

REFERENCE TITLE: homeowners' associations; political activity

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2301

Introduced by
Representative Carter

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

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

43 1. Temporary open house signs or a unit owner's for sale sign. The
44 association shall not require the use of particular signs indicating an
45 open house or real property for sale and may not further regulate the use

1 of temporary open house or for sale signs that are industry standard size
2 and that are owned or used by the seller or the seller's agent.

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

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

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

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

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

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

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

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

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

44 F. An association may regulate the size and number of political
45 signs that may be placed in the common element ground, on a unit owner's

1 property or on a limited common element for that unit if the association's
2 regulation is not more restrictive than any applicable city, town or
3 county ordinance that regulates the size and number of political signs on
4 residential property. If the city, town or county in which the property
5 is located does not regulate the size and number of political signs on
6 residential property, the association shall not limit the number of
7 political signs, except that the maximum aggregate total dimensions of all
8 political signs on a unit owner's property shall not exceed nine square
9 feet. An association shall not make any regulations regarding the number
10 of candidates supported, the number of public officers supported or
11 opposed in a recall or the number of propositions supported or opposed on
12 a political sign.

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

16 H. Notwithstanding any provision in the condominium documents, an
17 association may not prohibit or unreasonably restrict the indoor or
18 outdoor display of an association-specific political sign by a unit owner
19 by placement of a sign on that unit owner's property, including any
20 limited common elements for that unit that are doors, walls or patios or
21 other limited common elements that touch the unit, other than the
22 roof. An association may adopt reasonable rules regarding the placement,
23 location and manner of display of association-specific political signs,
24 except an association shall not do any of the following:

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

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

32 3. Require association-specific political signs to be commercially
33 produced or professionally manufactured or prohibit using both sides of
34 the sign.

35 4. Regulate the number of candidates supported or opposed, ~~or~~ the
36 number of board members supported or opposed in a recall or the number of
37 ballot measures supported or opposed on an association-specific political
38 sign.

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

44 I. A condominium is not required to comply with subsection D of
45 this section if the condominium restricts vehicular or pedestrian access

1 to the condominium, EXCEPT THAT THE CONDOMINIUM MAY NOT RESTRICT A UNIT
2 OWNER FROM CONDUCTING DOOR-TO-DOOR POLITICAL ACTIVITY, INCLUDING
3 SOLICITATIONS OF SUPPORT OR OPPOSITION REGARDING CANDIDATES OR BALLOT
4 ISSUES, AND MAY NOT PROHIBIT A UNIT OWNER FROM CIRCULATING POLITICAL
5 PETITIONS, INCLUDING CANDIDATE NOMINATION PETITIONS OR PETITIONS IN
6 SUPPORT OF OR OPPOSITION TO AN INITIATIVE, REFERENDUM OR RECALL OR OTHER
7 POLITICAL ISSUE. This section does not require a condominium to make its
8 common elements other than roadways and sidewalks that are normally open
9 to visitors available for the circulation of political petitions to anyone
10 who is not an owner or resident of the community.

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

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

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

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

38 N. For the purposes of this section:

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

43 2. "First responder flag" means a flag that recognizes and honors
44 the services of any of the following:

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

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

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

3. "Political sign" means 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.

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; definitions

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 uniformed services of the United States by an association member on that member's property if the American flag or a uniformed services 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.

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

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

B. The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the flags prescribed by subsection A of this section. 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

1 prohibit installing a flagpole in the front yard or backyard of the
2 member's property.

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

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

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

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

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

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

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

27 2. The signs are removed within one hour of children ceasing to
28 play.

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

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

32 5. The signs are professionally manufactured or produced.

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

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

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

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

13 2. Open house hours. The association may not limit the hours for
14 an open house for real estate that is for sale in the planned community,
15 except that the association may prohibit an open house being held before
16 8:00 a.m. or after 6:00 p.m. and may prohibit open house signs on the
17 common areas of the planned community.

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

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

35 1. Restrict or prohibit the door-to-door political activity from
36 sunset to sunrise.

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

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

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

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

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

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

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

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

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

L. A planned community is not required to comply with subsection H of this section if the planned community restricts vehicular or pedestrian access to the planned community, **EXCEPT THAT THE PLANNED COMMUNITY MAY NOT RESTRICT A MEMBER FROM CONDUCTING DOOR-TO-DOOR POLITICAL ACTIVITY, INCLUDING SOLICITATIONS OF SUPPORT OR OPPOSITION REGARDING CANDIDATES OR BALLOT ISSUES, AND MAY NOT PROHIBIT A MEMBER FROM CIRCULATING POLITICAL PETITIONS, INCLUDING CANDIDATE NOMINATION PETITIONS OR PETITIONS IN SUPPORT OF OR OPPOSITION TO AN INITIATIVE, REFERENDUM OR RECALL OR OTHER POLITICAL ISSUE.** This section does not require a planned community to make its common elements other than roadways and sidewalks that are normally open to visitors available for the circulation of political petitions to anyone who is not an owner or resident of the community.

M. Notwithstanding any provision in the community documents, an association may not prohibit or unreasonably restrict a member's ability to peacefully assemble and use common areas of the planned community if done in compliance with reasonable restrictions for the use of that

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

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

O. For the purposes of this section:

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

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

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

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

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

3. "Political sign" means 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.