

July 24, 2015

Town of Bell Buckle Tennessee  
Ms. Janet Robinson  
Town Clerk  
8 Railroad Square  
Bell Buckle, Tennessee 37020

VIA ELECTRONIC MAIL

Dear Ms. Robinson:

Responsive to your inquiry, please be advised that T. C. A. § 44-15-124 prevents a city from passing regulations directly aimed at the keeping of honey bees:

**§ 44-15-124. Honeybees in hives; restrictions**

No county, municipality, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance or resolution prohibiting the establishment or maintenance of honeybees in hives, provided that such establishment or maintenance is in compliance with this chapter. This section shall not be construed to restrict or otherwise limit the zoning authority of county or municipal governments; provided, however, that a honeybee hive being maintained at a location in compliance with applicable zoning requirements on June 10, 2011, shall not be adversely affected and may be maintained at the same location notwithstanding any subsequent zoning changes.

The city may, however, limit its location through zoning. Your current regulations likely prohibit operating a business in a residential area, so you can pursue some relief based on those zoning regulations if an owner is maintaining a bee colony as a commercial business in a residential zone. This approach will only work, however, provided the zoning regulation existed at the time the owners started keeping bees.

If your zoning ordinance does not generally prohibit operating a business in a residential area, or if the language used does not apply to activities such as keeping honey bees, then that becomes problematic. The reason that it is problematic is the so-called “grandfather” statute on zoning, T.C.A. § 13-7-208. Under this law, any business in operation when a change in zoning occurs that impacts that business becomes grandfathered and is not subject to the new zoning regulations. So the ability of the town to control this current situation depends entirely on the state of your zoning regulations as of the date each of the owners started keeping bees.

The town may inquire as to whether or not the owners are complying with state law regarding their bee operations, but of course the town has no authority to actually enforce the state regulations. Here is a link to the webpage containing information about the state apiarist who is responsible for enforcing the state regulations for beekeepers: [www.tn.gov/agriculture/article/ag-businesses-state-apiarist](http://www.tn.gov/agriculture/article/ag-businesses-state-apiarist).

A beekeeper is required to register with the state under T.C.A. § 44-55-105, with failure to register or comply with the provisions of “The Apiary Act of 1995” potentially resulting in the confiscation of bees, beekeeping equipment, and a fine. Registration of a colony has the added benefit of being eligible for compensation in the event that the colony has to be destroyed due to American Foulbrood or other regulated pest or disease. The apiarist does not answer to local governments, but there is an apiary complaint form that can be filled out online by any party which can be found at: <http://www.tn.gov/agriculture/article/ag-licenses-apiary>.

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A copy of T.C.A. § 13-7-208 and § 44-15-105 are enclosed for ease of reference.

Please let me know if you have further questions regarding this matter.

Very truly yours,

A handwritten signature in blue ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Jeffrey J. Broughton  
Municipal Management Consultant

West's Tennessee Code Annotated

Title 13. Public Planning and Housing

Chapter 7. Zoning (Refs & Annos)

Part 2. Municipal Zoning (Refs & Annos)

T. C. A. § 13-7-208

§ 13-7-208. Ordinances; enforcement; penalty for violation; remedies

Effective: August 5, 2011

[Currentness](#)

(a)(1) The chief legislative body may provide for the enforcement of any ordinance enacted under this part and part 3 of this chapter. A violation of any such ordinance is a Class C misdemeanor.

(2) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any ordinance enacted under this part and part 3 of this chapter, the building commissioner, municipal counsel or other appropriate authority of the municipality, or any adjacent or neighboring property owner who would be specially damaged by such violation, may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure or land.

(b)(1) In the event that a zoning change occurs in any land area where such land area was not previously covered by any zoning restrictions of any governmental agency of this state or its political subdivisions, or where such land area is covered by zoning restrictions of a governmental agency of this state or its political subdivisions, and such zoning restrictions differ from zoning restrictions imposed after the zoning change, then any industrial, commercial or business establishment in operation, permitted to operate under zoning regulations or exceptions thereto prior to the zoning change shall be allowed to continue in operation and be permitted; provided, that no change in the use of the land is undertaken by such industry or business.

