

# Flags and Political Signs

## QFCA Covenants:

### Article 10, Use Restrictions

#### 2. Design and Location of Townhouse Units: **Additional use Restrictions.**

(1990 amendments)

c. No clothes lines, **signs**, billboard, unsightly objects or nuisance shall be erected, placed or permitted. No awnings, canopies, shutters, or radio and television antennas or satellite dish shall be affixed to or placed upon an exterior wall, window, or roof of a townhouse unit without the prior written consent of the Association Board of Directors.

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However,

### Kansa Statute 58-4617

(d) A rule regulating display of the flag of the United States must be consistent with federal law. In addition, **the association may not prohibit display on a unit or on a limited common element adjoining a unit of the flag of this state, or signs regarding candidates for public or association office or ballot questions.** The association may adopt rules governing the time, place, size, number, and manner of those displays that are not inconsistent with K.S.A. 58-3820, and amendments thereto.

### **Kansas state government**

Kansas political signs are okay, despite covenants *Kansas law overrides neighborhood covenants that prohibit political yard signs before elections.* Some neighborhoods have restrictive covenants that prohibit homeowners from placing any signs in their yard except signs advertising homes for sale. But a 2008 Kansas law overrides these restrictive covenants to allow for the placement of small political yard signs starting 45 days before an election. Still, residents of covenant neighborhoods may want to observe their neighborhood's restrictions.

The bill was the product of then-Senator Phil Journey of Haysville. The bill passed unanimously in both the Kansas House and Senate.

According to the First Amendment Center, some 50 million people live in neighborhoods with homeowners associations. And laws like the 2008 Kansas law are not without controversy, despite the unanimous vote in the Kansas Legislature.

While the U.S. Supreme Court has ruled that governmental entities like cities can't stop homeowners from displaying political yard signs, a homeowners association is not a government. Instead, it is a group that people voluntarily enter. Generally, when prospective homeowners purchase a home in a neighborhood with restrictive covenants, they are asked to sign a document pledging to comply with the provisions in the covenants. If those covenants prohibit political yard signs, but a Kansas law says these covenants do not apply, what should a homeowner do? Should state law trump private contracts in cases like this?

### **Practically: Should you display signs in your yard?**

While Kansas law makes it legal for those living in communities with covenants that prohibit political yard signs, residents may want to observe these covenants. Here's why: If neighbors are not aware of this new Kansas law and therefore wrongfully believe that the yard signs are not allowed in your neighborhood, they may think residents with signs in their yards are violating the covenants. By extension, this could reflect poorly on the candidates that are being promoted.

Those who are not aware of the law allowing yard signs are uninformed. Or, they may be aware of the law but disagree with it and wish their neighbors would not display political yard signs. These people, of course, may vote and influence others how to vote. Whether to display yard signs in a covenant neighborhood is a judgment that each person will have to make for themselves.

### **The Kansas statute**

K.S.A. 58-3820. Restrictive covenants; political yard signs; limitations.

(a) On and after the effective date of this act, any provision of a restrictive covenant which prohibits the display of political yard signs, which are less than six square feet, during a period commencing 45 days before an election and ending two days after the election is hereby declared to be against public policy and such provision shall be void and unenforceable.

(b) The provisions of this section shall apply to any restrictive covenant in existence on the effective date of this act.

Or, as described in the 2008 Summary of Legislation: **"The bill invalidates any provision of a restrictive covenant prohibiting the display of political yard signs, which are less than six square feet, 45 days before an election or two days after the election."**