



CITY COUNCIL AGENDA REPORT

Meeting Date: April 15, 2021

From: Ron Myers, Fire Chief and Barry Biermann, Deputy Fire Chief, Support Services Bureau

Subject: Urgency Ordinance Concerning the Removal of Invasive Species, Waste Material and Combustible Vegetation and Requiring Fire Breaks on Unimproved Properties

Community Goal/Result

Safe Community - Residents and visitors will experience a sense of safety.

Purpose

To ensure the health and safety of the public through removal of invasive species, waste materials and combustible vegetation and requiring fire breaks on unimproved properties.

Recommendation

Adopt an ordinance of the City of Brisbane amending section 15.44.120 of the Brisbane Municipal Code concerning the removal of invasive species, waste materials and combustible vegetation, requiring fire breaks and other fire prevention measures on unimproved properties, and declaring the urgency thereof, to take effect immediately upon its adoption. A four-fifths vote of the City Council is needed to adopt the Ordinance on an urgency basis.

Background

Wildfires have been particularly prevalent in unimproved ("open") acreage and often in difficult terrain. For fire growth reduction and containment purposes as to such acreage, best practices are to maintain at least 100 feet of clearance along all property lines regardless of acreage and, for larger parcels (two acres or more), to maintain within such parcels fire breaks such that no area has more than three acres without a crosscut fire break. Within the City of Brisbane there are unimproved (vacant) parcels and it is necessary that those parcels have fire breaks as described in this Ordinance. The North County Fire Authority annually sends out notices to property owners of such parcels to advise them that they must perform abatement and the removal of combustible vegetation on their properties; these notices are sent in annually in the month of May so that the removal of combustible vegetation can be accomplished before fuels become overly dry and flammable. Accordingly, adoption of this ordinance on an urgency basis

is necessary so that these new requirements may be included in the May notices sent out by the North County Fire Authority to affected property owners.

The Ordinance exempts from the requirements of the Ordinance land owned by the City, as the 49 parcels owned by the City in the upper “Brisbane Acres” are not adjacent to any properties developed with buildings and, more significantly, are within the boundaries of the San Bruno Mountain Habitat Conservation Plan (HCP). Because of that, and due to the potential presence of protected plant species, the City annually engages a firm specialized in working in the HCP that selectively cuts, treats and re-treats to remove invasive species. The removals prescribed in this Ordinance would be inconsistent with the preservation efforts the City performs in the upper Brisbane Acres. The remaining 98 parcels owned by the City tend to be highly developed property (e.g., City Hall, Community Park, etc.), or are narrow rights of way where in many cases there is not thirty feet of total width. As an example of the latter, the Crocker Trail would require nearly a complete clear-cutting of the former railroad spur if this Ordinance were applied there. Notwithstanding these exclusions, the City will continue to perform its annual weed abatement as provided for in the City’s bi-annual operating budget and will work closely with the North County Fire Authority to ensure maintenance of public land is consistent with best management practices.

With regard to other unimproved properties, the maintenance specifics are set forth in the ordinance. Any unimproved acreage covered with flammable material that is two acres or less shall maintain a one hundred (100) foot fire break around the perimeter of such acreage. Any person who owns unimproved acreage that is more than two acres, but less than four acres shall maintain a one hundred (100) foot clearance along each property line and a one hundred (100) foot crosscut break such that there is one hundred (100) feet of clearance around every three acres. Any person who owns unimproved acreage four acres or greater shall maintain a one hundred (100) foot clearance along each property line and a one hundred (100) foot crosscut break every three acres. Trees that are more than 10 feet tall within the (100) foot clearance or within the crosscut break must be limbed such that the lowest limb is not less than six (6) feet from the ground. Dead or dying grass shall be mowed to a maximum of 4” in height. Trees shorter than six (6) feet must be removed entirely. Brush should be cut to within several inches of the surface. Vegetation that is well maintained may remain within the (100) foot clearance and crosscut break. Well maintained is defined in the Ordinance and includes appropriately watered lawns, ground cover plants, ornamental shrubbery and trees that are spaced, pruned, free of all dead material and which will not rapidly spread fire. Dead trees within the (100) foot clearance and within the crosscut break shall be removed completely from the acreage.

