

INTRODUCTION

Background

Landscape alternatives to turf grass lawns can offer significant benefits to a community, including stormwater management, habitat, local food, and visual appeal. Nevertheless, vegetation must be maintained in order to protect public health, safety and the property value of adjacent lots. This ordinance balances these two interests by specifically allowing alternative landscaping techniques at the same time it provides standards for the maintenance of vegetation.

One of the major negatives associated with turf grass is the substantial amount of water required to maintain a lush, green lawn. According to the University of Minnesota Extension Services, turf grass lawns in Minnesota need to receive between 1 and 1.5 inches of water a week during the summer. Therefore, each square foot of turf grass needs approximately 11 gallons of water to stay green between the beginning of June to the end of August. For a suburban 4,000 sq. ft. lawn, that could amount to 44,000 gallons of water per summer! While some of this water may come from rainfall, in a dry year a large portion of it needs to be provided through irrigation. Although Minnesota is naturally endowed with abundant water, over-pumping of groundwater sources is causing declining water levels in aquifers. Moreover, turf grass lawns often require application of fertilizers, pesticides and herbicides which contribute to eutrophication and pollution in lakes, rivers and streams. By using low-maintenance alternatives to turf lawns, communities can protect ground and surface water resources, ensuring that future generations will have access to abundant, clean water resources.

We have chosen to focus on three types of alternative landscaping, native landscaping, edible landscaping and rain gardens, because of their growing popularity and because they offer significant benefits to the community at large. We recognize that there may be many other alternative landscaping styles, and encourage you to modify this ordinance so that it addresses those relevant to your community.

Each type of alternative landscaping offers unique benefits to a community.

Native Landscaping - Native plants are those that grew in Minnesota prior to European settlement. Native landscaping can range from using native plants for their decorative value in a flower bed to restoring natural plant communities such as prairies or oak savanna. As compared to turf grass and non-native ornamental plants, native vegetation requires less irrigation, fertilizers, and pesticides. When homeowners use native vegetation rather than turf grass, less water is pumped out of groundwater aquifers for irrigation and fewer fertilizer and chemicals are washed into our lakes, streams and rivers. Native vegetation also provides food and habitat for birds, pollinators, and other wildlife.

Credits

This model ordinance was developed from a combination of language from existing landscaping ordinances and new language developed specifically for this model. Existing ordinances included:

- *Denver, CO Municipal Code, Chapter 57 – Vegetation, Articles III and V*
- *Edina, MN City Code, Section 1050 – Maintenance of Landscape*
- *Madison, WI Municipal Code, Section 27.05 – Safe and Sanitary Maintenance of Property*

Edible Landscaping - Edible landscaping refers to a practice of incorporating fruit and vegetable producing plants into the landscape in an attractive manner, appropriate for the front and back yard. Encouraging individuals to grow fruits and vegetables in their front and back yards increases local food security, ensures access to healthy foods, and addresses global warming by reducing fossil fuel use in transportation of foods.

Rain Gardens - Rain gardens are designed to collect and infiltrate stormwater that runs off of roofs and pavement, preventing it from entering the storm sewer system and polluting lakes, streams and rivers. Rain gardens typically consist of shallow depressions planted with native plants that are adapted to moist conditions and that have deep roots to help stormwater seep into the ground quickly. Encouraging homeowners to construct rain gardens is an important way for a community to protect surface water resources and recharge ground water.

Sources:

- 1) *Watering Lawns and other Turf*. Don Taylor. 1998. University of Minnesota Extension. Department of Horticulture. <http://www.extension.umn.edu/distribution/horticulture/DG2364.html>

I. Authorization, Findings and Purpose

A. Statutory Authorizations

B. Findings - Model Community finds that traditional turf grass lawns require large amounts of water, fertilizers and chemicals pest controls to maintain. Using large amounts of water to maintain lawns threatens Model Community’s groundwater supply while fertilizers and chemical pest controls pollute our lakes, rivers and streams. Alternative landscape techniques have significant advantages over turf grass, specifically:

1. Native vegetation requires less moisture, fertilizers, and pesticides and places less stress on the public’s water resources. Native vegetation also provides food and habitat to wildlife.
2. Rain gardens filter and infiltrate stormwater, thereby protecting surface water from polluted runoff and recharging groundwater resources.
3. Producing foods locally:
 - a. Increases local food security;
 - b. Addresses global warming by reducing fossil fuel use in transportation of foods; and
 - c. Addresses the obesity epidemic by insuring access to healthy, fresh foods.

C. Purpose - The purpose of this Section is to prohibit the uncontrolled growth of vegetation, while encouraging the planting and maintenance of native vegetation, edible landscapes, and rain gardens. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. Providing standards regarding the maintenance of vegetation and encouraging diverse landscaping meets the following goals of Model Community’s Comprehensive Plan:

1. Create and maintain attractive and safe neighborhoods.
2. Restore Model Community’s native vegetation.
3. Encourage the local food production system.
4. Protect and improve Model Community’s surface waters through increasing on-site infiltration in existing developed areas.

