

Legislative Update

New Laws for 2023

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Daniel C. Heaton, Esq. is a Senior Associate with Nordberg | DeNichilo, representing community associations across the state of California.

Daniel provides counsel to boards and professional managing agents, as well as handles enforcement and litigation matters for his clients. His practice includes analyzing and interpreting the scope of his clients' duties and obligations under applicable statutes and their respective governing documents, evaluating and resolving homeowner disputes, assisting in the enforcement of CC&Rs and association rules, and navigating complicated areas of corporate governance.

Daniel is an active member of the Community Associations Institute (CAI) at both the National and Chapter levels. He previously served on the National Amicus Review Committee and is currently serving on the Publications and Education Committees in the Orange County Chapter, as well as the Legislative Support and Communications Committees of the Greater Inland Empire Chapter.

Daniel regularly contributes to industry publications and serves as faculty for multiple board education and community leadership courses.



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AB 648

Virtual Meetings

- Allows for board and member meetings to be conducted entirely virtually without needing to designate a physical location.
- Exception: Meetings at which ballots are counted and tabulated still must have a physical location designated (hybrid allowed)



AB 648

Virtual Meetings

Requirements:

- Notice must include tech instructions
- Must provide tech assistance before and during the meeting
- Provide a phone in option
- Roll call votes



AB 1458 – Lower Quorum Requirement

- Lowers the quorum requirement for adjourned member meetings to elect Board of Directors to no more than 20%
- If the Association's Governing Documents allow for a lower quorum requirement (e.g. 15% or 10%) then a lower quorum applies



"Well, let's get started now we've got a quorum."



AB 1458 – Lower Quorum Requirement

- General Notice required
 - At least 30 days before ballots are distributed
 - No less than 15 days prior to adjourned election
- Arguably does not apply to recall elections



"Well, let's get started now we've got a quorum."





AB 1764 – Director Qualifications

- Allows for term limits
 - Must disqualify candidates who served the maximum number of terms allowed
- Election Rules re disqualification apply to sitting directors
- Director who ceases to be a member is disqualified from continuing to serve as a director



AB 1033 - ADUs

- Owner can convert ADU into a condo with association approval
- Can sell ADU separately from main residence
- Unclear how condo would work
 - Are they part of HOA?
 - Are they subject to assessments?



CORPORATE TRANSPARENCY ACT


- Federal law
- Goal is to track suspicious activity, money laundering and terrorist financing.
- Applies to corporations with less than \$5 million in assets & fewer than 20 employees.
- File annually beginning 1/1/2025.
- Noncompliance: civil penalties of \$500/day; criminal up to \$10,000 and/or 24 months in prison
- *CAI pursuing an exemption for HOAs.*



AB 572 Limitation on Assessment Increases on Affordable Housing Units

- Prohibits an association that records its original declaration on or after January 1, 2025, from imposing an increase of a regular assessment on the owner of a deed-restricted affordable housing unit that is more than 5% plus the percentage change in the cost of living, not to exceed 10 percent greater than the preceding regular assessment.





AB 1572 – Potable Water

- Prohibit the use of potable water for the irrigation of nonfunctional turf located on homeowners' associations beginning January 1, 2029
- Just codifies current regulations restricting the watering of nonfunctional turf



Drought Restrictions

Check state website:

<https://drought.ca.gov/state-drought-response/statewide-emergency-water-conservation-regulations/>

- Restrictions apply to HOAs
- Decorative grass should not be watered*
- Give all **trees** just what they need: avoid overwatering
- Follow the local requirements of your water supplier

Note: Unless otherwise allowed in the regulation



What current water use restrictions apply to all Californians?

State Water Board water conservation requirements are listed in the table below. There are also requirements not listed here. Column A lists prohibitions on the use of **potable** water that apply to all Californians. Column B lists additional requirements for urban water suppliers. This table was updated on June 5, 2023.

