

9. Second Reading and Public Reading

9:45 A.M.

- b. **ORDINANCE 10-008 PERTAINING TO BRAZILIAN PEPPER ERADICATION; AMENDING SUBSECTION 2 (b) OF ORDINANCE NO. 05-008 BY AMENDING THE BRAZILIAN PEPPER ERADICATION MAP REFERRED TO IN THAT SECTION; BY IMPLEMENTING A NEW MANDATORY ERADICATION ZONE NO. 5, IN ADDITION TO THE MANDATORY ERADICATION ZONE 1 REFERRED TO IN SECTION 3 OF ORDINANCE 98-02, ZONE 2 IN SECTION 2 OF ORDINANCE 00-15, ZONE 3 IN SECTION 2 OF ORDINANCE 02-07, AND ZONE 4 IN SECTION 2 OF ORDINANCE 05-008, AND DIRECTING THE CITY MANAGER TO MAINTAIN ON FILE IN THE PUBLIC RECORDS A COPY OF THE BRAZILIAN PEPPER ERADICATION MAP AS AMENDED AND THE DESCRIPTION OF THE MANDATORY ERADICATION ZONES (1, 2, 3, 4, AND 5); PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE**

**City of Sanibel
Natural Resources Department**

Memorandum

July 12, 2010

TO: Judie Zimomra, City Manager

**FROM: Holly Downing, Environmental Specialist
Rob Loflin, Natural Resources Director**

**RE: Brazilian Pepper Eradication Program
Request to transition Zone 5 to “mandatory” phase and to establish
Zone 6 as the next and final zone in “voluntary” phase**

Brazilian Pepper Eradication Program Summary

In 1992, the City of Sanibel and its partners at the Sanibel-Captiva Conservation Foundation (SCCF) and the U.S. Fish and Wildlife Service began a coordinated effort to collectively eradicate Brazilian pepper (*Schinus terebinthifolius*) from the island’s conservation lands, as the first step in the environmental restoration of these lands. **Today, Sanibel’s conservation lands, accounting for nearly 70% of the entire island, are free of Brazilian pepper** and maintained “pepper-free” through the implementation of a perpetual rotating maintenance program including herbicide treatments, mowing, prescribed fire, and native plant enhancements.

Shortly after efforts began to eradicate Brazilian pepper from the island’s conservation lands, City Council adopted the Brazilian Pepper Eradication Program with an ambitious goal of eradicating the invasive exotic pest plant from all areas of the City including private, developed and undeveloped, residential and commercial properties. Due to the high cost of such a comprehensive program, the City implemented a phased approach designed to systematically eradicate pepper within six geographic implementation zones (Zones 1-6; see attached map). This was to allow for improved management and complete eradication of Brazilian pepper in one zone before progressing to the next zone.

Following a zone designation by City Council, Brazilian pepper eradication may be conducted during the “voluntary phase” or subsequent “mandatory phase”. During the voluntary phase (approximately 1 year), the City offers incentives to property owners to help reduce the cost of removing pepper. In the past, these incentives have included free curbside pickup of *unbundled* pepper debris and an opportunity for 20% reimbursement towards the cost of pepper removal. Once Council designates a zone as “mandatory”, property owners are no longer eligible for the voluntary phase incentives. After 90 days, the zone is surveyed by Natural Resources staff (via roadside inspections) and those properties that still have pepper are subject to code enforcement actions (Warning Letter, Notice of Violation, Notice of Hearing) until the pepper is successfully eradicated.

Recent Accomplishments and Staff Recommendations

After quickly achieving compliance in Zones 1 and 2, progress in Zone 3 was severely delayed with the onslaught of Hurricane Charley and subsequent algae blooms that demanded significant time and resources from Natural Resources (NR) staff. However, in September 2008, NR conducted a final roadside survey through Zone 3 resulting in 167 violations (as compared to more than 400 violations during the initial survey in 2002). At this time, fewer than 10 active cases remain.

Zone 4 was designated "mandatory" by City Council on June 7, 2005. In 2007, Brazilian pepper violation notices were sent to approximately 155 property owners and approximately 50% compliance achieved. Further code enforcement in Zone 4 was deferred to allow staff to focus on final code enforcement actions in Zone 3 as noted above. With Zone 3 nearly in compliance, a final survey of Zone 4 is scheduled for completion by July 16, 2010, with initiation of final code enforcement actions to follow. Notably, this survey will be the first survey conducted utilizing the City's ultra-mobile, hand-held computers. A simplified interface designed specifically for the Brazilian Pepper Eradication Program was developed in cooperation with the City MIS Department and the Lee County GIS Department. As a result, these computers, when not in use for post-disaster property damage assessments, can be used in the "field" to document the presence of Brazilian pepper and will significantly reduce the amount of time and effort required to process the data in the office. Previously, the presence of Brazilian pepper was indicated on a series of paper maps displaying enlarged aerial images of the subject zone and reconciled with data provided by the Lee County Property Appraiser.

