

Article - Real Property

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§11-103.

(a) The declaration shall express at least the following particulars:

(1) The name by which the condominium is to be identified, which name shall include the word “condominium” or be followed by the phrase “a condominium”.

(2) A description of the condominium sufficient to identify it with reasonable certainty together with a statement of the owner’s intent to subject the property to the condominium regime established under this title.

(3) A general description of each unit, including its perimeters, location, and any other data sufficient to identify it with reasonable certainty. As to condominiums created on or after July 1, 1981, except as provided by the declaration or the plat and subject to paragraph (4)(ii) of this subsection:

(i) If walls, floors, or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors, or ceilings are a part of the common elements.

(ii) If any chute, flue, duct, wire, conduit, or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a part of that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(iii) Subject to the provisions of subparagraph (ii) of this paragraph, all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(iv) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit’s boundaries, are limited common elements allocated exclusively to that unit.

(4) (i) A general description of the common elements together with a designation of those portions of the common elements that are limited common elements and the unit to which the use of each is restricted initially.

(ii) 1. A. This subparagraph applies to any condominium for which a declaration, bylaws, and plat are recorded in the land records of the county where the property is located on or after October 1, 2010.

B. This subparagraph does not apply to a condominium that is occupied and used solely for nonresidential purposes.

2. The description of the common elements shall include the following improvements to the extent that the improvements are shared by or serve more than one unit or serve any portion of the common elements:

A. Roofs;

B. Foundations;

C. External and supporting walls;

D. Mechanical, electrical, and plumbing systems; and

E. Other structural elements.

3. With the exception of corrective amendments necessary to comply with subparagraph 2 of this subparagraph, the description and designation of the common elements required under subparagraph 2 of this subparagraph may not be amended until after the date on which the unit owners, other than the developer and its affiliates, first elect a controlling majority of the members of the board of directors for the council of unit owners.

(5) The percentage interests appurtenant to each unit as provided in § 11–107 of this title.

(6) The number of votes at meetings of the council of unit owners appurtenant to each unit.

(b) The information required by subsection (a)(2) through (4) of this section may be incorporated in the declaration by reference to the condominium plat.

(c) (1) Except for a corrective amendment under § 11–103.1 of this title or as provided in paragraph (2) of this subsection or subsection (d) of this section, the declaration may be amended only with the written consent of 80 percent of the unit

owners listed on the current roster. Amendments under this section are subject to the following limitations:

(i) Except to the extent expressly permitted or expressly required by other provisions of this title, an amendment to the declaration may not change the boundaries of any unit, the undivided percentage interest in the common elements of any unit, the liability for common expenses or rights to common profits of any unit, or the number of votes in the council of unit owners of any unit without the written consent of every unit owner and mortgagee.

(ii) An amendment to the declaration may not modify in any way rights expressly reserved for the benefit of the developer or provisions required by any governmental authority or for the benefit of any public utility.

(iii) Except to the extent expressly permitted by the declaration, an amendment to the declaration may not change residential units to nonresidential units or change nonresidential units to residential units without the written consent of every unit owner and mortgagee.

(iv) Except as otherwise expressly permitted by this title and by the declaration, an amendment to the declaration may not redesignate general common elements as limited common elements without the written consent of every unit owner and mortgagee.

(v) 1. Except as provided in subparagraph (vi) of this paragraph, if the declaration contains a provision requiring any action on the part of the holder of a mortgage or deed of trust on a unit in order to amend the declaration, that provision shall be deemed satisfied if the procedures under this subparagraph are satisfied.

2. If the declaration contains a provision described in subsubparagraph 1 of this subparagraph, the council of unit owners shall cause to be delivered to each holder of a mortgage or deed of trust entitled to notice a copy of the proposed amendment to the declaration.

3. If a holder of the mortgage or deed of trust that receives the proposed amendment fails to object, in writing, to the proposed amendment within 60 days after the date of actual receipt of the proposed amendment, the holder shall be deemed to have consented to the adoption of the amendment.

(vi) Subparagraph (v) of this paragraph does not apply to amendments that:

- of trust;
1. Alter the priority of the lien of the mortgage or deed
 2. Materially impair or affect the unit as collateral; or
 3. Materially impair or affect the right of the holder of the mortgage or deed of trust to exercise any rights under the mortgage, deed of trust, or applicable law.

(2) (i) The council of unit owners may petition the circuit court in equity for the county in which the condominium is located to correct:

1. An improper description of the units or common elements; or
2. An improper assignment of the percentage interests in the common elements, common expenses, and common profits.

(ii) The petition may be brought only if:

1. The unit owners, at a special meeting called for that purpose, vote to petition the court to correct a specific error by a vote of at least 66 2/3 percent of the unit owners present and voting at a properly convened meeting;
2. The council of unit owners gives notice of the special meeting to each mortgagee of record for the condominium; and
3. An opportunity is provided for the mortgagees to speak at the special meeting upon written request to the council of unit owners.

(iii) The court may reform the declaration to correct the error or omission as the court considers appropriate, if:

1. The council of unit owners gives notice of the filing of the petition to each mortgagee and unit owner within 15 days of filing;
2. The council of unit owners files an affidavit with the court stating that the conditions of subparagraph (ii) of this paragraph have been met;
3. The council of unit owners proves, by a preponderance of the evidence, that there is an error or omission as provided in subparagraph (i) of this paragraph;

4. Any mortgagee with an interest in the condominium is permitted to intervene in the proceedings upon filing a motion to intervene as provided in the Maryland Rules;

5. The reformation does not substantially impair the property rights of any unit owner or mortgagee; and

6. The court issues an order of reformation.

(iv) A final order of reformation may be appealed by any party within 30 days of its issuance. An order of reformation may not be recorded until the appeal period has lapsed or all appeals have been completed.

(3) An amendment or order of reformation becomes effective on recordation in the same manner as the declaration. If the condominium is registered with the Secretary of State, the council of unit owners shall file a copy of the order of reformation with the Secretary of State within 15 days of recordation.

(d) (1) (i) A declaration may provide for the suspension of the use of parking or recreational facility common elements by a unit owner that is more than 60 days in arrears in the payment of any assessment due to the condominium.

(ii) If a declaration contains a suspension provision authorized under subparagraph (i) of this paragraph, the declaration shall state that a suspension of the use of common elements may not be implemented until the council of unit owners:

1. Mails to the unit owner a demand letter specifying a time period of at least 10 days within which the unit owner may pay the delinquent assessment or request a hearing to contest the suspension; and

2. If a unit owner requests a hearing to contest a suspension, provides notice and holds a hearing in accordance with § 11-113(b)(2) and (3) of this subtitle.

(2) Notwithstanding the provisions of the declaration or bylaws, the council of unit owners may amend the declaration to add or repeal a suspension provision authorized under paragraph (1)(i) of this subsection by the affirmative vote of at least 60% of the total eligible voters of the condominium under the voting procedures contained in the declaration or the bylaws.

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