

First Reading 01/18/2022 Referred to Council Meeting ___/___/___ Tabled ___/___/___ Withdrawn ___/___/___ Defeated ___/___/___  Motion: Jason A. Reeves Second: Michelle Jeske  Jason Reeves Aye David Wiese Aye Todd A Jari Aye Michelle Jeske Aye Cindy Ostrander Aye Justin Schmick Absent  Vote: 5 to 0 Motion Carried Unanimously	Second Reading 02/01/2022 Referred to Council Meeting ___/___/___ Tabled ___/___/___ Withdrawn ___/___/___ Defeated ___/___/___  Motion: Jason A. Reeves Second: Justin Schmick  Jason Reeves Aye David Wiese Aye Todd A Jari Aye Michelle Jeske Absent Cindy Ostrander Aye Justin Schmick Aye  Vote: 5 to 0 Motion Carried Unanimously	First Reading 02/01/2022 Referred to Council Meeting ___/___/___ Tabled ___/___/___ Withdrawn ___/___/___ Defeated ___/___/___  Motion: Jason A. Reeves Second: Justin Schmick  Jason Reeves Aye David Wiese Aye Todd A Jari Aye Michelle Jeske Absent Cindy Ostrander Aye Justin Schmick Aye  Vote: 5 to 0 Motion Carried Unanimously
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**ORD: 220118-C#498 An Ordinance Amending Sections 6.04.020 Licensing of Animals; State Statutes Adopted, 6.04.030 Licensing of Dogs and Cats Required, 6.04.050 Additional State Statutes Adopted, 6.04.060 and Creating Sections 6.04.055 Humane Officer; Appointment; Authority, 6.04.057 Abatement Orders, 6.04.065 Urban Keeping of Chickens and 6.04.068 Urban Keeping of Bees for the City of Omro, Winnebago County, State of Wisconsin**

Sec. 6.04.020. - Licensing of ~~animals dogs and cats~~; state statutes adopted.

The rules and regulations pertaining to licensing, specifically ~~Wis. Stat. §§ 174.001, 174.05, 174.053, 174.054, 174.055 and 174.07~~ and 95.51 Wis. Statutes and Chapter ATCP 17, Wisconsin Administrative Code, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this chapter and shall be enforced with the same force and effect as though set forth in full herein; providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply. The rules and regulations pertaining to licensing shall apply also to cats, chickens, and bees within the city. (Code 1998, § 6.04.020)

Sec. 6.04.030. - ~~License; required when.~~ Licensing of dogs and cats required.

- A. Every owner residing in the city who owns, harbors or keeps a dog or cat which is more than five months of age as of January 1 of each year, shall annually obtain a license therefor. The license year shall commence on January 1 and licenses shall expire of December 31 of that year. All licenses must be acquired prior to March 31 of each year for the current year's license.
- B. When a dog or cat becomes five months of age, the owner shall obtain a license within thirty (30) ~~30~~ days thereof.
- C. Each owner obtaining a license for operating a kennel shall be excluded from this licensing procedure but shall be required to obtain a kennel license.

(Code 1998, § 6.04.030)

Sec. 6.04.040. - License; fees.

Every owner of a dog or cat shall pay the city treasurer, prior to April 1 of each year for each dog or cat, the license fee and any late fee in amounts established with the annual fee schedule adopted by the common council. In the event such license fee is not timely paid, an additional fee shall be assessed and collected.

(Code 1998, § 6.04.040)

Sec. 6.04.050. - Additional state statutes adopted.

- A. The following statutes together with any future additions, deletions, or supplements thereto, are herewith incorporated as part of this chapter and shall be enforced with the same force and effect as though set forth in full herein; providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply. Nothing in this section shall be deemed to adopt that which is a felony under state law.

Wis. Stats. §	
95.51	<u>Livestock Premises Registration</u>
173.10	Investigation of cruelty complaints
173.11	<u>Abatement</u>
174.042	Dogs running at large and untagged dogs
951.02	Mistreating animals
951.025	Decompression prohibited
951.03	Dognapping and catnapping
951.04	Leading animal from motor vehicle
951.05	Transportation of animals
951.06	Use of poisonous and controlled substances
951.07	Use of certain devices prohibited
951.08	Instigating fights between animals
951.09	Shooting at caged or staked animals
951.095	Harassment of police and fire animals
951.10	Sale of baby rabbits, chicks and other fowl

951.11	Artificially colored animals; sale
951.13	Providing proper food and drink to confined animals
951.14	Providing proper shelter
951.15	Animals; neglected or abandoned; police powers

B. The rules and regulations pertaining to licensing, impoundment, running at large and untagged, and rabies control shall apply also to cats, chickens, and bees within the city.

