

# Colorado HOA Information & Resource Center

HOA Forum: Public Policy Prohibitions  
Friday, November 17<sup>th</sup>, 2023

*Thanks for joining. We will begin momentarily.*



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Division of Real Estate

# HOA Forum: Public Policy Prohibitions

Presented by:

- 
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  - Amanda Lopez, Program Assistant
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# What Is the HOA Information & Resource Center?

## What the HOA Information & Resource Center does:

- Provides information to homeowners regarding their basic rights and responsibilities under the Colorado Common Interest Ownership Act (“CCIOA”).
- Gathers, analyzes, and reports information through complaints and HOA registrations.
- Creates resource materials.
- Provides education and forums.
- Provides a website with information for the public.
- Registers HOAs pursuant to §38-33.3-401(1), C.R.S.
- Provides an Annual Report to the Legislature.

## What the HOA Information & Resource Center does not do:

- Is not a regulatory program.
- Does not mediate/arbitrate.
- Cannot provide legal advice.
- Does not act as an advocate.
- Cannot assess fines or penalties.
- Does not enforce an HOA’s failure to register.



# Disclaimer

- The information in this presentation is for educational purposes only and is not meant to be construed as legal advice. Any legal questions should be directed to a licensed attorney in Colorado.





# HB23-1105

- <https://engagedora.org/hoa-task-force>

# Sorry Dec., You Lose This Time!

- C.R.S. 38-33.3-106.5 - *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:*







The 13 No No's



- 38-33.3-106.5. (a)

***The display of a flag on a unit owner's property, in a window of the unit, or on a balcony adjoining the unit. The association shall not prohibit or regulate the display of flags on the basis of their subject matter, message, or content; except that the association may prohibit flags bearing commercial messages. The association may adopt reasonable, content-neutral rules to regulate the number, location, and size of flags and flagpoles, but shall not prohibit the installation of a flag or flagpole.***



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- 38-33.3-106.5. (c)

***The display of a sign by the owner or occupant of a unit on property within the boundaries of the unit or in a window of the unit. The association shall not prohibit or regulate the display of window signs or yard signs on the basis of their subject matter, message, or content; except that the association may prohibit signs bearing commercial messages. The association may establish reasonable, content-neutral sign regulations based on the number, placement, or size of the signs or on other objective factors.***



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- 38-33.3-106.5. (c.5)

*The display of a religious item or symbol on the entry door or entry door frame of a unit; except that an association may prohibit the display or affixing of an item or symbol to the extent that it:*

- (A) Threatens public health or safety;*
- (B) Hinders the opening or closing of an entry door;*
- (C) Violates federal or state law or a municipal ordinance;*
- (D) Contains graphics, language, or any display that is obscene or otherwise illegal; or*
- (E) Individually or in combination with other religious items or symbols, covers an area greater than thirty-six square inches.*

*“Religious item or symbol” means an item or symbol displayed because of a sincerely held religious belief.*





# Pop Quiz 1

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- 38-33.3-106.5. (d)

***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 available at designated periods at such occupant's residence as a condition of the occupant's employment and all of the following criteria are met:***

- I) 10,000 pounds or less;
- II) Member of a volunteer fire department, or employed by emergency fire fighting, law enforcement, ambulance, or emergency medical services;
- III) Bears an official emblem of the provider; and
- IV) Cannot obstruct emergency access or interfere with the reasonable needs of other unit owners to use streets, driveways, and guest parking spaces





# Pop Quiz 2

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- 38-33.3-106.5. (d.5)

***The use of a public right-of-way in accordance with a local government's ordinance, resolution, rule, franchise, license, or charter provision regarding use of the public right-of-way. Additionally, the association shall not require that a public right-of-way be used in a certain manner.***







- 38-33.3-106.5. (e)

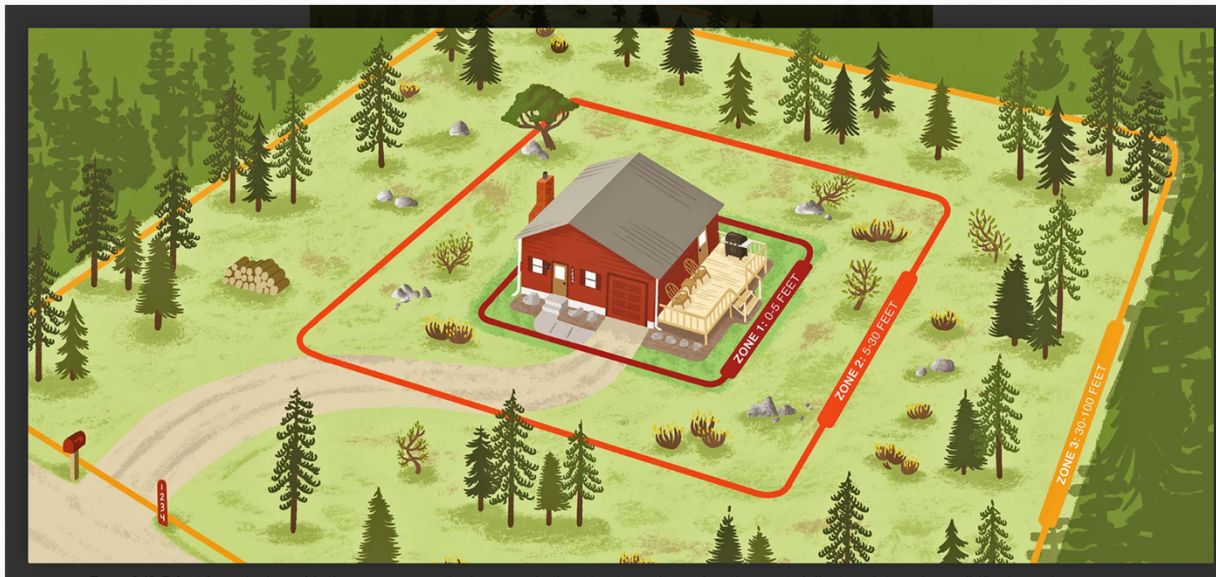
*The removal by a unit owner of trees, shrubs, or other vegetation to create defensible space around a dwelling for fire mitigation purposes, so long as such removal complies with a written defensible space plan created for the property by the Colorado state forest service, an individual or company certified 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.*





