

Council Agenda Report

Date: April 23, 2018
Submitted by: Odie Wheeler, Director of Public Works
Prepared by: Pat Escher, City Planner, A.I.C.P.

Subject: Ord. No. 1122 - An Ordinance of the commissioners of Cambridge, Maryland amending § 4.2.3 and Table 1: Permitted Uses by zoning district of the City's Unified Development Code to allow beekeeping as a Permitted Use with Conditions in the Residential, Neighborhood Conservation, Resource Conservation, Open Space, and Maritime Resort zoning districts, amending § 4.4.4 and Table 2: Permitted Uses by zoning subdistrict in the Downtown/Waterfront Development District of the UDC to allow beekeeping as a Permitted Use with Conditions in the Neighborhood Subdistrict, and amending § 9.2 of the UDC to define terms associated therewith; providing that the title of this Ordinance shall be deemed a fair summary and generally relating to beekeeping in the City of Cambridge.

Recommendation: That Council

- A. Introduce Ordinance No. 1122 by reading of title only; and
- B. Schedule May 29, 2018 for second reading, public hearing and adoption of Ordinance No. 1122.

Discussion:

This amendment was at the request of a citizen that would like raise bees in her yard due to the increasing loss of the bee population. Staff researched bees and their plight and discovered that several bee species are now on the endangered list due to the loss of habitat, disease and use of chemicals.

“While honey bees are clearly not the only hard-working pollinators that deliver a bounty to humans and other animals, their recent deaths from Colony Collapse Disorder (CCD) starting in 2006 have captured the world’s attention. To date, CCD has been defined as a series of symptoms, but the cause and the cure have remained complex and elusive. CCD is not the only problem facing honey bees; in fact, in 2010 the overwintering losses were at the same unsustainable rates of over 30% but the cause seemed to be less from CCD than from other problems.” (Pollinator.org)

Pursuant to the Maryland Department of Agriculture:

“Maintaining healthy honey bee colonies is very important to Maryland agriculture. Crops valued more than \$40 million require or benefit from honey bee pollination in the State. Managed colonies are increasingly important since most wild honey bees have died due to parasitic mites.

Apiary inspectors work with beekeepers to help them maintain healthy colonies. Inspectors visit about two-thirds of Maryland's apiaries (sites where bee colonies are kept) each year and examine colonies for diseases and pests. Beekeepers are advised on how to treat problems found.

Maryland Law requires everyone who keeps bees to register their colonies within 30 days of first obtaining a honey bee colony and then annually thereafter.

Beekeeping is a popular hobby and source of income for beekeepers. There are about 1,800 beekeepers that keep 14,000 colonies scattered throughout Maryland. Beekeeping clubs work to promote the hobby and assist in educating their members and the community about bee culture.”

It should be noted that “Honey Bees” are imported bees that are bred for their non-aggressive behavior and while there is the potential for persons to get stung, their primary function is honey production and once a bee does stings someone, it dies.

The Planning Commission heard this Text Amendment at their April 3rd hearing. There was discussion about the fact that some people are allergic to bees and this was a concern. The Commission added language that this use would have to post the property and notify adjacent property owners to help alleviate those concerns; the amendment passed with a majority vote.

Fiscal Impact: NA

Approved by: Sandra Tripp-Jones, City Manager 

ORDINANCE NO. 1122

AN ORDINANCE OF THE COMMISSIONERS OF CAMBRIDGE, MARYLAND AMENDING § 4.2.3 AND TABLE 1: PERMITTED USES BY ZONING DISTRICT OF THE CITY'S UNIFIED DEVELOPMENT CODE TO ALLOW BEEKEEPING AS A PERMITTED USE WITH CONDITIONS IN THE RESIDENTIAL, NEIGHBORHOOD CONSERVATION, RESOURCE CONSERVATION, OPEN SPACE, AND MARITIME RESORT ZONING DISTRICTS, AMENDING § 4.4.4 AND TABLE 2: PERMITTED USES BY ZONING SUBDISTRICT IN THE DOWNTOWN/WATERFRONT DEVELOPMENT DISTRICT OF THE UDC TO ALLOW BEEKEEPING AS A PERMITTED USE WITH CONDITIONS IN THE NEIGHBORHOOD SUBDISTRICT, AND AMENDING § 9.2 OF THE UDC TO DEFINE TERMS ASSOCIATED THEREWITH; PROVIDING THAT THE TITLE OF THIS ORDINANCE SHALL BE DEEMED A FAIR SUMMARY AND GENERALLY RELATING TO BEEKEEPING IN THE CITY OF CAMBRIDGE.

