

# ORDINANCE NO. 381

## CITY OF BESSEMER, MICHIGAN

An ordinance to amend the zoning code to abide by the Right to Farm Act, revise use matrix tables addressing Agricultural uses, remove Commercial Agriculture or Horticulture conditions, remove conditional use for keeping chickens, greenhouses and aquaculture systems, and farmer’s markets and Food stands as it pertains to the CE district. Also, to add a limited ability to raise bees in other zoning districts.

Adding Definitions to Article 2

**COLONY or 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.

**FLYWAY BARRIER** means a solid wall, fence, or dense vegetation or combination thereof that provides an obstruction through which honey bees cannot readily fly. Barrier must surround the immediate vicinity of the colony(s) or hive(s) yet leave sufficient space for beekeeper to maintain colony(s) or hive(s). Property line fences or barriers do not constitute flyway barriers.

**HONEYBEE** means all life stages of the common domestic honey bee, *Apis mellifera* species.

**SWARM** means a partial colony in search of shelter that has split from an established colony.  
Amending Table 4-1 to abide by the Right to Farm Act

Table 4-1, Use Matrix-pg 1								
Agricultural Uses								
Commercial Agriculture or Horticulture	Districts							
	CE	R1	R2	C1	C2	M1	M2	
<b>Establishments primarily engaged in rendering services to business establishments on a fee or contract basis.</b>								
Field Crops and fruit farming; truck farming; commercial nurseries and greenhouses; turf and sod farms; apiaries; annelid farms; equine breeding and grazing; mushrooms; aquaculture; similar agricultural enterprises; and the usual farm buildings associated with such use. A cervidea livestock operation as defined and regulated by Act No 191 of the Public Acts of 2000	P	--	--	--	--	P	P	
Composting	P	--	--	--	--	P	P	
Small Scale Food Production and Urban Agriculture	Districts							
	CE	R1	R2	C1	C2	M1	M2	

**The production of fruits, vegetables, livestock, flowers, and other natural food and non-food materials within or near limits of a city, especially on vacant lots, in open spaces such as parks, and in enclosed, indoor facilities such as greenhouses or aquaculture systems.**

Private Yard vegetable gardens within any required yards, community gardens, small scale private composting, fruit trees, limited fowl raising	P	C	C	C	C	P	P
Greenhouses or Aquaculture system as an accessory structure	P	C	C	C	C	P	P
Farmer's Markets- Food Stands	P		C	C	C	P	P
Keeping of Honeybees	P	C	C	C	C	P	P

## Change

### Section 9.11 A Agricultural Uses

1) Agricultural Service Establishments: Agricultural service establishments (except animal services) permitted by right in the CE and C-2 Districts must meet the following requirements:

~~(a) Shall be on a parcel or lot with a minimum size of ten (10) acres and a minimum frontage of three hundred (300) feet in the CE District and on a lot of at least two (2) acres in the C-2 District. Reserved~~

(b) Shall meet all Health Department and MDEQ standards, as applicable.

(c) If within three hundred (300) feet of a dwelling unit, the use must be screened and buffered as provided for in Section 5.6.C or Section 5.6.G.

(d) No storage or loading activities shall be permitted within one hundred (100) feet of any lot line; all lighting shall be down-shining and shielded from other properties and roadways.

(e) Parking and signage shall be as required in Article 5, Section 5.5 and Article 5, Section 5.7 respectively.

3) ~~Reserved Commercial Agriculture or Horticulture: (Composting see Section 9.11.H) Commercial Agriculture and Horticulture operations permitted with conditions in the CE, M-1, and M-2 Districts must meet the following requirements:~~

~~(a) Generally accepted agricultural and management practices according to policy determined by the Michigan Commission of Agriculture per the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.~~

~~(b) Applicable provisions of the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.~~

~~(c) Applicable provisions of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, MCL 324.101 to 324.90106, as amended.~~

~~(d) Shall meet all Health Department and MDEQ standards, as applicable~~

4) Small Scale Food Production and Urban Agriculture: Small scale food production and urban agriculture operations permitted with conditions in the CE, R-1, R-2, C-1, and C-2 Districts (per Section 4.4) must meet the following requirements:

(a) Community Gardens: Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. Such land may include

available public land. Community Gardens permitted with conditions in the ~~CE~~, R-1, R-2, C-1, and C-2 Districts must meet the following requirements:

(i) The land shall be served by a water supply sufficient to support the cultivation practices used on the site.

