



Community Association Law


**2023 ARIZONA LEGISLATIVE
UPDATE**

(as of July 25, 2023)

Michael S. Shupe, Esq.



GOLDSCHMIDT | SHUPE PLLC
ATTORNEYS AT LAW



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BRIEF OVERVIEW OF LEGISLATIVE PROCESS:

- Introduction
- Assignment To Committee
- Committee Review (Amendments)
- House/Senate Committee of The Whole (“COW”) (FLOOR AMENDMENTS)
- House/Senate Vote (“Third Read”)
- Switch! - If second house amends, it must go back to first house for approval before going to the Governor (“Final Reading”)
- Governor (sign or veto)

Disclaimer: The information provided is not, nor is it intended to be, legal advice. No attorney-client relationship between the reader and Goldschmidt|Shupe is intended.



ARIZONA LEGISLATIVE TRENDS: What to Watch for ...

- Condo Conversions/Termination
- Affordable Housing
- Short-term Rentals/Leasing
- HOA Assessment/Collection Regulations
- CC&Rs Amendments
- HOA Voting/Meetings
- Political Activity, Expression, Signage/Flags
- Energy/Resource Conservation




2023 LEGISLATIVE SESSION LAWS (as of July 25, 2023)

- HB2251 Condominiums; Insurance Coverage; Claims
- HB2298 Planned Community Authority; Public Roadways
- SB1049 Homeowners' Associations; Betsy Ross Flag
- HB2607 Board Members; Condominiums; Planned Communities
- HB2301 Homeowners' Associations; Political Activity
- SB1023 Residential Picketing; Offense

What is a Session Law (Chaptered Bill) and when does it become a Law?

Unless a bill contains a special provision making it effective immediately upon signature of the Governor or delaying its effectiveness, the general effective date for bills is 91 days after the session is over ("Sine Die").

The current 2023 Legislative Session has not yet ended, so the effective date of the bills listed above is not yet determined.



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HB2251 Condominiums; Insurance Coverage; Claims

Amends: A.R.S. §33-1253

- Formally recognizes the fact that Condominium Unit Owners are insureds under the Association’s Property Damage and Liability Insurance Policies with respect to the Unit and the Owner’s interest in the Unit and Membership in the Association.
- The Unit Owner has a right to report a loss to the Association’s Insurance Company directly. The Unit Owner must also report to loss the Association. The Unit Owner must give the Association at least 10 business days to decide whether the Association will report the loss, and if it decides not to, it must notify the Unit Owner as to its reason for the decision.



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HB2251 Condominiums; Insurance Coverage; Claims (con’t)

**** NEW REPORTING REQUIREMENT ****


The Association is required report annually to the Members in writing:

1.

the Owners’ responsibility for payment of Insurance deductibles for property and liability coverage, if any, and

2.

the amount of such deductibles.



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HB2298 Planned Community Authority; Public Roadways

Amends: A.R.S. §§33-1818

Currently, in any Planned Community where the Declaration of CC&Rs was recorded after December 31, 2014, the Planned Community Association has no authority to regulate public streets.





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HB2298 Planned Community Authority; Public Roadways (con't)

“For any Planned Community for which the Declaration was recorded before January 1, 2015 and that regulates any roadway for which the ownership has been dedicated to or is otherwise held by a governmental entity, the existing regulations continue until either of the following occurs:”

1. ***A successful members’ vote prior to June 30, 2025 to continue to regulate public roadways.*** Approval by a majority of a quorum at the Members’ meeting is required. If the vote is successful, the Board must record a document confirming the Members approval to continue to regulate the public roadways.

2. ***The failure to hold the Meeting for the vote by the deadline, or a failed vote.*** If the vote fails or the vote does not occur by the deadline, the Association’s authority to regulate public roadways expires and cannot be “revived.”

Note: The law does not apply to “one-way streets” or to any privately owned roadways.



SB1049: Homeowners' Associations; Betsy Ross Flag



Amends: A.R.S. §§33-1808 and 1261

“Notwithstanding any provision in the condominium/community documents, an association shall not prohibit the outdoor display of any of the following:”



SB1049: Homeowners' Associations; Betsy Ross Flag (con't)


- The American Flag or any official or replica of a flag of the uniformed services of the United States ... in a manner consistent with the federal flag code.
- The POW/MIA flag
- The Arizona State flag
- An Arizona Indian Nations flag



WHAT ARE THE “UNIFORMED SERVICES OF THE UNITED STATES?”

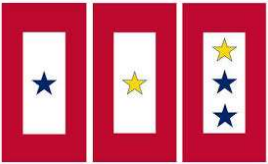

- Army
- Navy
- Air Force
- Marine Corps
- Space Force


- Coast Guard
- Commissioned Corps of the National Oceanic and Atmospheric Administration
- Commissioned Corps of the Public Health Service



SB1049: Homeowners' Associations; Betsy Ross Flag (con’t)

- The Gadsden flag
- A Blue Star Service flag or Gold Star Service flag
- A first responder flag





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WHAT IS A “FIRST RESPONDER” FLAG?

A flag that recognizes and honors the services of any of the following:

- **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.
- **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.
- **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.



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SB1049: Homeowners' Associations; Betsy Ross Flag (con’t)

- Any historic version of the American flag, including the Betsy Ross Flag, regardless how stars/stripes are arranged.

The Betsy Ross Flag is defined as “an 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.”





HB2607 Board Members; Condominiums; Planned Communities

Amends: A.R.S. §§33-1813 and 1243

- “If all of the requirements of this subsection for calling a Special Meeting are met and the Board of Directors fails to call, notice and hold a Special Meeting within 30 days after receipt of the petition, the members of the Board of Directors are deemed removed from office effective at midnight of the thirty-first day.”




HB2301 Homeowners’ Associations; Political Activity

Amends: A.R.S. §§33-1808 and 1261

- Removes the blanket exception applicable to Planned Communities and Condominiums that restrict vehicular or pedestrian access to the community.
- An Association cannot restrict door-to-door political activity, except ...





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HB2301 Homeowners’ Associations; Political Activity (con’t)

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 (or Condominium) from entering the Planned Community (or Condominium) if the Planned Community (or Condomnium) restricts vehicular or pedestrian access.**



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SB1023: Residential Picketing; Offense

(Amends A.R.S. §13-29090)

Residential Picketing is now defined as occurring if:

- “a person intentionally engages in picketing or otherwise demonstrates before or about an individual’s residence or dwelling place”;
- the picketing or demonstrating is “intentionally directed at a person who resides in the residence or dwelling place”; and
- a “reasonable person would find the person’s picketing or demonstrating to be harassing, threatening or alarming to a person in the residence or dwelling place.”

The protections under this law do not apply to a residence or dwelling place that is also used as the individual’s principal place of business. A violation constitutes a class 3 misdemeanor.