



CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: City Council
FROM: Jacob A. Graichen, AICP, City Planner
RE: New beekeeping rules via proposed Ordinance No. 3271
DATE: October 18, 2021

Currently, any type of beekeeping within city limits is prohibited per Chapter 6.04, Animal Control, of the St. Helens Municipal Code (SHMC).

Honeybee keeping is a type of “farm use” as defined in the Development Code in Chapter 17.16 SHMC, so there is some conflict in these two chapters.

Backyard beekeeping occurs throughout many local communities across the state. Municipal regulation of beekeeping practices ranges from outright bans, like St. Helens, to unrestricted allowance with a more recent trend towards the latter. In 2015, the Oregon Legislature passed HB 2653 to address the growth of residential beekeeping. This included prompting the creation of best practice policies and model ordinance language from the Oregon State University Extension Service and League of Oregon Cities, both completed in 2018.

2015 HB 2653 included a provision that **“a local government shall review existing ordinances and determine whether to adopt new ordinances relating to residential beekeeping within three years of the effective date of this 2015 Act.”**

Though, more than three years have passed, the state never audited the city’s efforts in this regard. However, a beekeeping issue with a citizen has arisen which prompted review of this matter.

The concept of allowing residential honeybee keeping was presented to the Council at the August 4, 2021, work session. The Council was open to the idea and directed staff to proceed. Some of the Council’s comments included the inclusion of allowing mason bees, limited quantity recommendations, and rules based on the time of year.

Draft amendments are attached to this memo. In summary, this does the following:

1. Still prohibits beekeeping, except for mason bees and, provided certain rules are followed, honeybee keeping associated with *residential* uses.
2. Eliminates potential conflict of law. The definition of “farm use” in the Development Code includes honeybees. Honeybee keeping associated with *nonresidential* uses would be determined per the Development Code.
3. Honeybee keeping associated with a residential use doesn’t mandate an animal facilities license or other permit. This is proposed as review of the technicalities of a honeybee raising would require some training, would be an unnecessary burden to staff and resources, and the rules are written such that poor bee management will be evident by new nuisances added to the code. And if site inspection is necessary, the basic provisions should be easy to understand to determine compliance if there is a problem.

4. Proposed code is based on the League of Oregon Cities Model Residential Beekeeping Ordinance (June 2018), the Oregon State University Extension Service Residential Beekeeping Best-Practices Guidelines for Nuisance-Free beekeeping in Oregon (February 2018), other jurisdiction examples and feedback from some local beekeepers.

If the council consents to these amendments, please approved Ordinance No. 3271 at your regular session.

Attached:

Draft ordinance
Draft text amendments
Presentation

City of St. Helens
ORDINANCE NO. 3271

AN ORDINANCE AMENDING THE ST. HELENS MUNICIPAL CODE CHAPTER 6.04
REGARDING BEEKEEPING

WHEREAS, in 2015 the State of Oregon adopted House Bill 2653 which requires Oregon State University (OSU) Extension Service, in consultation with State Department of Agriculture, to create best practices for beekeeping in residential areas; and

WHEREAS, said House Bill requires local governments to review existing ordinances and determine whether to adopt new ordinances relating to residential beekeeping;

WHEREAS, the City Council considered the city's prohibition of beekeeping within city limits and determined that some beekeeping should be allowed.

NOW, THEREFORE, THE CITY OF ST. HELENS DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 6.04 of the St. Helens Municipal Code ("SHMC") is hereby amended, attached hereto as **Attachment "A"** and made part of this reference.

Section 2. Severability. If any section, provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other sections, provisions, clauses or paragraphs of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be servable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 3. Provisions of this Ordinance shall be incorporated in the St. Helens Municipal Code and the word "ordinance" may be changed to "code," "article," "section," or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that Whereas clauses and boilerplate provisions need not be codified.

Section 4. The effective date of this Ordinance shall be 30 days after approval, in accordance with the City Charter and other applicable laws.