# Defensible Space

Courtesy of Colorado State Forest Service



Defensible space is the area around a home or other structure that has been modified to reduce fire hazards. In this area, natural and manmade fuels are treated, cleared or reduced to slow the spread of wildfire.

<https://csfs.colostate.edu/wildfire-mitigation/protect-your-home-property-from-wildfire/>



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- 38-33.3-106.5. (g)

***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);***



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- 38-33.3-106.5. (h)

***The right of a unit owner, public or private, to restrict or specify by deed, covenant, or other document:***

***(A) The permissible sale price, rental rate, or lease rate of the unit; or***

***(B) Occupancy or other requirements designed to promote affordable or workforce housing as such terms may be defined by the local housing authority.***

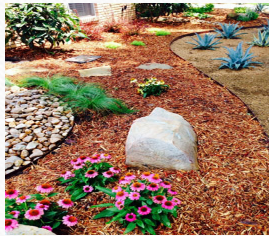
***\*Note – county must contain less than 100,000 persons and a licensed ski lift***





# Pop Quiz 3

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- 38-33.3-106.5. (i)

*The use of xeriscape, nonvegetative turf grass, 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.*

<https://dre.colorado.gov/colorado-general-assembly-2023-legislative-updates>



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- 38-33.3-106.5. (j)

***The use of a rain barrel, as defined in section 37-96.5-102 (1), C.R.S., to collect precipitation from a residential rooftop in accordance with section 37-96.5-103, C.R.S.***

\*As long as the property the rain barrel is connected to is NOT:

- 1) Leased, except with permission of the lessor;
- 2) A common element or a limited common element of a CIC;
- 3) Maintained by the unit owners' association for a CIC; or
- 4) Attached to one or more other units, except with permission of the owners of the other units.



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- 38-33.3-106.5. (k)

***The operation of a family child care home, as defined in section 26.5-5-303, that is licensed pursuant to part 3 of article 5 of title 26.5.***

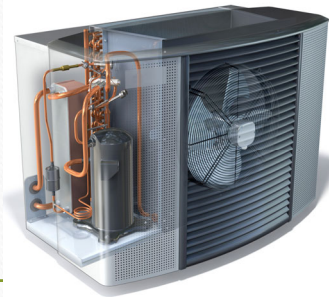
***C.R.S. 26.5-5-303***

**(7)** "Family child care home" means a facility for child care operated with or without compensation or educational purposes in a place of residence of a family or person for the purpose of providing less than twenty-four-hour care for children under the age of eighteen years who are not related to the head of such home. "Family child care home" may include infant-toddler child care homes, large family child care homes, experienced child care provider homes, and such other types of family child care homes designated by department rules pursuant to section 26.5-5-314 (2)(n), as the executive director deems necessary and appropriate.



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- 38-33.3-106.5. (1.5)

***Renewable energy generation devices, as defined in section 38-30-168:***

*(I) A solar energy device, as defined in section 38-32.5-100.3;*

*(II) A wind-electric generator that meets the interconnection standards established in rules promulgated by the public utilities commission pursuant to section 40-2-124;*

*(III) A geothermal energy device; or*

*(IV) A heat pump system, as defined in section 39-26-732 (2)(c).*



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- 38-33.3-106.5. (2)

*Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not require the use of cedar shakes or other flammable roofing materials.*





# What To Do If Your Governing Docs Are Out of Date?

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- Notify your board/community manager in writing and include the statutory citation.
- Come together as a community and acknowledge the need to update/amend your documents.
- Speak with legal counsel who specializes in common-interest community law.
- Consider utilizing the court petition process if your standard Declaration amendment process is too onerous/cumbersome.



# Questions?

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- [Dora\\_dre\\_hoainquiries@state.co.us](mailto:Dora_dre_hoainquiries@state.co.us)
  - <https://dre.colorado.gov/hoa-center>
  - <https://dre.colorado.gov/hoa-frequently-asked-questions>
- 
- Thanks for attending!



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# Image Citations

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- 2) <https://www.picpedia.org/highway-signs/p/political.html>
- 3) <https://instappraisal.com/appraisal/silver-catholic-religious-items>
- 4) <https://www.youtube.com/watch?v=N0-W8mnnEns>
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- 7) <https://rehabpub.com/industry-news/association-news/anniversary-campaign-highlights-importance-of-ada/>
- 8) <https://www.sportrx.com/blog/heres-how-to-get-on-off-the-ski-lift/>
- 9) <https://absolutelybushlandscaping.com/xeriscape-design-drought-tolerant-dallas-landscaping/>
- 10) <https://www.gardeners.com/buy/4-port-rain-barrel/40-201.html>
- 11) <https://www.publicdomainpictures.net/en/view-image.php?image=17107&picture=baby-santa-sleeping>
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