarding the keeping of certain honey bees.

A request by the City Engineer to amend the Zoning Ordinance to establish zoning jurisdiction of the City to include the area lying within 2 miles of the boundary of the City of Enterprise Municipal Airport.

5. **Such other business as may come before the commission**

6. **Adjournment**

ORDINANCE 06-07-22-C

**ORDINANCE TO ESTABLISH
ENTERPRISE AIRPORT ZONING**

WHEREAS, the City Council having appointed the Enterprise Planning Commission as the Airport Zoning Commission, as authorized by the Airport Zoning Act, Ala. Code § 4-6-1, et seq., (the “Act”);

WHEREAS, the Planning/Airport Zoning Commission having made a preliminary and final report to the City Council after holding public hearing(s) prior to submission of the same to the City Council;

WHEREAS, the City Council having now held public hearing(s) as to said reports and as to this ordinance, and the zoning and regulations to be enacted hereby;

THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ENTERPRISE, ALABAMA, THAT THE ENTERPRISE ZONING ORDINANCE, INCLUDING ORDINANCE NO. 06-05-12, 7-7-12 OR HOWEVER, DESIGNATED, AND AS AMENDED, IS HEREBY AMENDED AS FOLLOWS:

I. AMENDMENT TO ARTICLE I, SECTION 4.

ARTICLE I, Section 4 entitled “Applicability and Compliance,” and which currently provides: “The provisions of this Ordinance, shall apply to all property located within the Corporate boundary of the City of Enterprise. All uses, structures, sites, lots and parcels must be in compliance with the provisions of this Ordinance,” is hereby amended to state:

Section 4- Applicability and Compliance

The provisions of this Ordinance, shall apply to the property located within the corporate boundary of the City of Enterprise and for the sole purposes of Alabama’s Airport Zoning Act, the area lying within two miles of the boundaries of the Enterprise Municipal Airport. All uses, structures, sites, lots and parcels must be in compliance with the provisions of this Ordinance.

II. AMENDMENT TO ARTICLE II, SECTION 2.

ARTICLE II, Section 2 entitled “General Definitions” sets out various definitions regarding terms set out in the Ordinance. The following terms are hereby added to the “General Definitions” section and shall be added to the Section in their respective alphabetical order location within the Section:

(1) Airport. Any area of land or water designed and set aside for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for such purposes, which includes the Enterprise Municipal Airport.

(2) Airport hazard. Any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at any airport or is otherwise hazardous to such landing or taking-off of aircraft.

(3) Airport hazard area. Any area of land or water upon which an airport hazard might be established if not prevented as provided in this chapter.

(4) Structure. Any object constructed or installed by man including, but without limitation, buildings, towers, smokestacks and overhead transmission lines.

(5) Tree. Any object of natural growth.

III. DESIGNATION OF AIRPORT ZONING DISTRICTS (“A-Z”)

All the real property, not heretofore zoned, within two (2) miles of the boundaries of the Enterprise Municipal Airport (said boundaries as set out in the attached map, see Exhibit “A” attached hereto and incorporated by reference herein) shall bear the designation “A-Z” Zone, which stands for “Airport Zoning District”. All said real property shall comply with the rules and regulations of this Ordinance, except as otherwise expressly provided. The Council, after recommendation of the Enterprise Planning Commission shall be empowered to enact, although not obligated to do so, further zoning in A-Z districts in accordance with existing or future ordinances related to zoning real property and district uses set out therein, all in accordance with the Act and said ordinances. Therefore, there shall be a new zoning district established at this time known as A-Z Zoning District which shall apply as shown on Exhibit “B” attached hereto and incorporated herein by reference. Said Exhibit “B” shows the planned/future use restrictions of the real property in A-Z Zones, and includes areas where no City-imposed use restrictions exist, except as expressly provided by this Ordinance, and except as may from time to time be provided for by Coffee County or as otherwise may be provided by future action of the City in accordance with this or any other applicable ordinance of the City. In A-Z Zones with specific use restrictions, if a rule or regulation of Coffee County conflicts with the provisions of this ordinance, it is intended that the terms of this ordinance shall govern.

IV. VARIANCES.

Any person desiring to erect any structure, or increase the height of any structure, ~~or permit the growth of any tree,~~ or otherwise use his property in violation of airport zoning regulations adopted under this chapter, may apply to the Enterprise Zoning Board of Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations; provided, that any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this Ordinance.