To keep the eradication effort moving forward in a timely fashion, NR staff recommends that Zone 5 of the City's Brazilian Pepper Eradication Program be designated as "mandatory", effective 90 days after adoption of the attached Ordinance (10-008). To date, during the voluntary phase, the City has issued reimbursements to sixteen Zone 5 property owners. Implementation of the mandatory phase will end all opportunities for City incentives and will provide property owners a final 90-day period to remove any remaining Brazilian pepper without code enforcement action. During this period, as an alternative to complete Brazilian pepper removal, property owners with *more than one acre of land* may submit a Brazilian Pepper Eradication Plan (as per Ordinance 98-02, Section 2.e) for review by the City Manager requesting additional time for compliance. Once Ordinance 10-008 goes into effect, NR staff will conduct a final roadside survey of the entire Zone and proceed with code enforcement actions as necessary.

Staff also recommends that Zone 6, to include all property west of the centerline of Rabbit Road to and including all properties on Jamaica Drive, be established as the next and final "voluntary zone" (see the attached map). With this designation, property owners within Zone 6, upon filing a Brazilian Pepper Removal Agreement and a satisfactory site inspection by City staff, will be eligible to receive a 20% reimbursement from the City towards the cost of Brazilian pepper removal. Property owners that were previously required to remove Brazilian pepper as a condition of a Development Permit issued after May 15, 1990 are ineligible for reimbursement. As has been done in the past, letters will be sent to all property owners within the Zone, notifying them of the Brazilian Pepper Eradication Program and available incentives. Additional notifications will be made with press releases in local newspapers and via www.mysanibel.com. Staff will also work with the City's vegetative waste hauler to schedule additional pick-ups of Brazilian pepper debris and coordinate with the Vegetation Committee for assistance with initial surveys.

Current Status by Zone

PUBLIC LANDS

LOCATION: City, SCCF, and USFWS properties island-wide
STATUS: Perpetual rotating maintenance of ~7,700 acres (~70% of the island)

PRIVATE LANDS

Zone 1

LOCATION: Lighthouse Beach Park west to Lindgren/Causeway Road
PHASE: Mandatory; March 1998 (City Ordinance 98-02)
STATUS: In Compliance (July 2000)

Next action(s): Follow-up on citizen complaints; repeat roadside and waterfront survey

Zone 2

LOCATION: Lindgren/Causeway Road west to Dixie Beach and Casa Ybel Road
PHASE: Mandatory; August 2000 (City Ordinance 00-15)
STATUS: In Compliance (April 2002)

Next action(s): Follow-up on citizen complaints; repeat roadside and waterfront survey

Zone 3

LOCATION: Seaspray Lane west to Blind Pass
PHASE: Mandatory; May 2002 (City Ordinance 02-07)
STATUS: 95% Compliance (May 2010)

Next action(s): Continue follow-up and code enforcement actions for remaining active cases

Zone 4

LOCATION: Dixie Beach and Casa Ybel Road west to Tarpon Bay Road
PHASE: Mandatory; June 2005 (City Ordinance 05-008)
STATUS: In progress; >50% of properties in compliance after Code Enforcement Actions in 2007

Next action(s): Final roadside survey to be completed by July 16, 2010 and remaining code enforcement actions initiated

Zone 5

LOCATION: Tarpon Bay Road west to Rabbit Road
PHASE: Voluntary; June 2005 (City Ordinance 05-008)
STATUS: In progress; informational reminder letters regarding the Program and voluntary phase incentives were mailed to all property owners (June 2006)

Next action(s): Requesting "Mandatory" designation from Council (July 2010)

Zone 6

LOCATION: Rabbit Road west to Jamaica Drive
PHASE: None
STATUS: None

Next action(s): Requesting "Voluntary" designation from Council (July 2010)

