



Utah 2023 End of Legislative Session Report

The CAI Utah Legislative Action Committee actively advocated on behalf of the [approximately 634,000 Utahns living in 204,000 homes in more than 3,570 community associations across the Beehive State](#) during the 2023 state legislative session. Below is a brief overview from the 2023 Utah State Legislature:

SB 191 Condominium and Community Association Amendments: This bill is a comprehensive update to existing Utah statutes governing community associations:

Political Signs: SB 191 defines a political sign as “any sign or document that advocates the election or defeat of a candidate for public office, or the approval or defeat of a ballot proposition”. Accordingly, all other types of signs would not be protected as a “political sign” under the statute.

Board Qualifications/Sex Offender Prohibitions: For both HOAs and COAs, SB191 establishes some qualification standards on who can serve as a director of an association. To serve on an HOA or COA board, the director must be a natural person and must be at least 18 years old. Unless otherwise provided by its bylaws, a director does not need to be a resident of Utah or a member of the HOA/COA. (Although most bylaws will require membership in the HOA/COA). SB191 also provides that an HOA or COA’s bylaws may prescribe additional director qualifications. Finally, an HOA or COA may, through any of its governing documents, disqualify an individual from board service if he or she has been convicted of a felony or is a sex offender.

Additionally, SB191 specifically authorizes an HOA/COA to adopt a rule that would restrict a sex offender from accessing a “protected area”. As further discussed in HB246 below, “protected areas” include a “park, playground, or swimming pool” that is maintained, operated, or owned by an HOA or COA, or other areas designed to provide minors with “space, recreational equipment or other amenities intended to allow minors to engage in physical activity.”

Rules: In the PUD Act, SB191 provides clarity as to what constitutes a “rule” in an HOA/COA setting. Under SB191, a Rule is a “policy, guideline, restriction, procedure, or regulation...that is not set forth in a contract, easement, article of incorporation, bylaw, or declaration” that “governs the conduct of persons or the use, quality, type, design, or appearance of real property or personal property”.



Internal business operating procedures of a board are NOT considered rules under SB191.

Additionally, the legislature created a statute of limitations of 18 months to dispute the adoption of a rule in an HOA setting.

PUD Act Application: SB 191 clarifies that the PUD Act applies to any HOA that “registers, renews, or updates” its registration on the official Utah HOA Registry.

HOA/COA Records: SB191 adds further clarity on what constitutes an official record that an HOA or COA is obligated to provide to its members upon request. These records include a copy of the HOA/COA’s:

- governing documents,
- most recent approved meeting minutes,
- most recent budget and financial statement,
- most recent reserve analysis, and
- the certificate of insurance for each HOA/COA policy.

The first 3 documents listed above should be maintained on the website of the HOA/COA if the HOA/COA has an official website. Otherwise, the documents should be made readily available at the office of the HOA/COA.

An HOA/COA should also maintain the following records at its “principal office” and make them available for owners to copy or inspect:

- Minutes of all member meetings during the last 3 years;
- Records of all actions taken by members without a meeting during the last 3 years;
- All written communications sent to members generally for the last 3 years;
- A list of all the names and business or home addresses of the current directors and officers;
- A copy of the most recent annual report delivered to the Utah Department of Commerce, Division of Corporations and Commercial Code (annual renewal); and
- All financial statements the HOA/COA has prepared during the last 3 years that a member is allowed to request.



The following are documents that need to be kept as permanent records of the HOA/COA and provided to a requesting member upon written demand and a showing that the request for the record(s) is in good faith and for a proper purpose.

- Minutes of all meetings of its members and directors;
- Record of all actions taken by the members of the board without a meeting;
- Record of all actions taken by an HOA/COA committee on behalf of the HOA/COA;
- Record of all waivers of notices of member and board meetings, or any committee meetings; and
- Record of HOA/COA members - names and addresses, in alphabetical order, and showing the number of votes they are entitled to exercise.

