Natural Landscaping vs. Mowing Ordinances

by Robin Hart

Bill Hafling, Madeira Beach resident, won an award from the Southwest Florida Water Management District for his xeric-landscaped yard. The city of Madeira Beach was not so appreciative. The city prosecuted Hafling for growing "weeds" instead of grass.

Some years ago, the city of Dunedin cited Alice Earle, mother of famed oceanographer Sylvia Earle, for creating a wildlife sanctuary in her yard. As a result of negative publicity, including the intercession of Sylvia Earle, an ordinance was approved that allowed "nature preserves" in yards if permission were received from the city commission in advance.

Landscaping that restores or simulates the natural environment provides environmental benefits to an entire region. The plants require little or no fertilizer, pesticides, or irrigation. Such landscaping conserves potable water and reduces pollutants that would be washed into public waterways. It provides food and cover for wildlife whose natural habitat has been displaced by development. It reduces the energy consumed and pollution produced by gasoline-powered mowers and the transport of water, fertilizers, and pesticides.

Although the state sponsors many educational programs that promote natural landscaping, many local governments typically forbid its practice through mowing ordinances. Even where it is allowed, natural landscaping is subject to more restrictions than conventional turf-dominant landscaping. In fact, more time, energy, and money are probably devoted to the enforcement of mowing ordinances than to the promotion of natural landscaping.

I found this out when I decided to restore a hammock in the back of my half-acre lot in Sarasota County. I left the conventional landscaping and lawn in the front and along the side yard that adjoins a neighbor, but I did not mow the sparse grass under six large live oaks and a red cedar. I allowed existing wedelia (*Wedelia trilobata*) that grew on a steep bank bordering a man-made lake behind the yard to grow dense and bushy.

Beautybush (*Callicarpa americana*), Virginia creeper (*Parthenocissus quinquefolia*), two laurel cherry seedlings (*Prunus caroliniana*) and a shrubby *Desmodium* species sprouted. Nursery-grown redbay (*Persea borbonia*), wax myrtles (*Myrica cerifera*), wild coffee (*Psychotria nervosa*), black haw (*Viburnum rufidulum*) and a needle palm (*Rhapidophyllum hystrix*) were planted. The wedelia was joined by cowpea (*Vigna unguiculata*) and blue maidencane (*Amphicarpum muhlenbergianum*). Moorhens seemed to appreciate the vegetative cover. Otters stopped at my yard on a few occasions. I saw black racers, scarlet snakes, and an opossum in my brush pile. The trees were occupied by blue jays, red-bellied woodpeckers, flickers, and a variety of other birds.

After several months, a Notice of Violation arrived by certified mail from the County Solid Waste Department. My neighbor had filed a complaint. If my yard wasn't mowed in 20 days, the county would mow it at my expense. I obtained a copy of the mowing ordinance which stated:

> "The uncontrolled growth of annual herbaceous vegetation commonly known as weeds, upon a portion of any lot, tract or parcel of land which has been previously cleared and which is within 200 feet of the boundary line of any improved property within the unincorporated area ... to the extent that such portion of the lot, tract or parcel of land is or may reasonably become infested or inhabited by rats or vermin or may furnish a breeding place for mos-quitoes or cause disease, create a fire hazard, or adversely affect and impair the economic welfare of the adjacent property is hereby prohibited."

The word "annual" was my life-line. My plants were all perennials. I called the code enforcement officer who had to be told the difference between perennials and annuals. His supervisor took plants from my yard to the County Extension Service, which verified the absence of annuals. The County Attorney was consulted and agreed that I was not in violation of the ordinance. I was exonerated.

Peggy Lantz

The Lantz yard would never pass Sarasota County's ordinances!

I arranged a meeting with the code enforcement director for the Solid Waste Department. An extension specialist (and FNPS member) accompanied me. We had statements from the Animal and Mosquito Control Department and Public Health Department staff that tall vegetation has no relationship to mosquito or disease-carrying rodent infestation or to human health. We explained that the mowing ordinance was in conflict with county policies that protect the environment and conserve water. We suggested that the ordinance be revised to exempt deliberate natural landscaping (as opposed to neglecting to mow turf grass).

The code enforcement director told us, however, that the mowing ordinance was being revised to speed the process of compliance and to eliminate the "loopholes" that left me free not to mow my yard. People that wanted wildlife in their yards should move to rural areas. She acknowledged that existing native habitat could be allowed to remain on a property, but once it was cleared, restoration attempts were not appropriate. She told us that the department was under great pressure from the county commissioners to respond to citizens who were fearful that their property values would be ruined by the unmowed grass and weeds of neighbors. The department received more than 1000 complaints a year from these citizens.

I saw trouble ahead for many recent initiatives sponsored within the county that promoted natural landscaping. These

included the following:

Xeriscape™ or Water Conservation Landscaping.

A new Florida statute requires that each water management district encourage local governments in the district to adopt ordinances that specify the maximum percentage of turf allowed, require preservation of existing native vegetation, and mandate landscape design, installation, and maintenance that results in water conservation. Sarasota County commissioners approved a 1990 resolution to "take the lead in setting examples of responsible landscaping" and to "encourage the use of xeriscaping, as well as other alternatives to sod in planted areas."

Florida Yard Program.

