

Condominium Laws - By Jurisdiction

Executive Summary

CONDOMINIUM LAWS

ANNUAL REPORT EXECUTIVE SUMMARY

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Although the extent of regulation varies greatly from jurisdiction to jurisdiction, every jurisdiction reviewed has legislation governing condominiums. Fourteen, or approximately one-fourth, of the jurisdictions, have adopted the Uniform Condominium Act as drafted by the National Conference of Commissioners on Uniform State Laws, or a modified version. Another ten states have adopted the Uniform Common Interest Ownership Act, which was promulgated by the Commissioners on Uniform State Laws several years after the Uniform Condominium Act. Thus, with approximately 40% of the states following a uniform code, there is a fair amount of similarity among the jurisdictions. Even so, there is still a significant amount of variation in the provisions.

This report examines three areas of laws relating to condominiums: (1) the legal treatment of land-based common areas; (2) limits on covenants, conditions, and restrictions; and (3) registration requirements.

Land-Based Common Areas

Common areas, also sometimes referred to as common elements, are treated similarly across the jurisdictions. Each owner has an undivided interest in the common areas, which passes with the separate ownership interest. Nearly every jurisdiction states that no action for partition of the common areas is permitted. Some of the jurisdictions distinguish between common elements, which are owned and shared by all unit owners, and limited common elements, which are owned and shared by some, but not all, of the unit owners.

Limits on Covenants, Conditions & Restrictions

A number of limits are imposed on the covenants, conditions, and restrictions that may be adopted or enforced by a condominium. One-half of the jurisdictions provide that the rule of perpetuities will not be applied to defeat any provision in the condominium documents. Likewise, 10 jurisdictions state that the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium documents.

Other common provisions do not allow a condominium to prohibit the display of the American or state flags, subject to reasonable restrictions (25 jurisdictions), do not allow a condominium to prohibit the display of political signs, subject to reasonable restrictions (11 jurisdictions) and do not allow a variety of restrictions on the unit owner's ability to sell his interest, such as prohibiting the display of For Sale signs or requiring owners to use a particular broker. Five states do not allow a condominium to prohibit or effectively prohibit the installation of an electric vehicle charging station, four states address the watering of plants and landscaping and/or the use of drought-resistant plants, and two states specifically allow the unit owners to install religious objects to the door frame. Other limits involve pets, installation of satellite dishes, family home child care businesses, right of peaceable assembly, solar collectors, clotheslines and age restrictions on unit occupancy.

Registration Requirements

Twenty-two of the jurisdictions require the condominium to be registered with the state. These requirements vary widely from jurisdiction to jurisdiction. Some jurisdictions require the developer to register a condominium project with the state prior to offering any unit for sale. Typically, the developer must provide a completed application, copies of a number of additional documents, such as the condominium declaration, proof of title, promotional materials, and public offering statements, and the registration fee. Some jurisdictions also require the association to register with the state on an annual or biennial basis once the developer has sold all units and control has passed to the owners' association. Several states only require association registration and do not require the developer to register. Two states require the manager of the association to register and/or maintain a certificate issued by the state.

Alabama

Alabama, Land-Based Common Areas

Each owner has an undivided interest in the common elements. The common elements of a condominium are not subject to partition. Any conveyance, lease, devise, or disposition of the interest in the common elements separate from the unit is void.

Section enacted 1990.

[Ala. Code § 35-8A-207](#)

Unless the declaration states otherwise, the owners with rights to a limited common element and the association may agree to re-allocate the interest through amendment to the declaration.

Section amended 2018.

[Ala. Code § 35-8A-208](#)

Portions of the common elements may be conveyed or subjected to a security interest if 80% or more of the votes agree to the action. With respect to limited common elements, all affected owners must agree to the action.

Section amended 2018.

[Ala. Code § 35-8A-312](#)

Alabama, Limits on Covenants and Restrictions

Flag display

Any covenant, contract, or restriction that prohibits a person from flying a United States flag, not to exceed 40 square feet in size, on his or her property is void as a violation of public policy.

Section enacted 1990.

[**Ala. Code § 35-1-5**](#)

Rule against perpetuities

The rule against perpetuities cannot be applied to defeat any provision in the declaration, bylaws, rules or regulations of the condominium.

Section enacted 1990.

[**Ala. Code § 35-8A-203**](#)

Alabama, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium may be created only by filing a declaration executed in the same manner as a deed with the judge of probate in every county in which any portion of the condominium is located. A unit owners' association must be organized no later than the date the first unit in the condominium is conveyed.

Section 35-8A-301 enacted 1990; § 35-8A-201 amended 2018.

[**Ala. Code §§ 35-8A-201, -301**](#)

Alaska

Alaska, Land-Based Common Areas

The declaration must allocate to each unit in a condominium, a fraction or percentage of undivided interests in the common elements. '[T]he common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an

undivided interest in the common elements made without the unit to which that interest is allocated is void."

Unless the declaration otherwise provides, "a limited common element may be reallocated by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made."

In a condominium, portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least 80 percent of the votes in the association, or any larger percentage the declaration specifies, agree to the action. Each owner of a unit to which a limited common element is allocated must agree in order to convey the limited common element or subject it to a security interest.

Sections 34.08.150 and 34.08.430 enacted 1985; § 34.08.160 amended 1988.

[Alaska Stat. §§ 34.08.150, .160, .430](#)

Alaska, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities does not defeat any provision of the condominium's declaration, bylaws, rules, or regulations.

Section enacted 1985.

[Alaska Stat. § 34.08.110](#)

Alaska, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a common interest community, including a condominium, may be created only by recording a declaration, executed in the same manner as a deed, which must be recorded, and a plat or plan that is part of the filed declaration, in each recording district in which a portion of the condominium is located.

An association of unit owners must be organized no later than the date on which the first unit in the condominium is conveyed.

Section 34.08.090 amended 1988; § 34.08.310 enacted 1985.

[Alaska Stat. § 34.08.090, .310](#)

Arizona

Arizona, Land-Based Common Areas

The common elements of a condominium are not subject to partition, and any attempt to transfer the interest in the common elements separately from the unit is void.

Section enacted 1985.

[Ariz. Rev. Stat. § 33-1217](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1985.

[Ariz. Rev. Stat. § 33-1218](#)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80 percent of voters in the association agree to that action. Real property held by the

condominium, but not as part of the common elements, may also be conveyed with 80 percent of voters agreeing to the action.

Section 33-1252 enacted 1985; § 33-1252.01 enacted 2006.

[Ariz. Rev. Stat. §§ 33-1252, -1252.01](#)

Arizona, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities shall not be applied to defeat any provision in the condominium documents.

Section enacted 1985.

[Ariz. Rev. Stat. § 33-1213](#)

Flag display

The condominium may not prohibit unit owners from displaying any of the following flags:

- the American flag or an official or replica of a flag of the United States;
- the POW/MIA flag;
- the Arizona state flag;

- an Arizona Indian nations flag; or
- the Gadsden flag.

The association may implement reasonable restrictions regarding placement and manner of the display, but may not prohibit the installation of a flagpole.

For sale signs

The association may not prohibit or charge a fee for the display of For Sale or For Lease signs. It may prohibit open house signs on the common elements and allow for open houses only between 8:00 a.m. and 6:00 p.m., but may not otherwise regulate the owner's display of a standard-sized open house sign, unless leasing is restricted in the condominium documents.

Political activity

An association may not prohibit door-to-door political activity, except from sunset to sunrise, and may require an identification tag on solicitors.

The association may regulate the timing, size, and number of political signs, but may not prohibit the display of political signs on the unit owner's property. The association's regulations may not be more restrictive than applicable government rules and regulations.

Section amended 2014.

[Ariz. Rev. Stat. § 33-1261](#)

Arizona, Registration Requirements

A developer must apply for a public report from the Real Estate Department regarding a condominium. The application must include:

- a copy of the recorded condominium declaration, map, and amendments; and
- an opinion letter from an attorney licensed to practice in Arizona, stating that the condominium plat and declaration comply with the requirements of §§ 33-1215 and 33-1219.

Adopted 1999.

[Ariz. Admin. Reg. R4-28-A1219 \(2018\)](#)

Arkansas

Arkansas, Land-Based Common Areas

The common elements of the condominium remain undivided. Each co-owner has a right to use the common elements. Each unit's interest should reflect the percentage of the value of the unit in relation to the value of the property. The interest in the common elements is permanent and may not be changed without the consent of all owners.

Amended 1961.

Ark. Code Ann. §§ 18-13-112, -114 (LexisNexis 2018)

Arkansas, Limits on Covenants and Restrictions

No person, homeowners' association, property owners' association, or other private entity may adopt any rule, regulation, or policy or enter into any agreement or protective covenant that prevents any person that would otherwise have the legal right to display a flag of the United States on private property from exercising that right.

Enacted 2003.

Ark. Code Ann. § 14-1-203 (LexisNexis 2018)

Developmentally disabled housing

"Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property that would permit residential use of property but prohibit the use of the property as a Family Home I or II for individuals with intellectual or other developmental disabilities, to the extent of the prohibition, shall be void as against the public policy of this state and shall be given no legal or equitable force or effect."

Section amended 2019.

Ark. Code Ann. § 20-48-611 (LexisNexis 2018) as amended by [2019 Ark. Act No. 1035](#)

Arkansas, Registration Requirements

The master deed creating and establishing a horizontal property regime must be executed by the owner or owners of the real property making up the regime recorded in the office of the clerk and ex officio recorder of the county where the property is located. The deed must contain:

- a general description and number of each apartment, expressing its area, location, and any other data necessary for its identification;
- a description of the general common elements of the building and, when appropriate, of the limited common elements restricted to a given number of apartments, stating which are those apartments; and
- the value of the property and of each apartment and, according to those basic values, the percentage appertaining to the co-owners in the expenses of, and rights in, the common elements.

Amended 1961.

California

California, Land-Based Common Areas

Unless the originating declaration states otherwise, the common areas are owned as tenants in common, in equal shares, one for each separate interest. Each separate interest owner has a nonexclusive right of ingress, egress, and support through the common areas. The common areas must remain undivided; no action for partition is permitted. The owners' interest in the common elements may not be separated from the unit ownership. Any transfer of the owner's interest in the unit includes the owner's interest in the common areas.

Sections added 2012.

[Cal. Civ. Code §§ 4500, 4505\(a\), 4610, 4625, 4630, 4635](#)

Unless the condominium documents state otherwise, at least 67 percent of the separate interest voters in the common interest development must approve the grant of the right to exclusive use of any portion of the common area to a member.

Section amended 2017.

[Cal. Civ. Code § 4600](#)

California, Limits on Covenants and Restrictions

Solar energy systems

Any covenant, restriction, or condition, or provision of a governing document that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable. Reasonable restrictions on solar energy systems are permitted.

Section amended 2014.

[Cal. Civ. Code § 714](#)

Effective January 1, 2018, an association may not:

- establish a general policy prohibiting the installation or use of a rooftop solar energy system on the roof of the building in which the owner resides, or a garage or carport adjacent to the building that has been assigned to the owner for exclusive use; or
- require approval by a vote of members owning separate interests for installation of a rooftop solar energy system.

Section amended 2017.

[Cal. Civ. Code § 714.1](#)

Assembly

Effective January 1, 2018, governing documents may not prohibit a member or resident from doing any of the following:

- peacefully assembling or meeting with members, residents, and their invitees or guests during reasonable hours and in a reasonable manner for purposes relating to common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes;
- inviting public officials, candidates for public office, or representatives of homeowner organizations to meet with members, residents, and their invitees or guests and speak on matters of public interest;

- using the common area, including the community or recreation hall or clubhouse, or, with the consent of the member, the area of a separate interest, for an assembly or meeting described above when that facility or separate interest is not otherwise in use;
- canvassing and petitioning the members, the association board, and residents for the activities described above at reasonable hours and in a reasonable manner; or
- distributing or circulating, without prior permission, information about common interest development living, association elections, legislation, election to public office, or the initiative, referendum, or recall processes, or other issues of concern to members and residents at reasonable hours and in a reasonable manner.

Section enacted 2012.

[Cal. Civ. Code § 4515](#)

Flag display

No provision of the condominium documents may prohibit the display of the American flag.

Section enacted 2012.

[Cal. Civ. Code § 4705](#)

Signage

No provision of the condominium documents may prohibit a unit owner's display of noncommercial signs, posters, flags, or banners on the owner's separate property, unless the regulation is necessary for health or safety reasons, or to comply with applicable laws.

Section enacted 2012.

[Cal. Civ. Code § 4710](#)

Pets

The condominium may adopt reasonable regulations, but may not prohibit a unit owner from owning a pet within its separate interest.

Section enacted 2018.

[Cal. Civ. Code § 4715](#)

Roofs

The association may not require unit owners to install a roof in violation of Section 13132.7 of the Health and Safety Code.

Section enacted 2012.

[Cal. Civ. Code § 4720](#)

Satellite dish/antenna

A covenant, condition or restriction in any deed or instrument that prohibits or restricts use, installation of an antenna or satellite dish, or attachment of an antenna or satellite dish to a structure not visible from the street is void and unenforceable, as long as the satellite dish is 36 inches or less. The association may impose reasonable restrictions on the use or installation of an antenna or satellite dish, such as notice to the association prior to installation, requiring approval for a dish larger than 36 inches, and requiring indemnification to the association for any loss or damage sustained by the installation of the antenna or dish.

Section enacted 2012.

[Cal. Civ. Code § 4725](#)

Unit sale

Any provision which arbitrarily and unreasonably restricts the owner's ability to market the interest is void. The condominium may not charge a fee for marketing of the unit in excess of the association's actual costs or require a unit owner to use a specified real estate broker for the sale of the unit.

Section enacted 2012.

[Cal. Civ. Code § 4730](#)

Plants

No provision may prohibit the use of low water-using plants, or hinder compliance with the water-efficient landscape ordinance pursuant to Section 65595(c) of the Government Code or the restrictions on water use pursuant to Section 353 or 375 of the Water Code.

Section amended 2015.

[Cal. Civ. Code § 4735](#)

Leasing

A unit owner's right to lease the separate property may not be restricted, unless the provision was included in the condominium documents prior to the owner's interest in the property.

Section amended 2012.

[Cal. Civ. Code § 4740](#)

Charging stations

A covenant, condition or restriction may not prohibit or unreasonably restrict installation or use of an electric vehicle charging station in the owner's unit or designated parking space, including "a deeded parking space, a parking space in an owner's exclusive use common area, or a parking space that is specifically designated for use by a particular owner." The association may impose reasonable restrictions on the installation or use of an electric vehicle charging station that do not greatly increase the cost or reduce efficiency or performance of the station.

No covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest development, or any provision of a governing document may effectively prohibit or unreasonably restrict the installation or use of an EV-dedicated TOU meter. An "EV-dedicated TOU meter" is an electric meter supplied and installed by an electric utility, that is separate from, and in addition to, any other electric meter and is devoted exclusively to the charging of electric vehicles, and that tracks the time of use (TOU) when charging occurs. Reasonable restrictions based upon space, aesthetics, structural integrity, and equal access to these services for all homeowners may be imposed, but an association shall attempt to find a reasonable way to accommodate the installation request, unless the association would need to incur an expense.

Section 4745 amended 2018; § 4745.1 added 2018.

[Cal. Civ. Code §§ 4745, 4745.1](#)

Religious Items

Effective January 1, 2020, no governing document shall limit or prohibit the display of one or more religious items on the entry door or entry door frame of the member's separate interest. A "religious item" is an item displayed because of sincerely held religious beliefs.

To the extent permitted by Article 1, Section 4, of the California Constitution and the First Amendment to the United States Constitution, a restrictive covenant or other restriction may be adopted that prohibits the display or affixing of a religious item on any entry door or entry door frame to a dwelling that:

- Threatens the public health or safety;
- Hinders the opening or closing of any entry door;
- Violates any federal, state, or local law;
- Contains graphics, language or any display that is obscene or otherwise illegal; or that
- Individually or in combination with any other religious item displayed or affixed on any entry door or door frame that has a total size greater than 36 by 12 square inches, provided it does not exceed the size of the door.

Section added 2019.