II. Applicability - This Section applies to lots in residential zoning districts or residential lots in mixed use districts.

III. Definitions - Words and phrases used in this article shall have the following meanings ascribed to them:

Clearing or Clear - The trimming and/or removal, as appropriate, and the proper disposal of vegetation.

Landscape Area - The area of the lot between the minimum building setback and the street of the official address of the lot.

Native Grasses and Forbs - Grasses, including prairie grasses, and flowering broad-leaf plants which are indigenous to the State.

Native Plant Communities - Groups of native plants which generally occur together in an area. Examples include wet prairie, dry prairie, oak savannah, or maple-basswood forest.

Ornamental Plants - Grasses, perennials, annuals, and groundcovers not indigenous to the State. Ornamental grasses and groundcovers do not include turf grasses.

Owner - Any person or entity having a legal or equitable interest in real property and its fixtures and appurtenances, including the interests of a tenant or lessee.

Property - Real property and its fixtures and appurtenances. The phrase “private property” shall include, in addition to the privately owned property, the adjacent land and improvements located in the public right-of-way from the street curb or edge of the road to the property line and in any public alley from the centerline of the alley to the property line.

Rain Garden - A depression planted with native vegetation that filters and infiltrates rain water.

Responsible Party - an entity or person who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to this article or is responsible for the maintenance or management of said property.

Restoration - The process of returning degraded native plant communities to their original species composition.

Restrictive Covenant - Includes any form of declaration of covenants, conditions, and restrictions or similar non-governmental mechanisms for controlling land use on private property, including rules, regulations, or guidelines implemented under the authority of restrictive covenants.

Unattended Vegetation - Overgrown or untrimmed shrubs, brush, or grasses; diseased, dead, noxious, or poisonous vegetative growth; weeds; and any other improperly maintained or inappropriate vegetation as proscribed in rules and regulations.

Vector - Any animal, insect, or other vermin that can transmit disease to humans or is the potential cause of a public health nuisance.

IV. Maintenance of Landscaping - The owner, agent, or lessee of any real property located within the city must provide regular weeding, pruning, and other maintenance of all plantings located on said private property. Plant materials which exhibit evidence of pests, disease, or damage shall be appropriately treated, and dead plants shall be removed or replaced.

V. Landscape Area

- A. **Landscape Area Defined** - The landscape area is defined as the area of the lot between the minimum building setback and the street of the official address of the lot.
- B. **Design Required for Alternative Landscaping** - Ornamental plants; native forbs and grasses; or vegetable and fruit bearing plants are allowed in the landscape area, but they must be planted pursuant to a design. The design must either be created by a professional landscape designer or be consistent with Model Community Soil and Water Conservation District (SWCD) standards.
- C. **Setback** - A three (3) foot setback must be provided along the sidewalk or street. A one (1) foot side yard setback is required but may be reduced to 0 feet if:
 - 1. A fence is installed adjoining the landscape area, or
 - 2. The planted area abuts:
 - a. a restoration area on any adjoining lot,
 - b. a public park or open space,
 - c. a vacant lot,
 - d. a wetland, pond, lake, stream, or natural area, or
 - 3. The landscape area is located on slopes equal to or greater than three feet horizontal to one foot vertical (3:1).
- D. **Composition of Setback Area** - The setback area required by Subd. (c) of this Subsection shall be composed of rock, gravel, wood chips, regularly mowed turf grass or a groundcover below ten inches in height.

Landscape Area Standards

In some communities, landscaping standards may be available from organizations such as the SWCD. If a local set of standards is not available, there are a number of different documents that may be appropriate for your community. One example is the Sustainable Yard Design Series, produced by the University of Minnesota's Metropolitan Design Center, available at http://www.designcenter.umn.edu/projects/past/past_04_07/housing/pdfs/SusYardSer_Final_011107.pdf.

Height Restrictions

Some communities may choose to include a vegetation height restriction for the front yard landscape area for safety and crime prevention reasons. Care should be taken to ensure that the height restriction does not prohibit fruit and vegetable producing plants or native plants that may grow taller than traditional ornamental plants. One approach may be to allow a certain percentage of vegetation in the front yard to exceed the specified maximum height. For example, 20% of vegetation (by area) may be allowed to exceed a maximum height limit. This would allow some taller plants while maintaining sightlines to the home from the street.

Restoration Standards

The MN DNR's brochure, *How to Use Native Plants for Landscaping and Restoration in Minnesota*, is available at http://files.dnr.state.mn.us/assistance/backyard/gardens/native_plant/nativelandscaping.pdf. Communities may wish to use this document or other documents developed by their local SWCD to provide instruction on how restoration projects should be installed and managed.

