



Legislation Details (With Text)

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On agenda: **Final action:** 3/2/2010
Effective date:
Title: A substitute ordinance relating to the keeping of bees in the city.
Sponsors: ALD. KOVAC, ALD. HINES JR., ALD. MURPHY
Indexes: NUISANCES
Attachments: 1. Fiscal Note, 2. Hearing Notice List, 3. Notice Published on 3-18-10

Date	Ver.	Action By	Action	Result	Tally
1/20/2010	0	COMMON COUNCIL	ASSIGNED TO		
2/15/2010	0	PUBLIC SAFETY COMMITTEE	HEARING NOTICES SENT		
2/15/2010	0	PUBLIC SAFETY COMMITTEE	HEARING NOTICES SENT		
2/15/2010	0	PUBLIC SAFETY COMMITTEE	HEARING NOTICES SENT		
2/16/2010	0	PUBLIC SAFETY COMMITTEE	HEARING NOTICES SENT		
2/24/2010	2	PUBLIC SAFETY COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
2/24/2010	1	PUBLIC SAFETY COMMITTEE	AMENDED	Pass	4:0
2/24/2010	2	CITY CLERK	DRAFT SUBMITTED		
3/2/2010	2	COMMON COUNCIL	PASSED	Pass	14:0
3/2/2010	2	CITY CLERK	Sponsor added		
3/9/2010	2	MAYOR	SIGNED		
3/18/2010	2	CITY CLERK	PUBLISHED		

091282
SUBSTITUTE 2

ALD. KOVAC, HINES AND MURPHY

A substitute ordinance relating to the keeping of bees in the city.

60-7-0 am

60-7-7 cr

78-1 rc

78-5-2-a am

78-6 cr

78-55-6 am

This ordinance allows the keeping of honey bee hives by a certified bee keeper on a lot, provided the following:

1. A permit is required and no more than 2 hives shall be allowed on a lot.
2. The permit process requires a completed application accompanied with a fee of \$80 and an

inspection which must meet all required provisions. A permit shall be valid for a period of one-year from the date of issuance.

3. Honey bees are limited to eastern european races of *apis mellifera*.

4. Once 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. This shall be done via first-class U.S. mail.

5. Property owners shall have 14 working days to file a written objection and request for a hearing to the commissioner if they object to the granting of a permit.

6. If a timely written objection and request for a hearing has been submitted to the commissioner, the commissioner shall then hold a hearing within 14 days and mail his or her decision within 10 days of the hearing.

7. All honey bees shall be kept in hives with removable frames which shall be kept in sound and usable condition.

8. A minimum 6-foot high closed fence, closed hedge, building or other solid flyway barrier or other barrier which the commissioner determines to be of sufficient height shall be located between hives and the property lines for all hives located within 20 feet of the property line. A supply of water shall be located within these enclosures and flyway barriers. A flyway barrier is not needed if the bee hive is kept at least 10 feet off the ground.

9. All hives and related structures that form the apiary shall be located a minimum of 20 feet from the front property line and 10 feet from all other property lines.

10. Hives shall be located a minimum of 50 feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment or any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission for closer hive placement.

11. Hives shall be provided with fresh water throughout the day and be designed to allow bees to access water by landing on a hard surface. This is not required during the winter.

12. Hives shall be actively maintained. Hives not under active human management and maintenance shall be dismantled or removed by the most recent permit holder.

13. In any instance in which a hive exhibits unusually aggressive characteristics 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-swarmling characteristics.

14. In addition to compliance with the requirements of this section, no beekeeper shall keep a hive or hives that cause any unhealthy conditions or interfere with the normal use and enjoyment of human or animal life of others, any public property or property of others.

Whereas, A number of cities allow the keeping of honey bees; and

Whereas, Honey bees are of benefit to mankind by providing fruit and garden services and by furnishing honey, wax and other useful products; and

Whereas, Domestic strains of honey bees have been selectively bred for desirable traits, including gentleness, honey production, tendency not to swarm and non-aggressive behavior; and

Whereas, Gentle strains of honey bees can be maintained within populated areas in reasonable densities without causing a nuisance if the bees are properly located and carefully managed and maintained; now therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 60-7-0 of the code is amended to read:

60-7. Animal Licenses >>and Permits<<.

Part 2. Section 60-7-7 of the code is created to read:

60-7. Animal Licenses and Permits.