(Code 1998, § 6.04.050; Ord. No. 455, 7-17-2012)

**6.04.055 – Humane Officer; Appointment; Authority**

Pursuant to Section 173.03 of the Wisconsin Statutes, the Common Council for the City of Omro, may from time to time, appoint one or more Humane Officers. Human Officers shall have the authority specified in Chapter 173 and shall be under the direction of the Chief of Police or his/her designee.

**06.04.057- Abatement Orders**

- A. Issuance of Order. After investigation, if a humane officer or law enforcement officer has reasonable grounds to believe that a violation of a statute or ordinance is occurring and that the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order of abatement pursuant to Section 173.11 of the Wisconsin Statutes.
- B. Hearing Officer. Any person named in an order issued under sub.(A) may, within the 10-day period following service of the order, request a hearing on the order. The City Administrator shall appoint a hearing officer who shall conduct the hearing pursuant to the provision of Section 173.11 of the Wisconsin Statutes.
- C. Appeal. Appeal from the decision of the Hearing Officer or other official shall be as provided in Section 173.11 of the Wisconsin Statutes.

**6.04.060 - Animals, fowl and insects not permitted in city.**

No person shall bring into, keep, maintain, offer for sale or barter, or release to the wild, nor shall any person permit such activities to occur on premises owned, controlled, rented, or maintained by that person, except as provided in Section 6.04.230:

- A. Any fowl, chickens, except as provided in 6.04.065 of this chapter, turkeys, ducks, geese, cows, cattle, horses, sheep, swine, goats, potbellied pigs, or any other domesticated livestock, unless part of an agricultural operation, zoned AG agricultural or AP agricultural preservation and authorized by the city zoning ordinance;

- B. Wild animals, including but not limited to, any live monkey, or other non-human primate, raccoon, skunk, ferret, prairie dog, fox, wolf, panther, lynx, opossum, or any other warm-blooded animal which can normally be found in the wild state. For the purposes of this code, wolf-dog hybrids are considered wild animals;
- C. Any poisonous or venomous, biting or injecting species of reptiles, amphibians, arachnids or insects, including bees, except for bees kept with a valid permit issued under section 6.04.068; D. Snakes not indigenous to Wisconsin or any snake exceeding three feet in length.

This section shall not be construed to apply to zoological parks, circuses or like entertainment organization or to an educational or medical institution.

#### **6.04.065 Urban Keeping of chickens.**

- A. Purpose. The purpose of this section is to establish regulations applicable to urban chicken keeping on lots with single (R-1) and two-family (R-2) residential uses within the City and is intended to limit issues that might otherwise be associated with unregulated urban chicken keeping in neighborhoods. By providing reasonable regulations for urban chicken keeping on properties, the City can support sustainable activity while setting standards that are practical for chicken keepers and safe for neighbors. These regulations are designed to prevent nuisances and prevent conditions that are unsanitary or unsafe. No person shall keep chickens unless the following regulations are followed:
- B. Definitions. The following terms, when used in this Section, shall have the meanings set forth below:

"Adjacent lot" shall mean all lots that the applicant's property comes into contact with at one or more points, except for lots that are legally abutting but separated from the applicant's property by a public or private street, alley or other right-of-way.

"Chicken" shall mean hens or pullets of the domestic sub-species Gallus Domesticus.

"Chicken Keeper" means a person who owns or has charge of one or more chickens on his or her property.

"Chicken Coop / Enclosure" means the housing enclosure, including a run, inhabited by one or more chickens, that is constructed for that purpose. A coop shall be considered an accessory building under Chapter 17.72 of the Code of Ordinances and thus will require the acquisition of a building permit to construct on the lot.

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

"Run" shall mean the fenced or enclosed outdoor space provided for chickens. Runs shall be fully enclosed, including the top and all sides. The run shall be a minimum of at least ten (10) square feet in area per chicken and shall not exceed forty (40) square feet in area.

