



CITY *of* BRISBANE

Liaison to the Open Space and Ecology Committee Subcommittee Agenda

Tuesday, October 24th, 2023 at 4:00PM • Hybrid Meeting
Brisbane City Hall, Large Conference Room, 50 Park Place, Brisbane, CA

The public may observe/participate in the Subcommittee meetings by using remote public comment options or attending in person. Subcommittee members shall attend in person unless remote participation is permitted by law. The Subcommittee may take action on any item listed in the agenda.

JOIN IN PERSON

Location: 50 Park Place, Brisbane, CA 94005 - [Large Conference Room](#)

Masks are no longer required but are highly recommended in accordance with California Department of Health Guidelines. To maintain public health and safety, please do not attend in person if you are experiencing symptoms associated with COVID-19 or respiratory illness.

JOIN VIRTUALLY

Join Zoom Webinar (please use the latest version: zoom.us/download):

<https://us06web.zoom.us/j/81302420427>

Meeting ID: 813 0242 0427

Call In Number: 1 (669) 900-9128

Note: Callers dial *9 to “raise hand” and dial *6 to mute/unmute.

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TO ADDRESS THE SUBCOMMITTEE

IN PERSON PARTICIPATION

To address the Subcommittee on any item on or not on the posted agenda, please wait until Public Comments are being accepted.

REMOTE PARTICIPATION

Members of the public may observe/participate in the Committee meeting by logging into the Zoom Webinar. Aside from commenting while in the Zoom meeting, the following email line will be monitored during the meeting, and public comments received will be noted for the record during Public Comment or during the Item.

Email: aibarra@brisbaneca.org

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact Angel Ibarra at (415) 508-2109 or aibarra@brisbaneca.org. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

SUBCOMMITTEE MEMBERS:

Mayor Pro-tem O'Connell, Councilmember Mackin, OSEC Chair Becker, OSEC Vice Chair Nunan, OSEC Committee Member Fieldman

ROLL CALL

- A. Consider any request of a City Councilmember to attend the meeting remotely under the "Emergency Circumstances" of AB 2449

PRESENTATIONS AND DISCUSSION ITEMS

- B. Review the Draft Invasive Species Ordinance

PUBLIC COMMENT**ADJOURNMENT**

File Attachments for Item:

B. Review the Draft Invasive Species Ordinance

AN ORDINANCE OF THE CITY OF BRISBANE
AMENDING CHAPTER 15.XXX OF THE MUNICIPAL CODE
ESTABLISHING REQUIREMENTS FOR THE CONTROL OF
CERTAIN NON-NATIVE SPECIES OF PLANTS IN LANDSCAPING

The City Council of the City of Brisbane hereby ordains as follows:

I. SECTION 1: Chapter 15.xx is hereby added to the Brisbane Municipal Code to read as follows:

I. §15.xx.010 - Title.

This chapter shall be known as the “Brisbane Invasive Species Ordinance.” (Ord. No. xxx, § x, xx-xx-xx)

A. §15.xx.020 - Purpose.

The purpose of this chapter is to preserve the biodiversity of the San Bruno Mountain area and as a co-benefit, to reduce the impacts of wildfires, given the following:

- A. San Bruno Mountain is home to a number of rare and endangered plant and animal species, several of which are federally listed under the Endangered Species Act;
- B. The listed insect endangered species (butterflies) depend on specific native host plants, which are required by their young;
- C. Invasive plants used in landscaped areas within the City of Brisbane are, by definition, plants that spread outside the areas in which they are planted, and thereby crowd out, compete for water, sunlight and food, and otherwise pose a threat to the native species of plants on San Bruno Mountain, including those that are used by the butterflies.
- D. One of the invasive plants, French Broom, is a fire hazard that contributes to the rapid spread of wildfire. It therefore poses a threat to Brisbane homes and businesses.

REQUIREMENTS

The following table refers to the plants covered by this chapter. No invasive species in the table may be planted on public or private property. Invasive plants with an X in the Must remove column are most problematic, and their removal is required. Invasive species with an X in the final column must be removed to within two feet of the property line on the property in which they are growing, such that a two-foot buffer is established.

Common	Latin	Do not plant	Must remove	Clear 2' perimeter from all property lines
Broom (any), Gorse		X	X	
Jubota, Pampas Grass	Cortaderia selloana	X	X	
Cotoneaster, pyracantha	Cotoneaster panossus, lacteus, frachetii, integrifolius	X	X	
Ivy (any)	Hedera (any), Delairea odorata	X	X *	X
Ice Plant	Ice Plant (any)	X		X
Himalayan blackberry	Rubus armeniacus	X		X
Fennel	Foeniculum vulgare	X		X
Cherry plum and Myrobalan plum	Prunus cerasifera	X		X
Coral Seas Passion Flower Vine	Passiflora Jamesonii	X		X
Pincushion flower	Scabiosa atropurpurea	X		
Acacia (any)		X		
Copper Tips (bulb), Fire Lily	Crocasmia	X		
Eucalyptus (any)		X		

* = must remove all ivy from any protected tree

- A. Effective Date. The effective date of this chapter shall be **TBD, 2023**.
- B. Compliance Period. A property owner shall comply with the requirements of this chapter by the following compliance deadlines. No invasive species may be planted upon the time of this ordinance going into effect. Property owners have one year to comply with invasives removal.