Cal. Civ. Code § 4745, as added by [S.B. 652 \(2019\)](#)

California, Registration Requirements

The association must submit a form to the Secretary of State with the following information:

- a statement that the association is formed to manage a common interest development;
- the name of the association;
- the address of the business office of the association, if any;
- the address of the association's onsite office, if different from the address of the business office, or the address of the managing agent of the association;
- the name, address, and the telephone number or e-mail address of the president of the association;
- the name, address, and telephone number of the association's managing agent, if any;
- the county (or counties) and city (or cities) in which the development property is located;
- if the development is in an unincorporated area, the city closest to the development;
- the front street and nearest cross street of the physical location of the development;
- the type of common interest development managed by the association;

- the number of separate interests in the development.

The association shall pay a fee with its form and must notify the Secretary of State of a change in the managing agent within 60 days of the change.

Section amended 2013.

[Cal. Civ. Code § 5405](#)

Colorado

Colorado, Land-Based Common Areas

The common elements of the condominium are not subject to partition. Any attempt to transfer the interest in the common elements separately from the unit is void. Portions of the common elements may be conveyed or subjected to a security interest if 67% or more of the votes agree to the action.

Section 38-33.3-207 amended 2002; § 38-33.3-312 amended 1998; § 38-33.3-203 enacted 1991.

Colo. Rev. Stat. §§ 38-33.3-203, -207, -312 (LexisNexis 2018)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1991.

Colo. Rev. Stat. § 38-33.3-208 (LexisNexis 2018)

Colorado, Limits on Covenants and Restrictions

Flag display

The association may implement reasonable restrictions regarding placement, size, and manner of the display, but may not prohibit the display of the American flag, a service flag, or installation of a flagpole.

Political signs

The association may implement reasonable restrictions regarding timing, size, and number of the signs, but may not prohibit the display of political signs.

Parking

The association may not prohibit the parking of a vehicle in the common interest areas if the unit owner must park the vehicle at his or her residence as a term of their employment, so long as the vehicle weighs less than 10000 pounds, is a marked emergency vehicle, the unit owner is employed by the emergency services provider, and the parking of the vehicle does not obstruct or interfere with other residents.

Vegetation

The association may not prohibit an owner from removing trees, shrubs, or other vegetation to create a defensible space around the dwelling for fire mitigation purposes, if the removal complies with a written defensible space plan created by local authorities.

The condominium may adopt restrictions regarding design, type, number and placement of plants, but may not prohibit the use of drought-tolerant vegetative landscapes.

Affordable housing restrictions

The association may not prohibit a unit owner from including provisions in a deed or other document regarding the permissible sale price, rental rate, or lease rate of the unit, or occupancy or other requirements designed to promote affordable or workforce housing as such terms may be defined by the local housing authority (in counties with less than 100,000 persons that contain a ski lift).

Renewable energy devices

The association may not prohibit, or effectively prohibit, renewable energy generation devices.

Roofing materials

The association may not require the use of flammable roofing materials.

Rain barrels

The association may not prohibit the use of a rain barrel to collect precipitation from a rooftop. A resident does not have to place a rain barrel on property or to connect a rain barrel to any property that is:

- leased, except with permission of the lessor;
- a common element or a limited common element;
- maintained by the unit owners' association; or
- attached to one or more other units, except with permission of the owners of the other units.

The association may impose reasonable aesthetic requirements that govern the placement or external appearance of a rain barrel.

Section amended 2019.

Colo. Rev. Stat. § 38-33.3-106.5 (LexisNexis 2018)

Energy efficiency devices

The condominium may not prohibit the installation of use of an energy efficiency measure, defined as:

- an awning, shutter, trellis, ramada, or other shade structure that is marketed for the purpose of reducing energy consumption;
- a garage or attic fan and any associated vents or louvers;
- an evaporative cooler;
- an energy-efficient outdoor lighting device; or
- a retractable clothesline.

Section enacted 2008.

Colo. Rev. Stat. § 38-33.3-106.7 (LexisNexis 2018)

Vehicle charging stations

The condominium may not prohibit or unreasonably restrict installation or use of an electric vehicle charging station on or in a unit or the unit owner's parking space, but may impose reasonable aesthetic conditions, require the owner to pay for installation, repairs, maintenance, and insurance, and require reimbursement for the cost of electricity.

Section enacted 2013.

Colo. Rev. Stat. § 38-33.3-106.8 (LexisNexis 2018)

Rule against perpetuities

The rule against perpetuities shall not be applied to defeat any provision in the condominium documents.

Section enacted 1991.

Colo. Rev. Stat. § 38-33.3-203 (LexisNexis 2018)

Colorado, Registration Requirements

Each association must register annually with the Director of Real Estate. The registrant must pay the annual fee and provide the following information:

- name of the association;
- name of the management company or agent;
- physical address of the homeowner association;

- address, email, website, and telephone number of the association or management company;
- number of units in the association.

An association is exempt from paying the annual fee if it has revenue of \$5,000 or less, or it is not authorized to make assessments and does not have revenue.

Section amended 2013.

Colo. Rev. Stat. § 38-33.3-401 (LexisNexis 2018)

Connecticut

Connecticut, Land-Based Common Areas

The owners have an undivided interest in the common elements of the condominium. The interest in the common elements is not subject to partition.

Section amended 2010.

[Conn. Gen. Stat. § 47-226](#)

The common elements may be conveyed or subjected to a security interest if 80% of the votes approve the action.

Section amended 2010.

[Conn. Gen. Stat. § 47-254](#)

Connecticut, Limits on Covenants and Restrictions

Religious objects

The condominium may not prohibit the attachment of an object used for religious observance to the door frame or entry door of a unit, unless the object threatens the public health or safety, hinders the opening and closing of an entry door, violates any law, contains graphics, language or is obscene or otherwise patently offensive, has a total size greater than twenty-five square inches (individually or in combination with other objects), or has a total size greater than four square feet (individually or in combination with other objects).

Section enacted 2012.

[Conn. Gen. Stat. § 47-230a](#)

Flag display

An association may not prohibit the display of the state flag on a unit or on a limited common element adjoining a unit, but the association may adopt rules governing the time, place, size, number and manner of those displays.

Political signs

The association may not prohibit the display of signs regarding candidates for public or association office or ballot questions, but the association may adopt rules governing the time, place, size, number and manner of those displays.

Assembly

The condominium may not prohibit unit owners from peacefully assembling on the common elements to consider matters related to the common interest community, but the association may adopt rules governing the time, place and manner of those assemblies.

Section enacted 2010.

[Conn. Gen. Stat. § 47-261b](#)

Connecticut, Registration Requirements

Unincorporated associations must file a written appointment of statutory agent for service with the Secretary of the State. This form must provide the following information:

- name of the condominium and the association;
- name of the statutory agent for service; and
- address of the statutory agent.

The form must be accompanied by the filing fee of \$90.

Section amended 2009.

[Conn. Gen. Stat. § 47-244a](#)

If the community contains or will contain a conversion building, or any land currently or formerly in a mobile manufactured home park, in which any unit was last occupied as a dwelling unit, the declarant, prior to creating such common interest community, the owner must register the community and each dwelling unit with the Commissioner of Housing. The registration must include the registration fee of \$50 per dwelling unit being converted. No unit may be offered for sale or sold until the registration is filed and the registration fees are paid.

Section 47-288 amended 2013; regulation adopted 1988.

[Conn. Gen. Stat. § 47-288; Conn. Agencies Regs. § 47-295-2](#)

Delaware

Delaware, Land-Based Common Areas

The unit owners have an undivided interest in the common elements of the condominium. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. An attempt to transfer the interest without the unit is void.

Amended 2009.

[Del. Code Ann. tit. 25, § 81-207](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Amended 2009.

[Del. Code Ann. tit. 25, § 81-208](#)

The common elements may be conveyed or subjected to a security interest if 80% of the votes approve the action. An agreement to convey or subject the common elements to a security interest must be executed in the same manner as a deed. Unless the declaration otherwise provides, if 80% of holders of first security interests of the units that are subject to security interests on the day the unit owners' agreement is recorded consent in writing:

- a conveyance of common elements terminates the undivided interests in those common elements allocated to the units and the security interests in those undivided interests held by all persons holding security interests in the units; and

- an encumbrance of common elements has priority over all preexisting encumbrances on the undivided interests in those common elements held by all persons holding security interests in the units.

Amended 2009.

[Del. Code Ann. tit. 25, § 81-312](#)

Delaware, Limits on Covenants and Restrictions

Flag display

No covenant or restriction may interfere with a unit owner's right to display the flag of the United States, up to 3 x 5 feet in size, if the flag is displayed within the owner's boundaries or the common elements near the unit.

Unless the declaration otherwise provides, no rule may prohibit the display on a unit or on a limited common element adjoining a unit of a Colorado state flag.

Political signs

Unless the declaration otherwise provides, no rule may prohibit the display on a unit or on a limited common element adjoining a unit signs regarding candidates for public office or ballot questions, but the association may adopt rules governing the time, place, size, number or manner of those displays.

For sale signs

Unless the declaration provides otherwise during the first two years of the period of declarant control, no rule may prohibit the right of a unit owner to display a "For Sale" sign, easuring up to 12" x 18"), on the exterior wall of the unit owner's unit or the limited common elements appurtenant to that unit. Unless otherwise provided in the declaration, the sign must be entitled

"For Sale" and "may contain such information as accurately describes the unit and any applicable names, addresses and phone numbers of the person or persons who are offering the unit for sale."

Section amended 2013.

[Del. Code Ann. tit. 25, § 81-320](#)

Delaware, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a common interest community, including a condominium, may be created only by recording a declaration executed in the same manner as a deed. "The declaration and bylaws must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and the association and in the grantor's index in the name of each person executing the declaration."

"In a condominium, a declaration, or an amendment to a declaration, adding units that are contained in or comprised by buildings may not be recorded unless the structural components and mechanical systems of any buildings containing or comprising any units thereby created, if any, are substantially completed in accordance with the plans, as evidenced by a record certification of completion executed by an independent registered engineer or architect, which may be incorporated in the recorded declaration or amendment or the recorded plat or otherwise, or by the issuance by the appropriate governmental authority of a certificate of occupancy, or its equivalent, for the applicable unit."

Amended 2009.

[Del. Code Ann. § 81-201](#)

District of Columbia

District Of Columbia, Land-Based Common Areas

The unit owners have an undivided interest in the common elements of the condominium. The interest shall be determined as a proportion of the value or size of the unit in relation to the value

or size of the whole property, or in equal shares. The interest is not to be changed. Any transfer of interest in the common elements without a corresponding transfer of the unit is void, and the interest is not subject to partition.

Sections enacted 1977.

[D.C. Code Ann. §§ 42-1902.03, .11](#)

All owners affected by a change to the limited common elements must consent, as evidenced by their execution of an amendment.

Section amended 1992.

[D.C. Code Ann. § 42-1902.13](#)

The common elements may be conveyed or subjected to a security interest if 80% of the votes approve the action.

Section amended 1991.

[D.C. Code Ann. § 42-1903.20](#)

District Of Columbia, Limits on Covenants and Restrictions

No provision shall be deemed void by application of the rule against perpetuities.

No restraint on alienation may be used to discriminate on the basis of religion, race, color, sex, or national origin. Condominium units may be restricted to persons meeting age, sex, marriage status, physical disability, or, in connection with some government programs, income levels.

The rule against unreasonable restraints on alienation cannot be applied to defeat any provision of the condominium instruments.

Section amended 1991.

[D.C. Code Ann. § 42-1902.08](#)

Rights of first refusal and restraints on the free alienability of any unit are void, unless the condominium documents allow for a waiver of those conditions to the unit owners.

Section amended 1991.

[D.C. Code Ann. § 42-1903.15](#)

District Of Columbia, Registration Requirements

An application for registration of the condominium must be filed according to the rules prescribed by the Mayor, and must include the following information:

- an irrevocable appointment of an agent in the District of Columbia, or the agency to receive service of process;
- the states or jurisdictions in which an application for registration for the condominium has been filed;
- all adverse orders, judgments, and decrees entered by a regulatory authority or court against any officer of the applicant in connection with (a) registration, offer or sale of condominium units; (b) violation of any condominium statute or lack of compliance with a condominium document; and (c) any breach of contract, fraud or misrepresentation involving a unit owner, association, or purchaser;

- a statement of the condition of the title to the condominium project, including encumbrances provided in a title opinion of a licensed attorney;
- copies of management agreements, employment contracts, and other agreements affecting the use, maintenance, or access to the condominium;
- plats and plans of the condominium, showing all units and buildings;
- the proposed public offering statement, in accordance with D.C. Code Ann. § 42-1904.04;
- other information as may be required by the Mayor.

The declarant must pay the registration fee, and maintain a copy of the registration application available for public inspection. The declarant must promptly report any material changes to the information and amend the application.

Within 30 days of the anniversary date of registration, the declarant must file a report showing any material changes since the original application was filed.

Section 42-1904.03 amended 2010; § 42-1904.07 enacted 1977; regulation amended 2010.

[D.C. Code Ann. §§ 42-1904.03, 42-1904.07; D.C. Mun. Regs. tit. 14, § 4717](#)

Florida

Florida, Land-Based Common Areas

Unit owners have an undivided share in the common elements of the condominium. The owners' interest in the common elements may not be separated from the unit ownership; no action for partition is permitted.

Unless the declaration provides otherwise, no amendment may change the proportion or percentage by which the unit owner shares the common expenses of the condominium unless all record owners approve the amendment.

The common elements, common areas, and recreational facilities must be available to the unit owners for their intended purposes.

Section 718.107 enacted 1976; § 718.110 amended 2013; § 718.123 amended 1990.

[Fla. Stat. §§ 718.107, 718.110, 718.123](#)

Florida, Limits on Covenants and Restrictions

The condominium documents may include covenants and restrictions concerning the use, occupancy, and transfer of the units permitted by law with reference to real property. However, the rule against perpetuities does not defeat a right given any person or entity for the purpose of allowing unit owners to retain reasonable control over the use, occupancy, and transfer of units.

Section amended 2014.

[Fla. Stat. § 718.104](#)

Assembly

The condominium may adopt reasonable rules and regulations, but cannot unreasonably restrict the unit owner's right to peaceably assemble or to invite public officers to appear or speak in the common elements.

Section amended 1990.

[Fla. Stat. § 718.123](#)

Flag display

The condominium may not prohibit a unit owner from displaying a portable, removable American flag in a respectful manner. Any unit owner on Armed Forces Day, Memorial Day, Flag Day, Independence Day, and Veterans Day, may display in a respectful way portable, removable official flags, not larger than 4.5 feet by 6 feet, that represent the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, regardless of any declaration rules or requirements dealing with flags or decorations.

Hurricane protection

Notwithstanding any provision in the condominium documents, if approval is required by the documents, the board may not withhold approval for the installation or replacement of hurricane shutters, impact glass, code-compliant windows or doors, or other code-compliant hurricane protection by a unit owner conforming to the specifications adopted by the board.

Religious objects

An association may not prohibit a unit owner from attaching a religious object on the mantel or frame of the door of the unit owner, as long as the object does not exceed 3 inches wide, 6 inches high, and 1.5 inches deep.

A declaration of condominium, restrictive covenant or association board may not prohibit any unit owner from installing an electric vehicle charging station within the boundaries of the unit owner's limited common element parking area. The installation of such charging stations are subject to the provisions of § 718.113(8).

Section amended 2018.

[**Fla. Stat. § 718.113**](#)

Cable service

The condominium may not prohibit a unit owner's access to available cable service.

Section enacted 1981.

[Fla. Stat. § 718.1232](#)

Escalation clauses

Escalation clauses, defined as rentals under the lease or agreement which increase at the same percentage rate as a nationally recognized consumer price index, in any condominium documents are void.

Section amended 1989.

[Fla. Stat. § 718.4015](#)

Florida, Registration Requirements

Within 120 days of recording a declaration creating a condominium, the declarant must file the recording information with the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

Section amended 2014.