"Primary Residential Structure" shall mean any building located on a lot and used for living purposes.

“Rooster” means a male chicken of any age, including a capon or otherwise neutered male chicken.

C. Permit Required. No person shall keep or maintain any chicken within the city limits prior to obtaining a permit from the City after registration with the State of Wisconsin as required by DATCP Home Premises Livestock Registration. The permit does not include the building permit that is required prior to constructing a coop or run for the chickens. Failure to obtain the necessary building permit in addition to the keeping of chickens permit may result in sanctions up to and including denial or revocation of the keeping of chickens permit.

1. Any person who owns, keeps or harbors chickens on land in the city which the person owns, occupies or controls shall obtain a permit issued by the City of Omro.
2. The permit application including, but not limited to, the following information: name of applicant, property address, ownership status or authorization of use of property for keeping of chickens from the property owner, contact telephone number and email, permit fee, home premises livestock registration and scaled site plan with coop and run building dimensions consistent with the regulations identified in this section.
  - a. A permit will not be issued without proof of Home Premises Livestock Registration with the State of Wisconsin. All permit applications shall be accompanied by satisfactory evidence that the applicant has registered the proposed location with the Wisconsin Department of Agricultural Trade and Consumer Protection pursuant to Wis. Stats. § 95.51 and 47 ATCP Wis. Admin. Code.
  - b. A permit will not be issued to a tenant applicant without a landlord agreement as to maintenance of the coop and chickens and their disposition after the applicant vacates the rented premises.
3. All applicants must notify the owner or operator of the property if the applicant is not the owner or operator. Permit applications submitted by a person other than a record title owner of the property upon which chickens will be kept shall provide written consent of the property owner with the permit application. Notification is not required for renewal of a permit.
4. The permit is valid January 1st through December 31st.
5. Permits are personal to the applicant(s), non-transferable, and do not attach to or run with the land. Coops and runs must be removed upon sale of the property and vacation of the property owner applicant(s).
6. Residents deciding to own, keep or harbor chickens for successive years must obtain a new permit for each calendar year they own, keep, or harbor such chickens.
7. Applications shall be made to the City Clerk and the permit and/or any late filing fee for the permit, shall be in the amount established by resolution of the city council and available for review on the annual fee schedule on file at city hall.
  - a. The annual permit fee shall be paid no later than March 31st of each year or prior to obtaining the chickens or a late fee will be assessed.
  - b. A triple original permit fee will be assessed for any person who owns, keeps, or harbors chickens in the city without first obtaining a permit therefore.
  - c. Permit fees shall not be prorated or refundable.

- d. Permit applications will be reviewed by the Planning Commission prior to approval, upon complaints filed by neighbors at the time of renewal, and at revocation of permit.
  - e. In the event a complaint has been filed with the City prior to renewal of said permit within the calendar year prior, applicants must receive written approval from not less than 75% of the owner-occupied neighboring property owners whose property is within 100 feet of the applicant's property lines, exclusive of street right-of-way, prior to renewal of permit by the Planning Commission. If no complaint has been received, the license application shall be processed by the city clerk. D. Appeals regarding determinations to deny or revoke permit.
8. The City of Omro elects not to be strictly bound by the provisions of Chapter 68 Wisconsin Statutes in relation to Appeals to Determinations to issue Chicken keeping Permits under this section and appeals shall proceed as follows.
- a. Any action of city staff or the Planning Commission in granting, denying, or revoking a chicken keeping permit may be appealed to the Zoning Board of Appeals if a written Notice of Appeal request is filed with the City Administrator within ten days after the date of the city staff or Planning Commission's action in granting or denying such permit. The same documents or other data used by city staff or the Planning Commission in reaching its decision shall be provided to the Zoning Board of Appeals on which to make their determination.
1. Appeals
- b. The Zoning Board of Appeals shall act upon the appeal and issue its written decision within sixty (60) days of the filing of the Notice of Appeal. The decision of the Zoning Board of Appeals shall be the final determination in relation to this issue and may be appealed within the time specified and as provided in Section 68.13 Wisconsin Statutes.
  - c. Unless appealed as provide above in which case such appeal shall act as a stay upon this provision until a final determination is issued by a court of competent jurisdiction, upon revocation of a permit the property owner shall cease all chicken keeping on his or her lot within fourteen (14) days and remove the coop and run within sixty (60) days. Failure to do so shall be considered a violation of this ordinance. The Police Chief or his or her designee shall have the responsibility of enforcing this provision and may take such action as is necessary to abate such violation.
  - d. In the event the Board of Appeals elects to hold a public hearing, notice thereof shall be given by mail to known adjacent property owners within 200 feet of the application property and by publication of a Class 1 notice in the official city newspaper at least ten days before the date of the scheduled public hearing.
  - e. The Zoning Board of Appeals may either affirm or reverse the action of the Planning Commission by a two-thirds vote, in whole or in part, and may finally grant or deny the application for a chicken keeping permit or affirm or reverse a revocation of permit.
  - f. Such request for appeal shall be signed by the applicant or by the owners of at least 75% of the adjacent property owners.

