

Section 356-B:16

356-B:16 Contents of Declaration. –

I. The declaration for every condominium shall contain the following:

- (a) The name of the condominium, which name shall include the word "condominium" or be followed by the words "a condominium";
- (b) The name of the town or city and county in which the condominium is located;
- (c) A legal description by metes and bounds of the land submitted to this chapter;
- (d) A description or delineation of the boundaries of the units, including the horizontal boundaries, if any, as well as the vertical boundaries;
- (e) A description or delineation of the limited common areas, if any, showing or designating the unit or units to which each is assigned;
- (f) A description or delineation of all common areas not within the boundaries of any convertible lands which may subsequently be assigned as limited common areas, together with a statement that they may be so assigned and a description of the method whereby any such assignments shall be made in accordance with RSA 356-B:19;
- (g) The allocation to each unit of an undivided interest in the common areas in accordance with RSA 356-B:17;
- (h) A statement of the purposes for which the condominium and each of the units are intended and restricted as to use;
- (i) A description of the manner of determining appropriate action following damage to any portion of the condominium by fire or other casualty; and
- (j) Such other matters as the declarant deems appropriate.

I-a. All lands within the declaration of the condominium which are within the original bounds of the condominium shall be identified therein as individual units, common areas, limited common areas, convertible spaces, or convertible lands. All lands proposed for possible future expansion shall be identified as expandable lands.

II. If the condominium contains any convertible land, the declaration shall also contain the following:

- (a) A legal description by metes and bounds of each convertible land within the condominium;
- (b) A statement of the maximum number of units that may be created within each such convertible land;
- (c) A statement, with respect to each such convertible land, as to whether or not any portion of such convertible land will not be restricted to residential use, and, if not, the nature of the permitted uses, and the maximum percentage of the aggregate land and aggregate floor area of all units that may be created which will not be restricted exclusively to residential use;
- (d) A statement of the extent to which any structure erected on any convertible land will be compatible with structures on other portions of the submitted land in terms of quality of construction, the principal materials to be used, and architectural style;
- (e) A description of all other improvements that may be made on each convertible land within the condominium;
- (f) A statement that any units created within each convertible land will be substantially identical to the units on other portions of the submitted land, or a statement describing in detail any differences in design, layout, size, quality or other significant characteristics of the units that may be created therein; and
- (g) A description of the declarant's reserved right, if any, to create limited common areas

within any convertible land, and/or to designate common areas therein which may subsequently be assigned as limited common areas in terms of the types, sizes, and maximum number of such areas within each such convertible land.

Provided, that site plans and floor plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs II(a), (d), (e), (f) and (g), and that subparagraph II(c) need not be complied with if none of the units on other portions of the submitted land are restricted exclusively to residential use.

III. If the condominium is an expandable condominium, the declaration shall also contain the following:

- (a) The explicit reservation of an option to expand the condominium;
- (b) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method whereby such consent shall be evidenced; or a statement that there are no such limitations;
- (c) A time limit, not exceeding 7 years from the recording of the declaration, upon which the option to expand the condominium shall expire, provided, however, that the time limit contained in the declaration may be extended by not more than 7 years by an amendment to the declaration adopted pursuant to RSA 356-B:54, V, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;
- (d) A legal description by metes and bounds of all land that may be added to the condominium, henceforth referred to as "additional land";
- (e) A statement as to whether, if any of the additional land is added to the condominium, all of it or any particular portion of it must be added, and, if not, a statement of any limitations as to what portions may be added or a statement that there are no such limitations;
- (f) A statement as to whether portions of the additional land may be added to the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be added to the condominium;
- (g) A statement of any limitations as to the locations of any improvements that may be made on any portions of the additional land added to the condominium, or a statement that no assurances are made in that regard;
- (h) A statement of the maximum number of units that may be created on the additional land. If portions of the additional land may be added to the condominium and the boundaries of those portions are fixed in accordance with subparagraph III(f), the declaration shall also state the maximum number of units that may be created on each such portion added to the condominium. If portions of the additional land may be added to the condominium and the boundaries of those portions are not fixed in accordance with subparagraph III(f), then the declaration shall also state the maximum number of units per acre that may be created on any such portion added to the condominium;
- (i) A statement, with respect to the additional land and to any portion or portions thereof that may be added to the condominium, as to whether or not any portion of such expandable land will not be restricted to residential use, and, if not, the nature of the permitted uses and the maximum percentage of the aggregate land and aggregate floor area of all units that may be created thereon which will not be restricted exclusively to residential use;
- (j) A statement of the extent to which any structures created on any portion of the additional land added to the condominium will be compatible with structures on the submitted land in

terms of quality of construction, the principal materials to be used, and architectural style, or a statement that no assurances are made in those regards;