CITY OF SANIBEL

ORDINANCE NO. 10-007

AN ORDINANCE PERTAINING TO BRAZILIAN PEPPER ERADICATION; AMENDING SUBSECTION 2 (b) OF ORDINANCE NO. 98-002 BY AMENDING THE BRAZILIAN PEPPER ERADICATION MAP REFERRED TO IN THAT SECTION; BY IMPLEMENTING A NEW MANDATORY BRAZILIAN PEPPER ERADICATION ZONE NO. 5, IN ADDITION TO MANDATORY ERADICATION ZONE 1 REFERRED TO IN SECTION 3 OF ORDINANCE 98-02, ZONE 2 IN SECTION 2 OF ORDINANCE 00-15, ZONE 3 IN SECTION 2 OF ORDINANCE 02-07, AND ZONE 4 IN SECTION 2 OF ORDINANCE 05-008; DIRECTING THE CITY MANAGER TO MAINTAIN ON FILE IN THE PUBLIC RECORDS A COPY OF THE BRAZILIAN PEPPER ERADICATION MAP AS AMENDED AND THE DESCRIPTION OF THE MANDATORY ERADICATION ZONES (1, 2, 3, 4, AND 5); PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sanibel Island's diverse and extraordinary native vegetation is one of its most cherished assets, is essential to Sanibel's natural environment, and provides the natural habitat for Sanibel's diverse wildlife populations; and

WHEREAS, the City of Sanibel deems the protection and preservation of the city's native vegetation to be necessary for the health, safety, and welfare of the City and its citizens; and

WHEREAS, it has been determined by the City of Sanibel that the exotic species known as Brazilian Pepper (*Schinus terebinthifolius*), is extremely detrimental and destructive to the sensitive native vegetation on Sanibel because of its tendency to out-compete desirable native vegetation and destroy wildlife habitat and is thus recognized as a public nuisance and a threat to the health, safety, and welfare of the City and its citizens; and

WHEREAS, Brazilian Pepper is difficult and expensive to eradicate due to its tendency to spread beyond the source, thereby creating a nuisance upon both public and private property beyond the source; and

WHEREAS, Brazilian Pepper has little or no utility and what utility there may be is far outweighed by the damage caused to native species; and

WHEREAS, The City of Sanibel, through the adoption of its Plan and its Land Development Code has established rules, regulations and procedures designed to control, remove and eventually eradicate Brazilian Pepper from Sanibel; and

WHEREAS, City Council pursuant to such policies and Resolution No. 97-89, established a program of providing support and assistance to property owners willing to voluntarily remove Brazilian Pepper from their properties, and continues to maintain the program; and

WHEREAS, The City has implemented and carried out a program to remove Brazilian Pepper where it has propagated in undeveloped areas and has urged owners of private property with Brazilian Pepper to remove their plants on a voluntary basis partially at the City's expense; and

WHEREAS, there remain a number of owners of private property where Brazilian Pepper is present who have not removed the Brazilian Pepper on a voluntary basis; and

WHEREAS, it is essential to Sanibel to eradicate all Brazilian Pepper from such properties and that it be kept from returning to properties located in Sanibel; and

WHEREAS, Brazilian Pepper is so prevalent in Sanibel that the eradication program must occur in steps so that physical and financial resources can be reasonably applied and so as to minimize the disruption of the island;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sanibel, Florida, that:

SECTION 1. Subsection 2(b) of Ordinance No. 98-02 is hereby amended, by amending the Brazilian Pepper Eradication Map referred to in said subsection, in order to implement a new mandatory Brazilian Pepper Eradication Zone, No. 5, as provided herein. [Reference: See Section 14-292 of the Sanibel Code.]

SECTION 2. In addition to the mandatory Brazilian Pepper Eradication Zone 1, created in Section 3 of Ordinance No. 98-02, and Brazilian Pepper Eradication Zone 2, created in Section 2 of Ordinance No. 00-15, the Brazilian Pepper Eradication Zone 3 created in Section 2 of Ordinance No. 02-07, and the Brazilian Pepper Eradication Zone 4 created in Section 2 of Ordinance No. 05-008, there is hereby created a new mandatory zone for implementation of the Brazilian Pepper Eradication Program under this ordinance, to be called Brazilian Pepper Eradication Zone 5. Zone 5 includes all property in the City situated west of the centerline of Tarpon Bay Road and east of the centerline of Rabbit Road between San Carlos Bay and the Gulf of Mexico. (see map).

SECTION 3. The Brazilian Pepper Eradication map dated May 6, 2005 is hereby replaced with the Brazilian Pepper Eradication map dated July 20, 2010, a copy of which is incorporated herein and attached to this ordinance, which shall be kept on file with the City Manager. The Mandatory Brazilian Pepper Eradication Program shall be implemented for Zone 5 effective 90 days after the effective date of this ordinance.

SECTION 4. Codification. This ordinance shall be deemed an amendment to Sanibel Code of Ordinances and shall be codified in the Sanibel Code of Ordinances as such an amendment.

SECTION 5. Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.

SECTION 6. Severance. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

SECTION 7. Effective date. This Ordinance shall take effect immediately upon adoption.

