Weeding Out Bad Vegetation Control Ordinances

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The telephone calls don’t come as often as before. That’s good. Back in the late ‘80s and early ‘90s maybe once a week, I (Bret) would field a homeowner’s call, maybe from Sarasota, maybe Seattle, asking for assistance because a municipality was threatening to mow down what a village official or neighbor considered "weeds." But what is a "weed" is in the eye of the beholder, and to these homeowners yards abounding with a rich tapestry of native grasses, forbs, shrubs and trees were not full of weeds, these yards were a treasure.

Before I joined the battle and took on the task of fielding these calls, most were handled through natural landscaping activists Lorrie Otto, in Milwaukee and Craig Tufts at the National Wildlife Federation, in Washington. For almost twenty years, these two worked tirelessly to defend natural landscapers charged with weed law violations. Like me, Lorrie and Craig would send out information about native plants, the benefits of natural landscaping, and why such yards are not a public-health risk. Sometimes they were successful in convincing villages to reconsider ill-conceived, Nature-hostile ordinances, but most of the time, in the early days, they were not. The mowers whizzed and roared as the ferns and forbs fell.

Although a lush green mask of Kentucky bluegrass remains the collective face of 32,000 square miles (82,500 sq. km.) of suburban and urban America, there is change in the air. The natural-landscaping "movement" has taken root and its adherents are a varied lot. They all share a common goal -- to harmonize gardening and landscaping practices with Nature. Unfortunately, some municipal officials still use weed laws to prosecute natural landscapers, reflecting outdated and misinformed ideas and attitudes. I still receive calls. Last month, for example, Oberlin College Instructor Stephen Douglas called me to ask for information to fight his village after a crew mowed down his yard of wildflowers while he was out of town.

The good news is that committed pioneers and newer converts, willing to question the status quo and who recognize the ecological and monetary consequences of landscape choices, are undermining the arbitrary legal and social barriers to gardening with Nature. And since the early days, natural landscaping has advanced on two fronts - legal and social. This article chronicles both, but first some history.

Historical Perspective

Some movements are evolutionary; others revolutionary, but as John Stuart Mill observed, every great movement must experience three stages: ridicule, discussion and adoption. Although landscaping with Nature manifests the basic principle that we are part of Her, not apart from Her,
the practice of natural landscaping encountered social barriers almost from the start. These barriers eventually took the form of land use regulations (usually weed laws) that inhibited natural landscaping and punished those who dared to grow rather than mow.

As Virginia Scott Jenkins shows in her 1994 book *The Lawn*, for more than a century Americans have been obsessed with lawn. In the late 19th Century the "arbiters of taste" decreed that Americans should have lawns and over the next 60 years organizations and institutions from the United States Department of Agriculture to the Garden Clubs of America and the United States Golf Association formally and informally embarked upon a campaign to landscape American yards with a carpet of green. In his book *Gardening for Pleasure* (1875), Peter Henderson summed up what was to become the prevailing social attitude for most of the 20th Century:

> We occasionally see some parsimonious individual, even now, who remembers that in his grandfather's days, grass was allowed to grow for the food of the "critters", and he leaves it for food for his "critters" still. . . . We have two or three notable examples of this kind in my immediate neighborhood, but it is gratifying to know that such neighbors are not numerous, for the example of the majority will soon shame them into decency.

Although wildflowers always had a place in American gardening, they were essentially novelties and were generally not considered a serious part of "civilized" landscape planning. Ironically, even as Aldo Leopold was articulating the land ethic in the 1940s, the lawn ethic was becoming fully ensconced. By the 1950s, decades of priming the pump by industry, the USDA, USGA, the Garden Clubs of America, and others, coupled with the post-war boom in suburban development led to the nearly universal use of lawns as the only acceptable home landscape. Production and sales of herbicides, pesticides, irrigation equipment and everything else needed to make the lawn "beautiful" grew exponentially. For example, annual lawnmower sales grew from 362,000 in 1947 to 4 million by 1961 (Jenkins).

