



Outwitting Weed Laws

Creators of wildlife-friendly gardens often face challenges from HOA restrictions or weed ordinances. But some gardeners are successfully opposing these restrictions.

BY NANCY LAWSON



Janet and Jeff Crouch spent thousands of dollars defending their wildlife garden, shown above, in Columbia, Maryland, against a homeowner's association (HOA). Their battle led to passage of a state law requiring HOAs to permit environmentally-friendly landscaping, a ruling that benefited Mani Kurian, right, who faced a similar challenge to his wildlife-friendly garden in Ellicott City, Maryland.

TO HIS WILD neighbors, Mani Kurian's garden was a lifeline, bursting with milkweeds, larkspurs, and sunflowers. But some of Kurian's human neighbors—specifically those on the architectural committee of his homeowners association (HOA) in Ellicott City, Maryland—saw his oasis as an affront to the status quo.

In 2017, a flower patch surrounded by stakes and netting triggered the first confrontation. "Right away, a lady came and said, 'You know, there are rules in this neighborhood,'" recalls Kurian, a community college biology professor. "I said, 'You know, I can't live without flowers.'"

As Kurian recounts his tangle with the turfgrass tyranny of American suburbia—one of many fights waged nationwide against outdated HOA requirements and municipal weed ordinances—hummingbirds buzz about the coral honeysuckle (*Lonicera sempervirens*) behind him. They're such frequent visitors that Kurian's children have come to expect them. "They're like family," he says.

Kurian's love of nature is deep-rooted, cultivated by a mother who, even at the age of 76, spends hours a day gardening in the 110-degree summers of India. But it was his father who passed along the courage to defend it, he says. "You could bring a boulder against him—he will stand there."

When the HOA became increasingly aggressive, Kurian ran for the board, won, and challenged a longtime president. That's when the trouble really began, culminating last year with a court summons. "My heart was pounding," Kurian says. "I've never had an experience with the court system."

With visions of spending thousands of dollars on legal fees, he chose to represent himself, waking up at 4 a.m. every day to study the law. Fortunately for him, the HOA never really had a case. Architectural guidelines typically require applications for exterior alterations such as fences and sheds, but the written rules of Kurian's HOA explicitly exempt gardens from that process.



WARRIORS FOR NATURE

Kurian is among many dedicated wildlife gardeners who have unexpectedly found themselves in the role of warriors for nature. Five years ago, my sister, Janet Crouch, became one of them too. Her campaign to save her garden—which led to a state law requiring HOAs to allow environmentally friendly landscaping—inspired Kurian and others to stand their ground amid threats of fines and court judgments.

Janet's case started when the Beech Creek HOA in Columbia, Maryland, sent a written request that she and her husband, Jeff, weed their 15-year-old garden. Surprised by the letter's tone, Janet turned to me for help. Through my habitat consulting and advocacy, I knew the standard procedures for responding to weed complaints. We pulled a few sprouts of Japanese stiltgrass, trimmed the edges, and erected Audubon "Plants for Birds" and Humane Society "Humane Backyard" signs. We crafted a response describing the garden's purpose and citing public programs that encourage native plantings.

Two months later, missives from the HOA's law firm began arriving, proclaiming that a garden "without the use of pesticides in which they have maintained 'native plants' to provide food for birds, bees, and other insects and animals" is "completely contrary to the overall design scheme for the Association." The HOA attorney wrote disparagingly of the Crouches' "environmentally sensitive agenda." Even though the community borders a wooded county park—and the park's web page advised residents to protect snakes, deer, and other wildlife—the letters blamed Janet and Jeff for the presence of squirrels. Revealing a startling ignorance of fundamental garden practices, the letter criticized them for encouraging "plantings which grow back every year."