[Fla. Stat. § 718.104](#)

Prior to sale of any condominium, the developer must file a copy of all documents to be given to the purchasers with the Division of Florida Condominiums, Timeshares, and Mobile Homes. These documents include:

- a copy of the contract to be given to the purchaser (see § 718.503 for required information in the contracts);
- the question and answer sheet, which includes information regarding owners' voting rights and unit use restrictions, rent or land use fees for recreational or other commonly used facilities, the amount of assessment which would be levied upon each unit type, the basis upon which assessments are levied, any court cases in which the association is currently a party of record in which the association may face liability in excess of \$100,000, and indicating whether membership in a recreational facilities association is mandatory, and if so, the fees charged per unit;
- declaration of the condominium, or the proposed declaration if the declaration has not been recorded, which shall include the certificate of a surveyor approximately representing the locations required by § 718.104;
- the documents creating the association;
- the bylaws;
- the ground lease or other underlying lease of the condominium;
- the management contract, maintenance contract, or other contracts regarding management of the association and operation of the condominium and facilities;
- the estimated operating budget for the condominium and a schedule of expenses for each type of unit;

- the lease of recreational and other facilities that will be used only by unit owners of the condominium;
- the lease of recreational and other common facilities that will be used by unit owners in common with unit owners of other condominiums;
- the unit lease if the offer is of a leasehold;
- any declaration of servitude of properties serving the condominium but not owned by unit owners or leased to them or the association;
- a description of the plan of phase development or the arrangements for the association to manage two or more condominiums, if applicable;
- the statements and disclosure required by § 718.616, if applicable;
- the form of agreement for sale or lease of units;
- a copy of the floor plan of the unit and the plot plan;
- a copy of all covenants and restrictions which will affect the use of the property;
- a copy of any such acceptance or approval acquired by the time of filing with the division under § 718.502(1), if applicable;
- evidence demonstrating that the developer has an ownership, leasehold, or contractual interest in the land upon which the condominium is to be developed;

- current estimated operating budget of the condominium;
- prospectus or offering circular (see § 718.504 for items to be included in the prospectus);
- a copy of the “Frequently Asked Questions and Answers” form (see § 718.504 for information to be included in this form).

Section 718.502 amended 2008; § 718.503 amended 2009; § 718.504 amended 2008; rules amended 2013.

[Fla. Stat. §§ 718.502, 718.503, 718.504; Fla. Admin. Code Ann. r. 61B-17.001, r. 61B-17.002](#)

The condominium association (of more than two units) must pay an annual fee of \$4 for each residential unit in condominiums operated by the association to the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

Section amended 2010.

[Fla. Stat. § 718.501](#)

Georgia

Georgia, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements of the condominium. The interest may not be changed without the consent of all owners. Any transfer of interest in the common elements without a corresponding transfer of the unit is void, and the interest is not subject to partition.

Section 44-3-78 enacted 1975; § 44-3-93 amended 2000.

Ga. Code Ann. §§ 44-3-78, -93 (LexisNexis 2019)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section amended 1994.

Ga. Code Ann. § 44-3-82 (LexisNexis 2019)

Georgia, Limits on Covenants and Restrictions

Rights of first refusal and restraints on the free alienability of any unit are void, unless the condominium documents allow for a waiver of those conditions to the unit owners.

Section enacted 1975.

Ga. Code Ann. § 44-3-110 (LexisNexis 2019)

Georgia, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium is created upon the recordation of the declaration and of the plats and plans required by § 44-3-83. The declaration must be executed by or on behalf of all of the owners and lessees of the submitted property.

Prior to recording the declaration which creates the condominium, the declarant must incorporate the owners' association as a business corporation or as a nonprofit membership corporation under Georgia law.

Sections enacted 1975.

Guam

Guam, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements, which is permanent and may not be changed without the consent of the owners, as stated in an amendment to the declaration.

Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights. No action for partition is permitted and the interest in the common elements is deemed to be conveyed with any transfer of the unit.

History unavailable.

[21 Guam Code Ann. § 45106](#)

Guam, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Guam, Registration Requirements

Prior to offering a condominium for sale in Guam, the developer must notify the Territorial Land Use Commission of its intention to sell offerings. The developer must also submit a fee of \$100 with the notice of intention and a verified copy of a questionnaire.

The developer may not use a preliminary public report for selling units unless the notice of intention and related documents, a sample copy of the proposed contract of sale, and an executed copy of an escrow agreement are filed with the Commission.

History unavailable.

[21 Guam Code Ann. §§ 45129, 45130, 45136](#)

Hawaii

Hawaii, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements and may use the elements for the purpose for which they were intended. The interest in the common areas is permanent and may not be changed without the consent of the owners, as stated in an amendment to the declaration. The interest is not subject to partition and is deemed to be conveyed with any transfer of the unit.

Section 514B-37 enacted 2005; § 514B-38 amended 2006.

[Haw. Rev. Stat. §§ 514B-37, -38](#)

All owners with rights to limited common elements must agree to a re-allocation of those rights.

Section enacted 2005.

[Haw. Rev. Stat. § 514B-39 \(2018\)](#)

Hawaii, Limits on Covenants and Restrictions

Television and telecommunications equipment

Notwithstanding any provision in the documents otherwise, the association is permitted to install or antennas, conduits, chases, cables, wires, and other television and telecommunications equipment upon the common elements of the project. The board may also change the television and telecommunications equipment if the equipment becomes obsolete.

Section amended 2019.

[Haw. Rev. Stat. § 514B-140](#)

Solar and wind energy devices

Notwithstanding any provision in the condominium documents, the association is permitted to install solar energy devices and wind energy devices on the common elements of the project.

The installation of solar energy devices by owners of condominium units shall be allowed upon written consent of the board. No covenant, declaration, bylaws, restriction, deed, lease, term, provision, condition, codicil, contract, or similar binding agreement, however worded, may prevent a person from installing a solar energy device on any single-family residential dwelling or townhouse that the person owns. Any such provision is void and unenforceable.

Every condominium association must have adopted rules by December 31, 2006, that provide for the placement of solar energy devices. The rules must facilitate the placement of solar energy devices and not impose conditions or restrictions that render the device more than 25 percent less efficient or increase the cost of installation, maintenance, and removal of the device by more than 15 percent. The association may not assess or charge any homeowner any fees for the placement of any solar energy device.

An owner may place a solar energy device on any single-family residential dwelling or townhouse unit, provided that:

- the device complies with the rules and specifications adopted by the association;
- the device is registered with the association within 30 days of installation; and
- if the device is placed on a common element or limited common element, the homeowner first obtains the consent of the association; provided further that such consent shall be given if the homeowner agrees in writing to: (1) comply with the association's design specification for the installation of the device; (2) engage a licensed contractor to install the device; and (3) within 14 days of association approval of the solar device, provide a certificate of insurance naming the association as an additional insured on the homeowner's insurance policy.

See § 196-7 for additional requirements for installation of solar devices on common element roofs.

Section 514B-140 amended 2019; § 196-7 amended 2014.

[Haw. Rev. Stat. §§ 196-7; 514B-140](#)

Medical marijuana use

A provision in any condominium articles of incorporation, declaration, bylaws, administrative rules, house rules, or association documents allowing for any of the discriminatory practices listed in Haw. Rev. Stat. § 515-3(1)-(7) against a person residing in a unit who has a valid certificate for the medical use of cannabis in any form is void, unless the documents prohibit the smoking of tobacco and the medical cannabis is used by means of smoking.

Section amended 2017.

[Haw. Rev. Stat. § 514B-113](#)

Electric vehicle charging stations

No covenant, declaration, bylaw, restriction, deed, lease, term, provision, condition, codicil, contract, or similar agreement, however worded, may prevent a person from installing an electric vehicle charging system on or near the parking stall of any multi-family residential dwelling or townhouse that the person owns. Any such provision is void and unenforceable.

A condominium association may adopt rules that reasonably restrict the placement and use of electric vehicle charging systems for the purpose of charging electrical vehicles in the parking stalls of any multi-family residential dwelling or townhouse so long as those restrictions do not prohibit the placement or use of electric vehicle charging systems altogether. The association may not assess or charge any homeowner any fees for the placement of any charging system; provided that it may require reimbursement for the cost of electricity used by such charging system. The system is subject to the requirements of § 196-7.5.

Enacted 2010.

[Haw. Rev. Stat. § 196-7.5](#)

Clotheslines

No covenant, declaration, bylaws, restriction, deed, lease, term, provision, condition, codicil, contract, or similar binding agreement, however worded, may prevent a person from installing a clothesline on any single-family residential dwelling or townhouse that the person owns. Any such provision is void and unenforceable.

A condominium association may adopt rules that reasonably restrict the placement and use of clotheslines for the purpose of drying clothes on the premises of any single-family residential dwelling or townhouse so long as those restrictions do not prohibit the use of clotheslines altogether. The association may not assess or charge any homeowner any fees for the placement of any clothesline.

Enacted 2009.

[Haw. Rev. Stat. § 196-8.5](#)

[Hawaii, Registration Requirements](#)

The developer must register the project with the Real Estate Commission prior to sale of any unit in the condominium. The Commission will provide an effective date for the public report.

The application for registration requires a declaration providing a detailed description of the property, the common elements, any rights reserved by the developer, and a statement of compliance with applicable zoning requirements. The application must include the following:

- nonrefundable fees;

- the developer's public report prepared by the developer disclosing the information specified in sections 514B-83 and 514B-84 regarding use of purchaser funds to pay project costs;
- a copy of the deed, master lease, agreement of sale, or sales contract showing that the developer holds the fee or leasehold interest in the property;
- copies of the executed declaration, bylaws, and condominium map;
- a sample copy of the proposed contract of sale for units;
- an executed copy of an escrow agreement with a third party depository for retention and disposition of purchasers' funds;
- as applicable, the documents and information required in section 514B-92 or 514B-93 regarding use of purchaser funds to pay project costs;
- a declaration by the developer that the project is in compliance with all county zoning and building ordinances and codes and permitting requirements applicable to the project;
- for projects in the agricultural district classified pursuant to chapter 205, a verified statement signed by an appropriate county official that the project as described and set forth in the project's declaration, condominium map, bylaws, and house rules does not include any restrictions limiting or prohibiting agricultural uses or activities;
- other documents and information requested by Commission;
- a copy of the developer's public report, containing the items listed in section 514B-83 or 514B-84.

Any material changes must be filed in an amendment.

Statutes amended 2014; regulation amended 2016.

[Haw. Rev. Stat. §§ 514B-52, -54; Haw. Code R. § 16-53-16.8](#)

The condominium association must register with the Real Estate Commission on a biennial basis and pay the registration fee. The association must notify the Commission of any changes in registration.

Section amended 2007.

[Haw. Rev. Stat. § 514B-103](#)

The managing agent of the association must register with the Real Estate Commission and pay the registration fee on a biennial basis. The registration terminates on December 31 of an even-numbered year. The registration must include the name, business address, phone number, and names of association of apartment owners managed.

Statute amended 2006; regulation amended 2016.

[Haw. Rev. Stat. § 514B-132; Haw. Code R. § 16-53-16.8](#)

Idaho

Idaho, Land-Based Common Areas

Unit owners are proportionately liable for the common areas.

Amended 2005.

[Idaho Code § 55-1515](#)

Idaho, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities and the rule against unreasonable restraint on alienation shall not be applied to defeat any provision or conveyance in the condominium documents.

Enacted 1965.

[Idaho Code § 55-1522](#)

Idaho, Registration Requirements

No specific provisions regarding this issue were located.

Illinois

Illinois, Land-Based Common Areas

The common elements remain undivided, and no action for partition is permitted. A covenant allowing for partition of the common elements is void.

Section enacted 1963.

[765 Ill. Comp. Stat. 605/8](#)

Use of the limited common elements may be transferred between unit owners, provided that the transfer is made by an amendment to the declaration executed by all unit owners who are parties to the transfer and consented to by all other unit owners who have any right to use the limited common elements affected.

Section amended 1978.

765 Ill. Comp. Stat. 605/26

Illinois, Limits on Covenants and Restrictions

Age restrictions

The condominium may restrict ownership and occupancy to individuals who are 55 or older, as long as the person owning, renting, or occupying the unit prior to recording of the initial declaration is not in violation of the age restriction during the time they own or occupy the unit.

Section amended 1995.

765 Ill. Comp. Stat. 605/4.1

Solar energy systems

"No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting a solar energy system from being installed on a building erected on a lot or parcel covered by the deed restrictions, covenants, or binding agreements, if the building is subject to a homeowners' association, common interest community association, or condominium unit owners' association." A property owner may not be denied permission to install a solar energy system." However, the association may determine the specific location where a solar energy system may be installed on the roof "within an orientation to the south or within 45 degrees east or west of due south provided that the determination does not impair the effective operation of the solar energy system."

Within 120 days after an association receives a request for a policy statement or an application from an association member, the association must adopt an energy policy statement regarding:

- the location, design, and architectural requirements of solar energy systems; and

- whether a wind energy collection, rain water collection, or composting system is allowed, and, if so, the location, design, and architectural requirements of those systems.

An association must disclose, upon request, its energy policy statement and include the statement in its declaration.

Action amended 2011.

765 Ill. Comp. Laws 165/20

Display of religious objects

No rule or regulation may impair any rights guaranteed by the First Amendment to the U.S. Constitution or Section 4 of Article I of the Illinois Constitution including, but not limited to, the free exercise of religion. A rule or regulation may not prohibit any reasonable accommodation for religious practices, including the attachment of religiously mandated objects to the front-door area of a condominium unit.

Section amended 2017.

765 Ill. Comp. Laws 605/18.4

Flag display

The association may not prohibit the display of the American flag or a military flag on the limited common areas or immediately adjacent exterior of the building in which the unit owner is located, but the association may adopt reasonable rules and regulations regarding display of the flag.

Section enacted 2003.

[765 Ill. Comp. Stat. 605/18.6](#)

Rule against perpetuities

The rule against perpetuities and rule against unreasonable restraint on alienation shall not be applied to defeat any provision or conveyance in the condominium documents.

Section enacted 1963.

[765 Ill. Comp. Stat. 605/20](#)

Easements

If 50 percent (or more if required by the declaration) of the owners agree, the owners may grant an easement for the laying of cable television or high speed internet cable.

Section amended 2012.

[765 Ill. Comp. Stat. 605/14.3](#)

If 50 percent (or more if required by the declaration) of the owners agree, the owners may grant an easement to a governmental body for construction, maintenance or repair of a project for protection against water damage or erosion.

Section amended 1986.

[765 Ill. Comp. Stat. 605/14.4](#)

Arbitration

A condominium provision which requires the board of managers to arbitrate or mediate a dispute is void. The documents may not require prior consent of the unit owners in order for the board of managers to take any action, including the institution of any action in court or a demand for a jury trial. Provisions which would otherwise be void may be enforced if approved by 75 percent or more of the unit owners.

Section amended 2015.

[765 Ill. Comp. Stat. 605/18.9](#)

Illinois, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that the property owners or board of managers may incorporate a not-for-profit corporation under Illinois law for the purpose of facilitating the operation and administration of the property. The Secretary of State maintains a record of not-for-profit corporations that are condominium associations and their current officers and members of the board of managers or board of directors, as shown on the annual report or articles of incorporation, whichever is more current.

Section amended 1994.

[Ill. Comp. Laws 605/18.1](#)

Indiana

Indiana, Land-Based Common Areas

Each unit owner has an undivided interest in the common areas and facilities. The interest in the common areas must be based on the size of the unit in relation to the size of all units in the condominium, the value of the unit in relation to the value of all condominium units in the condominium, or an equal percentage for each unit. The interest is permanent and may not be changed without consent of the co-owners.

This interest may not be transferred separately from the owner's unit. Each owner may use the common areas for the uses for which they were intended, but may not hinder another owner's use of the common areas. A covenant allowing for partition of the common areas is void.

Amended 2007.

[Ind. Code § 32-25-4-3](#)

Indiana, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Indiana, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that the owner of the land on which a condominium is declared must record with the recorder of the county in which the land is situated a declaration. Simultaneously with the recording of the declaration, a set of floor plans of the condominium or building must be filed.

Section 32-25-7-1 amended 2012; § 32-25-7-4 enacted 2002.

[Ind. Code §§ 32-25-7-1, -4](#)

Iowa

Iowa, Land-Based Common Areas

The unit owner's interest in the common elements is appurtenant to the unit, and passes with the unit. No action for partition is permitted.

Section 499B.13 enacted 1963; § 499B. 7 amended 2015.

[Iowa Code §§ 499B.7, .13](#)

[Iowa, Limits on Covenants and Restrictions](#)

No specific provisions regarding this issue were located.

[Iowa, Registration Requirements](#)

No specific provisions regarding this issue were located.

Kansas

[Kansas, Land-Based Common Areas](#)

Each unit owner has an undivided interest in the common areas and facilities. Each unit's interest should reflect the percentage of the value or size of the unit in relation to the value or size of the property. The interest in the common areas is permanent and may not be changed without the consent of all owners. This interest may not be transferred separately from the owner's unit.

Each owner may use the common areas for the uses for which they were intended. No action for partition regarding the common elements is permitted. A covenant allowing for partition of the common areas is void. An owner may not avoid contribution to the common expenses through waiver or abandonment.

