



PARKS COMMISSION COMMUNICATION

DATE: March 2, 2021

REGULAR

AGENDA ITEM: Sally Manzara Interpretive Nature Center – Bee Keeping
SUBMITTED BY: Ben Prchal, City Planner
REVIEWED BY: Ken Roberts, Planning Director
Parks Commission

BACKGROUND:

The Friends of Lake Elmo approached the City with the request to keep bees on their leased acre within Sunfish Lake Park. They would be partnering with a group of volunteers who had established and maintained a honeybee program at the Warner Nature Center (In May Township). Since the Warner Nature Center has closed they are seeking a new location for their honeybee program. An ideal location for them is the Sally Manzara Nature Center in Sunfish Lake Park.

ISSUE BEFORE CITY COUNCIL:

Does the City Council believe honeybees should be kept within the Park and does the Council believe electrical fencing for the bee hives would be appropriate?

PROPOSAL DETAILS/ANALYSIS:

Permit Requirement:

From Staff's perspective, if this request was on private property it would be approved. However, because the request relates to public property owned by the City, the City as the responsible property owner has the ability to place additional conditions or deny the request. Similar to a private property owner leasing land to another private party the owner has the authority to dictate changes and uses on the property. The entire chapter of the Honey Bee ordinance has been attached but there are certain sections that are more relevant than others.

§ 95.128 COLONY DENSITY.

- (A) *No person is permitted to keep more than the following numbers of colonies on any lot within the city, based upon the size of the apiary lot:*
- (1) *Lots three-quarters of 1 acre or larger but smaller than 2 and 1/2 acres: 4 colonies;*
 - (2) *Two and one-half acre lot or larger but smaller than 5 acres: 6 colonies;*
 - (3) *Five acres or larger: no restriction.*
- (B) *Colonies must be setback 25 feet from the property line of an adjacent occupied residential lot.*

Staff is inclined to believe they would not be regulated on the number of hives, due to the size of the park. However, with that said, being that the City is the owner of the property there would be an opportunity for the City to apply conditions. Should the City choose to allow the honeybees within the park Staff is recommending a license agreement between the nature center which could then establish a limit on the number of hives or apply other desired conditions. At this time they are requesting two full hives and 5 smaller hives for queen production. Staff has no reason to believe the number of hives would need to be reduced.

§ 95.129 PERMIT REQUIRED.

- (A) *No beekeeping may occur on properties of less than 5 acres unless the city issues a permit to the beekeeper on that specific property. The permit will be valid for 2 growing seasons.*

Staff reads the above referenced code to read that if the property is over 5 acres in size that a permit would not be required. With that said, all subsequent points under Section 95.129 would not be required. But again, with the City being the property owner there is an opportunity to require the follow through of the requirements of a permit.

The Parks Commission asked if the request should be reviewed from the perspective of being on one acre of land since that is what their lease has established. Certainly if the Council believes this should be the case then that is what will be done.

Although they have some rights to use one acre of land, Staff did not review the proposal based off of one acre of land because the overall parcel as shown by the County records is over 100 acres.

Fencing

They are also requesting to install a fence around the colonies. Staff believes this makes sense and would recommend installing a fence around the hives. As it stands today they are requesting to use electric fencing for the hives. This is a common fence type for bee hives as it is the most effective at warding off would be hive robbers. Fencing also helps keep bystanders at a distance from the hives.

§154.205 FENCING REGULATIONS

G. Prohibited Fencing. Barbed wire and electric fencing are prohibited in platted areas.

Being that the park is not a platted area Staff believes they could use electric fencing. Though, being on City property non-electric fencing could be required. At the Parks Commission meeting it was stated that fencing will be on a timer and only come on at night, when the park is closed. It will also have signage indicating that it is an electric fence.

Honey Sales

It was not discussed at length at the Parks Commission but they would like to sell honey at the nature center. If the request were again viewed from the perspective of a private property a non-resident of the property would be allowed to sell honey. Section 95.127 states “*These standards of practice apply only to lots smaller than 5 acres.*” Meaning 95.127 (F) and the subsequent sections would not apply.

“(F) Each beekeeper is allowed to make in person sales of honey from the beekeeper’s residence as long as the following standards are:”

- (1) The beekeeper must live on the apiary lot;*
- (2) All honey sold in person on the residential premise must be produced by the beekeeper’s hives that are located on the subject residential premise;*

The Council may want to consider some sales expectations in the license agreement (recommended).

