

**Columbia Codes DIVISION VII PROPERTY TITLE 42 REAL PROPERTY SUBTITLE  
III CONDOMINIUMS CHAPTER 19 CONDOMINIUMS SUBCHAPTER I GENERAL  
PROVISIONS**

§ 42-1901.01. Applicability of chapter; corresponding terms; supersedure of prior law  
[Formerly § 45-1801].

**§ 42-1901.01. Applicability of chapter; corresponding terms; supersedure of prior law  
[Formerly § 45-1801].**

(a) This chapter shall apply to all condominiums created in the District of Columbia after March 29, 1977. Sections 42-1901.03 through 42-1901.06, 42-1902.03, 42-1902.06 through 42-1902.09, 42-1902.30, 42-1903.05(d), 42-1903.08(a)(1) through (6), 42-1903.08(a)(11) through (16), 42-1903.09, 42-1903.13, 42-1903.14, 42-1903.20, 42-1904.11, 42-1904.13 through 42-1904.17, and 42-1901.02, to the extent necessary in construing any of those sections, shall apply to any condominium and to any horizontal property regime or condominium project created in the District of Columbia before March 29, 1977, except that these sections shall apply only with respect to an event or circumstance that occurs after March 29, 1977 and shall not invalidate any existing provision of the condominium instruments of any condominium, horizontal property regime, or condominium project.

(b) For the purposes of this chapter:

(1) The terms "horizontal property regime" and "condominium project" shall be deemed to correspond to the term "condominium";

(2) The term "co-owner" shall be deemed to correspond to the term "unit owner";

(3) The term "council of co-owners" shall be deemed to correspond to the term "unit owners' association";

(4) The term "developer" shall be deemed to correspond to the term "declarant"; and

(5) The term "general common elements" shall be deemed to correspond to the term "common elements."

(c) This chapter shall supersede Chapter 20 of this title, and Regulation 74-26 of the District of Columbia City Council, enacted October 18, 1974. No condominium shall be established except pursuant to this chapter after March 28, 1977. This chapter shall not be construed, however, to affect the validity of any provision of any condominium instrument complying with the requirements of Chapter 20 of this title and recorded prior to March 28, 1977. Except for § 42-1904.11, subchapter IV shall not apply to any condominium created prior to March 29, 1977. Any amendment to the condominium instruments of any condominium, horizontal property

regime, or condominium project created before March 29, 1977, shall be valid and enforceable if the amendment would be permitted by this chapter and if the amendment was adopted in conformity with the procedures and requirements specified by those condominium instruments and by the applicable law in effect when the amendment was adopted. If an amendment grants a person any right, power, or privilege permitted by this chapter, any correlative obligation, liability, or restriction in this chapter shall apply to that person.

(d) This chapter shall not apply to any condominium located outside the District of Columbia. Sections 42-1904.02 through 42-1904.08 and §§ 42-1904.12 through 42-1904.17 shall apply to any contract for the disposition of a condominium unit signed in the District of Columbia by any person, unless exempt under § 42-1904.01.

(e) Except as otherwise provided in this chapter, amendments to this chapter shall not invalidate any provision of any condominium instrument which was permitted under this chapter at the time the provision was recorded.

(1973 Ed., § 5-1201; Mar. 29, 1977, D.C. Law 1-89, title I, § 101, 23 DCR 9532b; 1981 Ed., § 45-1801; Mar. 8, 1991, D.C. Law 8-233, § 2(a), 38 DCR 261; Aug. 17, 1991, D.C. Law 9-38, § 2(a), 38 DCR 4966; Mar. 20, 1992, D.C. Law 9-82, § 2(a), 39 DCR 683.)

#### § 42-1901.02. Definitions [Formerly § 45-1802].

#### § 42-1901.02. Definitions [Formerly § 45-1802].

For the purposes of this chapter:

- (1) "Common elements" shall mean all portions of the condominium other than the units.
- (2) "Common expenses" shall mean all lawful expenditures made or incurred by or on behalf of the unit owners' association, together with all lawful assessments for the creation and maintenance of reserves pursuant to the provisions of the condominium instruments. "Future common expenses" shall mean common expenses for which assessments are not yet due and payable.
- (3) Repealed.
- (4) "Condominium" shall mean real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the portions designated for separate ownership. Real estate shall not be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.
- (5) "Condominium instruments" shall mean the declaration, bylaws, and plats and plans,

recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of this chapter.