E. Revocation of Permits

9. Revocation of permits may be commenced by complaint filed by city staff acting in their official capacity or by any abutting property owner.
10. Complaints shall be filed with the City Administrator in writing, specifying the reasons the permit should be revoked and have the name and signature of the person(s) making the complaint.
11. A permit is subject to revocation by the Police Chief or his/her designee upon failure to comply with any provisions hereof. Such revocation is subject to appeal by the Planning Commission. Once a permit is revoked, a permit shall not be reissued to the applicant.
12. The City of Omro and its officers may revoke a license if there are three or more violations within any consecutive 12-month period of this or any other section of this Code.
13. A complaint against any person owning, keeping, or harboring chickens in accordance with this section may be filed with the City or the Winnebago County Department of Public Health. If filed with the City, the City shall then be required to forward the complaint to the Winnebago County Department of Public Health. If the Winnebago County Public Health Department or the City of Omro or its agents determine that conditions are unsanitary, or if for any reason a nuisance exists, the City shall have authority to order the owner or occupant of the premises to abate the nuisance and it shall thereupon be unlawful to keep such chickens on the premises after revocation.
14. If an investigation from the City reveals that the use of chickens is in violation of this section or any other section of this Code, the City shall have authority to require the owner or user of the property to fix, abate, or alleviate the problem. If the problem is not satisfactorily abated or alleviated the City of Omro shall have authority to revoke the permit.

F. Keeping of Chickens Allowed.

1. Districts. Keeping or harboring of chickens shall only be allowed in R-1 Single Family Residential or R-2 Duplex zoning districts with a valid permit.
2. Roosters. It is unlawful for any person to keep roosters.
3. Number. No more than six hens shall be allowed for each primary residential structure on the property.
4. Free Range. Chickens shall not be allowed to free range (run at large) and shall not be housed in garages or homes. Chickens shall be provided with a dedicated sanitary and adequately sized coop and shall be kept in the coop or a sanitary and adequately sized chicken run attached thereto at all times.
5. Coops and Runs. All chickens shall be kept and maintained within a detached, stationary structure used exclusively for the keeping of chickens. Temporary or removable structures shall be prohibited. Exception: chicks can be incubated/nurtured indoors for no more than four (4) weeks.
  - a. Chicken enclosures shall measure a minimum of eight (8) square feet in area or four (4) square feet in area per chicken, whichever is greater with one nest box provided per every two (2) chickens. The enclosure may not exceed ten (10) feet in height or fifty (50) square feet in size.

- b. The chicken coop housing facilities shall be structurally sound, moisture proof, and maintained in good repair and shall provide sufficient space to allow each chicken adequate freedom of movement and shall prevent the collection of standing water.
- c. Chicken enclosures shall be provided with a covered, insulated, predator-proof coop that is well ventilated and designed to be easily accessed for cleaning. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the chickens within the coop/run and to prevent predators from access to the chickens.
- d. A sufficient quantity of suitable clean bedding material shall be provided to insulate and protect against the cold and dampness and promote the retention of body heat.
- e. Either raised up off the ground or placed on a hard surface
- f. The chicken coop enclosure's floor, foundation and footings shall be constructed using a hard, cleanable surface, (e.g., concrete, wood, patio block, or hard plastic and shall be resistant to rodents. A dirt or grass floor is not acceptable.
- g. Enclosures must be constructed and maintained as to prevent rodents and predators from being harbored underneath or within the walls thereof.
- h. Chicken enclosures shall provide elevated perches to ensure chickens are able to rest in their natural roosting position.
- i. Chickens shall be secured within the enclosure during non-daylight hours.
- j. In addition to an enclosure, chickens shall be provided access to an outdoor enclosed run area for the majority of daylight hours, weather permitting. The run may have a grass or dirt base.
- k. Coops and runs that are no longer being utilized to house chickens shall be removed from the property within sixty (60) days.