Facing a lawsuit, Janet tapped into her reserves and her nerves of steel. "I'm a shy person," she told me later. "I don't usually put myself out there." But the idea of losing her family's oasis was too much to bear. She studied the architectural guidelines, none of which prohibited gardens. She catalogued other neighborhood plantings, demonstrating selective enforcement. She wrote newsletters, joined the board, attended environmental events,



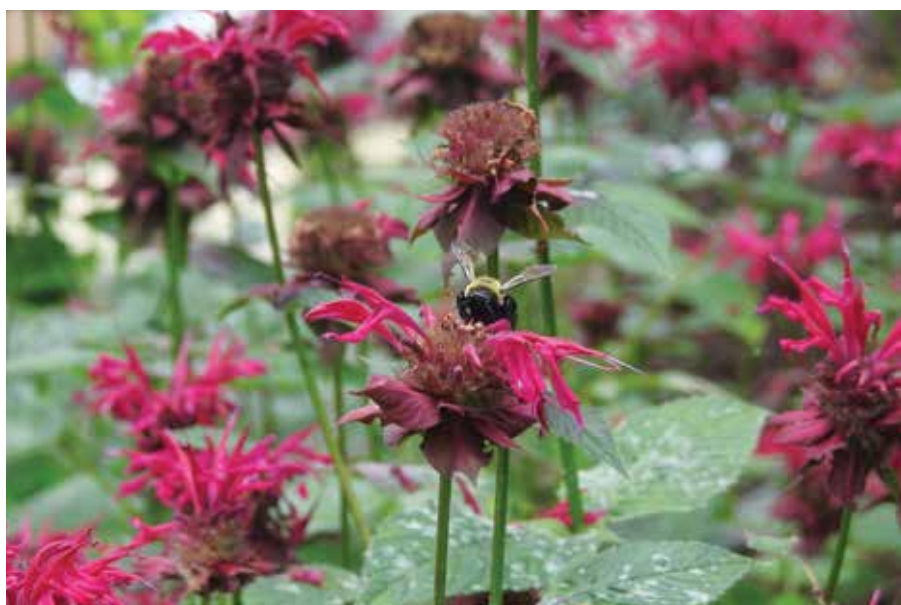
With the legal battle behind them, Janet and Jeff Crouch can now enjoy the pollinators and other wildlife drawn to their Maryland garden.

and found a lawyer willing to take on a case dismissed by almost everyone else as a losing battle.

With the help of attorney Jeff Kahntroff of Skipper Law—the only firm in Maryland specializing in defending homeowners against HOAs—Janet sued and saved her garden, even retaining the right to tell her story, which Kahntroff calls an "incredibly rare" outcome. But the victory came only after years of harassment that included bogus hearings and random drive-bys of HOA agents photographing

her property. The entire case hinged on complaints of a single neighbor who illegally killed a snake, regularly hired pesticide sprayers, and left out containers of standing water while accusing neighbors of attracting mosquitoes with flowers—highlighting just how much trouble even one unreasonable resident can cause.

"It takes a really principled and strong person to fight back," says Kahntroff. "We fought—and Janet spent a bunch of money—to get what, it's our position, she should have been entitled to in the first



Beebalm (*Monarda* spp.) and other native plants draw pollinators such as this bumblebee to Janet and Jeff Crouch's wildlife garden.

place without spending anything.” My sister also incurred a significant emotional toll, often describing herself as a prisoner in her own home.

HOAS FACING BACKLASH

Though HOAs purport to protect property values, home buyers are beginning to find their restrictions onerous, Kahntroff says. The cultural backlash is reflected in a recent insurance commercial mocking “HOA Cynthia,” who admonishes neighbors for shrubs that aren’t “board-approved” and hacks off hanging pots while shouting “Violation!” “That’s consistent with the kind of shift we’ve seen,” says Kahntroff. “You have no idea how many people come and say, ‘I’m never buying into another HOA or condo association.’”

