

CO Bills related to HOAs - passed and enacted in 2022

As you know, HB1137 affected policies for the enforcement of CC&Rs and that related to community notices, fines and collection. As a result, Canyon View Estates (CVE) has revised policies that are compliant with this new law.

I attended a webinar on four other bills that were enacted in 2022. The webinar was presented by Colorado Department of Regulatory Agencies (DORA), Division of Real Estate, on Friday, January 20.¹

These five bills became effective in August 2022:

- HB22-1040 Homeowners' Reasonable Access To Common Areas
- HB22-1137 Homeowners' Association Board Accountability And Transparency (not addressed in this webinar)
- HB22-1139 Homeowners' Associations Cannot Regulate Use Of Public Rights-of-way
- HB22-1314 Towing Carrier Nonconsensual Tows
- SB22-059 Homeowners' Association Voting Proxy Limitations

Below, I have provided the state's summary of each and my own summary of how these affect CVE.

HB22-1040 Homeowners' Reasonable Access To Common Areas

Purpose

To preserve and protect unit owners' ability to use and enjoy common elements. An HOA shall not unreasonably restrict or prohibit unit owners' access to, or enjoyment of, any common element, including during the maintenance, repair, replacement or modification of a common element.

The association may restrict or prohibit access to a common element "only to the extent and for the length of time necessary to (a) protect the safety of any individuals, including unit owners, and individuals performing the maintenance, repair, replacement, or modification of the common element; or (b) preserve the structural integrity or condition of a repair, replacement, or modification."

Notice

- Notice is *required* if the restriction will last more than seventy-two (72) hours.
- Notice may be either electronic or written.
- Notice shall include: (a) a simple explanation of the *reason* for the restriction or prohibition; and (b) an indication of the estimated time or date upon which the restriction or prohibition will *no longer exist*.
- In addition to the notice referenced above, the HOA *must* post a visible and clearly legible notice at any physical access point to the common element and the notice must remain posted for the duration of the restriction or prohibition.

Summary for CVE

This law requires the HOA to notify the community if a common element will not be available more than 72 hours after the resource goes offline. There are rules about labeling/signage an

¹ <https://dre.colorado.gov/hoa-center>

element that it is not available. Since we don't have pool, court, golf, exercise amenities or the like, much of this bill does not apply. Our common element is irrigation water service and our standard operating procedure on the Irrigation Committee is to notify the community whenever water will not be available, why it will be offline, and an estimate of restoration of service. If we continue that practice, we will be compliant with HB-1040.

HB22-1139 Homeowners' Associations Cannot Regulate Use Of Public Rights-of-way

- 38-33.3-106.5(1)(d.5), C.R.S. now clarifies that associations shall not enforce those restrictions or require that a public right-of-way be used in a certain manner any longer.
- Now, rather than associations, any "local government's ordinance, resolution, rule, franchise, license or charter provision" controls.
- Boards must determine if there are public rights-of-way in the community. If so, the board must refrain from any enforcement on those public rights-of-way.
- The law *DOES NOT* apply to enforcing parking in lots, on yards, or in driveways.

Summary for CVE

CVE HOA cannot act on complaints related to the roadways within our community. We can suggest that homeowners contact the City of Grand Junction if the situation violates municipal code. For reference, I've included the articles in the current code that would apply in our community. We may choose to post this summary of the city's code, for convenience, for our residents.

City of Grand Junction Municipal Code Chapter 10.8 - Parking

10.08.120 Parking not to obstruct traffic or maintenance.

No person shall park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance.

10.08.170 Stopping, standing or parking prohibited in specified places.

(a) No person, other than a peace officer conducting traffic enforcement in or on a marked patrol vehicle at or along an arterial or collector street or roadway as defined or described in the Grand Junction Circulation Plan, a duly adopted neighborhood plan or street plan, or GJMC Title 29, Transportation Engineering Design Standards (TEDS), shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or official traffic control device, in any of the following places:

- (1) On a sidewalk;
- (2) Within an intersection;
- (3) On a crosswalk;
- (4) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings; every vehicle shall be parked wholly within a designated parking space. Parking space designations shall be made by markings, signs or other appropriate indication upon the curb and/or pavement. Except where prohibited by other provision of this

code, a vehicle which is of a size too large to be parked within a single space shall be permitted to occupy two adjoining spaces when the vehicle will fit wholly and completely within the designated spaces and where, as applicable, the necessary number of parking meter charges have been paid;

(5) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(6) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

~~(7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;~~

~~(8) On any railroad tracks;~~

~~(9) On any controlled access highway;~~

~~(10) In the area between roadways of a divided highway, including crossovers;~~

(11) At any other place where official signs prohibit stopping, standing, or parking;

(12) Either in whole or in part on a planting strip.