Read the first time: <<date>>

Read the second time: <<date>>

APPROVED AND ADOPTED this ### day of <<month>>, <<year>> by the following vote:

Ayes:

Nays:

Rick Scholl, Mayor

ATTEST:

Kathy Payne, City Recorder

underlined words are added
~~words-stricken~~ are deleted

[...] means skipping text as it reads in the code (e.g., to focus on text being edited in this document)

CHAPTER 6.04 ANIMAL CONTROL

Sections:

- 6.04.010** Definition of terms.
- 6.04.020** Owner's duties.
- 6.04.030** Public duties.
- 6.04.040** Prohibited activities.
- 6.04.045** Honeybee Beekeeping.
- 6.04.050** Cruelty to animals.
- 6.04.060** Dangerous or aggressive animals.
- 6.04.065** Declassification of aggressive dogs.
- 6.04.070** Animal fighting.
- 6.04.080** Animal facility licensing.
- 6.04.090** Impounding procedures.
- 6.04.100** Penalties.

[...]

6.04.040 Prohibited activities.

[...]

(3) Public Nuisances. It shall be unlawful to keep or maintain within the city any animal which is a nuisance. An animal is a nuisance as described if it:

(a) Causes continuous noise lasting for a minimum period of 15 minutes or intermittent noise lasting for a minimum period of 30 minutes by excessive barking or noise making, for which the listener can clearly hear the content of the sound produced by the animal from inside any neighboring building, vehicle or residence;

(b) Chases vehicles;

(c) Damages or destroys property of a person other than the owner or custodian of the animal;

(d) Scatters garbage;

(e) Molests, attacks or interferes with persons or other domestic animals on property other than the owner's property;

(f) Involves bees that exhibit aggressive behavior such as stinging or attacking without provocation;

(g) Involves ongoing honeybee flight paths that are less than 6' from ground level at a property line of the property where the bees are kept;

(h) Involves honeybees swarming outside of the normal Spring season.

[...]

(5) Animal Restrictions and Prohibitions.

(a) The following are prohibited except as set forth in subsections (5)(b), (5)(c) and (5)(d) of this section:

(i) Beekeeping. No person shall possess, maintain or keep bees in the city limits, except for mason bees, and in conformance with SHMC 6.04.045, honeybees.

(ii) Dogs. No single-family residence shall contain more than three adult dogs and one litter of puppies under six months of age.

(iii) Exotic Animals. No person shall possess, maintain or keep any exotic animal in the city limits.

(iv) Hens and Ducks. No single-family residence shall possess, maintain or keep more than three adult hens or ducks, or any combination thereof, and six chicks or ducklings, or any combination thereof, under nine weeks of age.

(v) Livestock. No person shall possess, maintain or keep any livestock in the city limits.

(vi) Rabbits. No single-family residence shall possess, maintain or keep more than three adult rabbits and one litter of rabbit kits (bunnies) under nine weeks of age.

(vii) Wildlife. No person shall possess, maintain or keep any wildlife in the city limits.

(b) Except for subsections (5)(a)(i), (5)(a)(v) and (5)(a)(vii) of this section, an owner may request an animal facility license for the keeping of such animals in the manner as set forth in SHMC 6.04.080. For beekeeping of honeybees, see SHMC 6.04.045.

[...]

6.04.45 Honeybee Beekeeping.

(1) Purpose. The purpose of this section is to establish certain requirements for honeybee beekeeping within the City of St. Helens associated with residential uses and to avoid issues which might otherwise be associated with beekeeping in populated areas.

(2) In addition to the definitions per Section 6.04.010, the following definitions apply to this Section:

(a) "Apiary" means the place where bee colonies are located.

(b) "Colony" or "colonies of bees" refers to any hive occupied by bees.

(c) "Flight path" means the route taken by bees to and from the colony to gather water, nectar, pollen, or propolis.

(d) "Hive" means a container or collection of boxes for housing honeybees including those for a nucleus colony.

(e) "Honeybee" means a honey-producing insect of the species *Apis mellifera* commonly known as honeybees.

(f) "Lot" means a contiguous parcel of land under common ownership.

