

REFERENCE TITLE: homeowners' associations; political; community activity

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2158

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTIONS 33-1261 AND 33-1808, ARIZONA REVISED STATUTES; RELATING
TO CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1261, Arizona Revised Statutes, is amended to
3 read:

4 33-1261. Flag display; for sale, rent or lease signs;
5 political signs; political and community
6 activities; applicability; definition

7 A. Notwithstanding any provision in the condominium documents, an
8 association shall not prohibit the outdoor display of any of the
9 following:

10 1. The American flag or an official or replica of a flag of the
11 United States army, navy, air force, marine corps or coast guard by a unit
12 owner on that unit owner's property if the American flag or military flag
13 is displayed in a manner consistent with the federal flag code (P.L.
14 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

15 2. The POW/MIA flag.

16 3. The Arizona state flag.

17 4. An Arizona Indian nations flag.

18 5. The Gadsden flag.

19 B. The association shall adopt reasonable rules and regulations
20 regarding the placement and manner of display of the American flag, the
21 military flag, the POW/MIA flag, the Arizona state flag or an Arizona
22 Indian nations flag. The association rules may regulate the location and
23 size of flagpoles but shall not prohibit ~~the installation of~~ INSTALLING a
24 flagpole.

25 C. Notwithstanding any provision in the condominium documents, an
26 association shall not prohibit or charge a fee for the use of, the
27 placement of or the indoor or outdoor display of a for sale, for rent or
28 for lease sign and a sign rider by a unit owner on that owner's property
29 in any combination, including a sign that indicates the unit owner is
30 offering the property for sale by owner. The size of a sign offering a
31 property for sale, for rent or for lease shall be in conformance with the
32 industry standard size sign, which shall not exceed eighteen by
33 twenty-four inches, and the industry standard size sign rider, which shall
34 not exceed six by twenty-four inches. This subsection applies only to a
35 commercially produced sign and an association may prohibit ~~the use of~~
36 USING signs that are not commercially produced. With respect to real
37 estate for sale, for rent or for lease in the condominium, an association
38 shall not prohibit in any way other than as is specifically authorized by
39 this section or otherwise regulate any of the following:

40 1. Temporary open house signs or a unit owner's for sale sign. The
41 association shall not require the use of particular signs indicating an
42 open house or real property for sale and may not further regulate the use
43 of temporary open house or for sale signs that are industry standard size
44 and that are owned or used by the seller or the seller's agent.

2. Open house hours. The association may not limit the hours for an open house for real estate that is for sale in the condominium, except that the association may prohibit an open house being held before 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the common elements of the condominium.

3. An owner's or an owner's agent's for rent or for lease sign unless an association's documents prohibit or restrict leasing of a unit or units. An association shall not further regulate a for rent or for lease sign or require the use of a particular for rent or for lease sign other than the for rent or for lease sign shall not be any larger than the industry standard size sign of eighteen by twenty-four inches and on or in the unit owner's property. If rental or leasing of a unit is allowed, the association may prohibit an open house for rental or leasing being held before 8:00 a.m. or after 6:00 p.m.

D. Notwithstanding any provision in the condominium documents, an association shall not prohibit door-to-door political activity, including solicitations of support or opposition regarding candidates or ballot issues, and shall not prohibit ~~the circulation of~~ CIRCULATING political OR COMMUNITY petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political OR COMMUNITY issue on property normally open to visitors within the association, except that an association may do the following:

1. Restrict or prohibit door-to-door political activity regarding candidates or ballot issues from sunset to sunrise.

2. Require the prominent display of an identification tag for each person engaged in the activity, along with the prominent identification of the candidate or ballot issue that is the subject of the support or opposition.

E. Notwithstanding any provision in the condominium documents, an association shall not prohibit the indoor or outdoor display of a political sign by a unit owner by placement of a sign on that unit owner's property, including any limited common elements for that unit that are doors, walls or patios or other limited common elements that touch the unit, other than the roof. An association may prohibit the display of political signs as follows:

1. Earlier than seventy-one days before the day of a primary election.

2. Later than fifteen days after the day of the general election.

3. For a sign for a candidate in a primary election who does not advance to the general election, later than fifteen days after the primary election.