Given the ubiquity of HOAs, avoiding them may be easier said than done, however. According to industry reports, nearly 75 percent of homes sold in 2019 were part of HOA communities, and almost 75 million Americans live in HOAs, condominiums or cooperatives. Not all are ruled by overly officious Cynthias, but the system is stacked against homeowners. Many HOAs can recover attorney fees if they win a case but deny homeowners the same right. Few consequences exist for boards that don’t follow their own bylaws. Rules are often selectively enforced, or they’re ignored for years until a new board or management company is installed.

NATIONWIDE ISSUE

But by networking with others in similar predicaments, savvy gardeners are learning how to fight back. In Galveston County, Texas, Kristy Key used a citation from her HOA as an opportunity to educate. A high school teacher, Key likes giving neighbors “the full gospel” about why she plants goldenrods and milkweeds in a yard that was once prairie. Her efforts have garnered attention from gardening and advocacy groups. “It just kind of grew and grew,” says Key. “And then the HOA came knocking.”

The violation notices arrived last winter, when her blanketflowers (*Gaillardia* sp.) had gone dormant. Though sad to remove the pithy stalks she’d left for twig-nesting bees, she drafted a four-page “manifesto” to save the rest, describing the



Kristy Key, left, successfully defended her wildlife garden, above, in Galveston County, Texas, following a citation she received from an HOA.

steps she’d followed to make her garden a Monarch Waystation. “I kept using these words: native Texas pollinators, native Texas wildlife,” says Key, an Oklahoma transplant. “If you know anything about people from Texas, they are very proud of anything from Texas.”

Within 24 hours, the board president replied. “She said, ‘Kristy, the letter’s fantastic. Thank you for explaining everything in detail; we just need to know that everything you’re doing is planned,’” Key says. During the process, Key learned that the complaint had come not from a neighbor but from an independent company hired to look for violations.

Even people living outside of HOAs are often subject to outdated municipal codes. Though the two entities differ in key ways—HOAs enforce rules through

contracts and municipalities enforce them through ordinances—fear-based sentiments against wildlife gardening are the same. Both are usually complaint-driven, with few mechanisms in place to prevent abuse by vindictive neighbors.

“The system here is so stupid, and maybe it’s stupid everywhere,” says Benjamin Vogt, a garden designer and author in Lincoln, Nebraska, who was cited by the city in 2018 for “worthless vegetation.” “A neighbor reports you anonymously online, and they send out an inspector automatically, and you get an orange sign staked in your lawn automatically, and you get a letter in the mail automatically.”

Wildlife gardeners are already conspicuous in neighborhoods flattened by weekly mow-and-blow regimes, but scarlet-letter violation notices make them feel even more isolated. Sometimes community support comes after cases make headlines, as when an 80-year-old veteran in Kansas City cited last year took to Twitter and attracted the positive attention of the mayor. But if the complaining neighbor or board or city council is seen as retaliatory, few people are willing to fall into their crosshairs. Even

AVOIDING FALLING AFOUL OF WEED LAWS

If you want to create a wildflower or native plant garden, you can reduce the likelihood of attracting negative attention from HOAs or community weed law enforcers. Start by registering with an organization such as the National Wildlife Federation, which supports the Certified Wildlife Habitat program and offers a sign to help educate passersby about the value of your plantings. Make unfamiliar landscaping styles more discernible by trimming edges, adding low borders of recognizable flowers, installing pretty birdbaths or birdhouses, and creating pathways. Offer to share plants with neighbors, and keep a list of the plants in your garden with both common and botanical names.

If you are notified of a violation, do some research before responding or acceding to any demands. Review the HOA or city ordinances so you understand what you are up against. “Look at the law. Does it exist, or is somebody pulling your leg?” says Rosanne Plante, who provides legal counsel for Wild Ones, a natural landscaping advocacy group headquartered in Wisconsin (see “Resources,” page 35). “You need to know what the law is, and you need to know if it’s a good law, and you need to know what exactly it means.”