Fiscal Impact

There is no direct fiscal impact to the City. If a property owner fails to remove the material as directed, the City must front the cost to have the materials removed. The owner is then billed for the costs; the failure to pay results in the cost being placed on the owner's property tax bill.

Measure of Success

Removing flammable vegetation prevents and reduces the spread of wildfire.

Attachments

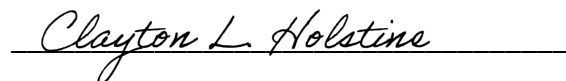
1. Ordinance No. 661



Ron Myers, Fire Chief, NCFA



Barry Biermann, Deputy Fire Chief



Clay Holstine, City Manager

ORDINANCE NO. 661

AN ORDINANCE OF THE CITY OF BRISBANE AMENDING SECTION 15.44.120 OF THE BRISBANE MUNICIPAL CODE CONCERNING THE REMOVAL OF INVASIVE SPECIES, WASTE MATERIALS AND COMBUSTIBLE VEGETATION AND DECLARING THE URGENCY THEREOF, TO TAKE EFFECT IMMEDIATELY UPON ITS ADOPTION

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

Section 1. Section 15.44.120 of the Brisbane Municipal Code is amended to read as follows:

“15.44.120 - Section 304.1.4 added—Removal of invasive species, waste materials and combustible vegetation.

Section 304.1.4 is added to the fire code, to read as follows:

304.1.4 Removal of invasive species, waste materials and combustible vegetation.

(a) For purposes of this Section 301.1.4, the following definitions apply:

“Invasive species” means any plant species that is non-native to the ecosystem under consideration and whose introduction causes, or is likely to cause, economic or environmental harm to human health.

“Person” shall mean an owner of any property within the City of Brisbane excepting the City of Brisbane, the Successor Agency of the Redevelopment Agency of the City of Brisbane and the Brisbane Housing Authority.

“Well maintained” means property that is maintained in such a way as to prevent a fire from rapidly spreading including, but not limited to, appropriately watered lawns, ground cover plants, and ornamental shrubbery and trees that are sufficiently spaced, pruned, and free of all dead or dying material.

(b) Notice to Remove. The Division of Fire Prevention is authorized to notify any person owning property within the City of Brisbane or its jurisdiction, or the agent of such person, to properly dispose of invasive species and such wastepaper, hay, grass, straw, weeds, litter, combustible or flammable waste, brush, waste petroleum products, blackberry vines and other growth or rubbish of any kind located on such person’s property which is dangerous to public safety, health or welfare or is deemed a fire hazard by the Division of Fire Prevention. Such notice shall inform the person or the person’s agent that should the invasive species, wastepaper, hay, grass, straw, weeds, flammable vegetation, brush, litter, combustible or flammable waste, waste petroleum products, blackberry vines and other growth or rubbish of any kind not be removed as required, then it will be

removed by the City and the cost of said removal shall in accordance with this chapter be assessed as a lien on the property, to be collected with the next regular tax bill.

Such notice shall be by certified mail, addressed to the person owning the property at the person's last known address, as revealed by the tax rolls, and such additional address as may be known by the Division of Fire Prevention.

- (c) **Action Upon Non-compliance.** Upon failure, neglect or refusal of any person owning property or the person's agent so notified to properly dispose of invasive species and such wastepaper, hay, grass, straw, weeds, litter, combustible or flammable waste, brush, waste petroleum products, blackberry vines or other growth or rubbish of any kind dangerous to the public health, safety and welfare within fifteen (15) days after receipt of written notice provided for in subsection (b) above, or within fifteen (15) days after the date of such notice in the event the same is returned to the Division of Fire Prevention because of its inability to make delivery thereof, provided the same was properly addressed to the last known address of such person or agent, as provided in subsection (b) of this section, the Division of Fire Prevention is hereby authorized to refer this non-compliance to the City Manager to have the City pay for disposing of such invasive species, wastepaper, hay, grass, straw, weeds, litter, combustible or flammable waste, brush, waste petroleum products, blackberry vines and other growth or rubbish that endangers property or is liable to be fired.
- (d) **Charge Included in Tax Bill.** When the City has effected the removal of dangerous or hazardous conditions from property as noted in subsection (b) or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of ten percent (10%) per annum from the date of the completion of the work, if not paid for by such person prior thereto, shall be charged to the person owning such property on the next regular tax bill forwarded to such person, and said charge shall be due and payable by said person at the time of payment of such bill.
- (e) **Property Including Buildings, Structures and Acreage Maintained.**
 - 1. Any person who owns, leases, controls, operates or maintains any building or structure in, upon, or adjoining any mountainous area or forest-covered lands, brush-covered lands or grass covered lands, or any land covered with flammable material shall maintain around and adjacent to such building or structure a fire break for a distance of not less than thirty (30) feet or to the property line, whichever shall be less.
 - 2. Any person who owns unimproved acreage that is two acres or less shall maintain a one hundred (100) foot fire break around the perimeter of such acreage. Any person who owns unimproved acreage that is more than two acres, but less than four acres shall maintain a one hundred (100) foot clearance along each property line and a one hundred (100) foot crosscut break such that there is one

