

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CODE OF ORDINANCE TITLE 4 – HEALTH AND SAFETY, CHAPTER 4 – ‘NUISANCES’ BY ADDING SECTION 4-4-7 ‘BEE ERADICATION RESPONSE INITIATIVE’; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A CUMULATIVE PROVISION; PROVIDING FOR A SEVERABILITY PROVISION; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE’S CAPTION IN A NEWSPAPER OF LOCAL CIRCULATION; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE’S CONTENTS IN THE CODE OF ORDINANCES OF THE CITY OF ALAMO, TEXAS**

**WHEREAS**, The City of Alamo, Texas has adopted Title 4 – Health and Safety regulations in order to provide an organized and structured method to resolve nuisance and potentially dangerous circumstances that municipalities occasionally are confronted by; and,

**WHEREAS**, The City of Alamo has been challenged on an annual basis by the presence of bees; even in some cases, Africanized bees, which can be very harmful or lethal to certain people; and,

**WHEREAS**, The City was recently confronted again with the presence of bees on a weedy lot matter, which revealed a need for a structured approach to eradicate the bee hive, and swarming bees, which caused a moderate measure of confusion between certain departments; and,

**WHEREAS**, The City of Alamo, Texas has determined that in order to professionalize the city’s response in a manner that is timely, orderly, and legally grounded upon, appropriate regulations need to be established to thus provide a prompt and protective service to its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, COUNTY OF HIDALGO, STATE OF TEXAS, THAT:**

1. **Title 4 ‘Health and Safety’, Chapter 4 ‘Nuisances’, be amended by adding new Section 4-4-7 ‘Bee Eradication Response Initiative’, as follows:**
  - A. The *Bee Eradication Response Initiative (BERI)* is formulated to maximize protective services, minimize/eliminate confusion on expected roles and service processes, and to provide an organized methodology to quickly reconcile neighborhoods to a ‘safe zone’ status reflecting less anxiety regarding a (swarming) bee hazard or potential bee hazard.

The 2 basic response-situations that Alamo has historically faced on private properties are classified as **1)** non-emergency responses; and **2)** emergency responses. These initiatives, which may be amended from time to time to adjust to varying bee infestations, patterns, or circumstances will identify the process to follow on these 2 response-situations.

- 1) **Non-emergency response-situation:** Bees are witnessed to be present but are deemed by a city official to not be causing an immediate health or safety risk to the occupants of the property or surrounding properties; if not resolved, the situation may escalate to an imminent health and safety threat.
- 2) **Emergency response:** The Fire Department, the Code Enforcement Department, the Public Works Department, and/or the Police Department have determined that bees are easily antagonized, are frequently swarming, and/or have attacked people without provocation; such attacks are deemed an immediate health hazard or life-threatening to the general public.

- B. **Protocol for Non-emergency response-situation:** when it has been determined that a NON-emergency response situation is clearly evident, the Code Enforcement Officer shall issue a Notice to the property owner of record and/or tenant to rid the bees from his/her property within ten (10) calendar days. The 'Notice' may be hand-delivered inducing a more prompt response; or if circumstances reflect hand-delivery not being feasible, then said '*Notice*' shall be mailed via certified mail service. In the follow-up visit, if the bees have been exterminated or removed as an imminent threat, then the Code Enforcement Officer may abort, or '*dismiss*', the matter and it shall be '*closed*'.

On the other hand, if the City of Alamo determines that the owner, or his/her agent, have neglected the original '*Notice*', then '*public nuisance*' charges will be processed in Municipal Court, in substantial compliance to the intent expressed in Sections 4-4-5 (A) and Section 4-4-5 (B). It is declared that at the Municipal Court's examination, if the bee presence matter has been confirmed by the City as '*resolved*', then the matter may then be '*dismissed*' with adjudicatory administrative fees (likely) being imposed. If at the Municipal Court hearing, the non-emergency bee threat is still existing, then the Municipal Court Judge may issue a court order to have the City and/or their engaged agents, enter the premises and do what is reasonable but necessary to exterminate the bees. The fees to perform such city services shall be computed and collected pursuant to Sec. 4-4-5 (B) of Alamo's Code of Ordinances.

