

ITEMS FOR CONSIDERATION
IN PREPARATION OF THE FAIRFAX COUNTY LEGISLATIVE PROGRAM
2021 VIRGINIA GENERAL ASSEMBLY

November 24, 2020

INDEX

ITEM FOR INITIAL CONSIDERATION

Environment – Invasive Species

2

ENVIRONMENT – INVASIVE SPECIES

PROPOSAL:

Consider a ban, or ability to ban, the sale of running bamboo, as well as possible civil authority that could be granted to a locality to penalize in the event that a property owner's bamboo causes problems for a neighboring property. Also require the Department of Conservation and Recreation to conduct a study to evaluate options for addressing the sale of invasive plant species to discourage their sale and complete the study before the 2022 session.

SOURCE:

Fairfax County Board of Supervisors
Fall 2020

BACKGROUND:

Virginia Code §2.2-220.2 defines "invasive species" as a species that is not native to an ecosystem and "whose introduction causes or is likely to cause economic or environmental harm or harm to human health." Examples of invasive plant species in Virginia include kudzu, English ivy, bamboo, and Oriental bittersweet. Invasive species present issues for property owners and local jurisdictions. The Park Authority uses volunteers to remove invasive species that are found in approved locations on County parkland, and that respond to manual control (this does not include bamboo). Volunteers can work on removing Oriental bittersweet, Japanese stiltgrass, Japanese hops, and porcelainberry, although larger vines of porcelainberry and Oriental bittersweet require herbicide (as do wisteria and Japanese knotweed). Japanese knotweed readily spreads through waterways, causing blockages, and, along with bamboo, is particularly difficult to treat.

Bamboo is one of the most problematic species to treat because it requires a full restoration effort. Park Authority staff maintain a list of known bamboo locations based on reports from County residents and park managers. The known locations are just a fraction of the problem, as Park Authority staff estimate that bamboo covers about 50 acres, distributed among 1/10 acre patches at about 500 different locations on park property. Restoration costs (i.e., bamboo removal, herbicide, replanting, and administrative costs) are estimated to be about \$30,000/acre, for a total cost of \$1.5 million. The estimated cost of addressing all invasive species on County parkland is likely far greater.

While legislation requiring nurseries to label all invasive species failed to pass the General Assembly (GA) in 2008, the 2017 GA enacted Virginia Code §15.2-901.1 which allows localities to adopt ordinances that would require the proper upkeep and containment of running bamboo, and penalize property owners that allow their bamboo to spread to public rights-of-way or adjacent properties. Running bamboo is defined as "any bamboo

that is characterized by aggressive spreading behavior.” Civil penalties for violations of the ordinance could range from \$50 for a first violation to as much as \$200 for subsequent violations. Additionally, the GA enacted legislation that enables localities to amend existing grass ordinances to include running bamboo.

The 2017 GA legislation also required the Department of Conservation and Recreation (DCR) and Department of Agriculture and Consumer Services (VDACS) to develop a model running bamboo ordinance. A few Virginia localities have opted to enact ordinances, including Stafford and Fauquier Counties.

Enacting a ban on bamboo raises some concerns, particularly relating to the complicated and costly nature of enforcement. Under the current grass ordinance, the County will cut grass and invoice the property owner for the cost when property owners do not comply after receiving notice of a violation. This enforcement occurs seasonally (May through October). Bamboo enforcement would need to occur throughout the year, and typically would be more involved and costly than simply mowing or trimming the bamboo, as that is only a temporary solution, and may actually exacerbate the problem of bamboo growth. Total eradication requires more intensive actions, in some cases including digging out the bamboo entirely. Clearing land for bamboo removal may be subject to County review and approval – in particular, clearing in a resource protection area (RPA) or clearing an area greater than 2,500 square feet requires approval from Land Development Services (LDS), and can be costly (ranging from \$10,000 to \$15,000). This presents another challenge for enforcement as well as for assessing a civil penalty – the penalty structure available in statute may not be significant enough to compel compliance or support the inspection and enforcement process. Additionally, because bamboo spreads quickly over a wide area, a ban could also lead to disputes over which property owner “owns” the bamboo, and thus is responsible for its removal. Further, issues could arise for new property owners who purchase homes without knowing that bamboo is present and yet will be responsible for its removal.

Locally, the “Plant NoVA Natives” campaign, a partnership among the Northern Virginia Regional Commission (NVRC), the Northern Virginia Soil and Water Conservation District, and a number of other interested parties, promotes native plants via demonstration gardens, outreach at community events, and working with area garden centers on displays and labels. Generally, there has been cooperation with local private nurseries in the region; however, one barrier to working with larger corporate sellers is that many of the decisions on inventory are not controlled by the individual stores. The third edition of the Plant NoVA Natives guide was published in May 2017, and remains available (there have been several reprints).

RECOMMENDATION:

Do not recommend pursuing legislation. Direct staff to form a work group, including County agencies as well as local nurseries among other interested stakeholders, to develop recommendations on limiting bamboo growth in the County. The task force could explore the development of a service district or fund that could assist homeowners with

the costs of bamboo removal, as well as reexamine the best approach for education efforts. Also direct staff to monitor for legislation regarding invasive plant species generally during the 2021 session and bring bills back to the Board for consideration.