Section 58-3106 amended 1975; § 58-3121 enacted 1963.

[Kan. Stat. Ann. §§ 58-3106, -3121](#)

The association manager or board of directors may bring a cause of action on behalf of two or more owners relating to the common areas and facilities of more than one apartment.

Section enacted 1963.

[Kan. Stat. Ann. § 58-3127](#)

Kansas, Limits on Covenants and Restrictions

Flag display

The association may not prohibit the display of the American flag on the limited common areas or the owner's unit, but the association may adopt reasonable rules and regulations regarding display of the flag.

Political signs

The association may not prohibit the display of signs regarding candidates for public or association office or ballot questions on a unit or on a limited common element adjoining a unit. However, the association may adopt rules concerning the time, place, size, number, and manner of those signs so long as those rules are consistent with current law which permits signs less than six square feet, during a period commencing 45 days before an election and ending two days after the election.

Assembly

The condominium may adopt reasonable rules and regulations, but cannot unreasonably restrict the unit owner's right to peaceably assemble in the common elements.

Section 58-4617 enacted 2010; § 58-3820 enacted 2008.

[Kan. Stat. Ann. §§ 58-3820, -4617](#)

Kansas, Registration Requirements

No specific provisions regarding this issue were located.

However, the declaration, any amendment thereof, any instrument by which the provisions of the Apartment Ownership Act may be waived, and every instrument affecting the property or any apartment or condominium unit are entitled to be recorded. Neither the declaration nor any amendment thereof is valid unless duly recorded.

Section amended 2011.

[Kan. Stat. Ann. § 58-3115](#)

Kentucky

Kentucky, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. Any transfer of interest in the common elements without a corresponding transfer of the unit is void, and the interest is not subject to partition.

Section enacted 2010.

[Ky. Rev. Stat. Ann. § 381.9137](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 2010.

[Ky. Rev. Stat. Ann. § 381.9139](#)

The common elements may be conveyed or subjected to a security interest if 80% of the votes approve the action.

Section enacted 2010.

[Ky. Rev. Stat. Ann. § 381.9185](#)

Kentucky, Limits on Covenants and Restrictions

Flag display

Notwithstanding any agreement or restrictions to the contrary, a person may display a flag of the United States which is no larger than two feet by three feet from the person's residence, regardless of whether the person owns or leases the residence, provided that the flag is displayed in such a manner as is deemed proper by state or federal law. Any agreement contravening this right is void and unenforceable.

Section enacted 1998.

[Ky. Rev. Stat. § 2.042](#)

Rule against perpetuities

The rule against perpetuities shall not be applied to defeat any provision of the declaration, bylaws, rules, or regulations.

Section enacted 2010.

[Ky. Rev. Stat. Ann. § 381.9129](#)

Kentucky, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium is created only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the

condominium is located, and must be indexed in the name of the condominium, the association, and each person executing the declaration.

Section enacted 2010.

[Ky. Rev. Stat. § 381.9125](#)

Louisiana

Louisiana, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. The interest in the common elements is permanent and may not be changed without the consent of all owners.

Section enacted 1979.

[La. Rev. Stat. Ann. § 9:1122.108](#)

Louisiana, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Louisiana, Registration Requirements

No specific provisions regarding this issue were located.

However, the condominium declaration and any instrument by which the condominium regime is altered or terminated is effective against third parties when filed for registry in the conveyance records in the parish in which the property is located.

Section enacted 1979.

[La. Rev. Stat. Ann. § 9:1122.101](#)

Maine

Maine, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. Any transfer of interest in the common elements without a corresponding transfer of the unit is void, and the interest is not subject to partition.

Section enacted 1981.

[Me. Rev. Stat. Ann. tit. 33, § 1602-107](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1981.

[Me. Rev. Stat. Ann. tit. 33, § 1602-108](#)

The common elements may be conveyed or subjected to a security interest if 80% of the votes approve the action.

Section enacted 1981.

[Me. Rev. Stat. Ann. tit. 33, § 1603-112](#)

Maine, Limits on Covenants and Restrictions

Political signs

The condominium cannot prohibit a unit owner from displaying a political sign, either supporting or opposing a candidate for public office or a referendum question, from six weeks prior to the election date until one week after the election.

Section amended 2015.

[Me. Rev. Stat. Ann. tit. 33, § 1603-106](#)

Rule against perpetuities

The rule against perpetuities shall not be applied to defeat any provision of the declaration, bylaws, rules, or regulations.

Section amended 2017.

[Me. Rev. Stat. Ann. tit. 33, § 1602-103](#)

Association powers

The declaration may not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons except as permitted by law.

Section amended 2011.

[Me. Rev. Stat. Ann. tit. 33, § 1603-102](#)

Solar energy devices

Condominium owners' association rules, bylaws or regulations or deed restrictions, restrictive covenants, declarations, contracts or similar agreements may not prohibit a person from installing or using a solar energy device on residential property owned by that person, or a solar clothes-drying device (e.g., clothesline, drying rack) on residential property leased or rented by that person. Reasonable restrictions are allowed for health and safety purposes, to protect buildings from damage, for preservation of historic or aesthetic values, or to comply with shoreland zoning provisions.

Section enacted 2009.

[Me. Rev. Stat. Ann. tit. 33, § 1423](#)

Maine, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium may be created only by recording a declaration executed in the same manner as a deed, by all persons whose interests in the real estate will be conveyed to unit owners. Plats and plans must be recorded in the same manner as plats and plans generally. All such documents must be indexed in the name of the condominium and the parties thereto and may be included in such other indices as determined by the Register of Deeds.

Section amended 2009.

[Me. Rev. Stat. Ann. tit. 33, § 1602-101](#)

Maryland

Maryland, Land-Based Common Areas

Unit owners may use the common elements for the purposes for which they were intended. The common elements are subject to mutual rights of support, access, use, and enjoyment by all unit owners.

Each unit owner has an undivided interest in the common elements. No action for partition regarding the common elements is permitted. A covenant allowing for partition of the common elements is void. The interest in the common elements is permanent and may not be changed without the consent of all owners.

Section 11-107 amended 1997; § 11-108 amended 2017.

[Md. Code Ann., Real Prop., §§ 11-107, -108](#)

Maryland, Limits on Covenants and Restrictions

Solar system

A restriction on use regarding land use may not impose or act to impose unreasonable limitations on the installation of a solar collector system on the roof or exterior walls of improvements, provided that the property owner owns or has the right to exclusive use of the roof or exterior walls. An unreasonable limitation includes a limitation that significantly increases the cost of the solar collector system, or that significantly decreases the efficiency of the solar collector system.

Section amended 2008.

[Md. Code Ann., Real Prop., § 2-119](#)

Family child care

A covenant or restriction that prohibits commercial or business activity does not apply to a unit owner's operation of a family child care home or no-impact home-based business. Such a provision also does not apply to restrict use of roads, sidewalks, and common elements by users of the family child care home.

A condominium may include a restriction prohibiting family child care home and no-impact businesses. However, that provision may not be enforced unless it is approved by a majority of the condominium voters. Condominium restrictions may also regulate the number of family child care

homes in the condominium, require the child care providers to pay the costs of increased insurance due to the child care homes, and impose a fee of up to \$50 per family child care home for use of the common elements.

The condominium may restrict or prohibit no-impact home based businesses in the common elements.

Section amended 2012.

[Md. Code Ann., Real Prop., § 11-111.1](#)

Political signs

No covenant or restriction may restrict or prohibit the display of a political sign regarding a candidate or question to be decided by voters at an election. However, the condominium may restrict the display of such signs in the common elements, in accordance with law, and for the period of time before and after the election.

Section amended 2002.

[Md. Code Ann., Real Prop., § 11-111.2](#)

Clotheslines

A contract, deed, covenant, restriction, instrument, declaration, rule, bylaw, lease agreement, rental agreement, or any other document concerning the installation or use of clotheslines on single-family property may not prohibit a homeowner or tenant from installing or using clotheslines on single-family property. This section does not prohibit reasonable restrictions on:

- the dimensions, placement, or appearance of clotheslines for the purpose of protecting aesthetic values; or
- the placement of clotheslines for the purpose of protecting persons or property in the event of fire or other emergencies.

Before adopting any restriction concerning the installation or use of clotheslines on single-family property, the governing body of a condominium, homeowners association, or housing cooperative must hold an open meeting on the proposed restriction for the purpose of providing affected homeowners and tenants an opportunity to be heard.

Enacted 2010.

[Md. Code Ann., Real Property § 14-130](#)

Condominium information

The condominium may not restrict a unit owner from distributing information relating to the operation of the condominium, except for reasonable restrictions regarding the time of distribution.

[Md. Code Ann., Real Prop., § 11-111.3](#)

Flag display

No covenant or restriction may restrict or prohibit the display of one portable, removable United States flag. The association may adopt reasonable regulations regarding the placement and manner of the display of flags.

Section amended 2005.

[Md. Code Ann., Real Prop., § 14-128](#)

Maryland, Registration Requirements

The owner of the condominium must file an application for registration with the Secretary of State. The application includes a copy of the public offering statement, which must include the following:

- a copy of the proposed contract of sale for the unit;
- a copy of the proposed declaration, bylaws, rules, and regulations;
- a copy of the proposed articles of incorporation of the council of unit owners, if applicable;
- a copy of the proposed management contract, insurance contract, employment contract, and any other contracts affecting use, maintenance, or access to the property;
- a copy of the annual operating budget for the condominium;
- a statement of the policy and procedures for collecting assessments;
- a copy of the anticipated leases;
- a description of possible expansion of the condominium;
- a copy of the floor plan of the units;
- a description of the recreational facilities or other common elements;

- a statement of whether the streets within the condominium will be public or private;
- a statement of judgments or pending suits against the council of unit owners;
- if buildings are older than 5 years, a statement of the physical condition and state of repair of the building;
- a description of any provisions in the declaration or bylaws regarding developer control or the phasing-in of unit owner participation;
- documents and materials required by 11-102.1 and 11-137, if the condominium is converting from a rental facility;
- a statement of whether the condominium is subject to an extended lease;
- written notice of the unit owner's responsibility for property insurance and the amount of the deductible;
- any other information requested by the Secretary of State.

The owner must also pay a registration fee of at least \$100, at a rate of \$5 per unit. The owner must notify the Secretary of State of: (a) any changes to the documentation; and (b) when all of the units are conveyed to unit owners.

Section 11-126 amended 2011; section 11-127 amended 2010.

[Md. Code Ann., Real Prop., §§ 11-126, 11-127; Md. Regs. Code 01.02.09.02](#)

Massachusetts

Massachusetts, Land-Based Common Areas

Unit owners may use the common areas and facilities for the purposes for which they were intended. Each interest shall be an approximate percentage of the fair value of the unit on the date of the master deed in relation to the aggregate fair value of all the units. The common areas are subject to mutual rights of support, access, use, and enjoyment by all unit owners.

Each unit owner has an undivided interest in the common areas. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common areas is permitted. The interest in the common areas may not be changed without the consent of 75 percent, or other percentage necessary to amend the declaration, of the owners. All unit owners must contribute to expenses of the common areas and facilities; there is no waiver or abandonment.

The governing body of the unit owners may grant, modify and amend easements over the common areas, with 51 percent approval of the mortgagees holding first mortgages. The governing body of the unit owners may also grant rights to develop the condominium and add additional units if 75 percent of unit owners, or 51 percent of mortgagees holding first mortgages, approve.

If at least 50 percent, but less than 75 percent of the unit owners agree to an improvement in the common areas or facilities, the cost of the improvement shall be shared only by the owners agreeing to the improvement. If 75 percent of the unit owners agree to an improvement of the common areas or facilities, the cost is shared by all unit owners.

Section 18 enacted 1963; § 18 amended 2015.

[Mass. Gen. Laws ch. 183A, §§ 5, 18](#)

Massachusetts, Limits on Covenants and Restrictions

Solar energy systems

Any provision in an instrument relative to the ownership or use of real property which purports to forbid or unreasonably restrict the installation or use of a solar energy system or the building of structures that facilitate the collection of solar energy is void.

Section added 1985.

[Mass. Gen. Laws ch. 184, § 23C](#)

Discrimination

"A provision in an instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, color, religion, national origin or sex shall be void."

Section amended 1978.

[Mass. Gen. Laws ch. 184, § 23B](#)

Disabled housing

"Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed or other instrument of or pertaining to the transfer, sale, lease or use of property which would permit residential use of property but would prohibit a community residence for disabled persons shall, to the extent of such prohibition, be void."

Section added 1989.

[Mass. Gen. Laws ch. 184, § 23D](#)

Massachusetts, Registration Requirements

No specific provisions regarding this issue were located.

Michigan

Michigan, Land-Based Common Areas

The deed governing the condominium may provide for an undivided interest in the common elements for all unit owners. No action for partition regarding the common elements is permitted. Any attempt to transfer the interest in the common elements separately from the unit is void.

The interest in the common elements is permanent and may not be changed. Unit owners have the right to share the common elements with other owners.

Section enacted 1978.

[Mich. Comp. Laws § 559.137](#)

Michigan, Limits on Covenants and Restrictions

Permitted restrictions

The condominium documents may contain reasonable restrictions and covenants that are allowed by law, including provisions regarding joint or common ownership of units and the basis upon which usage of the condominium units may be shared.

Section enacted 1978.

[Mich. Comp. Laws § 559.146](#)

The by-laws may contain provisions restricting the sale, lease, use, or occupancy of the condominium units and regarding insurance for the condominium.

Section enacted 1978.

[Mich. Comp. Laws § 559.156](#)

Flag display

Unit owners are allowed to display a 3 feet by 5 feet United States flag on the exterior of their unit.

Enacted 1991.

[Mich. Comp. Laws § 559.156a](#)

Michigan, Registration Requirements

At least 10 days prior to taking reservations for an interest in the condominium, recording a deed, or beginning construction of a condominium, the developer must notify the following entities:

- the appropriate city, village, township, or county;
- the appropriate county road commission and county drain commissioner;
- the Department of Environmental Quality; and
- the State Transportation Department.

Also, if public water and public sewers are not available and accessible to the property, the developer must submit three copies of the condominium subdivision plan to the Department of Public Health.

Section 559.171 amended 2002; § 559.171a enacted 1983.

[Mich. Comp. Laws §§ 559.171, .171a](#)

After the master deed is recorded, a copy must be filed with the local supervisor or assessing officer.

Section amended 2000.

[Mich. Comp. Laws § 559.173](#)

Minnesota

Minnesota, Land-Based Common Areas

Unit owners have an undivided interest in the common elements. No action for partition regarding the common elements is permitted. The granting of an easement does not constitute a partition. Any attempt to transfer the interest in the common elements separately from the unit is void.

The owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration if all affected owners consent.

The common elements may be conveyed or subjected to a security interest if 67 percent of the votes approve the action.

Sections 515B.2-108 and 515B.3-112 amended 2010; § 515B.2-109 amended 2011.

[Minn. Stat. §§ 515B.2-108, -109; 515B.3-112](#)

Minnesota, Limits on Covenants and Restrictions

Flag display

Any provision of any deed restriction, subdivision regulation, restrictive covenant, local ordinance, contract, rental agreement or regulation, or homeowners association document that limits an owner's or tenant's right of display the United States or Minnesota flag is void and unenforceable. This does not prohibit limitations that restrict:

- the size of the flag to be displayed to a size customarily used on residential property;
- the installation and display of the flag to a portion of the residential property to which the person who displays the flag has exclusive use; or
- illuminating the flag.

Amended 2015.

[Minn. Stat. § 500.215](#)

Rule against perpetuities

The rule against perpetuities shall not be applied to defeat any provision of the declaration, condominium documents, rules, or regulations.

Section amended 2005.

[Minn. Stat. § 515B.2-103](#)

Sale or lease

In the absence of unusual and compelling circumstances, provisions which deny, limit, or abridge, directly or indirectly, the right of any owner to sell, lease, or rent that owner's unit in a condominium are unreasonable. A reasonable plan may be utilized which sets forth uniform and objective standards and qualifications for the sale or lease.

Promulgated 2007.

[Minn. R. § 2810.3500](#)

Minnesota, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, a condominium may be created only by recording a declaration in every county in which any portion of the common interest community is located. The unit owners' association must be organized as a Minnesota profit or nonprofit corporation.

Sections amended 2010.