(g) "Nucleus colony" or "nuc" means a small colony that only contains a few thousand honeybees and a queen that is used primarily to produce new queens or workers for the purpose of starting a new colony or adding to an existing colony.

(h) "Robbing" means the process by which bees collect honey from colonies other than their own, from frames of extracted honey, or from spills of sugar syrup or honey.

(3) Beekeeping of honeybees may be allowed as an accessory use on property developed with a lawfully existing residential use as the principle use of the property (see Chapter 17.16 SHMC for definition of accessory use and principal use). No animal facility license per SHMC 6.04.080, permit or other authorization is required to allow honeybee beekeeping associated with a lawfully existing residential use, but allowance of such is subject to the following:

(a) The number of hives are limited to up to four per property on any size lot, up to six for any lot 10,000 square feet or greater, and up to ten for any lot greater than 1 acre in size.

(b) Hives shall be hidden from public view at all times.

(c) Flight paths shall be managed by:

(i) Establishing and maintaining a flyaway barrier at least 6 feet in height consisting of a solid wall, fence, dense vegetation or combination thereof that is parallel to the lot line(s) and extends 10 feet beyond the apiary in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the lot lines in the vicinity of the apiary; or

(ii) A flyaway barrier is not required when:

(A) All hives are more than 10 feet from any lot line; and/or

(B) All hives are elevated to a height of 10 feet or more above ground level.

(d) In addition to any setback to manage flight paths per SHMC 6.04.045(3)(c) and to meet any yard (setback) requirement of the Development Code, all hives must be:

(i) At least 3 feet from all property lines; and

(ii) At least 15 feet from public walkways and streets, and any public outdoor spaces used for, but not limited to, seating, playgrounds, and recreational fields.

(e) Each beekeeper shall ensure that a convenient, on-site source of water is available to the bees at all times during the months of March through October when honeybees forage. Water source should be within fifteen feet of the base of the hive(s), located away from lot lines and toward the interior of the property, where possible.

(f) Each beekeeper shall comply with Oregon Department of Agriculture (ODA) apiary registration requirements, as applicable.

(g) Swarming outside of the Spring season. Swarming is a natural reproduction phenomenon of honeybees that typically occurs in the Spring. Swarming outside of this normal period may be a sign of necessary maintenance of the hives needed to mitigate defensive behavior, including but not limited to addressing overcrowding of hives, requeening, managing the age of the colony, and managing exposed honey, syrup or nectar or wax comb that could encourage robbing by other bees.

(4) The requirements of this Section are in addition to those related to farm use as defined by Chapter 17.16 SHMC and any other applicable laws of the Development Code.



Beekeeping In St. Helens

ORD. No. 3271

November 2021



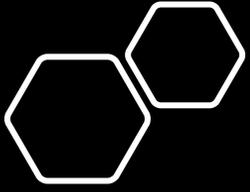
2015 House Bill 2653

A local government shall review existing ordinances and determine whether to adopt new ordinances relating to residential beekeeping within three years of the effective date of this 2015 Act.”



Chapter 6.04, Animal Control

Beekeeping. No person shall possess, maintain or keep bees in the city limits.



Proposal: allow mason bees and, *given certain rules are followed*, honeybee keeping

- No animal facility license required
- Noncompliance intended to be simple to observe
 - Hives are visible
 - Flight patterns bad (<6' from ground at property line)
 - Swarming outside of spring season
 - Aggressive behavior such as stinging/attacking without provocation.