(6) "Condominium unit" shall mean a unit together with the undivided interest in the common elements appertaining to that unit.

(7) "Contractable condominium" shall mean a condominium from which 1 or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal can occur only by the expiration or termination of 1 or more leases, then the condominium shall not be deemed a contractable condominium within the meaning of this chapter.

(8) "Conversion condominium" shall mean a condominium containing structures which before the recording of the declaration were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

(9) "Convertible land" shall mean a building site; that is to say, a portion of the common elements, within which additional units or limited common elements, or both, may be created in accordance with the provisions of this chapter.

(10) "Convertible space" shall mean a portion of a structure within the condominium, which portion may be converted into 1 or more units or common elements, or both, in accordance with the provisions of this chapter.

(11) "Declarant" shall mean any person or group of persons acting in concert who:

(A) Offers to dispose of the person's or group's interest in a condominium unit not previously disposed of;

(B) Reserves or succeeds to any special declarant right; or

(C) Applies for registration of the condominium.

(11A) (A) "Affiliate of a declarant" shall mean any person who controls, is controlled by, or shares common control with a declarant.

(B) A person controls a declarant if the person:

(i) Is a general partner, officer, director, or employer of the declarant;

(ii) Directly or indirectly or acting in concert with at least 1 other person, or through a subsidiary, owns, controls, holds with power to vote, or holds proxies that represent more than 20% of the voting interest in the declarant;

(iii) Controls in any manner the election of a majority of the directors of the declarant; or

(iv) Has contributed more than 20% of the capital of the declarant.

(C) A person is controlled by a declarant if the declarant:

(i) Is a general partner, officer, director, or employer of the person;

(ii) Directly or indirectly or acting in concert with another person, or through a subsidiary, owns, controls, holds with power to vote, or holds proxies representing more than 20% of the voting interest in the person; or

(iii) Controls in any manner the election of a majority of the directors if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

(12) "Disposition" shall mean any voluntary transfer to a purchaser of a legal or equitable interest in a condominium unit, other than as security for a debt or pursuant to a deed in lieu of foreclosure.

(12A) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

(13) "Executive Board" shall mean an executive and administrative entity, by whatever name denominated and designated in the condominium instruments to act for the unit owners' association in governing the condominium.

(14) "Expandable condominium" shall mean a condominium to which additional land may be added in accordance with the provisions of the declaration and of this chapter.

(15) "Identifying number" shall mean 1 or more letters or numbers, or both, that identify only 1 unit in the condominium.

(16) "Institutional lender" shall mean 1 or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including but not limited to, real estate investment trusts, any other entity regularly engaged directly or indirectly in financing the purchase, construction, or improvement of real estate, or any combination of any of the foregoing entities.

(17) Repealed.

(18) "Leasehold condominium" shall mean a condominium all or any portion of which is subject to a lease, the expiration or termination of which will terminate the condominium or exclude a portion therefrom.

(19) "Limited common element" shall mean a portion of the common elements reserved for the exclusive use of those entitled to the use of 1 or more, but less than all, of the units.

(19A) "Master association" shall mean an organization described in § 42-1903.18, whether or not

the organization is an association described in § 42-1903.01.

(20) "Mayor" shall mean the Mayor of the District of Columbia.

(21) "Nonbinding reservation agreement" shall mean an agreement between the declarant and a prospective purchaser which is in no way binding on the prospective purchaser and which may be cancelled without penalty at the sole discretion of the prospective purchaser by written notice, hand-delivered or sent by United States mail, return receipt requested to the declarant at any time prior to the execution of a contract for the sale or lease of a condominium unit or an interest therein. Such agreement shall not contain any provision for waiver or any other provision in derogation of the rights of the prospective purchaser as contemplated by this subsection, nor shall any such provision be a part of any ancillary agreement.

