



SHAKER HEIGHTS

Memorandum

To: City Council

From: William M. Ondrey Gruber, Director of Law

Cc: David E. Weiss, Mayor
Jeri E. Chaikin, Chief Administrative Officer

Date: February 25, 2025

Re: **Proposed Managed Natural Landscape Policy**

SUMMARY

This memorandum discusses a proposed new policy, and resultant recommended amendments to the City's ordinances, which would expressly allow property owners in the City to create managed natural landscaping areas, with certain limits and restrictions. These areas would be allowed as an exception to the City's current more restrictive policies that limit landscaping options to more traditional choices on private properties in the City.

Over the past number of years, the City has taken many steps and actions in relation to its goal of environmental sustainability. For example, one of the City's eight Goals and Strategic Priorities for 2025 is the following:

Goal 6: Environmental Sustainability: Educate, advocate for, and support the environmental, economic and social sustainability of the community in partnership with our residents and businesses to meet the needs of our entire community without compromising the resources or well-being of future generations.

The Mayor, Council Members and residents have worked on these issues on behalf of the City, including as part of the City Council's Sustainability Committee, and through the work of the City's Sustainability Coordinator, though every department of the City has been tasked with incorporating environmental sustainability into their planning and operations.

The City has specifically encouraged more sustainable garden and landscaping practices by residents through its web pages (<https://www.shakerheightsoh.gov/635/Sustainability-Resources>), establishing various programs like "Grow Not Mow" on certain public properties, reduced or eliminated use of pesticides and herbicides, composting, and encouraging use of native plants.

Council Members and some residents have encouraged the City to review current policies and ordinances related to landscaping, and have promoted the benefits of natural landscaping, including:

1. A reduced need for mowing, watering and pesticides;
2. Benefits to local wildlife including birds and insects; and
3. A general appreciation for the aesthetic of natural landscaping.

There are residents in our community who have already created natural landscaping in their yards and adjacent tree lawns, and others have indicated that they wish to move towards natural landscaping on their property. Some of this existing landscaping has caused concern on the part of the City and residents regarding safety, conflicts with City grass, brush and leaf pickup on tree lawns, and concern about aesthetics, particularly when naturalized landscaping is not well managed and maintained, or includes invasive and noxious weeds.

DISCUSSION

A. The City's Existing Landscape Ordinances

The City's existing landscape regulations in the Codified Ordinances do not directly address or permit naturalized or alternative landscaping. There are several ordinance sections that require that grass not be allowed to grow higher than 6 inches, that prohibit branches overhanging the sidewalk, and that require landscaping to be neat and orderly.

The City's existing landscaping regulations can be found in a number of different Ordinance sections:

- Chapter 107 – Nuisances - “The existence of grass, weeds or other landscaping conditions that violate the provisions of the Housing Code shall be considered a nuisance.”
- Chapter 155 – Requires adjacent property owners to maintain the tree lawn.
- Chapter 747 – General Offenses Code –
 - Mainly protects trees and plants in the tree lawn and on other *public* property.
 - Also, regulates trees and plants on *private and public* property: (a) trees and plants infected with parasites, insects, etc., (b) trees that may fall or have fallen, and (c) trees and plants that obstruct the right of way or other public property.
- Section 1111.02 – Traffic Code – “No person shall maintain trees, plants or shrubs on private property in a manner which obstructs the necessary view of a driver of a motor vehicle on a public street or on a private driveway, or which interferes with the driver's control.”
- Chapter 1253 – Zoning Code – The Zoning Code regulates parcels of land (except Section 1253.07, which regulates landscaping in the tree lawn and other public right of way). The Zoning Code provisions on landscaping generally only apply to new construction, and certain installations that require City approval such as fences, walls, air conditioning units, and certain other exterior features.
- Chapter 1319 – Building Code – This chapter regulates commercial properties, including landscaping, with fairly general landscaping requirements.
- Chapter 1412 – Housing Code – These provisions provide residential maintenance standards, including landscaping. The entire regulation is as follows:
 - Yard Landscaping Materials.
 - (1) All yard landscaping materials shall be maintained in good condition so as to present a healthy, neat, and orderly appearance.
 - (2) Any plant not in this condition shall be replaced when necessary and in a timely manner.
 - (3) Fences, walls and other barriers shall be structurally sound, maintained in good repair, and in a neat, clean and attractive condition.
 - (4) All hedges shall be planted and maintained in a good, healthy and neat condition and shall not encroach upon a public sidewalk.
 - (5) Lawns shall be maintained in a healthy, neat, and orderly condition and shall not be allowed to grow, uncut, to a length in excess of six (6) inches above the ground.

