



Memorandum

To: Mayor and City Council
From: Leslie A. Stovring, Environmental Coordinator
Eugene Dietz, Director of Public Works Services
Through: Carl Jullie, City Manager
Date: September 27, 2001
Re: Native Plant Ordinance

Synopsis

The amendment of the City Code relating to maintenance of vegetation is to allow the use of native plantings to encourage water conservation and habitat enhancement. Native plants also require less intensive maintenance, resulting in less usage of fertilizers and pesticides. This change would give individual residents more choices for conserving water and thus meeting the intent of the Water Surcharge that was enacted in 1997 to encourage water conservation.

Background

The City began advocating xeriscaping, or water-smart gardening, as a way of moving away from growing plants from radically different climates, such as traditional bluegrass turf, to ones that thrive in our specific region. There are a number of perennials, annuals, shrubs, trees and vines that perform well yet require minimal supplemental irrigation and resist disease and pests with minimal chemical usage. This can be done without sacrificing the aesthetic quality of the City's yards and instead focusing on the character and beauty that natural landscapes can provide. After established, a properly maintained native garden should appear full and healthy.

Potential Questions on Native Landscaping

There are a number of potential questions associated with native plant gardens, including vermin population growth, mosquito growth, allergies and the need for annual burns. Research into these issues was completed and the results indicated that:

- Natural vegetation does not typically provide the quantities of food required for sustaining large vermin populations.
- Native landscapes tend to absorb water quickly and are less likely than a watered, sod-covered lawn to provide for mosquito breeding.
- There are few native plants which give off allergen-type pollens as most native plants are insect pollinated, not air pollinated. It is the air-pollinated species, such as Kentucky bluegrass, which are commonly allergens. Hennepin County has also stated that common allergens are so wide spread that the growth of a small number of air-pollinated species within a residential yard is inconsequential.
- Controlled burns are not required to maintain native landscapes within a yard. Mowing each spring and removal of debris will expose the soil for warming by the sun, mimicking the action of fire.

Key Provisions of the Ordinance

There are a number of issues addressed within the ordinance that may arise as a result of the new native planting guidelines. They include:

- It is unlawful for an owner or occupant to allow “noxious weeds” as defined by Minnesota Statutes or volunteer plants which are not customarily or intentionally planted to grow on their lot.
- Setbacks are required. They are 10 feet from the side and rear lot lines and 20 feet from the front yard lot line. The side and rear setbacks can be waived if there is a completely opaque fence with a minimum height of 5 feet.
- Prior vegetation, such as turfgrass, must be eliminated and the native grasses, sedges and forbs planted through transplanting or seed. This is to prevent “just letting the grass grow”. In addition, all natural areas must be marked with a sign advising that a meadow or prairie is being established in areas likely to be seen by the public.
- Plantings prohibited within the zoning district in which the planting is proposed, such as those provisions outlined in Section 11.50 the Shoreland Management Ordinance or Section 11.03 regarding sight line setbacks from intersections, would also be prohibited in this ordinance.
- All native-planting areas must be mowed a minimum of once annually between April 15 and June 1 to a height no greater than 8 inches.
- The City would **not** be responsible for damage to landscaped areas resulting from public works improvements or snow removal activities. The City may also require removal of native plantings from within right-of-way areas at no expense to the City.
- Work within conservation easement areas, including not mowing and cutting, requires written authorization from the City.
- Failure to comply with this ordinance, including setback, weed and annual cutting requirements, shall result in cutting of the vegetation and/or treatment of the weeds and the expenses thus incurred shall be a lien upon the lot or parcel for the amount of the cost incurred by the City.

Neighborhood Values

A concern has been discussed at staff level regarding the issue of the proximity of native grasses to lots occupied by someone with different values. The provisions for of setbacks or fences address this issue. However, there is the possibility that native vegetation could be installed next door to someone that values a manicured lawn.

