

Senate Engrossed

homeowners' associations; Betsy Ross flag

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1049

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; definitions

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 uniformed services of the United States by a unit owner on that unit
12 owner's property if the American flag or a uniformed services flag is
13 displayed in a manner consistent with the federal flag code (P.L. 94-344;
14 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 6. A first responder flag. A first responder flag may incorporate
20 the design of one or two other first responder flags to form a combined
21 flag.

22 7. A blue star service flag or a gold star service flag.

23 8. ANY HISTORIC VERSION OF THE AMERICAN FLAG, INCLUDING THE BETSY
24 ROSS FLAG, WITHOUT REGARD TO HOW THE STARS AND STRIPES ARE ARRANGED ON THE
25 FLAG.

26 B. The association shall adopt reasonable rules and regulations
27 regarding the placement and manner of display of the flags prescribed by
28 subsection A of this section. The association rules may regulate the
29 location and size of flagpoles but shall not prohibit installing a
30 flagpole.

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

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

6 2. Open house hours. The association may not limit the hours for
7 an open house for real estate that is for sale in the condominium, except
8 that the association may prohibit an open house being held before
9 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the
10 common elements of the condominium.

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

20 D. Notwithstanding any provision in the condominium documents, an
21 association shall not prohibit door-to-door political activity, including
22 solicitations of support or opposition regarding candidates or ballot
23 issues, and shall not prohibit circulating political petitions, including
24 candidate nomination petitions or petitions in support of or opposition to
25 an initiative, referendum or recall or other political issue on property
26 normally open to visitors within the association, except that an
27 association may do the following:

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

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

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

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

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

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

4 F. An association may regulate the size and number of political
5 signs that may be placed in the common element ground, on a unit owner's
6 property or on a limited common element for that unit if the association's
7 regulation is not more restrictive than any applicable city, town or
8 county ordinance that regulates the size and number of political signs on
9 residential property. If the city, town or county in which the property
10 is located does not regulate the size and number of political signs on
11 residential property, the association shall not limit the number of
12 political signs, except that the maximum aggregate total dimensions of all
13 political signs on a unit owner's property shall not exceed nine square
14 feet. An association shall not make any regulations regarding the number
15 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. Notwithstanding any provision in the condominium documents, an
22 association may not prohibit or unreasonably restrict the indoor or
23 outdoor display of an association-specific political sign by a unit owner
24 by placement of a sign on that unit owner's property, including any
25 limited common elements for that unit that are doors, walls or patios or
26 other limited common elements that touch the unit, other than the
27 roof. An association may adopt reasonable rules regarding the placement,
28 location and manner of display of association-specific political signs,
29 except an association shall not do any of the following:

30 1. Prohibit the display of association-specific political signs
31 between the date that the association provides written or absentee ballots
32 to unit owners and three days after the condominium election.

33 2. Limit the number of association-specific **POLITICAL** signs, except
34 that the association may limit the aggregate total dimensions of all
35 association-specific **POLITICAL** signs on a unit owner's property to not
36 more than nine square feet.

37 3. Require association-specific political signs to be commercially
38 produced or professionally manufactured or prohibit using both sides of
39 the sign.

40 4. Regulate the number of candidates supported or opposed or the
41 number of board members supported or opposed in a recall or the number of
42 ballot measures supported or opposed on an association-specific political
43 sign.

44 5. Make any other regulations regarding the content of an
45 association-specific political sign, except that the association may

1 prohibit using profanity and discriminatory text, images or content based
2 on race, color, religion, sex, familial status or national origin as
3 prescribed by federal or state fair housing laws.

4 I. A condominium is not required to comply with subsection D of
5 this section if the condominium restricts vehicular or pedestrian access
6 to the condominium. This section does not require a condominium to make
7 its common elements other than roadways and sidewalks that are normally
8 open to visitors available for the circulation of political petitions to
9 anyone who is not an owner or resident of the community.

