XERISCAPING
The Next Steps - A New Look for Texas

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PRESENTATION GOALS

- What is the Law?
- How has it changed
- What is Xeriscaping?
- What is not Xeriscaping?
- Know the board's authority
- What is reasonable?
- What is aesthetic compatibility?

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THE LAW

- Section 202.007 TPC sets forth the Texas law on Xeriscaping

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XERISCAPING –EFFECTIVE DATES

- Section 202.007 TPC
- The law was effective September 1, 2011 and amended
- The amendments are effective September 1, 2013

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XERISCAPING – THE OLD AND THE NEW

- Section 202.007 TPC

- POAs may not prohibit
  - Solid waste composing of vegetation, including grass clippings, leaves or brush or leaving grass clippings uncollected on grass
  - Installing rain barrels or a rainwater harvesting system
  - Implementing efficient irrigation systems – including underground drip or other drip systems
  - Using drought-resistant landscaping or water conserving natural turf

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XERISCAPING - COMPOSTING

- Section 202.007 TPC
- A POA may
  - Regulate the requirements [size, type, shielding, materials and location]
    - May not prohibit the economic installation of the device in an area that can accommodate the device
    - Not required to permit installation on common area or POA property
    - Permitted only within a fenced yard or patio

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XERISCAPING - IRRIGATION

- Section 202.007 TPC
- POA may regulate:
  - The installation of efficient irrigation systems
    - Including establishing visibility limitations for aesthetic purposes

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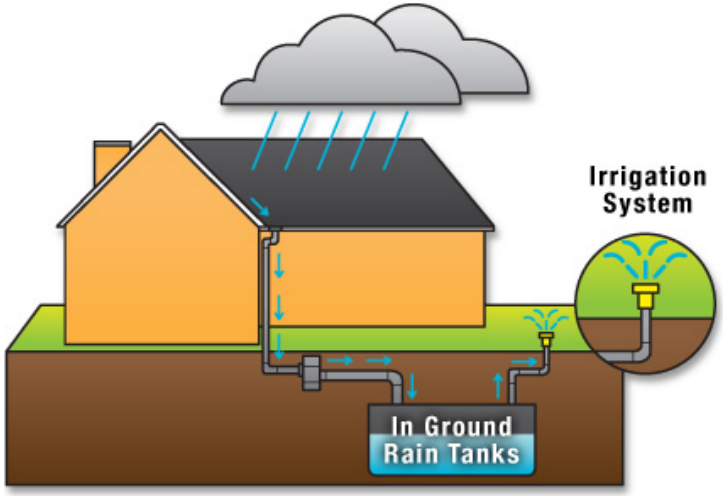
XERISCAPING – RAIN BARRELS

- Section 202.007 TPC
- POA may prohibit rain barrels and rain harvesting systems on property that is:
  - Owned by the POA
  - Owned as common area
  - Located between the front of the owner's home and an adjoining street



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XERISCAPING – RAIN BARRELS

- Section 202.007 TPC
- The POA may
  - Require the color to be consistent with the color scheme of the home
  - Only have words on the device not typically displayed
  - POA may regulate the size, type, shielding, materials – if it is visible from a street, lot or common area

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XERISCAPING – RAIN BARRELS

- Section 202.007 TPC
- The POA may not
  - Prohibit the economic installation of the device
  - Prohibit the installation due to constraints on location that make it impossible to install the device

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XERISCAPING – RIGHT TO REGULATE TURF

- Section 202.007 TPC
- A POA may
  - Restrict the type of turf used by a property owner in the planting of new turf to encourage or require water-conserving turf

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XERISCAPING – INSTALLATION AND MAINTENANCE

- Section 202.007 TPC
- POA may regulate:
  - The installation or use of gravel, rocks, or cacti and
  - Yard and landscape maintenance
    - But it may not prohibit turf or landscaping design that promotes water conservation