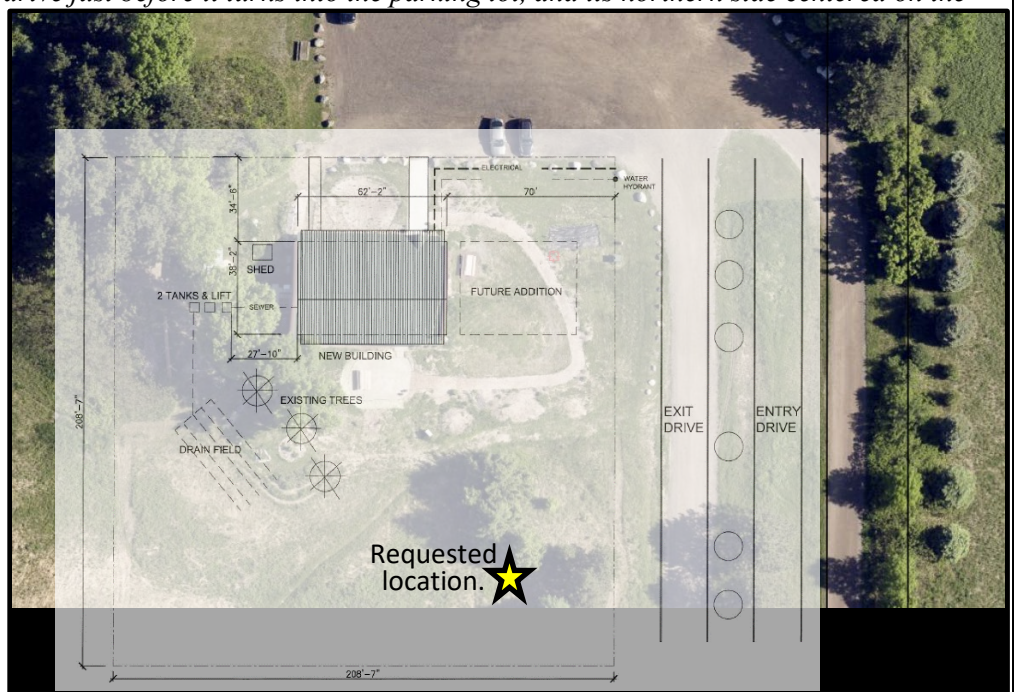
LEASE AGREEMENT:

The City has a lease agreement established for the operation of the Nature Center and a defined area for them to operate within. Should the City choose to allow bee hives within in the park Staff recommends they only be kept on the leased area. They are currently requesting they be kept on the leased area.

Building Site Description

The Nature Center Building Site is defined as one acre (a square plot approximately 207 feet on a side) oriented with the edges north-south and east-west, with its eastern side centered on the existing fire hydrant which is located just west of the Sunfish Lake Park south entrance drive just before it turns into the parking lot, and its northern side centered on the southernmost of the boulders which form the southern boundary of the existing parking lot.

(Staff has done their best to provide a depiction of what this actually looks like. Please bear in mind some inaccuracies are created when overlaying an image of an aerial image.)



FISCAL IMPACT:

There may be a fiscal impact to the City should the City request the City Attorney assist in preparing a license agreement (recommended). Keeping honey bees within the park would not increase the liability of the City. The City's insurance provider has made some requirements for the City to follow, should it be allowed.

- The group is required to have liability insurance of at least \$1,000,000 per occurrence.
- The group is required to add the City as an additional insured.
- The group is required to defend and indemnify the city for any claims related to the bees.
- The group must provide the city with a certificate of insurance showing proof of insurance.
- Require the group to post one or more warning signs. Sample sign attached.

Staff believes some of these conditions are already covered. However, it will be confirmed with the license agreement.

OPTIONS:

- 1) Recommend approval of Bee keeping within Sunfish Lake Park.
 - 2) Recommend approval of Bee keeping within Sunfish Lake Park with conditions.
 - 3) Recommend denial of Bee keeping within Sunfish Lake Park.
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COMMENTS AND RECOMMENDATION

Parks Commission:

The Parks Commission reviewed this request at its February 17th meeting. They made a passing recommendation (6-0) with conditions.

- Signage for the electric fencing.
- Sign showing/stating that the hives contain honeybees (or similar statement).
- The electric fencing should only be on at night after the park is closed.

