

May 2025

Q: Section 7.09 of our covenants addresses “signs” on lots in the Riviera. Recently we have encountered multiple instances where compliance with this section has been questioned. We want to ensure that our enforcement approach aligns with legal best practices and our governing documents. Specifically, we need clarification on the legal definition of a “sign.” Are flags and banners considered signs for our purposes? How should political and religious flags/banners be interpreted under this section? Additionally, what enforcement actions can the Riviera take based on the language of this section, and what actions should we avoid?

Furthermore, does this section apply to signs placed within 10 feet of the road inside a Pierce County Easement?

As it's written in our CCR's:

Section 7.09:

“Unless otherwise approved by the Trustees or the ACC, all signs and advertising devices for display to public view are prohibited except for temporary signs, not to exceed four (4) square feet, advertising a home for sale or advertising a garage or yard sale. Nothing herein shall be deemed to prohibit reasonable and tasteful house numbers for addresses, or occupant's names on mailboxes. Except as stated above, no business signs, advertising signs or signs in any way relating to occupation, profession, political offices or the sale of unimproved property shall be allowed. Signs posted in violation of this provision may be removed upon order of the Board of Trustees following Notice and Opportunity for a Hearing.”

A: As you can imagine, this is an area loaded with challenges, particularly in this politically charged environment we live in these days. Neither statutes or case law specifically clarify whether an Association can consider flags/banners to be considered “signs” for the purpose of enforcement. I know some communities do and others have specific provisions that address signs and another that addresses flags/banners. In terms of what is reasonable, I think it is probably reasonable to consider banners as signs, but more of a stretch to consider flags as signs.

With that background, we look at the language in Section 7.09. The provision is clear that the only signs that are permitted are temporary real estate signs. However, this violates RCW 64.38.034 which expressly provides that the Association may not prohibit political yard signs on the owner's property before any primary or general election. The Association is permitted to regulate and to create reasonable rules pertaining to such signs, but cannot prohibit them as Section 7.09 does.

The hot button issue for many communities is whether specific signs that are not related to a political primary or general election but which could be deemed to have political statements, can and/or should be regulated. Based on the language in Section 7.09, I believe the Association clearly has the authority to prohibit such signs on a lot. I believe it is less clear that the Association has the authority to regulate flags and banners, but I do believe the Association could take the approach that all flags and banners are signs and, therefore, are impermissible. There would be some risk to this approach, though, if an owner were to challenge the Board's decision and seek a legal opinion that a flag or banner is not a sign. I could not predict how a court would rule in such an instance. Best practice would be to establish clearer Rules and Regulations around this issue, or to amend the CC&R's. to provide additional guidance for the Board and owners regarding what is and is not acceptable with regard to signs, flags and banners. In my experience, the best approach is for the Association to either fully prohibit all signs, banners and flags (except those permitted under law) or to allow all of them so as to avoid putting the Board in a position where it must make a subjective decision about what is and is not acceptable as this often leads to inconsistent decisions by Boards based on their own biases and can result in liability for the Association as a result. If generally allowed, the Association can include a provision which prohibits signs, flags or banners which are vulgar or which include curse words but this would serve as the only standard by which a flag, banner or sign could be regulated.

Of note, the Association cannot prohibit flying of an American flag as that is protected by federal law, so long as the flag and its display complies with the specific provisions of the law.