DULY PASSED AND ENACTED by the Council of the City of Sanibel, Florida, this ____ day of _____, 2010.

AUTHENTICATION:

Kevin Ruane, Mayor

Pamela Smith, City Clerk

APPROVED AS TO FORM: 
Kenneth B. Cuyler, City Attorney

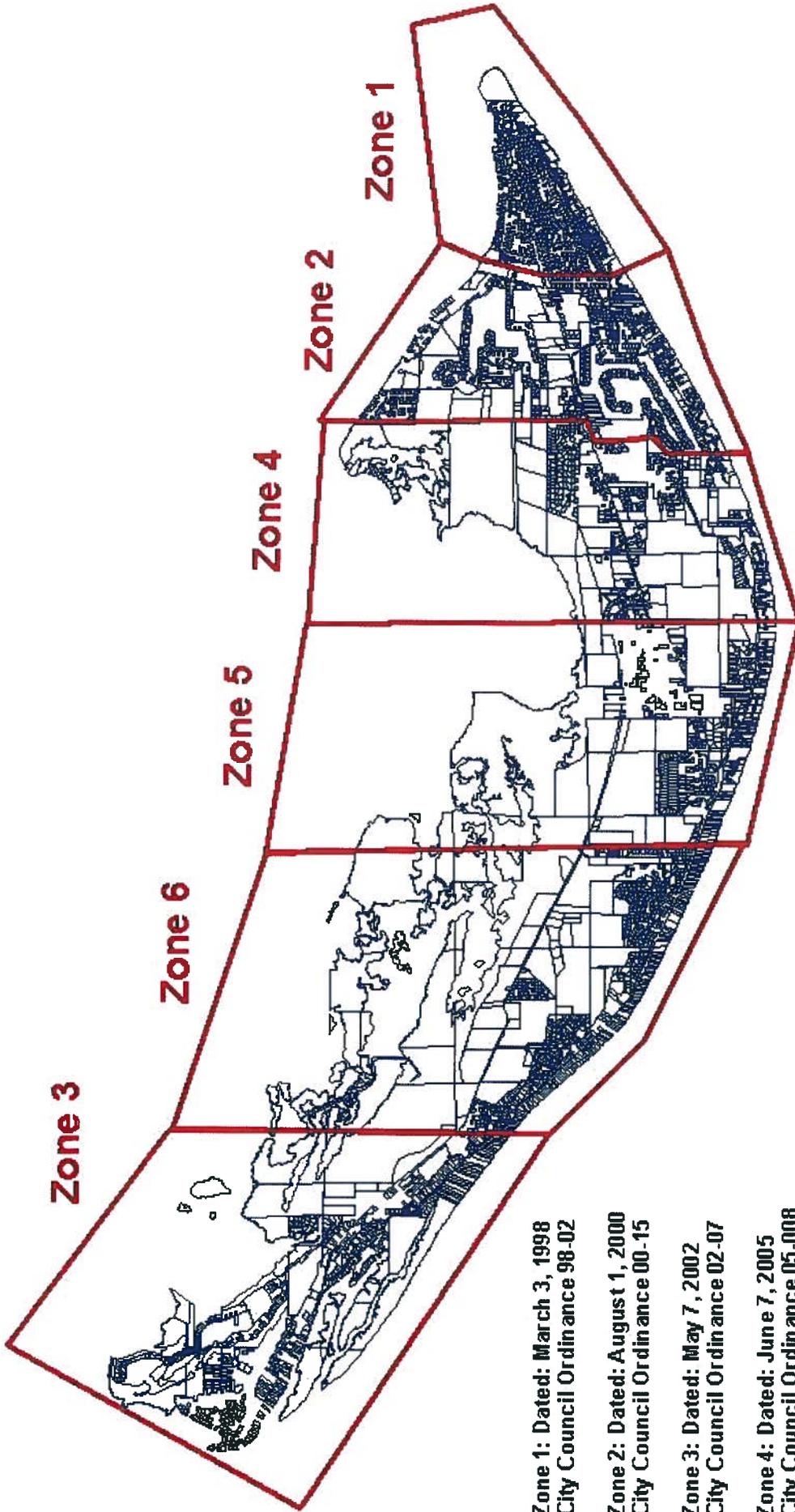
5/25/10
Date

First Reading: June 1, 2010
Publication Notice: _____
Second Reading: _____

Council Members Vote:

Ruane _____
Denham _____
Harrity: _____
Jennings _____
Pappas _____

Date Filed With City Clerk: _____



City of Sanibel
 800 Dunlop Road
 Sanibel, FL 33957
 (239) 472-3700



Brazilian Pepper Zone Map

Location Map

Date: July 20, 2010