SB191 specifically provides that the following items are NOT an official HOA/COA record that must be provided to owners upon request: “correspondence, communications, notes, or other similar information, regardless of format or method of storage, that are not an official decision, published document, or record of the corporation.”

Rental Fee: SB191 allows an HOA or COA to charge an annual fee up to \$200 to defray the HOA/COA’s additional administrative expenses if such expenses are directly related to a Lot/Unit that is a rental. However, this annual fee is only chargeable if the HOA/COA allows at least 35% of its Lots/Units to be rented. Additionally, an accounting of the rental fee needs to be provided to the Owner.

Water-Efficient Landscaping: Under SB 191, an HOA/COA cannot adopt a rule that prohibits low water use on lawns during drought conditions. Second, an HOA cannot restrict an Owner from converting their park strip to water-efficient landscaping. Third, an HOA/COA is required to adopt water- efficient landscaping rules and regulations before June 30, 2023.

Status: Signed by Governor Cox on 3/23/23. Effective immediately.

HB 450 Landscaping Requirements: This bill clarifies that associations cannot require homeowners to have more than 50% vegetative coverage, that is not water wise landscaping, on the owner's property. The bill also defines water wise plant material as material suitable for water wise landscaping. An HOA can require an owner to: (i) obtain pre-approval from the HOA for the water wise landscaping design, (ii) maintain the installed plant materials in a healthy condition; and (iii) follow specific water wise landscaping design requirements adopted by the HOA. These design requirements may restrict or clarify the use of mulches considered



detrimental to HOA operations; and restrict or prohibit the use of specific plant materials other than “water wise plant materials”. HB 450 still prohibits an HOA (detached housing only) from requiring an owner to: (i) install or keep in place lawn turn in an area with a width of less than 8 feet or; (ii) to have more than 50% vegetative coverage that is not water wise landscaping on the owner’s lot.

Status: Signed by Governor Cox on 3/14/23. Effective immediately.

SB 174 Local Land Use and Development Revisions: This bill focuses on clarifying when a garage may be defined as an internal accessory dwelling unit, and under what circumstances a local government may apply a permit for the development of an internal accessory dwelling unit. For associations relying on local building codes to define certain accessory dwelling unit regulations, this legislation is particularly impactful.

Status: Signed by Governor Cox on 3/23/23. Effective immediately.

HB 146 Sex Offender Restricted Area Amendments: HB 146 broadens the “protected areas” to include a “park, playground, or swimming pool” that is maintained, operated, or owned by an HOA or COA, or other areas designed to provide minors with “space, recreational equipment or other amenities intended to allow minors to engage in physical activity.” A pool, playground, or park established for a 55-year-old community is exempted IF no minors are present at the facility at the time the sex offender is present.

Status: Signed by Governor Cox on 2/27/23. Effective immediately.

For more information on community association legislation in Utah, visit <https://www.caionline.org/Advocacy/LegalArena/Laws/Pages/UT.aspx>.



Your Assistance is Needed

CAI relies on outside resources such as professional lobbying as a vital and integral part of the legislative process. The volunteers who advocate – including homeowner leaders, community managers, and business partners – greatly rely on contributions from management companies and business partners in addition to individuals to continue their important efforts in the legislature. CAI needs your financial support to bolster their advocacy activities in 2023 and beyond. We encourage donations from Utah community associations, business partners, and individuals. Please visit www.caionline.org/lacdonate/ and donate to CAI's Utah Legislative Action Committee to support our continued efforts.

We need YOUR voice! [Sign up today](#) to become a CAI Advocacy Ambassador and help shape legislation in your state!

Utah Contact Information

- Visit <https://www.caionline.org/Advocacy/LAC/UT/Pages/default.aspx>.
- Contact CAI's Government and Public Affairs Team at government@caionline.org
- To find the chapter nearest you, please call (888) 224-4321.