By the 1970s, the natural landscape movement emerged from infancy as it gained professional recognition and a modest measure of formal organization. In 1972, landscape architect Darrell Morrison, then a professor at the University of Wisconsin in Madison, designed Walden Park in Madison as a predominately native landscape. That same year, the National Wildlife Federation began its Backyard Wildlife Program. Meanwhile, The Nature Conservancy started the North Branch Prairie Project in the forest preserves around Chicago, building on a theme espoused by Jens Jensen decades earlier. In 1979, Wild Ones Natural Landscapers, Ltd. was started by nine ladies in Milwaukee to promote natural landscaping.

In 1983, the National Wildflower Research Center was founded in Austin. Ridicule was still heard, but less often. Recently, The National Audubon Society has worked with the USGA to incorporate natural landscaping and native plants in golf course design. Awareness of the merits of natural landscaping continued to grow through the 1980's as organized natural landscaping efforts grew in popularity. For example, more and more states began to landscape highway rights-of-way with native plants and the federal government began promoting this approach through a USDOT program headed by Bonnie Harper-Lore. In 1984, the Center for Plant Conservation was started in Boston to conserve and protect native plants of the United States. Meanwhile, at the courthouse . . .
From Persecution to Acceptance

While natural landscaping was beginning to catch on in pockets here and there, on Main Street it was still business as usual, and one could hear people comment that naturally inspired yards simply "don't look nice." Such shallow comments demonstrate, perhaps, the underlying motivation that some feel to control the actions of those who dare to be different, or an inherent apprehension of the unknown. Arguably, if "pretty is as pretty does," then it is the lawn that stands as grotesque, for it is this exotic landscape that requires biocides, fertilizers and gallons of supplemental water to look healthy. As someone once said, the lawn is a "drug-addicted" landscape - artificial and unhealthy.

Ultimately, the aesthetic argument against natural landscaping is illogical. One man's weed is another man's rose. To some, pink plastic flamingoes, polka-dot bloomered cardboard ladies, twirling plastic sunflowers, astro-turf-covered front stoops, and perfectly sculpted evergreens look simply ridiculous; but to others, such landscaping is beautiful. People have a right to astro-turf-covered stoops, closely cropped evergreens, and spinning plastic sunflowers in their yards. But by the same token one might argue that individuals also have the right to a natural stone walkway, free-flowing native shrubs and forbs, and real sunflowers reaching to the sky in a blaze of gold.

"Weeds" Outlawed

Fortunately, some have raised these same questions, and standards - both social and legal - have changed considerably. In some areas, the last two decades have witnessed a steady evolution of attitudes from outright prosecution, to acceptance, then ultimately to enthusiastic promotion of natural landscaping.

Not surprisingly, the first response to the modern natural landscape movement was defensive. Historically, there have been four "generations of weed laws." The first and most onerous of these was enacted in the early to middle part of this century and merely outlawed "weeds," usually above some arbitrary height. A 1945 Chicago ordinance typifies those early laws. It outlaws "any weeds in excess of an average height of 10 inches." But what is a weed? This ambiguity provided hostile neighbors and misinformed municipal officials a weapon to thwart well-meaning natural landscape efforts. As the result of a 1990 lawsuit, the City of Chicago represented that it would not prosecute legitimate natural landscapers and would instead apply its weed law to rank and unintended growth (Rappaport, 1993; Rappaport, 1996). Mayor Richard M. Daley, a committed environmentalist, has recently called for a prairie restoration as part of the conversion of a local airport, Meigs Field, to park land, and downtown prairie plants grow in the median planters down the center of LaSalle Street just outside City Hall. Milwaukee had a similar law which had been used to prosecute natural landscapers in the 1970's and 1980's. But today, that city, like Chicago, embraces natural landscaping. In 1996, Mayor John Norquist extolled the virtues of natural landscaping at a gala dinner honoring Lorrie Otto’s lifetime of achievement.

