

**38-33.3-106.5. Prohibitions contrary to public policy - patriotic and political expression - emergency vehicles - fire prevention - renewable energy generation devices - affordable housing - definitions.**

(1) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not prohibit any of the following:

(a) The display of the American flag on a unit owner's property, in a window of the unit, or on a balcony adjoining the unit if the American flag is displayed in a manner consistent with the federal flag code, Pub.L. 94-344; 90 stat. 810; 4 U.S.C. secs. 4 to 10. The association may adopt reasonable rules regarding the placement and manner of display of the American flag. The association rules may regulate the location and size of flags and flagpoles, but shall not prohibit the installation of a flag or flagpole.

(b) The display of a service flag bearing a star denoting the service of the owner or occupant of the unit, or of a member of the owner's or occupant's immediate family, in the active or reserve military service of the United States during a time of war or armed conflict, on the inside of a window or door of the unit. The association may adopt reasonable rules regarding the size and manner of display of service flags; except that the maximum dimensions allowed shall be not less than nine inches by sixteen inches.

(c) (I) The display of a political sign by the owner or occupant of a unit on property within the boundaries of the unit or in a window of the unit; except that:

(A) An association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day; and

(B) An association may regulate the size and number of political signs in accordance with subparagraph (II) of this paragraph (c).

(II) The association shall permit at least one political sign per political office or ballot issue that is contested in a pending election. The maximum dimensions of each sign may be limited to the lesser of the following:

(A) The maximum size allowed by any applicable city, town, or county ordinance that regulates the size of political signs on residential property; or

(B) Thirty-six inches by forty-eight inches.

(III) As used in this paragraph (c), "political sign" means a sign that carries a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

(d) The parking of a motor vehicle by the occupant of a unit on a street, driveway, or guest parking area in the common interest community if the vehicle is required to be available at designated periods at such occupant's residence as a condition of the occupant's employment and all of the following criteria are met:

(I) The vehicle has a gross vehicle weight rating of ten thousand pounds or less;

(II) The occupant is a bona fide member of a volunteer fire department or is employed by a primary

provider of emergency fire fighting, law enforcement, ambulance, or emergency medical services;

(III) The vehicle bears an official emblem or other visible designation of the emergency service provider; and

(IV) Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other unit owners or occupants to use streets, driveways, and guest parking spaces within the common interest community.

(e) The removal by a unit owner of trees, shrubs, or other vegetation to create defensible space around a dwelling for fire mitigation purposes, so long as such removal complies with a written defensible space plan created for the property by the Colorado state forest service, an individual or company certified by a local governmental entity to create such a plan, or the fire chief, fire marshal, or fire protection district within whose jurisdiction the unit is located, and is no more extensive than necessary to comply with such plan. The plan shall be registered with the association before the commencement of work. The association may require changes to the plan if the association obtains the consent of the person, official, or agency that originally created the plan. The work shall comply with applicable association standards regarding slash removal, stump height, revegetation, and contractor regulations.

(f) (Deleted by amendment, L. 2006, p. 1215, § 2, effective May 26, 2006.)

(g) Reasonable modifications to a unit or to common elements as necessary to afford a person with disabilities full use and enjoyment of the unit in accordance with the federal "Fair Housing Act of 1968", 42 U.S.C. sec. 3604 (f) (3) (A).

(h) (I) The right of a unit owner, public or private, to restrict or specify by deed, covenant, or other document:

(A) The permissible sale price, rental rate, or lease rate of the unit; or

(B) Occupancy or other requirements designed to promote affordable or workforce housing as such terms may be defined by the local housing authority.

(II) (A) Notwithstanding any other provision of law, the provisions of this paragraph (h) shall only apply to a county the population of which is less than one hundred thousand persons and that contains a ski lift licensed by the passenger tramway safety board created in section 25-5-703 (1), C.R.S.

(B) The provisions of this paragraph (h) shall not apply to a declarant-controlled community.

(III) Nothing in subparagraph (I) of this paragraph (h) shall be construed to prohibit the future owner of a unit against which a restriction or specification described in such subparagraph has been placed from lifting such restriction or specification on such unit as long as any unit so released is replaced by another unit in the same common interest community on which the restriction or specification applies and the unit subject to the restriction or specification is reasonably equivalent to the unit being released in the determination of the beneficiary of the restriction or specification.

(IV) Except as otherwise provided in the declaration of the common interest community, any unit subject to the provisions of this paragraph (h) shall only be occupied by the owner of the unit.

(1.5) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not effectively prohibit renewable energy generation devices, as defined in section 38-30-168.

(2) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, an association shall not require the use of cedar shakes or other flammable roofing materials.

**Source:** **L. 2005:** Entire section added, p. 1373, § 2, effective June 6. **L. 2006:** (1)(a), (1)(b), (1)(c), IP (1)(d), (1)(d)(II), (1)(d)(IV), and (1)(f) amended and (2) added, p. 1215, § 2, effective May 26. **L. 2008:** (1)(g) added, p. 556, § 1, effective July 1; (1.5) added, p. 620, § 3, effective August 5. **L. 2009:** (1)(h) added, (HB 09-1220), ch. 166, p. 732, § 1, effective August 5.