[Minn. Stat. § 515B.2-101, .3-101](#)

Mississippi

Mississippi, Land-Based Common Areas

The common areas are owned by the unit owners as tenants in common, in equal shares. The common areas are to remain undivided. No partition of the common areas is permitted.

Sections amended 1964.

Miss. Code Ann. §§ 89-9-13, 89-9-15 (LexisNexis 2018)

Mississippi, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Mississippi, Registration Requirements

No specific provisions regarding this issue were located.

Missouri

Missouri, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any attempt to transfer the interest in the common elements separately from the unit is void.

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

The common elements may be conveyed or subjected to a security interest if 80 percent of the votes approve the action.

Sections enacted 1983.

[Mo. Rev. Stat. § 448.2-107, -108; .3-112](#)

Missouri, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities shall not be applied to defeat any provision of the declaration, condominium documents, rules, or regulations.

Section enacted 1983.

[Mo. Rev. Stat. § 448.2-103](#)

Missouri, Registration Requirements

No specific provisions regarding this issue were located.

However, a condominium is created only by recording a declaration executed in the same manner as a deed. The declaration must be recorded in every county in which any portion of the condominium is located, and be indexed in the name of the condominium and each person executing the declaration.

A unit owners' association must be organized no later than the date the first unit in the condominium is conveyed.

Sections enacted 1983.

[Mo. Rev. Stat. § 448.2-101, .3-101](#)

Montana

Montana, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. Each unit's interest is determined by the value of the unit in relation to the value of all units on the date of the original declaration.

The interest in the common elements is permanent and may not be changed without the consent of all owners. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. A covenant allowing for partition of the common elements is void.

Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights. All unit owners must contribute to expenses for the common areas; there is no waiver or abandonment.

Sections enacted 1965; § 70-23-505 amended 2009.

[Mont. Code Ann. §§ 70-23-403, -404, -405, -503, -505](#)

Montana, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Montana, Registration Requirements

If the condominium property is located in a city or town, a copy of the declaration must be filed with the city or town clerk at the time of recording.

Section amended 1993.

[Mont. Code Ann. § 70-23-305](#)

Nebraska

Nebraska, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any attempt to transfer the interest in the common elements separately from the unit is void.

Section enacted 1983.

[Neb. Rev. Stat. § 76-844](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1983.

[Neb. Rev. Stat. § 76-845](#)

The common elements may be conveyed or subjected to a security interest if 80% of the votes approve the action.

Section amended 1984.

[Neb. Rev. Stat. § 76-870](#)

Nebraska, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities and the rule restricting unreasonable restraints on alienation cannot be applied to defeat any provision in the condominium documents or of the Condominium Property Act.

Enacted 1983.

[Neb. Rev. Stat. § 76-840](#)

Nebraska, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium may be created only by recording a declaration, executed in the same manner as a deed, in every county in which any portion of the condominium is located. A unit owners association must be organized no later than the date the first unit in the condominium is conveyed. The association must file a condominium statement listing the name of the association and the names and addresses of the current officers of the association with the register of deeds of the county in which the condominium is located. The filing must be made every year on or before December 31.

Section 76-861 amended 2019; § 76-838 amended 1984; § 76-859 enacted 1983.

[Neb. Rev. Stat. §§ 76-838, -859, -861](#)

Nevada

Nevada, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. An attempt to transfer the interest without the unit is void.

Section amended 2011.

[Nev. Rev. Stat. § 116.2107](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1991.

[Nev. Rev. Stat. § 116.2108](#)

The common elements of a condominium hotel may be conveyed or subjected to a security interest if a majority of the votes approve the action.

Section enacted 2007.

[Nev. Rev. Stat. § 116B.560](#)

Nevada, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities shall not be applied to defeat any provision of the declaration, condominium documents, rules, or regulations.

Section amended 2011.

[Nev. Rev. Stat. § 116.2103](#)

Flag display

The condominium may not prohibit unit owners from displaying the United States flag or the flag of the state of Nevada within the part of property that the owner has a right to exclusively use and occupy.

Section amended 2015.

[Nev. Rev. Stat. § 116.320](#)

Political signs

The condominium may not prohibit unit owners from displaying political signs within the part of property that the owner has a right to exclusively use and occupy, if the sign is no larger than 24 inches by 36 inches. Each owner may exhibit only one sign per each candidate, political party, or ballot question.

Section amended 2009.

[Nev. Rev. Stat. § 116.325](#)

Waste and recyclables containers

An association may not regulate or restrict the manner in which containers for the collection of solid waste or recyclable materials are stored on the premises of a residential unit with curbside service, but it may adopt rules that reasonably restrict the manner in which containers are stored on the premises of a residential unit during the time the containers are not within the collection area, including, without limitation, rules prescribing the location at which the containers are stored during that time. The rules must:

- comply with all applicable codes and regulations; and
- allow the unit's owner, or an owner's tenant to store the containers outside any building or garage on the premises of the unit during the time the containers are not within the collection area.

Section enacted 2013.

[Nev. Rev. Stat. § 116.332](#)

Rental of units

"Unless, at the time a unit's owner purchased his or her unit, the declaration prohibited the unit's owner from renting or leasing his or her unit, the association may not prohibit the unit's owner from renting or leasing his or her unit." The association may not require the unit's owner to secure or obtain any approval from the association in order to rent or lease a unit, unless the declaration at the time of the owner's purchase required such approval.

"If a declaration contains a provision establishing a maximum number or percentage of units in the common-interest community which may be rented or leased, that provision of the declaration may not be amended to decrease that maximum number or percentage of units in the common-interest community which may be rented or leased."

Section amended 2011.

[Nev. Rev. Stat. § 116.335](#)

Roads and parking

In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board may not and the governing documents must not provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the state or a local government for dedication as a road, street, alley or other thoroughfare for public use. However, an association may adopt, and the governing documents may set forth, rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial vehicles in the common-interest community to the extent authorized by law.

Amended 2017.

[Nev. Rev. Stat. § 116.350](#)

Landscaping

The condominium may not prohibit unit owners from installing and maintaining drought tolerant landscaping within the part of property that the owner has a right to exclusively use and occupy. However, the owner may be required to submit a description or plans for the landscaping for architectural review and approval, and the landscaping must, to the extent possible, be consistent with the style of the condominium.

Section amended 2009.

[Nev. Rev. Stat. § 116.330](#)

Nevada, Registration Requirements

The unit owner's association must register with the Secretary of State. The association must register with the Ombudsman on a form prescribed by the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels and pay the registration fee. The registration must include the following information:

- the name, address and telephone number of the association;
- the name of each community manager for the condominium and the name of any other person who is authorized to manage the property at the site;
- the names, mailing addresses and telephone numbers of the members of the executive board of the association;
- the name of the declarant;
- the number of units in the condominium;
- the total annual assessment made by the association;
- the number of foreclosures which were completed on units within the condominium and which foreclosures were based on liens for the failure of the unit's owner to pay any assessments or any fines imposed against the unit's owner;
- whether the study of the reserves of the association has been conducted pursuant to Nev. Rev. Stat. §116.31152 or 116B.605 and, if so, the date on which it was completed;
- the total budget of the association;

- whether the financial statements of the association were audited or reviewed and, if so, the most recent fiscal year-end for which the audit or review was completed and accepted by the executive board; and
- whether the audit opinion is qualified or unqualified or whether the review report is modified or unmodified.

Section 116.31155 amended 2015; § 116.31158 amended 2003.

[Nev. Rev. Stat. §§ 116.31155, 116.31158](#)

Anyone acting as a community manager needs to have a certificate issued by the Real Estate Division of the Department of Business and Industry. The certificate must be renewed biennially. The application for renewal of certificate must include:

- a completed application on a form prescribed by the Division;
- a statement indicating that the applicant is not subject to a court order for child support, or is in compliance with any such orders;
- the fee required for renewal; and
- documentation of the applicant's completion of at least 18 hours of continuing education in courses approved by the Commission, within the 2 years immediately preceding the date on which the certificate expires.

Section 116A.400 amended 2009; Nev. Admin. Code ch. 116A, § 140 amended 2011; Nev. Admin. Code ch. 116B, §§ 190 and 250 added 2011.

[Nev. Rev. Stat. § 116A.400](#); [Nev. Admin. Code ch. 116A, § 140](#); [ch. 116B, §§ 190, 250](#)

New Hampshire

New Hampshire, Land-Based Common Areas

Each unit owner has an undivided interest in the common areas. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common areas is permitted. An attempt to transfer the interest without the unit is void.

Section enacted 1977.

[N.H. Rev. Stat. Ann. § 356-B:17](#)

New Hampshire, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities and the rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the declaration or condominium documents. No rule of alienation may be used to discriminate in violation of state law.

Section enacted 1977.

[N.H. Rev. Stat. Ann. § 356-B:14](#)

Alienability

Rights of first refusal and restraints on the free alienability of any unit are void, unless the condominium documents allow for a waiver of those conditions to the unit owners.

Section enacted 1977.

[N.H. Rev. Stat. Ann. § 356-B:47](#)

Flag display

The condominium may not prohibit a unit owner's display of the flag of the United States. The condominium may adopt reasonable restrictions on the size of the flag and the manner in which it is displayed.

Section enacted 2011.

[N.H. Rev. Stat. Ann. § 356-B:47-a](#)

New Hampshire, Registration Requirements

An application for registration of the condominium must be filed in the form prescribed by the Attorney General. The application must include:

- an irrevocable appointment of the attorney general to receive service of process;
- site and floor plans;
- the states and jurisdictions in which an application for registration has been filed, and any adverse orders or decrees relating to the condominium;
- the declarant's name, address, and the form, date, and jurisdiction of organization of each of its offices;
- the name, address, and principal occupation for the past five years of every officer of the declarant;

- if declarant is closely held business, the name, address, and corporation of every trustee, stockholder, or partner;
- if declarant is publicly held business, the name, address, and occupation of each stockholder with more than 10 percent ownership stake;
- if declarant is a subsidiary, the name, address, and occupation of each stockholder with more than 10 percent ownership stake;
- a statement of the condition of title to the condominium;
- copies of the instruments for purchase of a unit;
- copies of the declaration, bylaws, and any management contracts affecting use, maintenance, or access to the property;
- a statement of the consequences of any blanket encumbrance;
- a statement of the zoning, subdivision, and other government approvals;
- a statement of the public utilities in the condominium;
- a description of the promotion plan for disposition of the units;
- the proposed public offering statement;

- if declarant is a corporation or partnership or other organization, a copy of its articles of incorporation;
- if declarant is a trust, a copy of all instruments by which the trust is created; and
- any other information required by the attorney general.

The owner shall also pay a registration fee.

On April 1 of the year following registration, the declarant must file a report stating any material changes in the information.

Section 356-B:51 amended 2015; § 356-B:55 enacted 1977.

[N.H. Rev. Stat. Ann. §§ 356-B:51, :55](#)

New Jersey

New Jersey, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted.

Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights. A unit owner may not exempt himself from contributing to expenses for the common elements; there is no waiver or abandonment.

Sections enacted 1969.

N.J. Stat. Ann. §§ 46:8B-6, -17

New Jersey, Limits on Covenants and Restrictions

Flag display

An association managing a condominium may not adopt or enforce a rule or bylaw limiting or prohibiting the display of the U.S. flag of the United States or yellow ribbons and signs supporting U.S. troops, or charge a fee for any such display. Any such rule or bylaw is null and void.

The association may direct removal of an American flag or yellow ribbons and signs supporting U.S. troops "when the display threatens public safety, restricts necessary maintenance activities, interferes with the property rights of another, or is conducted in a manner inconsistent with the rules and customs deemed the proper manner to display the flag."

Enacted 2003.

N.J. Stat. Ann. § 45:22A-48.1

Rights of first refusal

There is a rebuttable presumption of unconscionability of a provision giving the declarant a first right of refusal to buy back the unit.

No provision in the condominium documents may allow the developer a right of first refusal upon the resale of the unit.

Section 46:8B-36 amended 1980; § 46:8B-32 enacted 1980.

N.J. Stat. Ann. § 46:8B-32, -36

Common area leases

There is a rebuttable presumption of unconscionability with respect to leases involving the use by condominium unit owners of parking, recreational or other common facilities or areas.

Section enacted 1979.

N.J. Stat. Ann. § 46:8B-32

New Jersey, Registration Requirements

No developer may offer or dispose of any interest in a planned real estate development, including a condominium, prior to the registration of such development with the Division of Housing and Development in the Department of Community Affairs. The application for registration must contain the information specified in N.J. Stat. § 45:22A-27.

Section 45:22A-23 amended 2017; § 45:22A-26 enacted 1977.

N.J. Stat. Ann. §§ 45:22A-23, -26

New Mexico

New Mexico, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. An attempt to transfer the interest without the unit is void.

Section enacted 1982.

N.M. Stat. Ann. § 47-7B-7

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section amended 1983.

N.M. Stat. Ann. § 47-7B-8

The common areas may be conveyed or subjected to a security interest if 80 percent of the votes approve the action.

Section enacted 1982.

N.M. Stat. Ann. § 47-7C-12

New Mexico, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities cannot be applied to defeat any right given by the declaration, rules, regulations, or the Condominium Act.

Section enacted 1982.

N.M. Stat. Ann. § 47-7B-3

New Mexico, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium may be created only by recording a declaration, executed in the same manner as a deed, which must be recorded in each county in which any portion of the condominium is located and indexed in the grantee's index in the name of the condominium and the association and in the grantor's index in the name of each person executing the declaration.

A unit owners' association must be organized no later than the date the first unit in the condominium is conveyed.

Sections enacted 1982.

N.M. Stat. Ann. §§ 47-7B-1, -7C-1

New York

New York, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. The interest in the common elements is permanent and may not be changed without the consent of all owners. This interest may not be transferred separately from the owner's unit.

The interest may be determined in one of the following four ways:

- the approximate proportion of the fair value of the unit, in relation to the aggregate fair value of all units, at the date of the declaration;
- the approximate proportion of the floor area of the unit, in relation to the aggregate floor area of all of the units, at the date of the declaration, but the proportion must reflect the advantages enjoyed by some of the units in a part or parts of the common elements;
- the interest shall be in equal percentages, one for each unit as of the date of filing the declaration, or in equal percentages within separate classifications of units as of the date of filing the declaration; or
- upon floor space, subject to the location of such space and the additional factors of relative value to other space in the condominium, the uniqueness of the unit, the availability of common elements for exclusive or shared use, and the overall dimensions of the particular unit.

No action for partition regarding the common elements is permitted. A provision allowing for partition of the common elements is void. Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights.

A unit owner may not exempt himself from contributing to expenses for the common elements; there is no waiver or abandonment.

Section 339-x enacted 1964; § 339-1 amended 1974.

[**N.Y. Real Prop. Law §§ 339-i, 339-x**](#)

New York, Limits on Covenants and Restrictions

Flag display

No action or proceeding for any relief may be maintained by the board of managers against a unit owner due to the display of a U.S. flag measuring not more than four feet by six feet.

Section amended 1999.

[**N.Y. Prop. Law § 339-j**](#)

New York, Registration Requirements

In addition to the recording of the condominium declaration, the condominium declaration must also be filed with the Department of State. A \$25 filing fee must accompany the filing.

Section amended 1997.

[**N.Y. Real Prop. Law § 339-s; Dep't of State, Division of Corporations, State Records, and UCC**](#) (last visited December 9, 2019)

North Carolina

North Carolina, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any attempt to transfer the interest in the common elements separately from the unit is void.

Section enacted 1986.

[N.C. Gen. Stat. § 47C-2-107](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1986.

[N.C. Gen. Stat. § 47C-2-108](#)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80% of voters in the association agree to that action.

Section enacted 1986.

[N.C. Gen. Stat. § 47C-3-112](#)

North Carolina, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities cannot be applied to defeat any right given by the declaration, rules, or regulations.

Section enacted 1986.

[**N.C. Gen. Stat. § 47C-2-103**](#)

Flag display

The condominium documents may restrict the unit owners' right to display the flag of the United States, up to 4 x 6 feet in size, or the flag of North Carolina, only if the following statement is made in the condominium documents: "THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA." The restriction must be written on the first page of the instrument or conveyance in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance.

Section amended 2006.

[**N.C. Gen. Stat. § 47C-3-121**](#)

Political signs

The condominium documents may restrict the unit owners' display of political signs, only if the following statement is included in the condominium documents: "THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS." The restriction must be written on the first page of the instrument or conveyance in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the instrument or conveyance.

Section amended 2006.