This project, sponsored by the National Estuary Program, Southwest Florida Water Management District, and Cooperative Extension Service, provides advice and education to homeowners for instituting water-conserving, environmentally sensitive yards. Its goal is to reduce stormwater pollution of lakes, streams, and bays by planting landscapes with native shrubs, trees, and grasses that require little irrigation, fertilizing, or maintenance.

Wildlife Habitat Certification.

The University of Florida's Cooperative Extension Service urges residents to landscape yards to provide wildlife habitat. Brochures prepared by the Florida Game and Freshwater Fish Commission show how to layer groundcover, trees, and shrubs to mimic a forest or meadow. Lawn space is kept to a minimum. Yards that meet the criteria for this program receive special certification by the Extension Service.

In addition, Sarasota County, like many other counties in Florida, mandates the preservation of some types of existing native habitat as a condition of development approval. All oak scrub, most wetlands, and 75% of mesic hammock, including understory, are in this category. But we have found that when homeowners move into the new development, they often mow wetland littoral zones and hammock understories. A revised stricter mowing ordinance would *encourage* this destructive practice.

I notified a top administrator that the revised mowing ordinance would be in conflict with county environmental programs if an exemption were not made for natural landscaping. The administrator replied that he and Solid Waste Department staff "collectively agreed" that exemptions for "habitat" should not be addressed. The mowing ordinance was not the concern of the Natural Resources Department (of which I am assistant director).

Bret Rappaport, an attorney, represents five inner-city natural landscapers who are battling the city of Chicago's mowing law. In a 1992 article in *Wildflower*, Rappaport traced the history of weed laws to the post-World War II development of suburbia and the public association of property values with maintenance of a turf grass monoculture in the yard. He cited numerous prosecutions throughout the country of landowners that planted natural landscapes. One landscaper in New York was fined $30,000 for growing a wildflower meadow instead of a lawn. He paid a reduced fine of $500, but had to move when his yard was vandalized and birds in his meadow were shot.

Mr. Rappaport sent me several weed ordinances that had exemptions for natural landscaping. I noted that even when natural landscaping is allowed, it is often accompanied by requirements to submit detailed and cumbersome plans for advance approval. Membership in a conservation organization is sometimes a condition of approval.

In 1991, Pinellas Park amended its mowing ordinance to include an exemption procedure. Minimum lot size for the exemption is one acre. Approval must be obtained from the city manager who will consider the extent to which the parcel has native plants that affect wildlife, endangered or threatened plant and animal species, upland buffers, wildlife, aesthetics or the lack thereof, and the effect that the grant of the application would have on the neighboring properties. A mowed buffer 25 feet in the front and 10 feet in the rest of the parcel's perimeter is required. Any citizen aggrieved by the city manager's decision may appeal to the city council. Without the exemption, the existence of "grass, weeds, undergrowth, or other dead or living plant life, except for shrubs, ornamental plants or trees in excess of twelve inches in height...is prohibited."

The City of Sarasota, which has no exemption, has one of the most stringent ordinances. It is unlawful to permit the excessive growth of *any* vegetation that might harbor "insects, rodents, snakes or other pests or vermin."

Isn't it ironic? Residents who drench their yards with toxic pesticides, excessive fertilizer, and potable water so that they can harvest large plastic bagsful of grass clippings for the landfill are totally within the law. Citizens who respond to pleas to landscape in an environmentally responsible manner are slapped with citations or, at best, must plead for approval and comply with a variety of restrictions.

Establishing natural landscaping isn't easy. Plant material is not easy to find. Florida's native plant nurseries are doing a wonderful job of supplying material and assistance, but it is still more convenient to walk into Home Depot or Wal-Mart and buy some oleanders. The garden pages in the local newspaper do not give tips on how to succeed with native plants. Yard care providers don't understand how to care for natural landscaping. A friend in Alachua County had an oak grove in her yard with yellow jessamine, blueberries, and goldenrod in the understory. She came home one day to find that her lawn care provider had "cleaned out her underbrush" as a favor.

Weed laws are one of the more chilling obstacles to natural landscaping. Many people that become interested in the concept are not going to fight or plead with City Hall for permission.

According to Bret Rappaport, mowing ordinances should incorporate the following guidelines:

•Any restrictions should have a rational basis such as a legitimate health or safety interest.

•Residents should not be allowed to exercise control over their neighbors' landscapes, and deed restrictions that prevent residents from practicing natural landscaping should be declared illegal.

•There should be no requirements for applications, management plans, approval processes, nor fees assessed against residents who engage in natural landscaping. Code enforcers should have enough botanical training to distinguish natural landscaping from neglected, unmowed lots.

•Enforcement should be undertaken through due process of law, which guarantees individuals the right to a fair adjudication of their rights.

•Finally, an ordinance should address the problems of environmental degradation that result from proliferation of high maintenance, monocultural, turf-dominated landscapes. The preservation and restoration of diverse, biologically stable, natural plant communities and environmentally sound practices should be encouraged.

Florida Native Plant Society members and chapters should take an active stand to amend these ordinances to allow environmentally beneficial landscaping.

Dr. Robin Hart is assistant director of the Sarasota County Natural Resources Department. This article expresses her personal opinion and does not represent the policy or endorsement of Sarasota County.