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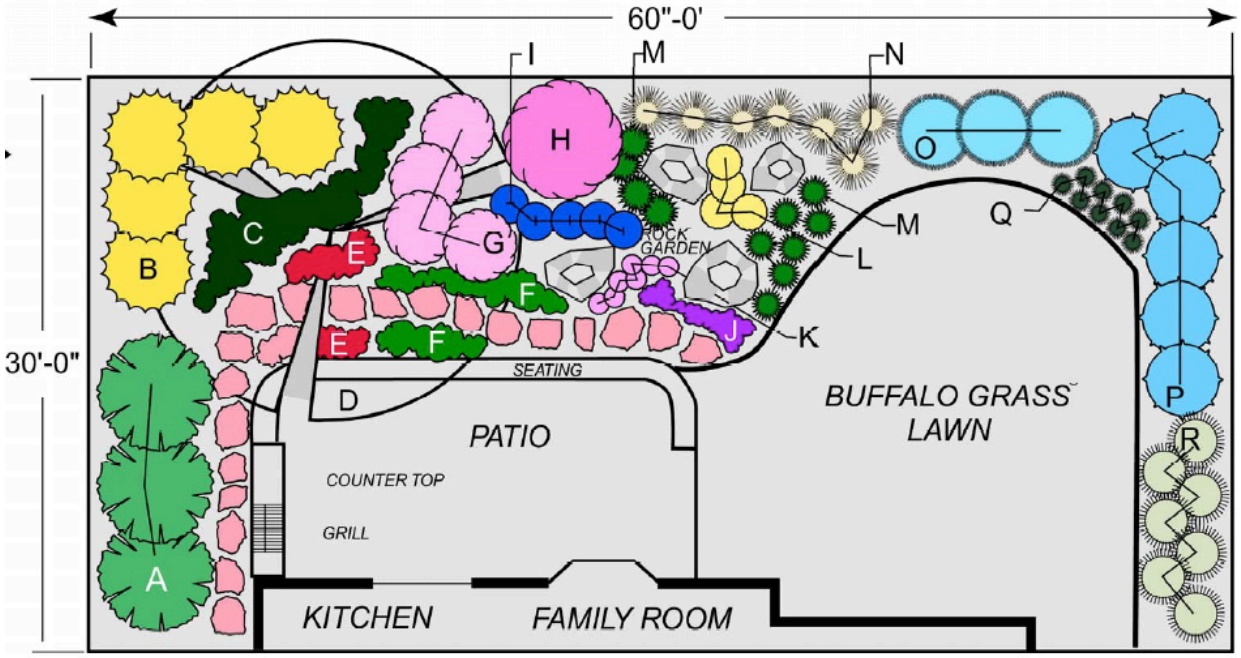
XERISCAPING

- The POA may require that a Xeriscaping plan for the installation of:
  - Drought-resistant landscaping or
  - Water conserving natural turf



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XERISCAPING

- Be subject to ACC review to ensure – to the extent practicable
  - Maximum aesthetic compatibility with other landscaping in the subdivision

- May not unreasonably withhold or deny approval or
- Unreasonably determine it is aesthetically incompatible

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THIS IS NOT APPROVED XERISCAPING

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WHAT SHOULD AN ASSOCIATION DO?

- Associations should be reasonable
- They should be working on approving Resolutions that address:
  - The submission process
  - Composting regulations
  - Rain barrel/rainwater harvesting regulations
  - Irrigation systems
  - Review/modify existing landscape guidelines

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WHAT SHOULD AN ASSOCIATION DO?

- What is aesthetically compatible as to
  - Drought-resistant landscaping or
  - Water conserving natural turf
- One size does not fit all communities

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ASSEMBLING THE TEAM - THE DESIGN

- Associations should consider engaging
  - Landscape architect or designer
    - To assist with formulating guidelines

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ASSEMBLING THE TEAM - IMPLEMENTATION

- Associations should consider engaging
  - Landscape professionals
    - To assist with costs to install the recommended guidelines

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ASSEMBLING THE TEAM - THE REVIEW

- Associations should consider engaging an attorney
  - To review the guidelines for their impression of reasonableness and compliance with the law
  - And to put the guidelines into recordable form (per 202.006TPC)

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BABY STEPS

- You can't go from 100% trees and St. Augustine grass
- To 100% drought resistant landscaping and water conserving turf in one step and be aesthetically compatible
- It takes some transition time

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BABY STEPS

- Associations must consider the law and the effect on neighboring properties

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BABY STEPS

- Community support and buy in is critical for homeowner understanding and compliance
- Frequent info to owners about the changes are needed

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BABY STEPS

- If the resolution/guideline you draft is not working – change it
- If the resolution/guideline you draft is working revisit it regularly as the community changes

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CONCLUSION

- STAY INFORMED
- MONITOR THE COMMUNITY
- KEEP IN MIND THE INTENT OF THE LAW
  - TO SAVE WATER

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QUESTIONS

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