10 J. Notwithstanding any provision in the condominium documents, an
11 association may not prohibit or unreasonably restrict a unit owner's
12 ability to peacefully assemble and use common elements of the condominium
13 if done in compliance with reasonable restrictions for the use of that
14 property adopted by the board of directors. An individual unit owner or
15 group of unit owners may assemble to discuss matters related to the
16 condominium, including board of director elections or recalls, potential
17 or actual ballot issues or revisions to the condominium documents,
18 property maintenance or safety issues or any other condominium matters. A
19 unit owner may invite one political candidate or one non-unit owner guest
20 to speak to an assembly of unit owners about matters related to the
21 condominium. The association shall not prohibit a unit owner from posting
22 notices regarding those assemblies of unit owners on bulletin boards
23 located on the common elements or within common element facilities. An
24 assembly of unit owners prescribed by this subsection does not constitute
25 an official unit owners' meeting unless the meeting is noticed and
26 convened as prescribed in the condominium documents and this chapter.

27 K. An association or managing agent that violates subsection C of
28 this section forfeits and extinguishes the lien rights authorized under
29 section 33-1256 against that unit for a period of six consecutive months
30 after the date of the violation.

31 L. This section does not apply to timeshare plans or associations
32 that are subject to chapter 20 of this title.

33 M. An association or managing agent that violates subsection C of
34 this section forfeits and extinguishes the lien rights authorized under
35 section 33-1256 against that unit for a period of six consecutive months
36 after the date of the violation.

37 N. For the purposes of this section:

38 1. "Association-specific political sign" means a sign that supports
39 or opposes a candidate for the board of directors or the recall of a board
40 member or a condominium ballot measure that requires a vote of the
41 association unit owners.

42 2. "BETSY ROSS FLAG" MEANS AN HISTORIC FLAG OF THE UNITED STATES
43 THAT CONSISTS OF THIRTEEN STRIPES ALTERNATING BETWEEN RED AND WHITE
44 STRIPES AND THIRTEEN FIVE-POINTED WHITE STARS ARRANGED IN A CIRCLE AGAINST
45 A BLUE BACKGROUND.

1 ~~2.~~ 3. "First responder flag" means a flag that recognizes and
2 honors the services of any of the following:

3 (a) Law enforcement and that is limited to the colors blue, black
4 and white, the words "law enforcement", "police", "officers", "first
5 responder", "honor our", "support our" and "department" and the symbol of
6 a generic police shield in a crest or star shape.

7 (b) Fire ~~department~~ DEPARTMENTS and that is limited to the colors
8 red, gold, black and white, the words "fire", "fighters", "F", "D", "FD",
9 "first responder", "department", "honor our" and "support our" and the
10 symbol of a generic Maltese cross.

11 (c) Paramedics or emergency medical technicians and that is limited
12 to the colors blue, black and white, the words "first responder",
13 "paramedic", "emergency medical", "service", "technician", "honor our" and
14 "support our" and the symbol of a generic star of life.

15 ~~3.~~ 4. "Political sign" means a sign that attempts to influence the
16 outcome of an election, including supporting or opposing the recall of a
17 public officer or supporting or opposing the circulation of a petition for
18 a ballot measure, question or proposition or the recall of a public
19 officer.

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

22 33-1808. Flag display; political signs; caution signs; for
23 sale, rent or lease signs; political and community
24 activities; definitions

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

28 1. The American flag or an official or replica of a flag of the
29 uniformed services of the United States by an association member on that
30 member's property if the American flag or a uniformed services flag is
31 displayed in a manner consistent with the federal flag code (P.L. 94-344;
32 90 Stat. 810; 4 United States Code sections 4 through 10).

33 2. The POW/MIA flag.

34 3. The Arizona state flag.

35 4. An Arizona Indian nations flag.

36 5. The Gadsden flag.

