



To: MAYOR AND CITY COUNCIL

Agenda Item #: VIII. B.

From: Scott H. Neal, City Manager

Action

Discussion

Date: March 17, 2015

Information

Subject: Apiary Registration Revocation Policy

Action Requested:

Motion to approve proposed apiary registration revocation policy – Draft 03/12/15/SHN

Information / Background:

The City Council has previously endorsed the proposal to amend City Code to enable Edina residents to own and maintain honeybee apiaries on their private property in the City. The Council has requested that a policy be drafted that will regulate the registration process so that apiaries do not spoil the quality of life of Edina residents who reside on properties adjacent to them. Such a policy has been previously drafted and shared with the City Council. The requested that staff review the proposed policy and make its recommendation to the City Council.

Included in the March 17 City Council meeting prep packet is the original Report & Recommendation cover memo written by Ross Bintner and the original apiary registration revocation policy written by Dianne Plunkett-Latham. Also included, immediately following this Report & Recommendation cover memo is a revised apiary registration revocation policy. I am the author of the revised policy. I have shared it with Ms. Plunkett-Latham, but she does not support it.

The primary difference between the two proposed policies is how they address the issue of bee sting allergies. For the purposes of full disclosure, I have a bee sting allergy. I am biased, therefore, in favor of insuring that the rights and concerns of residents with bee sting allergies are more than just taken into account. I believe their rights to live in peace and without fear of being stung ought to take precedence over the rights of potential beekeepers. Because I have this bias, I have edited the revised policy to reduce the threshold for a resident to prove that they have a bona fide bee sting allergy, and allows the City Manager to consider the lower standard as a possible reason for registration revocation.

The registration revocation policy, however, ought to reflect the values of the City Council on this matter. I recommend the Council adopt the revised policy, but I will enforce whatever policy is adopted by the Council.

City of Edina
Draft of 3/12/15/SHN
Apiary Registration Revocation Policy

Apiary registration is required under Edina City Code Sec. 8-311 (a) and serves to make the City aware of the locations where beekeeping activities are being conducted. Any resident living within 200 ft of a lot line of an apiary site may file a written appeal of the approval of an apiary registration to the City Manager, or their designee, (Sec. 8-311 (h)) at any time after approval of an apiary registration. If an appeal is filed, the beekeeper will be notified in writing by the City Manager or their designee (Sec. 8-311 (h)). The City Manager, or their designee, must then conduct a hearing with the apiary registrant and the person appealing the registration (Sec. 8-316 (b)). The purpose of the following principals and criteria is to guide the City Manager, or their designee as to those circumstances under which an apiary registration can be revoked. After hearing sides, the City Manager, or their designee, renders a decision, which shall be final (Sec. 8-316 (b)).

A. Each registration appeal shall be evaluated on a case by case basis, recognizing its importance and benefit to ~~both~~ parties involved from all perspectives.

B. An Edina resident seeking to register an apiary does not need a neighbor's signature of approval.

~~C. A neighbor's comments prior to approval of the apiary registration will not impact whether or not the registration is approved. Only the applicant's compliance with all City code applicable to apiaries will determine the approval of an apiary registration.~~

C. During the hearing which is held pursuant to a written appeal of the apiary registration, the City Manager, or their designee, can mediate between the parties by suggesting such strategies as moving the apiary, constructing a flyway barrier (see definition below), or any other suitable management techniques.

A flyway barrier is at least six (6) feet in height and may consist of:

1. A wall, fence, dense vegetation or a combination thereof, such that honeybees will fly over rather than through the material to reach the apiary.

2. If a flyway barrier of dense vegetation is used, the initial planting may be four (4) feet in height, so long as the vegetation reaches a height of six (6) feet or higher within two (2) years of installation.

3. The flyway barrier must continue parallel to the lot line of the apiary site for a mutually agreeable distance.

4. A flyway barrier is not required if the hive is located on a rooftop.

~~E. Stating that "I'm allergic to bee stings" is not persuasive to cause a revocation. Medical documentation must be provided stating that you, or another person who is permanently resident~~

~~in the household, have suffered past anaphylaxis specifically due to honeybee (*Apis mellifera*) stings.~~

~~Alternative: Medical documentation must be provided stating that you, or another person who is permanently resident in the household, have suffered past anaphylaxis due to bee stings, provided that the medical documentation does not also indicate that the allergy is to a bee or insect species other than honeybees (*Apis mellifera*).~~

D. A medically documented bee sting allergy in a person who is a permanent resident of an adjoining neighbor to the property where the apiary is present may be considered by the City Manager as a reason for revocation. Medical documentation can consist of a letter, bill, or other written statement from an emergency room, physician, pharmacist, nurse; or from a licensed allergist with a diagnosis that you have tested positive for bee venom allergies; or a prescription for an epinephrine auto-injector, such as an Epi-Pen, or other similar devices.

