

City of Bandon

CITY COUNCIL AGENDA DOCUMENTATION	DATE: July 1, 2019
SUBJECT: Ordinance #1631 - Amending Chapter 8.08 of the Bandon Municipal Code to Address Vegetation and Remove Exemptions for Gorse and other Prohibited Vegetation	ITEM #: 5.4.1

BACKGROUND

Gorse (*Ulex europaeus*), also known as Furze, Whin and Common Gorse, has been an invasive menace to the Southcoast since it was brought to Bandon from Europe by Lord Bennett in the 1890's. Since then Gorse has become one of the most aggressive and difficult to control invasive plants in Oregon. Because of its rapid growth, stand density and long-lasting seed bank, the Oregon Department of Agriculture refers to it as one of the most difficult to manage weeds in the World.

In an effort to better manage the growth and spread of Gorse in the greater Bandon area, it is proposed that the City remove all provisions of the Bandon Municipal Code, Chapter 8.08, that provide exemptions for Gorse and other invasive species.

During a joint City Council / Planning Commission meeting held on May 22, 2019 Carri Piroso, Integrated Weed Management Coordinator for the SW Oregon division of the Oregon Department of Agriculture, made a presentation on behalf of the Gorse Action Group that outlined various actions that needed to be taken to develop better systems to control and manage Gorse in and around the Bandon area. She also echoed the need to remove exemptions from the Bandon Municipal Code. Following the meeting Mayor Schamehorn requested that this item be placed on the June 3, 2019 meeting of the Bandon City Council.

The proposed amendment was prepared and discussed during the June 3, 2019 meeting of the Bandon City Council where members of the Gorse Action Group and the public were present and expressed their support for the amendment. The Council moved to encourage comments and participation in the drafting of the final amendment in anticipation of their review and action at the July 1, 2019 meeting.

Following the June 3, 2019 meeting the proposed amendment was finalized with assistance from the Coos County Weed Board Chairman, Planning Director and Attorney. Some minor language revisions were made and the document put in Ordinance form.

The completed document is hereby submitted to Council for review and action. Following the adoption of this ordinance, City administration will work with Coos County representatives to finalize an agreement to allow the City of Bandon to enforce these same requirements within the City's Urban Growth Boundaries. If the agreement is approved, the County would adopt the same language for application within the City's Urban Growth Boundaries. Given the time to accomplish this agreement and the County's 90-day waiting period after the adoption of an Ordinance, we anticipate active implementation of this ordinance to occur in January or February of 2020.

A few public comments were received, primarily concerned with the implementation of the new requirements, and the impact on property owners. In response to these concerns, and in an attempt to provide as much education and awareness as possible, I met with representatives of the Gorse Action Group who have volunteered to work with the City to provide a public education and awareness campaign prior to implementing this ordinance. Given the target implementation date of January or February of 2020, we would have approximately 6 months to conduct an education campaign.

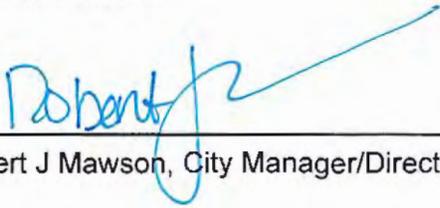
FISCAL IMPACT

The exact fiscal impact of removing exemptions from the municipal code are difficult to quantify. The greatest cost associated with this action will be providing ordinance compliance and enforcement activities.

RECOMMENDATION

Motion to Approve Ordinance #1631 Amending Chapter 8.08 of the Bandon Municipal Code to Address Vegetation and Remove Exemptions for Gorse and other Prohibited Vegetation.

SUBMITTED BY



Robert J Mawson, City Manager/Director of Utilities

ORDINANCE NO. 1631

AN ORDINANCE AMENDING CHAPTER 8.08 OF THE BANDON MUNICIPAL CODE ADDRESSING VEGETATION AND REMOVING EXEMPTIONS FOR GORSE AND OTHER PROHIBITED VEGETATION

WHEREAS, The State of Oregon has declared (through ORS 569.350) noxious weeds to be a menace to public welfare and the State has determined that steps are necessary which lead to intensive control of noxious weeds; and

WHEREAS, The Coos County Board of Commissioners, Order 08-05-048L, formed a Noxious Weed Control District to ORS 569.360 and the intent of this ordinance is to work in cooperation with the Noxious Weed Control District and other weed eradication programs to ensure the needs of the community are met. Coos County has titled the priority noxious weeds as Targeted (“T” designated weed) which provides a focus for prevention and control against such weeds. Specifically, “prohibited vegetation” shall include those plants identified as “T” designated weeds; and

