

Water Conservation in California: State Law and Local Enforcement

California is experiencing a third year of drought, and one of its driest years ever—the statewide snowpack in May was at 18 percent of average for this year and reservoirs remain low.¹ In response to these drought conditions, some local governments and water agencies (hereafter, public entities) have implemented water conservation measures. For now, many of these measures are voluntary, but as the drought continues, more jurisdictions may move towards mandatory water restrictions.² This Short Subject summarizes current state law on local water conservation measures and reviews how selected public entities are enforcing water restrictions.

STATE LAW—LOCAL WATER CONSERVATION

California public entities may implement water conservation measures, and may establish a system of enforcement, as allowed by California Water Code section 375:

“... any public entity which supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity may, by ordinance or resolution ... adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity”

The enforcement options available to public entities range from fines and misdemeanor charges, to local county imprisonment, per California Water Code section 377.

In addition, urban water suppliers, defined as “either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually,” must include a water

shortage contingency analysis as part of their Urban Water Management Plan (UWMP) submitted to the California Department of Water Resources (DWR).³ The contingency analysis must include consumption reduction methods and a list of penalties or charges for excessive use. UWMPs must also include the water supplier's 2015 and 2020 per capita water use reduction targets.⁴ DWR does not monitor or track which public entities have developed enforcement policies, but does advise these entities on recommended practices through drought workshops and its *Urban Drought Guidebook*.⁵

WATER CONSERVATION—LOCAL ENFORCEMENT

When a public entity declares a water emergency, it usually does so at varying stages of urgency. The first stage may be voluntary—such as encouraging water use reductions of 10-20 percent. The second stage may involve mandatory restrictions—such as limiting outdoor watering to certain days of the week. The third or fourth stages are implemented in extreme situations, and may involve prohibitions on any outdoor watering, or rationing water to consumers according to household size. Typically, penalties for violating these measures are implemented at the mandatory stage. Some public entities have established an appeals process or allow customers to file requests for exceptions to water restriction rules, due to health concerns or other issues.

Public entities enforce water conservation measures in a variety of ways—from monitoring water meter data to reliance on neighborhood reporting of violators or city officer patrols. In California, water meter usage is mandated by California Water Code section 527—requiring installation of water meters by all urban water suppliers by the year 2025. However, 42 communities in California are still not fully metered—with more than 255,000 unmetered connections statewide. These communities use 39 percent more water per capita than the state average.⁶

Table 1 presents our review of water conservation measures for 46 selected public entities. Codes prescribing penalties for water restriction violations are varied, and subject to discretion. In addition to fines and fees, penalties fall into one of the following categories:

- Administrative citation/warning.
- Infraction.
- Misdemeanor—variations:
 - Upon 2nd, or subsequent violations.
 - All violations.
 - At discretion of entity officials.
- Monetary penalties—only.

Our review found that public entities often rely on community awareness and cooperation with conservation programs—and only prescribe penalties for blatant water-use abusers. Some local entities install water flow restriction devices or terminate water service for persistent violators. Not all water conservation enforcement is focused on punitive measures. Some communities use public messages to encourage water conservation, or offer rebates to consumers for installing water-efficient appliances and plumbing fixtures, or planting drought-tolerant gardens.⁷

METHODOLOGY

We conducted a search in the Lexis-Nexis California Municipal Codes file and reviewed the municipal codes for selected public entities listed by the California Association of Water Agencies as implementing mandatory water restrictions.⁸ We selected these 46 entities to present a broad sampling of jurisdictions and their varying forms of penalties for water conservation violations.

We contacted 21 entity officials to clarify ambiguities in code provisions—and received varying answers from the 17 officials who responded. Some officials stated that though infractions or misdemeanors may be listed as penalties in their codes, they are options for enforcement. For some entities, water conservation education, staged warnings, fines or excessive use charges are the primary means for corrective action, rather than infraction or misdemeanor charges (See Table 1; Responding entities noted with asterisks). To learn what penalties apply in your community, contact your local library for assistance in finding your public entity's code or regulations, or contact your local entity.

Table 1: Water Restriction Violations—Penalties

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| Administrative Citation/Warning: |
| Folsom, San Juan Water District, Templeton Community Services District, and Wasco. |
| Infraction: |
| Arroyo Grande*, Healdsburg, Modesto, Mountain House Community Services District and Visalia. |
| Misdemeanor – Upon 2nd or subsequent violations: |
| Azusa, Chino Hills, Crescent City, East Palo Alto, El Monte, Montebello*, Pismo Beach*, San Fernando*, Shasta Lake, and Trinity County. |
| Misdemeanor – All violations: |
| Banning, Cambria Community Services District*, St. Helena, Santa Clara Co., and Sunnyslope Co. Water District. |
| Misdemeanor – At discretion of entity officials: |
| Alameda Co. Water District*, Cloverdale, Coalinga, Kingsburg*, Morgan Hill, Pomona, Portola*, Simi Valley, Torrance*, West Covina* and Willits. |
| Monetary Penalty – Only: |
| Calistoga*, Citrus Heights Water District*, Corona*, Los Angeles Department of Water and Power, Morro Bay, Rancho Murieta Community Services District*, Rio Linda/Elverta Water District, Sacramento*, San Diego*, Santa Cruz*, and Sierra Madre. |

*Penalties verified by contact with entity officials.

ENDNOTES

1. California Department of Water Resources, "Year's Final Snow Survey Comes Up Dry: 3-Year Drought Retains Grip as Summer Approaches," news release, May 1, 2014.
2. Paul Rogers, "California Drought: Why is There No Mandatory Water Rationing?" San Jose Mercury News, February 15, 2014.
3. California Water Code section 10610-10657.
4. Steinberg, SB 7X7, Chapter 4, Statutes of 2009.
5. California Department of Water Resources, Urban Drought Guidebook 2008 Updated Edition.
6. Paul Rogers, "California Drought: More Than 255,000 Businesses and Homes Still Don't Have Water Meters Statewide," San Jose Mercury News, March 8, 2014.
7. San Diego County Water Authority. "Residential Water Use Efficiency Incentives, Program and Classes," Water Smart San Diego County, February 2014.
8. Association of California Water Agencies. "How California Water Agencies Are Responding to Record-Dry Conditions" updated June 10, 2014.

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