(2) When the use permitted to continue to expand, or to be rebuilt pursuant to any subsection of this section is an off-premises sign, such use shall not preclude any new or additional conforming use or structure on the property on which the sign structure is located or on any adjacent property under the same ownership; provided, however, that any such new or additional use or structure does not result in any violations of the applicable zoning restrictions other than those nonconformities associated with the off- premises sign as allowed under this subdivision (b)(2).

(c) Industrial, commercial or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto in effect immediately preceding a change in zoning shall be allowed to expand operations and construct

additional facilities which involve an actual continuance and expansion of the activities of the industry or business which were permitted and being conducted prior to the change in zoning; provided, that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners. No building permit or like permission for construction or landscaping shall be denied to an industry or business seeking to expand and continue activities conducted by that industry or business which were permitted prior to the change in zoning; provided, that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

(d)(1) Industrial, commercial, or other business establishments in operation and permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to destroy present facilities and reconstruct new facilities necessary to the conduct of such industry or business subsequent to the zoning change; provided, that no destruction and rebuilding shall occur which shall act to change the use classification of the land as classified under any zoning regulations or exceptions thereto in effect immediately prior to or subsequent to a change in the zoning of the land area on which such industry or business is located. No building permit or like permission for demolition, construction or landscaping shall be denied to an industry or business seeking to destroy and reconstruct facilities necessary to the continued conduct of the activities of that industry or business, where such conduct was permitted prior to a change in zoning; provided, that there is a reasonable amount of space for such expansion on the property owned by such industry or business situated within the area which is affected by the change in zoning, so as to avoid nuisances to adjoining landowners.

(2)(A) Multifamily residential establishments, whether used as owner-occupied property or rental property, which were permitted to operate under zoning regulations or exceptions thereto immediately preceding a change in zoning shall be allowed to reconstruct new facilities necessary to the conduct of such multifamily residential establishment subsequent to the zoning change, in the event of damage, whether partial or complete, by involuntary fire or wind damage or other natural disaster.

(B) If any such new facilities exceed the original height, density, setback, or square-footage of the original facilities in existence immediately prior to the damage, then the new facilities shall constitute a change in the use of the land, and any protections provided hereunder shall be forfeited.

(C) If any such new facilities do not exceed the original height, density, setback, or square-footage of the original facilities in existence immediately prior to the damage, then the new facilities shall constitute a continuation of the use of the land immediately prior to the damage, and any protections provided hereunder shall not be forfeited.

(D) Whenever any ordinance enacted under authority of this chapter establishes stricter terms regarding the amount of partial damage that may be allowed without forfeiture of these protections, then the provisions of any such ordinance shall govern.

(E) New facilities shall comply with all architectural design standards required under current zoning regulations and be consistent with the architectural context of the immediate and adjacent block faces.

(e) Subsections (b)-(d) apply only to land owned and in use by such affected business, and do not operate to permit expansion of an existing industry or business through the acquisition of additional land.

(f) Subsections (b)-(e) do not apply to any municipality defined as a premiere type tourist resort according to § 67-6-103(a)(3)(B).

(g) Except as provided in subsection (l), subsections (b)-(d) shall not apply if an industrial, commercial, or other business establishment ceases to operate for a period of thirty (30) continuous months and the industrial, commercial, or other business use of the property did not conform with the land use classification as denoted in the existing zoning regulations for the zoning district in which it is located. Anytime after the thirty-month cessation, any use proposed to be established on the site, including any existing or proposed on-site sign, must conform to the provisions of the existing zoning regulations. For the purposes of this subsection (g), the thirty-month period of continuous ceased operation shall be tolled by:

(1) The period in which an industrial, commercial, or other business establishment is party to any action in a court of competent jurisdiction regarding the use of the property until such time that a final settlement, order, decree, or judgment has been rendered;