In the event you need to take further action to defend your garden, enlist the support of local environmental organizations, garden clubs, community groups, real estate agents, and local elected officials. Some of the organizations mentioned above offer advice to homeowners defending themselves against weed ordinances. —N.L.

sympathetic neighbors are often afraid to speak up, Kahntroff says, meaning the handful who complain have an outsize voice in the process.

Homeowners themselves often cede to unchallenged demands. That’s a mistake, says Rosanne Plante, who has been on both sides of the issue, as a homeowner and a former assistant city attorney helping to enforce weed laws in Sioux City,



Benjamin Vogt's backyard is not like those of his neighbors. Vogt's prairie garden in Lincoln, Nebraska, is filled with native plants and echoes of the region's natural landscape.

Iowa. When the county road department threatened to remove her brick mailbox, Plante found nothing in the ordinances to justify such action. But it took many calls and emails to stop the harassment. “How many people would have just said, ‘I can’t handle this. Just take it out?’” Plante asks rhetorically. “Ninety-nine percent of people.”

Armed with horticultural knowledge and a doctorate in English, Vogt wasn’t about to succumb to vague language and antiquated conceits. He sent a plant list to the weed control superintendent, who visited along with his inspector. The ini-

tially tense atmosphere dissipated as they walked around the garden and Vogt rattled off Latin names: *Geranium maculatum*, *Zizia aurea*, *Ratibida columnifera*.

In the end, Vogt earned the city employees’ respect. Wildlife gardens are “a shock to the system,” he says, and resistance should be expected. “It’s an unfortunate reality that when you disrupt the status quo, you have to be willing to not just take the first step. You have to be willing to take the second, third, fourth, or fifth step, and that means that you have to stand up for the defense of the space.”

Last year, retired physics professor Ed



When Benjamin Vogt's garden was cited for "worthless vegetation," he walked around with city officials identifying all the plants by their Latin names.


Borchardt sued the city of North Mankato, Minnesota, for declaring his parklike property a "public nuisance," a term they defined as something that "unreasonably annoys a considerable number of members of the public" and has an "infestation of the premises by plants, animals and birds." An appeals court reversed the resolution, citing lack of evidence for public health concerns and noting that only two people had complained. "The city knows no caselaw, and we are aware of none," wrote the judges, "providing that a person's property may constitute a nuisance simply because neighbors find it unsightly."

BITTERSWEET ENDING

Less than an hour after Mani Kurian arrived in court, a judge dismissed the case for lack of merit and with prejudice, meaning the HOA can't bring any more claims against his garden. Kurian's arguments were aided by Maryland's 2021

"low-impact landscaping" law, which was introduced by state delegates inspired by my sister's story. The law prohibits HOAs from mandating turfgrass and requires them to allow gardens that benefit wildlife and the environment. Only a handful of other states, including

Florida and California, have at least some measures in place to protect sustainable gardens in HOAs.

Janet's garden remains a symbol of perseverance and a reminder of lost time and money. The Beech Creek HOA wasted \$100,000 in community funds attempting to destroy a refuge for wildflowers, monarchs, woodpeckers, and yes, squirrels and snakes. But they discovered that today's wildlife gardeners, backed by a growing community of native plant enthusiasts, are as resilient as the sumac sprouting along the border between my sister and her neighbor; the more you try to cut them down, the more rooted in their resolve they become. 

Resources

Humane Society, www.humanesociety.org/humane-backyard.

Monarch Watch, www.monarchwatch.org/waystations.

National Audubon Society, www.audubon.org/bird-friendly-communities.

National Wildlife Federation, www.nwf.org.

Wild Ones, <https://wildones.org>.

Xerces Society, www.xerces.org/protecting-pollinators.

A writer and naturalist based in Maryland, Nancy Lawson is author of The Humane Gardener (Princeton Architectural Press, 2017). She blogs at the Humane Gardener (humanegardener.com).