(22) "Offer" shall mean any inducement, solicitation, or attempt to encourage any person or persons to acquire any legal or equitable interest in a condominium unit, other than as security for a debt; provided, however, that "offer" shall not mean any advertisement of a condominium not located in the District of Columbia in a newspaper or other periodical of general circulation, or in any public broadcast medium. Nothing shall be considered an offer that expressly states that the condominium has not been registered with the Mayor and that no unit in the condominium can or will be offered for sale until the time the unit has been so registered.

(23) "Officer" shall mean any member of the executive board or official of the unit owners' association.

(24) "Par value" shall mean a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may, but need not, be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement shall not be deemed to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure shall affect the par value of any unit, or any undivided interest in the common elements, voting rights in the unit owners' association, liability for common expenses, or rights to common profits, assigned on the basis thereof.

(25) "Person" shall mean a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination of any of the foregoing.

(26) "Purchaser" shall mean any person, other than a declarant or a person in the business of selling real estate for his or her own account, who by means of a voluntary transfer, acquires a legal or equitable interest in a condominium unit other than a leasehold interest, including a renewal option, of less than 20 years, or as security for an obligation.

(26A) "Real estate" or "land" shall mean any leasehold or other estate or interest in, over, or under land, including but not limited to, any structure, fixture, or any other improvement or interest which by custom, usage, or law passes with a conveyance of land though not described

in the contract of sale or instrument of conveyance. The term "real estate" or "land" shall be deemed to include a parcel with or without an upper or lower boundary, and space that may be filled with air or water. Any requirement in the Condominium Amendment Act of a legally sufficient description shall be deemed to include a requirement that any upper or lower boundary of a parcel be identified with reference to established data.

(27) "Registered land surveyor" shall mean any person or firm permitted to prepare and certify surveys and subdivision plats in the District of Columbia, including but not limited to, registered civil engineers.

(28) "Size" shall mean the number of cubic feet or the number of square feet of ground or floor space, or both, within each unit as computed by reference to the plats and plans and rounded off to a whole number. Certain spaces within the units including, without limitation, attic, basement, or garage space, may, but need not, be omitted from such calculation or partially discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the condominium, and so long as that basis is described in the declaration.

(28A) "Special declarant right" shall mean any right reserved for the benefit of a declarant or any person that becomes a declarant to:

(A) Complete improvements indicated on plats and plans filed with the declaration pursuant to § 42-1902.14;

(B) Expand an expandable condominium pursuant to § 42-1902.19;

(C) Contract a contractable condominium pursuant to § 42-1902.20;

(D) Convert convertible land, convertible space, or both pursuant to § 42-1902.17 or § 42-1902.18;

(E) Elect, appoint, or remove any officer of the unit owners' association or master association or any executive board member pursuant to § 42-1903.02 during any period of declarant control;

(F) Exercise any power or responsibility otherwise assigned by any condominium instrument or by the Condominium Amendment Act to the unit owners' association, any officer of the unit owners' association, or the executive board;

(G) Use easements through the common elements to make improvements within the condominium or real estate that may be added to the condominium pursuant to § 42-1902.21;

(H) Make the condominium subject to a master association pursuant to § 42-1903.18;

(I) Make the condominium part of a larger condominium pursuant to § 42-1903.19; or

(J) Maintain a sales office, management office, or model unit pursuant to § 42-1902.22.

(29) "Surveyor" shall mean the Office of the Surveyor of the District of Columbia.

(29A) "Time share" shall mean a right to occupy a condominium unit or any of several condominium units during 5 or more separate time periods over a period of at least 5 years including renewal options, whether or not the right is coupled with an estate or interest in a condominium or a specified portion of an estate or interest in a condominium.

(30) "Unit" shall mean a portion of the condominium designed and intended for individual ownership. For the purposes of this chapter, a convertible space shall be treated as a unit in accordance with § 42-1902.18(d).

(31) "Unit owner" shall mean a declarant or any person who owns a condominium unit. In the case of a leasehold condominium, "unit owner" shall mean a declarant or person whose leasehold interest in the condominium extends for the entire balance of the unexpired term. The term "unit owner" shall not include a person who has an interest in a condominium unit solely as a security for a debt.