6. Location and Setbacks.

- a. Coops and runs shall not be located in the front or side yard of a parcel, whether outside the setback or not. All chicken coops shall be located in the rear yard as determined by the zoning ordinances.
- b. Coops and runs shall not be located within five feet of a side-yard or rear-yard lot line.
- c. No chicken coop or attached run shall be located within any restricted setback area. The structures must meet accessory structure setbacks for the lot's zoning district, as regulated by the zoning ordinances.
- d. No chicken coop or attached run shall be located closer than twenty-five (25) feet to any primary residential structure on an adjacent lot.
- e. Coops or cages housing chickens shall be kept at least twenty-five (25) feet from the door or window of any dwelling or occupied structure other than the owner's dwelling.

7. Building and Zoning Requirements.

- a. All chicken coops and runs shall comply with the building and zoning requirements of the municipal code zoning ordinances.



b. Prior to construction, all coop and run plans shall be reviewed and approved by the building inspector or his/her designee. They will be considered an accessory structure per the municipal code.

8. Feed and Water Standards.

a. Chickens shall be provided with fresh water at all times and adequate amounts of feed.

b. The main food source for the chickens should be provided in dedicated feeding containers and scatter feeding as the primary food source is prohibited. Small amounts of scratch grains that do not accumulate on the property are allowable.

c. All feed containers shall be made of metal and rodent-proof. Any poultry feed shall be stored so as to keep out rodents.

d. The owner shall practice proper poultry waste disposal in order to avoid odors. Waste composting on the premises shall be allowed as long as it does not create odors or other nuisances for neighboring properties.

9. Sanitation.

a. Every chicken keeper shall keep and maintain the required enclosure in a clean, sanitary and odor free condition. All chicken enclosures, attached runs and yards where chickens are kept or maintained shall be cleaned regularly to keep them reasonable free from substances, including but not limited to manure, uneaten feed, feathers, and other such waste so that it does not cause the air or environment to become noxious or offensive or to be in such condition as to promote the breeding of flies, mosquitoes, or other insects, or to provide habitat, breeding or feeding place for rodents or other animals, or otherwise be injurious to public health.

b. In addition to compliance with the requirements of this Section, no one shall keep chickens that cause any other nuisance associated with unhealthy conditions, create a public health threat, or otherwise interfere with the normal use of property or enjoyment of life by humans or animals.

c. All chicken droppings shall be disposed of in accordance with Chapter 8.12 of this code.

8. Public Health and Nuisance.

a. Chickens shall be kept and handled in a sanitary manner to prevent the spread of communicable diseases among birds or to humans, particularly salmonella and avian flu.

b. Chickens with an infectious disease capable of being transmitted from bird to bird or bird to humans, including, but not limited to, salmonella, avian influenza, are prohibited and shall be immediately euthanized by a veterinarian.

c. Any person keeping chickens shall immediately report any unusual illness or death of chickens to the Winnebago County Health Department and the Omro Police Department.

d. The Police Chief or his/her designee may order testing, quarantine, isolation, vaccination, or humane euthanasia of ill chickens or chickens believed to be a carrier

of a communicable disease. The owner of the chicken shall be responsible for all costs associated with the procedures ordered hereunder.

e. Annual inspections of the chickens, coop, and run may be conducted by the Police Chief or his/her designee.

9. Bird Noise.

a. In accordance with this section, it shall be unlawful for any person, firm, corporation, or other entity operating, having charge of, or occupying any building to own, keep, harbor or allow to be kept, any chicken which shall habitually by any noise disturb the peace and quiet of any person in the vicinity thereof.

