

Dear Members of the Board:

The 2023 legislative session has ended and we now know which bills affecting community associations have been signed. While one of the new laws (SB23-178 Water-Wise Landscaping in Homeowners' Association Communities) primarily affects communities with detached single-family homes, the other two have requirements for almost all common interest communities. Please review below for recommendations to comply with the new laws.

[HB23-1105 Homeowners' Association and Metropolitan District Homeowners'](#)

Rights Task Forces

Effective May 24, 2023

This bill establishes a task force to examine issues impacting certain homeowners' rights in HOAs, including fining practices, foreclosure practices, communications, and document availability. The task force is to be appointed by August 1, 2023. All homeowner associations are required to notify their owners about the task force **before** the task force holds its first meeting. The new law does not say when this first meeting occurs, nor does it mandate how notice is to be sent.

Recommendation: We recommend the Association send a notice by reasonable means (i.e., regular mail, email, newsletter, website) with the following information: "Pursuant to House Bill 23-1105, signed into law on May 24, 2023, an HOA Task Force is to be appointed by August 1, 2023, to examine issues regarding homeowners' rights and to perform other duties as noted in the new law. Each homeowner association in Colorado is required to notify owners about this task force. If you have questions about the task force, the HOA Information Office (part of the Division of Real Estate within the Colorado Department of Regulatory Agencies) may have additional information." We recommend sending this notice as soon as reasonably possible.

[HB23-1233 Electric Vehicle Charging and Parking Requirements](#)

Effective May 23, 2023

In addition to amending other statutes regarding electric vehicle charging stations, this bill expands upon CCIOA, which already allowed owners to install level 1 or level 2 electric vehicle charging stations on or in their unit or their limited common elements, subject to certain limitations. Under the new law, owners will be allowed to install these charging stations not only on or in their units or limited common element parking areas, but also in an assigned or deeded parking space assigned to a unit and a parking space

accessible to both the owner and other owners. The new law also prohibits any restrictions based on whether the vehicle is a plug-in hybrid vehicle or plug-in electric vehicle.

Recommendation: The Association should review its current electric vehicle charging station policy to determine if revisions are needed (especially if there are general common element parking areas in the community). If the Association does not currently have a policy, we recommend speaking to the Association's primary attorney about whether one is needed.

[SB23-178 Water-Wise Landscaping in Homeowners' Association Communities](#)

Effective August 9, 2023

This bill does **not** change the laws regarding xeriscaping, artificial turf, or drought-tolerant vegetative landscapes in condominiums or in single-family communities in which the home shares one or more walls with another home.

This bill amends C.R.S. § 38-33.3-106.5 to address xeriscaping and landscaping specifically in communities with **single-family detached homes**. Such communities cannot prohibit the use of xeriscape, artificial turf, or drought-tolerant or nonvegetative landscapes that provide a ground covering to:

- property owned by or for which the owner is responsible;
- a limited common element for which the owner is responsible; or
- any tree lawn or right-of-way for which an owner is responsible.

The association may adopt guidelines which:

- do not prohibit artificial turf in the backyard;
- do not unreasonably require use of hardscape on more than 20% of the landscaping area on the property;
- allow for installation of at least 80% drought-tolerant plants; and
- do not prohibit vegetable gardens in the front, back or side yard of the property.

Finally, the association must choose and preapprove at least three “preplanned water-wise garden designs” for front yards that adhere to water-wise landscaping and emphasize drought-tolerant and native plants. These designs may come from Colorado State University Extension Plant Select Organization’s “Downloadable Designs” (<https://plantselect.org/design/downloadable-designs/>) or from a municipality, utility, or other entity that provides water-wise garden designs. Once these designs are chosen, they are to be posted on the association’s website.

Recommendation: The Association should work with a landscaping professional or visit a website offering water-wise garden designs, select at least three plans that are approved for front yards, and post these on the association’s website by August 9, 2023. The Association should determine whether it wants to adopt additional design or aesthetic guidelines or rules regarding landscaping or vegetable gardens. If you have questions about the Association’s design and landscaping guidelines or any xeriscaping policy, we are available to assist you.