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Appleton Health Department  
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## MEMO

**TO:** Board of Health

**FROM:** Steve Kihl, Environmental Health Supervisor

**DATE:** January 5, 2022

**SUBJECT: Resolution #15-R-21: Honeybee Rescue, Meltzer/Schultz**

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In response to Resolution #15-R-21 regarding the allowance of additional hives and colonies for honeybee rescue purposes, Health Department staff met with Legal Services staff to determine the best way to fulfill the intent of the resolution.

It was determined that we do not need to change the Municipal Code to the resolution language, but rather address the changes in the requirements and limitations that are on file in the Health Department. These rules for both Residential Beekeeping and Non-residential Beekeeping will need to be modified. For consistency between the two sets of rules, it was suggested by Legal Services to remove the limitations from Municipal Code section 3-52 (b), as this is already addressed in the corresponding rules. The specific proposed changes are outlined in the attached documents and are intended to carry out the intent of the Resolution. All changes to the requirements and limitations on file with the Health Department are approved by Common Council before implementation.

Health Department staff is also requesting that the licensing periods for both Residential and Non-residential permits be changed to a calendar year. This will streamline the permit renewal process to coincide with the chicken permits. Currently, all three of these permits have different renewal periods.

**Resolution #15-R-21**  
**Honeybee Rescue Resolution**

*Date:* November 17, 2021

*Submitted By:* Alderperson Meltzer – District 2, & Alderperson Schultz – District 9

*Referred To:* Board of Health

**WHEREAS** Honeybee rescue is a service provided for free by local beekeepers in order to provide an alternative to insecticides and relocate bees from undesired locations while preserving the safety of both humans and bees; and

**WHEREAS** the rescue process is physically challenging and the queen of the colony often does not survive the extraction, and a colony will die off without its queen; and

**WHEREAS** a nucleus colony is a very small hive that produces no honey, which is kept solely for the purpose of replacing failed queens; and

**WHEREAS** other circumstances such as severe weather events can cause a hive to fail and need a replacement queen, but replacement queens that can be purchased may not survive transit or may not arrive in time for a hive in crisis; and

**WHEREAS** the local beekeepers who perform rescues are the only individuals with the resources and opportunity to find a new home for a rescue colony and if necessary a new queen;

**THEREFORE BE IT RESOLVED THAT** the City of Appleton make the following amendments to Sec 3-52(b) in the Municipal Code:

1. Amend “(5) honeybee hives may be maintained” to “(5) honeybee hives and (2) nucleus colonies may be maintained”
2. Add to the end of Sec 3-52(b) the following language: “A beekeeper may temporarily exceed the allowable number of hives for a 30 day period in order to rescue a colony, to determine that it’s disease-free, and to verify or establish a viable queen.”

**Sec. 3-52. Restricted species.**

(a) Except as otherwise permitted within this section, no person shall keep, sell or offer for sale within the City any horses, cows, pigs, goats, sheep, bees, pigeons, chickens, geese, ducks or other fowl or any other domestic animal other than a dog, cat, rabbit, small caged birds, small caged animals or reptiles or aquatic and amphibian animals, kept solely as pets.

(b) Upon obtaining a permit issued by the Health Department, ~~up to five (5) honeybee hives may be maintained by a permit holder within honeybee hives in~~ areas zoned P-I, Public Institutional District; ~~and on building rooftops within the Central Business District (CBD), or, and a permit holder may maintain three (3) honeybee hives per acre up to a maximum of twenty-five (25) hives within an area~~ approved as an urban farms, may be maintained subject to the requirements and limitations on file with the Health Department.

(c) Upon obtaining a permit issued by the Health Department, residential honeybee hives may be maintained subject to the requirements and limitations on file with the Health Department.

(d) Upon obtaining a permit issued by the Health Department, and subject to the requirements and limitations on file with the Health Department, a limited number of pigeons may be maintained by the permit holder.

(e) Upon obtaining a permit issued by the Health Department, and subject to the Rules and Regulations for hen keeping, up to six (6) chicken hens may be maintained by the permit holder. The Rules and Regulations for chicken hen keeping shall be on file in the Health Department. The permit will allow up to six (6) chicken hens at all one- (1-) and two (2-) family dwellings.

RESIDENTIAL BEEKEEPING PERMIT REQUIREMENTS  
(Ref. 3-52 Appleton Municipal Code)  
Enacted November 11, 2015 and last revised April 24, 2020

DEFINITIONS:

AGGRESSIVE BEHAVIOR is any instance in which unusual characteristics are displayed by a honeybee or colony including, but not limited to, stinging or attacking humans or animals without provocation.

