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Jack Clark

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Saturday, January 18, 2003
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Henderson ordinance to let flags fly

New law will override association rules

By **ADRIENNE PACKER**
REVIEW-JOURNAL

Henderson homeowners living in neighborhoods with strict regulations soon may be guaranteed the right to pledge allegiance to the flag on their own property.

City Council members will consider a new flag ordinance Tuesday in response to residents infuriated by homeowners association rules that prohibit the flag from being flown from houses.

"I was really appalled at that, especially with the times we're in now," said City Councilwoman Amanda Cyphers, who sponsored the ordinance. "It's the most unpatriotic thing I've heard."

If approved, the city's ordinance would override homeowners associations' codes, covenants and restrictions.

Vicki Taylor, assistant to the city manager, said the battle over flags and banners started with the wave of patriotism that washed over the country after the Sept. 11, 2001, terrorist attacks.

"After 9-11, homeowners were incensed," she said.

The First Amendment protecting free speech prohibits an outright ban of American flags. But according to the city, homeowners associations are allowed to regulate when and where flags can be displayed as long as the rules aren't "unduly restrictive."

Robert Orfaly, who gained recognition after the Sept. 11 attacks when he took a team of volunteers to New York City to help with cleanup efforts, believes his neighborhood rules are too stringent.

Orfaly recently waged war against the Monument Point Homeowners Association in Green Valley and called upon city officials to join his battle.

Orfaly said he raised his 3-by-5-foot flag when he returned from New York, but homeowners

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association representatives asked him to remove it, saying the flag violated neighborhood rules. The flag is now coiled behind his front door.

"We're normal citizens trying to act in patriotic ways," Orfaly said Friday.

Cyphers said the new city law, which was written after discussions with Orfaly, would give homeowners associations authority to determine how many flags are allowed, their size, and whether they can be permanent or temporary.

The ordinance is patterned after a city of Las Vegas law adopted in November.

Richard Hattings, president of the Monument Point association, said Orfaly has misinterpreted the neighborhood guidelines.

Until the terrorist attacks, American flags were allowed to be flown only on federal holidays, Hattings said. However, the law was amended the following summer. Now they are allowed to fly during daylight but not at night.

"I've been a serving Navy reserve officer of 38 years, and I'm a Vietnam veteran," Hattings said. "It's not like I'm passive here."

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Wednesday, January 22, 2003
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Henderson votes to prevent bans on flag flying

Ordinance overrides association rules restricting U.S. banner display

By **ADRIENNE PACKER**
REVIEW-JOURNAL

As a parachutist in the Marine Corps, Danny Noonan was dropped into some of the country's most historic battles.

Noonan, 81, found himself fighting again Tuesday evening. However, this time it was against homeowners associations that prohibit any type of banner -- including the American flag -- from being flown at houses.

"We're the land of the free because we made it that way," Noonan said. "Someday, you're going to walk out of your homeowners association house, gaze at the sun and bow, then raise your right arm and say, 'Heil Hitler!'"

A troop of patriotic residents attended Tuesday's Henderson City Council meeting to encourage the board to pass an ordinance overriding homeowners association rules restricting the display of the American flag.

The crowd didn't have much of a fight on its hands. The council voted 5-0 in favor of the ordinance, with Councilman Jack Clark leading the way.

Clark scolded homeowners association representatives, none of whom announced their attendance, for not amending their rules after the Sept. 11, 2001, terrorist attacks. He scoffed at many associations that allow the flag to be flown only on national holidays.

"It's a national holiday at my house every single day," Clark said during a five-minute speech. "Because I fly my flag every single day."

Joseph Bifano couldn't believe that as the country is pulling together, the city was forced to spend its time writing an ordinance to override neighborhood associations.

"Our men and women are getting ready to go to war, and we're talking about this?" Bifano said. "(Homeowners associations) want to control people's lives, and that is not what this country is about."

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The city's new ordinance simply says homeowners can fly the American flag on their property. Neighborhood associations can limit the size of the flag, the flag pole and flying the flag at night.

"I don't think you can have too many flags in a neighborhood," Clark said. "I'm amazed this issue has become so controversial."

The issue was raised by Green Valley resident Robert Orfaly. He contacted Henderson officials after Monument Point Homeowners Association representatives ordered him to remove his American flag from his home.

The homeowners association changed its rules the summer following the attacks on Washington, D.C., and New York City. Association President Richard Hattings said flags cannot fly at night.

Proper flag etiquette requires a flag be lighted at night.

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