4. FOR A SIGN REGARDING A CANDIDATE FOR THE BOARD OF DIRECTORS OR A CONDOMINIUM MEASURE THAT REQUIRES A VOTE OF THE ASSOCIATION MEMBERSHIP, EARLIER THAN THE DATE THAT THE ASSOCIATION PROVIDES WRITTEN OR ABSENTEE

1 BALLOTS TO THE UNIT OWNERS AND LATER THAN THREE DAYS AFTER THE CONDOMINIUM
2 ELECTION.

3 F. An association MAY RESTRICT THE USE OF PROFANITY OR RACIAL OR
4 SEXUAL BIAS ON POLITICAL SIGNS AND may regulate the size and number of
5 political signs that may be placed in the common element ground, on a unit
6 owner's property or on a limited common element for that unit if the
7 association's regulation is not more restrictive than any applicable city,
8 town or county ordinance that regulates the size and number of political
9 signs on residential property. If the city, town or county in which the
10 property is located does not regulate the size and number of political
11 signs on residential property, the association shall not limit the number
12 of political signs, except that the maximum aggregate total dimensions of
13 all political signs on a unit owner's property shall not exceed nine
14 square feet. An association shall not make any regulations regarding the
15 number of candidates supported, the number of ~~public~~ officers supported or
16 opposed in a recall or the number of propositions supported or opposed on
17 a political sign.

18 G. An association shall not require political signs to be
19 commercially produced or professionally manufactured or prohibit the
20 utilization of both sides of a political sign.

21 H. A condominium is not required to comply with subsection D of
22 this section if the condominium restricts vehicular or pedestrian access
23 to the condominium. This section does not require a condominium to make
24 its common elements other than roadways and sidewalks that are normally
25 open to visitors available for the circulation of political petitions to
26 anyone who is not an owner or resident of the community.

27 I. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, AN
28 ASSOCIATION MAY NOT PROHIBIT OR UNREASONABLY RESTRICT A UNIT OWNER'S
29 ABILITY TO PEACEFULLY ASSEMBLE AND USE PRIVATE OR COMMON ELEMENTS OF THE
30 CONDOMINIUM IF DONE IN COMPLIANCE WITH REASONABLE RESTRICTIONS FOR THE USE
31 OF THAT PROPERTY ADOPTED BY THE BOARD OF DIRECTORS. AN INDIVIDUAL UNIT
32 OWNER OR GROUP OF UNIT OWNERS MAY ORGANIZE TO DISCUSS OR ADDRESS
33 CONDOMINIUM BUSINESS, INCLUDING BOARD OF DIRECTOR ELECTIONS OR RECALLS,
34 POTENTIAL OR ACTUAL BALLOT ISSUES OR REVISIONS TO THE CONDOMINIUM
35 DOCUMENTS, PROPERTY MAINTENANCE OR SAFETY ISSUES OR ANY OTHER CONDOMINIUM
36 BUSINESS OR ACTIONS. A UNIT OWNER MAY INVITE ONE POLITICAL CANDIDATE OR
37 ONE NON-UNIT OWNER GUEST TO SPEAK TO AN ASSEMBLY OF UNIT OWNERS THAT HAS
38 GATHERED TO DISCUSS CONDOMINIUM BUSINESS. THE ASSOCIATION SHALL NOT
39 RESTRICT POSTING NOTICES OF THESE INFORMAL UNIT OWNER MEETINGS ON PHYSICAL
40 OR ELECTRONIC BULLETIN BOARDS USED BY THE ASSOCIATION FOR POSTING NOTICES
41 FOR THE ASSOCIATION'S OR BOARD OF DIRECTOR'S OFFICIAL MEETINGS.

42 ~~I.~~ J. An association or managing agent that violates subsection C
43 of this section forfeits and extinguishes the lien rights authorized under
44 section 33-1256 against that unit for a period of six consecutive months
45 ~~from~~ AFTER the date of the violation.

~~J.~~ K. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

~~K.~~ L. For the purposes of this section, "political sign" means EITHER OF THE FOLLOWING:

1. A sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.

2. A SIGN REGARDING ANY ACTIVITY TO ELECT OR REMOVE A CONDOMINIUM DIRECTOR OR IN SUPPORT OF OR OPPOSITION TO A MEASURE THAT REQUIRES A VOTE OF THE ASSOCIATION MEMBERSHIP.

Sec. 2. Section 33-1808, Arizona Revised Statutes, is amended to read:

33-1808. Flag display: political signs: caution signs: for sale, rent or lease signs: political and community activities: definition

A. Notwithstanding any provision in the community documents, an association shall not prohibit the outdoor front yard or backyard display of any of the following:

1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by an association member on that member's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).