Weed laws properly drafted and applied have a place. Invasive and noxious plants are an ecological and public health hazard (Rappaport, 1993). However, some uninformed government
officials and citizens believe that natural landscapes cause problems with pollen, fire hazards, rats, and mosquitoes (Rappaport, 1993). These mistaken beliefs are soundly refuted by testimony and studies. Natural landscapes are not a fire hazard; prairie grass burns quickly and at a low temperature (Rappaport, 1993). Furthermore, most natural landscapes comprise mostly green, leafy material that does not burn readily (Rappaport, 1993). Natural landscapes do not encourage rats and other vermin. Such pests need food to survive, and natural vegetation does not provide the type of food in the quantities required to sustain a population of rats (Rappaport, 1993). Weed-covered areas do not provide breeding ground for mosquitoes, which require standing water for ten days to complete their life cycle. Most natural landscapes tend to absorb water quickly, and are less likely than a watered lawn to provide a breeding ground for mosquitoes (Rappaport, 1993). Natural landscapes do not produce pollen that adds to the suffering of people with allergies. Most troublesome pollen is produced by plants that thrive on disturbance, such as ragweed, and by permanent exotic turf and pasture grasses when allowed to flower (Rappaport, 1993).

A growing recognition that these myths have little basis in fact led to a less harsh second generation of weed laws. Based on a Madison, Wisconsin, weed ordinance fashioned in the early 1980's, these laws require homeowners to file an application for a natural landscape and get a majority of their neighbors to approve. Although the ordinance represented a significant step in the process of reversing the blight of environmentally harmful turf, the neighbor veto and the application and approval process represented unnecessary limitations on the right to naturally landscape one's yard. The Madison-type ordinance was followed by some municipalities in the Twin Cities area, but in the end, the restrictions proved unnecessary as most neighbors did not object, making the cumbersome administration process a waste of time and money.

As the ‘80's passed into the ‘90's, a third generation of weed laws emerged to remedy the failings of the Madison-type ordinance by allowing natural landscaping without neighbor approval or city permission. These laws retain the conventional prohibition against growing weeds or rank vegetation, but include a modifying clause that places natural landscapes out of harm's way.

For example, a modified weed law might require a setback from either the front or the perimeter of the lot, where the vegetation may not exceed a certain height, typically 10 or 12 inches, excluding trees and bushes. The vegetation behind the setback and within the yard is unregulated except for a few expressly listed noxious species. Setback laws have several important advantages and represent a workable compromise between the diverse interests of the community, the natural landscaper and his or her neighbors. Primarily, setback ordinances allow for the unregulated growing of vegetation on most of a lot. The setback around the perimeter creates a tended look that provides a measure of conformity and tidiness. A setback also solves the practical problems caused by large plants and grasses lopping over across the sidewalk or into neighboring yards. The setback ordinances are easy to understand and enforce. Both the community and the natural landscaper benefit from a clear and simple law. The city of White Bear Lake, Minnesota had an extensive permit procedure for native lawns, but in 1990 abandoned that approach and adopted a simple setback ordinance. Becky Abbott, a city official, calls the ordinance a success. It is simple and easy to understand. The community has received no complaints against homeowners who have complied with the setback when creating the
natural landscape.

A second type of "modified weed law" limits the blanket weed ordinances with broadly worded exceptions for environmentally beneficial landscapes. These exceptions include:

- Native Plantings - the use of native plant species for aesthetic and/or wildlife reasons.
- Wildlife Plantings - the use of native and/or introduced plant species to attract wildlife.
- Erosion Control - plantings designed to reduce soil loss.
- Soil Fertility Building - plantings that enrich or stabilize soil.
- Governmental Programs - plantings carried out under federal, state or local programs that require the unimpaired growth of plants during a majority or all of the growing season.
- Educational Programs - plantings designated for educational purposes.
- Cultivation - any plant species or group of plant species native or introduced and grown for consumption, pleasure or business reasons.
- Biological Control - the planting of a particular species or groups of species which to control or replace a noxious or troublesome species.
- Parks and Open Space - any and all public parks and open space lands maintained by federal, state, or local agencies including private conservation organization.
- Wooded Areas - all areas that are predominately woods.