V. PERMITS and NONCONFORMING USES.

Before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered, a permit must be obtained by the Building Official of the City of Enterprise. A permit fee of \$25.00 per permit shall be owed, subject, however, to the provision that no permit shall be required as to uses and structures on any real property zoned A-Z which carries the designation of “No Use Restriction imposed by City” as set out on Exhibit “B,” unless a structure is over twenty-five (25) feet in height.

Nothing in this Ordinance or any airport zoning regulations adopted under/pursuant to this Ordinance shall require the removal, lowering or other change or alteration of any structure ~~or tree~~ not conforming to the regulations when adopted or amended or otherwise interfere with the continuance of any nonconforming use, except as provided in this Ordinance. Nonconforming uses shall be discontinued and removed in case of being abandoned, destroyed, deteriorated or decayed. However, before any nonconforming structure or tree may be replaced, substantially altered, rebuilt, allowed to grow higher or replanted, a permit must be secured from the Building Official of the City of Enterprise, authorizing such replacement or change; but no such permit shall be required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

In granting any permit or variance under this section, the Building Official or Enterprise Building Official, may, if they respectively deem such action advisable to effectuate the purposes of this ordinance and reasonable in the circumstances, so condition such permit or variance as the case may be so as to require the owner of the structure or tree in question to permit the City of Enterprise, at its own expense, to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard, upon payment to the owner for all damage resulting to his/her its property by such maintenance. Such shall be the right but not the obligation of the City of Enterprise.

Any denial of such permit as set above may be appealed to the Enterprise Zoning Board of Adjustment within 15 days of written denial by the Building Official, by delivering a Notice of Appeal to the Engineering Department of the City of Enterprise or otherwise, the decision of the Building Official shall be final.

VI. ENFORCEMENT OF RULES AND REGULATIONS OF THIS ORDINANCE/ POWERS.

The Building Official, Enterprise Planning Commission or the Enterprise Zoning Board of Adjustment, all as the case may be, shall have and exercise the following powers as designated:

- (1) To carry out those acts as designated by this Ordinance;
- (2) To review site plans in areas zoned A-Z which designate permitted uses (Planning Commission).
- (3) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such agency may be required to pass under such regulations (Board of Adjustment).
- (4) To authorize in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. (Board of Adjustment)
- (5) The applicable agency or person designated above shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (6) The Enterprise Zoning Board of Adjustment and Enterprise Planning Commission as the case may be, shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of said agencies shall be held at the call of the chairman and at such other times as the agency may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the agency shall be public. The agency shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the agency and shall be a public record.

VII. APPEALS

- (1) Any person aggrieved by any decision of the Enterprise Planning Commission or Enterprise Board of Adjustment or any governing body of the City, as the case may be, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board or commission may appeal to the circuit court of the county where such airport is located.
- (2) All appeals taken under this section must be taken within 10 days by filing with the agency from which the appeal is taken a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the court all the papers constituting the record upon which the action appealed from was taken.

- (3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the court, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property and file bond to indemnify the owner for damages as may be fixed by the court. In such cases proceedings may be stayed upon the filing by the appellant of a supersedeas bond in an amount to be set by the circuit court of the county in which the subject matter of such decision lies on application by the appellant or the agency from which the appeal is taken.
- (4) The court may, in conformity with the provisions of this chapter, reverse, affirm wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the administrative agency from which the appeal is taken.

VIII. REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance or other regulation made under authority conferred by the Act, City officials of the City, in addition to other remedies as set out by the Enterprise Zoning Ordinances, as amended, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

XI. THIS ORDINANCE CUMULATIVE UNLESS CONFLICT.

This ordinance is cumulative of the existing zoning ordinance, as amended, and is only intended to amend those portions of the ordinance which are amended as set out above. Otherwise, the zoning ordinance, as amended, remains in full force and effect and unchanged.

X. SEVERABILITY.

If any section, sentence, clause, phrase, or part of this ordinance is for any reason declared to be invalid by the valid judgment or decree of a court of competent jurisdiction, such decision shall not affect any remaining sections, sentences, clauses, phrases, or parts of this ordinance.

XI. EFFECTIVE DATE.

This ordinance shall take effect upon its approval by the City Council, or upon its otherwise becoming law, but shall nevertheless be published as required by law.

Duly Passed and Adopted this the _____ day of _____, _____.