Attachments

Proposed Ordinance
Survey of Local Ordinances

| <u>CONTACT</u> | <u>RESULTS</u> |
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| <p>City of Minnetonka Dean Elsted Planning Dept. 952-939-8217 Section 845.030 – Special Provisions: Lawn Maintenance</p> | <p>The City adopted an ordinance that allows citizens to install native plant landscaping that is “properly managed and maintained” approximately 10 years ago. The ordinance was instituted as the result of a lawsuit in which a resident contended that the City’s prior ordinance was too vague and that it infringed on their right to grow a native landscape in lieu of sod. Their previous ordinance was a basic ordinance stating that all vegetation over a certain height had to be mowed, similar to Eden Prairie’s. The City attorney agreed that the resident would likely win the lawsuit and the City drafted an ordinance that would allow native landscaping while regulating it.</p> <p>There have been few issues resulting from the ordinance and most residents have been very cooperative in allowing native plantings. They do have a few residents that have native landscape areas in place. Most native planting areas are within new construction where non-turf areas are part of the development plan. The majority of the complaints, of which there are few, are in the fall when the plants start looking a little overgrown as they only need to mow once during the year.</p> <p>Ordinance provisions include:</p> <ul style="list-style-type: none"> • Establishment of meadows and prairies is allowed, but not lawns or weeds left to “go natural”. Prior vegetation must be eliminated and the native vegetation planted through transplanting or seed by human or mechanical means. • A definition for “weeds” includes noxious weeds such as cocklebur, crabgrass, dandelions, quackgrass and ragweed. Weeds would also include anything that is horticulturally out of place, such as a tree seedling in a vegetable garden. Weeds are not to exceed a height of 10 inches, except in certain areas such as wetlands, ponds or other non-occupied areas that have never been graded, landscaped or mowed (City parks, etc.). • The area must be cut at least once per year to a height no more than 10 inches if the area contains more than 25% weeds. Once there are weeds of less than 25% of the area, no mowing is required. • There are no setback requirements. • A landscaping plan is only required if there is a question over whether a planting is “intentional” or not. • Large planted areas must have signage indicating that a restoration is in process. The sign must be a minimum of 10 inches by 10 inches and less than one foot by one foot. The sign must be located in an area which residents are likely to see it. |

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| <p>City of Crystal Kelly Yeager Assistant City Forester 763-531-1000 Section 6.40 - Vegetation</p> | <p>Their ordinance promotes and encourages private residential applications of native plant landscaping. The ordinance was passed with little controversy and there have been no complaints since passage. There are a few residents taking advantage of the ordinance, three that she knows of. She did handle one complaint this year, but the resident's yard did meet the native plant requirements.</p> <p>Ordinance provisions include:</p> <ul style="list-style-type: none"> • The City retains the right to cut any grass or weeds that represent a nuisance or hazard. • There is a 15 foot setback from the front street or side street (from the edge of pavement), and six feet from the rear or side yard (as measured from property line). • The setback is waived if there is a fully opaque fence at least five feet in height installed on the lot line. • The setback is defined as requiring regularly mowed turf grasses, which is defined as included blue grass, fescue or rye grass blends or other similar grasses. • Planned landscape areas must be cut at least once annually between April 1 and November 1 to a height no greater than 10 inches. • The landscaping plans must be submitted to the City Forester for review and approval. • The ordinance also specifically exempts parks and natural areas owned by the City and rights-of-way owned by the count and state. |
| <p>City of Eagan Pam Dudziak City Planner / Weed Inspector 651-681-4691 Section 7.08 – Regulation of grass, weeds, trees, and landscaping</p> | <p>The City of Eagan implemented a revised “weed ordinance” in 1990. The City has experienced few complaints with the native plantings in residential area. Only a few residents have installed native garden areas. One site they have been working with is Delta Dental, a company that converted large portions of their yard area to native landscaping. Complaints have centered on residents who are not aware that this is a native plant restoration area due to the lack of signage at the company. However, this area was done professionally and does look as intended. Delta has also reported a significant decrease in maintenance costs, including watering.</p> <p>Eagan’s code allows for establishment of woodland or meadow conditions for no more than 50% of all maintained areas requiring turfgrass. This includes the following provisions:</p> <ul style="list-style-type: none"> • The vegetation presently existing in the proposed restoration area shall be entirely eliminated and re-vegetated. • No noxious weeds or prohibited tree species are allowed. Prohibited trees are defined as female ginkgo, box elder, non- |

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| | <p>disease resistant elm, and non-hybrid cottonwood.</p> <ul style="list-style-type: none"> • A setback of 3 feet of turfgrass is required along the property edge where the restoration area abuts turfgrass areas on adjoining properties. • Soil erosion shall be controlled during the transition period of the restoration. • Turfgrass and other areas not covered by this ordinance are to be maintained at a height of 6 inches or less. • Areas exempt from the 6-inch mowing requirements include wetlands, floodplains, drainage ponds or ditches, pasture land, steeply sloped areas and restoration areas. |
| <p>City of Edina Vince Cockriel Park Superintendent 952-927-8861 and Lowell McCarty Retired weed inspector 952-922-5193 Section 1050 – Maintenance of Vegetation</p> | <p>The City of Edina has had a native landscaping plan that states that the area has to be a planned landscape or restoration area. The City has not had any problems with determining which are planned or not planned and ordering cutting for “unkempt” or “weedy” lawns. Overall, they are very satisfied with the ordinance.</p> <p>There has not been much controversy and are few complaints, especially after the residents learn what their neighbor is doing and why. They did have one complaint where the plantings were going beyond the setback area, but that was within the boundaries of the ordinance and was fixed. The majority of the native areas are on hillsides and were done with professional contractors. There are about 10 residents who have “whole yard” natural areas. Most are for smaller areas within the overall yard.</p> <p>Ordinance provisions include:</p> <ul style="list-style-type: none"> • Setbacks of 20 feet for street or side street sides and 5 feet for side or rear yards • Setback can be reduced to 0 if there is: <ul style="list-style-type: none"> • a fully opaque fence of at least 5 feet in height, • a restoration area in adjoining lot, • a public park, open space or vacant lot next to it, • a wetland, pond, lake or stream, • or the slopes are greater than 3:1. • Setback must contain pavement, rock, gravel, wood chips, regularly mowed turf grass, trees and/or shrubs. • The weed definition includes primary and secondary noxious weeds as well as “any volunteer plant, except trees and other woody vegetation, which is not customarily or intentionally planted”. |
| <p>City of Plymouth Lara Newberger Forestry Technician & Weed Inspector 763-509-5946</p> | <p>Residents are allowed to request that portions of their property be designated a “Natural Preserve”. This formal application process includes a petition that must be signed by all adjacent landowners and approved by the City Council. However, they discourage most residents from going through the formal process as the</p> |

