

Prohibitions for HOAs that Act Against Homeowners with Low-Water Landscapes Outside of a Declared Drought

This fact sheet provides information regarding prohibitions for Home Owners Associations (HOAs) now that the drought emergency declaration has been lifted. Following the lifting of the drought emergency, the Water Board was directed to rescind portions of its emergency conservation regulations, while leaving other portions in place. On April 26, the Water Board [partially rescinded](#) the regulations through [Resolution](#).

Based upon existing statute and portions of the emergency regulations that were left in place, the following apply:

- A number of prohibitions on HOAs contained in statute remain, notwithstanding the Governor's lifting of the drought emergency. The State Water Board's [Drought Emergency Water Conservation regulation](#) includes provisions that make any violations of those prohibitions an infraction and establish civil penalties of up to \$500 per day for HOAs that violate any of the prohibitions. Those penalties can be imposed by the Board, a water supplier, or other local public agency. A homeowner affected by an HOA action that violates these prohibitions can file a complaint or otherwise bring the violation to the attention of their water supplier and/or the Water Board. The Water Board's provisions will remain in effect until November 25, 2017.
- An HOA *cannot* fine or require a homeowner to reverse or remove the water-efficient landscaping measures upon the conclusion of the drought state of emergency (Civil Code section 4735(e)).
- An HOA *cannot* enforce architectural or landscaping guidelines or policies that prohibit either the use of low water-using plants as a replacement of existing turf, or the use of artificial turf or any other synthetic surface that resembles grass (Civil Code section 4735(a)).
- An HOA *cannot* issue a fine or assessment on a homeowner for reducing or eliminating the watering of vegetation or lawns during a state or locally-declared drought emergency (Civil Code section 4735(c)).
- An HOA *cannot* enforce architectural or landscaping guidelines or policies that prohibit, or have the effect of prohibiting, compliance with most local water-efficient landscape ordinances.
- The above Civil Code rules apply at all times, not just during a declared drought emergency or when the Water Board's emergency regulations are in effect.

BACKGROUND

The Governor's proclamation/declaration of a drought state of emergency was lifted on April 7, 2017 by Executive Order ([EO B-40-17](#)), except for in Fresno, Kings, Tulare and Tuolumne Counties. On April 26, 2017 the Board partially rescinded its Drought Emergency Water Conservation regulation ([Resolution 2017-0024](#)). The Board left in place the prohibitions on specific water uses, as directed by EO B-40-17, including the penalties for violations of the statutory prohibitions identified above. The HOA penalties, along with the, remaining portions of the Board's regulation, remain in effect until November 25, 2017.

For more information on the ongoing emergency water conservation regulations, please visit the [Emergency Water Conservation Regulations Portal](#). To learn about all the actions the state has taken to manage our water system and cope with the impacts of the drought, visit [Drought.CA.Gov](#). Every Californian should take steps to conserve water. Find out how at [SaveOurWater.com](#).

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