APIARY means the assembly of one or more colonies of bees at a single location on a property.

BEEKEEPER means a person who owns or has charge of one (1) or more colonies of bees and has demonstrated to the Health Officer that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.

BEEKEEPING EQUIPMENT means all items used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY means an aggregate of honeybees in a hive consisting principally of workers, but having one queen and at times drones, including brood, combs and honey.

HEALTH DEPARTMENT means the City of Appleton's Health Department.

HIVE means the receptacle inhabited by a colony that is manufactured for that purpose.

HONEYBEE means all life stages of the common domestic honeybee, *Apis mellifera* species, including the queen and drones.

LOT means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds

NUCLEUS COLONY means a small hive that produces no honey and is kept solely for the purpose of replacing failed queens.

PERMIT means the written approval given by the Health Department to a property owner who occupies the premises and who is also a beekeeper pursuant to the definition herein.

PERMIT HOLDER means a beekeeper and who has received a permit from the Health Department allowing for an apiary on his or her property.

PROPERTY means a parcel of land identified by the City of Appleton as a lot in any state of development, ownership and occupation.

PROPERTY OWNER means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

URBAN FARM means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.

1. **GENERALLY.** No person shall keep honeybees in the City of Appleton without being a beekeeper and obtaining a permit issued by the Health Department. Permits will expire annually on December 31. ~~A permit shall be valid for a period of one (1) year from~~

~~November 1 through October 31 the following year, and may be renewed annually.~~ Only one (1) permit shall be granted per property regardless of the number of beekeepers residing at or owning said property. Should multiple beekeepers request permits and be eligible for permits for a property, the permit shall be issued on a first-come, first-served basis.

2. **APPLICATION FOR PERMIT.** Application for a permit required in this section shall be made to the Health Department upon a form furnished by the Health Department and shall contain such information which the Health Department may prescribe and require and shall be accompanied by payment of the applicable fees. The Application form may be updated and/or amended as deemed necessary by the Health Department. No prior approval of a permit guarantees future approval. The Health Department reserves the right to require permit holders to reapply if the application is updated and/or amended, and refusal to reapply may result in the termination of a permit.

(a) GENERAL REQUIREMENTS.

1. The applicant must complete the required form by the Health Department, and provide to the Health Department the non-refundable application fee.
2. The permit applicant must provide proof of formal education and/or sufficient practical experience to act as a beekeeper.
3. The permit applicant must provide proof of property ownership for the property where the proposed apiary will be located.
4. The permit application must provide proof of occupancy of the property where the proposed apiary will be located.

- (b) INSPECTION OF APIARY. Prior to populating the apiary, an inspection of the apiary by the City Health Officer or his or her designee shall be conducted to ensure compliance with all of the following provisions:

1. ~~Quantities: Number of hives allowed. The maximum number of hives on any residentially zoned lot shall be five (5).~~
  - a. The maximum number of hives on any residentially zoned lot shall be five (5).
  - b. The maximum number of nucleus colonies on any residentially zoned lot shall be two (2).
  - a-c. Upon written notification to the Health Department, a beekeeper may temporarily exceed the allowable number of hives for a period of time not to exceed thirty (30) days in order to rescue a colony, determine that the colony is disease free, and to verify or establish a viable queen.
2. Occupation. Apiaries in residentially zoned areas must be located on the lot occupied by the permit holder.
3. Vacant/Unoccupied Lot. No apiary may be placed on vacant or unoccupied lots.

4. Hive type. Only top bar hives or removable frame hives shall be used. Hives shall be continuously maintained in sound and usable condition by the permit holder.
5. Identification. Each apiary shall, at all times, have the permit holder's name, address and phone number permanently and legibly displayed in a prominent place on an external portion of each hive.
6. Flyway Barrier. For all hives located within thirty (30) feet of a property line, a 6-foot high closed fence, closed hedge or other approved barrier shall be located between the rear and/or side property lines and the hive(s). A flyway barrier is not needed if the hive(s) are kept at least ten (10) feet off the ground. Flyway barriers, if required shall meet the requirements of the building code.
7. Water Supply. A continuous supply of water shall be located on the property where the apiary is located, and placed near the hive(s) and within the enclosures or flyway barriers. The water source shall be designed to allow the honeybees' access to water by landing on a hard surface available to the honeybees so long as they remain active outside of the hive.
8. Placement.
  - a. All beekeeping equipment must be located a minimum of thirty (30) feet from the front property line and ten (10) feet from all other property lines.
  - b. Hives may not be located in the front yard of any lot. Should there be multiple street frontages to a property or no front yard clearly indicated on the property records for a property, the placement of the apiary shall be at the discretion of the City Health Officer.
  - c. Apiaries must be located a minimum of fifty (50) feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment and any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission to the Health Department for closer placement.
  - d. Hives should face southeast (SE) direction if possible.