~~F. Medical documentation can consist of a letter, bill, or other written statement from an emergency room, physician, pharmacist, nurse, or from a licensed allergist with a diagnosis that you have tested positive for bee venom allergies, or from other medical personnel, provided that it lists both honeybee (Alternative: bee) stings and resultant past anaphylaxis.~~

~~G. Documentation stating that you have a prescription for an auto-injector (epinephrine) is not sufficient to revoke an apiary registration because EpiPens are prescribed for a variety of reasons, such as food allergies.~~

~~H. Swelling, pain and redness due to bee stings is not sufficient to revoke an apiary registration.~~

~~I. Anaphylaxis due to other stinging insects such as ants (genus *Solenopsis* and others) or wasps (*Vespid*s) or any other non honeybee insect is insufficient to revoke an apiary registration.~~

E. An apiary registration can also be revoked if the apiary can be shown to have become a habitual nuisance due to improper maintenance, despite the City having asked the beekeeper orally at least once, and in writing at least once, to rectify conditions. Such nuisance conditions can include: inconsistent water source, swarming, inconvenient cleansing flight trajectory, etc.

F. Because it is not possible to anticipate every situation, the City Manager or their designee must retain the right, in their discretion, to revoke apiary registrations which may vary from the principles and criteria of this policy.

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: VIII. B.

From: Ross Bintner P.E. - Environmental Engineer
EEC Member Latham (Presenting)

Date: February 3, 2015

Subject: Apiary Registration Revocation Policy

Action
Discussion
Information

Action Requested:

Consider Policy for Registration and Revocation of Apiaries in the City.

Information / Background:

A policy was requested by Council during the Jan. 20 1st reading of Ordinance No. 2015-02 regarding conditions for appeal or revocation of an apiary registration.

Attachments:

EEC Working Group Report
Apiary Registration Revocation Policy

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Policy Rationale for Apiary Registration Revocation

Draft of 1-27-15

Objective: At the January 20, 2015 Edina City Council meeting, Council requested that a policy statement be developed to guide the City Manager or their designee in revoking a valid apiary registration. The attached policy was developed directly from page 5 of the Energy and Environment Commission's report from the Local Food Working Group dated Nov. 22, 2014.

Issue: The only issue is that of whether a neighbor within 200 feet of an apiary lot line can compel an apiary registration revocation by showing a documented past anaphylaxis due to a bee sting, without documenting what kind of bee, or whether the City Council will adopt a higher standard, as recommended by the Energy and Environment Commission, showing a documented past anaphylaxis specifically due to a honeybee (*Apis mellifera*) sting. Both alternatives are presented in the proposed policy for Council to consider.

Factual Background

Honeybee Biology - The *Hymenoptera* are one of the largest orders of insects. Stinging insects of the order *Hymenoptera* are the main cause of insect-related anaphylaxis. There are 3 families of *Hymenoptera* with clinical importance:

Apis species - Bees (honeybees, bumblebees),
*Vespid*s (yellow jackets, hornets, wasps),
Stinging ants (genus *Solenopsis* and others).

There are nearly 20,000 known species of bees (*Hymenoptera*, suborder Apocrita, clade *Anthophila*) with over 400 species in Minnesota. The venom of each species of *Hymenoptera* is specific to that species.

If a person is allergic to other stinging insects, they will not likely also be allergic to honeybee stings. An article by David B.K. Golden, M.D on *Insect Sting Anaphylaxis* found at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1961691/>, states that "Honeybee venom is immunochemically distinct from the other *Hymenoptera*." But "*Vespid* (hornet) venoms have a high degree of cross reactivity with each other..." This means that an allergy test can distinguish whether the insect sting was specifically from a honeybee (*Apis mellifera*).