B. Natural Landscape Regulation in Other Jurisdictions

Below are examples of laws in Ohio and elsewhere in the U.S. that allow Managed Natural Landscapes. We have not yet found communities in our area that expressly allow naturalized or alternative landscaping.

Ohio:

- I. Oakwood, OH (Montgomery County)
 - a. Allows managed natural landscape areas.
 - b. Not in tree lawn; except trees, all vegetation in the tree lawn must be less than 8 inches tall.
 - c. No height restriction on private property.
 - d. No plant may cause an obstruction to appropriate roadway visibility.
 - e. No plant allowed that is unsafe or hazardous to the public health, safety, and welfare.
 - f. No overhanging vegetation; not allowed to encroach other properties, or right of way.

- g. Also, the City manager may designate a nature area on private property.
- II. Bowling Green, OH
 - a. Allows plants taller than 8 inches and which have gone to seed; not noxious weeds as defined by the Ohio Director of Agriculture; must be maintained with no unintended vegetation or turf grass.
 - b. May not include any plantings that constitute a hazard to the public or pedestrian and vehicular traffic.
 - c. May not allow turf grass lawns to be left unattended for the purpose of returning to a natural state.
 - d. With the exception of trees, all vegetation in the tree lawn must be less than eight inches tall.
 - e. Landscape material must be maintained in a healthy condition.
 - f. Managed natural landscaped areas not allowed to encroach onto other property or right of way.
- III. Oberlin, OH
 - a. Allows Managed Natural Landscapes
 - b. Must provide 5-foot “buffer” from property lines and public right-of-way composed of turf grasses or low ground cover vegetation that is less than five inches tall.
 - c. All yards must be free of noxious weeds.
 - d. Turf grass lawns not permitted taller than five inches.
- IV. Cincinnati, OH
 - a. Allowed to exceed 10” restriction, provided the landscaping is “self-sustaining with minimal resort to artificial methods of plant care.”
 - b. Required 3ft Setback on unfenced property lines
 - c. Only applicable to properties containing homes

Other Jurisdictions:

- I. Prior Approval Required
 - a. Austin, MN
 - ii. Requires a permit if landscape is expected to exceed 8” in overall height.
 - iii. Permit Requirements:
 - A. 20’ setback from front lot line (on both sides on corner lots)
 - B. 5’ setback from side/rear lot line unless screened/adjacent to another
 - C. Cut once annually to height below 10”
 - D. Turf eliminated, new vegetation intentionally planted, soil erosion controlled
 - b. Burnsville, MN
 - i. Landscape plan submitted to city and approved prior to commencement
 - ii. 20’ setback from front lot line (on both sides on corner lots)
 - iii. 5’ setback from side/rear lot line unless screened in or adjacent to another natural landscape
 - iv. Cut once annually to height below 10”
 - v. Turf eliminated, new vegetation intentionally planted, soil erosion controlled
 - c. Rochester, MN
 - i. Maintained and weeded prairie or natural landscape allowed; no noxious weeds; but must obtain permit, and maintain the landscape in a condition sufficient to maintain the permit.
 - ii. Specific management and maintenance plan must be submitted with permit.
 - iii. Permit will be denied if the transition period for the area is longer than 3 growing seasons.
 - d. Ferguson Township, PA
 - i. Landowners wishing to maintain a natural landscape must register with the township.
 - ii. Must include a brief description of managed natural landscape plan including maintenance
 - e. Frankenlust Township, MI
 - i. Must apply for permit and submit a natural landscape management plan.
 - ii. Natural landscape must comply with following restrictions:
 - A. Plants themselves cannot violate law
 - B. Less than 2 Acres can only cover 25% of land
 - C. Rain gardens cannot cover more than 30% of impervious surface
 - D. Vegetation must be under 10”

- E. 50' setback from buildings on or contiguous to the site
- F. 10' setback from streets and contiguous property lines under 2 acres
- G. All plants must be kept in living condition