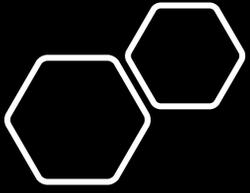
Yes



No

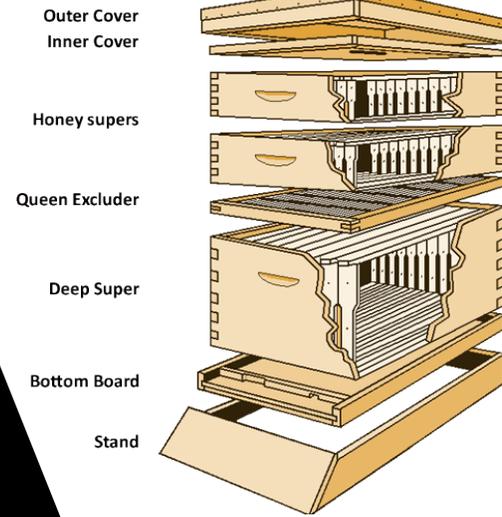


Yes

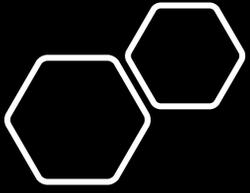


Proposal: Allowance subject to ...

- **Hive quantity limitation based on land area**
- Hidden from public view at all times
- Flight path management
- Setback requirements
- Water source availability
- ODA registration
- Swarming mitigation/best practice reference



- **Any property → up to 4 hives**
 - Same as City of Portland
- **At least 10,000 s.f. → up to 6 hives**
 - Same as City of Portland
- **At least 1 ac. → up to 10 hives**
 - City of Ashland maxes out at 5, **but also allows 1 “nuc” per main one**
 - City of Portland maxes out at 6
 - City of Spokane maxes out at 8
 - **St. Helens “hive” definition includes “nucs” or nucleus colonies**



Proposal: Allowance subject to ...

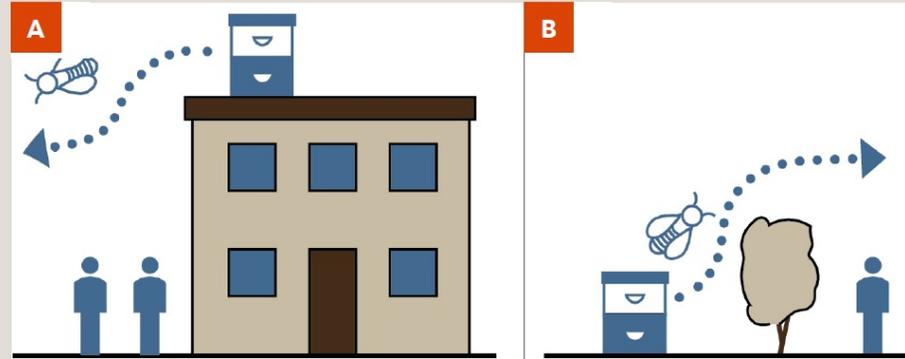
- Hive quantity limitation based on land area
- Hidden from public view at all times
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• Flyaway barrier (6' tall, 10' in each direction).

• Keep hives at least 10' from property lines

• Elevating hive 10' or more

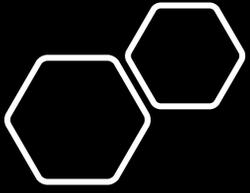
How can you direct a bee's flight path?



The flight path behavior of bees can be directed away from private and public activities so that setbacks are unnecessary or need only be minimal. This can be accomplished by either: A) raising a colony onto a roof top, balcony, or other elevated position, or B) placing obstacles (such as a hedge or lattice) in a colony's flight path.



Figure 5: Example of extensive use of flight barriers (shown here, a fence and tall vegetation) altering the foraging bees' flight path so that the path is dispersed by the time the bees reach the property line. The fence and vegetation also conceal the apiary from passersby and restricts access to the apiary.



Proposal: Allowance subject to ...

- Hive quantity limitation based on land area
- Hidden from public view at all times
- Flight path management
- **Setback requirements**
- **Water source availability**
- ODA registration
- Swarming mitigation/best practice reference

