

CHAPTER 47-04.1

CONDOMINIUM OWNERSHIP OF REAL PROPERTY

47-04.1-01. Definitions.

In this chapter, unless context otherwise requires:

1. "Common areas" means the entire project excepting all units therein granted or reserved.
2. "Condominium" is an estate in real property consisting of an undivided interest or interests in common in a portion of a parcel of real property together with a separate interest or interests in space in a structure, on such real property.
3. "Interest" means the fractional or percentage interest or interests ascribed to each unit by the declaration provided for in section 47-04.1-03.
4. "Limited common areas" means those elements designed for use by the owners of one or more but less than all of the units included in the project.
5. "Project" means the entire parcel of real property divided, or to be divided into condominiums, including all structures thereon.
6. "To divide" real property means to divide the ownership thereof by conveying one or more condominiums therein but less than the whole thereof.
7. "Unit" means the elements of a condominium which are not owned in common with the owners of other condominiums in the project.

47-04.1-02. Recording of declaration to submit property to a project.

When the sole owner or all the owners, or the sole lessee or all of the lessees of a lease desire to submit a parcel of real property to a project established by this chapter, a declaration to that effect shall be executed and acknowledged by the sole owner or lessee or all of such owners or lessees and shall be recorded in the office of the recorder of the county in which such property lies.

47-04.1-03. Contents of declaration.

The declaration provided for in section 47-04.1-02 shall contain:

1. A description or survey map of the surface of the land included within the project.
2. Diagrammatic floor plans of the structures built or to be built thereon in sufficient detail to identify each unit, its relative location and approximate dimensions.
3. A description of the common elements.
4. A description of the limited common elements.
5. The fractional or percentage interest which each unit bears to the entire project. The sum of such shall be one if expressed in fractions and one hundred if expressed in percentage.

47-04.1-04. Declaration of restrictions.

The owner of a project, shall, prior to the conveyance of any condominium therein, record a declaration of restrictions relating to such project, which restrictions shall be enforceable equitable servitudes where reasonable, and shall inure to and bind all owners of condominiums in the project. Such servitudes, unless otherwise provided, may be enforced by any legal or equitable owner of a condominium in the project.

47-04.1-05. Reference to declaration for description of unit and common elements.

All subsequent deeds, mortgages, or other instruments may describe the individual units, the common elements, the land, or limited common elements by reference to appropriate numbers or letters as they appear on the declaration provided for in section 47-04.1-03 without repeating in detail the description of the units, common elements other than the land, or limited common elements. The reference must include the book and page of the recorded declaration.

47-04.1-06. Incidents of a condominium grant.

Unless otherwise expressly provided for in the deeds, declaration of restrictions or plan, the incidents of a condominium grant are as follows:

1. The boundaries of the unit granted are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the units include both the portions of the building so described and the air-space so encompassed. The following except as provided above are not part of the unit: bearing walls, columns, floors, roofs, foundations, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, whenever located, except the outlets thereof when located within the unit. In interpreting deeds and plans the existing physical boundaries of the unit or of a unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and those of the building.
2. The common areas are owned by the owners of the units as tenants in common in proportion to each unit's interest.
3. A nonexclusive easement for ingress, egress, and support through the common area is appurtenant to and inseparable from each unit and the common areas are subject to such easements.
4. Each condominium owner shall have the exclusive right to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows, and doors bounding that owner's own unit.
5. Except as provided in section 47-04.1-09, the common areas shall remain undivided, and there shall be no judicial partition thereof.

47-04.1-07. Administration - Bylaws - Rules and regulations.

1. The unit owners of each project shall provide for the administration of each project. The unit owners or administrative body established by the unit owners shall provide by bylaws for the maintenance of common elements, limited common elements where applicable, assessment of expenses, payment of losses, division of profits, disposition of hazard insurance proceeds, and similar matters. A true copy of such bylaws must be annexed to the declaration set forth in section 47-04.1-02 when adopted, and made a part thereof and filed in the office of the recorder. No modification of or amendment to the bylaws is valid unless set forth in an amendment to the declaration and unless the amendment is duly recorded in the office of the recorder.
2. The following provisions may not be included in the bylaws:
 - a. Provisions that base assessment of common charges on the basis of whether the occupant of a unit is an owner, a tenant, or other person.
 - b. Provisions that make payment of losses, division of profits, disposition of hazard proceeds, or any other topic that is within the scope of the bylaws, based on whether the occupant of a unit is an owner, a tenant, or other person.
3. All bylaws, rules, and regulations as adopted by the unit owners or administrative body of the project must be reduced to writing and made available to every owner of any interest in the project.
4. The unit owners shall also cause to be recorded in the office of the recorder the name of the person or persons who are responsible for the administrative duties and who may be designated as agent or agents for all owners for the service of legal process and possess such power and authority as may be provided in the bylaws.

47-04.1-08. Compliance with covenants, bylaws, and administrative provisions.