- C. **Protocol for Emergency response:** when it has been determined that the bee presence is a dangerous situation and a real threat to area residents, the Code Enforcement Officer or a Fire Department official shall make an immediate good faith effort to contact the legal owner of record to alert him/her of the threat existing on their private property, i.e., a volatile public nuisance. If contact is made and the owner's response to remove the bee threat seems to be time-consuming and not as prompt as the situation warrants, then Staff will request that a '*Release*' be signed/dated indicating that the City of Alamo has been given the latitude to proceed in ridding the public threat. The City will be held harmless (indemnified) if their emergency services damage any private property, and that a calculated service fee will be forthcoming to be paid; and if not paid, then a lien shall be filed against the property; in substantial compliance to Sec. 4-4-5 (B).

If the owner is not available or seems that he/she cannot be contacted but the magnitude of the hive and associated bee threat may likely escalate, then the Fire Department is hereby instructed by this Code to activate the necessary safety and protective measures to eradicate the bees by employing the Standing Court Order (SCO) that the Municipal Court Judge will have issued for such an emergency response where the lives of citizens are at risk. If no SCO is evident, a comparably effective Executive Order from the City Manager's Office, may also be used for such extreme circumstances.

In addition to the above, standard protocol will also include the following initiatives:

- The Fire Department shall be called upon to immediately respond and undertake emergency measures to terminate the bee hive wherever it may be located.
- The Fire Department shall use their training to undertake precautions to quarantine residents within their homes plus impose other reasonable measures to safeguard (or temporarily block) the neighborhood.
- Once the Fire Department determines that the area residents have been substantially quarantined and safeguarded, the Fire Department, or the City's engaged exterminator, shall eradicate the bees, i.e., public safety threat is removed.
- It is understood that for these emergency response bee situations, the Municipal Court shall issue a Standing Court Order (SCO) for the City and/or its agents to enter the premises in order to exterminate the swarming bee threat. If the Judge is unavailable or has not issued a SCO and may be delayed in doing so, then it is declared that an Executive Order from the City Managers' Office shall have the same effect as consent to enter the premises due to the threat to the general public.

- D. It is declared that **'Violations and Penalties'** of the Bee Eradication Response Initiative (BERI) shall be pursuant to the intent and terms expressed in Section 4-4-6 of the City's Code of Ordinances.
2. This Ordinance shall be deemed *'in effect'* and *'enabled'* immediately after the signature of the Mayor of the City of Alamo, Texas.
  3. The provisions of this Ordinance shall supersede any other provisions, policies, and/or executive orders that may be in conflict herewith.
  4. Should there be any phrase, provision, section, paragraph, or other components of this ordinance that shall be deemed to be invalid or unconstitutional by a court of competent jurisdiction, all other remnants of this ordinance shall remain in full force and effect.
  5. The City Secretary is directed to have the caption of this ordinance published in a newspaper of local circulation in accordance to legislative protocol.
  6. The City Secretary is directed to have this ordinance be, where applicable, published in the City of Alamo's Code of Ordinances; and further to have the Personnel Policy Handbook be amended to include the ordained provisions approved herein.

**READ, DISCUSSED, AND APPROVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ALAMO, TEXAS**, in accordance with the provisions of Chapter 551 of the Texas Government Code, at a Regular Meeting called and publicly held at the City of Alamo's City Hall, on this the \_\_\_\_ day of \_\_\_\_\_, In The Year of Our Lord, 20\_\_\_\_.

**CITY OF ALAMO, TEXAS**

**ATTEST:**

\_\_\_\_\_  
**Diana Martinez, Mayor**

\_\_\_\_\_  
**Alexandra Rangel**  
**City Secretary**

**APPROVED AS TO FORM**

**PALACIOS, GARZA & THOMPSON:** \_\_\_\_\_  
**CITY ATTORNEY**