Honeybees (*Apis mellifera*) are hybridized to be gentle and rarely sting, whereas wasps and hornets are aggressive insects and are quick to sting. If a person has been stung, it is more likely by that of a wasp or a hornet than by a honeybee. A worker honeybee can sting but once and then dies, so they are unlikely to sting unless physically assaulted. A male honeybee (drone) cannot sting. If stung by a worker honeybee, the barbed stinger will be left in the skin. If stung by a wasp, hornet or bumble bee, the stinger is not left in the skin, the insect does not die and consequently, these insects can sting multiple times. As a result, a honeybee sting can be visually differentiated from a wasp, hornet or bumble bee sting in those situations when the honeybee stinger remains in the skin and is not brushed off by clothing, for example.

Probability of a Honeybee Sting - The probability of being stung by a honeybee is very low, given their gentleness. Gary Reuter, scientist with the University of Minnesota Bee Lab, testified at the Edina City Council's first reading of the Honeybee amendments on 1-20-15 that although his wife is specifically allergic to honeybee stings, he does have a home apiary and the honeybees have never stung his wife.

Lightning Strike Analogy - See the following article showing that death by insect sting in the US occurs approximately as often as death by lightning strike. *FAQ: Bee Sting Allergies and Municipal Regulations*, Prepared by Parke Troutman at http://sdfoodpolicy.org/downloads/UA_FAQ_Bee_Allergies_2012Jan.pdf “Anaphylactic reactions from stings leading to death are so rare that there is little reason to factor them into decisions about honeybee policies... If we want to simply look at deaths from ‘Contact with hornets, wasps and bees’ [mortality code X23], we get 503 deaths in the US from 1999 to 2007, or 57 deaths per year. This is from the CDC Compressed Mortality File.” (Actual search: <http://wonder.cdc.gov/controller/datarequest/D53;jsessionid=8AB58AB32311FE08C0FAC8B27D1099CD>). “The deaths for all stinging insects is very close to US annual deaths by lightning strike. CDC notes 458 deaths from 1999-2007” (or 57.25 deaths/year). Given that CDC’s mortality code X23 does not separate honeybees from hornets and wasps, which are much more likely to sting, one can assume that the likelihood of dying from a honeybee sting is much lower than that of dying from a lightning strike.

Allergy Test - If one has not made a visual identification of what kind of flying insect stung them, and does not have evidence of a stinger lodged in the skin, the only other way to make the determination is to take an allergy test. If someone is extremely allergic to bees, such as those who have had a past anaphylactic reaction, they would very likely have been tested for bee allergies already and would have medical documentation of the specific sensitivity.

Tests distinguishing between the common kinds of local insect stings and other allergies are commonly available at local allergy clinics. Mayo Clinic reports at <http://www.mayoclinic.org/diseases-conditions/bee-stings/basics/tests-diagnosis/con-20034120> that this test is safe and won't cause any serious reactions. If you're allergic, you will develop a raised bump on your skin at the test site. A blood test can measure your immune system's response to a given venom by measuring the amount of allergy-causing antibodies in your bloodstream. A blood sample is sent to a medical laboratory, where it can be tested for evidence of sensitivity to possible allergens.

Allergists have venom available for the common local stinging insects such as honeybee, white faced hornet, yellow hornet, yellow jacket and wasp. Insurance generally covers the cost of an allergy test, except for the co-pay portion. Therefore, the only downside of the test is the inconvenience and time commitment. If one is subject to anaphylaxis, such testing would be prudent whether one’s neighbor has an apiary or not.

Other Options Available to those subject to Bee Sting Allergies

Those who are allergic to bee stings have options outside of requesting the revocation of a neighbor’s apiary registration. This includes immunotherapy, or carrying an EpiPen, or bee proofing their property, and last but not least, respecting bees.

Immunotherapy – Immunotherapy is available for *Hymenoptera* venom. If someone is truly concerned about bee stings, they can have venom immunotherapy treatment for prevention of anaphylactic reactions. “When sting reactions occur after stopping venom immunotherapy, most are quite mild and almost always are less severe than the pre-treatment reaction.” See Golden.

EpiPen – One can carry an auto-injector (epinephrine) for use should they have an anaphylactic reaction due to a sting or other food or drug conditions. It is an emergency injection (shot) of epinephrine used for the treatment of life-threatening allergic reactions known as anaphylaxis. The epinephrine auto-injector is designed for single-dose use by patients and caregivers in an anaphylactic emergency. After administering, emergency care should be sought.