7. The fee for keeping bees shall be \$80 annually.

Part 3. Section 78-1 of the code is repealed and recreated to read:

78-1. Definitions. In this chapter:

1. ANIMAL FANCIER means any person in a residential dwelling unit who keeps, harbors, raises or possesses any combination of dogs or cats numbering not less than 4 nor more than 5 animals over the age of 5 months.
2. APIARY means the assembly of one or more colonies of bees at a single location.
3. APPROVED means approved by the commissioner.
4. AT LARGE means an animal is off the premises of its owner and on any public street or alley, school grounds, a public park, or other public grounds or on private property without the permission of the owner or person in lawful control of the property. An animal shall not be deemed to be at large if:
 - a. It is attached to a leash not more than 6 feet in length which is of sufficient strength to restrain the animal and the leash is held by a person competent to govern the animal and prevent it from annoying or worrying pedestrians or trespassing on private property or trespassing on public property where such animals are forbidden; or
 - b. It is properly restrained within a motor vehicle; or
 - c. It is a dangerous animal that is in compliance with the requirements of s. 78-23-2.
5. BEEKEEPER means a person who owns or has charge of one or more colonies of bees and has demonstrated to the commissioner that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.
6. BEEKEEPING EQUIPMENT means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.
7. BODILY HARM means physical pain or injury or any impairment of physical condition.
8. CARETAKER means any person 16 years of age or older who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.
9. CAT means a domesticated member of felis domestica.
10. COLONY means an aggregate of bees in a hive consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.
11. COMMISSIONER means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.
12. COMMISSIONER OF PUBLIC WORKS means the legally designated head of the department of public works of the city of Milwaukee or his or her authorized representative.
13. DANGEROUS ANIMAL means:
 - a-1. Any animal which, when unprovoked, bites or otherwise inflicts bodily harm on a person, domestic pet or animal on public or private property.
 - a-2. Any animal which chases or approaches a person in a menacing fashion or apparent attitude of attack without provocation upon the streets, sidewalks or any public grounds or on private property without the permission of the owner or person in lawful control of the property.

- a-3. An animal with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or other domestic pets or animals.
- b. The biting or injury of a person by an animal shall in the absence of contrary evidence be presumed to be due to an unprovoked attack. Provocation of the animal by the person or animal that is bitten or injured or the fact that the animal bit or injured another person or animal as a result of provocation shall be considered in mitigation and if the provocation is purposeful or substantial, the court may accept the alleged bite or injury as self-defense by the animal and not classify the animal as dangerous.
- c. An animal shall not be deemed a dangerous animal if it bites, attacks or menaces any person or animal to:
 - c-1. Defend its owner, caretaker or another person from an attack by a person or animal.
 - c-2. Protect its young or another animal.
 - c-3. Defend itself against any person or animal which has tormented, assaulted or abused it.
 - c-4. Defend its owner's or caretaker's property against trespassers.
- 14. DEPARTMENT means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.
- 15. DOG means a domesticated member of canis familiaris.
- 16. DOMESTICATED ANIMAL means any bird or animal of any species which usually lives in or about the habitation of humans as a pet or animal companion. The term does not include a dangerous animal or a prohibited dangerous animal.
- 17. DWELLING UNIT means one or more rooms, including a bathroom and kitchen facilities, which are arranged, designed or used as living quarters for one family or household.
- 18. FOWL means all domesticated birds and nondomesticated game birds ordinarily considered to be edible.
- 19. GROOMING means care or service provided to the exterior of an animal to change its looks or improve its comfort but does not mean the treatment of physical disease or deformities.
- 20. GROOMING ESTABLISHMENT means a business establishment in which a domesticated bird or animal is received for grooming.
- 21. HIVE means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.
- 22. HONEY BEE means all life stages of the common domestic honey bee, apis mellifera species.
- 23. KENNEL means an establishment in which more than 3 dogs or 3 cats, or any combination thereof, over the age of 5 months may be kept for boarding, breeding, safekeeping, convalescence, humane disposal, placement, sale or sporting purposes. This is the same type of facility referred to as an "animal boarding facility" in ch. 295.
- 24. MULTIPLE DWELLING means a commercial or residential building consisting of 3 or more dwelling units.
- 25. OWNER means any person owning, harboring, sheltering or keeping a dog, cat or any other domesticated bird or animal.
- 26. PERSON means any individual, firm, corporation or other legal entity.
- 27. PET SHOP means a business establishment, other than a kennel, where domesticated mammals, birds, fish or reptiles are kept for sale.
- 28. PIT BULL means any dog which is one-half or more American staffordshire terrier, staffordshire terrier, American pit bull terrier, miniature bull terrier or staffordshire bull terrier.
- 29. PROHIBITED DANGEROUS ANIMAL means:
 - a. Any animal that is determined to be a prohibited dangerous animal under s. 78-25.
 - b. Any animal that, while off the owner's or caretaker's property, has killed a domestic pet or animal

without provocation.

c. Any animal that, without provocation, inflicts substantial bodily harm on a person on public or private property.

d. Any animal brought from another city, village, town or county that is described under s. 78-5-2-b.

e. Any dog that is subject to being destroyed under s. 174.02(3), Wis. Stats.

f. Any dog trained, owned or harbored for the purpose of dog fighting.