COUNCIL:

 Council President Turner Townsend
 District #5

 Council Member Sonya W. Rich
 District #1

 Council Member Eugene Goolsby
 District #2

Council Member Greg Padgett
District #3

Council Member Scotty Johnson
District #4

ATTEST:

Beverly Sweeney
City Clerk

Transmitted to the Mayor this _____ day of _____, 2022.

Beverly Sweeney
City Clerk

ACTION OF THE MAYOR:

Approved this _____ day of _____, 2022.

William E. Cooper
Mayor

ATTEST:

Beverly Sweeney
City Clerk

ORDINANCE 06-07-22-D
AN ORDINANCE ALLOWING THE KEEPING OF CERTAIN
HONEYBEES IN CERTAIN ZONING DISTRICTS IN THE CITY

LET IT BE ORDAINED AS FOLLOWS:

City of Enterprise: Keeping of bees and bee hives.

- a. Definitions. For the purpose of this section, the following terms, phrases, words and their derivations shall have the meaning given herein:
 1. *Apiary*: A place where bees are kept or a collection of honey bee colonies.
 2. *Beekeeper*: A person or entity who owns, leases or manages one or more colonies of bees on real property which is owned or leased, as a result of bona fide, arms-length transaction, by the Beekeeper for pollination or the production of honey, beeswax or other byproducts, either for personal or commercial use. Said definition shall not include a person or entity who does not own or lease the property and nothing in this ordinance shall allow any such person or entity from maintaining bees on property which is not owned or leased by beekeeper.
 3. *Bee*: Any stage of the common honey bee, *Apis mellifera* species.
 4. *City*: The corporate limits of The City of Enterprise, Alabama.
 5. *Colony*: The hive and its equipment and appurtenances including bees, comb, honey, pollen and brood.
 6. *Hive*: A structure for housing honey bees.
 7. *Real Property*: As defined in the Ordinance and shall mean real property and all improvements thereon which constitute a single parcel of land.
 8. *Zoning District*: Zoning districts as defined in the City's zoning ordinance(s) and as set out in this ordinance.
- b. Approval Requirements.
 1. It shall be unlawful for any beekeeper to keep or harbor any colonies of bees within corporate limits without conditional use approval from the Board of Adjustment of The City of Enterprise, Alabama to keep such bees. The procedure for Board of Adjustment approval shall be the same procedure as to any request for conditional use approval, including, but not necessarily limited to, application, advertising and notice requirements, and the like.
 2. Beekeepers with existing apiaries shall have 60 days from the adoption date of the ordinance from which this section derives to obtain conditional use approval with numbers of colonies kept or harbored under their supervision within the corporate limits with the Board of Adjustment of The City of Enterprise, Alabama.
 3. After the adoption of the ordinance from which this section derives, all apiaries and colony numbers must obtain conditional use approval from the Board of Adjustment of the City before the bee colonies are maintained, kept or harbored with the city limits.
 4. Also, for avoidance of doubt, it is intended by this Ordinance to require beekeepers to maintain the requirements of this Ordinance regardless if there is an existing or subsequent location of one or more residences (or schools, hospitals, etc. – see below) adjoining the real property of the beekeeper. In other words, for example, if a residence is now or later located adjoining the beekeeper's real property which causes an apiary to be less than 100 feet from that residence, or for example, a school is now or later located within 300 feet of said apiary, this Ordinance's provisions shall nevertheless apply and the beekeeper shall either not establish the apiary, relocate the apiary or close the apiary to comply with this Ordinance.

c. Genetic Stock.

1. Beekeepers shall use only strains of known European origins to comprise colonies of honey bees located within the city limits. Under no circumstances shall any other type of species of bees be kept.
2. Once Africanized honey bees have been confirmed by a recognized authority as inhabiting any area of Alabama, beekeepers shall be required to re-queen their colonies annually with queens of known European origin. Queen stock is to be obtained from a reputable queen breeder who produces queens from European stock and is not under federal quarantine. Beekeepers are prohibited from obtaining bees from such areas where Africanized honey bees are found or exist.
3. Beekeepers will be required to keep and maintain receipts of purchases of honeybees, including, but not limited to, queens to be produced upon request by the enforcement authority. At all times said records and the real property shall remain open for inspection by the Code Enforcement Department of the City of Enterprise which shall have the right, but not the obligation, to make such inspections.