(ii) Site users shall use raised beds with new soil or provide a Phase 1 Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening. Raised beds shall also be used if the ESA finds the proposed site to be contaminated.

(iii) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots in a fair and impartial manner according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the City.

(iv) The site is designed and maintained so that water and fertilizer will not drain onto adjacent property.

(v) There shall be no retail sales, except for produce grown on the site.

(vi) No building or structures shall be permitted on the site except sheds for storage of tools; greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated; chicken coops; benches; bike racks; raised/accessible planting beds; compost or waste bins; picnic tables; seasonal farm stands; fences; garden art; rain barrel systems; and children's play areas. The combined area of all buildings or structures shall not exceed 15 percent of the garden site lot areas. Any signs shall comply with Section 5.7.

(vii) Any fences or screen on the site shall comply with Section 5.6.

(b) Keeping of Chickens: The raising of chickens permitted with conditions in the ~~CE~~, R-1, R-2, C-1, and C-2 Districts must meet the following requirements:

(i) Permits:

1. Any person who keeps chickens in the City of Bessemer shall obtain a permit from the City prior to acquiring the chickens.

2. The City shall issue no permit and no chickens shall be kept unless the owners of all residentially zoned adjacent properties consent in writing to the permit and this consent is presented along with an application for a permit.

3. Written statements waiving the distance requirement in subsection (ii) below shall also be submitted at the time of application and become a part of any permit if issued. Application shall be made to the City Clerk with the permit fee as determined by Council resolution.

4. Permits expire and become invalid five (5) years after the date of issuance. A person who wishes to continue keeping chickens shall obtain a new permit on or before the expiration date of the previous permit. Procedures and requirements in effect at the time of the request apply to the permit.

5. Notwithstanding the issuance of a permit by the City, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association by-laws, and covenant deeds. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(ii) Requirements: A person who keeps or houses chickens on his or her property shall comply with all of the following requirements:

1. Have the permit required under subsection (i) above.

2. Keep no more than four (4) chickens.

3. The principal use of the person's property is for a single-family dwelling or two-family dwelling.

4. No person shall keep any rooster.

5. No person shall slaughter any chickens.

6. There shall be a covered enclosure for the chickens. Fenced enclosures are subject to all provisions of Section 5.6.

7. A person shall not keep chickens in any location on the property other than in the backyard. For purposes of this section, —backyard|| means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family or two family structure and extending to the side lot lines.

8. Any covered enclosure or fenced enclosure shall be a minimum of ten (10) feet from any property line of an adjacent property;

9. All enclosures for the keeping of chickens shall be so constructed or repaired as to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.

10. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with them.

11. A covered enclosure or fenced enclosure shall not be located closer than forty (40) feet to any residential structure on an adjacent property.

a. This requirement can be waived if the applicant shall present at the time of applying for a permit the written statements of all adjacent landowners, and in the case of a two-family dwelling, the other occupants of the premises, that there is no objection to the issuance of the permit and the waiver of the forty (40) foot distance requirement.

b. For purposes of this section, adjacent property means all parcels of property that the applicant's property comes into contact with at one or more points, except for parcels that are legally adjacent to but are in fact separated from the applicant's property by a public or private street.

12. If the above requirements are not complied with, the City may revoke any permit granted under this section and/or initiate prosecution for a civil infraction violation.

(c) Greenhouses and Aquaculture Systems: Greenhouses and aquaculture systems as an accessory structure permitted with conditions in the CE, R-1, R-2, C-1, and C-2 Districts must meet the following requirements:

(i) Allowed as an accessory building to principle use with a maximum size of 400 square feet.