WHEREAS, pursuant to Md. Code Ann., Land Use § 4-204 and § 2.2.3 of the Unified Development Code (the "UDC"), the Commissioners of Cambridge (the "Commissioners") are authorized and empowered to amend, supplement, change, modify, and repeal the City of Cambridge's (the "City") zoning regulations and boundaries and change the City's zoning classifications; and

WHEREAS, pursuant to § 3-27(1) of the Charter of the City of Cambridge (the "Charter") and Md. Code Ann., Local Gov't § 5-202(5), the Commissioners are authorized and empowered to pass ordinances for the protection and promotion of the health, safety, comfort, convenience, welfare and happiness of the residents of the town and visitors thereto and sojourners therein; and

WHEREAS, pursuant to § 3-27(38) of the Charter, the Commissioners are authorized and empowered to pass ordinances regulating animals within the corporate limits of the Town; and

WHEREAS, following a public hearing held on April 3, 2018, the City of Cambridge Planning Commission (the "Planning Commission") unanimously recommended that the Commissioners approve a text amendment amending § 4.2.3 and Table 1: Permitted Uses by Zoning District of the UDC to allow beekeeping as a Permitted Use with Conditions in the Residential, Neighborhood Conservation, Resource Conservation, Open Space, and Maritime Resort Zoning Districts, amending § 4.4.4 and Table 2: Permitted Uses by Zoning Subdistrict in the Downtown/Waterfront Development District of the UDC to allow beekeeping as a Permitted Use with Conditions in the Neighborhood Subdistrict, and amending § 9.2 of the UDC to define terms associated therewith; and

WHEREAS, on May 29, 2018, the Commissioners held a public hearing regarding the text amendment recommended by the Planning Commission, notice of which was published on April 30, 2018 and May 7, 2018 in the Star Democrat, a newspaper of general circulation in the City, in accordance with Md. Code Ann., Land Use § 4-203(b) and § 2.2.3.C of the UDC; and

WHEREAS, having considered the recommendations of the Planning Commission and the Department of Planning and Zoning Staff, as well as the comments made during the May 29, 2018 public hearing, the Commissioners find that it is in the best interest of the City to amend § 4.2.3 and Table 1: Permitted Uses by Zoning District of the UDC to allow beekeeping as a Permitted Use with Conditions in the Residential, Neighborhood Conservation, Resource Conservation, Open Space, and Maritime Resort Zoning Districts, amend § 4.4.4 and Table 2: Permitted Uses by Zoning Subdistrict in the Downtown/Waterfront Development District of the UDC to allow beekeeping as a Permitted Use with Conditions in the Neighborhood Subdistrict, and amend § 9.2 of the UDC to define terms associated therewith; and

WHEREAS, the Commissioners find that the text amendment set forth herein is necessary to promote and protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED by the Commissioners of Cambridge, that the City's Unified Development Code is hereby amended as follows:

SECTION 1. Section 4.2.3 (Standards for Conditional and Special Exception Uses) is amended as follows:

A. Residential Uses

12. Beekeeping

Subject to the following conditions, beekeeping shall be a Permitted Use with Conditions (C) in the Residential, Neighborhood Conservation, Resource Conservation, Open Space, and Maritime Resort districts:

- a. All apiaries shall be registered annually with the Maryland Department of Agriculture in accordance with applicable State laws and regulations.**
- b. Notice and posting of property.**
 - i. Upon receipt of a request for an Administrative Review, the Zoning Official shall send written notice of the request to all property owners whose property line is within two hundred (200) feet of the applicant's property line, stating that the property owners have ten (10) days from the date of the notice to file a written objection with the City Zoning Official. The notices shall be directed to the names and addresses as shown on the current real property tax records for Dorchester County.**
 - ii. Written notice shall be sent to the Planning Commission.**
 - iii. Additionally, the Zoning Official shall have a sign posted on the property that is the subject of the application advising of the nature of the requested action and advising that anyone who objects shall file a written objection with the**

City by a certain date, which date shall be at least ten (10) days from the date that the sign is posted.