Should the Council approve the request City Staff as well as the City Insurance provider recommends the implementation of a license agreement outlining the requirements that will need to be followed. Beyond what has been recommended by Staff, Parks Commission, and the Insurance Provider the Council should outline additional conditions or requirements that they would like to see applied.

- Staff also believes that applicable permits should be applied for. For example, if the fencing is powered by a electrical line from the Nature Center building an electrical permit may be required.
- Site plan for the license agreement.
- Sale of honey at the Nature Center outlined within the license agreement.
- Conditions of City Insurance Carrier

Recommended Motion for Approval:

"Motion to approve the Nature Centers request to keep bees at Sunfish Lake Park subject to the implementation of a License Agreement, prepared by the City Attorney which shall also contain the recommended conditions or approval."

Recommended Motion for Denial:

"Motion to deny the Nature Centers Request to keep Bees at Sunfish Lake Park."

ATTACHMENTS:

- Bee Keeping Ordinance
- Fence Ordinance
- Sign Example

KEEPING OF BEES

§ 95.125 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APIARY. The assembly of 1 or more colonies of bees at a single location.

BEEKEEPER. A person who owns or has charge of 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. An aggregate of bees consisting principally of workers, but having, when perfect, 1 queen and at times drones, brood, combs, and honey.

HIVE. The receptacle inhabited by a colony that is manufactured for that purpose.

HONEY BEE. All life stages of the common domestic honey bee, *apis mellifera* (African subspecies and Africanized hybrids are not allowed).

LOT. A contiguous parcel of land under common ownership.

(Ord. 08-100, passed 2-18-2014)

§ 95.126 PURPOSE.

The purpose of this subchapter is to establish certain requirements for beekeeping within the city, to avoid issues that might otherwise be associated with beekeeping in populated areas.

(A) Compliance with this subchapter shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper's efforts to abate any previous nuisance.

(B) Compliance with this section shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper's compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

(Ord. 08-100, passed 2-18-2014)

§ 95.127 STANDARDS OF PRACTICE.

These standards of practice apply only to lots smaller than 5 acres.

(A) Honey bee colonies shall be kept in hives with removable frames, which must be kept in sound and usable conditions.

(B) Each beekeeper must ensure that a convenient source of water is available within 10 feet of each colony at all times that the colonies remain active outside the hive.

(C) Each beekeeper must ensure that no wax comb or other material that might encourage robbing by other bees that 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.

(D) Each beekeeper shall maintain his or her beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms.

(E) Honey bee colonies may only be kept on lots three-quarters of an acre or larger.

(F) Each beekeeper is allowed to make in person sales of honey from the beekeeper's residence as long as the following standards are met:

(1) The beekeeper must live on the apiary lot;

(2) All honey sold in person on the residential premise must be produced by the beekeeper's hives that are located on the subject residential premise;

(3) No products may be sold in person at the residence except honey and honey related products produced from hives on the premise;

(4) No outside storage or display of products or merchandise;

(5) No traffic that is greater than the residential level of the neighborhood;

(6) No separate business entrance;

(7) All signage must comply with city sign regulations;

(8) Not more than 15% of the total gross floor area of the residence or 200 square feet, whichever is less is devoted to making,

storing, and selling honey;

(9) No activity or equipment may be used that creates noise, vibration, glare, fumes, odor, or electric or television interference is permitted if it is detectable by adjacent neighbors; and

(10) No nonresident employees are permitted.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 95.999

§ 95.128 COLONY DENSITY.

(A) No person is permitted to keep more than the following numbers of colonies on any lot within the city, based upon the size of the apiary lot:

(1) Lots three-quarters of 1 acre or larger but smaller than 2 and 1/2 acres: 4 colonies;

(2) Two and one-half acre lot or larger but smaller than 5 acres: 6 colonies;

(3) Five acres or larger: no restriction.

(B) Colonies must be setback 25 feet from the property line of an adjacent occupied residential lot.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 95.999

§ 95.129 PERMIT REQUIRED.

(A) No beekeeping may occur on properties of less than 5 acres unless the city issues a permit to the beekeeper on that specific property. The permit will be valid for 2 growing seasons.

(B) A beekeeping permit will only be issued if:

(1) The permit application documents the satisfaction of all applicable items found in §§ 95.125 through 95.130 of the City Code; and

(2) Notices have been mailed to all homes within 150 feet of the applicant's property lines.