(1973 Ed., § 5-1202; Mar. 29, 1977, D.C. Law 1-89, title I, § 102, 23 DCR 9532b; Sept. 22, 1978, D.C. Law 2-110, § 2, 25 DCR 1461; 1981 Ed., § 45-1802; Mar. 8, 1991, D.C. Law 8-233, § 2(b), 38 DCR 261; Aug. 17, 1991, D.C. Law 9-38, § 2(b), 38 DCR 4966; Mar. 20, 1992, D.C. Law 9-82, § 2(b), 39 DCR 683; Apr. 9, 1997, D.C. Law 11-255, § 49(a), 44 DCR 1271; Sept. 12, 2008, D.C. Law 17-231, § 36(a), 55 DCR 6758.)

#### § 42-1901.03. Ownership of individual units [Formerly § 45-1803].

#### § 42-1901.03. Ownership of individual units [Formerly § 45-1803].

Each condominium unit shall constitute for all purposes a separate parcel of real estate, distinct from all other condominium units. Any condominium unit may be owned by more than 1 person as joint tenants, as tenants in common, as tenants by the entirety (in the case of spouses or domestic partners), or in any other real estate tenancy relationship recognized under the laws of the District of Columbia.

(1973 Ed., § 5-1203; Mar. 29, 1977, D.C. Law 1-89, title I, § 103, 23 DCR 9532b; 1981 Ed., § 45-1803; Mar. 8, 1991, D.C. Law 8-233, § 2(c), 38 DCR 261; Sept. 12, 2008, D.C. Law 17-231, § 36(b), 55 DCR 6758.)

#### § 42-1901.04. Separate taxation [Formerly § 45-1804].

#### § 42-1901.04. Separate taxation [Formerly § 45-1804].

If there is any unit owner other than the declarant, a tax or assessment shall not be levied on the condominium as a whole or against any common elements, but only on the individual condominium units. A condominium unit shall be carried on the records of the District of Columbia and assessed as a separate and distinct taxable entity.

(1973 Ed., § 5-1204; Mar. 29, 1977, D.C. Law 1-89, title I, § 104, 23 DCR 9532b; 1981 Ed., § 45-1804; Mar. 8, 1991, D.C. Law 8-233, § 2(d), 38 DCR 261.)

§ 42-1901.05. Ordinances and regulations [Formerly § 45-1805].

**§ 42-1901.05. Ordinances and regulations [Formerly § 45-1805].**

No zoning or other land use ordinance or regulation shall prohibit condominiums as such by reason of the form of ownership inherent therein. Neither shall any condominium be treated differently by any zoning or other land use ordinance or regulation which would permit a physically identical project or development under a different form of ownership. No subdivision ordinance or regulation shall apply to any condominium or to any subdivision of any convertible land, convertible space, or unit unless such ordinance or regulation is by its express terms made applicable thereto. Nothing in this section shall be construed to permit application of any provision of the building code which is not expressly applicable to condominiums by reason of the form of ownership inherent therein to a condominium in a manner different from the manner in which such provision is applied to other buildings of similar physical form and nature of occupancy.

(1973 Ed., § 5-1205; Mar. 29, 1977, D.C. Law 1-89, title I, § 105, 23 DCR 9532b; 1981 Ed., § 45-1805.)

§ 42-1901.06. Eminent domain; allocation of award; proportionate shares of common areas and redetermination thereof where units or parts of units taken; reallocation of voting rights, profits, and future liabilities; recordation of decree [Formerly § 45-1806].

**§ 42-1901.06. Eminent domain; allocation of award; proportionate shares of common areas and redetermination thereof where units or parts of units taken; reallocation of voting rights, profits, and future liabilities; recordation of decree [Formerly § 45-1806].**

(a) If any portion of the common elements is taken by eminent domain, the award therefor shall be allocated to the unit owners in proportion to their respective undivided interests in the



common elements, except that the portion of the award attributable to the taking of any permanently assigned limited common element shall be allocated by the decree to the unit owner of the unit to which that limited common element was so assigned at the time of the taking. If that limited common element was permanently assigned to more than 1 unit at the time of the taking, then the portion of the award attributable to the taking thereof shall be allocated in equal shares to the unit owners of the units to which it was so assigned or in such other shares as the condominium instruments may specify for this express purpose. A permanently assigned limited common element is a limited common element which cannot be reassigned or which can be reassigned only with the consent of the unit owner or owners of the unit or units to which it is assigned.

