

DECLARATION

Declaration, Article II, Section 18 - Unit

In addition to the requirements of this section:

- Subsection 47-221(1) of CIOA, which now applies to pre-1984 communities, contains provisions clarifying the exact location of unit boundaries. This subsection applies except as otherwise provided by the declaration. Subsection 47-221(1) states:

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

Declaration, Article VIII - Description of Limited Common Areas

In addition to the requirements of this article:

- Subsections 47-221(2) and (4) of CIOA, which now apply to pre-1984 communities, clarify when building components are limited common elements. These subsections apply except as otherwise provided by the declaration. They state:

If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

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

Declaration, Article XX - Amendment of Declaration

Notwithstanding the requirements of this article:

- Except in a few limited cases, the provision in the declaration relating to unit boundaries and allocated interests (percentages) cannot be amended except by the unanimous consent of all the unit owners [*Subsection 47-236(d)*]. *Always seek the advice of a knowledgeable attorney before amending your declaration.*
- The holder of a security interest required to consent to any amendment to the declaration or bylaws is deemed to have given that consent if the association has not received a refusal to consent 45 days after the association has delivered notice of the proposed amendment to the holder of the interest or mails the notice to the holder by certified mail, return receipt requested [*Subsection 47-236(i)*].
 - The association may rely on the last recorded security interest of record in delivering or mailing notice to the holder of that interest [*Subsection 47-236(i)*].
- An amendment to the declaration that affects the priority of a security interest held by a mortgage holder or the ability of that holder to foreclose its security interest may not be adopted without that holder's consent in a written communication which is forwarded to the association either in the original or in electronic form [*Subsection 47-236(i)*].

Declaration, Article XXIV - Waiver

- *See comment to Bylaws Article IV, Section 2 relating to the board enforcing a right or compromising a claim.*