(a) If there are objections received within 10 days of mailing the notices, then the permit application must be considered by the City Council.

(b) If there are no objections received within 10 days of mailing the notices, then the permit application will be processed by city staff. It will not be referred to the City Council for consideration.

(C) Permits are non-transferable and do not run with the land.

(D) A permit constitutes a limited license granted to the beekeeper by the city and in no way creates a vested zoning right.

(E) By signing the permit, the beekeeper acknowledges that he or she shall defend and indemnify the city against any and all claims arising out of keeping the bees on the premises.

(F) Beekeeping permit fees shall be as established by the city council.

(G) All standards of practice and colony density standards must be met in order to issue a permit.

(H) If the standards of practice are not maintained subsequent to issuance of a beekeeping permit, the permit may be revoked by the city.

(I) Beekeeping training is required for the beekeeper prior to issuance of an initial beekeeping permit by the city.

(1) Either provide a certificate of completion from a honeybee keeping course from the University of Minnesota or from Century College;

(2) Request consideration for having completed a comparable course from another institution or instructor;

(3) Request consideration for substituting equivalent experience for the honeybee keeping course; or

(4) Provide a letter from a current beekeeping instructor at the University of Minnesota, Century College, or other educational institution offering similar beekeeping courses that states that the permit applicant has gained through other means a substantially similar knowledge base to one that could be gained through appropriate beekeeping courses at the University of Minnesota or Century College.

(J) Any beekeeper wishing to make in person sales of honey from their home according to the standards of practice section must so indicate on the annual permit.

(Ord. 08-100, passed 2-18-2014) Penalty, see § 95.999

§ 95.130 APPLICATION.

Any person desiring a permit required under the provisions of this article shall make written application to the city clerk upon a form prescribed by and containing such information as required by the city. Among other things, the application shall contain the following information:

(A) A description of the real property upon which it is desired to keep the bees.

(B) A site plan of the property showing the location and size of the proposed apiary, the number of hives, setbacks from apiary to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, type, and height of any related flyways.

(C) Statements that the applicant will at all times keep the bees in accordance with all of the conditions prescribed by the officer, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this article and grounds for cancellation of the permit.

(D) Such other and further information as may be required by the officer.

(Ord. 08-100, passed 2-18-2014)

§ 95.999 PENALTY.

Any person who shall violate the provisions of §§ 95.125 through 95.130 shall be guilty of a misdemeanor and upon conviction, shall be penalized in accordance with § 10.99.

(Ord. 08-100, passed 2-18-2014)

ARTICLE VII. GENERAL REGULATIONS

§ 154.200 PURPOSE.

The purpose of this Article is to establish regulations for activities that may occur in many zoning districts or in association with a variety of land uses, including parking, signage, and activities within yards, to promote the orderly development or use of land and minimize conflicts among land uses.

(Ord. 08-078, passed 5-07-2013)

§ 154.201 APPLICABILITY.

The provisions of this Article shall be applied to all zoning districts and shall be in addition to the requirements in any specific zoning district. A permit shall not be issued unless all applicable general regulations are met.

(Ord. 08-078, passed 5-07-2013)

§ 154.202 PERMITS REQUIRED.

Permits are required for all changes in use and all development activities, with the exception of signs, which shall be governed by the specific requirements of Section 154.212 as may be applicable.

(Ord. 08-078, passed 5-07-2013) (Ord. 08-152, passed 10-01-2016)

§ 154.203 ESSENTIAL SERVICES.

Essential services as defined by this Ordinance are permitted in any district, provided that a site plan for any new or expanded service facility is filed with the Planning Department. The City Council may require site plan review of large facilities, upon the recommendation of the Planning Director.

(Ord. 08-078, passed 5-07-2013)

§ 154.205 FENCING REGULATIONS.

- A. *Purpose.* The purpose of this Ordinance is to provide for the regulation of fences in the City of Lake Elmo and to prevent fences from being erected that would be a hazard to the public, an unreasonable interference with the uses and enjoyment of neighboring property or are incompatible with existing uses and other zoning restrictions.
- B. *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Permanent Fence. Fences that are installed in a fixed or enduring manner that are not intended for a seasonal or temporary purpose.

Temporary Fence. Fences that are installed and removed on a seasonal basis, such as snow fences, garden fences and seasonal recreational fences, such as hockey boards.