[N.C. Gen. Stat. § 47C-3-121](#)

Irrigation

No covenant regarding the irrigation of landscaping may require the watering of landscaping during a time of drought when the government has imposed watering restrictions. Any such covenant must state that irrigation requirements are suspended during the time watering restrictions are in place. The association may not fine or penalize an owner of land for violation of an irrigation requirement during a drought, unless the covenant authorizes the fines or other penalties. This authorization must be written on the first page of the covenant in print that is in boldface type, capital letters, and no smaller than the largest print used elsewhere in the declarations of covenants.

Section amended 2015.

[N.C. Gen. Stat. § 47C-3-122](#)

[North Carolina, Registration Requirements](#)

No specific provisions regarding this issue were located.

Note, however, that a declaration creating a condominium must be executed in the same manner as a deed and be recorded in every county in which any portion of the condominium is located.

A unit owners' association must be organized no later than the date the first unit in the condominium is conveyed.

Section 47C-2-101 amended 2012; § 47C-3-101 amended 2006.

[N.C. Gen. Stat. §§ 47C-2-101, -3-101](#)

North Dakota

North Dakota, Land-Based Common Areas

Each unit owner has an undivided interest in the common areas. The common areas are owned by the owners as tenants in common in proportion to each unit's interest. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common areas is permitted.

Section enacted 1965.

[N.D. Cent. Code § 47-04.1-06](#)

North Dakota, Limits on Covenants and Restrictions

Political signs

Notwithstanding a provision in a covenant, restriction, declaration, bylaw, or rule, unit owners may not be prohibited from displaying a political sign on their property within 60 days prior to an election. The covenant, restriction, declaration, bylaw, or rule may provide reasonable restrictions on the placement and manner of display of the signs.

Section added 2007.

[N.D. Cent. Code § 47-04.1-14](#)

Occupant status

The bylaws may not contain provisions that:

- base assessment of common charges on the basis of whether the unit occupant is an owner, a tenant, or other person; or

- "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."

Section amended 2001.

[N.D. Cent. Code § 47-04.1-07](#)

North Dakota, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that the unit owners must cause to be recorded in the office of the recorder the name of the 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.

When the owners or lessees of a lease desire to submit a parcel of real property to a project established by the North Dakota Condominium Law, a declaration to that effect must be executed and acknowledged by them and be recorded in the office of the recorder of the county in which such property lies.

Sections amended 2001.

[N.D. Cent. Code §§ 47-04.1-02, -07](#)

Ohio

Ohio, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. The common elements are owned by the owners as tenants in common in proportion to each unit's interest. Except for convertible land, the interest in the common elements is permanent and may not be changed without consent of all unit owners. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted.

Each unit's interest is determined by the fair market value of the unit in relation to the fair market value of all units on the date of the original declaration, or is determined on an equal basis.

Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights.

Section amended 2004.

[Ohio Rev. Code Ann. § 5311.04](#)

Ohio, Limits on Covenants and Restrictions

Flag display

No provision in the condominium documents may prohibit the placement of a flagpole or the display of the flag of the United States, the state of Ohio, or of the National League of Families POW/MIA on or within the limited common areas of a unit owner or the adjacent exterior of the building in which the unit owner is located.

No provision in condominium documents may prohibit the display of a service flag approved by the Secretary of Defense in the window of the residence of a member of the immediate family of an individual serving in the armed forces of the United States.

Section amended 2016.

[Ohio Rev. Code Ann. § 5311.191](#)

Ohio, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a declaration of condominium property must be filed and recorded in the office of the recorder of the county or counties in which the land described in the declaration is situated.

Enacted 2004.

[Ohio Rev. Stat. § 5311.06](#)

Oklahoma

Oklahoma, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any covenant allowing for partition shall be void.

Each unit's interest is determined by the fair market value of the unit in relation to the fair market value of all units on the date of the original declaration, and may not be altered without unanimous consent of all owners or as stated in the declaration.

Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights.

Section 505 amended 1989; §§ 506 and 507 enacted 1963.

[Okla. Stat. tit. 60, §§ 505, 506, 507](#)

Oklahoma, Limits on Covenants and Restrictions

Flag display

An owners' association may not adopt or enforce any policy or enter into any agreement that would restrict or prevent a member of the association from displaying the flag of the United States at a height of not more than 20 feet, on residential property that the member has a separate ownership interest or a right to exclusive possession or use.

Section added 2017.

[Okla. Stat. tit. 60, § 858](#)

Oklahoma, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a unit ownership estate is created by an owner or the co-owners of a building by an express declaration of their intention to submit such property to the provisions of the Oklahoma Unit Ownership Act, which declaration must be recorded in the office of the county clerk of the county in which the property is situated.

Amended 1973.

[Okla. Stat. tit. 60, § 502](#)

Oregon

Oregon, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any covenant allowing for partition shall be void. Each unit's interest shall not be altered without unanimous consent of all owners. A unit owner may not exempt himself from contributing to expenses for the common elements; there is no waiver or abandonment.

Section 100.530 amended 2019; § 100.515 amended 2009.

[Or. Rev. Stat. §§ 100.515, .530](#)

Oregon, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities cannot be applied to defeat any right given by the declaration, bylaws, rules, or regulations.

History unknown.

[Or. Rev. Stat. § 100.025](#)

Charging stations

Notwithstanding any provision to the contrary, the condominium may not prohibit the installation of an electric vehicle charging station in the owner's parking space or a limited common element with approval of other units using the limited common element. The association may impose reasonable restrictions on the charging station, such as the station must meet certain architectural standards and the unit owner must provide prior notice of installation.

Section amended 2015.

[Or. Rev. Stat. § 100.627](#)

Irrigation restrictions

A provision of a condominium's governing document or landscaping or architectural guidelines that imposes irrigation requirements on a unit owner or the association is void and unenforceable while any of the following is in effect:

- a declaration by the Governor that a severe, continuing drought exists or is likely to occur in a political subdivision within which the condominium is located;

- a finding by the Water Resources Commission that a severe, continuing drought exists or is likely to occur in a political subdivision within which the condominium is located;
- an ordinance adopted by the governing body of a political subdivision within which the condominium is located that requires conservation or curtailment of water use; or
- a rule adopted by the association to reduce or eliminate irrigation water use.

Section enacted 2017.

[Or. Rev. Stat. § 100.023](#)

Family child care

Except in condominiums that provide housing for older persons, a provision that prohibits or restricts the use of the unit owner's condominium unit or any limited common element as the premises of an exempt family child care provider participating in the child care subsidy program is void and unenforceable. If a condominium unit does not share a wall, floor or ceiling surface in common with another unit, a provision that prohibits or restricts the use of the unit owner's condominium unit or any limited common element designated for exclusive use by the occupants of the unit as a certified or registered family child care home is void and unenforceable.

Section enacted 2017.

[Or. Rev. Stat. § 100.023](#)

Oregon, Registration Requirements

Before a declaration to create a condominium may be recorded, it must be approved by the Real Estate Commissioner. The Commissioner will approve the declaration if:

- the declaration or amendment complies with the requirements of Or. Rev. Stat. §§100.105 and 100.135;
- the bylaws comply with Oregon law;
- the plat complies with the requirements of Or. Rev. Stat. § 100.115 or the plat amendment complies with Or. Rev. Stat. § 100.116;
- the declaration is for a conversion condominium and the declarant has submitted an affidavit stating that the required notice of conversion was given, copies of the written consent of any tenants or a signed statement that no tenants were entitled to notice, or a combination of these requirements;
- a paper copy of the plat executed by the declarant and a certification of plat execution have been submitted stating that the paper copy is a true copy of the plat signed by the declarant. The certification must be executed by the declarant, the professional land surveyor who signed the surveyor's certificate on the plat, the attorney for the declarant, a representative of the title insurance company that issued the information required, or another person authorized by the declarant in writing to execute the certification; and
- a copy of a reserve study has been submitted, if a disclosure statement was issued under ORS 100.655 and the reserve study was not included pursuant to ORS 100.640.

Section amended 2019.

[Or. Rev. Stat. § 100.110](#)

An association of unit owners may adopt a resolution, without approval of unit owners, to prepare and record a restated declaration that must include:

- the word "Restated" in the declaration title;

- all previously adopted amendments that are recorded and in effect;
- a statement that the association has adopted a resolution to restate the declaration;
- a reference to the recording index numbers and date of recording of the initial declaration and all previously recorded amendments that are in effect and are being codified; and
- a certification by the association that the restated declaration includes all previously adopted amendments that are recorded and in effect and that other changes were not made to the declaration except, if applicable, to correct scrivener's errors or to conform format and style.

Section added 2019.

[2019 Or. Laws Ch. 69.](#)

A Condominium Information Report must be filed with the Real Estate Agency within 90 days of the recording of the declaration. The Condominium Information Report must contain the following information:

- the name of the association;
- the name of the condominium and the county in which the condominium is located;
- the mailing address and county of the association;
- the date the condominium declaration was recorded and the recording index numbers;

- the name and residence or business address of the person designated as agent to receive service of process; and
- the number and type of units (number of living units, number of commercial/office units, and number of other units).

Section amended 2019.

[Or. Rev. Stat. § 100.260](#)

An annual report must be filed each year on or before the anniversary date of the filing of the Condominium Information Report. Annual fees must be paid with the report. The annual report must include this information:

- the name of the association;
- the name of the condominium and the county in which the condominium is located;
- the mailing address and county of the association;
- the name and residence or business address of the person designated as agent to receive service of process;
- the number and type of units (number of living units, number of commercial/office units, and number of other units);
- the names and addresses of the secretary and the chairperson or president of the association; and

- if the designated agent is changed, a statement that the new agent has consented to the appointment.

Sections 100.110 and 100.260 amended 2019; § 100.100 amended 2003; § 100.250 amended 2001.

[Or. Rev. Stat. §§ 100.100, 100.110, 100.250, 100.260](#)

Before selling any condominium units, the developer must file the following information with the Real Estate Commissioner:

- name and address of the condominium and county in which the condominium is located;
- name, address, and telephone number of the developer;
- two copies of the disclosure statement for the condominium;
- a copy of the declaration;
- a copy of the proposed or recorded bylaws;
- a copy of the plat of the condominium;
- a statement from county assessor or surveyor that condominium name is acceptable;
- a preliminary title report;

- a copy of all covenants, conditions, restrictions, and reservations affecting the property;
- a copy of the reserve study required by Or. Rev. Stat. § 100.175;
- a sample unit sales agreement;
- a copy of the escrow agreement (for installment sales and where required by Or. Rev. Stat. § 100.680);
- documents by which purchasers will be bound;
- any report or disclosure statement for the condominium (disclosure statement must meet the requirements of Or. Rev. Stat. § 100.655;
- a statement of any additional facts the developer wishes to disclose.

The developer must pay a fee to the Real Estate Commissioner to cover the costs of review and approval of the condominium. The developer must alert the Commissioner of any changes within 10 days of the change.

Sections 100.635 and 100.640 amended 2019; § 100.670 amended 1991.

[Or. Rev. Stat. §§ 100.635, .640, .670](#)

Pennsylvania

Pennsylvania, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. Each unit's interest shall not be altered without unanimous consent of all owners.

Section amended 1992.

[68 Pa. Cons. Stat. § 3208](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through a recorded assignment or amendment to the declaration.

Section enacted 1980.

[68 Pa. Cons. Stat. § 3209](#)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80 percent of voters in the association agree to that action.

Section amended 2018.

[68 Pa. Cons. Stat. § 3318](#)

Pennsylvania, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities cannot be applied to defeat any right given by the declaration, rules, or regulations.

Section enacted 1980.

[68 Pa. Cons. Stat. § 3203](#)

Pennsylvania, Registration Requirements

No specific provisions regarding this issue were located.

Puerto Rico

Puerto Rico, Land-Based Common Areas

The unit owners have an undivided interest in the common elements. The common elements are not subject to partition. Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights.

Sections 1291i and 1291l amended 2018; section 1291k amended 2003.

P.R. Laws Ann. tit. 31, §§ 1291i, 1291k, 1291l (LexisNexis 2018)

If parking spaces are a common element, the owners may not use a parking space that exceeds the capacity to accommodate one automobile per unit.

Section amended 2003.

P.R. Laws Ann. tit. 31, § 1291l-1 (LexisNexis 2018)

The unanimous consent of all the owners is required for work on the buildings and common areas that will curtail enjoyment of an owner or will adversely affect the common elements.

Section amended 2003.

P.R. Laws Ann. tit. 31, § 1291n (LexisNexis 2018)

Puerto Rico, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Puerto Rico, Registration Requirements

The property must be registered with the Department of Consumer Affairs. The application must be filed with the filing fee in an amount of \$25.00 per unit, with a minimum fee of \$500 and a maximum of \$2,000.

Section amended 2003; website visited December 9, 2019.

P.R. Laws Ann. tit. 31, § 1294b (LexisNexis 2018); [Puerto Rico Dept. of Consumer Affairs \(Departamento de Asuntos del Consumidor\)](#) website.

Rhode Island

Rhode Island, Land-Based Common Areas

Each unit owner has an undivided interest in the common areas and facilities. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common areas and facilities is permitted. Any attempt to transfer the interest in the common elements separately from the unit is void. The unit's interest shall not be altered without unanimous consent of all owners.

Section amended 2006.

[R.I. Gen. Laws § 34-36.1-2.07](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1982.

[R.I. Gen. Laws § 34-36.1-2.08](#)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80 percent of voters in the association agree to that action.

Section enacted 1982.

[R.I. Gen. Laws § 34-36.1-3.12](#)

Rhode Island, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities cannot be applied to defeat any right given by the declaration, bylaws, rules, regulations, or the Condominium Ownership Act.

Section amended 2006.

[R.I. Gen. Laws § 34-36.1-2.03](#)

Time limit on restrictions

A covenant or restriction concerning the use of land created by any instrument taking effect after May 11, 1953, if unlimited in time in the instrument, ceases to be valid and operative 30 years after the execution of the instrument creating it.

Section amended 2008.

[R.I. Gen. Laws § 34-4-21](#)

Community residences

Any restrictive covenant or other private legal impediment which directly or indirectly prevents or restricts the establishment of licensed community residences for eight or fewer mentally retarded or mentally disabled persons is void and unenforceable as to those community residences.

Section enacted 1985.

R.I. Gen. Laws § 34-4-25

Display of religious items

An association of unit owners "may not enforce or adopt a restrictive covenant or otherwise prohibit a unit owner or tenant from displaying or affixing on the entry to the unit owner's or tenant's dwelling one or more religious items, the display of which is motivated by the unit owner's or tenant's sincere religious belief."

This prohibition does not prevent the enforcement or adoption of a covenant that, to the extent allowed by the United States and Rhode Island constitutions, prohibits the display or affixing of a religious item on the entry to the unit owner's or tenant's dwelling that:

- threatens the public health or safety;
- violates any state or federal law barring discrimination in housing, or any other law;
- is in a location other than the entry door or door frame or extends past the outer edge of the door frame of the unit owner's or resident's dwelling; or
- individually, or in combination with each other displayed religious item has a total size of greater than 25 square inches.

A unit owner or tenant may not use a material or color for an entry door or door frame of the owner's or resident's dwelling or make an alteration to the entry door or door frame that is not authorized by the restrictive covenant governing the dwelling.

The association may remove an item displayed in violation of a restrictive covenant permitted above.

Section enacted 2015.

[R.I. Gen. Laws § 34-37-5.5](#)

Rhode Island, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, a condominium may be created only by recording a declaration in the municipal land evidence records in every municipality in which any portion of the condominium is located.

A unit owners' association must be organized no later than the date the first unit is conveyed to a purchaser. The association must be organized as a profit or nonprofit corporation or as an unincorporated association. "In the case of an unincorporated association, a certificate evidencing the names of the executive board members and mailing address for the association shall be recorded with the municipal land records department for the city or town in which the condominium is located, which shall be updated as often as necessary to reflect any changes in the composition of the executive board."

Sections amended 2009.

[R.I. Gen. Laws §§ 34-36.1-2.01, -3.01](#)

South Carolina

South Carolina, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. The interest is determined by taking the value of the unit in relation to the value of the property as a whole. Each unit's interest is permanent in character and shall not be altered without unanimous consent of all owners. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any covenant allowing for partition is void.

Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights. Any conveyance or lease of an individual apartment also conveys or leases the undivided interest in the common elements. A unit owner may not exempt himself from contributing to expenses for the common elements; there is no waiver or abandonment.