(ii) Shall meet generally accepted agricultural and management practices according to policy determined by the Michigan Commission of Agriculture per the Michigan Right to Farm Act, P.A. 93 of 1981, as amended.

(iii) Subject to applicable provisions of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, MCL 324.101 to 324.90106, as amended.

(iv) Shall meet all Health Department and MDEQ standards, as applicable.

(v) If within three hundred (300) feet of a dwelling unit, the use must be screened and buffered as provided for in Section 5.6.C or Section 5.6.G.

(vi) No storage or loading activities shall be permitted within one hundred (100) feet of any lot line.

(vii) All lighting shall be down-shining and shielded from other properties and roadways.

(viii) Parking and signage shall be as required in Article 5, Section 5.5 and Article 5, Section 5.7 respectively.

(ix) Site shall be designed and maintained so that all wastes will not drain onto adjacent property.

(d) Farmer's Markets and Food Stands: Food Stands permitted with conditions in the ~~CE~~, R-2, C-1, and C-2 districts must meet the requirements of Section 5.2.F, Temporary Buildings and Structures. Farmer's Markets permitted with conditions in the ~~CE~~, R-2, C-1, and C-2 districts must meet the following requirements:

(i) All Farmer's Markets and their vendors shall receive all required operating and health permits, and these permits (or copies) shall be in the possession of the Farmers' Market Manager or the vendor, as applicable, on the site of the Farmer's Market during all hours of operation.

(ii) All Farmer's Markets shall meet all Health Department, MDEQ, and Public Safety standards, as applicable.

(iii) All Farmer's Markets shall comply with the Generally Accepted Agricultural and Management Practices for Farm Markets established by the Michigan Department of Agriculture.

(iv) All lighting shall be down-shining and shielded from other properties and roadways. (v) Off-street parking shall be screened from adjacent residential uses or Districts per the requirements of Section 5.5.

(vi) The outdoor storage of trash or rubbish shall be screened per the requirements of Section 5.6.F.

(vii) Signage will meet all requirements of Section 5.7.

Add to Section 9.11.A.4

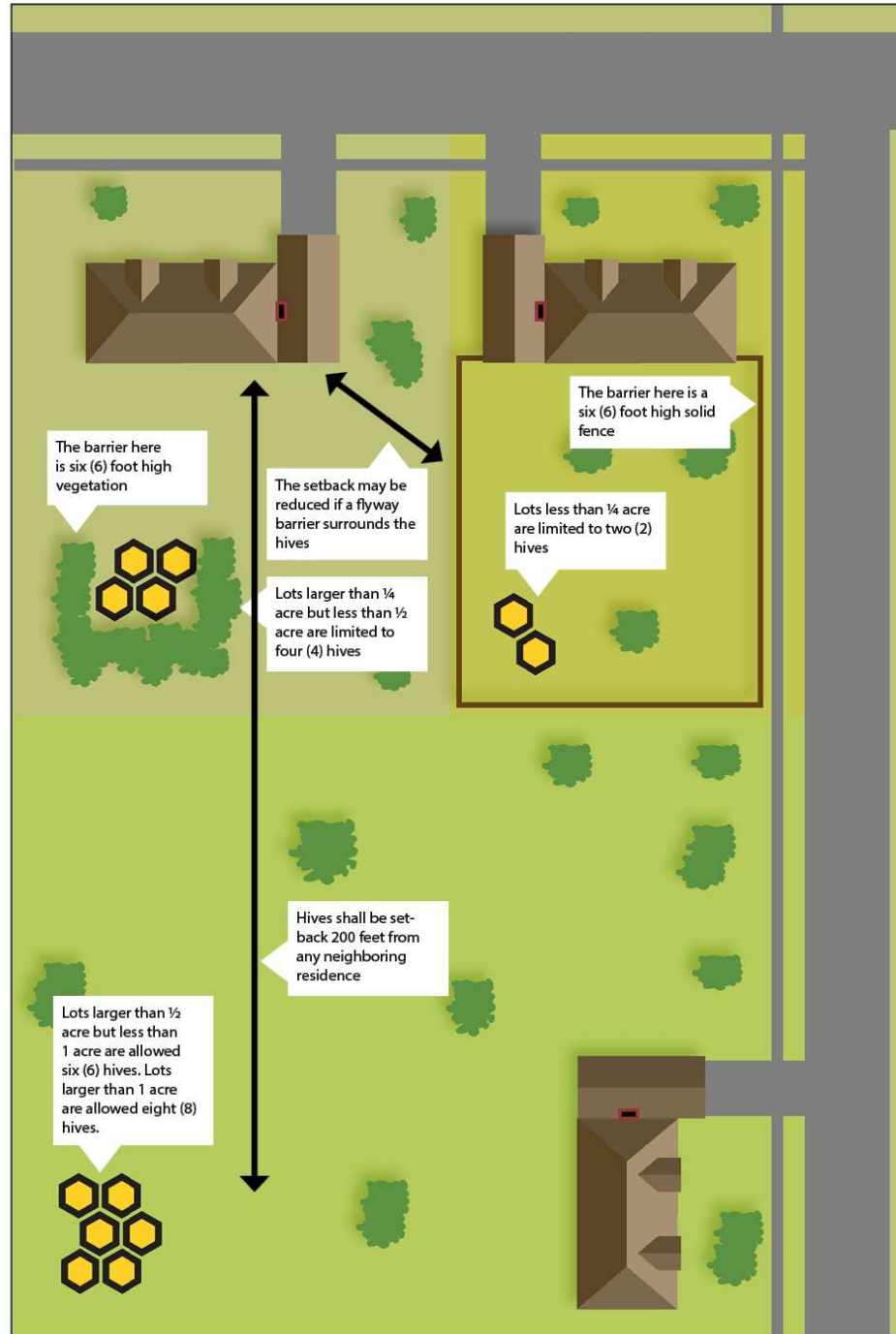
**e) Limited Residential Keeping of Honeybees: Required Conditions**