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| | <p>Preserve area designation is intended for large restoration projects and would not include smaller landscape areas.</p> <p>They do work with homeowners to establish native-planting areas in back yards or adjacent to wetlands or other natural areas, similar to what Eden Prairie currently does. They also encourage signage of native plant restoration areas as they find it cuts down on neighbor complaints. They have also found that maintaining a buffer between yard areas helps stop encroachment of native plants into adjacent yards. The Natural Preserve / native plant areas must be kept free of Minnesota designated noxious weeds and must have a buffer of mowed vegetation adjacent to roads or paths. The City has over 20 Natural Preserve areas.</p> |
| <p>City of White Bear Lake Jim Robinson City Planner 651-429-8561</p> | <p>They have had a native plant ordinance for over 3 years now. The City has only had one complaint in this time. The complaint was settled relatively amicably and the native garden remained in place.</p> <p>Their ordinance was done very simply and includes a single provision. Their ordinance allows native grasses to exceed the City's 12-inch height restriction as long as the vegetation is set back a minimum of 20 feet from the property line and is part of a garden or landscape treatment.</p> |
| <p>City of Minneapolis Chuck Ballantine Planning Director 612-673-2616 Section 530.150 – General Landscaping and Screening</p> | <p>They allow use of native grasses within the landscaping and screening areas of developments. Use is encouraged to provide for interception and filtration of stormwater, to limit required maintenance, preserve or restore natural amenities and to conserve energy through shading and windbreaks.</p> |
| <p>City of Woodbury Steve Kernik Environmental Coordinator 651-714-3536 Section 15-7 – Lawn Maintenance</p> | <p>Their “weed ordinance” was recently amended in February 1997 to allow native landscaping. This was done to allow a variety of landscapes within appropriate locations within the City and also to address vacant lot issues. Approximately 50% of the calls they got were due to vacant lots, the remaining were due to either residents who already were doing native landscaping or those who were not mowing their lawns.</p> <p>Since passage of their ordinance, the number of complaints has dropped significantly, especially as residents became aware that vacant lots were exempt from the mowing requirements unless they had a significant amount of noxious weeds. This year he has only received two complaints about neighbors and both were in compliance with the ordinance. They had their 2nd annual landscaping tour and over 100 people attended the event.</p> <p>Natural areas are allowed on residential and non-residential areas, up to 35% of the rear lot in most cases. In general, vegetation</p> |

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| | <p>must be 8 inches or less within 20 feet of buildings and within 20 feet of the curb or shoulder of roadways. There are a number of areas that are exempt from the 8 inch or less requirement. This would include maintained “gardens”, wetlands, wetland buffers, drainage ditches, steep slopes, vacant lots and berms greater than 4 feet high among others.</p> |
| <p>City of St. Paul Ed Olsen Public Works Dept. 651-488-7291</p> | <p>The City of St. Paul does not have a native planting ordinance, but does have a provision for boulevard plantings to “improve the aesthetic appearance of city street, avenues and alleys”. The ordinance allows garden areas with plantings not-to-exceed 24 inches in height with no overhang, encroachment onto sidewalks, curb or street areas. There have been no complaints and very few sight line obstruction problems.</p> |
| <p>City of Bloomington Glen Shirley Parks Maintenance Supervisor 952-948-8700</p> | <p>They do allow private homeowners to convert yard areas to “alternative landscaping”, including native prairie, when there are no conflicts with neighbors. No formal ordinance covers these situations. They have a basic “weed ordinance” that does not allow anything over 12 inches in height. The City is considering adopting a native landscaping ordinance in the future, as interest in this type of landscaping is rising.</p> |