(2) Any period in which a facility is being constructed, reconstructed, renovated, or refurbished, provided that all necessary building permits were obtained within thirty (30) months of cessation of continuous use;

(3) The filing of an application for a building permit for the alteration, renovation or reconstruction of a structure which is non-conforming or of a structure in which or out of which a non-conforming industrial, commercial or other business use operates or is located; or

(4) The reactivation of the non-conforming use any time prior to the end of the thirty- month period; provided, however, that the restrictions of this subsection (g) and subsection (i) shall only apply if the property owner intentionally and voluntarily abandons the nonconforming use of the property. In any contested matter on the use of such property, the government has the burden of proving an overt act of abandonment in such matter.

(h) Subsections (b)-(d) shall apply to an off-site sign which, for the purposes of this subsection (h), means any sign that advertises or gives direction to any business, product, service, attraction, or any other purpose or interest, other than the industrial, commercial or other business establishment located on the site where the sign is located; provided, however, that any expansion shall be limited as follows:

(1) Any off-site sign smaller than a standard 8-sheet poster which, for the purposes of this subsection (h), means an off-site sign with overall dimensions of at least five feet four inches (5' 4") to six feet two inches (6' 2") in height and eleven feet four inches (11' 4") to twelve feet two inches (12' 2") in width shall not be expanded to a size greater than a standard 8-sheet poster;

(2) Any standard 8-sheet poster shall not be expanded to a size greater than a 30-sheet poster which, for the purposes of this subsection (h), means an off-site sign with overall dimensions of twelve feet three inches (12' 3") in height and twenty-four feet six inches (24' 6") in width;

(3) Any standard 30-sheet poster shall not be expanded to a size greater than any standard bulletin which, for the purposes of this subsection (h), means any off-site sign with overall dimensions of ten feet (10') to fourteen feet (14') in height and thirty-six feet (36') to forty-eight feet (48') in width;

(4) Any standard bulletin shall not be expanded to a size greater than any super bulletin which, for the purposes of this subsection (h), means any off-site sign with overall dimensions of sixteen feet (16') to twenty feet (20') in height and sixty feet (60') in width;

(5) Any super bulletin shall not be expanded; or

(6) Any off-site sign with a height larger than standard 8-sheet poster height or width larger than standard 8-sheet poster width but not meeting the definition of a standard 8-sheet poster, a standard 30-sheet poster, a standard bulletin, or a standard super bulletin shall not be expanded by more than one hundred percent (100%) of its surface area.

(i) Notwithstanding subsection (d), any structure rebuilt on the site must conform to the provisions of the existing zoning regulations as to setbacks, height, bulk, or requirements as to the physical location of a structure upon the site, provided that this subsection (i) shall not apply to off-site signs.

(j) Subsections (g), (h) and (i) do not apply to any home rule municipality; provided, however, that subject to the approval of the local legislative body, a home rule municipality may opt into these subsections.

(k) Notwithstanding subsections (a)-(i), subsection (g) shall not apply to any industrial establishment location where twenty-five percent (25%) or more of the gross annual sales from such location are derived from sales to or contracts with Local, state or federal governments or as a subcontractor to contracts with local, state or federal governments, or to any industrial establishment location where seventy-five percent (75%) or more of the gross annual sales from the location are made to agriculture or construction businesses.

(l)(1) As used in this subsection (l):

(A) "Block" means a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development; and

(B) “Motor vehicle business establishment” means a business establishment that sells operable motor vehicles and all the motor vehicles have been previously titled, excluding any franchised retail motor vehicle dealership located on property that is principally used for the marketing and display of new motor vehicles, whether by sale, rental, lease or other commercial or financial means that is primarily housed in a structure and characterized by a mixture of the following secondary supporting uses:

(i) An inventory of new or used motor vehicles in operating condition for sale or lease either on the same parcel or at a location affiliated with a franchised retail motor vehicle dealership; and

(ii) On-site facilities for the repair and service of motor vehicles previously sold, rented or leased by the retail motor vehicle dealership.