(k) A description of all other improvements that will be made on any portion of the additional land added to the condominium or a statement of any limitations as to what other improvements may be made thereon, or a statement that no assurances are made in that regard;

(l) A statement that any units created on any portion of the additional land added to the condominium will be substantially identical to the units on the submitted land, or a statement of any limitations as to what differences in design, layout, size, quality or other significant characteristics of the units may be created thereon, or a statement that no assurances are made in that regard; and

(m) A description of the declarant's reserved right, if any, to create limited common areas within any portion of the additional land added to the condominium, and/or to designate common areas therein which may subsequently be assigned as limited common areas in terms of types, sizes, and maximum number of such areas within each such portion, or a statement that no assurances are made in those regards.

Provided, that site plans and floor plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs III(d), (e), (f), (g), (j), (k), (l) and (m), and that subparagraph III(i) need not be complied with if none of the units on the submitted land is restricted exclusively to residential use.

IV. If the condominium is a contractable condominium, the declaration shall also contain the following:

(a) The explicit reservation of an option to contract the condominium;

(b) A statement of any limitations on that option, including, without limitation, a statement as to whether the consent of any unit owners shall be required, and, if so, a statement as to the method whereby such consent shall be evidenced; or a statement that there are no such limitations;

(c) A time limit, not exceeding 7 years from the recording of the declaration, upon which the option to contract the condominium shall expire, provided, however, that the time limit contained in the declaration may be extended by not more than 7 years by an amendment to the declaration adopted pursuant to RSA 356-B:54, V, together with a statement of the circumstances, if any, which will terminate that option prior to the expiration of the time limit so specified;

(d) A legal description by metes and bounds of all land that may be withdrawn from the condominium, henceforth referred to as "withdrawable land";

(e) A statement as to whether portions of the withdrawable land may be withdrawn from the condominium at different times, together with any limitations fixing the boundaries of those portions by legal descriptions setting forth the metes and bounds thereof and/or regulating the order in which they may be withdrawn from the condominium; and

(f) A legal description by metes and bounds of all of the submitted land to which the option to contract the condominium does not extend. Provided, that site plans may be recorded with the declaration and identified therein to supplement information furnished pursuant to subparagraphs IV(d), (e) and (f), and that subparagraph IV(f) shall not be construed in derogation of any right the declarant may have to terminate the condominium in accordance with RSA 356-B:33.

V. If the condominium is a leasehold condominium, then with respect to any ground lease or other leases the expiration or termination of which will or may terminate or contract the

condominium, the declaration shall set forth the county wherein the same are recorded and the deed book and page number where the first page of each such lease is recorded; and the declaration shall also contain the following:

- (a) The date upon which each such lease is due to expire;
- (b) A statement as to whether any land and/or improvements will be owned by the unit owners in fee simple, and, if so, either (a) a description of the same, including without limitation a legal description by metes and bounds of any such land, or (b) a statement of any rights the unit owners shall have to remove such improvements within a reasonable time after the expiration or termination of the lease or leases involved, or a statement that they shall have no such rights; and
- (c) A statement of the rights the unit owners shall have to redeem the reversion or any of the reversions, or a statement that they shall have no such rights.

Provided, that after the recording of the declaration, no lessor who executed the same, and no successor in interest to such lessor, shall have any right or power to terminate any part of the leasehold interest of any unit owner who makes timely payment of his share of the rent to the person or persons designated in the declaration for the receipt of such rent and who otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. Acquisition or reacquisition of such a leasehold interest by the owner of the reversion or remainder shall not cause a merger of the leasehold and fee simple interests unless all leasehold interests in the condominium are thus acquired or reacquired.

VI. Wherever this section requires a legal description by metes and bounds of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, such requirement shall be deemed satisfied by any legally sufficient description and shall be deemed to require a legally sufficient description of any easements that are submitted to this chapter or that may be added to or withdrawn from the condominium, as the case may be. In the case of each such easement, the declaration shall contain the following:

- (a) A description of the permitted use or uses;
- (b) If less than all of those entitled to the use of all of the units may utilize such easement, a statement of the relevant restrictions and limitations on utilization; and
- (c) If any persons other than those entitled to the use of the units may utilize such easement, a statement of the rights of others to utilization of the same.

VII. Wherever this section requires a legal description by metes and bounds of land that is submitted to this chapter or that may be added to or withdrawn from the condominium, an added requirement shall be a separate legally sufficient description of all lands in which the unit owners shall or may be tenants in common or joint tenants with any other persons, and a separate legally sufficient description of all lands in which the unit owners shall or may be life tenants. No units shall be situated on any such lands, however, and the declaration shall describe the nature of the unit owner's estate therein. No such lands shall be shown on the same site plans showing other portions of the condominium, but shall be shown instead on separate site plans.

