

REFERENCE TITLE: homeowners' associations; flag ban; prohibition

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

SB 1034

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)

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 **FLAG UNLESS THE FLAG IS OBSCENE, DEFAMATORY OR LIKELY TO INCITE VIOLENCE.**

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

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

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

1 open house or real property for sale and may not further regulate the use
2 of temporary open house or for sale signs that are industry standard size
3 and that are owned or used by the seller or the seller's agent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 N. For the purposes of this section:

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

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

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

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

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

9 ~~3.~~ 2. "Political sign" means a sign that attempts to influence the
10 outcome of an election, including supporting or opposing the recall of a
11 public officer or supporting or opposing the circulation of a petition for
12 a ballot measure, question or proposition or the recall of a public
13 officer.

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

16 33-1808. Flag display; political signs; caution signs; for
17 sale, rent or lease signs; political and community
18 activities; definitions

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

22 ~~1. The American flag or an official or replica of a flag of the~~
23 ~~uniformed services of the United States by an association member on that~~
24 ~~member's property if the American flag or a uniformed services flag is~~
25 ~~displayed in a manner consistent with the federal flag code (P.L. 94-344;~~
26 ~~90 Stat. 810; 4 United States Code sections 4 through 10).~~

27 ~~2. The POW/MIA flag.~~

28 ~~3. The Arizona state flag.~~

29 ~~4. An Arizona Indian nations flag.~~

30 ~~5. The Gadsden flag.~~

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

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

35 FLAG UNLESS THE FLAG IS OBSCENE, DEFAMATORY OR LIKELY TO INCITE VIOLENCE.

36 B. The association shall adopt reasonable rules and regulations
37 regarding the placement and manner of display of ~~the flags prescribed by~~
38 ~~subsection A of this section~~ A FLAG. The association rules may regulate
39 the location and size of flagpoles, may limit the member to displaying not
40 more than two flags at once and may limit the height of the flagpole to
41 not more than the height of the rooftop of the member's home but shall not
42 prohibit installing a flagpole in the front yard or backyard of the
43 member's property.

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

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

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

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

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

21 E. Notwithstanding any provision in the community documents, an
22 association shall not prohibit using cautionary signs regarding children
23 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 using signs
2 that are not commercially produced. With respect to real estate for sale,
3 for rent or for lease in the planned community, an association shall not
4 prohibit in any way other than as is specifically authorized by this
5 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 circulating political petitions, including
29 candidate nomination petitions or petitions in support of or opposition to
30 an initiative, referendum or recall or other political issue on property
31 normally open to visitors within the association, except that an
32 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. Notwithstanding any provision in the community documents, an
2 association may not prohibit or unreasonably restrict the indoor or
3 outdoor display of an association-specific political sign by a member by
4 placement of a sign on that member's property. An association may adopt
5 reasonable rules regarding the placement, location and manner of display
6 of association-specific political signs, except an association shall not
7 do any of the following:

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

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

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

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

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

27 L. A planned community is not required to comply with subsection H
28 of this section if the planned community restricts vehicular or pedestrian
29 access to the planned community. This section does not require a planned
30 community to make its common elements other than roadways and sidewalks
31 that are normally open to visitors available for the circulation of
32 political petitions to anyone who is not an owner or resident of the
33 community.

34 M. Notwithstanding any provision in the community documents, an
35 association may not prohibit or unreasonably restrict a member's ability
36 to peacefully assemble and use common areas of the planned community if
37 done in compliance with reasonable restrictions for the use of that
38 property adopted by the board of directors. An individual member or group
39 of members may assemble to discuss matters related to the planned
40 community, including board elections or recalls, potential or actual
41 ballot issues or revisions to the community documents, property
42 maintenance or safety issues or any other planned community matters. A
43 member may invite one political candidate or one non-member guest to speak
44 to an assembly of members about matters related to the community. The
45 association shall not prohibit a member from posting notices regarding

1 those assemblies of members on bulletin boards located on the common areas
2 or within common area facilities. An assembly of members prescribed by
3 this subsection does not constitute an official members' meeting unless
4 the meeting is noticed and convened as prescribed in the community
5 documents and this chapter.

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

10 O. For the purposes of this section:

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

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

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

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

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

29 ~~3.~~ 2. "Political sign" means a sign that attempts to influence the
30 outcome of an election, including supporting or opposing the recall of a
31 public officer or supporting or opposing the circulation of a petition for
32 a ballot measure, question or proposition or the recall of a public
33 officer.