hundred (100) feet of clearance around every three acres, Any person who owns unimproved acreage four acres or greater shall maintain a one hundred (100) foot clearance along each property line and a one hundred (100) foot crosscut break every three acres. Trees within the 100-foot clearance or within the crosscut break (i) that are less than six feet in height shall be removed entirely from the acreage, (ii) that are ten feet in height or greater must be limbed such that the lowest limb is not less than six (6) feet from the ground, and (iii) that are dead shall be removed completely from the acreage.

3.. Within the areas described in paragraph 2 of subsection (e), dead or dying grass shall be mowed to a maximum of four inches in height, brush shall be cut to within several inches of the surface and vegetation shall be well maintained.

- (f) The Fire Chief or the Fire Chief's designee has the discretion to direct the maintenance requirements of subsection (e) or to modify the requirements of subsection (e) due to terrain or environmental concerns.
- (g) Notwithstanding that a person has taken action to remove the flammable materials described in subsection (b), if flammable materials re-occur on the property, such person shall remove such materials as provided in this section.
- (h) Remedies Cumulative. The remedies set forth in this section are in addition to any other remedies available to the City as set forth in its ordinances and resolutions and the statutes of the State of California.
- (i) Other Regulations. In addition to the remedies set forth herein, the City Council may adopt such other additional, appropriate resolutions and ordinances establishing procedures and regulations for the regulation, control and abatement of invasive species, waste materials, weeds and other matters constituting a fire and/or safety hazard. The City Manager or the City Manager's designee may promulgate regulations to implement and carry out the purposes of this Ordinance, Other regulations concerning vegetation management and fire prevention apply to properties within the San Bruno Mountain Habitat Conservation Plan Area, including the need for a person engaging in vegetation management and fire prevention to obtain a permit from the County of San Mateo before engaging in such activity."

Section 2. This Ordinance is adopted as an urgency ordinance to take effect immediately upon is adoption and the reasons for its urgency are as follows: In the past several years, California has experienced numerous wildfires that have resulted in deaths, injuries and billions of dollars in property damage. These wildfires have been particularly prevalent in open acreage and often in difficult terrain. For fire prevention and containment purposes, as to open acreage, best practices are to maintain at least 100 feet of clearance along all property lines regardless

of acreage and, for larger parcels (two acres or more), to maintain within such parcels fire breaks such that no area has more than three acres without a crosscut fire break. Within the City of Brisbane there are vacant parcels and for public health and safety purposes, and to protect residents and property within the City of Brisbane, it is necessary that those parcels have fire breaks as described in this Ordinance. The Division of Fire Prevention annually sends out notices to property owners of vacant parcels to advise them that they must perform proper weed abatement and the removal of combustible vegetation on their properties; these notices are sent in May so that weed abatement and the removal of combustible vegetation can be accomplished before the onset of fire season which, due to climate change, occurs more and more early in the summer months. Accordingly, these new requirements need to be adopted now so that they may be included in the notices that the Division of Fire Prevention sends to affected property owners.

Section 3. As an urgency Ordinance, this Ordinance becomes effective immediately upon its first reading by a four-fifths vote of the City Council.

Karen Cunningham, Mayor

certify that the foregoing Ordinance was passed and adopted by the City Council of the City of Brisbane at a regular meeting held on April 15, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ingrid Padilla, City Clerk

Approves as to form:



Thomas R. McMorrow, City Attorney