Section 27-31-60 amended 1973; sections 27-31-70 and 27-31-80 amended 1967; section 27-31-120 amended 1984; section 27-31-190 amended 1967.

[S.C. Code Ann. §§ 27-31-60, -70, -80, -120, -190](#)

South Carolina, Limits on Covenants and Restrictions

Flag display

"Regardless of any restrictive covenant, declaration, rule, contractual provision, or other requirement concerning flags or decorations found in a deed, contract, lease, rental agreement, or homeowners' association document, any homeowner or tenant may display one portable, removable United States flag in a respectful manner," consistent with federal law, on the premises of the property of which he is entitled to use.

Section enacted 2002.

[S.C. Code § § 27-1-60](#)

South Carolina, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that the master deed or lease creating and establishing a horizontal property regime must be executed by the owner or owners of the real property making up the regime and be recorded with the register of mesne conveyance or clerk of court of the county where such property is located.

Section amended 1999.

[S.C. Code Ann. § 27-31-100 \(2018\)](#)

South Dakota

South Dakota, Land-Based Common Areas

Each owner has a right to share the common areas of the property with the other co-owners.

Section enacted 1975.

[S.D. Codified Laws § 43-15A-7](#)

South Dakota, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

South Dakota, Registration Requirements

Before offering a condominium for sale, the developer must notify the Real Estate Commission in writing of its intention to sell offerings. A fee of \$25.00 per unit, up to a maximum of \$500, must be paid with the notice of intention. A verified questionnaire, provided by the Commission, must also be filed with the notice of intention. The questionnaire must include the following information:

- statement of rights and privileges to the common areas;
- sales price of each unit;
- down payment requirements;

- mortgage interest rates;
- estimated property taxes of the condominium;
- estimated insurance costs for the condominium; and
- amounts to be charged pursuant to the maintenance contract.

If an inspection is required by the Real Estate Commission, the developer must also pay fees to cover inspection costs. The Commission must be notified in writing of any changes to the offering

Sections 43-15A-10, 43-15A-11 and 43-15A-22 amended 1986; § 43-15A-14 enacted 1975; regulations amended 1989, transferred 1993.

[S.D. Codified Laws §§ 43-15A-10, -11, -14, -22; S.D. Admin. R. 20:69:07:01, :07](#)

Tennessee

Tennessee, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit; any attempt to transfer the interest in common elements separately from the unit shall be void. No action for partition regarding the common elements is permitted.

Section enacted 2008.

Tenn. Code Ann. § 66-27-307 (LexisNexis 2018)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 2008.

Tenn. Code Ann. § 66-27-308 (LexisNexis 2018)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80% of voters in the association agree to that action.

Section enacted 2008.

Tenn. Code Ann. § 66-27-412 (LexisNexis 2018)

Tennessee, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities may not be applied to defeat any right given by the declaration, bylaws, rules, or regulations.

Section enacted 2008.

Tenn. Code Ann. § 66-27-303 (LexisNexis 2018)

Flag display

A homeowners' association may not adopt or enforce a restrictive covenant or other rule or agreement that prohibits, or has the effect of prohibiting, a property owner from displaying the flag of the United States of America or an official or replica flag of any branch of the United States

armed forces, on the property owner's property. An association may adopt or enforce reasonable rules and regulations regarding the placement and manner for the display of flags. This limitation applies to documents created or amended on or after July 1, 2017.

Enacted 2017.

Tenn. Code Ann. § 66-27-602 (LexisNexis 2018)

Political signs

A homeowners' association may not prohibit the display of political or campaign posters or signs placed on private property by the property owner or any lawful resident on the property. An HOA may adopt reasonable covenants, conditions, restrictions, or rules with respect to the placement of political or campaign posters or signs placed on common or other areas maintained by the HOA.

"A resident of a multi-unit residential dwelling may place political or campaign posters or signs on property owned or under the control of the resident."

Enacted 2017.

Tenn. Code Ann. § 2-7-143 (LexisNexis 2018)

Tennessee, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium may be created only by recording a declaration, executed in the same manner as a deed, in every county in which any portion of the condominium is located,

Section amended 2015.

Tenn. Code Ann. § 66-27-301 (LexisNexis 2018)

Texas

Texas, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit; any attempt to transfer the interest in common elements separately from the unit shall be void. No action for partition regarding the common elements is permitted.

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Enacted 1993.

[Tex. Prop. Code Ann. § 82.057](#)

Texas, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities cannot be applied to defeat any provision of declaration, bylaws, or rules of the association.

Section enacted 1993.

[Tex. Prop. Code Ann. § 82.053](#)

Flag display

A property owners' association may not adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

- the flag of the United States of America;
- the flag of the State of Texas; or
- an official or replica flag of any branch of the United States armed forces.

An association may adopt reasonable limitations on the size of flags, illumination, and the method of display.

Section enacted 2013.

[Tex. Prop. Code Ann. § 202.012](#)

Political signs

A property owners' association may not enforce or adopt a restrictive covenant that prohibits a property owner from displaying on the owner's property one or more signs advertising a candidate or measure for an election:

- on or after the 90th day before the date of the election to which the sign relates; or
- before the 10th day after that election date.

An association may adopt or enforce a covenant that:

- requires a sign to be ground-mounted; or
- limits a property owner to displaying only one sign for each candidate or measure.

A covenant may prohibit a sign that:

- contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or nonstandard decorative component;
- is attached in any way to plant material, a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;
- includes the painting of architectural surfaces;
- threatens the public health or safety;
- is larger than four feet by six feet;
- violates a law;
- contains language, graphics, or any display that would be offensive to the ordinary person;
or
- is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists.

A property owners' association may remove a sign displayed in violation of a permitted restrictive covenant.

Section amended 2019.

[Tex. Elec. Code Ann. § 259.002](#)

Display of religious items

An association may not enforce or adopt a restrictive covenant that prohibits a property owner or resident from displaying or affixing on the entry to the owner's or resident's dwelling one or more religious items the display of which is motivated by sincere religious belief.

The association may, however, enforce or adopt a covenant that, to the extent allowed by the U.S. and Texas constitutions, prohibits the display or affixing of a religious item on the entry to the dwelling that:

- threatens public health or safety;
- violates a law;
- "contains language, graphics, or any display that is patently offensive to a passerby;"
- is in a location other than the entry door or door frame or extends past the outer edge of the door frame of the dwelling; or
- individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 25 square inches.

This statute does not authorize an owner or resident to use a material or color for an entry door or door frame or make an alteration to the entry door or door frame that is not authorized by the restrictive covenants governing the dwelling. The association may remove an item displayed in violation of a permitted restrictive covenant.

Section enacted 2011.

[Tex. Prop. Code Ann. § 202.018](#)

Shingles

An association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner who is otherwise authorized to install shingles on the roof of the owner 's property from installing shingles that:

- are designed primarily to: (a) be wind and hail resistant; (b) provide heating and cooling efficiencies greater than those provided by customary composite shingles; or (c) provide solar generation capabilities;

- when installed: (a) resemble the shingles used or otherwise authorized for use on property in the condominium; (b) are more durable than and are of equal or superior quality to the shingles described above; and

- (c) match the aesthetics of the property surrounding the owner 's property.

Section enacted 2011.

[Tex. Prop. Code Ann. § 202.011](#)

Generators

A property owners' association, including a condominium association, may not adopt or enforce a dedicatory instrument provision that prohibits or restricts an owner from owning, operating, installing, or maintaining a permanently installed standby electric generator.

The association may, however, adopt or enforce dedicatory instrument provisions to regulate the location, operation and installation of standby electric generators as specified in § 202.019.

Section enacted 2015.

[Tex. Prop. Code Ann. § 202.019](#)

Irrigation systems

A property owners' association, including a condominium association, may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from implementing efficient irrigation systems, including underground drip or other drip systems. Such provisions are void.

An association may, however, regulate the installation of efficient irrigation systems, including establishing visibility limitations for aesthetic purposes.

This restriction does not apply to a property owners' association, including a condominium association, that:

- is located in a municipality with a population of more than 175,000 that is located in a county in which another municipality with a population of more than one million is predominantly located; and

- manages or regulates a development in which at least 4,000 acres of the property is subject to a covenant, condition, or restriction designating the property for commercial use, multifamily dwellings, or open space.

Section amended 2013.

[Tex. Prop. Code Ann. § 202.007](#)

Landscaping

A property owners' association, including a condominium association, may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner using drought-resistant landscaping or water-conserving natural turf. Such provisions are void.

An association may, however, restrict the type of turf used by a property owner in the planting of new turf to encourage or require water-conserving turf. The association may regulate:

- the installation or use of gravel, rocks, or cacti; and
- yard and landscape maintenance if the restrictions or requirements do not restrict or prohibit turf or landscaping design that promotes water conservation.

The association may require an owner to submit a detailed plan for the installation of drought-resistant landscaping or water-conserving natural turf for review and approval by the association to ensure, to the extent practicable, maximum aesthetic compatibility with other landscaping in the condominium.

This restriction does not apply to a property owners' association, including a condominium association, that:

- is located in a municipality with a population of more than 175,000 that is located in a county in which another municipality with a population of more than one million is predominantly located; and
- manages or regulates a development in which at least 4,000 acres of the property is subject to a covenant, condition, or restriction designating the property for commercial use, multifamily dwellings, or open space.

Section amended 2013.

[Tex. Prop. Code Ann. § 202.007](#)

Composting

A property owners' association, including a condominium association, may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from "implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass. Any such provision is void.

However, an association may regulate the requirements, including size, type, shielding, and materials, for or the location of a composting device if the restriction does not prohibit the economic installation of the device on the owner's property where there is reasonably sufficient area to install the device. An association is not required to permit a device to be installed in or on property:

- owned by the association;
- owned in common by the members of the association; or
- in an area other than the fenced yard or patio of a property owner;

This restriction does not apply to a property owners' association, including a condominium association, that:

- is located in a municipality with a population of more than 175,000 that is located in a county in which another municipality with a population of more than one million is predominantly located; and
- manages or regulates a development in which at least 4,000 acres of the property is subject to a covenant, condition, or restriction designating the property for commercial use, multifamily dwellings, or open space.

Section amended 2013.

[Tex. Prop. Code Ann. § 202.007](#)

Rain harvesting systems

A property owners' association, including a condominium association, may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from installing rain barrels or a rainwater harvesting system. Such a provision is void.

However, an association need not permit a rain barrel or rainwater harvesting system to be installed in or on property if:

- the property is owned by the association, owned in common by the members of the association, or located between the front of the property owner's home and an adjoining or adjacent street; or

- the barrel or system is a color inconsistent with the color scheme of the property owner 's home or displays any language or other content that is not typically displayed by such a barrel or system as it is manufactured.

The association may regulate the size, type, and shielding of, and the materials used in the construction of, a rain barrel, rainwater harvesting device, or other appurtenance that is located on the side of a house or at any other location that is visible from a street, another lot, or a common area if:

- the restriction does not prohibit the economic installation of the device or appurtenance on the owner's property; and
- there is a reasonably sufficient area on the owner 's property in which to install the device or appurtenance.

This restriction does not apply to a property owners' association, including a condominium association, that:

- is located in a municipality with a population of more than 175,000 that is located in a county in which another municipality with a population of more than one million is predominantly located; and
- manages or regulates a development in which at least 4,000 acres of the property is subject to a covenant, condition, or restriction designating the property for commercial use, multifamily dwellings, or open space.

Section amended 2013.

[Tex. Prop. Code Ann. § 202.007](#)

Family home

A condominium dedicatory instrument or restrictive covenant may not be construed to prevent the use of property as a family home. "Family home" is a residential home that meets the definition of and requirements applicable to a family home under the Community Homes for Disabled Persons Location Act.

Section enacted 1987.

[Tex. Prop. Code Ann. § 202.003](#)

Texas, Registration Requirements

The owner's association must be organized as a profit or nonprofit corporation with the secretary of state. The declarant may not convey a unit until the Secretary of State has issued a certificate of incorporation.

Section added 1993.

[Tex. Prop. Code Ann. § 82.101](#)

The association must record a certificate in each county in which the condominium property is located. The certificate must be signed and acknowledged by an officer of the association and state the following:

- the name of the condominium;
- the name of the association;
- the location of the condominium;

- the recording data for the declaration;
- the mailing address of the association; and
- any other information the association considers appropriate.

Section amended 2013.

[Tex. Prop. Code Ann. § 82.116](#)

Utah

Utah, Land-Based Common Areas

Each unit owner has an undivided interest in the common areas and facilities. The common areas and facilities are owned by the owners in proportion to each unit's interest. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common areas and facilities is permitted. Any covenant allowing for partition is void.

Each unit's interest is determined by value or size of the unit in relation to the value or size of the aggregate of all units on the date of the original declaration, or by equal shares to each unit. This interest is permanent in character shall not be altered without consent of two-thirds of the unit owners.

Unit owners may use the common areas and facilities for the purposes for which they were intended, but may not hinder other owners' rights. A unit owner may not exempt himself from contributing to expenses for the common elements; there is no waiver or abandonment.

Section 57-8-7 amended 2013; § 57-8-26 enacted 1963.

[Utah Code Ann. §§ 57-8-7, -26](#)

Utah, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities and rule against unreasonable restraint on alienation do not apply to defeat any provisions of the declaration, bylaws, or other condominium documents.

Section enacted 1963.

[Utah Code Ann. § 57-8-28](#)

Flag display

An association of unit owners may not prohibit a resident from displaying a United States or Utah state flag within the area under the resident's control from a staff, pole, or window.

Section enacted 2004.

[Utah Code Ann. § 57-24-102](#)

Household composition

A rule may not interfere with a unit owner's freedom to determine the composition of the owner's household. However, the association may require that all occupants of a dwelling be members of a single housekeeping unit. It may also limit the total number of occupants permitted in each dwelling on the basis of the dwelling's size and facilities and fair use of common areas and facilities.

Section amended 2016.

[Utah Code Ann. § 57-8-8.1](#)

Rental restrictions

An association may create restrictions on the number and term of rentals in a condominium project, or prohibit rentals altogether. Such restrictions must include a provision that exempts from the rental restrictions the following unit owners and the unit owner's unit:

- a unit owner in the military for the period of the owner's deployment;
- a unit occupied by a owner's parent, child, or sibling;
- a unit owner whose employer has relocated the owner for two years or less;
- a unit owned by an entity that is occupied by an individual who has voting rights under the entity's organizing documents and has a 25 percent or greater share of ownership, control, and right to profits and losses of the entity; and
- a unit owned by a trust or other entity created for estate planning purposes if the trust or other entity was created for the estate of a current resident of the unit or the parent, child, or sibling of the current resident.

An association may not require an owner of a rental unit to:

- obtain association approval of a prospective renter;
- give the association copies of rental applications, renters' credit information, renters' background information or renters' age verification documentation; or

- pay an additional assessment, fine, or fee because the unit is a rental unit.

See § 57.8-10.1 for additional requirements related to rental restrictions.

Section amended 2018.

[Utah Code Ann. § 57-8-10.1](#)

Utah, Registration Requirements

Within 90 days of filing a declaration, the association of unit owners must register with the Department of Commerce. The following information must be provided with the registration:

- name and address of the association;
- name, address, telephone number and email address of the president of the association;
- name and address of each management committee member;
- name, address, telephone number, and email address of the primary contact person who has association payoff information;

A registration fee of not more than \$37 must be paid with the registration. The association must provide the Department of Commerce with updated information within 90 days of a change.

Section amended 2013.

[Utah Code Ann. § 57-8-13.1](#); **[Utah Dep't. of Commerce](#)** (last visited December 10, 2019)

Vermont

Vermont, Land-Based Common Areas

Each unit owner has an undivided interest in the common areas and facilities. This interest may not be transferred separately from the owner's unit; any attempt to transfer the interest in common elements separately from the unit will be void.

Section enacted 1997.

[Vt. Stat. Ann. tit. 27A, § 2-107](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section enacted 1997.

[Vt. Stat. Ann. tit. 27A, § 2-108](#)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80% of voters in the association agree to that action.

Section enacted 1997.

[Vt. Stat. Ann. tit. 27A, § 3-112](#)

Vermont, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities and rule against unreasonable restraint on alienation do not apply to defeat any provisions of the declaration, bylaws, or other condominium documents.

Section amended 2009, effective 2012.

[Vt. Stat. Ann. tit. 27, § 2-103](#)

Renewable energy devices

No deed restrictions, covenants, or similar binding agreements running with the land may prohibit solar collectors, clotheslines, or other energy devices based on renewable resources from being installed on buildings erected on the lots or parcels covered by the restrictions, covenants, or agreements.

