

Guidelines for Flags, Banners, and Signs

Adopted by the Board of Directors 3.5.2015

In the community of Silver Creek of Clay County, we recognize the right of each home owner to display the flag of the United States of America according to the Federal "Freedom to Display the American Flag Act of 2005" - Public Law 109-243 109th Congress (copy attached). We would respectfully request that each home owner display the flag in a manner befitting its status as a patriotic symbol.

We further recognize the right of each home owner under Florida Statute 720.304 2(a)(b) (copy attached) to display flags as follows:

"(2)(a) Any homeowner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and one portable, removable official flag, in a respectful manner, not larger than 4 1/2 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association.

(b) Any homeowner may erect a freestanding flagpole no more than 20 feet high on any portion of the homeowner's real property, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, if the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The homeowner may further display in a respectful manner from that flagpole, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, one official United States flag, not larger than 4 1/2 feet by 6 feet, and may additionally display one official flag of the State of Florida or the United States Army, Navy, Air Force, Marines, or Coast Guard, or a POW-MIA flag. Such additional flag must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the county or municipality in which the flagpole is erected and all setback and locational criteria contained in the governing documents."

Freestanding flagpoles should not display any flags other than those allowed under Florida Statute 720.304 2(a)(b).

In the event a home owner decides to exercise their right to display a flag on a freestanding flag pole, an ARC Request Form should be submitted prior to its installation, showing the location and height of the pole, as well as any associated lighting.

Further, it is recognized that there are various other flags currently within the community representing other states, supporting sports team, and being used as garden ornaments. It is not the intention of this Board to restrict the displaying of these flags, however, we are setting guidelines for how they are displayed. These flags may be displayed on flag poles no larger than four (4) feet in length attached to a dwelling. No more than two (2) poles may be attached to the outside wall of a dwelling. These poles should be located beside garage doors or on pillars outside front doors. Smaller flags, also limited to no more than two (2), may be placed in the garden area adjacent to the dwelling or areas designated as a garden evidenced by mulching and/or bordering.

Upright freestanding banners, may be no higher than six (6) feet in height. Further they need to be restricted to the garden area attached to the dwelling and are limited to one (1) per dwelling.

Our Covenants and Restrictions clearly restrict signs under Article VI, Section 23 (see attached). These Covenants and Restrictions are in direct conflict with Florida Statute 720.304 (6) which states “(a)any parcel owner may display a sign of reasonable size provided by a contractor for security services within ten (10) feet of any entrance to the home.” (See attached). We further recognize the necessity to follow the law until such time as we can facilitate changes to our Covenants and Restrictions.

Attachments follow.

Florida Statute

720.304 Right of owners to peaceably assemble; display of flag; SLAPP suits prohibited.—

(Regarding flags)

(2)(a) Any homeowner may display one portable, removable United States flag or official flag of the State of Florida in a respectful manner, and one portable, removable official flag, in a respectful manner, not larger than 4 1/2 feet by 6 feet, which represents the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a POW-MIA flag, regardless of any covenants, restrictions, bylaws, rules, or requirements of the association.

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(Regarding signs)

(6) Any parcel owner may display a sign of reasonable size provided by a contractor for security services within 10 feet of any entrance to the home.

[109th Congress Public Law 243]
[From the U.S. Government Printing Office]

[DOCID: f:publ243.109]

[[Page 120 STAT. 572]]

Public Law 109-243
109th Congress

An Act

To ensure that the right of an individual to display the flag of the United States on residential property not be abridged. <<NOTE: July 24, 2006 - [H.R. 42]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: Freedom to Display the American Flag Act of 2005.>>

SECTION 1. <<NOTE: 4 USC 5 note.>> SHORT TITLE.

This Act may be cited as the ``Freedom to Display the American Flag Act of 2005''.

SEC. 2. <<NOTE: 4 USC 5 note.>> DEFINITIONS.

For purposes of this Act--

(1) the term ``flag of the United States'' has the meaning given the term ``flag, standard, colors, or ensign'' under section 3 of title 4, United States Code;

(2) the terms ``condominium association'' and ``cooperative association'' have the meanings given such terms under section 604 of Public Law 96-399 (15 U.S.C. 3603);

(3) the term ``residential real estate management association'' has the meaning given such term under section 528 of the Internal Revenue Code of 1986 (26 U.S.C. 528); and

(4) the term ``member''--

(A) as used with respect to a condominium association, means an owner of a condominium unit (as defined under section 604 of Public Law 96-399 (15 U.S.C. 3603)) within such association;

(B) as used with respect to a cooperative association, means a cooperative unit owner (as defined under section 604 of Public Law 96-399 (15 U.S.C. 3603)) within such association; and

(C) as used with respect to a residential real estate management association, means an owner of a residential property within a subdivision, development, or similar area subject to any policy or restriction adopted by such association.

SEC. 3. <<NOTE: 4 USC 5 note.>> RIGHT TO DISPLAY THE FLAG OF THE UNITED STATES.

A condominium association, cooperative association, or residential real estate management association may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.

[[Page 120 STAT. 573]]

SEC. 4. <<NOTE: 4 USC 5 note.>> LIMITATIONS.

Nothing in this Act shall be considered to permit any display or use that is inconsistent with--

(1) any provision of chapter 1 of title 4, United States Code, or any rule or custom pertaining to the proper display or use of the flag of the United States (as established pursuant to such chapter or any otherwise applicable provision of law); or

(2) any reasonable restriction pertaining to the time, place, or manner of displaying the flag of the United States necessary to protect a substantial interest of the condominium association, cooperative association, or residential real estate management association.

Approved July 24, 2006.

LEGISLATIVE HISTORY--H.R. 42:

CONGRESSIONAL RECORD, Vol. 152 (2006):

June 27, considered and passed House.

July 17, considered and passed Senate.

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Section 23. Signs. No sign of any character shall be displayed or placed upon any lot except "For Rent" or "For Sale" signs, which signs may refer only to the particular premises on which displayed, and shall be of materials, size, height and design specified by the Developer which follows City Codes. In no event shall any such permitted sign exceed 24 inches by 36 inches in size. The Developer may enter upon any building plot and summarily remove, without notice, any signs, which do not meet the provisions of this paragraph.