II. No Prior Approval Required

a. Bloomington, MN

- i. Native prairie or long grasses permitted over 8" within a defined landscaped area provided:
 - A. area occupies no more than 50% of surface area
 - B. 5' setback from property lines unless it abuts a similar landscape or it is screened
 - C. maintained once a year by mowing

b. Minneapolis, MN

- i. Allows managed natural landscapes
- ii. Requirements:
 - A. Allowed over 8", not noxious weeds, must maintain with no unintended vegetation
 - B. Can't include plants that constitute a hazard to public, people, or property
 - C. Does not include turf left unattended for the purpose of returning to a natural state

c. Chesterfield, MO

- i. Native plants are allowed to exceed restrictions; no noxious/invasive/nuisance plants and there is no injury, danger, or inconvenience to the public
- ii. 4ft setback, cannot impair sight distance

d. Louisville, KY

- i. Allows managed natural landscapes.
- ii. Must be set back from property lines by at least five feet, except where the defined landscape area abuts another similar landscape area, a wetland, pond, lake or stream, or if a fully opaque fence at least 4 feet in height is along the lot line adjoining the planned landscape area.
- iii. Must be mowed or cut back at least once per year in addition to ongoing maintenance.
- iv. Must be clearly defined by edging, fencing, or similar material, such as 2 feet of mowed and maintained turf grass.
- v. Not allowed into the public right of way (i.e. tree lawn).
- vi. A sign must be posted on the property advising that native plants are being established. The City assists with appropriate signage.
- vii. Noxious weeds are not allowed per state law.
- viii. Not include turf-grass lawns left unattended.

e. Mid-America Regional Council (MARC)- Kansas City MO - Model Ordinance:

- i. Intent to prohibit unmanaged growth of noxious weeds and invasive species, and encourage native vegetation and sustainable landscape design.
- ii. Owner responsible for ensuring that all landscape material in a planned sustainable landscape is maintained in a healthy condition.
- iii. No invasive plants or noxious weeds.
- iv. More than 50% of all plants must be native.
- v. If at least 25 percent of managed natural landscape contains invasive plants or noxious weeds, must be cut and kept to a height of no more than 8 inches to prevent propagation.
- vi. Managed natural landscapes must be maintained at least once a year through mowing.
- vii. A three-foot setback shall be provided along all public paved surfaces. Setback landscape shall be no taller than six inches in height.
- viii. A three-foot side and rear setback is required unless abutting: a. An opaque fence at least four feet in height; b. A public park, restoration area, open lot, vacant lot, or a natural area.
- ix. Plants deemed unmanaged plant growth by city must be removed or trimmed.

C. Proposed Managed Natural Landscape Policy

After researching policies and laws in other jurisdictions, we have prepared a proposed Managed Natural Landscape policy for the City to consider adopting, as set forth below. If approved, then ordinances codifying the policy would be presented to Council.

The purpose for proposing this policy is that it is consistent with the City's sustainability goals, policies, and activities to allow residents, who have the interest and ability to do so, to modify traditional Shaker Heights landscaping for residential neighborhoods with the use of more naturalized landscaping materials and plans. Traditionally, landscaping in residential neighborhoods of the City has included turf grass, ornamental bushes, grasses and flowers, and/or naturally wooded areas, particularly between properties and on larger lots.

A "Managed Natural Landscape" is generally defined as a planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, or vegetation common to meadows or prairies.

The proposed policy is based on the proposition that properly installed and appropriately maintained *managed natural landscapes* are beneficial to the City's environment and its residents, and serves to further adopted City goals, in that *managed natural landscapes* require fewer potentially harmful and costly inputs, improve stormwater retention, increase water quality and biodiversity, reduce greenhouse gas emissions, and provide habitat for wildlife such as birds, butterflies and other beneficial insects and species.

There are a number of common elements to policies and laws around the country on *managed natural landscapes*, including the use of that term as defined above. There are also some common limits and restrictions. One requirement in some jurisdictions is for advance approval and permitting of a *managed natural landscape*, which this proposed policy does not include.