WHEREAS, it is the goal of the City of Bandon to intensely control noxious weeds within the city limits and other areas under city jurisdiction. The main focus of this effort will be on weeds identified on the Coos County Noxious Weed “T” List. Of this “T” List, the highest priority for compliance & enforcement will be given to Gorse (*Ulex europaeus*), which poses the greatest threat to human health & safety, is a growing negative impact to the area economy and has been a significant fuel source in historic catastrophic fires; and

WHEREAS, Gorse occupies large portions of the city and surrounding area and contains highly volatile oils which make it an extreme fire danger; and

NOW, THEREFORE, THE CITY OF BANDON ORDAINS AS FOLLOWS:

Bandon Municipal Code, Chapter 8.08, is modified as follows:

8.08.140 ~~Trees and shrubs.~~ **Vegetation**

- A. No owner or person in charge of ~~property land~~ shall permit trees, ~~or shrubs or other vegetation~~ on their ~~property land~~ to interfere with street or sidewalk traffic or with overhead utility lines. **Removal of vegetation that may cause interference with overhead utility lines shall be supervised by qualified city personnel.**
- B. It shall be the duty of an owner or person in charge of ~~property land~~ abutting the right-of-way of an opened public street or a sidewalk to:
 1. Keep all trees and shrubs on the ~~premises land~~ trimmed so that any overhanging portions are at least eight (8) feet above the sidewalk if it exists, ~~or and~~ at least twelve (12) feet above the vehicular travel surface;
 2. Keep tree limbs from blocking stop signs, street signs or other **official** signs;
 3. Keep shrubs from growing out over the sidewalk or curb; and
 4. Keep all vegetation ~~cleared trimmed from~~ **within the required** sight triangle on **corner lots required** at intersections ~~on corner lots~~ as specified in the Bandon **Municipal Code zoning ordinance**, Section 17.104.090 of this code, no more than two and a half feet above the curb, or where no curb exists, from the established street center line grade.

- C. ~~Removal of vegetation that may cause interference with overhead utility lines shall be supervised by qualified city personnel.~~ **Vegetation must be cleared five (5) feet horizontally and twelve (12) feet vertically from electric transformers and underground vaults.**
- D. ~~It shall be the duty of an owner or person in charge of property land that abuts upon a public right-of-way to contact the city manager and follow the city's instructions prior to trimming or removal of any tree in the right-of-way adjacent to that property land.~~ **Tree trimming or removal shall be consistent with the guidance provided in the adopted "Tree Standards and Specifications Manual"**
- E. **Vegetation on city owned land (including street rights-of-way), and public easements, shall be managed by the city. Vegetation on such lands and easements shall not be managed by abutting private land owners unless there is a written agreement with the city to do so.**
- F. **All vegetation in the city shall be maintained in a manner that it is not an attractive nuisance or fire hazard. Dry grass and weeds must be no higher than twelve (12) inches when within one hundred (100) feet of a structure or opened public right-of-way, or when within thirty (30) feet of other types of combustibles. Prohibited vegetation must be removed to ground level in all areas.**
- G. **Voluntary compliance with these code requirements for vegetation management is expected. However, when necessary the city may utilize the enforcement power granted in the Bandon Municipal Code, Chapter 8.12 to obtain compliance.**

8.08.150 ~~Noxious vegetation.~~ **Prohibited Vegetation**

- A. **The State of Oregon has declared (through ORS 569.350) noxious weeds to be a menace to public welfare. The State has determined that steps are necessary which lead to intensive control of noxious weeds. It is recognized that the responsibility for eradication and intensive control rests not only with the private landowner and operator, but also on the local, state, and federal governments. The city expects voluntary compliance by landowners in taking actions to comply with this code and state law. In support of compliance, the city will provide information to increase public awareness of the problem, both citywide and property specific, and will provide guidance to available technical assistance. "Prohibited Vegetation" shall mean any plant classified as a noxious weed pursuant to ORS 569.350.**
- B. **The Coos County Board of Commissioners, Order 08-05-048L formed, a Noxious Weed Control District to ORS 569.360 and the intent of this ordinance is to work in cooperation with the Noxious Weed Control District and other weed eradication programs to ensure the needs of the community are met. Coos County has titled the priority noxious weeds as Targeted ("T" designated weed) which provides a focus for prevention and control against such weeds. Specifically, "prohibited vegetation" shall include those plants identified as "T" designated weeds.**
- C. **It is the goal of the City of Bandon to intensely control noxious weeds within the city limits and other areas under city jurisdiction. The focus of this effort will be on weeds identified on the Coos County Noxious Weed "T" List. This list names several invasive species targeted for prevention and control within Coos County including Gorse, Knotweed, English Ivy and others. Of this "T" List, the highest priority for compliance & enforcement will be given to Gorse (Ulex europaeus), which poses the greatest**

threat to human health & safety, is a growing negative impact to the area economy and has been a significant fuel source in historic catastrophic fires.

