



2022 Summary of Arizona Legislation Regarding Community Associations

The Arizona Legislature adjourned on June 24, 2022. All bills signed by Governor Ducey went into effect as of September 25, 2022.

This year's session was one of the longest in Arizona history, lasting 167 days. It was also one of the most active we can remember with 25 bills pertaining to community associations introduced.

Please contact Beth Mulcahy, Esq. (bmulcahy@mulcahylawfirm.com) any time with questions regarding the bills.

HB2131: ARTIFICIAL GRASS BAN PROHIBITED; HOAS

This new law applies only to planned communities.

1. Regardless of what an association's documents state, in any planned community that allows natural grass on a member's property, an association may not prohibit owners from installing or using artificial turf on any member's property after the time of developer control.
2. A planned community can adopt reasonable artificial turf rules regarding: (a) the quality, installation and appearance of the artificial turf (as long as those rules do not prevent installing artificial turf in the same manner that natural grass would be allowed by the community documents); and (b) the location on the property and percentage of the property that may be covered with artificial turf to the same extent as natural grass.
3. A planned community can require: (a) the removal of a member's artificial turf if the artificial turf creates a health or safety issue that the member does not correct; and (b) replacement or removal of the artificial turf if not maintained in accordance with the association's standards for maintenance.
4. A planned community can prohibit the installation of artificial turf in these situations: (a) if it is installed in an area the association maintains or irrigates (for example, on common areas or front yard areas that an association under the CC&Rs maintains); (b) if a planned community prohibits the new installation of natural grass on a member's property, the association can also prohibit the new installation of artificial turf on a member's property (except that, in that instance, an association may not prohibit a member from converting natural grass to artificial turf on the member's property.); and (c) if the planned community has unique vegetation and geologic characteristics that require preservation by the Association and in which the viability of those characteristics is protected, supported or enhanced as a result of the continued existence of natural landscaping materials.
5. If a court finds a planned community violates this law, a court shall award reasonable attorneys' fees and costs to any party that prevails as determined by the Court.



Below, our firm has provided some sample rules to follow.

SAMPLE RULES:

Any lot in the community is limited to a maximum of 70% coverage in total using artificial turf (for the front, sides and rear). The areas for possible installation are for any existing “developed” landscaped areas on the lot; whether existing turf, mulch beds, rock beds, islands, etc. All owners must submit an ARC request prior to installation and receive approval before beginning any work. The request should include the following:

- A sample of the product including model name and style
- Complete product specification sheet from the manufacturer
- The manufacturer’s warranty on the product being submitted
- Photo(s) of the area to be covered by the artificial grass
- Proper drainage plan if required
- Photo(s) of proximity areas as well as description of the method of installation

GENERAL GUIDELINES:

- a] The design plan must incorporate natural curved boundaries where possible (avoid squares, rectangles, etc., except where the turf may abut the driveway or sidewalk). The turf may not be installed directly up to the foundation of the home, there must be a border of rock or mulch to separate the turf. The artificial grass product must be made of Polyethylene and have a minimum face weight of 50 oz. with a 20 oz. weight permanent backing.
- b] The color must be like the geographical area, as a blended, multi-color monofilament fiber and a minimum pile height of 1.5 inches.
- c] Front yard areas must retain a minimum of 30% of overall square footage as organic plant material such as planter beds, rock beds, mulch beds, bushes, shrubs, etc.
- d] Professional installation is required and must include a weed barrier and a properly prepared aggregate base for drainage. An infill system is required.
- e] Artificial grass must be cleaned as necessary and periodically groomed to maintain its appearance.
- f] The owner will inspect the turf annually after the expiration of the warranty period to ensure the aesthetic properties are maintained. The Association may require replacement if there are signs of damage, lifting, unevenness, worn areas, fading, deterioration, or if the turf is a health hazard.

Amending Title 33, Chapter 16, Article 1, Arizona Revised Statutes, by adding Section 33-1819; Relating to Planned Communities.



HB2158: HOMEOWNERS' ASSOCIATIONS; POLITICAL; COMMUNITY ACTIVITY

This new law applies to both planned communities and condominiums.

Owner's Right to "Peacefully Assemble"

Regardless of any provision in the association's documents, an association may not prohibit or unreasonably restrict an owner's ability to peacefully assemble and use common elements/areas if done in compliance with reasonable restrictions for the use of that property adopted by the board of directors.

An individual owner or group of owners may assemble to discuss matters related to the association, including board of director elections or recalls, potential or actual ballot issues or revisions to the association documents, property maintenance or safety issues or any other association matters.