3. **PERMIT RENEWAL.**

- (a) Permits shall be renewed each year on a form furnished by the Health Department unless written notice of discontinued operation is received by the Health Department. The annual permit renewal fee shall be kept on file in the Health Department.

4. **APIARY MAINTENANCE.**

- (a) Beekeeping equipment shall be actively maintained and managed at all times by the permit holder.
- (b) If a permit holder no longer intends to maintain and/or manage their apiary, the

permit holder must immediately notify the Health Department and remove or dismantle the hive(s). Failure to immediately remove the hives will be grounds for the Health Department to cause the removal of the hive(s) and the cost thereof shall be charged back to the permit holder as a special charge pursuant to Wis. Stat. § 66.0627

- (b) In any instance where the City Health Officer reasonably believes a colony exhibits aggressive behavior, it shall be the duty of the permit holder to immediately destroy or re-queen the hive.
- (c) Queens shall be selected from stock bred for gentleness and non-swarming characteristics.
- (d) The provisions of Sec. 3-15(a), Appleton Municipal Code, do not apply to beekeeping.

5. **RIGHT OF ENTRY.**

- (a) The Health Officer or his or her designee may enter upon any permit holder's property at any time to inspect the apiary, beekeeping equipment and/or honeybees, and may take photographs and/or videos of the apiary, beekeeping equipment and/or honeybees as he or she deems necessary, or take any other action deemed necessary to properly enforce the provisions of this section.
- (b) If the Health Officer or his or her designee finds any apiary kept in violation of any portion of this section, he or she may order the violation corrected within thirty (30) days unless the violation appears to put the honeybees or people in immediate harm or danger, in which case the Health Officer or his or her designee may order the immediate correction of the violation. If the permit holder fails to correct the violation pursuant to the order of the Health Officer, the hive(s) in violation may be destroyed and/or removed from the municipality by the Health Officer or his or her designee and the cost thereof shall be charged back to the permit holder as a special charge pursuant to Wis. Stat. § 66.0627.

6. **DENIAL, SUSPENSION OR REVOCATION OF PERMIT** The Health Officer shall have the sole authority to deny an application based on the Applicant's failure to meet the application requirements. After issuance of the permit, the Health Officer may suspend or revoke any permit issued pursuant to this section for violations of ordinances, laws or requirements regulating activity and for other good cause.

7. **APPEALS.** Any person aggrieved by the denial, suspension or revocation of a permit by the Health Officer, or any other order, may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a permit or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

Updated per Resolution #10-R-19 approved by Common Council on 4/1/2020

NON-RESIDENTIAL BEEKEEPING PERMIT REQUIREMENTS  
(Ref. 3-52(b) Appleton Municipal Code)  
Last updated 5/17/2017

DEFINITIONS:

APIARY means the assembly of one or more colonies of bees at a single location on a property.

BEEKEEPING means intentionally creating, fostering or maintaining a colony of honeybees.

BEEKEEPER means a person who owns or has charge of one or more colonies of bees and has demonstrated to the Health Officer that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.

BEEKEEPING EQUIPMENT means all items used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

COLONY means an aggregate of honeybees in a hive consisting principally of workers, but having, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.

HONEY-BEE means all life stages of the common domestic honeybee, *Apis mellifera* species.

NUCLEUS COLONY means a small hive that produces no honey and is kept solely for the purpose of replacing failed queens.

URBAN FARM means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.

1. GENERALLY.

No person shall keep honeybees in the city without being a beekeeper and obtaining a permit issued by the Health Department. Permits will expire annually on December 31. ~~A permit shall be valid for a period of one year from July 1 through June 30, and may be renewed annually, except that a permit initially issued during the period beginning March 1 and ending on June 30 expires on June 30 the following year.~~

2. APPLICATION FOR PERMIT

Application for a permit required in this section shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the



Department may prescribe and require and shall be accompanied by payment of the applicable fee.

(a). NEIGHBORHOOD APPROVAL REQUIRED.