Each unit owner shall comply strictly with the bylaws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declarations or in the deed to that owner's unit. Failure to comply with such provisions shall be grounds for an action

to recover sums due for damages, injunctive relief or such other relief as a court of proper jurisdiction may provide by the administrative body or in a proper case, by an aggrieved unit owner.

47-04.1-09. Partition not available - Exceptions.

The provisions of chapter 32-16 relating to partition of real property shall not be available to any owner of any interest in real property included within a project established under this chapter as against any other owner or owners of any interest or interests in the same project, so as to terminate the project.

An action may be brought by one or more unit owners in a project for partition thereof by sale of the entire project, as if the owners of all of the condominiums in such project were tenants-in-common in the entire project in the same proportion as their interest in the common areas, provided, however, that a partition by sale shall be made only upon the showing that:

1. Three years after damage or destruction to the project which renders a material part thereof unfit for its prior intended use, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction;
2. All or a substantial and material portion of the project has been destroyed or substantially damaged, and that condominium owners holding in aggregate more than fifty percent interest in the common areas are opposed to repair or restoration of the project; or
3. The project is obsolete and uneconomic, and that condominium owners holding in aggregate more than a fifty percent interest in the common areas are opposed to repair or restoration of the project.

47-04.1-10. Withdrawal of property from project - Recording - Subsequent project.

Any property so constituted as a condominium project may be removed therefrom at any time, provided the sole owner or all of the owners execute, acknowledge, and record a declaration evidencing such withdrawal. If at such time there are any encumbrances or liens against any of the units, such declaration will be effective only when the creditors holding such encumbrances or liens also execute and acknowledge such declaration, or their encumbrances or liens are satisfied, or expire by operation of law.

No withdrawal of any property from a condominium project shall be a bar to any subsequent commitment to a condominium project.

47-04.1-11. Liens against units for common expenses - Removal from lien - Effect of part payment.

A reasonable assessment for common expenses made by the administrative body upon any condominium and made in accordance with the recorded declaration and bylaws shall be a debt of the owner thereof at the time the assessment is made. The amount of any such assessment plus any other charges thereon, such as interest, costs, and penalties, as such may be provided for in the declarations and bylaws, shall be and become a lien upon the condominium assessed when the administrative body causes such assessment to be recorded in the office of the recorder for the county in which such condominium is located. The notice of assessment shall state the amount of such assessment and other charges and the name of the record owner thereof. Such notice shall be signed by an authorized representative of the administrative body or as otherwise provided in the declarations and bylaws. Upon payment of said assessment and charges in connection with which such notice has been so recorded, or other satisfaction thereof, the administrative body shall cause a notice to be recorded stating the satisfaction and the release of the lien thereof.

47-04.1-12. Other liens - Removal from - Part payment.

Subsequent to recording the declaration provided for in section 47-04.1-02 and while the property remains enrolled as a condominium project, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against the individual units and general common elements and limited common elements where

applicable, appurtenant to such unit, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership.

In the event a lien against two or more units becomes effective, the owners of the separate units may remove their unit and the general common elements and limited common elements, where applicable, appurtenant to such unit from the lien by payment of the fractional or proportional amounts attributable to each of the units affected. Such individual payments shall be computed by reference to the fractions or percentages appearing on the declaration provided for in section 47-04.1-02 and bylaws annexed thereto. Subsequent to any such payment, discharge, or other satisfaction the individual unit and the general common elements and limited common elements applicable appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied, or discharged. Such partial payment, satisfaction, or discharge shall not prevent the lienor from proceeding to enforce the lienor's rights against any unit and the general common elements and limited common elements, where applicable, appurtenant thereto not so paid, satisfied, or discharged.

47-04.1-13. Real property tax and special assessments - Levy on each unit.

All real property taxes and special assessments shall be levied on each unit and its respective appurtenant fractional share or percentage of the land, general common elements and limited common elements where applicable as such units and appurtenances are separately owned, and not on the entire project.

Any exemption from taxes that may exist on real property or the ownership thereof shall not be denied by virtue of the registration of the property under the provisions of this chapter.

47-04.1-14. Covenant, declaration, bylaw, or other rule may not prohibit display of political signs.

Notwithstanding any provision in a covenant, declaration, bylaw, or other rule of a project, an owner or resident may not be prohibited from displaying a political yard sign on the owner's property within sixty days before any primary, general, or special election. A covenant, declaration, bylaw, or rule may include reasonable restrictions regarding the placement and manner of display of political signs.

47-04.1-15. Approval by lender of amendment.

Notwithstanding any requirement in the condominium declaration or bylaws requiring a lender's approval of any amendment of the declaration or bylaws, after being given a thirty-day written notice beginning with the date of mailing, any lender contacted at the last-known address that does not refuse or approve of the proposed amendment is deemed to have approved the amendment. This section does not apply to any proposed amendment that affects a lender's right to enforce the terms of the mortgage.

47-04.1-16. Electric vehicle charging station installation - Penalty.