37 6. A first responder flag. A first responder flag may incorporate
38 the design of one or two other first responder flags to form a combined
39 flag.

40 7. A blue star service flag or a gold star service flag.

41 8. ANY HISTORIC VERSION OF THE AMERICAN FLAG, INCLUDING THE BETSY
42 ROSS FLAG, WITHOUT REGARD TO HOW THE STARS AND STRIPES ARE ARRANGED ON THE
43 FLAG.

44 B. The association shall adopt reasonable rules and regulations
45 regarding the placement and manner of display of the flags prescribed by

1 subsection A of this section. The association rules may regulate the
2 location and size of flagpoles, may limit the member to displaying not
3 more than two flags at once and may limit the height of the flagpole to
4 not more than the height of the rooftop of the member's home but shall not
5 prohibit installing a flagpole in the front yard or backyard of the
6 member's property.

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

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

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

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

18 D. An association may regulate the size and number of political
19 signs that may be placed on a member's property if the association's
20 regulation is not more restrictive than any applicable city, town or
21 county ordinance that regulates the size and number of political signs on
22 residential property. If the city, town or county in which the property
23 is located does not regulate the size and number of political signs on
24 residential property, the association shall not limit the number of
25 political signs, except that the maximum aggregate total dimensions of all
26 political signs on a member's property shall not exceed nine square feet.

27 E. Notwithstanding any provision in the community documents, an
28 association shall not prohibit using cautionary signs regarding children
29 if the signs are used and displayed as follows:

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

31 2. The signs are removed within one hour of children ceasing to
32 play.

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

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

36 5. The signs are professionally manufactured or produced.

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

42 G. Notwithstanding any provision in the community documents, an
43 association shall not prohibit or charge a fee for the use of, the
44 placement of or the indoor or outdoor display of a for sale, for rent or
45 for lease sign and a sign rider by an association member on that member's

1 property in any combination, including a sign that indicates the member is
2 offering the property for sale by owner. The size of a sign offering a
3 property for sale, for rent or for lease shall be in conformance with the
4 industry standard size sign, which shall not exceed eighteen by
5 twenty-four inches, and the industry standard size sign rider, which shall
6 not exceed six by twenty-four inches. This subsection applies only to a
7 commercially produced sign, and an association may prohibit using signs
8 that are not commercially produced. With respect to real estate for sale,
9 for rent or for lease in the planned community, an association shall not
10 prohibit in any way other than as is specifically authorized by this
11 section or otherwise regulate any of the following:

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

17 2. Open house hours. The association may not limit the hours for
18 an open house for real estate that is for sale in the planned community,
19 except that the association may prohibit an open house being held before
20 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the
21 common areas of the planned community.

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

31 H. Notwithstanding any provision in the community documents, an
32 association shall not prohibit door-to-door political activity, including
33 solicitations of support or opposition regarding candidates or ballot
34 issues, and shall not prohibit circulating political petitions, including
35 candidate nomination petitions or petitions in support of or opposition to
36 an initiative, referendum or recall or other political issue on property
37 normally open to visitors within the association, except that an
38 association may do the following:

39 1. Restrict or prohibit the door-to-door political activity from
40 sunset to sunrise.

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

1 I. A planned community shall not make any regulations regarding the
2 number of candidates supported, the number of public officers supported or
3 opposed in a recall or the number of propositions supported or opposed on
4 a political sign.

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

8 K. Notwithstanding any provision in the community documents, an
9 association may not prohibit or unreasonably restrict the indoor or
10 outdoor display of an association-specific political sign by a member by
11 placement of a sign on that member's property. An association may adopt
12 reasonable rules regarding the placement, location and manner of display
13 of association-specific political signs, except an association shall not
14 do any of the following:

15 1. Prohibit the display of association-specific political signs
16 between the date that the association provides written or absentee ballots
17 to members and three days after the planned community election.

