

## CHAPTER 25

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**PROPERTY**


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**HOUSE BILL 19-1050**

BY REPRESENTATIVE(S) Titone, Arndt, Buentello, Caraveo, Cutter, Duran, Exum, Galindo, Jaquez Lewis, Kennedy, Kraft-Tharp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Sirota, Snyder, Valdez A., Weissman, Becker;  
also SENATOR(S) Priola and Winter, Bridges, Danielson, Fenberg, Fields, Ginal, Gonzales, Lee, Moreno, Rodriguez, Story, Todd, Williams A., Zenzinger.

**AN ACT**

**CONCERNING THE PROMOTION OF WATER-EFFICIENT LANDSCAPING ON PROPERTY SUBJECT TO MANAGEMENT BY LOCAL SUPERVISORY ENTITIES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 38-33.3-106.5, **amend** (1)(i)(I) as follows:

**38-33.3-106.5. Prohibitions contrary to public policy - patriotic and political expression - emergency vehicles - fire prevention - renewable energy generation devices - affordable housing - drought prevention measures - definitions.** (1) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not prohibit any of the following:

(i) (I) The use of xeriscape or drought-tolerant vegetative landscapes to provide ground covering to PROPERTY FOR WHICH A UNIT OWNER IS RESPONSIBLE, INCLUDING A LIMITED COMMON ELEMENT OR ~~property~~ owned by the unit owner. Associations may adopt and enforce design or aesthetic guidelines or rules that require drought-tolerant vegetative landscapes or regulate the type, number, and placement of drought-tolerant plantings and hardscapes that may be installed on ~~the~~ A unit owner's property or ON A LIMITED COMMON ELEMENT OR OTHER property for which the unit owner is responsible.

**SECTION 2.** In Colorado Revised Statutes, **amend** 32-1-110 as follows:

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

**32-1-110. Construction with other laws.** If any provisions of this article are inconsistent with the provisions of any other law, the provisions of this article shall be controlling. ARTICLE 1 CONTROL; EXCEPT THAT THE WATER CONSERVATION POLICY SET FORTH IN SECTION 37-60-126 (11) APPLIES TO ALL LAND WITHIN A SPECIAL DISTRICT THAT IS NOT USED AS A PLAYING SURFACE FOR ORGANIZED SPORTS ACTIVITIES.

**SECTION 3.** In Colorado Revised Statutes, 37-60-126, **amend** (11)(a) and (11)(d) as follows:

**37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines - water efficiency grant program - definitions - repeal.** (11) (a) Any section of a restrictive covenant or of the declaration, bylaws, or rules and regulations of a common interest community, all as defined in section 38-33.3-103, ~~C.R.S.~~, AND ANY RULE OR POLICY OF A SPECIAL DISTRICT, AS DEFINED IN SECTION 32-1-103 (20), that prohibits or limits xeriscape, prohibits or limits the installation or use of drought-tolerant vegetative landscapes, or requires cultivated vegetation to consist wholly or partially of turf grass is hereby declared contrary to public policy and, on that basis, is unenforceable. This ~~paragraph (a)~~ SUBSECTION (11)(a) does not prohibit common interest communities OR SPECIAL DISTRICTS from adopting and enforcing design or aesthetic guidelines or rules that require drought-tolerant vegetative landscapes or regulate the type, number, and placement of drought-tolerant plantings and hardscapes that may be installed on ~~the unit owner's property or property for which the unit owner is responsible~~ THAT IS SUBJECT TO THE GUIDELINES OR RULES.

(d) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (11)(d)(II) OF THIS SECTION, this subsection (11) does not supersede any subdivision regulation of a county, city and county, or other municipality.

(II) THIS SUBSECTION (11) SUPERSEDES A RULE OR POLICY OF A SPECIAL DISTRICT, AS DEFINED IN SECTION 32-1-103 (20), ONLY IN THE CASE OF A DIRECT CONFLICT.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 7, 2019