- **3' from all property lines.**
- **15' from public areas**

- **Development Code setbacks too**

- **Water: March – October forage time**

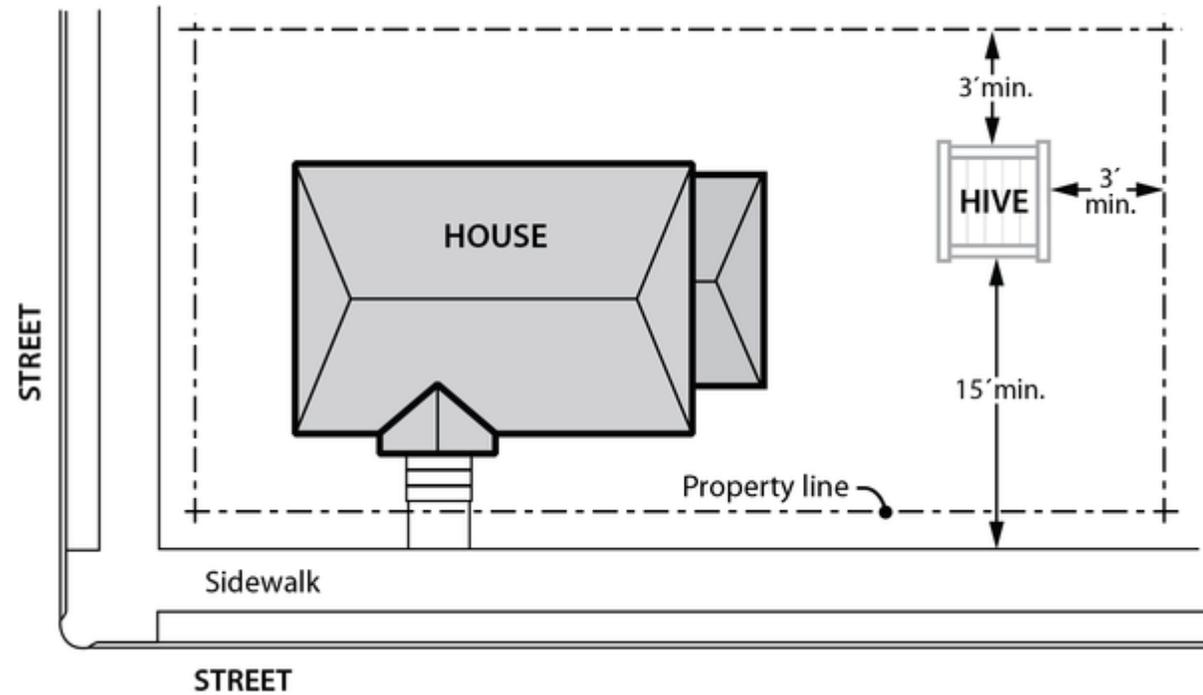
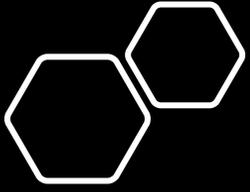


Figure 6: Example of a water source that includes a rock that allows bees to access the water without drowning.



Proposal: Allowance subject to ...

- Hive quantity limitation based on land area
- Hidden from public view at all times
- Flight path management
- Setback requirements
- Water source availability
- ODA registration
- Swarming mitigation/best practice reference