These laws, which have been enacted in Boone County, Illinois and Harvard, Illinois, expressly protect natural landscapes. They are simple to understand and adequately balance the interests of the homeowner and his neighbors. According to Jerry Adam, Code Enforcement Officer for Harvard, the Harvard ordinance was the product of hard work by environmentalists and city officials, and has "worked well" since its enactment. According to Debbie Carlson, health officer for Boone County, the county’s weed law, with its broad exceptions for native plantings and other beneficial landscapes represents "a reasonable, workable compromise between those who wanted a natural landscape and their neighbors."

Promotion

On the cusp of the next century, a fourth generation of weed law has begun to appear in a few cities. These laws reflect the desire not only to permit, but to also actively promote natural landscaping. Communities that have chosen this route generally have no prohibitive weed law but instead use proactive policies and zoning laws to encourage the use of native plants in natural landscapes. Long Grove, Illinois, for example, has no law regulating vegetation height and requires developers to include in their subdivisions 100-foot (30 meter) scenic easements planted with native plants, wildflowers, and grasses between homes and major streets. Fort Collins, Colorado, employs a wildlife biologist and has a 10 acre (4 ha) nature preserve in the
heart of downtown. Such proactive municipal legislation can serve as an important component in a comprehensive effort to preserve, protect and restore biodiversity (Tarlock, 1993).

The reason for the variation in weed law types is as much subjective as objective. In the end, it is people’s perception that must change. History points that way. In 16th century England, wealthy landowners had lawns that were natural meadows "starred with a thousand flowers." In those days, grasses were "hated weeds," and garden boys would creep along the flower lawns picking out the grass (Hatfield, 1971). In the 19th and 20th centuries, the perception of the ideal lawn was turned on its head. Dandelions and other flowers were despised. Turf grass became the vegetation of choice. Weed laws protected and promoted that "ideal".

Slowly, communities are moving from repressive first-generation weed laws toward more progressive third- and fourth-generation weed laws. The progress, however, is painfully slow; and far too often efforts to change repressive weed laws are met with opposition based on misunderstandings. The natural landscaping movement, already having gained a foothold, will continue to advance as we enter the 21st century. But unfortunately, weed laws still create a significant impediment to the growth of the natural landscape movement.

In densely populated urban areas, it may be unrealistic to expect that pro-active fourth generation weed laws will be adopted in the near future. Lao Tzu, the Oriental philosopher, taught that the journey of a thousand miles begins with the first step. It is with that axiom in mind that the following guidelines can be used by communities in crafting new weed ordinances that represent a step toward a more benign relationship between our yards and Nature.

1. The ordinance should protect the fundamental right of residents to choose their own landscaping;
2. The ordinance should apply equally to all residents;
3. Any restrictions should have a rational basis related to the protection of public health, safety or welfare;
4. The ordinance must not legislate conformity nor allow residents to exercise control over their neighbors’ landscapes;
5. The ordinance should not require the filing of an application, statement of intent or management plan and there should be no review or approval fees assessed against residents who intend to engage in legitimate natural landscaping;
6. In order to avoid harassment of natural landscapers, the city’s "weed commissioners" who will enforce the ordinance, and thereby differentiate between those people who are growing permitted natural landscapes versus those with unpermitted growth, should be trained to distinguish between the two;
7. Enforcement of the ordinance should be undertaken through due process of law which guarantees individuals the right to fair adjudication of their rights; and
8. The ordinance should actively address the problems of environmental degradation brought about by proliferation of high maintenance monocultural landscapes, and the indiscriminate use of toxic chemicals in landscape management. It should encourage the preservation and restoration of diverse, biologically stable natural plant communities, and environmentally sound practices.

From an ecological, legal and social standpoint, good, fair and workable weed ordinances embodying these guidelines are reprinted in the following text. These examples are rationally based and provide protections consistent with due process.

The Future

Perceptions change and with them so will the laws. As Justice Oliver Wendall Holmes wrote more than a century ago "the first requirement of a sound body of law is that it should correspond to the actual feelings and demands of the community" (Holmes, 1881). Up until a decade ago the natural landscape movement was openly ridiculed. In a 1981 interview, for example, Robert Schery, the executive director of the Lawn Institute, a trade association, said that the natural landscaping movement consisted of "environmentalists who are talking mainly to themselves rather than the public". In 1995, the Institute's then director, James R. Brooks, while still advocating the benefits of a lawn, acknowledged to me (Bret) that there is a "legitimate place for natural landscaping in our national landscape scene." But more important than isolated statements, there are three significant institutional trends that spell a healthy green future for natural landscaping. One result of these trends will be the demise of outdated and unenlightened weed laws.