While the requirements and limits for such landscapes have many common or similar elements, they also vary around the country. The proposed policy for the City includes many of such elements found elsewhere, with an effort to tailor the elements to the specific history of the City, and the existing traditional landscaping throughout the community. The policy in general is intended to balance the desires of many residents to maintain the traditional aesthetic of the City, with the desires of other residents who wish to move the City toward alternatives to the traditional landscaping, and have the ability and willingness to do so on a sustained basis.

The proposed policy is as follows:

General Policy. Property owners may create and maintain Managed Natural Landscapes, including higher than 6 inches in height, except as restricted in this policy. Managed Natural Landscapes must be intentionally planted and managed. Managed Natural Landscapes do not include yards left to "natural succession" or to evolve into a meadow or prairie by themselves over time. This policy does not alter or nullify any ordinance of the City.

The proposed policy regarding Managed Natural Landscapes does not include or regulate naturally wooded areas, areas of turf grass, or areas of managed ornamental plantings.

General Restrictions.

- "Managed Natural Landscapes" may not include:
 - turf-grass lawns or other landscaping left unattended for the purpose of returning to a natural state.
 - turf-grass lawns allowed to grow higher than 6 inches.
 - noxious weeds.
 - species of plants identified as "invasive."

- plants that are allowed to obstruct or hang over the right of way, including the sidewalk, in a manner that blocks or interferes to any extent with pedestrian, bicycle, wheelchair, public, and/or City access, use and conveyance along the right of way.
- human made features that are prohibited by ordinance, or that require a permit unless a permit is obtained.

Tree Lawns.

The tree lawn is typically the area of the public right of way (i.e. City-owned) between the sidewalk and the curb along the roadway, although in areas of the City without sidewalks the tree lawn is that public right of way area between the property owner's property boundary and the curb and/or roadway.

- Managed Natural Landscapes are permitted on tree lawns in a limited way. Such areas of a tree lawn may not be allowed to grow higher than twenty-four (24) inches in height (not including street trees planted and/or maintained by the City).
- Managed Natural Landscapes in a tree lawn must include an area of turf grass or other low growing ground cover that is allowed to grow no higher than 6 inches, and/or area paved with bricks or decorative paving, that is at least eight (8) feet wide along the curb, and extending in depth from the curb of the roadway to the edge of the sidewalk or property boundary edge, where grass bags, leaves and/or brush may be left by the adjacent property owner or their contractor for pick-up by the City.
- Tree lawns may not have any of the following:
 - Fences, or stone, brick or metal walls or edges.
 - Bare dirt, asphalt paving, or gravel.
 - Noxious weeds or invasive species of plants.
 - Plants taller than 24 inches, except street trees planted and/or maintained by the City
 - Plants that overhang or obstruct the sidewalk, curb and/or roadway, in a manner that blocks or interferes to any extent with pedestrian, bicycle, wheelchair, public, and/or City access, use and conveyance along the right of way.
- No plants taller than 6 inches may be allowed to grow within 3 feet of a fire hydrant, manhole, water meter or other utility installation.
- Trees in the tree lawn may only be planted or removed by the City.
- The City is not liable for damage to irrigation systems, Managed Natural Landscaping, ornamental plantings, or decorative paving in a tree lawn, and is not obligated to maintain, repair or replace such plantings or paved areas.

Front Yards, Side Yards and Rear Yards.

A front yard is typically the area in front of a house or building extending to the public right of way (usually to the sidewalk). Corner properties that border on multiple streets have a front yard on each street that the property borders.

- *Front Yards*
 - Managed Natural Landscapes on private property in front yards are permitted.
 - They must have clear boundaries as required in this Policy.
 - They must not exceed twenty-four (24) inches in height within:
 - 5 feet of the right of way (typically the sidewalk); or
 - 5 feet of any property line except where there is a fence or bushes of at least 4 feet in height, or a retention wall along the property line.
 - Plantings that exceed 6 inches in height must not cover more than 50% of the surface area.
 - Plantings may exceed 50% of the surface area if they are kept at no taller than 6 inches.
 - No plants may extend over or into, or otherwise obstruct, the sidewalk in a manner that blocks or interferes to any extent with pedestrian, bicycle, wheelchair, public, and/or City access, use and conveyance along the sidewalk.

