



## STATE LAW REGARDING HOMEOWNERS' ASSOCIATIONS

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A homeowners' association (HOA) is an organization that makes and enforces rules for properties and common areas within a planned community. Anyone who purchases a property in the community is automatically an HOA member required to pay dues, which typically go toward paying for communal amenities and maintenance. An HOA board is composed of community members elected by unit owners.

HOAs are primarily governed by their individual bylaws, articles, rules, and regulations. However, there are also applicable provisions set forth in the Colorado Common Interest Ownership Act (CCIOA), which governs the formation, management, and operation of HOAs created on or after July 1, 1992.<sup>1</sup> This *issue brief* provides an overview of the CCIOA provisions that are often of interest to homeowners.

### General HOA Requirements in CCIOA

#### **Formation and meeting requirements.**

CCIOA stipulates that an HOA must be established as soon as the first unit in the community is purchased. The association may be organized as a nonprofit, for-profit, or a limited liability organization. The association is required to meet at least once per year.

**Powers and duties.** HOAs have several powers and duties under CCIOA, including: adopting and amending bylaws and budgets; hiring staff; maintaining and insuring common

elements and levying related assessments; imposing fees and penalties; approving or denying a unit owner's architectural or landscaping changes; and defending the interests of the community.

#### **Unit boundaries and common elements.**

Under CCIOA, an HOA's bylaws must outline the designated boundaries for the units and allocate a portion of the common elements, expenses, and voting rights to each unit.

#### **Public information.**

CCIOA requires HOAs to provide all unit owners with a variety of information about the association, including the name, address, and phone number of the HOA and its designated agent or management company; the HOA's operating budget and annual financial statements; and the HOA's bylaws, articles, rules, and regulations.

#### **Dispute resolution.**

CCIOA requires HOAs to adopt a written policy setting forth procedures for addressing disputes between the HOA and unit owners. If a conflict arises, a unit owner and the association may enter into mediation to resolve the dispute, although mediation can be terminated at any time. However, if successful, the mediation agreement may be presented to the court as a stipulation. If either party violates the mediation agreement, the other party may apply to the court for relief. If mediation is unsuccessful or the plaintiff is not interested in mediation, the primary avenue for recourse in a disagreement with an HOA is to file a civil suit through the court system.

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<sup>1</sup>Section 38-33.3-101, *et seq.*, C.R.S.

## HOA Unit Owner Property Rights

**Political expression.** HOA unit owners are entitled to display an American or service flag or a political sign on their property. The HOA may regulate the size and placement of flags and flagpoles and may regulate the size, number, and period of display for political signs.

**Parking of an emergency service vehicle.** HOAs cannot restrict the parking of an emergency service vehicle weighing less than 10,000 pounds in the common interest community area if that vehicle is fundamental to the occupant's ability to perform his or her work or duties.

**Fire mitigation.** HOA unit owners may remove trees, shrubs, and other vegetation from the defensible space around their property for the purposes of fire mitigation, so long as they comply with local and state space plans. In addition, HOAs cannot require the use of cedar shakes or other flammable roofing materials.

**Unit modifications for owners with disabilities.** Unit owners with disabilities may make reasonable modifications to a unit or to common elements of the community as necessary to make living spaces more accommodating to a disability.

**Landscaping and rainwater catchment.** HOAs may not restrict unit owners from planting xeriscaped or drought-tolerant vegetative landscapes or using a rain barrel on owned property. The association may adopt guidelines or rules that regulate the type, number, and placement of drought-tolerant plants, and the placement and appearance of a rain barrel.

**Installation of energy efficient devices.** HOAs may not prohibit a unit owner from installing and operating a solar energy device, a wind-electric generator, shade structures, shutters, attic fans, evaporative coolers, energy-efficient outdoor lighting devices, and/or retractable clotheslines. However, an HOA may establish reasonable aesthetic provisions that govern the dimensions, placement, and external appearance of such devices.

**Installation of electric vehicle charging stations.** HOAs may not prevent a unit owner from installing an electric vehicle charging system on property owned by the unit owner. The owner must agree to comply with design specifications and other limitations established by the HOA.

**Permissible sales price and rental rate of units.** In counties with populations of less than 100,000 that contain a ski lift, HOAs may not prohibit the right of a unit owner to restrict or specify by deed, covenant, or other document:

- the permissible sales price, rental rate, or lease rate of the unit; or
- occupancy or other requirements designed to promote affordable or workforce housing.

## State Oversight

**HOA registration requirements.** Colorado HOAs must register with the director of the Division of Real Estate and renew the registration annually. The annual registration fee is collected and distributed to the HOA Information and Resource Center. An HOA that fails to register with the division, or whose annual registration has expired, is ineligible to impose or enforce a lien for assessments, pursue any action, or employ any enforcement mechanism until it obtains a valid registration. An association with annual revenue of \$5,000 or less that is not authorized to make assessments and does not have any revenue is exempt from the fee, but not the registration requirement.

**HOA Information and Resource Center.** The regulation of HOAs is overseen by the HOA Information and Resource Center in the Division of Real Estate. The HOA Information and Resource Center serves as a clearinghouse for information concerning the rights and duties of unit owners, declarants, and unit owners' associations. The office may also track inquiries and complaints concerning HOAs, and is online at:

<https://www.colorado.gov/pacific/dora/hoa-information-and-resource-center>