First, the natural landscape movement will move beyond discussion and debate and become an accepted part of American culture because the federal government has joined the effort that for so long has been shouldered by individuals, non-profit groups and some in academia. The most far reaching and significant official act came in 1994 when President Clinton issued an Executive Memorandum requiring natural landscaping to be considered for use at federal facilities. Post office prairies!

Fran McPoland, Federal Environmental Executive, views President Clinton's Executive Memorandum as the first national effort requiring federal agencies to look at landscaping practices from a holistic perspective, and noted that, "there are many attributes i.e., geographic location, disease resistance, nutrient and water requirements, run-off problems, and pesticide applications that play a major role in the overall success of any landscaping effort. These attributes impact the immediate environment and its resources, and therefore must be taken into consideration." In keeping with this, McPoland’s office recently issued guidelines for federal agencies seeking to implement the memorandum.

The lead taken by the federal government is also evidenced by the Native Plant Conservation Initiative, established in 1994 as a consortium of 15 government agencies and more than 90 non-federal cooperators working collectively to preserve and protect our native plant heritage. Through grants, education, and a comprehensive effort to share resources and information the NPCI is having significant influence in the battle to protect and preserve native plants and plant
Native plants have been overlooked both in conservation and horticulture for sometime now. To illustrate this point, more than 55 percent of the species protected under the Endangered Species Act are plants and less than five percent of the recovery funds go towards plant conservation. The NPCI works to organize and support current efforts, our grant program has funded over $1.5 million worth of plant conservation projects.

The Environmental Protection Agency has put its considerable clout and resources behind the effort to educate municipal officials and corporations about the benefits of natural landscaping, which the USEPA calls "Green Landscaping." The USEPA has initiated Beneficial Landscapes working groups in many of its regions. Region V, in the Midwest, has the most comprehensive initiative to date. According to Danielle Green, Region V Environmental Protection Specialist, the Internet homepage on natural landscaping has hundreds of hits per week. In partnership with the Northeastern Illinois Planning Commission, the USEPA has published a comprehensive tool kit *Source Book on Natural Landscaping for Local Officials* designed to advance the growing acceptance of natural landscaping as a positive and appropriate use of suburban residential, retail and commercial property.

Second, on a private industry level, real estate developers have become cognizant of the natural landscape movement and its appeal to clients. Landscape architects and authors are promoting the "landscape envelope," - an approach to design that places a premium on preservation of natural features and vegetation (Wasowski, 1996). North of Chicago an entire subdivision, Prairie Crossing, is being constructed in harmony with the land. A key element in this development is community-wide use of native plants in a natural landscape that includes prairie, savannah and wetland (Rodkin, 1995; Martin, 1995; Rappaport, 1997).

Third, schools, big and small, have caught the natural landscaping bug. At the college level, according to Assistant Professor Bob Grese of the University of Michigan, a former student of natural landscape pioneer Darrell Morrison, there is an ever increasing demand from ecology, landscape architecture and environmental science students for classes on native plant biology and natural landscaping. But while demand is increasing, retirement has led to a loss of professors trained in field biology. This, coupled with the fact that universities continue to focus attention and resources of molecular biology, has made it difficult to meet the growing demand. Moreover, recent graduates who have been exposed to native-plant biology and natural landscape concepts face an established professional community that is frankly reticent about this new trend. As Professor Grese explains, an entire generation of landscape professionals was forced to put the plants in after-the-fact, when the rest of the design was done. Natural landscaping demands the opposite, and requires designers to consider the plants as part of the overall system.