Before a permit is issued for the keeping of bees, the following process shall be followed:

1. **Written permission from the property owner is required if the permit applicant doesn't own the property where bees will be kept.**
2. When a permit is applied for, all property owners within a circular area having a radius of 200 feet, centered on the premises for which a permit has been requested, shall be notified of the application by the Health Officer. Notification shall be by first-class U.S. mail.
3. Property owners shall have 14 working days to file a written objection to the Health Officer if they object to the granting of a permit.
4. Upon receipt of a written objection, the matter shall be placed on the Agenda for the Board of Health to be reviewed at the next regular meeting. The Board of Health shall allow the applicant and objector an opportunity to be heard on why the permit should or should not be issued. The Board shall make a recommendation to the Common Council regarding approval of said permit.

(b). INSPECTION OF APIARY

Prior to populating the hive or hives, an inspection shall be conducted to ensure compliance with all of the following provisions:

1. Up to five (5) honeybee hives and two (2) nucleus colonies may be maintained by a permit holder within areas zoned P-I, Public Institutional District and **Central Business District (CBD)**; or, a permit holder may maintain three (3) honeybee hives and one (1) nucleus colony per acre up to a maximum of twenty-five (25) hives and nine (9) nucleus colonies within an area approved as an urban farm. Upon written notification to the Health Department, a beekeeper may temporarily exceed the allowable number of hives for a period of time not to exceed thirty (30) days in order to rescue a colony, determine that the colony is disease free, and to verify or establish a viable queen.
2. All colonies shall be kept in hives with removable frames, which shall be maintained in sound and usable condition.

3. Each apiary shall have the owner's name and address legibly displayed in a prominent place in the apiary. All hives shall be permanently marked with the owners name and address, if located off the property under control of the hive owner.
4. A 6-foot high closed fence, or closed hedge, a building, or other solid flyway barrier, or other type of barrier which the Health Officer determines to be of sufficient height, shall be located between the hives and the rear and side property lines for all hives located within 30 feet of the property line. A flyway barrier is not needed if the bee hive or hives are kept at least 10 feet off the ground. *Health Officer discretion will be used regarding the need for physical barriers.*
5. A continuous supply of water shall be located on the property where hives are kept, be located near the hive or hives, and be located within the enclosures and flyway barriers. The water source shall be designed to allow bees to access water by landing on a hard surface. This provision is not required during the winter.
6. All hives and related structures that form the apiary shall be located a minimum of 30 feet from the front property line and 10 feet from all other property lines. Hives may not be located in the front yard of any lot.
7. Hives shall be located a minimum of 50 feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment and any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission for closer hive placement.

### 3. APIARY MAINTENANCE

- a. Hives shall be actively maintained. Hives not under active human management and maintenance shall be dismantled or removed by the most recent permit holder.
- b. In any instance in which a colony exhibits aggressive or swarming behavior, it shall be the duty of the beekeeper to destroy or re-queen the hive. Queens shall be selected from stock bred for gentleness and non-swarming characteristics. Aggressive behavior is any instance in which unusual characteristics such as stinging or attacking humans or animals without provocation occurs.
- c. The provisions of Sections 3-15 (a), Appleton Municipal Code, do not apply to beekeeping.

#### 4. RIGHT OF ENTRY.

- a. The Health Officer, or his or her designee, may enter upon any property required to hold a permit in this section at all reasonable times to inspect the premises, obtain photographs or take any other action deemed necessary to properly enforce the provisions of this section.
- b. If the Health Officer, or his or her designee, finds any hive kept in violation of these requirements, he or she may order the violation corrected within 30 days. If the permit holder fails to correct the violation within 30 days, the hive in violation may be destroyed and/or removed from the municipality by the Health Officer, or his or her designee, and the cost thereof shall be charged back to the property owner as a special charge pursuant to Wis. Stat. § 66.0627.

#### 5. SUSPENSION OR REVOCATION OF PERMIT

The Health Officer may suspend or revoke any permit issued pursuant to this section for violations of ordinances, laws or requirements regulating activity and for other good cause.

#### 6. APPEALS

Any person aggrieved by the denial of a permit or by suspension or revocation of a permit by the Health Officer, or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a permit or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of appeal. The Board may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

Approved at the March 2, 2011 Board of Health meeting.

Approved at the March 2, 2011 Common Council meeting.

Amended 3-29-13 to include the 3-20-13 Council approval of beehives at urban farms

Amended 5-10-17 to include BOH approval of beehives on rooftops in CBD

Approved by Common Council on 5-17-17