

Questions regarding enforcement of parking regulations on private versus public roadways occasionally arise in cases where Covenants, Conditions, and Restrictions (CCRs) or Home Owner Association (HOA) regulations address issues of roadways and parking. The key to understanding vehicle operation and parking restrictions on a roadway is knowing whether the roadway involved is private or public.

Public roadways are those owned and maintained by a governmental entity. Only the state or local jurisdiction involved has authority over operation and parking of vehicles on public roadways. Enforcement of these laws and regulations is also governed by laws, ordinances, and codes and limited to public officers empowered for such enforcement.

Private roadways are those owned and maintained by someone other than the City of Elk Grove or other governmental agency. Prime examples of private roadways are those streets that serve gated private housing developments. Private roadways are subject to the rules and restrictions imposed by the “owner” of that property. In many cases, the “owner” of a private street is the HOA. Some public offenses (DUI and fire zone restrictions, for example) continue to be public offenses even on private property and are enforceable by public officials and adjudicated according to the laws and ordinances of the jurisdiction involved.

When dealing with the parking of vehicles, there may be some overlap between public and private enforcement. Consistent with the governing documents of the association, the HOA may establish speed limits, post regulatory signs, establish parking restrictions (such as limiting parking to tenants or guests), issue parking permits, restrict parking, or otherwise regulate vehicles and traffic on the non-public portion of the property.

For example, the governing documents may require that all vehicles be parked in the garage. If a vehicle otherwise conforms to the law for parking in the area and thus would not be subject to enforcement by the City, the HOA may still pursue its private remedies for the violation of the CCRs. HOAs use a variety of mechanisms to enforce the rules and regulations they promulgate regarding the use of the private property. Disputes between HOAs and individual members of the communities they represent are civil matters. City employees, including police officers, will not enforce CCRs and associated regulations dictating or restricting actions on private property.