2. The POW/MIA flag.

3. The Arizona state flag.

4. An Arizona Indian nations flag.

5. The Gadsden flag.

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian nations flag. The association rules may regulate the location and size of flagpoles, may limit the member to displaying not more than two flags at once and may limit the height of the flagpole to not more than the height of the rooftop of the member's home but shall not prohibit ~~the installation of~~ INSTALLING a flagpole in the front yard or backyard of the member's property.

C. Notwithstanding any provision in the community documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs as follows:

1. Earlier than seventy-one days before the day of a primary election.

1 2. Later than fifteen days after the day of the general election.

2 3. For a sign for a candidate in a primary election who does not
3 advance to the general election, later than fifteen days after the primary
4 election.

5 4. FOR A SIGN REGARDING A CANDIDATE FOR THE BOARD OF DIRECTORS OR A
6 PLANNED COMMUNITY MEASURE THAT REQUIRES A VOTE OF THE ASSOCIATION
7 MEMBERSHIP, EARLIER THAN THE DATE THAT THE ASSOCIATION PROVIDES WRITTEN OR
8 ABSENTEE BALLOTS TO THE MEMBERS AND LATER THAN THREE DAYS AFTER THE
9 PLANNED COMMUNITY ELECTION.

10 D. An association MAY RESTRICT THE USE OF PROFANITY OR RACIAL OR
11 SEXUAL BIAS ON POLITICAL SIGNS AND may regulate the size and number of
12 political signs that may be placed on a member's property if the
13 association's regulation is not more restrictive than any applicable city,
14 town or county ordinance that regulates the size and number of political
15 signs on residential property. If the city, town or county in which the
16 property is located does not regulate the size and number of political
17 signs on residential property, the association shall not limit the number
18 of political signs, except that the maximum aggregate total dimensions of
19 all political signs on a member's property shall not exceed nine square
20 feet.

21 E. Notwithstanding any provision in the community documents, an
22 association shall not prohibit ~~the use of~~ USING cautionary signs regarding
23 children if the signs are used and displayed as follows:

24 1. The signs are displayed in residential areas only.

25 2. The signs are removed within one hour of children ceasing to
26 play.

27 3. The signs are displayed only when children are actually present
28 within fifty feet of the sign.

29 4. The temporary signs are not taller than three feet in height.

30 5. The signs are professionally manufactured or produced.

31 F. Notwithstanding any provision in the community documents, an
32 association shall not prohibit children who reside in the planned
33 community from engaging in recreational activity on residential roadways
34 that are under the jurisdiction of the association and on which the posted
35 speed limit is twenty-five miles per hour or less.

36 G. Notwithstanding any provision in the community documents, an
37 association shall not prohibit or charge a fee for the use of, the
38 placement of or the indoor or outdoor display of a for sale, for rent or
39 for lease sign and a sign rider by an association member on that member's
40 property in any combination, including a sign that indicates the member is
41 offering the property for sale by owner. The size of a sign offering a
42 property for sale, for rent or for lease shall be in conformance with the
43 industry standard size sign, which shall not exceed eighteen by
44 twenty-four inches, and the industry standard size sign rider, which shall
45 not exceed six by twenty-four inches. This subsection applies only to a

1 commercially produced sign, and an association may prohibit ~~the use of~~
2 ~~USING~~ signs that are not commercially produced. With respect to real
3 estate for sale, for rent or for lease in the planned community, an
4 association shall not prohibit in any way other than as is specifically
5 authorized by this section or otherwise regulate any of the following:

6 1. Temporary open house signs or a member's for sale sign. The
7 association shall not require the use of particular signs indicating an
8 open house or real property for sale and may not further regulate the use
9 of temporary open house or for sale signs that are industry standard size
10 and that are owned or used by the seller or the seller's agent.

11 2. Open house hours. The association may not limit the hours for
12 an open house for real estate that is for sale in the planned community,
13 except that the association may prohibit an open house being held before
14 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the
15 common areas of the planned community.

16 3. An owner's or an owner's agent's for rent or for lease sign
17 unless an association's documents prohibit or restrict leasing of a
18 member's property. An association shall not further regulate a for rent
19 or for lease sign or require the use of a particular for rent or for lease
20 sign other than the for rent or for lease sign shall not be any larger
21 than the industry standard size sign of eighteen by twenty-four inches on
22 or in the member's property. If rental or leasing of a member's property
23 is not prohibited or restricted, the association may prohibit an open
24 house for rental or leasing being held before 8:00 a.m. or after 6:00 p.m.