9. Prohibitions and Other Restrictions.

a. Chickens shall not be kept or maintained upon a vacant lot or inside a residential structure, including basements, porches, garages, sheds, or similar storage structure. b. Roosters are prohibited.

c. Rat harborage to be prevented. All chicken yards, coops, pens or houses shall be constructed or repaired as to prevent rats from being harbored underneath the same or within the walls thereof, and all food products or other products, goods or wares likely to attract or to become infested by rats shall be protected as to prevent rats from gaining access thereto or coming in contact therewith.

d. Slaughtering. No person other than a licensed meat processing facility may slaughter any chickens within the city.

e. There shall be no breeding, hatching, or selling of live chickens.

f. Sale of eggs and baby chicks prohibited. Offsite sale of eggs is prohibited. Sale of chicks accumulated from the activities permitted hereunder.

G. State and Federal Laws and Regulations Compliance. The owner shall abide by all state laws and regulations for livestock premises registration, including applicable sections of Wisconsin Statute 95.51, and Wisconsin Administrative Code Chapter ATCP 17 and any applicable amendments thereto. Applicant shall also follow state law regarding import, purchase and sales of live poultry as set forth in ATCP 10.40 and ATCP 10.42 of the Wisconsin Administrative Code and any applicable amendments thereto.

H. Penalties. Any person who violates any of the provisions of this chapter shall, upon conviction thereof, be subject to a penalty of not less than fifty dollars or more than one hundred dollars for the first offense; and for the second offense within year, shall be subject to a penalty of not less than one hundred dollars or more than two hundred dollars; and for third and subsequent offenses within one year not less than two hundred dollars or more than three hundred dollars, together with the costs of prosecution.

**6.04.068 Urban keeping of bees.**

A. Purpose. The purpose of this section is to establish requirements for urban beekeeping on lots containing R-1 single family residential and R-2 Duplex uses within the city. Honeybees are critical pollinators for flowers, fruits, and vegetables. Managed colonies of bees help to increase yields and quality of a large variety of plants commonly found in backyard gardens, parks, and natural areas. A growing interest in renewable resources has prompted more people to take up urban beekeeping to produce their own honey, beeswax, pollen, and other hive products that are high in nutritional value.

Domestic strains of honeybees have been selectively bred for desirable traits so that they can be kept within populated areas and in reasonable densities. By providing reasonable regulations for urban beekeeping on properties, the City can support a sustainable activity while setting standards that are practicable for beekeepers and safe for neighbors.

B. Definitions.

1. “Apiary” means the assembly of one or more colonies of bees at a single location which also include wild bee houses constructed by the property owner.
  2. “Africanized honeybee” (Apis mellifera scutellata) means a subspecies or hybrid of the common domestic honey bee (Apis mellifera) native to central and southern Africa.
  3. “Beekeeper” means a person who owns or has charge of one or more colonies of bees which also includes a person constructing a wild bee house on their property.
  4. “Beekeeping equipment” means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.
  5. “Colony” means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.
  6. “Flyaway Barrier” means a solid wall, fence, or dense hedge at least six (6) feet in height.
  7. “Hives” means the receptacle inhabited by a colony that is constructed for that purpose.
  8. “Honey bee” means all life stages of the common domestic honeybee (Apis mellifera), (African subspecies and Africanized hybrids are not allowed.) 9.
- “Lot” means a contiguous parcel of land under common ownership.
10. “Nucleus colony” (NUC) means a small quantity of bees with a queen housed in a smaller than usual hive box designed for a particular purpose.
  11. “Primary Residential Structure” shall mean any building located on a lot and used for living purposes.
  12. “Undeveloped property” shall mean any idle land that is not improved or not in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith.
- C. Permits required.
1. No person shall keep or maintain any bees within the city limits prior to obtaining a permit from the City for that particular property that they own, occupy and control. The permit does not include the building permit that is required prior to constructing more than two (2) hives on the property. Failure to obtain the necessary building permit in addition to the keeping of bees permit may result in sanctions up to and including denial or revocation of the keeping of bees permit.
  2. No person may bring bees or beekeeping equipment into the State of Wisconsin without first reporting the shipment to the Department of Agriculture, Trade and Consumer Protection with the Wisconsin Honeybee Import Report.
  3. The permit application including, but not limited to, the following information: name of applicant, property address, ownership status or authorization of use of property for keeping of bees and the construction of hives from the property owner, contact telephone number and email, permit fee, copy of filed compliance with Wisconsin Honeybee Import Report and scaled site plan with hive location(s) and structure design and dimensions consistent with the

regulations identified in this section, together with any other additional information reasonably determined to be necessary by the city to determine whether the applicant has or will comply with all standards of practice identified within this section and any other applicable ordinance or statutory requirements.