18 2. Limit the number of association-specific **POLITICAL** signs, except
19 that the association may limit the aggregate total dimensions of all
20 association-specific **POLITICAL** signs on a member's property to not more
21 than nine square feet.

22 3. Require association-specific political signs to be commercially
23 produced or professionally manufactured or prohibit using both sides of
24 the sign.

25 4. Regulate the number of candidates supported or opposed or the
26 number of board members supported or opposed in a recall or the number of
27 ballot measures supported or opposed on an association-specific political
28 sign.

29 5. Make any other regulations regarding the content of an
30 association-specific political sign except that the association may
31 prohibit using profanity and discriminatory text, images or content based
32 on race, color, religion, sex, familial status or national origin as
33 prescribed by federal or state fair housing laws.

34 L. A planned community is not required to comply with subsection H
35 of this section if the planned community restricts vehicular or pedestrian
36 access to the planned community. This section does not require a planned
37 community to make its common elements other than roadways and sidewalks
38 that are normally open to visitors available for the circulation of
39 political petitions to anyone who is not an owner or resident of the
40 community.

41 M. Notwithstanding any provision in the community documents, an
42 association may not prohibit or unreasonably restrict a member's ability
43 to peacefully assemble and use common areas of the planned community if
44 done in compliance with reasonable restrictions for the use of that
45 property adopted by the board of directors. An individual member or group

1 of members may assemble to discuss matters related to the planned
2 community, including board elections or recalls, potential or actual
3 ballot issues or revisions to the community documents, property
4 maintenance or safety issues or any other planned community matters. A
5 member may invite one political candidate or one non-member guest to speak
6 to an assembly of members about matters related to the community. The
7 association shall not prohibit a member from posting notices regarding
8 those assemblies of members on bulletin boards located on the common areas
9 or within common area facilities. An assembly of members prescribed by
10 this subsection does not constitute an official members' meeting unless
11 the meeting is noticed and convened as prescribed in the community
12 documents and this chapter.

13 N. An association or managing agent that violates subsection G of
14 this section forfeits and extinguishes the lien rights authorized under
15 section 33-1807 against that member's property for a period of six
16 consecutive months after the date of the violation.

17 O. For the purposes of this section:

18 1. "Association-specific political sign" means a sign that supports
19 or opposes a candidate for the board of directors or the recall of a board
20 member or a planned community ballot measure that requires a vote of the
21 association members.

22 2. "BETSY ROSS FLAG" MEANS AN HISTORIC FLAG OF THE UNITED STATES
23 THAT CONSISTS OF THIRTEEN STRIPES ALTERNATING BETWEEN RED AND WHITE
24 STRIPES AND THIRTEEN FIVE-POINTED WHITE STARS ARRANGED IN A CIRCLE AGAINST
25 A BLUE BACKGROUND.

26 ~~2.~~ 3. "First responder flag" means a flag that recognizes and
27 honors the services of any of the following:

28 (a) Law enforcement and that is limited to the colors blue, black
29 and white, the words "law enforcement", "police", "officers", "first
30 responder", "honor our", "support our" and "department" and the symbol of
31 a generic police shield in a crest or star shape.

32 (b) Fire ~~department~~ DEPARTMENTS and that is limited to the colors
33 red, gold, black and white, the words "fire", "fighters", "F", "D", "FD",
34 "first responder", "department", "honor our" and "support our" and the
35 symbol of a generic Maltese cross.

36 (c) Paramedics or emergency medical technicians and that is limited
37 to the colors blue, black and white, the words "first responder",
38 "paramedic", "emergency medical", "service", "technician", "honor our" and
39 "support our" and the symbol of a generic star of life.

40 ~~3.~~ 4. "Political sign" means a sign that attempts to influence the
41 outcome of an election, including supporting or opposing the recall of a
42 public officer or supporting or opposing the circulation of a petition for
43 a ballot measure, question or proposition or the recall of a public
44 officer.