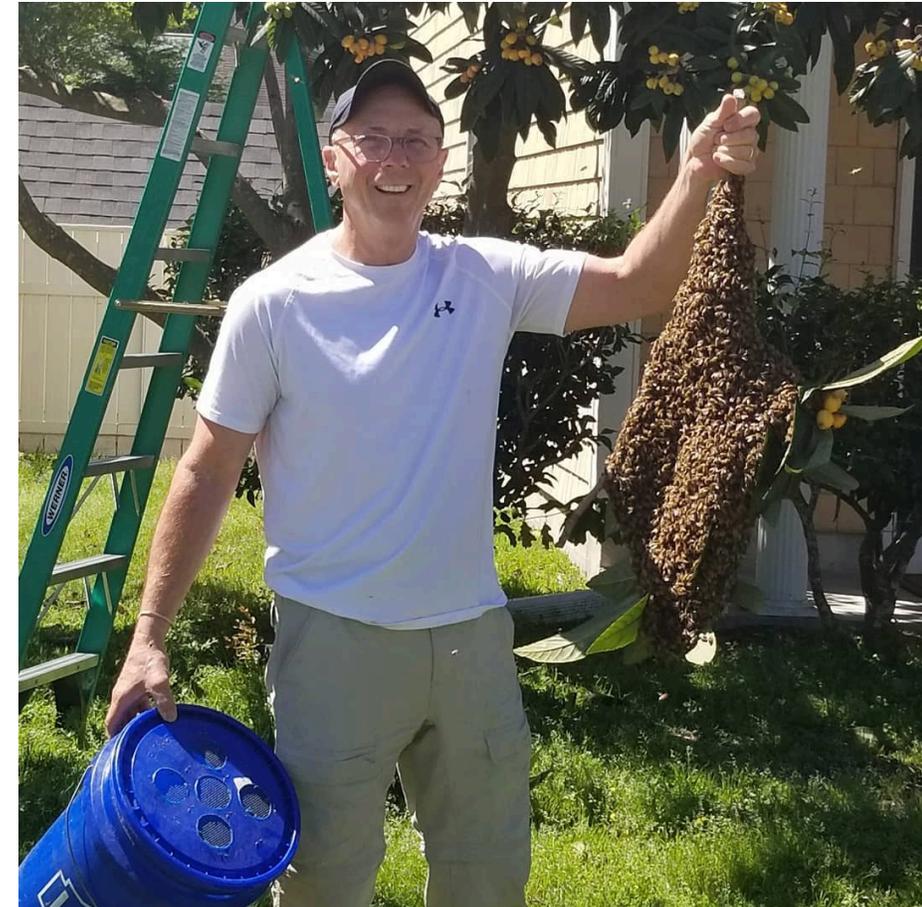
• *Swarming normal in spring*

• *Defensive behavior can result from*

- *Overcrowding*
- *Age of colony*
- *Robbing*



Every person who owns, or is in charge of, **five or more colonies** of bees located within the state or Oregon, must register their hives with the Oregon Department of Agriculture.





No



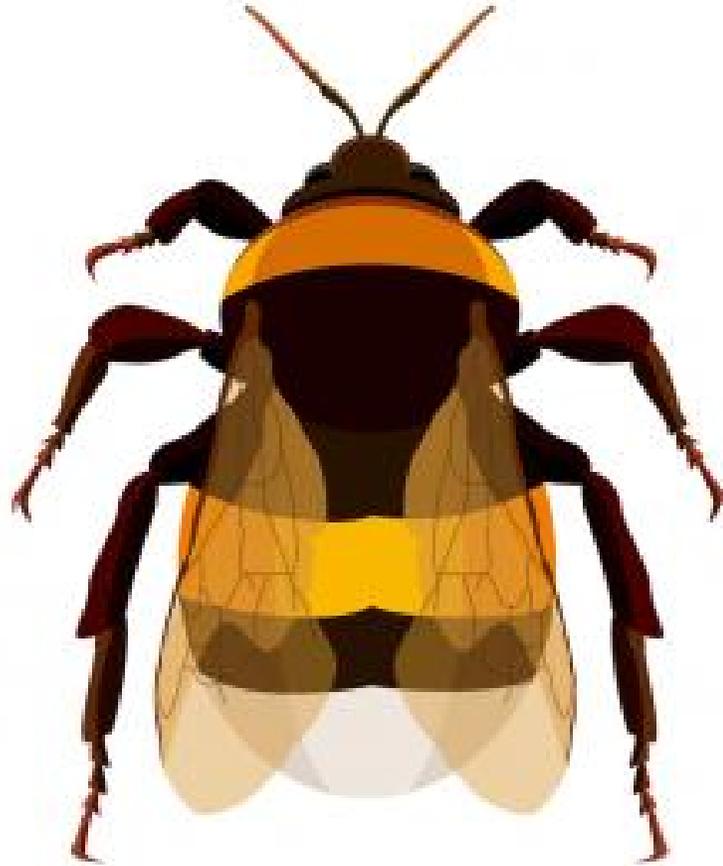
Yellowjackets are frequently mistaken for honeybees!

- Similar in size as honeybees (1/2 inch long)
- But hairless
- And they don't carry pollen





honey bee



bumble bee



wasp