Source. 1977, 468:1. 1991, 110:1, 2, eff. May 13, 1991. 2018, 192:3, eff. Aug. 7, 2018.

Section 356-B:17

356-B:17 Allocation of Interests in the Common Areas. –

I. The declaration may allocate to each unit depicted on site plans and floor plans that comply with RSA 356-B:20, I and II an undivided interest in the common areas proportionate to either

the size or value of each unit.

II. Otherwise, the declaration shall allocate to each such unit an equal undivided interest in the common areas subject to the following exception: each convertible space so depicted shall be allocated an undivided interest in the common areas proportionate to the size of each such space, vis-a-vis the aggregate size of all units so depicted, while the remaining undivided interests in the common areas shall be allocated equally to the other units so depicted.

III. The undivided interests in the common areas allocated in accordance with paragraph I or II shall add up to one if stated as fractions or 100 percentum if stated as percentages.

IV. If, in accordance with paragraph I or II, an equal undivided interest in the common areas is allocated to each unit, the declaration may simply state that fact and need not express the fraction or percentage so allocated.

V. Otherwise, the undivided interest allocated to each unit in accordance with paragraph I or II shall be reflected by a table in the declaration, or by an exhibit or schedule accompanying the declaration and recorded simultaneously therewith, containing 3 columns. The first column shall identify the units, listing them serially or grouping them together in the case of units to which identical undivided interests are allocated. Corresponding figures in the second and third columns shall set forth the respective areas or values of those units and the fraction or percentage of undivided interest in the common areas allocated thereto.

VI. Except to the extent otherwise expressly provided by this chapter, the amount of undivided interest in the common areas allocated to any unit shall not be altered, and any purported transfer, encumbrance or other disposition of that interest without the unit to which it appertains shall be void.

VII. The common areas shall not be subject to any suit for partition until and unless the condominium is terminated.

Source. 1977, 468:1, eff. Sept. 10, 1977.

Section 356-B:19

356-B:19 Assignments of Limited Common Areas. –

I. All assignments and reassignments of limited common areas shall be reflected by the condominium instruments. No limited common area shall be assigned or reassigned except in accordance with this chapter. No amendment to any condominium instrument shall alter any rights or obligations with respect to any limited common area without the consent of all unit owners adversely affected thereby as evidenced by their execution of such amendment, except to the extent that the condominium instruments expressly provided otherwise prior to the first assignment of that limited common area.

II. Unless expressly prohibited by the condominium instruments, a limited common area may be reassigned upon written application of the unit owners concerned to the principal officer of the unit owners' association, or to such other officer or officers as the condominium instruments may specify. The officer or officers to whom such application is duly made shall forthwith prepare and execute an amendment to the declaration reassigning all rights and obligations with respect to the limited common area involved. Such amendment shall be delivered forthwith to the unit owners of the units concerned upon payment by them of all reasonable costs for the preparation and acknowledgment thereof. Said amendment shall become effective when the unit owners of the units concerned have executed and recorded it.

III. A common area not previously assigned as a limited common area shall be so assigned only pursuant to RSA 356-B:16, I(f), except that limited common areas may be created or expanded pursuant to an amendment to the condominium instruments consented to by 2/3 of the votes in the unit owners association, or such higher percentage as the condominium instruments may provide, and then thereafter assigned as therein provided. The amendment to the declaration making such an assignment shall be prepared and executed by the principal officer of the unit owners' association, or by such other officer or officers as the condominium instruments may specify. Such amendment shall be delivered to the unit owner or owners of the unit or units concerned upon payment by them of all reasonable costs for the preparation and acknowledgment thereof. Said amendment shall become effective when the aforesaid unit owner or owners have executed and recorded it, and the recordation thereof shall be conclusive evidence that the method prescribed pursuant to RSA 356-B:16, I(f) was adhered to. The creation or expansion of limited common areas pursuant to this paragraph shall not alter the amount of undivided interest in the common areas allocated to any unit.
Source. 1977, 468:1. 2001, 68:1, eff. Aug. 18, 2001.

Section 356-B:20

[RSA 356-B:20 republished due to execution of a paragraph II amendment.]