An owner may invite one political candidate or one non-owner guest to speak to an assembly of owners about matters related to the association. The association shall not prohibit an owner from posting notices regarding those assemblies on bulletin boards located on the common elements/areas or within common elements/areas facilities. An assembly of owners does not constitute an official owners' meeting unless the meeting is noticed and convened as prescribed in the association's documents and Arizona law.

Association-Specific Political Signs

Regardless of any provision in the association's documents, an association may not prohibit or unreasonably restrict the indoor or outdoor display of an association-specific political sign by an 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 or planned community election.
2. Limit the number of association-specific signs, except that the association may limit the aggregate total dimension of all association-specific 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 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.

The new law adds to the definition of political sign the following: a sign regarding any activity to elect or remove a condominium director or in support of or opposition to a measure that requires a vote of the association membership.

HB2010: HOMEOWNERS' ASSOCIATIONS; FIRST RESPONDER FLAGS



This new law applies to both planned communities and condominiums.

Regardless of what a planned community and condominium association documents state, a planned community or condominium cannot prohibit the outdoor display of a first responder flag (this flag, however, may incorporate the design of one or two other first responder flags to form a combined flag) a blue star service flag or a gold star service flag.

The bill defines First Responder Flag as 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 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.

Amending Sections 33-1261 and 33-1808, Arizona Revised Statutes; Relating to Condominiums and Planned Communities.



HB2275: CONDOMINIUM TERMINATION; UNIT OWNERS

This new law applies only to condominiums.

Except in cases of amendments that may be executed by a declarant under section 33-1220, by the association under section 33-1206 or section 33-1216, subsection D, or by certain unit owners under section 33-1218, subsection B, section 33-1222, section 33-1223 or section 33-1228, subsection D, and except to the extent allowed or required by other provisions of this chapter, the declaration, including the plat, may be amended only by a vote of the unit owners to which at least sixty-seven (67) percent of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use. The declaration may also provide that the consent of the declarant is required to an amendment during any period of declarant control pursuant to section 33-1243. Within thirty (30) days after the adoption of any amendment pursuant to this subsection, the association shall prepare, execute and record a written instrument setting forth the amendment.

(a) A condominium may be terminated only by agreement of 80% of the unit owners, or any larger percentage the declaration specifies, with two exceptions:

- In the case of a taking of all the units by eminent domain; or
- If the declaration specifies a smaller percentage, but only if all of the units in the condominium are restricted exclusively to nonresidential uses.

(b) A condominium created on or after the effective date of this amendment to this section may be terminated only by agreement of 95% of the unit owners in the association, or any larger percentage the declaration specifies.

A condominium created on or after the effective date of this amendment to this section may be terminated only by agreement of unit owners to which 95% of the votes in the association are allocated. Or any larger percentage the declaration specifies.

Amending Sections 33-1227 and 33-1228, Arizona Revised Statutes; Repealing Laws 2021, Chapter 405, Section 51; Relating to Termination of Condominiums.



SB1168: VACATION RENTALS; SHORT-TERM RENTALS; ENFORCEMENT

This new law applies to planned communities and condominiums.

This bill sets forth the ways in which a city or town may regulate vacation or short-term rentals as follows:

- To require the owner of a vacation or short-term rental to provide emergency contact information for the owner who is responsible for responding to complaints or emergencies. The city or town may impose a penalty of up to \$1,000 against the owner for every thirty (30) days they fail to provide the contact information.
- To require the owner to obtain and maintain a local regulatory permit or license pursuant to Title 9, Chapter 7, Article 4.
- To require, before offering a vacation or short-term rental for rent for the first time, the owner must notify all single-family residential properties adjacent to, directly and diagonally across the street from the property.
- To require the owner of the property to display the local regulatory permit number or license number, if any, on each advertisement for the vacation or short-term rental property the owner maintains.
- To require the vacation rental or short-term rental to maintain appropriate liability insurance to cover the vacation or short-term rental in the aggregate of at least \$500,000 or to advertise and offer each rental through an online lodging marketplace that provides equal or greater coverage.

This bill also states that a city or town may deny issuance of a permit or license for a rental property only for any of the following reasons:

- Failure to provide the required information
- Failure to pay the required permit or license fee
- At the time of the application, the owner has a suspended permit or license for the same vacation or short-term rental
- The applicant provides false information
- The owner is a registered sex offender or has been convicted of any serious felony in the last five years

A city or town that requires a local regulatory permit or license must adopt an ordinance to allow the city or town to initiate an administrative process to suspend a permit or license for a period of up to twelve (12) months if three minor or one significant verified violations occur.