Bee Proof Your Property – Minimize sources of food, such as plants with honey and pollen, as well as shelter attractive to bees.

Respect Bees - To minimize the risk of being stung, do not go barefoot. If a bee is near you, move away. Do not swat at the bee, which may aggravate it, instead, blow it off you if it lands on you.

Rationale

Other Pet Risks – The risks posed by honeybees are no greater than those posed by other pets permitted in Edina. The City allows dogs, which pose a small risk of mauling or of rabies, as well as cats, which present a risk of toxoplasmosis. Honeybees present a similarly small risk and should be permitted absent a documented anaphylactic allergy to them.

Registration Revocation is Ineffective - Prohibiting a resident from having an apiary will not eliminate honeybees in the local neighborhood because they forage within an area of two square miles and up to five miles in extreme cases. All cities on Edina’s border allow honeybees with the exception of Richfield such that they are in our back yards already. Similarly, registration revocation will not eliminate native bees in a neighbor’s yard either. Minnesota has over 400 species of native bees, many of which are already in our back yards.

Recreational Fires – Edina permits recreational fires despite the risks inherent in fire and despite the risk of smoke injury to sensitive persons. When an Edina resident applies for a recreational fire permit under Sec. 18-65 (b) (307.2) (5), the City does not require neighbor notification within 200 ft of the lot line. Those with a documented wood smoke allergy or asthma, or other breathing disorder do not have the option to cause the recreational fire permit to be denied. This is in spite of wood smoke being a significant health hazard to those with breathing disorders, causing them to close all their doors and windows and stay inside until the smoke subsides. Even then, the smoke sometimes enters the home. More residents burn wood in their back yards to the detriment of neighbors with breathing disorders than the number of residents who will ever raise honeybees, which have very low probability of causing any harm to a neighbor. This is in contrast to recreational fires, which to some degree will always harm those with breathing disorders. Those with an allergy to bee stings do not feel the need to stay indoors when flowers are blooming out of fear of injury. In contrast, those with breathing disorders, when presented with smoke, must stay inside.

Recommendation

Dr. Marla Spivak, Director of the University of Minnesota Bee Lab, recommends that the policy on apiary registration revocation “simply state that documentation must be provided that the person has had an anaphylactic response to honey bee stings.” The Energy and Environment Commission recommended that Council require that neighbors show a documented past anaphylaxis specifically due to a honeybee (*Apis mellifera*) sting before revoking an apiary registration due to past anaphylaxis. Residents should make every effort to protect and encourage honeybees and native bees while overcoming unfounded prejudices against them.

Council is respectfully asked to adopt EEC’s recommendation of revoking an apiary registration permit upon a showing of medical documentation stating that you, or another person who is permanently resident in the household, have suffered past anaphylaxis specifically due to honeybee (*Apis mellifera*) stings.



CITY OF EDINA
DRAFT of 1-27-15
APIARY REGISTRATION REVOCATION POLICY

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Alternative: Medical documentation must be provided stating that you, or another person who is permanently resident in the household, have suffered past anaphylaxis due to bee stings, provided that the medical documentation does not also indicate that the allergy is to a bee or insect species other than honeybees (*Apis mellifera*).

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for bee venom allergies, or from other medical personnel, provided that it lists both honeybee (Alternative: bee) stings and resultant past anaphylaxis.

- G. Documentation stating that you have a prescription for an auto-injector (epinephrine) is not sufficient to revoke an apiary registration because EpiPens are prescribed for a variety of reasons, such as food allergies.
- H. Swelling, pain and redness due to bee stings is not sufficient to revoke an apiary registration.
- I. Anaphylaxis due to other stinging insects such as ants (genus *Solenopsis* and others) or wasps (*Vespids*) or any other non honeybee insect is insufficient to revoke an apiary registration.
- J. An apiary registration can also be revoked if the apiary can be shown to have become a habitual nuisance due to improper maintenance, despite the City having asked the beekeeper orally at least once, and in writing at least once, to rectify conditions. Such nuisance conditions can include: inconsistent water source, swarming, inconvenient cleansing flight trajectory, etc.
- K. Because it is not possible to anticipate every situation, the City Manager or their designee must retain the right, in their discretion, to revoke apiary registrations which may vary from the principles and criteria of this policy.