There is some room for optimism. According to Peter Dyke, of the Northbrook, Illinois land planning firm Thompson Dyke & Associates, his firm's goal is "to achieve the most desirable balance between maximizing both the development potential of land and the positive environmental contribution of the project including the preservation, enhancement or
establishment of natural resources." Natural landscaping is the key. As Dyke views it:

Planners, designers, developers and policy-makers have a responsibility to educate others about the importance of natural ecosystems and habitats in an age of deforestation and global warming. The physical manifestation of harmony between built development and natural landscaping can provide the spark needed for greater social awareness and responsibility as caretakers of our planet.

The virtues of natural landscaping take on particular import with respect to the reduction of non-point source pollution and flooding in urban areas. The acres and acres of impervious land cover that has long been a characteristic of urban areas, increases the velocity and volume of surface runoff resulting in a decrease in filtration and greater volume and peak flows (Arnold and Gibbons). Land use planners are employing native plants and natural landscapes to slow down the water and filter it before it enters lakes and streams (Apfelbaum, Eppich Price, & Sands). According to Eagan, Minnesota, City Planner, Jim Strurm "From a planning perspective, I would encourage prairie whenever possible. It reduces the need for irrigation, it’s hardy, it’s aesthetically pleasing, and it’s good for the environment" (Davies).

Meanwhile, interest at the elementary school level has grown dramatically. [See Article by Molly Murray!!] For more than a decade, Project WILD, administered through many states’ Departments of Natural Resources, has advocated outdoor classrooms, and there has always been an element within the teaching establishment advocating outdoor education. Much of the outdoor education has been in the form of field trips, but in the last several years, the trickle has turned to a torrent as schools have begun to expand the classroom walls by bringing the "field" within the schoolhouse gate. Long ago, Jens Jensen noted the importance of bringing Nature into our schools:

Modern school buildings of factory-like resemblance are cold and barren. They lack soul and create a feeling of indifference in the mind of a child. There is nothing to attract the imagination; nothing to arouse tender feelings. The school must be in accordance with the home or its usefulness will be counteracted. Gardens create a love for the soil in the minds of the children, that will develop into a desire for better, cleaner, and healthier home in the mind of an adult. They appeal to the finer feelings of mankind and elevate the depressed soul and depressed mind to a higher place in the human family and a greater appreciation for the responsibilities of free-born men and women.

(Jens Jensen, Siftings, 1939).

Not Quite Yet

With the increased acceptance of natural landscaping by the federal government, developers, schools and some landscape professionals, communities have slowly moved from repressive first-generation weed laws toward more progressive third and fourth generation weed laws. Sometimes efforts to change repressive weed laws are met with opposition based on old misunderstandings. For example, in 1995, homeowner, Galen Pollock, was cited by the City of Omaha for growing 35 native plants in violation of a local weed ordinance. Pollock met with city
officials to explain the ecological purpose of his natural landscape and to make it clear that they posed no public-health threat. The city dropped the citation. Pollock, an authority on native prairies, was not entirely successful. Hurdles still exist. Although Pollock encouraged a state senator to introduce a bill in the Nebraska legislature to better define worthless vegetation and to protect natural landscaping, the bill failed.

Meanwhile, as natural-landscaping proponents are working to change municipal ordinances and state laws, some villages still don’t understand the pressing need to change their laws, and insist on prosecuting natural landscapers. With increasing frequency, however, where natural landscapers face off against municipalities, it is the natural landscapers who emerge victorious.

For example, in Normal v. Becker, the City of Normal, Illinois charged Becker with violating a law that prohibited "grass, weeds, brush or other noxious plants to height exceeding eight inches." Judge Donald D. Bernardi, ruled for the defendant striking down the law as unconstitutionally vague. The judge held that the term "weed" is subjective and a law cannot prohibit a plant without expressly and objectively defining it.