356-B:20 Contents of the Site Plans and Floor Plans. –

I. There shall be recorded simultaneously with the declaration one or more site plans of survey showing the location and dimensions of the submitted land, the location and dimensions of any convertible lands within the submitted land, the location and dimensions of any existing improvements, the intended location and dimensions of any contemplated improvements which are to be located on any portion of the submitted land other than within the boundaries of any convertible lands, and, to the extent feasible, the location and dimensions of all easements appurtenant to the submitted land or otherwise submitted to this chapter as a part of the common areas. If the submitted land is not contiguous, then the site plans shall indicate the distance between the parcels constituting the submitted land. The site plans shall label every convertible land as a convertible land, and if there be more than one such land the site plans shall label each such land with one or more letters or numbers or both different from those designating any other convertible land and different also from the identifying number of any unit. The site plans shall show the location and dimensions of any withdrawable lands, and shall label each such land as a withdrawable land. If, with respect to any portion or portions, but less than all, of the submitted land, the unit owners are to own only an estate for years, the site plans shall show the location and dimensions of any such portions, and shall label each such portion as a leased land. If there is more than one withdrawable land, or more than one leased land, the site plans shall label each such land with one or more letters or numbers or both different from those designating any convertible land or other withdrawable or leased land, and different also from the identifying number of any unit. The site plans shall show all easements to which the submitted land or any portion thereof is subject, and shall show the location and dimensions of all such easements to the extent feasible. The site plans shall also show all encroachments by or on any portion of the condominium. In the case of any improvements located or to be located on any portion of the submitted land other than within the boundaries of any convertible lands, the site plans shall indicate which, if any, have not been begun by the use of the phrase "(NOT YET BEGUN)" and which, if any, have been begun but have not been substantially completed by the use of

the phrase "(NOT YET COMPLETED)." In the case of any units the vertical boundaries of which lie wholly or partially outside of structures for which floor plans pursuant to paragraph II are simultaneously recorded, the site plans shall show the location and dimensions of such vertical boundaries to the extent that they are not shown on such floor plans, and the units or portions thereof thus depicted shall bear their identifying numbers. Each site plan shall be certified as to its accuracy and compliance with the provisions of this paragraph by a registered land surveyor, and the said surveyor shall certify that all units or portions thereof depicted on any portion of the submitted land other than within the boundaries of any convertible lands have been substantially completed. The specification within this paragraph of items that shall be shown on the site plans shall not be construed to mean that the site plans shall not also show all other items customarily shown or hereafter required for land title surveys.

II. There shall also be recorded, simultaneously with the declaration, floor plans of every structure which contains or constitutes all or part of any unit or units, and which is located on any portion of the submitted land other than within the boundaries of any convertible lands. The floor plans shall show the location and dimensions of the vertical boundaries of each unit to the extent that such boundaries lie within or coincide with the boundaries of such structures, and the units or portions thereof thus depicted shall bear their identifying numbers. In addition, each convertible space thus depicted shall be labeled a convertible space. The horizontal boundaries of each unit having horizontal boundaries shall be identified on the floor plans with reference to established datum. Unless the condominium instruments expressly provide otherwise, it shall be presumed that in the case of any unit not wholly contained within or constituting one or more such structures, the horizontal boundaries thus identified extend, in the case of each such unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception: in the case of any such unit which does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of such structures. The floor plans shall be certified as to their accuracy and compliance with the provisions of this paragraph by a registered architect, registered engineer or licensed land surveyor, and such architect, engineer or land surveyor shall certify that all units or portions of units depicted on the floor plan have been substantially completed.

III. When converting all or any portion of any convertible land, or adding additional land to an expandable condominium, the declarant shall record new site plans of survey conforming to the requirements of paragraph I. (In any case where less than all of a convertible land is being converted, such site plans shall show the location and dimensions of the remaining portion or portions of such land in addition to otherwise conforming with the requirements of paragraph I.) At the same time, the declarant shall record, with regard to any structures on the land being converted, or added, either floor plans conforming to the requirements of paragraph II, or certifications, conforming to the certification requirements of said subsection, of floor plans previously recorded pursuant to RSA 356-B:21.

IV. When converting all or any portion of any convertible space into one or more units or limited common areas, or both, the declarant shall record, with regard to the structure or portion of such structure constituting that convertible space, floor plans showing the location and dimensions of the horizontal and vertical boundaries of each unit or limited common areas, or both, formed out of such space. Such plans shall be certified as to their accuracy and compliance with the provisions of this paragraph by a registered architect, registered

engineer or licensed land surveyor.

V. For the purposes of paragraphs I, II and III, all provisions and requirements relating to units shall be deemed equally applicable to limited common areas. The limited common areas shall be labeled as such, and each limited common area depicted on the site plans and floor plans shall bear the identifying number or numbers of the unit or units to which it is assigned, if it has been assigned, unless the provisions of RSA 356-B:12, V, make such designations unnecessary.

Source. 1977, 468:1. 1990, 6:1, 2. 1991, 110:3, eff. May 13, 1991.