- *Side and Rear Yards*
 - Managed Natural Landscapes on private property in side and rear yards are permitted.
 - They must have clear boundaries as required in this Policy.
 - They must not exceed 24 inches in height within 5 feet of any property line, unless there is a fence on the property line and/or bushes or shrubbery of at least 4 feet in height, or a retention wall.
 - Plantings in *side yards* that exceed 6 inches in height must not cover more than 50% of surface area.
 - Plantings in *rear yards* that exceed 6 inches in height must not cover more than 75% of surface area.

Regulations for all Managed Natural Landscapes:

- During the non-growing season, deemed to be November 1 through March 31, Managed Natural Landscapes on *tree lawns* shall be maintained in a neat and trimmed condition, with any dead plants being cut or removed.
- During the non-growing season, deemed to be November 1 through March 31, Managed Natural Landscapes in *front and side yards* shall be maintained in a neat and trimmed condition, with any dead plants greater than 2 feet in height being cut or removed.
- Any bare soil on tree lawns or private property should be properly mulched to prevent erosion of soils.
- Managed Natural Landscapes must be mowed at least once annually, typically during the non-growing season by March 31.
- Managed Natural Landscapes may not include turf or other landscaping that has been left unattended for the purpose of returning to a natural state.
- All landscape material in a Managed Natural Landscape must be maintained in a healthy condition.
- Plants and landscapes deemed as unmanaged plant growth shall be removed or trimmed.
- Any hardscapes or other installations of any human-made features (e.g. edges with stones, bricks or metal; pavement; etc.) are subject to the City's ordinances and regulations.

Enforcement and Appeals

- During the first 12 months after this Policy is adopted, the Public Works Department will first send an Advisory Letter to any owner and/or occupant of a property found to be in violation of the Managed Natural Landscape Policy.
- No earlier than 30 days after the issuance of an Advisory Letter, the City may issue a citation and/or nuisance notice to the owner and/or occupant of the property for any violation of this Policy, which shall provide a reasonable time period for compliance, and that shall state a right of appeal to the Director.
- After the first 12 months from the adoption of the Policy, the City may issue a citation to the owner and/or occupant of a property for any violation of this Policy, and/or declare the property a public nuisance, which shall provide a reasonable time period for compliance, and shall state a right of appeal to the Director.
- If a property owner or occupant issued a citation does not bring the property into compliance within the compliance period, and no appeal is pending, the property may be declared a public nuisance, and the City may use the City's nuisance abatement authority as necessary to bring the property into compliance, including, but not limited to: (a) cutting back the plants to a height allowed by this policy and City ordinances; (b) cutting back the plants to a height no greater than 6 inches if trimming the plant growth less severely is determined by the City to be impractical under the particular circumstances; and/or (c) removing human made objects, structures or other installations that are in violation of the City's ordinances. In addition to or in lieu of nuisance abatement, if the property owner or occupant is a repeat offender, or in other situations deemed by the City to warrant such action, the City may prosecute the owner and/or occupant as authorized by the City's ordinances, or may take any other action allowed by law.
- A property owner or occupant with authority from the owner may appeal (a) any regulation in this Policy that would apply to the appellant's property, (b) any Advisory Letter sent to the appellant or the occupant/owner, or (c) any citation or nuisance declaration issued to the appellant or the occupant/owner under this regulation. An appeal must be brought within 30 days after the date that this regulation becomes effective (or any change

of the Policy), the date of an Advisory letter, or the date of a citation or nuisance notice, respectively. Any appeal shall first be made to the Director of Public Works. In any appeal to the Director, the Director may require the submission by appellant of a detailed plan for any proposed or existing Managed Natural Landscape. The Director may, but is not required to, hold a hearing prior to issuing a decision.

- An appeal from the decision of the Director in an appeal shall be to the Board of Appeals.

NEXT STEPS

The proposed policy will be brought to Council at the work session on March 10th for comment by Council members and the public.

The Administration will review comments from Council and the public received at the work session on March 10th, as well as other comments received in writing, and make any necessary changes to the policy, and/or provide an explanation as to why certain proposals are not recommended.

Then the policy and proposed ordinance amendments based on the proposed policy will be brought to the Sustainability Committee and the Safety and Public Works Committee for review and a recommendation to Council.

And finally the proposed ordinances implementing the policy will be brought forward for a decision by City Council.