

**Legislative Issue**  
**FY 24/25**  
**Prohibiting St. Augustine Grass in the Weeki Wachee BMAP Priority Focus Area**

**Action**

By prohibiting St. Augustine Grass in the Weeki Wachee BMAP would reduce over usage of watering. The County is requesting a change to the Florida Statutes to allow restricting this high water use sod type in the Weeki Wachee BMAP Priority Focus Area.

**Background**

Recently, a Pilot turfgrass swap project was performed in the Wellington Community in Spring Hill on four homes. The homes' existing high water use turfgrass (St. Augustine grass) was replaced with drought tolerant turfgrass (Bahia grass) and expanded planting beds were utilized. This resulted in a 25% reduction in water use and the turf performed better than the surrounding neighbors' yards which were St. Augustine grass. The project was successful and the Wellington Community is now resodding their yards with Bahiagrass as a result.

The Spring Hill area lies within the Weeki Wachee Springs Basin. The primary soil in the area consists of Candler fine sands (i.e. beach sand) that has an extremely high infiltration rate and exhibits poor moisture retention properties, making it less suitable for high water use turf such as St. Augustine. Homes within this area that utilize St. Augustine often violate the County's one day a week watering restrictions in an effort to maintain this turf on this sandy soil. Maintaining this turf on this type of soil questions the Florida Friendly Landscape principles of having the "right plant in the right place".

**State Interest**

Hernando County researched the possibility of prohibiting high water use turfgrass (St. Augustine grass) in these areas of the County and the County Attorney's Office prepared a legal opinion on the possibility of enacting an ordinance to limit the use of this turf (see attached). Below is an excerpt from the legal opinion on this matter:

"Since St. Augustine grass is listed as a Turfgrass under the Florida-friendly landscape standards, an ordinance that prohibits the use of such grass in the County would conflict with the standards and be barred by paragraphs 125.568(3)(c) and 373.185(3)(c), Florida Statutes. However, the Board of County Commissioners is authorized to promote the planting of appropriate turfgrass based on soil type by providing public education and offering incentives to local residents and businesses. § 125.568(2), Fla. Stat. Such activities may encompass educational programs for citizens, contractors and developers as well as financial incentives for landowners who install alternative turf or replace existing St. Augustine grass on their property."

The County already performs educational information through the Florida Friendly Landscape Coordinator and regularly conducts free trainings to County residents on this issue. However, St. Augustine still remains abundant in this native sandy area. The County is requesting a change to the above referenced Florida Statutes to allow restricting this high water use sod type in the Weeki Wachee BMAP Priority Focus Area.

**MEMORANDUM  
HERNANDO COUNTY ATTORNEY'S OFFICE**

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**TO:** Board of County Commissioners  
**VIA:** Jon A. Jouben, County Attorney  
**FROM:** Maureen S. Sikora, Assistant County Attorney *msa*  
**LR:** 21-054  
**SUBJECT:** Turfgrass Regulations  
**DATE:** October 13, 2021

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**I. FACTUAL BACKGROUND**

On January 15, 2008, the Hernando County Board of County Commissioners adopted Ordinance No. 2008-02, the 2008 Hernando County Landscape Ordinance, which is codified as Chapter 10, Article II, Hernando County Code of Ordinances. Subsection 10-17(2) and Section 10-18 of the Code of Ordinances require the Landscape Ordinance to be compatible with the Florida-Friendly Landscaping Design Standards.

**II. ISSUE**

The Board of County Commissioners has discussed revising the County's Landscape Ordinance to prohibit the installation of St. Augustine grass.

**III. SUMMARY**

The Hernando County Landscape Ordinance requires consistency with the Florida-Friendly Landscaping Design Standards prepared by the Florida Yards and Neighborhoods Program.

The Board has the legal authority to enact a Florida-friendly landscaping ordinance. The Board also has the power to promote Florida-friendly landscaping through public education and incentives to local residents and businesses.

Florida Statutes restrict the County's ability to adopt or enforce an ordinance which prohibits property owners from implementing Florida-friendly landscaping on their land.

Both the Florida-Friendly Landscape Model Ordinance and the Florida-Friendly Landscaping Guide to Plant Selection include St. Augustine grass as an approved turfgrass. An ordinance prohibiting the installation of such grass within Hernando County would conflict with the

Florida-Friendly Landscaping Design Standards and consequently be precluded by Florida law.

#### IV. ANALYSIS

The 2008 Hernando County Landscape Ordinance is based on concepts of Xeriscape and Florida Friendly Landscaping under the Florida Yards and Neighborhoods (FYN) and Environmental Landscape Management (ELM) programs promoted by the University of Florida Cooperative Extension Service, along with the programs of the state’s water management districts and Best Management Practices (BMPs). § 10-17(2), Hernando County Code of Ordinances. Section 10-18 of the Code of Ordinances states:

Application and interpretation of this article shall be generally consistent with “Landscape Irrigation & Florida-Friendly Design Standards” as promulgated by the Committee on Landscape Irrigation and Florida-Friendly Design Standards, dated December, 2006, or as subsequently revised or amended.

“Xeriscape or Florida-friendly landscape” is defined in Section 10-19 of the Code of Ordinances to mean:

[Q]uality landscapes that conserve water and protect the environment and are adaptable to local conditions and which are drought tolerant. The principles of Xeriscape include planning and design, appropriate choice of plants, soil analysis which may include the use of solid waste compost, efficient irrigation, practical use of turf, appropriate use of mulches, and proper maintenance.