1. A maximum of two (2) hives may be kept on lots less than 10,890 square feet (1/4 acre). On lots at least 10,890 square feet (1/4 acre) but less than 21,780 square feet (1/2 acre), a maximum of four (4) hives may be kept. On lots 21,780 square feet (1/2 acre) but less than 43,560 square feet (1 acre), a maximum of six (6) hives may be kept. On lots 43,560 square feet (1 acre) or greater, a maximum of eight (8) colonies may be kept.
2. One additional nucleus colony (a maximum of five frames) is allowed for a maximum of three weeks as a measure to control swarming.
3. Hives must be located on an undeveloped area of the lot.
4. Hives shall be set back at least 200 feet from any neighboring residence. The setback for hives may be reduced to the respective setback required in the zoning district for accessory structures if a six (6) foot high flyway barrier surrounds the immediate vicinity of the hive(s) consisting of a solid fence, wall, or dense vegetation that prevents a direct line of flight from the hives into neighboring properties or public use right-of-ways. [See Fig. Honeybee Setback Diagram]



Fig. A

# Honeybee Setback Diagram



## Flyway Barrier

A Flyway Barrier shall consist of a six (6) foot high barrier surrounding the immediate vicinity of the hives consisting of a solid fence, wall, or dense vegetation that prevents a direct line of flight from the hive into neighboring properties.



5. Beekeepers shall make every effort to perform hive manipulations as quickly as possible, with minimum disturbance to the bees and at times of the day when outdoor activity of neighbors is minimized.
6. Beekeepers shall use best management practices to prevent or minimize swarming. Beekeepers shall take reasonable measures to retrieve swarms.
7. The owner must supply water for all hives throughout the active flight season.

This ordinance becomes effective fifteen (15) days after the date of its enactment.

Ordained and Enacted into an Ordinance at a regular meeting of the City Council of the City of Bessemer this 13<sup>th</sup> day of June, 2022

First Reading: May 23, 2022

Public Hearing: June 13, 2022

Second Reading: June 13, 2022

Published: June 23, 2022

ATTEST:

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Jennifer Adams, City Clerk