OUR FUTURE IN EVERY DROP

Water Efficient Landscapes

Guidance for Homeowners Associations (HOAs)

Disclaimer:

Santa Rosa Water is providing this information to guide HOAs and homeowners, particularly as the City, the County, and the State are implementing measures to deal with the ongoing drought emergency. This is intended for informational purposes only and should not be construed as legal advice. HOAs and/or their individual homeowner members should seek legal advice where appropriate or work with the relevant public agency in the event that any questions arise about specific matters relating to HOAs and the legal restrictions that apply to HOA governance or the legal rights of residents within an HOA.

Background:

In many areas of Santa Rosa and elsewhere, property ownership often combines elements of individual interests and common ownership interests, including common ownership of amenities like pools and outdoor landscaping. This is the case for condominium developments and in certain planned unit developments with separate, freestanding homes. By law, common interest developments are governed by homeowners associations, or HOAs. There are more than 50,000 common interest developments in California comprising over 4.8 million housing units in California, and a number of these common interest developments with governing HOAs are in the City of Santa Rosa.

The Davis-Stirling Common Interest Development Act (Civil Code §§ 4000-6150) is the law that regulates common interest developments and the powers of HOAs in California. This law includes a chapter that addresses property use and maintenance. During the most recent historical drought of 2014-2016, a number of issues arose around the powers of HOAs to restrict water efficient landscaping efforts and what could reasonably be enforced when it comes to a property owner's right to install water efficient landscapes in front of their homes.

In 2015, the Legislature added a section to the Davis-Stirling Act to codify the limitations on an HOA's ability to restrict a homeowner's desire to install water efficient landscaping during a local or state declared drought. The prior year, in 2014, the Legislature also added a section stating that any HOA governing document provisions requiring pressure washing of the exterior of a separate interest and any exclusive use common area during a state or local drought emergency are void and unenforceable.

The following is a summary of the provisions in the Davis Stirling Act that apply to an HOA's ability to adopt architectural or landscaping guidelines or policies regarding water use and landscaping. For more detail on these, refer to sections 4735 and 4736 of the Civil Code:

- An HOA cannot prohibit the use of low water-using plants as a group or as a replacement of existing turf and cannot prohibit the use of artificial turf or any other synthetic surface that resembles grass.

- An HOA cannot restrict its members ability to comply with any water-efficient landscape ordinance or any regulation or restriction on the use of water adopted by a City or local water agency.
- An HOA cannot issue a fine or assessment to a homeowner for reducing or eliminating the watering of vegetation or lawns during a state or locally-declared drought emergency.
- An HOA cannot fine or require a homeowner to reverse or remove water-efficient landscaping uses upon the conclusion of the drought state of emergency.
- An HOA cannot require power washing of exterior surfaces during a state or locally declared drought.

In April 2021, Governor Newsom proclaimed a drought emergency in Sonoma and Mendocino counties. The Sonoma County Board of Supervisors adopted a formal resolution proclaiming a local drought emergency subsequent to the action by the Governor. At this time, all of the restrictions on the powers of an HOA referenced above are in effect due to a local drought emergency being declared. Local HOAs and their residents should be aware that they have the full ability to assist our community in meeting both short- and long-term goals for water use efficiency.