30. ROTTWEILER means any dog which is one-half or more rottweiler.

31. SUBSTANTIAL BODILY HARM means bodily injury that causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.

Part 4. Section 78-5-2-a of the code is amended to read:

78-5. Keeping of Animals Within City.

2. CERTAIN ANIMALS PROHIBITED.

a. Except as otherwise provided in this chapter, no person shall keep within the city, either temporarily or permanently, any live [[bees,]] fowl, cows, cattle, horses, sheep, swine, goats, chickens, ducks, turkeys, geese or any other domesticated livestock, provided, however, that such animals or fowl may be kept at places approved by the commissioner for slaughtering, educational purposes, research purposes and for circuses or similar recreational events. Upon approval by the commissioner, horses used for livery service may be kept within the city. No rabbits or guinea pigs shall be kept within any portion of any multiple dwelling.

Part 5. Section 78-6 of the code is created to read:

78-6. Keeping of Honey Bees in the City.

1. PERMIT REQUIRED. No person shall keep honey bees in the city without being a beekeeper and obtaining a valid permit issued by the commissioner. A permit shall be valid for a period of one-year from the date of issuance. The permit process requires a completed application accompanied with a fee prescribed in s. 60-7-7, and an inspection which must meet all provisions of sub. 3. The permit application is also subject to a potential objection hearing pursuant to sub. 2.

2. NEIGHBORHOOD APPROVAL REQUIRED. Before a permit is issued for the keeping of bees the following process must be followed:

a. Once 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 by the commissioner. This shall be done via first-class U.S. mail.

b. Property owners shall have 14 working days to file a written objection and request for a hearing to the commissioner if they object to the granting of a permit.

c. If a timely written objection and request for a hearing has been submitted to the commissioner, the commissioner shall hold a hearing within 14 days.

d. Within 10 days of completion of the hearing conducted pursuant to par. c, the commissioner shall mail to the objector and permit applicant his or her written determination on the granting of the permit, taking into consideration factors listed under sub.3.

3. KEEPING OF HONEY BEE HIVES. A permit authorizes the keeping of honey bee hives on a premise, provided the following:

a. No more than 2 hives are allowed on a lot.

b. Honey bees are limited to eastern european races of apismelifera.

c. All honey bees shall be kept in hives with removable frames which shall be kept in sound and usable condition.

- d. A minimum 6-foot high closed fence, closed hedge, building or other solid flyway barrier or other barrier which the commissioner determines to be of sufficient height shall be located between hives and the property lines for all hives located within 20 feet of the property line. A supply of water shall be located within these enclosures and flyway barriers. A flyway barrier is not needed if the bee hive is kept at least 10 feet off the ground.
- e. All hives and related structures that form the apiary shall be located a minimum of 20 feet from the front property line and 10 feet from all other property lines.
- f. 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.
- g. Hives shall be provided with fresh water throughout the day and be designed to allow bees to access water by landing on a hard surface. This is not required during the winter.
- h. Hives shall be actively maintained. Hives not under active human management and maintenance shall be dismantled or removed by the most recent permit holder.
- i. In any instance in which a hive exhibits unusually aggressive characteristics 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.
- j. In addition to compliance with the requirements of this section, no beekeeper shall keep a hive or hives that cause any unhealthy conditions or interfere with the normal use and enjoyment of human or animal life of others, any public property or property of others.

Part 6. Section 78-55-6 of the code is amended to read:

78-55 Penalties and Enforcement.

6. VIOLATIONS OF CERTAIN REGULATIONS. a. Any person violating any of the following provisions of this chapter listed in Column A for which specific penalties are not provided elsewhere in this subsection shall be liable on conviction to the penalties listed in column B and described in ch. 61:

A	B
78-3-1	Class I
78-5-1	Class F
78-5-2-a	Class C
78-5-2-b	Class L
78-5-2-c	Class F
78-5-3	Class C
78-[[7]] >>6<< to 78-19	Class C
78-22	Class F
78-23-1 to 78-23-7	Class F
78-23-10	Class I
78-25-1	Class K
78-27 to 31	Class F
78-35 to 47	Class C
78-49	Class F
78-53	Class F

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

MET

2/24/10

LRB10022-3

Clerical correction -- jro -- March 10, 2010