

LAW SUMMARY

Office of Legislative Legal Services



Regulation of Homeowners' Property Rights Within Common Interest Communities (HOAs)¹

The Colorado Common Interest Ownership Act (CCIOA) was established in 1992 to form a clear, comprehensive, and uniform framework for the creation and operation of common interest communities. Within CCIOA, homeowners' associations (HOAs) are given the authority to manage the commonly owned property and regulate the use and maintenance of individually owned property ("units"). However, HOAs are limited in what they can require of a homeowner and what they can prohibit a homeowner from doing or owning. This summary discusses those limitations.

While a homeowners' association may regulate the location, size, and timing of displays of flags and political signs, it cannot prohibit:

- The display of the American flag on a unit owner's property, in a window of the unit, or on a balcony adjoining the unit if the American flag is displayed in a manner consistent with the federal flag code;
- The display of a service flag bearing a star denoting the service of the owner or occupant of the unit, or of a member of the owner's or occupant's immediate family, in the active or reserve military service of the United States during a time of war or armed conflict, on the inside of a window or door of the unit; or
- The display of a political sign by the owner or occupant of a unit on property within the boundaries of the unit or in a window of the unit.²

A homeowners' association may establish criteria for use of parking spaces but cannot prohibit the parking of a motor vehicle by the occupant of a unit on a street, driveway, or guest parking area in the common interest community if the vehicle is required to be

¹ This summary contains information commonly requested from the Office of Legislative Legal Services. It does not represent an official legal opinion of the General Assembly or the state of Colorado and does not bind the members of the General Assembly. It is intended to provide a general overview of Colorado law as of the date of its preparation. Any person needing legal advice should consult his or her own lawyer and should not rely on the information in this memorandum.

The primary legal and factual sources for the information contained in this memorandum are: Sections 38-33.3-106.5, 38-33.3-106.7, and 38-33.3-106.8, Colorado Revised Statutes.

² § 38-33.3-106.5, C.R.S.

available at designated periods at the occupant's residence as a condition of the occupant's employment in specified professions and the vehicle meets other specific requirements.³

A homeowners' association may require the homeowner to register with the HOA before commencement of work but cannot prohibit the removal by a unit owner of trees, shrubs, or other vegetation to create defensible space around a dwelling for fire mitigation purposes, so long as such removal complies with a written defensible space plan created for the property by the Colorado state forest service, an individual or company certified by a local governmental entity to create such a plan, or the fire chief, fire marshal, or fire protection district within whose jurisdiction the unit is located, and is no more extensive than necessary to comply with such plan.⁴

Despite any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, a homeowners' association cannot prohibit:

- Reasonable modifications to a unit or to common elements as necessary to afford a person with disabilities full use and enjoyment of the unit in accordance with the federal "Fair Housing Act of 1968", 42 U.S.C. sec. 3604 (f) (3) (A);
- The right of a unit owner, public or private, to restrict or specify by deed, covenant, or other document: the permissible sale price, rental rate, or lease rate of the unit; or occupancy or other requirements designed to promote affordable or workforce housing;
- The use of xeriscape or drought-tolerant vegetative landscapes to provide ground covering to 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 unit owner's property or property for which the unit owner is responsible; or
- Renewable energy generation devices, as defined in section 38-30-168, C.R.S.⁵

In addition, because of the increasing danger of wildfires in Colorado, a homeowners' association cannot require the use of cedar shakes or other flammable roofing materials.⁶

³ § 38-33.3-106.5 (d) (II), C.R.S.

⁴ § 38-33.3-106.5, C.R.S.

⁵ § 38-33.3-106.5, C.R.S.

⁶ § 38-33.3-106.5, C.R.S.

To encourage energy conservation, a homeowners' association cannot impose unreasonable restrictions on the following energy efficiency measures: an awning, shutter, trellis, ramada, or other shade structure that is marketed for the purpose of reducing energy consumption; a garage or attic fan and any associated vents or louvers; an evaporative cooler; an energy-efficient outdoor lighting device, including without limitation a light fixture containing a coiled or straight fluorescent light bulb, and any solar re-charging panel, motion detector, or other equipment connected to the lighting device; and a retractable clothesline.⁷

Finally, despite any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, a homeowners' association cannot:

- Impose unreasonable restrictions upon or prohibit installation at the unit owner's expense for the unit owner's own use, a level 1 or level 2 electric vehicle charging system on or in a unit; or
- Assess or charge a unit owner any fee to place or use an electric vehicle charging system on or in the unit owner's unit; except that the association may require reimbursement for the actual cost of electricity provided by the association that was used by the charging system or, alternatively, may charge a reasonable fee for access. (If the charging system is part of a network for which a network fee is charged, the association's reimbursement may include the amount of the network fee. The association is not required to impose upon a unit owner any fee or charge other than the regular assessments specified in the declaration, bylaws, or rules and regulations of the association.)⁸

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⁷ § 38-33.3-106.7, C.R.S.

⁸ § 38-33.3-106.8, C.R.S.