- C. Extension. A property owner may apply for an extension of this deadline for invasive species removal by submitting a request to the community development director ninety (90) days before the compliance deadline detailing why an extension is needed. Upon demonstration of good cause for providing a property owner additional time to comply with the requirements of this section, the community development director may extend the property owner's time to comply and/or may require a plan for compliance. For purposes of this section, the term "good cause" shall mean a significant financial or other hardship which warrants an extension or conditional extension of the time limit for compliance established herein. The extension of the compliance period shall be tied to the property area and degree of hardship, cannot extend beyond ten years, and will require a plan for compliance that requires partial compliance in advance of full compliance. The community development director's decision shall be appealable pursuant to the provisions of [Chapter 17.52](#).

Executive Overview of National Trends in Regulating Invasives

Many communities have responded to the threat of invasive species by putting ordinances on their books to stem their spread.

Berwyn Heights, Maryland's ordinance broadly defines invasive species and specifically calls out Bamboo as a plant to be kept in check.

Yellow Springs, Ohio's ordinance has provision that homeowners keep their grass cut below 12" yet they can maintain compliance with official letters and ***thus far have not had to issue citations for compliance.***

The Florida Native Plant Society goes to exacting length to **establish the right of Cities to regulate landscaping** in their Handbook.

The State of Wisconsin **provides its cities with a template to enact weed ordinances** specifically calling out 3 of the state's most noxious offenders and leaving open-ended a list to be added to by each individual locale. The form includes boilerplate language for both fines and the establishment of a Weed Commissioner!

The **Federal government by way of the USDA has taken on the cause of invasives by way of seeds** publishing an extensive list of seeds specifically prohibited from all commercial seed sales. In the list specific to California ***three of the plants our committee marked for control are on this federal list*** (Broom, Gorse, and Ivy).

Fairfax County, VA has taken on Running Bamboo specifically with an ordinance effective January 1, 2023. Their ordinance language much resembles the "Do Not Plant" category which we propose and spells out fines ranging from \$50 to \$2,000. *Jason Nunan has reached out to their Enforcement Department for an anecdotal account of their experience thus far.*

Feedback from Fairfax County, VA on implementation of Bamboo Control Ordinance 8/9/23

Jason,

Thanks for the message, and I'm happy to provide some comments. Included here as response to your original message, and please let me know if you have any other questions.

- How many calls you are getting to report bamboo?

We have received 152 bamboo complaints since we began enforcement on January 1 2023.

- Pushback from the community opposed to the ordinance?

Our work is complaint based, meaning someone else called to inform us about a potential violation. As you might imagine, this results in a property owner who is upset by the fact that we are there enforcing an ordinance that they likely aren't even aware of. I'm not sure I would call that pushback, because on one hand you have the complainant that is in favor of the ordinance and seeks to have it enforced, but then you have the bamboo owners who are opposed simply because they see it as their property that they are entitled to maintain how they see fit. Our County did a lot of proactive communication and outreach before we began enforcement. We tried to inform the community and get buy-in before beginning any compliance activities. However, with a population of nearly 1.2 million residents, not everyone got the message, and so we are still faced with a lot of owners who had no idea that this ordinance was in effect, and they could be found in violation.

- Compliance:
 - Are folks given a chance to remedy with a warning letter?

We issue a "Notice of Violation," which serves as a warning letter. This provides 30 days to remedy the violation. We consider any good faith effort to abate and treat the bamboo from spreading to be an indicator of compliance. For instance, if they begin herbicide treatments but intend on continuing those treatments over the growing season, we will close the case. It is not a good use of our limited resources to reinspect to ensure that the bamboo growth is completely eradicated. We will grant extensions to the 30-day compliance period on requests and our staff has the discretion to permit additional extensions in cases of hardship or other extenuating circumstances.

- Do most correct the violation?

Of the 152 cases, 50 were closed as unfounded – meaning no violation could be identified. This may mean that the bamboo spread was not able to be determined, or that it was difficult to determine which owner may have allowed the bamboo to spread. If we cannot find clear evidence that the bamboo originated on one property and spread to another, then we would not issue a violation notice. In some cases where the bamboo growth is substantial on both sides of a property line, we have issued violations to both property owners and instructed them to respectively control the growth on each of their sides of the property line.

62 cases were found to be in violation, and of those, 23 were later closed as “Resolved” meaning the violation was corrected or determination was made that the violation was not actionable.

As of today we have 72 cases in some stage of processing – either that we have received a complaint but not conducted an investigation; we are investigating a potential violation; or that we have issued a Notice of Violation and awaiting corrective action.

- How often have fines been issued?

We have not issued any fines, but we do have one case pending legal action which is our method of collecting the fine. At a violation fine of \$50, our intent is not to take these cases to court. Our priority is to educate the property owner and work with them to resolve the case through voluntary compliance. Only when a property owner is completely unresponsive or states their objection to comply will we proceed with legal action.

Ben Aiken

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