A property owner may not be denied permission to install energy devices based on renewable resources by "any entity granted the power or right in any deed restriction, covenant, or similar binding agreement to approve, forbid, control, or direct alteration of property with respect to residential dwellings." The entity may "determine the specific location where solar collectors may be installed on the roof within an orientation to the south or within 45 east or west of due south, provided that this determination does not impair the effective operation of the solar collectors."

Section enacted 2009.

[Vt. Stat. Ann. tit. 27, § 544](#)

Flag display

A rule regulating display of the U.S. flag of the United States must be consistent with federal law.

The association may not prohibit display on a unit or on a limited common element adjoining a unit of the flag of Vermont, but the association may adopt rules governing the time, place, size, number, and manner of those displays.

Section enacted 2009, effective 2012.

[Vt. Stat. Ann. tit. 27A, § 3-120](#)

Political signs

The association may not prohibit display on a unit or on a limited common element adjoining a unit signs regarding candidates for public or association office or ballot questions, but the association may adopt rules governing the time, place, size, number, and manner of those displays.

Section enacted 2009, effective 2012.

[Vt. Stat. Ann. tit. 27A, § 3-120](#)

Assembly

"Unit owners may peacefully assemble on the common elements to consider matters related to the common interest community, but the association may adopt rules governing the time, place, and manner of those assemblies."

Section enacted 2009, effective 2012.

[Vt. Stat. Ann. tit. 27A, § 3-120](#)

Vermont, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that common interest community may be created only by recording a declaration, executed in the same manner as a deed, which must be recorded in each town in which any portion of the common interest community is located.

Section amended 1999.

[Vt. Stat. Ann. tit. 27A, § 2-101](#)

Virgin Islands

Virgin Islands, Land-Based Common Areas

Each unit owner has an undivided interest in the common areas and facilities. This interest is permanent in character shall not be altered without consent of all of the unit owners. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common areas and facilities is permitted. Any covenant allowing for partition shall be void.

A unit owner may not exempt himself from contributing to expenses for the common elements; there is no waiver or abandonment.

V.I. Code Ann. tit. 28, §§ 905, 920 (LexisNexis 2018)

Virgin Islands, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Virgin Islands, Registration Requirements

No specific provisions regarding this issue were located.

Virginia

Virginia, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any attempt to transfer, encumber, or dispose of the interest in the common elements without the unit shall be void. Each unit's interest is determined by the value or size of the unit in relation to the value or size of the aggregate of all units on the date of the original declaration, or in equal shares.

Section enacted 2019.

[Va. Code Ann. § 55.1-1917](#)

Virginia, Limits on Covenants and Restrictions

Flag display

Although the condominium may impose reasonable restrictions as to the size, place, duration, and manner of placement, the condominium may not prohibit or restrict the display of the American flag on the unit owners' separate property.

Section enacted 2019.

[Va. Code Ann. § 55.1-1951](#)

For sale signs

Except as expressly authorized in the condominium instruments or as otherwise provided by law, no unit owners' association may require the use of any for sale sign that is an association sign or a real estate sign that does not comply with the requirements of the Virginia Real Estate Board.

An association may, however, prohibit the placement of signs in the common elements and establish reasonable rules that regulate:

- the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, provided at least one real estate sign is permitted;

- the geographical location of the signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location complies with the requirements of the Virginia Real Estate Board;
- the manner in which such signs are affixed to real property; and
- the period of time after settlement when the real estate signs on such real property must be removed.

Section amended 2019.

[Va. Code Ann. § 55.1-1961](#)

First refusal rights

Rights of first refusal and restraints on the free alienability of any unit are void, unless the condominium documents allow for a waiver of those conditions to the unit owners.

Section enacted 2019.

[Va. Code Ann. § 55.1-1969](#)

Rule against perpetuities

No provision of a condominium instrument shall be deemed void by application of the rule against perpetuities. The rule restricting unreasonable restraints on alienation shall not be applied to defeat any provision of the condominium instruments restraining the alienation of condominium units, except that units may be restricted to residential use only. No restraint on alienation shall be used to discriminate on any basis prohibited under the Virginia Fair Housing Law.

Section enacted 2019.

[Va. Code Ann. § 55.1-1914](#)

Virginia, Registration Requirements

Before selling of any units, the condominium must be registered with the Common Interest Community Board. The application for registration must contain the following information:

- an irrevocable appointment of the agency to receive service of process;
- the states or jurisdictions in which an application for registration has been filed, and any adverse orders, judgments, or decrees entered in connection with the condominium;
- name, address, and form, date, jurisdiction of the organization, and address of each office in Virginia;
- name, address, and principal occupation for the past 5 years of every officer of the applicant;
- a statement of the condition of the title of the condominium;
- copies of all instruments which will be given to purchasers;
- copies of any management agreements or other agreements regarding use, maintenance, or access to the condominium;
- a statement of zoning or other government regulations affecting the condominium;

- a description of the promotional plan for sale of the units;
- plats and plans of the condominium;
- the proposed public offering statement;
- any other information requested by the Common Interest Community Board.

A fee in the amount of \$35 per unit, with a minimum fee of \$1750 and a maximum fee of \$3500, must be filed with the application for registration.

Section 55.1-1975 added 2019; regulations promulgated 2015.

[Va. Code Ann. § 55.1-1975; 18 Va. Admin. Code §§ 48-30-90, -100, -110](#)

The documents submitted with the application must be attached as exhibits, and labeled as follows:

- Exhibit A: a copy of the certificate of incorporation or certificate of authority to transact business in Virginia;
- Exhibit B: title opinion, title policy, or a statement of the condition of the title to the condominium project;
- Exhibit C: instruments that will be given to a purchaser to agree to or sign;
- Exhibit D: a narrative description of the promotional plan for the condominium units;

- Exhibit E: documentation demonstrating the declarant's financial ability to complete the project in accordance with 18VAC48-30-120;
- Exhibit F: the proposed public offering statement;
- Exhibit G: copies of bonds required by §§ 55-79.58:1, 55.79.84:1, and 55-79.95 of the Code of Virginia, if applicable;
- Exhibit H: a list of every officer of the declarant who is directly responsible for the project. The list must include each individual's address, principal occupation for the past five years, and extent and nature of the individual's interest in the condominium;
- Exhibit I: plats and plans of the condominium;
- Exhibit J: conversion condominiums must attach (i) a copy of the general notice provided to tenants of the condominium at the time of application pursuant to subsection B of § 55-79.94 of the Code of Virginia, (ii) a copy of the formal notice to be sent at the time of registration to the tenants, if any, of the building or buildings, and (iii) the certified statement required in accordance with subsection C of § 55-79.94 of the Code of Virginia.

Regulation promulgated 2015.

[18 Va. Admin Code § 48-30-130](#)

The following items are prerequisites to approval of an application:

- documentation showing the owner's ownership of the land;
- the condominium documents were recorded;

- the declarant must show sufficient financial ability to complete the project;
- all marketing efforts must comply with Virginia law; and
- the declarant must file its proposed public offering statement.

Regulation promulgated 2015.

18 Va. Admin Code § 48-30-120

Once a condominium is registered, the declarant of the condominium must:

- file an annual report declarant with the Common Interest Community Board within 30 days of the anniversary date of registration of the condominium;
- file a copy of the formal notice to the tenants of a conversion condominium upon delivery or no later than 15 days after delivery to such tenants;
- file an amended public offering statement or substituted public offering statement, if there are any changes;
- notify the board of a change in the bond or letter of credit, as applicable;
- file a complete application for registration of unregistered additional units upon the expansion of the condominium or the formation of units out of additional land;

- notify the board of transition of control of the unit owners' association or upon the transfer of special declarant rights to a successor declarant;
- submit documentation to the board once the registration is eligible for termination;
- submit amended or new documents or information that affects the accuracy, completeness, or representation of any information or document filed with the application for registration;
- submit any document or information to make the registration file accurate and complete.

The annual report must include the following:

- contact information for the declarant;
- contact information for the declarant's attorney, if applicable;
- date of the public offering statement currently being used;
- date of recording of the condominium instruments and locality wherein recorded;
- number of phases registered with the board, if applicable;
- number of phases recorded, if applicable;
- number of units recorded;

- number of units conveyed;
- status of completion of all common elements within the condominium;
- status of declarant control;
- whether the declarant is current in the payment of assessments; and
- evidence from the surety or financial institution of any bond or letters of credit.

Section 55.1-1979 added 2019; regulations promulgated 2015.

[Va. Code Ann. § 55.1-1979; 18 Va. Admin. Code §§ 48-30-150, -460, -480, -490, -520, -530, -540, -550, -560, -600, -630, -640](#)

Once the owner's association takes control of the condominium, the association must file an annual report with the Common Interest Community Board and pay the registration fee. The association shall also remit to the agency an annual payment which is the lesser of:

- \$1,000 or such other amount as established by agency regulation; or
- five hundredths of one percent (0.05%) of the unit owners' association's gross assessment income during the preceding year.

No minimum payment shall be less than \$10.00. The annual payment shall be remitted to the State Treasurer.

Section enacted 2019.

[Va. Code Ann. § 55.1-1980; Va. Common Interest Community Board website](#) (last visited December 10, 2019)

Washington

Washington, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. No action for partition regarding the common elements is permitted. Any attempt to transfer, encumber, or dispose of the interest in the common elements without the unit shall be void.

Section amended 1992.

[Wash. Rev. Code § 64.34.224](#)

The owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration, with approval from the board of directors.

Section amended 1992.

[Wash. Rev. Code § 64.34.228](#)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80 percent of voters in the association agree to that action.

Section enacted 1989.

[Wash. Rev. Code § 64.34.348](#)

Note: The above provisions of the Condominium Act, Wash. Rev. Code ch. 64.34, do not apply to condominiums created after July 1, 2018. Condominiums created after that date are governed by the following provisions of the Uniform Common Interest Ownership Act, Wash. Rev. Code ch. 64.90, enacted in 2018.

The common elements of a condominium are not subject to partition. "[A]ny purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void."

An allocation of a limited common element may be altered with the consent of the owners of the units from which and to which the limited common element is allocated and with the board approval and amendment to the declaration.

Unless the declaration provides otherwise, the unit owners of units to which at least 67 percent of the votes are allocated, "including the unit owner of the unit to which the common element or limited common element will be assigned or incorporated, must agree to reallocate a common element as a limited common element or to incorporate a common element or a limited common element into an existing unit. Such reallocation or incorporation must be reflected in an amendment to the declaration and the map."

Section enacted 2018.

[Wash. Rev. Code §§ 64.90.235, .240](#)

Washington, Limits on Covenants and Restrictions

Rule against perpetuities

The rule against perpetuities and rule against unreasonable restraint on alienation do not apply to defeat any provisions of the declaration, bylaws, or other condominium documents.

Section enacted 1989.

[Wash. Rev. Code § 64.34.208](#)

Note: The above provision of the Condominium Act, Wash. Rev. Code ch. 64.34, does not apply to condominiums created after July 1, 2018. Condominiums created after that date are governed by the following provision of the Uniform Common Interest Ownership Act, Wash. Rev. Code ch. 64.90, enacted in 2018.

The rule against perpetuities may not be applied to defeat any provision of the governing documents.

Section enacted 2018.

[Wash. Rev. Code § 64.90.215](#)

Washington, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium may be created only by recording a declaration executed by the owner of the interest subject to the Condominium Act in the same manner as a deed and by simultaneously recording a survey map and plans. "The declaration and survey map and plans must be recorded in every county in which any portion of the condominium is located."

Section amended 1992.

[Wash. Rev. Code § 64.34.200](#)

Note: The above provision of the Condominium Act, Wash. Rev. Code ch. 64.34, does not apply to condominiums created after July 1, 2018. Condominiums created after that date are governed by the following provisions of the Uniform Common Interest Ownership Act, Wash. Rev. Code ch. 64.90, enacted in 2018.

No specific provisions regarding this issue were located.

Note, however, that a condominium may be created under the Washington Uniform Common Interest Ownership Act only by recording a declaration, executed in the same manner as a deed, and a map in every county in which any portion of the condominium is located.

A unit owners association must be organized as a for-profit or nonprofit corporation or limited liability company no later than the date the first unit in the common interest community is conveyed to a purchaser.

Sections enacted 2018.

[Wash. Rev. Code §§ 64.90.200, .400 \(2018\)](#)

West Virginia

West Virginia, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any attempt to transfer, encumber, or dispose of the interest in the common elements without the unit shall be void.

Section amended 1986.

[Va. Code § 36B-2-107](#)

Unless the declaration states otherwise, the owners with rights to a limited common element may agree to re-allocate the interest through amendment to the declaration.

Section amended 1986.

[Va. Code § 36B-2-108](#)

Portions of the common elements may be conveyed or subjected to a mortgage or security interest if at least 80 percent of voters in the association agree to that action.

Section amended 1986.

[Va. Code § 36B-3-112](#)

West Virginia, Limits on Covenants and Restrictions

Solar energy systems

Any covenant, restriction, or condition contained in any governing document of a housing association executed or recorded after the effective date of § 36-4-19 that effectively prohibits or restricts the installation or use of a solar energy system is void and unenforceable. However, a housing association may, by vote of its members, establish or remove a restriction that prohibits or restricts the installation or use of a solar energy system.

A housing association may restrict or limit the installation of solar energy systems installed in common areas and common structures, and may "impose reasonable restrictions on solar energy systems including restrictions for historical preservation, architectural significance, religious or cultural importance to a given community."

History unknown.

[Va. Code § 36-4-19](#)

Rule against perpetuities

The rule against perpetuities and rule against unreasonable restraint on alienation do not apply to defeat any provisions of the declaration, bylaws, or other condominium documents.

Section amended 2003.

[Va. Code § 36B-2-103](#)

Existing restrictive covenants

The declaration or bylaws may not change an existing restrictive covenant in a deed to any real estate that is or that becomes subject to the condominium law, except for restrictive covenants which contain provisions authorizing amendment when those provisions for amendment are duly followed.

Section amended 2003.

[W. Va. Code § 36B-2-103](#)

West Virginia, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a common interest community such as a condominium may be created only by recording a declaration, which must be executed in the same manner as a deed, in every county in which any portion of the common interest community is located.

Section amended 1986.

[W. Va. Code § 36B-2-101](#)

Wisconsin

Wisconsin, Land-Based Common Areas

Each unit owner has an undivided interest in the common elements. This interest is permanent in character and may not be altered without consent of all of the unit owners. The interest may not be transferred separately from the owner's unit. No action for partition regarding the common elements is permitted. Any covenant allowing for partition is void.

Unit owners may use the common elements for the purposes for which they were intended, but may not hinder other owners' rights.

Section 703.13 amended 2018; § 703.14 enacted 1977.

[Wis. Stat. Ann. §§ 703.13, 703.14](#)

Wisconsin, Limits on Covenants and Restrictions

Flag display

Although a condominium may impose restrictions on the size and location of signs, flags, and flagpoles, no provision may prohibit a unit owner from respectfully displaying the American flag or displaying a political sign in support or opposition to a candidate for political office or a referendum question.

Section amended 2005.

[Wis. Stat. Ann. § 703.105](#)

Rule against perpetuities

The rule against perpetuities and rule against unreasonable restraint on alienation do not apply to defeat any provisions of the declaration, bylaws, or other condominium documents.

Section enacted 1977.

[Wis. Stat. Ann. § 703.30](#)

Wisconsin, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that a condominium may only be created by recording condominium instruments with the register of deeds of the county where the property is located. A condominium declaration and plat must be presented together for recording.

Section amended 1997.

[Wis. Stat. Ann. § 703.07](#)

Wyoming

Wyoming, Land-Based Common Areas

Each unit owner has an undivided fee simple interest in the common elements. The interest may not be transferred separately from the owner's unit.

Section amended 2010.

Wyo. Stat. Ann. § 34-20-102

Wyoming, Limits on Covenants and Restrictions

No specific provisions regarding this issue were located.

Wyoming, Registration Requirements

No specific provisions regarding this issue were located.

Note, however, that whenever condominium ownership of real property is created, or separate assessment of condominium units is desired, a written notice thereof, setting forth descriptions of the units, must be delivered to the assessor of the county in which said real property is situated. The declaration shall be recorded in the office of the county clerk where the condominium property is located.

Section amended 1965.

Wyo. Stat. § 34-20-104