

**POLICY OF
BRIGHTON EAST FARMS HOMEOWNERS ASSOCIATION, INC.
REGARDING XERISCAPING AND VEGETABLE GARDENS**

- SUBJECT:** Adoption of policy and procedure for xeriscaping and installation of vegetable gardens within Brighton East Farms Homeowners Association, Inc. (“Association”).
- PURPOSE:** To adopt a policy regarding an Owner’s right to install xeriscaping, vegetable gardens, and to conserve water. To adopt a standard procedure to be followed for xeriscaping, vegetable gardens, and water conservation.
- AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association, and Colorado law.
- EFFECTIVE DATE:** October 1, 2023
- RESOLUTION:** The Association hereby adopts the following Policy and Procedures for Xeriscaping (“Policy”):

1. Definitions. Unless otherwise defined in this Policy, initially capitalized terms or terms defined in the Declaration shall have the same meaning herein.

(a) “Xeriscaping” means the combined application of the seven principles of landscape planning and design, soil analysis and improvement, hydro zoning of plants, use of practical turf areas, uses of mulches, irrigation efficiency, and appropriate maintenance as required by C.R.S. §38-35.7-107 (1)(a)(III)(A).

(b) “Turf Grass” means continuous plant coverage consisting of hybridized nonnative grasses or grasses that have not been hybridized for arid conditions which, when regularly mowed, form a dense growth of leaf blades and roots.

(c) “Vegetable Garden” means a plot of ground or an elevated soil bed in which pollinator plants, flowers, vegetables or herbs, fruits, leafy greens, or other edible plants are cultivated.

2. Use of Xeriscape. Colorado law provides that the Association shall not prohibit or otherwise restrict the use of Xeriscape to provide ground covering to property the Owner is responsible to maintain, including tree lawns.

3. Preapproved Plans. Association has adopted three preapproved waterwise landscape designs that may be used in front yards and installed without prior approval. The three preapproved plans are available on the Association's website. Owners shall be allowed to use reasonable substitute plants if a plant in the preapproved design is not available.

4. Approval. Except as provided above, **installation of Xeriscape or a Vegetable Garden on a Lot** (regardless of whether the Vegetable Garden is elevated or in-ground) or a change from the non-Xeriscape landscaping to Xeriscape, **must be approved by the Architectural Review Committee** ("Committee") in accordance with the procedures contained in the Declaration and any architectural standards adopted with respect to landscape modifications or installations. However, the Association shall not impose any *additional* Xeriscape requirements over and above what is imposed for other types of landscaping.

5. Adoption of Additional Guidelines/Rules. Nothing in this Policy shall prohibit the Association from adopting and enforcing Xeriscape design or aesthetic Guidelines or Rules, as long as such Guidelines and/or Rules comply with the below requirements:
 - (a) Association Guidelines and/or Rules shall not require hardscape on more than 20% of a Lot, and shall allow at least 80% of the Lot to be covered in drought-tolerant plantings.

 - (b) Association Guidelines and/or Rules may regulate the type, number, and placement of drought-tolerant plantings and hardscapes that may be installed on a Lot.

 - (c) Association Guidelines and/or Rules shall not prohibit Vegetable Gardens in the front, back, or side yards of a Lot.

 - (d) Association Guidelines and/or Rules may establish bona fide safety requirements consistent with applicable landscape codes or recognized safety standards; the Guidelines and/or Rules may also establish prohibitions and restrictions on changes that interfere with the establishment and maintenance of fire buffers or defensible spaces, and changes to existing grading, drainage, or other structural landscape elements.

6. Turf Grass and Nonvegetative Turf Grass.

(a) Colorado law prohibits associations from requiring any amount of Turf Grass and, therefore, the Association does not require any amount of Turf Grass to be installed on an Owner's Lot.

(b) In addition, pursuant to Colorado law the Association shall not prohibit the installation of nonvegetative turf grass (commonly known as artificial turf) in the backyard of Lots. The installation of such nonvegetative turf grass requires prior approval from the Association, and the Association may require certain colors or styles be used.

(c) The Association may adopt other reasonable aesthetic guidelines and rules regulating the installation of nonvegetative turf grass that may be installed in the backyard of an Owner's Lot.

7. Watering Requirements. In order to reduce the water required for the installation of new landscaping and in order to maintain the good appearance of all Lots, Owners shall adequately water all landscaping, in accordance with watering restrictions, if any, imposed by the water provider.

8. Water Restrictions Procedure.

(a) In the event the water provider institutes watering restrictions, so long as Lot Owners water in accordance with said restrictions, the Association shall not enforce a rule or covenant in relation to dead or dormant Turf Grass.

(b) Upon the lifting or expiration of watering restrictions, if any, a Lot Owner who has existing Turf Grass in his or her landscaping plan that appears to be dead shall be afforded a reasonable period of time, subject to the time of year, to reseed and revive the Turf Grass. The Association shall send written notice to the Lot Owner specifying the amount of time the Lot Owner has to revive the Turf Grass. Failure or inability to revive the Turf Grass within the allotted timeframe may result in the Association requiring the Lot Owner to replace Turf Grass.

9. Failure to Maintain. Excepting periods of watering restrictions, nothing in this policy shall be construed as permitting a Lot Owner to fail to maintain his or her Lot, including landscaping.

10. Enforcement. This Policy shall be enforced in a consistent manner throughout the community in accordance with the Association's Covenant and Rule Enforcement Policy and Procedure.

11. Supplement to Law. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Community.

12. Deviations. The Board of Directors may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

13. Amendment. This policy may be amended by the Board.

PRESIDENT'S

CERTIFICATION: The undersigned, being the President of Brighton East Farms Homeowners Association, Inc., certifies the foregoing Policy was approved and adopted by the Board of Directors on September 19, 2023 and in witness thereof, the undersigned has subscribed his/her name.

**Brighton East Farms Homeowners
Association, Inc.,** a Colorado nonprofit
corporation

By: _____
Its: President