Another recent case, this one in Canada, takes the cause one step further. In Ontario, an opinion by a Canadian appeals court offers an enlightened and increasingly accepted view that natural landscaping is more than just gardening: it is akin to speech and therefore entitled to protection against intrusive and unreasonable government regulation. In Toronto v. Bell, the court struck down Toronto's weed ordinance, which had been used to prosecute homeowner, Sandra Bell, for growing a natural garden on her city lot. The Court held, the law was vague and an impermissible regulation of land-use based on aesthetic considerations. The Toronto ordinance (called a "by-law") prohibited "excessive weeds." Bell testified that when she moved to her home in 1990 the front lawn contained Virginia creeper vine, sedum and Kentucky bluegrass. It was her aim to create an "environmentally sound wild garden." She cited the numerous benefits of such a landscape and testified that her wild garden "creates a natural setting for children and exemplifies peaceful, nurturing co-existence with Nature for them. I have a child," she told the court, "and I feel it is important to him that I show him that we can exist within Nature's way, not just our way." The Canadian court found that the practice of natural landscaping is a matter of conscience that could not be prohibited without compelling reasons. The only reason for the weed law, as applied to natural landscapes, was to favor an aesthetic preference and, as such, it violated Bell’s right to free expression. The United States Constitution protects the same rights and, although no U.S. court has yet ruled on the free expression protection afforded natural landscaping, the Bell case offers compelling authority for natural landscapers faced with an unreasonable weed ordinance predicated solely on ensuring aesthetic conformity within a community (Rappaport, 1993).

Sandra Bell and thousands of other newly inspired natural landscapers are creating demand for knowledge, resources, seeds, and demanding that local officials and neighbors be more accommodating to natural landscaping. As a result, the quantity and quality of resources for these "Naturescapers," as they are called in Canada, continues to increase. Professionals and others involved in restoration work can best assist residential natural landscapers by recognizing that legal barriers still linger and working to overturn them. With rare exception, the court cases
that have been won and the legislative victories that have been achieved, have depended on the support and assistance of scientific, legal and land-use professionals willing to donate and share their time, effort, energy and knowledge to the cause. Their support continues to be critical, and with that support . . . the telephone will ring less and less and less . . .

(This article can be found on the internet at http://www.for-wild.org/weedlaws/weeding.htm. For other such information, see The Wild Ones homepage at http://www.for-wild.org/)

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SAMPLE LOCAL ORDINANCES

The text of many natural landscaping ordinances is too voluminous to reprint. Instead, several municipal ordinances are identified here and full text of others can be found on the USEPA web page.

The Madison, Wisconsin natural lawn ordinance exemplifies the second generation type weed law:

Any owner or operator of land in the City of Madison may apply for approval of a land management plan for a natural lawn, one where grasses exceed eight (8) inches in height, with the inspection unit of the department of planning and development.
A model ordinance included in Bret Rappaport’s comprehensive law review article takes the approach of providing a setback:

1. Prohibition. Untended, rank and unmanaged growth of vegetation on any property within the city which is visible from any public way, street or sidewalk, is declared to be a public nuisance and may be abated in accordance with the procedures set forth in articles 2 and 3 of this ordinance. This prohibition shall not apply to vegetation native to [state or region] provided there is a setback of not less than four (4) feet from the front line of vegetation not in excess of 18 inches, exclusive of trees and shrubs.

2. Procedure. The city shall issue a written citation to a landowner whose property is in violation of article 1 of this ordinance. The citation shall inform the landowner of the basis of the citation and shall include the following information: 1) the date of any inspection and the name of the inspector; 2) the names and addresses of any neighbors of the landowner with whom the city had contract regarding the alleged violation of article 1 of this ordinance. The citation shall be adjudicated in accordance with the provisions of art. ____ [relating to adjudication of traffic offenses].

3. Abatement and penalty. Upon a finding of guilt in accordance with article 2 of this ordinance, the landowner shall have 28 days in which to abate the nuisance. If he/she does not so act, the city may take whatever action is necessary to abate the nuisance. The cost of such abatement shall be accessed against the landowner and shall constitute the fine . . .

A 1996 proposal to amend the State of Nebraska State Code contained language pertaining to the weed control powers of local government, with the specific provision that:

For purposes of this section, herbaceous vegetation that endangers public health, safety or welfare does not include native grasses and plants indigenous to Nebraska that are (a) planted and maintained as part of a garden or for landscaping purposes or (b) planted and maintained for erosion control, weed control, or designated wildlife areas.

The proposed Nebraska statute offers a good alternative. It is simple and to the point. In its simplicity, it easy to understand and enforce. In that way, it benefits both the city and the natural landscaper.