(2) In any municipality having a metropolitan form of government and a population of over five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, any nonconforming motor vehicle business establishment may be terminated after notice and a hearing before the board of zoning appeals upon a finding that all of the following have been established in the record before the board of zoning appeals:

(A) Another motor vehicle business establishment is located within the one thousand feet (1,000') of the nonconforming motor vehicle business establishment, in the same block as the nonconforming motor vehicle business establishment, or in the block across a public street or road from the block in which the nonconforming motor vehicle business establishment is located;

(B) The parcel on which the nonconforming motor vehicle business establishment is located has less than two hundred fifty feet (250') of frontage on any public street or road, excluding any portion of the frontage not owned or leased by the licensed operator of the nonconforming motor vehicle business establishment; and

(C) At least ten percent (10%) of the inventory of the nonconforming motor vehicle business establishment at any point in time consists of motor vehicles titled pursuant to title 55, chapter 3, part 2, including, but not limited to, vehicles with salvage titles, flood titles, rebuilt titles, or nonrepairable vehicle certificates. The operator of the nonconforming motor vehicle business establishment shall make the titles for all of the vehicles located on the premises of the nonconforming motor vehicle business establishment immediately available upon request of a local zoning inspection official, or produce the original titles at the office of the local zoning inspection official within three (3) business days of the request by the local zoning inspection official. The failure of the nonconforming motor vehicle business establishment to make the titles for the vehicles located on the premises of the nonconforming motor vehicle business establishment available to the local zoning inspection official in accordance with this subsection (*l*) shall create a rebuttable presumption that at least ten percent (10%) of the inventory of the nonconforming motor vehicle business establishment consists of the motor vehicles titled pursuant to title 55, chapter 3, part 2.

(3) All other industrial, commercial or other business establishments in any municipality with a metropolitan form of government and a population of over five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, shall be entitled to operate pursuant to subsection (g).

**Credits**

1935 Pub.Acts, c. 44, § 6; 1973 Pub.Acts, c. 279, § 1; 1988 Pub.Acts, c. 539, § 1; 1989 Pub.Acts, c. 591, § 113; 2004 Pub.Acts, c. 730, § 1, eff. May 24, 2004; 2004 Pub.Acts, c. 775, § 1, eff. May 28, 2004; 2007 Pub.Acts, c. 141, §§ 1, 2, eff. July 1, 2007; 2008 Pub.Acts, c. 1091, § 1, eff. June 3, 2008; 2010 Pub.Acts, c. 936, § 1, eff. May 26, 2010.

**Formerly** 1950 Code Supp., § 3407.6; § 13-708.

[Notes of Decisions \(70\)](#)

T. C. A. § 13-7-208, TN ST § 13-7-208

Current with laws from the 2015 First Reg. Sess., eff. through April 30, 2015

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[West's Tennessee Code Annotated](#)

[Title 44. Animals and Animal Husbandry](#)

[Chapter 15. Tennessee Apiary Act of 1995](#)

[Part 1. General Provisions \(Refs & Annos\)](#)

T. C. A. § 44-15-105

§ 44-15-105. Registration of apiaries

Effective: October 1, 2007

[Currentness](#)

(a) Every beekeeper owning one (1) or more colonies of bees shall register each apiary location by January 1, 1996, and every three (3) years thereafter. Upon establishment of a new apiary location, it is the duty of the owners or operators of the apiary to register the new locations within thirty (30) days. Any person, firm, or corporation moving bees into the state shall register all apiary locations within thirty (30) days from the date of the establishment of each apiary.

(b) If an unregistered apiary is found, the state apiarist or any apiary inspector shall make a reasonable effort to locate the owner of the bees and notify the beekeeper by means of a registered letter of the registration requirements and the consequences of noncompliance.

(c) The state apiarist shall issue to each beekeeper with one (1) or more registered apiaries a unique registration number that will be used for apiary identification purposes.

#### **Credits**

[1995 Pub.Acts, c. 402, § 6, eff. June 6, 1995.](#)

**Formerly** § 44-15-205.

T. C. A. § 44-15-105, TN ST § 44-15-105

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