d. Creating nuisance. It shall be unlawful and considered a nuisance for any person or beekeeper to keep or harbor colonies of bees under their supervision within the corporate limits in a manner or condition that would render the enjoyment of life or property uncomfortable to others, or interfere with the public peace and comfort of others, or to be unhealthy or offensive to others. Moreover, nothing in this Ordinance intends to override or otherwise allow the keeping of bees on any real property where restrictive covenants or other applicable documents affecting title to or the regulation of said real property would restrict or prohibit the existence of said bees or apiaries.

e. Allowed zoning districts. Beekeepers shall only establish and maintain apiaries in agricultural districts or on lots meeting the requirements for R-100 districts, as those zoning districts are defined in the City's zoning ordinance(s).

f. Colony density. Beekeepers shall maintain no more than the following number of colonies of bees in the following real property parcels within corporate limits:

1. Lots of one acre or less meeting the requirements for R-100 zones: maximum of up to four colonies.
2. Lots greater than one acre of real property meeting the requirements for R-100 zones: maximum of up to six colonies.
3. In Agriculture zones, two acres of real property or larger: maximum of up to eight colonies; otherwise, the above maximums shall apply for lots meeting the requirements for R-100 zones.

All of said maximum numbers are subject to Board of Adjustment approval. The Board of Adjustment, in its discretion, may adjust the number of colonies based on the circumstances of the request.

g. Property lines. Beekeepers shall keep no colonies of bees within 25 feet of adjoining public or private property boundary lines and the following shall apply:

1. The colonies shall be placed behind a solid fence or solid bee fly-ways (meaning, a permanent vertical, solid structure made of common building materials that augments a honey bee's flight path) at least six feet in height that is parallel to the property line and extends at least six feet beyond the colonies in each direction; and
2. That all bee fly-ways are forced over a minimum of six feet levels.

h. Water supply. Beekeepers shall provide a convenient source of water available at all times, especially when colonies are actively rearing brood, and in times of extreme heat.

i. Swarming of bees; duty to retrieve. Should bees swarm onto adjoining property or within 1000 feet of where the apiaries are established, the beekeeper shall be required to retrieve said swarm(s), provided appropriate consent/permission is obtained from the property owner where the swarm(s) is located.

j. Apiaries. Beekeepers operating apiaries within the corporate limits of the City of Enterprise, Alabama shall comply with all State of Alabama and any federal bee regulations and laws.

k. Beekeepers shall not commercially sell or offer for sale honey from any residential zones without applying for a home occupation in accordance with the City zoning ordinances.

- l. Beekeepers shall maintain signage on their property clearly visible from the public right of way fronting the property where bees are kept stating that "Honey Bees Kept Outdoors Here."
- m. Penalty for violation. Any person violating any provision of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished pursuant to section 11 of the Code of Ordinances for The City of Enterprise, and shall be adjudicated the municipal court or other court of competent jurisdiction.
- n. Injunctive relief. In addition to and cumulative of all other penalties, The City of Enterprise, Alabama shall have the right to seek injunctive relief for any or all violations of this section.
- o. Further Restriction. It shall be unlawful to keep, harbor or maintain bees within 100 feet of all neighboring residence(s) and 300 feet of any school, church, hospital, public building, park, playground or swimming pool.
- p. Any provision of the Ordinance which are found by a court of competent jurisdiction to be prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability shall not invalidate or render unenforceable such provision in any other jurisdiction.
- q. This Ordinance shall take effect upon passage and upon publication as required by law.
- r. CHANGE OF LAND USE. IF A BEEKEEPER INTENDS TO CHANGE THE USE OF THE LAND WHERE AN APAIRY IS CURRENTLY LOCATED, THE NEW LOT MUST MEET THE REQUIREMENTS AS SPECIFIED IN SECTIONS e AND f OF THIS ORDINANCE. FAILURE TO DO SO WILL RESULT IN THE REVOCATION OF THE CONDITIONAL USE APPROVAL FROM THE BOARD OF ADJUSTMENT.

Duly Passed and Adopted this _____ day of _____, 2022.

COUNCIL:

 Council President Turner Townsend
 District #5

 Council Member Sonya W. Rich
 District #1

 Council Member Eugene Goolsby
 District #2

 Council Member Greg Padgett
 District #3

 Council Member Scotty Johnson
 District #4

ATTEST:

 Beverly Sweeney
 City Clerk

Transmitted to the Mayor this _____ day of _____, 2022.

 Beverly Sweeney
 City Clerk

ACTION OF THE MAYOR:

Approved this _____ day of _____, 2022.

William E. Cooper
Mayor

ATTEST:

Beverly Sweeney
City Clerk