(b) In addition to the restrictions specified in subsection (a) of this section, no person, other than a peace officer conducting traffic enforcement in or on a marked patrol vehicle at or along an arterial or collector street or roadway as defined or described in the Grand Junction Circulation Plan, a duly adopted neighborhood plan or street plan, or GJMC Title 29, Transportation Engineering Design Standards (TEDS), shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, in any of the following places:

(1) Within five feet of a public or private driveway;

(2) Within 15 feet of a fire hydrant;

(3) Within 20 feet of a crosswalk at an intersection;

(4) Within 30 feet upon the approach to any flashing beacon or signal, stop sign, yield sign, or traffic control signal located at the side of a roadway;

~~(5) Within 20 feet of the driveway entrance to any fire station or, on the side of a street opposite the entrance to any fire station, within 75 feet of said entrance when properly signposted;~~

(6) At any other place where official signs prohibit standing.

(c) In addition to the restrictions specified in subsections (a) and (b) of this section, no person, other than a peace officer conducting traffic enforcement in or on a marked patrol vehicle at or along an arterial or collector street or roadway as defined or described in the Grand Junction Circulation Plan, a duly adopted neighborhood plan or street plan, or GJMC Title 29, Transportation Engineering Design Standards (TEDS), shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, in any of the following places:

~~(1) Within 50 feet of the nearest rail of a railroad crossing;~~

(2) At any other place where official signs prohibit parking.

(d) Nothing in this section shall prohibit persons from parking bicycles in accordance with GJMC 10.04.1412.

10.08.180 Parking for certain purposes prohibited.

No person shall park a vehicle upon a roadway for the principal purpose of:

(a) Displaying such vehicle for sale;

(b) Washing, greasing, painting, or repairing such vehicle except repairs necessitated by an emergency;

(c) Displaying advertising.

HB22-1314 Towing Carrier Nonconsensual Tows

- HB22-1314 is a long and complex bill which overhauls the requirements for Towing Carriers across the state.
- The Public Utilities Commission, a division of the Department of Regulatory Agencies (“DORA”), is primarily responsible for the implementation and enforcement of the law.
- The vast majority of the provisions in the law apply directly to Towing Carriers and *NOT* to associations.

Requirements

- Requires towing carriers to photograph the condition of the motor vehicle and the reason for the tow *PRIOR* to hookup.
- Requires signage on private property.
- Requires towing carriers to release motor vehicles upon payment of 15% of the overall fees, not to exceed \$60.00, subject to the signing of a form that affirms the remaining balance is still owed to the towing carrier.
- Prohibits drop charges, but towing carriers are still required to release motor vehicles, upon request, if the motor vehicle has not yet been removed from the private property.
- Prohibits the towing of motor vehicles for reason of expired registration/plates, unless directed by law enforcement.
- Requires 24 hours notice for nonconsensual tows, with limited exceptions (such as a motor vehicle parked in or effectively obstructing a designated and marked fire zone).

Summary for CVE

Since we don’t own the roadways in our community, we should not be engaging in towing vehicles in CVE. This is provided for reference, only.

SB22-059 Homeowners’ Association Voting Proxy Limitations

- This bill amends the language found in the Colorado Common Interest Ownership Act at §38-33.3-310, C.R.S.
- A proxy is a written instrument that appoints another person (usually a person) to appear and vote on your behalf. For more information, you can review the October 21, 2022 HOA Forum on Voting Procedures and Proxies on the HOA Center’s website.

- The bill clarifies that a proxy terminates eleven months after its date unless, the proxy itself indicates an earlier termination date.

Summary for CVE

Generally, we have used proxies for the annual meeting, only. I suggest that we add verbiage to the proxy included in the annual package stating it is valid for the Annual Meeting, only. Otherwise, it would be open for 11 months per the law.