Chapter 10, Article II, of the Code of Ordinances does not contain a definition of turf or identify the types of turfgrass approved for installation in Hernando County. Sections of the Landscape Ordinance relating to development of residential lots and rural-residential parcels recommend that plant installations in low water-use zones be selected using guidelines described in the Florida-Friendly Plant List current year publication. §§ 10-29(a)(8), 10-29(b)(7), Hernando County Code of Ordinances.

In 2009, the Florida Legislature amended various statutes pertaining to Florida-friendly landscaping for the purpose of promoting water conservation and water quality protection and restoration. Ch. 2009-243, Laws of Fla. These laws apply to counties, § 125.568, Fla. Stat., municipalities, § 166.048, Fla. Stat., and local governments, § 373.185, Fla. Stat. The relevant provisions of Section 125.568 provide:

**125.568 Conservation of water; Florida-friendly landscaping.—**

(1)(a) The Legislature finds that Florida-friendly landscaping contributes to the conservation, protection, and restoration of water. In an effort to meet the water needs of this state in a manner that will supply adequate and dependable supplies of water where needed, it is the intent of the Legislature that Florida-friendly landscaping be an essential part of water conservation and water quality protection and restoration planning.

(b) As used in this section, “Florida-friendly landscaping” has the

same meaning as in s. 373.185.

(2) The board of county commissioners of each county shall consider enacting ordinances, consistent with s. 373.185, requiring the use of Florida-friendly landscaping as a water conservation or water quality protection or restoration measure. If the board determines that such landscaping would be of significant benefit as a water conservation or water quality protection or restoration measure, especially for waters designated as impaired pursuant to s. 403.067, relative to the cost to implement Florida-friendly landscaping in its area of jurisdiction, the board shall enact a Florida-friendly landscaping ordinance. Further, the board of county commissioners shall consider promoting Florida-friendly landscaping as a water conservation or water quality protection or restoration measure by: using such landscaping in any areas under its jurisdiction which are landscaped after the effective date of this act; providing public education on Florida-friendly landscaping, its uses in increasing water conservation and water quality protection or restoration, and its long-term cost-effectiveness; and offering incentives to local residents and businesses to implement Florida-friendly landscaping.

(3)(a) The Legislature finds that the use of Florida-friendly landscaping and other water use and pollution prevention measures to conserve or protect the state's water resources serves a compelling public interest and that the participation of homeowners' associations and local governments is essential to the state's efforts in water conservation and water quality protection and restoration.

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(c) A local government ordinance may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land. (Emphasis added.)

The underlined language cited above is repeated in paragraph 373.185(3)(c), Florida Statutes, which forbids approval or enforcement of a local government ordinance that prohibits any property owner from implementing Florida-friendly landscaping on his or her land.

Paragraph 373.185(1)(b), Florida Statutes, defines the phrase "Florida-friendly landscaping" as follows:

"Florida-friendly landscaping" means quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of such landscaping include planting the right plant in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components include practices such as landscape planning and design, soil analysis, the appropriate use of solid waste compost, minimizing the use of irrigation, and proper maintenance.

The standards for Florida-friendly landscaping are set forth in a publication entitled "Florida - Friendly Landscape Guidelines for Model Ordinance Language for Protection of Water Quality

and Quantity (Jan. 2009)”, which was developed by the Department of Environmental Protection (FDEP), the University of Florida Institute of Food and Agricultural Sciences (UF/IFAS), and the FYN Program. Subsection 8.61 of the Model Ordinance defines the term “Turf and/or Turfgrass” to mean “[a] mat layer of monocotyledonous plants such as, but not limited to, Bahia, Bermuda, Centipede, Paspalum, St. Augustine, and Zoysia.”

“The Florida Friendly Landscaping Guide to Plant Selection & Landscape Design”, a handbook published by the FYN Program, includes a list of recommended Florida-Friendly Landscaping plants. The category entitled Turfgrass itemizes Bermudagrass, Bahiagrass, St. Augustinegrass, and Zoysiagrass adapted to the entire state and Centipedegrass adapted to North Florida and the Panhandle.

Since St. Augustinegrass is listed as a Turfgrass under the Florida-friendly landscape standards, an ordinance that prohibits the use of such grass in the County would conflict with the standards and be barred by paragraphs 125.568(3)(c) and 373.185(3)(c), Florida Statutes. However, the Board of County Commissioners is authorized to promote the planting of appropriate turfgrass based on soil type by providing public education and offering incentives to local residents and businesses. § 125.568(2), Fla. Stat. Such activities may encompass educational programs for citizens, contractors and developers as well as financial incentives for landowners who install alternative turf or replace existing St. Augustinegrass on their property.

In addition to restricting the ability of local governments to adopt, amend or enforce ordinances, Florida law affects homeowners’ associations in a similar manner. Paragraphs 125.568(3)(b) and 373.185(3)(b), Florida Statutes, read as follows: “A deed restriction or covenant may not prohibit or be enforced so as to prohibit any property owner from implementing Florida-friendly landscaping on his or her land.” Paragraph 720.3075(4)(b), Florida Statutes, also relates to homeowners’ association documents, such as declarations of covenants, articles of incorporation, and bylaws.

If I can provide any additional information or answer any questions, do not hesitate to contact me.