25 H. Notwithstanding any provision in the community documents, an
26 association shall not prohibit door-to-door political activity, including
27 solicitations of support or opposition regarding candidates or ballot
28 issues, and shall not prohibit ~~the circulation of~~ CIRCULATING political OR
29 COMMUNITY petitions, including candidate nomination petitions or petitions
30 in support of or opposition to an initiative, referendum or recall or
31 other political OR COMMUNITY issue on property normally open to visitors
32 within the association, except that an association may do the following:

33 1. Restrict or prohibit the door-to-door political activity from
34 sunset to sunrise.

35 2. Require the prominent display of an identification tag for each
36 person engaged in the activity, along with the prominent identification of
37 the candidate or ballot issue that is the subject of the support or
38 opposition.

39 I. A planned community shall not make any regulations regarding the
40 number of candidates supported, the number of ~~public~~ officers supported or
41 opposed in a recall or the number of propositions supported or opposed on
42 a political sign.

43 J. A planned community shall not require political signs to be
44 commercially produced or professionally manufactured or prohibit the
45 utilization of both sides of a political sign.

1 K. A planned community is not required to comply with subsection H
 2 OF THIS SECTION if the planned community restricts vehicular or pedestrian
 3 access to the planned community. This section does not require a planned
 4 community to make its common elements other than roadways and sidewalks
 5 that are normally open to visitors available for the circulation of
 6 political petitions to anyone who is not an owner or resident of the
 7 community.

8 L. NOTWITHSTANDING ANY PROVISION IN THE COMMUNITY DOCUMENTS, AN
 9 ASSOCIATION MAY NOT PROHIBIT OR UNREASONABLY RESTRICT A MEMBER'S ABILITY
 10 TO PEACEFULLY ASSEMBLE AND USE PRIVATE OR COMMON AREAS OF THE PLANNED
 11 COMMUNITY IF DONE IN COMPLIANCE WITH REASONABLE RESTRICTIONS FOR THE USE
 12 OF THAT PROPERTY ADOPTED BY THE BOARD OF DIRECTORS. AN INDIVIDUAL MEMBER
 13 OR GROUP OF MEMBERS MAY ORGANIZE TO DISCUSS OR ADDRESS PLANNED COMMUNITY
 14 BUSINESS, INCLUDING BOARD ELECTIONS OR RECALLS, POTENTIAL OR ACTUAL BALLOT
 15 ISSUES OR REVISIONS TO THE COMMUNITY DOCUMENTS, PROPERTY MAINTENANCE OR
 16 SAFETY ISSUES OR ANY OTHER PLANNED COMMUNITY BUSINESS OR ACTIONS. A
 17 MEMBER MAY INVITE ONE POLITICAL CANDIDATE OR ONE NON-MEMBER GUEST TO SPEAK
 18 TO AN ASSEMBLY OF MEMBERS THAT HAS GATHERED TO DISCUSS COMMUNITY BUSINESS.
 19 THE ASSOCIATION SHALL NOT RESTRICT POSTING NOTICES OF THESE INFORMAL
 20 MEMBER MEETINGS ON PHYSICAL OR ELECTRONIC BULLETIN BOARDS USED BY THE
 21 ASSOCIATION FOR POSTING NOTICES FOR THE ASSOCIATION'S OR BOARD OF
 22 DIRECTOR'S OFFICIAL MEETINGS.

23 ~~L.~~ M. An association or managing agent that violates subsection G
 24 of this section forfeits and extinguishes the lien rights authorized under
 25 section 33-1807 against that member's property for a period of six
 26 consecutive months ~~from~~ AFTER the date of the violation.

27 ~~M.~~ N. For the purposes of this section, "political sign" means
 28 EITHER OF THE FOLLOWING:

29 1. A sign that attempts to influence the outcome of an election,
 30 including supporting or opposing the recall of a public officer or
 31 supporting or opposing the circulation of a petition for a ballot measure,
 32 question or proposition or the recall of a public officer.

33 2. A SIGN REGARDING ANY ACTIVITY TO ELECT OR REMOVE A MEMBER OF THE
 34 BOARD OF DIRECTORS OR IN SUPPORT OF OR OPPOSITION TO A MEASURE THAT
 35 REQUIRES A VOTE OF THE ASSOCIATION MEMBERSHIP.