Setback Options

Communities may want to alter setback requirements to suit their unique cultural and geographic characteristics. This model is intended for small urban and suburban lots typical in areas with central sewer and water lines. Some communities may want to eliminate backyard or side yard setbacks and reduce street front setbacks. Conversely, communities with larger suburban lots may wish to specify a wider setback from the street or neighboring lot lines.

Rain Garden Standards

Many documents exist that could provide instruction to homeowners on how to properly install rain gardens. Blue Thumb is a program that provides information on using landscaping to protect surface water quality. Information on constructing rain gardens is available at their website, <http://bluethumb.org/>. The document *Rain Gardens: A How-to Manual for Homeowners*, is available from the MN DNR at http://files.dnr.state.mn.us/waters/watermgmt_section/shoreland/raingardenmanual.pdf.

VI. All Other Yard Areas

- A. **Plants Allowed** - Ornamental plants; native forbs and grasses; and fruit and vegetable bearing plants are allowed.
- B. **Restoration and Establishment of Native Plant Communities** - Restoration or establishment of native plant communities is allowed in the back yard. Restoration projects should be consistent with the Mn DNR's brochure, *How to Use Native Plants for Landscaping and Restoration in Minnesota*.
- C. **Setback** - A one (1) foot setback from neighboring property lines is required but may be reduced to 0 feet if:
 - 1. A fence is installed adjoining the planted area, or
 - 2. The planted area abuts (i) a planted area on any adjoining lot, (ii) a public park or open space, (iii) a vacant lot, (iv) a wetland, pond, lake or stream, (v) or natural area, or
 - 3. The landscape area is located on slopes equal to or greater than three feet horizontal to one foot vertical (3:1).
- D. **Composition of Setback Area** - The setback area required by Subd. (b) of this Subsection shall be composed of rock, gravel, wood chips, regularly mowed turf grass or a groundcover below eight inches in height.

VII. Rain Gardens

- A. **Rain Garden Location** - Rain gardens are allowed in front and back yards, but must conform with the setback requirements specified in Subsections 6 and 7.
- B. **Construction** - Rain gardens should be constructed consistent with the document *Rain Gardens: A How-to Manual for Homeowners*, available from the MN DNR.

VIII. Prohibition on Restrictive Covenants Requiring Turf Grasses

- A. **Prohibition** - Any restrictive covenant or any amendment to a restrictive covenant that becomes effective on or after _____, and that requires cultivated vegetation on property maintained by an individual property owner, shall not specify that any portion of the vegetation must be turf grass.

- B. **Construction** - This section shall not be construed as to restrict the voluntary use of turf grass on individually owned residential property.
- C. **Preferences for Alternatives to Turf Grasses** - If turf grass will not be installed, alternative landscaping, plantings and other decorative surface treatments shall be installed and maintained to present an attractive appearance.

IX. Violation

- A. **Unattended Vegetation** - Every owner and responsible party who fails to keep private property clear of unattended vegetation is in violation of this article and subject to the remedies and enforcement specified herein.
- B. **Prohibited Vegetation** - Every owner and responsible party is in violation of this article and subject to the remedies and enforcement specified herein if they fail to keep their private property clear of vegetation that:
 1. That presents a fire hazard;
 2. That attracts or harbors disease vectors;
 3. That obstruct sight lines for the traveling public on streets or alleys; or
 4. That includes noxious weeds or secondary noxious weed as identified by the State Commissioner of Agriculture pursuant to M.S. 18.171, Subd. 5.

- X. **Non-Conforming Landscape Areas** - Any planned landscape area or restoration area which lawfully existed prior to the effective date of this Section may continue to exist and need not comply with the requirements of Subsection 1050.04, but shall comply with Subsection 1050.05. Any expansion or addition to a non-conforming planned landscaped area or restoration area shall comply with all provisions of this Section.

Restrictive Covenants

This component of the Model Landscape Maintenance Ordinance prohibits homeowner's associations from creating or enforcing restrictive covenants requiring turf grasses. It protects to rights of homeowners to use alternatives to turf lawns such as groundcovers or native plantings. This subsection can be used in combination with the other components of the Model Landscape Maintenance Ordinance to provide comprehensive guidance about what homeowners can and cannot do with their landscape.

Violations

Each community will need to tailor the violations sections to suit their preferences for appropriate landscape maintenances. We encourage you to look at our model as a starting place for your own modifications.

In the interest of space, we have omitted basic administrative and enforcement sections. The City of Edina's Maintenance of Vegetation ordinance could provide an example of the type of language that is appropriate for these sections. http://www.ci.edina.mn.us/CityCode/L5-01_CityCode.Sect1050.htm

For More Information

The Metropolitan Council has compiled a Water Conservation Toolbox, available online at http://www.metrocouncil.org/Environment/WaterSupply/conservationtoolbox_residential.htm. This site provides information on how to conserve water and resources while maintaining turf grass and other landscape elements. It also provides links to a large number of useful websites with information on alternative landscape techniques.