- a. A permit will not be issued without proof of filed compliance with Wisconsin Department of Agriculture, Trade and Consumer Protection Honeybee Import Report if applicable.
  - b. A permit will not be issued to a tenant applicant without a landlord agreement as to maintenance of the bees and hives and their disposition after the applicant vacates the rented premises.
4. All applicants must notify the owner or operator of the property if the applicant is not the owner or operator. Permit applications submitted by a person other than a record title owner of the property upon which bees and hives will be kept shall provide written consent of the property owner with the permit application. Notification is not required for renewal of a permit.
  5. The permit is valid January 1st through December 31st.
  6. Permits are personal to the applicant(s), non-transferable, and do not attach to or run with the land. Honey bees, and hives must be removed upon sale of the property and/or vacation of the permitted property owner or applicant(s).
  7. Residents deciding to own, keep and maintain Honeybees and hives for successive years must obtain a new permit for each calendar year they own, keep and maintain honey bees and hives.
  8. Applications shall be made to the City Clerk and the permit and/or any late filing fee for the permit, shall be in the amount established by resolution of the city council and available for review on the annual fee schedule on file at city hall.
    - a. The annual permit fee shall be paid no later than March 31st of each year or prior to obtaining the honeybees or construction of hives.
    - b. A triple original permit fee will be assessed for any person who fails to obtain the necessary permit or renewal.
    - c. Permit fees shall not be prorated or refundable.
    - d. Permit applications will be reviewed by the Planning Commission prior to approval, upon complaints filed by neighbors at the time of renewal, and at revocation of permit.
    - e. In the event a complaint has been filed with the City prior to renewal of said permit within the calendar year prior, applicants must receive written approval from not less than 75% of the owner-occupied neighboring property owners whose property is within 100 feet of the applicant's property lines, exclusive of street right-of-way, prior to renewal of permit by the Planning Commission. If no complaint has been received, the license application may be processed by the city clerk.

#### D. Revocation of Permits

1. Revocation of permits may be commenced by complaint filed by city staff acting in their official capacity or by any abutting property owner within 100 feet of the permitted property lines.

2. Complaints shall be filed with the City Clerk in writing, specifying the reasons the permit should be revoked and have the name and signature of the person(s) making the complaint.
3. A permit is subject to revocation by the Police Chief or his/her designee upon failure to comply with any provisions hereof. Such revocation is subject to appeal by the Planning Commission. Once a permit is revoked, a permit shall not be reissued to the applicant.
4. The City of Omro and its officers may revoke a license if there are three (3) or more violations within any consecutive twelve (12) month period of this or any other section of this Code.
5. If the City of Omro or its agents determine that conditions are unsanitary, or if for any reason a nuisance exists, the Planning Commission shall have authority to order the owner or occupant of the premises to abate the nuisance and it shall thereupon be unlawful to keep such bees on the premises after revocation.
6. If an investigation from the City reveals that the keeping of bees is in violation of this section or any other section of this Code, the City shall have authority to require the owner or user of the property to fix, abate, or alleviate the problem. If the problem is not satisfactorily abated or alleviated the City of Omro shall have authority to revoke the permit. E. Appeals regarding determinations to deny or revoke permit.
1. The City of Omro elects not to be strictly bound by the provisions of Chapter 68 Wisconsin Statutes in relation to Appeals to Determinations to issue bee keeping permits under this section and appeals shall proceed as follows.
  - a. Any action of city staff or the Planning Commission in granting, denying, or revoking a bee keeping permit may be appealed to the Zoning Board of Appeals if a written Notice of Appeal request is filed with the City Administrator within ten (10) days after the date of the city staff or Planning Commission's action in granting or denying such permit. The same documents or other data used by city staff or the Planning Commission in reaching its decision shall be provided to the Zoning Board of Appeals on which to make their determination.
  - b. The Zoning Board of Appeals shall act upon the appeal and issue its written decision within sixty (60) days of the filing of the Notice of Appeal. The decision of the Zoning Board of Appeals shall be the final determination in relation to this issue and may be appealed within the time specified and as provided in Section 68.13 Wisconsin Statutes.
  - c. Unless appealed as provided above in which case such appeal shall act as a stay upon this provision until a final determination is issued by a court of competent jurisdiction, upon revocation of a permit the property owner shall cease all bee keeping on his or her lot within fourteen (14) days and remove the hives and flyaway barrier within sixty (60) days. Failure to do so shall be considered a violation of this ordinance. The Police Chief or his or her designee shall have the responsibility of enforcing this provision and may take such action as is necessary to abate such violation.
  - d. In the event the Board of Appeals elects to hold a public hearing, notice thereof shall be given by mail to known adjacent property owners within one-hundred (100) feet of the application property and by publication of a Class 1 notice in the official city newspaper at least ten (10) days before the date of the scheduled public hearing.