(b) If 1 or more units is taken by eminent domain, the undivided interest in the common elements appertaining to any such unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common elements. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of any unit taken for his undivided interest in the common elements as well as for his unit.

(c) If portions of any unit are taken by eminent domain, the court shall determine the fair market value of the portions of such unit not taken, and the undivided interest in the common elements appertaining to any such units shall be reduced in the case of each such unit, in proportion to the diminution in the fair market value of such unit resulting from the taking. The portions of undivided interest in the common elements thereby divested from the unit owners of any such units shall be reallocated among those units and the other units in the condominium in proportion to their respective undivided interests in the common elements with any units partially taken participating in such reallocation on the basis of their undivided interests as reduced in accordance with the preceding sentence. The court shall enter a decree, reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of any unit partially taken for that portion of his undivided interest in the common elements divested from him by operation of the first sentence of this subsection and not revested in him by operation of the following sentence, as well as for that portion of his unit taken by eminent domain.

(d) If, however, the taking of a portion of any unit makes it impractical to use the remaining portion of that unit for any lawful purpose permitted by the condominium instruments, then the entire undivided interest in the common elements appertaining to that unit shall thenceforth appertain to the remaining units, being allocated to them in proportion to their respective undivided interests in the common elements, and the remaining portion of that unit shall thenceforth be a common element. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the unit owner of such unit for the unit owner's entire undivided interest in the common elements and for the unit owner's entire unit.

(e) Votes in the unit owners' association, rights to future surplus funds, and liabilities for future common expenses not specially assessed, appertaining to any unit or units taken or partially

taken by eminent domain, shall thenceforth appertain to the remaining units, being allocated to them in proportion to their relative voting strength in the unit owners' association, rights to future surplus funds, and liabilities for future common expenses not specially assessed, respectively, with any units partially taken participating in such reallocation as though the voting strength in the unit owners' association, right to future surplus funds, and liabilities for future common expenses not specially assessed, respectively, had been reduced in proportion to the reduction in their undivided interests in the common elements. But in any case where votes in the unit owners' association were originally assigned on the basis of equality (subject to the exception for convertible spaces) votes in the unit owners' association shall not be reallocated. The decree of the court shall provide accordingly.

(f) The decree of the court shall require the recordation thereof among the land records of the District of Columbia.

(1973 Ed., § 5-1206; Mar. 29, 1977, D.C. Law 1-89, title I, § 106, 23 DCR 9532b; 1981 Ed., § 45-1806; Mar. 8, 1991, D.C. Law 8-233, § 2(e), 38 DCR 261.)

**§ 42-1901.07. Variation by agreement [Formerly § 45-1807].**

**§ 42-1901.07. Variation by agreement [Formerly § 45-1807].**

Except as expressly provided by this chapter, a provision of this chapter may not be varied by agreement and any right conferred by this chapter may not be waived. A declarant may not act under a power of attorney or use any other device to evade a limitation or prohibition of this chapter or the condominium instruments.

(D.C. Law 1-89, title I, § 107, as added Mar. 8, 1991, D.C. Law 8-233, § 2(f), 38 DCR 261; 1981 Ed., § 45-1807; Aug. 17, 1991, D.C. Law 9-38, § 2(c), 38 DCR 4966; Mar. 20, 1992, D.C. Law 9-82, § 2(c), 39 DCR 683.)

**§ 42-1901.08. Interpretation of chapter [Formerly § 45-1808].**

**§ 42-1901.08. Interpretation of chapter [Formerly § 45-1808].**

In the application or construction of the provisions of this chapter, the courts of the District of Columbia shall give due regard to judicial decisions and rulings in states that have enacted the Uniform Condominium Act or any other condominium statute that contains provisions similar to the provisions of this chapter.

(D.C. Law 1-89, title I, § 108, as added Mar. 8, 1991, D.C. Law 8-233, § 2(g), 38 DCR 261; 1981 Ed., § 45-1808; Aug. 17, 1991, D.C. Law 9-38, § 2(d), 38 DCR 4966; Mar. 20, 1992, D.C. Law 9-82, § 2(d), 39 DCR 683.)



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