- iv. The Zoning Official has the option to refer a request for an Administrative Review to the Planning Commission if substantive concerns were raised regarding public health, safety and welfare.
- c. In each instance in which any apiary is situated within fifteen (15) feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier with a maximum height of six (6) feet consisting of a solid wall, vegetative screen and/or fence that is parallel to the property line and extends ten (10) feet beyond the apiary in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary. Flyways are not required if the property is zoned Resource Conservation and/or adjoining the apiary lot line is a vacant property.
- d. Each beekeeper shall ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths or other water sources where they may come into contact with humans, birds or domestic pets.
- e. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the apiary, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
- f. All colonies shall be maintained with marked queens. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or an unusual disposition toward swarming, it shall be the duty of the beekeeper to promptly re-queen the colony with another marked queen. Queens shall be selected from European stock bred for gentleness and non-swarming characteristics.
- g. It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the tract on which the apiary is situated:
- i. One-quarter acre or less tract size – two (2) colonies;
 - ii. More than one-quarter acre but less than one-half acre tract size – four (4) colonies;
 - iii. More than one-half acre but less than one (1) acre tract size – six (6) colonies;
and

- iv. One (1) acre or larger tract size – eight (8) colonies;
- v. Regardless of tract size, where all colonies are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.
- vi. Regardless of tract size, so long as all properties other than the tract upon which the apiary is situated, within a radius of at least two hundred (200) feet from any colony, remains undeveloped property, there shall be no limit to the number of colonies.
- vii. For every two (2) colonies authorized under subsection (g) herein, there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one (1) standard 9 5/8 inch depth ten (10)-frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date is acquired.
- h. In apiaries, the beekeeper shall conspicuously post a sign setting forth his/her name, telephone number and registration yard marker. It is a defense against prosecution under this subsection that an apiary is kept upon the same tract upon which the owner resides.
- i. Unless marked in accordance with subsection (h) herein, it shall be presumed for purposes of this article that the beekeeper is the owner of the tract upon which an apiary is situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the apiary upon the tract setting forth the name, address and telephone number of the other person who is acting as the beekeeper.
- j. Upon receipt of information that any apiary situated within the city is not being kept in compliance with this section, the Zoning Official shall initiate an investigation. If he/she finds grounds to believe that one or more violations have occurred, he/she will cause a written notice of a Planning Commission hearing to be issued to the beekeeper.

SECTION 2. Section 4.4.4 (Standards for Conditional and Special Exception Uses) is amended as follows:

A. Beekeeping

Subject to the following conditions, beekeeping shall be a Permitted Use with Conditions (C) in the Neighborhood subdistrict:

- 1. All apiaries shall be registered annually with the Maryland Department of Agriculture in accordance with applicable State laws and regulations.**

2. Notice and posting of property.

- i. Upon receipt of a request for an Administrative Review, the Zoning Official shall send written notice of the request to all property owners whose property line is within 200 feet of the applicant's property line, stating that the property owners have ten (10) days from the date of the notice to file a written objection with the City Zoning Official. The notices shall be directed to the names and addresses as shown on the current real property tax records for Dorchester County.**
 - ii. Written notice shall be sent to the Planning Commission.**
 - iii. Additionally, the Zoning Official shall have a sign posted on the property that is the subject of the application advising of the nature of the requested action and advising that anyone who objects shall file a written objection with the City by a certain date, which date shall be at least ten (10) days from the date that the sign is posted.**
 - iv. The Zoning Official has the option to refer a request for an Administrative Review to the Planning Commission if substantive concerns were raised regarding public health, safety and welfare.**
- 3. In each instance in which any apiary is situated within fifteen (15) feet of a public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier with a maximum height of six (6) feet consisting of a solid wall, vegetative screen and/or fence that is parallel to the property line and extends ten (10) feet beyond the apiary in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary. Flyways are not required if the property is zoned Resource Conservation and/or adjoining the apiary lot line is a vacant property.**
 - 4. Each beekeeper shall ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, pet watering bowls, bird baths or other water sources where they may come into contact with humans, birds or domestic pets.**
 - 5. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the apiary, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.**
 - 6. All colonies shall be maintained with marked queens. In any instance in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or an unusual disposition toward swarming, it shall be the duty of the beekeeper to promptly re-queen the colony with another marked queen.**

