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MEMORANDUM

TO: Marion County Board of Commissioners

FROM: Marion County Planning Division/Fennimore

DATE: September 25, 2019

SUBJECT: LA19-003/Urban and Rural Zone Code Amendments - Beekeeping in Residential Zones

BACKGROUND:

The current Marion County Code (MCC) in sections 16.25.200(A)(11) and 17.126.020(A)(11) does not permit the keeping of bees in residential zones. In May 2018, as a result of an enforcement case, the Oregon State Beekeepers Association (OSBA) requested the Marion County Board of Commissioners (board) consider amending the code to allow beekeeping and stay that enforcement action. The request was on based on House Bill 2653 which the Oregon State Legislature passed in 2015. It is now codified in Oregon Revised Statue (ORS) 602.035 through 602.045. ORS 602.045 states:

602.045 Local ordinances; fees. *A local government may:*

(1) Adopt ordinances consistent with the best practices described in ORS 602.035; and

(2) Charge a reasonable fee for registering hives in residential areas. The fee that a local government charges for registering hives in residential areas may not exceed the amount charged under State Department of Agriculture rules for the registration of colonies that are subject to fees under ORS 602.090 (3).

Note: *Section 4, chapter 823, Oregon Laws 2015, provides:*

Sec. 4. *A local government shall review existing ordinances and determine whether to adopt new ordinances relating to residential beekeeping within three years of the effective date of this 2015 Act [January 1, 2016].*

At the public meeting in May, 2018, the board considered the request and chose not to amend the code at that time. A second request by the OSBA was made in August, 2018, and again the board chose not to amend the code and directed staff to encourage the OSBA to propose beekeeping amendments to the Marion County Planning Commission for consideration.

The Marion County Planning Commission held a work session on the issue on October 30, 2018, and made a recommendation that the board allow beekeeping of up to five hives in residential zones with no other standards. However, that recommendation was based on information presented at the work session by the OSBA; it was not a public hearing.

Just prior to that work session, staff learned that the City of Salem was considering amendments to its code to allow beekeeping in residential zones. In order maintain consistency with properties inside the Salem Urban Growth Boundary, staff chose not to bring this matter back to the board until the city completed its process. On June 10, 2019, the city approved amendments to its code that would allow keeping of bees in residential zones.

At its public meeting on June 24, 2019, the board approved a resolution initiating amendments to the zone code related to beekeeping in residential zones and referring the matter to the Marion County Planning Commission for a public hearing and recommendation. The public hearing before the planning commission was held on August 20, 2019. At the hearing the Planning Commission received testimony both in favor of and opposed to amending the code to allow beekeeping in residential zones.

RECOMMENDATION:

After considering all the information presented at the hearing, the Planning Commission, on a six to one vote recommended the board amend the zone code to allow beekeeping in residential zones subject to standards. The recommended standards are the same standards adopted by the City of Salem and include:

DEFINITIONS:

(a) *“Bees” means honey-producing insects of the genus Apis and includes the adults, eggs, larvae, pupae, and other immature stages thereof, together with such materials as are deposited into hives by their adults except honey and beeswax in rendered form, excluding African honey bees.*

(b) *“Community Garden” means a lot or parcel of land gardened collectively by a group of people or gardened individually in individual allotments.*

(c) *“Hive” means any receptacle or container made or prepared for use of bees, or box or similar container taken possession of by bees.*

STANDARDS:

Bees may be kept at any residence, community garden, or on any lot owned by a school, governmental agency or religious organization on properties zoned Single-Family Residential (RS) or Urban Development (UD) in Marion County subject to the following standards and limitations:

(a) *A maximum of five hives may be kept on property; provided, however, the maximum number of hives may be temporarily increased to seven only during the months of April through August of each calendar year to accommodate the formation of additional hives through the splitting of existing hives or collection of swarms.*

(b) *Hives shall comply with the setback requirements of the zone in which they are located. Where a main building is located on a property, hives shall be located in the side or rear yard.*

(c) *If a hive is located within 25 feet of a property line, either:*

(1) *A flyaway barrier at least six feet in height shall be maintained parallel to the property line for a minimum of 10 feet in either direction of the hive. The flyaway barrier shall consist of a wall, fence, dense vegetation or a combination thereof; or*

(2) *The hive shall be elevated a minimum of 10 feet above ground level.*

(d) *A constant supply of water shall be provided for the bees within 15 feet of each hive on the property where the bees are located.*

(e) *Each beekeeper shall ensure that no bee comb or wax is left upon the property grounds to prevent robbing from other bees and attracting predators.*

(f) *Hives shall be maintained in a condition such that the bees do not produce noise or odor that creates a nuisance for adjacent properties.*

(g) *If a hive or group of hives is located at a community garden or on any lot owned by a school, government agency, or religious organization, a sign warning of hives shall be installed at the primary public entrance to the property. Warning signs shall be at least 10 inches by 10 inches.*

PROHIBITIONS:

(a) *No sale of honey or bees is allowed.*