e. The Zoning Board of Appeals may either affirm or reverse the action of the Planning Commission by a two-thirds vote, in whole or in part, and may finally grant or deny the application for a bee keeping permit or affirm or reverse a revocation of permit.

c. Such request for appeal shall be signed by the applicant or by the owners of at least 75% of the adjacent property owners within 100 ft of the permitted property lines. F. Keeping of bees allowed.

1. Districts. With a valid permit, keeping of honeybees shall be allowed in R-1 Single Family Residential and R-2 Duplex zoning districts.
2. Honeybee colonies shall be kept in hives with removeable frames, which must be constructed and maintained in sound and useable conditions.
3. An accessory structure building permit is required for more than two (2) hive housing structures.
4. The maximum size of a hive shall not exceed 48" in height by 48" in length by 24" in width.
4. No beehive shall be kept closer than five (5) feet to any lot line and twenty-five feet to a primary residential structure or the permitted placement of a primary residential structure on another parcel, and beehive shall be placed only in rear or side yard.
5. The entrance from any beehive shall face away from the property line of the adjacent property closest to the beehive.
6. Beekeeping equipment shall be screened to avoid being visible from the street or sidewalk by means of a flyaway barrier.
7. The flyaway barrier shall be placed around all beehives located within twenty-five (25) feet of a lot line. This flyaway barrier shall be located within five (5) feet of the hive entrance and shall extend at least three (3) feet on either side of the hive.
8. Flyaway barrier exemptions. No such flyaway barrier shall be required for individual beehives that are located on roofs, porches or balconies at least ten (10) feet above grade. Bee keeping equipment kept on roofs, porches or balconies shall be screened from view. A flyaway barrier is not required if the property adjoining the apiary lot is undeveloped, or is zoned agricultural or non-residential, or is a wildlife management area or naturalistic park land with no horse or foot trails within twenty-five (25) feet of the apiary lot line.
9. A supply of fresh water no smaller than three (3) gallons in size shall be maintained in a location within ten (10) feet of each colony and readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pool or other sources of water on nearby properties.
10. Each beekeeper must ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other vermin-proof container.
11. Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping hives painted if they have been painted but are peeling or flaking.
12. Unused beekeeping equipment shall be secured from weather, potential theft or vandalism and occupancy by swarms. It shall be a violation of this section for any beekeeper's unused equipment to attract a swarm, even if the beekeeper is not intentionally keeping honeybees.

13. Prohibitions. Africanized honey bees (*Apis mellifera scutellata*) are prohibited and may not be kept on a property under the regulations of this section.
14. Bees shall not be kept or maintained upon a vacant lot or inside a primary residential structure such as garages, sheds, or similar storage structures.
15. The maximum number of hives allowed on any lot are based on the size of the lot, as follows:
  - a. Lot size of ½ acre or smaller: maximum of two (2) hives.
  - b. Lot size larger than ½ acre: maximum of four (4) hives.

Sec. 17.20.010. - Permitted uses.

The following uses are permitted in A-1 Agricultural District:

- A. One-family residences;
- B. Roadside stands for the sale of products grown on the premises, if sufficient off-street parking space for customers is provided;
- C. Customary accessory uses;
- D. Woodlots and tree farms.

No farm animals or exotic animals are allowed within the city's limits except as provided for chickens in section 6.04.065 and bees in 6.04.068 .

(Prior Code, § 13-1-41(a), (b); Code 1998, § 17.20.010; Ord. No. 346, § 1(part), 1997)