C. Permit Required.

1. *Permanent Fence.* No permanent fence shall be erected without first obtaining a fence permit. Application shall be made to the Planning Director. The fee shall be established by the City's Fee Schedule. The Planning Director is authorized to issue a fence permit if the application indicates that the fence will be in compliance with this Ordinance. The Board of Adjustment and Appeals shall hear and decide appeals when it is alleged that the Planning Director was in error. The appeals shall follow the procedure outlined in §31.01.
2. *Temporary Fence.* Temporary fencing that complies with subsection (F) and all other applicable provisions of this Ordinance shall be exempt from permit requirements.

D. *General Requirements.* All fences erected in the City of Lake Elmo are subject to the following requirements:

1. *Maintenance.* All fences shall be properly maintained with respect to appearance and safety. Fences that remain in a state of disrepair for an extended period of time shall constitute a nuisance per §96.03.
2. *Face of Fence.* The finished side of any fence or wall must face abutting property or street rights of way.
3. *Fence Materials.* Permitted fence materials shall be limited to brick, stone, wood, wrought iron, vinyl, composite material, steel, aluminum, chain-link, and in cases of temporary fencing only, materials that are consistent with temporary fencing as regulated under subsection (F)
4. *Traffic Obstruction.* No fence or wall shall obstruct a motorist's or a pedestrian's safe view from the driveway or street.
5. Location.
 - a) Fences may be installed on any portion of a lot subject to the height restrictions of §154.205.E and may be installed up to the property line. Any portion of the fence and all footing material shall be fully on the respective property and not encroach or cross over onto the neighboring property. It is also the responsibility of the property owner to have the property lines identified.
 - b) All pertinent property pins shall be visible upon inspection for fences installed within one foot (12 inches) of a property boundary.
 - c) In the case of a dispute, the City may require a survey to establish the boundary line of a property.
6. *Easement Encroachment.* An easement encroachment agreement must be approved by the Planning Director or his/her designee after review and approval

from the City Engineer or his/her designee, along with a fence permit, for any fence that will be installed within a City easement.

7. *Swimming Pools*. All swimming pools shall be enclosed with required fencing per §151.085.

E. Fence Height and Design

1. *Fences within Front and Side (Corner) Yards*. Any fence within a front or side (corner) yard setback or any required setback from a public right-of-way may not exceed forty-eight (48) inches (4 feet.) in height and must be 50% open to air and light. The fence must also be setback 20 feet. extending from the front corner lot pin or ROW.
2. *Residential and Mixed-Use Districts*. No fence shall exceed six feet (6') in height, and shall be subject to the design requirements of §154.205.E.3.
3. *Commercial and Industrial Districts*. No fence or wall shall exceed eight feet (8') in height. Fences that exceed eight feet (8') in height require a conditional use permit.

F. Temporary Fences

1. *Height and Performance*. Temporary fences shall comply with the fence height standards of subsection (E). Temporary fences shall be at least 40% open to air and light. If unable to be at least 40% open to air and light, temporary fences shall not exceed forty-eight inches (4 feet.) in height. The fence must also be setback 20 feet. extending from the front lot pin or ROW.
2. *Duration and Limitation*
 - a. No snow fence or posts shall be installed prior to October 1, and must be removed prior to April 15.
 - b. Seasonal recreational fencing intended for winter sports, such as hockey or broomball shall not be installed prior to October 1, and must be removed prior to April 15.
3. *Location*. Snow fences shall be set back at least 50 feet from any south or east property line, or such additional distance as may be required to prevent the accumulation of snow on public streets or adjoining property, as determined by the Public Works Director.

G. *Prohibited Fencing*. Barbed wire and electric fencing are prohibited in platted areas.

H. *Agricultural Exemption*. Fences constructed on parcels in excess of 5 acres for the keeping of horses; and fences constructed on parcels in excess of 10 acres are specifically exempted from the provisions of this Section. Any such agricultural fencing shall be at least 75% open to air and light.

(Ord. 08-086, passed 7-16-2013; Am. Ord 08-140, passed 7-5-2016; Am. Ord. 08-154, passed 10-4-2016)



CAUTION

THIS AREA HAS BEEHIVES

**There are many bees about.
Bees can cause a painful sting.**

**If you are allergic to bee stings
you MUST NOT approach
the hives as a bee sting
can be fatal.**



**Amateur
Beekeepers
Association
NSW**