- D. Gorse occupies large portions of the city and surrounding area and contains highly volatile oils which make it an extreme fire danger. It is a highly invasive plant with a prolific seed bank that remains viable in the soil for decades. Management and control of Gorse requires intensive and on-going measures to:
 - 1. Remove existing plants/colonies,
 - 2. Prevent the emergence of re-growth and new seedlings from flowering, and
 - 3. Prevent further seed spread.
- E. Prohibited vegetation must be removed in all areas.
- F. Compliance with this code on prohibited vegetation is expected to occur primarily through voluntary compliance. The City will utilize the enforcement power granted in the Bandon Municipal Code in Chapter 8.12 to obtain compliance when the prohibited vegetation presents a high risk of fire or of spreading to adjacent public or private properties. Such enforcement action will include citation to Municipal Court seeking the imposition of fines.

As used in this section, the term "noxious vegetation" means ~~vegetation left unmanaged which creates traffic visibility problems at intersections or poses a threat of conflagration that may endanger the safety and welfare of the citizens of Bandon. Noxious vegetation includes:~~

- 1. ~~Irish furze (also known as gorse) or Scotch Broom more than twelve (12) inches high, except when maintained as prescribed in subsection B of this section;~~
 - 2. ~~Poison oak;~~
 - 3. ~~Blackberry vines, except when maintained as prescribed in subsection B of this section;~~
 - 4. ~~Any vegetation, including grass and weeds, that:
 - a. ~~Poses a fire hazard because it is dry and more than twelve (12) inches high; and within one hundred (100) feet of a structure or opened public right of way, or within thirty (30) feet of other types of combustibles;~~
 - b. ~~Encroaches onto an opened public right of way or across a property line;~~
 - c. ~~Poses a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous;~~
 - d. ~~Creates an unsafe area to which children may be attracted;~~
 - e. ~~Is used for habitation by trespassers;~~
 - f. ~~Harbors rodents or other animals that pose a health threat to humans; or~~
 - g. ~~Are listed as noxious by federal, state or county authorities.~~~~
- B. ~~The term "noxious vegetation" does not include:~~
- 1. ~~Vegetation that constitutes an agricultural crop;~~
 - 2. ~~Vegetation if its removal may be inadvisable because it exposes the land to erosion;~~
 - 3. ~~Vegetation (except Irish furze, Scotch broom and blackberry vines) that is maintained as an ornamental hedge, privacy screen or windbreak no wider than approximately five feet;~~
 - 4. ~~Vegetation that is maintained as a safety barrier at the top edge of a steep slope or other hazardous location;~~

5. ~~Irish furze (gorse), Scotch broom or blackberry vines up to four feet in height that are maintained as a barrier to trespassers but do not encroach on a public right of way, cross a property line or create a fire, health or traffic hazard within the meaning of subsection A of this section;~~
6. ~~Vegetation used to control the spread of gorse; or~~
7. ~~Trees.~~
- C. ~~It shall be the duty of the owner or person in charge of property to cut down or destroy any noxious vegetation as often as needed to prevent the health and safety hazards described above.~~
- D. ~~No owner or person in charge of property abutting the right of way of an opened street or public sidewalk (whether part of a street easement or right of way or located on public land) shall permit vegetation to interfere with adjacent street or sidewalk traffic. It shall be the duty of an owner or person in charge of such property to keep all vegetation trimmed so that any overhanging portions are at least twelve (12) feet above the vehicular travel surface (roadway). No person shall maintain vegetation in an opened public right of way within five feet of the travel surface, which hinders pedestrian traffic adjacent to the roadway, provided that trimming or removal of trees on public property, easements or rights of way shall be the responsibility of the city.~~

PASSED and ADOPTED by the City Council, on a roll call vote, this 1st day of July, 2019.

Mary Schamehorn, Mayor

Attest:

Denise Russell, City Recorder