

REFERENCE TITLE: associations; appeal to heaven flags

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1022

Introduced by
Senator 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)

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

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

33-1261. Flag display; for sale, rent or lease signs; political signs; political and community activities; applicability; definitions

A. Notwithstanding any provision in the condominium documents, an association shall not prohibit the outdoor 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 a unit owner on that unit owner'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.

8. Any historic version of the American flag, including the Betsy Ross flag, without regard to how the stars and stripes are arranged on the flag.

9. THE AN APPEAL TO HEAVEN 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 but shall not prohibit installing a flagpole.

C. Notwithstanding any provision in the condominium documents, an association shall not prohibit or charge a fee for the use of, the placement of or the indoor or outdoor display of a for sale, for rent or for lease sign and a sign rider by a unit owner on that owner's property in any combination, including a sign that indicates the unit owner is offering the property for sale by owner. The size of a sign offering a property for sale, for rent or for lease shall be in conformance with the industry standard size sign, which shall not exceed eighteen by twenty-four inches, and the industry standard size sign rider, which shall not exceed six by twenty-four inches. This subsection applies only to a commercially produced sign and an association may prohibit using signs that are not commercially produced. With respect to real estate for sale, for rent or for lease in the condominium, an association shall not prohibit in any way other than as is specifically authorized by this 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 3. Prohibit a person who is not accompanied by a unit owner or
35 resident of the condominium from entering the condominium premises if the
36 condominium restricts vehicular or pedestrian access.

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

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

46 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.

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

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

H. Notwithstanding any provision in the condominium documents, an association may not prohibit or unreasonably restrict the indoor or outdoor display of an association-specific 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 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 unit owners and three days after the condominium 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 unit owner'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, 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.

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

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

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

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

M. For the purposes of this section:

1. "AN APPEAL TO HEAVEN FLAG" MEANS A HISTORIC FLAG OF THE REVOLUTIONARY WAR CONSISTING OF A GREEN PINE TREE ON A WHITE BACKGROUND WITH THE WORDS "AN APPEAL TO HEAVEN" PLACED ABOVE THE PINE TREE.

~~1.~~ 2. "Association-specific political sign" means a sign that supports or opposes a candidate for the board of directors, the recall of a board member or a condominium ballot measure that requires a vote of the association unit owners.

~~2.~~ 3. "Betsy Ross flag" means ~~an~~ A historic flag of the United States that consists of thirteen stripes alternating between red and white stripes and thirteen five-pointed white stars arranged in a circle against a blue background.

~~3.~~ 4. "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 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.

~~4.~~ 5. "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.

8. Any historic version of the American flag, including the Betsy Ross flag, without regard to how the stars and stripes are arranged on the flag.

9. THE AN APPEAL TO HEAVEN 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
46 twenty-four inches, and the industry standard size sign rider, which shall

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

1. Temporary open house signs or a member's for sale sign. The association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size 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 planned community, 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 areas of the planned community.

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 member's property. 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 on or in the member's property. If rental or leasing of a member's property is not prohibited or restricted, the association may prohibit an open house for rental or leasing being held before 8:00 a.m. or after 6:00 p.m.

H. Notwithstanding any provision in the community 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 circulating political petitions, including candidate nomination petitions or petitions in support of or opposition to an initiative, referendum or recall or other political issue on property normally open to visitors within the association, except that an association may do the following:

1. Restrict or prohibit the door-to-door political activity 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.

3. Prohibit a person who is not accompanied by a member or resident of the planned community from entering the planned community if the planned community restricts vehicular or pedestrian access.

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

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

5 N. For the purposes of this section:

6 1. "AN APPEAL TO HEAVEN FLAG" MEANS A HISTORIC FLAG OF THE
7 REVOLUTIONARY WAR CONSISTING OF A GREEN PINE TREE ON A WHITE BACKGROUND
8 WITH THE WORDS "AN APPEAL TO HEAVEN" PLACED ABOVE THE PINE TREE.

9 ~~1.~~ 2. "Association-specific political sign" means a sign that
10 supports or opposes a candidate for the board of directors, the recall of
11 a board member or a planned community ballot measure that requires a vote
12 of the association members.

13 ~~2.~~ 3. "Betsy Ross flag" means ~~an~~ A historic flag of the United
14 States that consists of thirteen stripes alternating between red and white
15 stripes and thirteen five-pointed white stars arranged in a circle against
16 a blue background.

17 ~~3.~~ 4. "First responder flag" means a flag that recognizes and
18 honors the services of any of the following:

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

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

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

31 ~~4.~~ 5. "Political sign" means a sign that attempts to influence the
32 outcome of an election, including supporting or opposing the recall of a
33 public officer or supporting or opposing the circulation of a petition for
34 a ballot measure, question or proposition or the recall of a public
35 officer.