WHEN IN EFFECT	A. PROHIBITED FOR ALL CALIFORNIANS	B. ADDITIONAL REQUIREMENTS FOR URBAN WATER SUPPLIERS
[1] Effective until December 2023	<ul style="list-style-type: none">Outdoor watering that lets water run onto sidewalks and other areas (except incidental runoff)Washing vehicles without an automatic shutoff nozzleWashing hard surfaces like driveways or sidewalks that don't absorb waterStreet cleaning or construction site preparationFilling decorative fountains, lakes, or ponds without a recirculation pumpOutdoor watering within 48 hours after at least 1/4 inch of rainfallWatering decorative grass on public medians	<ul style="list-style-type: none">Follow all prohibitions in column AIf needed, exercise authority to adopt more stringent local conservation measures
[2] Effective until June 2024	<ul style="list-style-type: none">Watering decorative grass in commercial, industrial, and institutional areas, including common areas of homeowners' associations (HOAs) <p>Note: You may also be a customer of a local water supplier that adopted different and/or stricter water conservation measures; check with your supplier about its current restrictions.</p>	<ul style="list-style-type: none">Follow all prohibitions in column AIf needed, exercise authority to adopt more stringent local conservation measures
Enforcement	<ul style="list-style-type: none">All water use prohibitions in column A are “infractions,” and any organization or public entity that already has the authority to enforce infractions may do so; this may include local water suppliers and cities.Public entities include: a city, whether general law or chartered, county, city and county, special district, agency, authority, any other municipal public corporation or district, or any other political subdivision of the state.Violations may be punishable by a fine of up to \$500 per day.Before imposing monetary penalties, the Board directs staff and encourages other entities to provide one or more warnings; monetary penalties should be based on an ability to pay determination, consider allowing a payment plan of at least 12 months, and shall not result in a tax lien; and Board enforcement shall not result in shutoff.To report a potential water use violation, go to SaveWater.CA.Gov on your phone or computer.	
<p>[1] = These requirements are from the water conservation emergency regulation to prohibit wasteful water uses that was readopted in December 2022 and is in effect for one year from the effective date, unless the State Water Board modifies, readopts, or ends it before then. Find regulation documents below.</p> <p>[2] = These requirements are from the water conservation emergency regulation to ban decorative grass watering that was readopted and became effective in June 2023 and is in effect for one year from the effective date, unless the State Water Board modifies, readopts, or ends it before then.Find regulation documents below.</p>		

https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/regs/emergency_regulation.html



What are HOA requirements during drought emergencies, especially the ban on watering decorative grass?

The ban on using potable water to irrigate decorative grass applies to property a homeowners' association (HOA) owns or maintains, and not the grass of individual residences (or separate interests). While an individual's property is considered residential, property owned or maintained by an HOA is treated the same as other landscapes owned by commercial or institutional entities. The regulation does not ban watering grass with recycled water, watering grass regularly used for recreation or community activities, or watering trees or other plants.

An HOA should review areas of grass that it maintains, consult with residents, and determine whether the grass is decorative ("non-functional"). Water suppliers may defer to HOAs' determinations that specific areas of grass are used for recreation or community events. However, water suppliers also retain the authority to enforce the watering ban if there is a documented violation.

According to the Davis-Stirling Act, an HOA may not impose a fine for reducing watering of lawns or vegetation during a drought emergency that was either declared by the Governor or local government. Additionally, homeowners may remove their lawns and replace them with water-wise plants. If a homeowner installs water-efficient landscaping during the drought, an HOA cannot prevent them from maintaining it or require them to remove it when there is no longer a drought state of emergency. An HOA also cannot prohibit, or include conditions that have the effect of prohibiting, the use of low water-using plants as a group or as a replacement of existing grass. Please refer to the documents and links below for more information on HOAs and drought emergency resources:

- [Letter to HOAs regarding emergency water conservation regulations \(6/6/2022\)](#)
- [Davis-Stirling Act](#) (specifically Civil Code section 4735)
- [HOA Fact Sheet](#)
- [Resources for saving water in the SaveOurWater.com Homeowners Association Toolkit](#)



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Questions