Queens shall be selected from European stock bred for gentleness and non-swarmling characteristics.

7. It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the tract on which the apiary is situated:
 - i. One-quarter acre or less tract size – two (2) colonies;
 - ii. More than one-quarter acre but less than one-half acre tract size – four (4) colonies;
 - iii. More than one-half acre but less than one (1) acre tract size – six (6) colonies; and
 - iv. One (1) acre or larger tract size – eight (8) colonies;
 - v. Regardless of tract size, where all colonies are situated at least two hundred (200) feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.
 - vi. Regardless of tract size, so long as all properties other than the tract upon which the apiary is situated, within a radius of at least two hundred (200) feet from any colony, remains undeveloped property, there shall be no limit to the number of colonies.
 - vii. For every two (2) colonies authorized under subsection (7) herein, there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one (1) standard 9 5/8 inch depth ten (10)-frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date is acquired.
8. In apiaries, the beekeeper shall conspicuously post a sign setting forth his/her name, telephone number and registration yard marker. It is a defense against prosecution under this subsection that an apiary is kept upon the same tract upon which the owner resides.
9. Unless marked in accordance with subsection (8) herein, it shall be presumed for purposes of this article that the beekeeper is the owner of the tract upon which an apiary is situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the apiary upon the tract setting forth the name, address and telephone number of the other person who is acting as the beekeeper.

Upon receipt of information that any apiary situated within the city is not being kept in compliance with this section, the Zoning Official shall initiate an investigation. If he/she

finds grounds to believe that one or more violations have occurred, he/she will cause a written notice of a Planning Commission hearing to be issued to the beekeeper.

SECTION 3. Section 9.2 (Terms and Definitions) is amended as follows:

Apiary – the assembly of one (1) or more colonies of bees at a single location.

Beekeeper – a person who owns or has charge of one (1) or more colonies of bees.

Beekeeping equipment – anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

Colony or hive – an aggregate of bees consisting principally of workers, but having, when perfect, one (1) queen and, at times, many drones, including brood, combs, honey and the receptacle inhabited by the bees.

Honey bee – all life stages of the common domestic honey bee, *Apis mellifera*.

Nucleus colonies – small honey bee colonies created from larger colonies. The term refers both to the smaller size box and the colony of honey bees within it. Nucleus colonies are used to establish new hives or manage swarms.

SECTION 4. Table 1: Permitted Uses by Zoning District is amended to allow beekeeping as a Permitted Use with Conditions in the Residential, Neighborhood Conservation, Resource Conservation, Open Space, and Maritime Resort Zoning Districts as shown on Exhibit 1 hereto, which is incorporated by reference as if fully set forth herein.

SECTION 5. Table 2: Permitted Uses by Zoning Subdistrict in the Downtown/Waterfront Development District is amended to allow beekeeping as a Permitted Use with Conditions in the Neighborhood Subdistricts as shown on Exhibit 2 hereto, which is incorporated by reference as if fully set forth herein.

SECTION 6. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 7. In this Ordinance, unless a section of the City Code of Laws is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out with a single strikethrough. Language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 8. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Commissioners

that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 9. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 10. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

AND BE IT FURTHER enacted and ordained that this Ordinance shall become effective on the tenth (10th) day following the date of passage.

ATTEST:

THE COMMISSIONERS OF CAMBRIDGE

Sandra Tripp-Jones, City Manager

By: _____
Victoria Jackson-Stanley, Mayor

Introduced the __ day of _____ 2018

Passed the __ day of _____ 2018

Effective the __ day of _____ 2018