1. For purposes of this section:
 - a. "Electric vehicle charging station" means a station that delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An electric vehicle charging station may include several charge points simultaneously connecting several electric vehicles to the station and any related equipment needed to facilitate charging plug-in electric vehicles.
 - b. "Reasonable restrictions" means restrictions on the number, size, location, and manner of placement or installation of an electric vehicle charging station on the common or limited common area which do not significantly increase the cost of the electric vehicle charging station or significantly decrease the efficiency or specified performance of the electric vehicle charging station.
2. Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in the property, or any bylaw, that either effectively prohibits or unreasonably restricts the

installation or use of an electric vehicle charging station within an owner's unit or in a designated parking space, including a deeded parking space, a parking space in an owner's limited common area, or a parking space specifically designated for use by a particular owner, or is in conflict with the provisions of this section is void and unenforceable. This section does not apply to a bylaw that imposes reasonable restrictions on electric vehicle charging stations.

3. An electric vehicle charging station must meet all applicable health and safety standards and requirements imposed by law, rule, or regulation. If approval is required for the installation or use of an electric vehicle charging station, the application for approval must be processed and approved by the administrative body governing the condominium in a manner prescribed by the administrative body governing the condominium and may not be willfully avoided or delayed. The approval or denial of an application must be in writing. If an application is not denied in writing within sixty days from the date of receipt of the application, the application is deemed approved, unless that delay is the result of a reasonable request for additional information.
4. If the electric vehicle charging station is to be placed in a limited common area, as provided in the required declaration contained in section 47-04.1-02:
 - a. The owner shall obtain approval from the administrative body governing the condominium to install the electric vehicle charging station. The administrative body governing the condominium shall approve the installation in a limited common area if the owner agrees in writing to:
 - (1) Comply with the architectural standards of the administrative body governing the condominium for the installation of the charging station;
 - (2) Engage a licensed contractor to install the charging station;
 - (3) Within fourteen days of approval, provide a certificate of insurance that names the administrative body governing the condominium as an additional insured under the owner's insurance policy pursuant to subdivision c;
 - (4) Pay the costs associated with the installation of and the electricity usage associated with the charging station; and
 - (5) Comply with any other reasonable regulations, including regulations on the number, size, location, and manner of placement or installation of electric vehicle charging stations on the limited common area, as required by the administrative body governing the condominium.
 - b. The owner and each successive owner of the charging station is responsible for:
 - (1) Costs relating to damage to the charging station, common area, limited common area, or any unit resulting from the installation, maintenance, repair, removal, or replacement of the charging station;
 - (2) Costs relating to the maintenance, repair, and replacement of the charging station until it is removed and for the restoration of the common area after removal;
 - (3) The cost of electricity associated with the charging station;
 - (4) Other costs not listed in this subsection which may arise; and
 - (5) Disclosing to prospective buyers the existence of any charging station and the related responsibilities of the owner under this section.
 - c. The owner of the charging station shall, at all times, maintain a liability coverage policy not to exceed the value of a typical condominium owner's policy. Within fourteen days of approval of the application, the owner that submitted the application to install the charging station shall provide the administrative body governing the condominium with the corresponding certificate of insurance. The owner and each successive owner shall provide the administrative body governing the condominium with the certificate of insurance each year.
 - d. A homeowner may not be required to maintain a homeowners liability coverage policy for an existing national electrical manufacturers association standard alternating current power plug.
 - e. This section does not prohibit the administrative body governing a condominium from imposing reasonable regulations on the number, size, and manner of

placement of an electric vehicle charging station in common areas or limited common areas.

- f. The administrative body governing the condominium may deny the installation of an electric vehicle charging station based on bona fide safety requirements, consistent with an applicable building code or recognized safety standard, for the protection of persons and property.
5. Except as provided in subsection 6, if installation of an electric vehicle charging station in the owner's designated parking space is impossible or unreasonably expensive, the administrative body governing the condominium may authorize the installation of an electric vehicle charging station for the exclusive use of an owner in a common area that is not a limited common area. The administrative body governing the condominium may deny the installation of an electric vehicle charging station if a reasonable area is not available or the area cannot be reasonably accessed by the owner. If installation is authorized under this subsection, the administrative body governing the condominium shall enter a license agreement with the owner for the use of the space in a common area and the owner shall comply with all the requirements in subsection 4.
6. The administrative body governing the condominium or owners may install an electric vehicle charging station in a common area for the use of all members of the condominium and develop appropriate terms of use for the charging station.
7. An administrative body governing the condominium may create a new parking space where one did not previously exist to facilitate the installation of an electric vehicle charging station.
8. An administrative body governing a condominium which willfully violates this section is liable for actual damages and shall pay a civil penalty to the applicant or other party in an amount not to exceed one thousand dollars.
9. Any unit owner installing an electric vehicle charging station shall indemnify and hold the administrative body governing the condominium harmless from all liability, including reasonable attorney's fees incurred by the administrative body governing the condominium resulting from a claim arising out of the installation, maintenance, operation, or use of the electric vehicle charging station.