



PLATS - CONDOMINIUMS

1. Condominiums in general. (See also PLATS - RULES FOR INDEXING)

Chapter 703 governs. There is a county approval process allowed by state law if the county adopts such an ordinance. Usually, the real property lister will be the reviewer. They have 10 days to complete the review and sign their approval. The register of deeds office must examine the documents closely, especially if there is no county review established. A condominium is established by the recording of a declaration of condominium followed immediately by a condominium plat. The owner/developer initially governs the condominium until a certain percentage of the units are purchased by individuals and then the condominium association is established as set forth in the declaration. The individual owners are purchasing a cubic air space and interest in the common elements such as driveways, greenways, recreation facilities, etc. and even the walls of the unit structures. Parcel numbers are assigned to the units and may also be assigned to garages, if any. Time-share units are popular in tourist areas; in this case the tax bill goes to the condo association. In addition to the usual condominiums, there are condominiums for campsites. In an August 22, 2001 decision, the Wisconsin Court of Appeals ruled that a plan to convert a 407 slip marina on Lake Geneva to “dockominiums” violated the public trust doctrine of the state’s constitution.

2. Recording requirements; general s. 703.065

Every instrument offered for record related to a condominium other than a plat or addendum shall satisfy all of the following criteria:

- (1) The instrument shall include the name of the condominium as it appears in the declaration.
- (2) The instrument shall be prepared in the standard format for recorded documents under s. 59.43 (2m) and (5)(a).
- (3) The instrument shall comply with 706.05(2)(a) and (b).
- (4) If the instrument is a condominium instrument or an instrument that modifies a condominium instrument and the county in which the instrument is to be recorded has adopted an ordinance under s. 703.115, the instrument is accompanied by the certified written approval of the person who performed the review under the ordinance.

3. Condominium Declaration s. 703.09

This is a recorded document that must have the word “condominium” in the title. Must contain: name & address of condo, legal description, owner's intent, general description of each unit (unless there are no such structures and no plans for them in the case of campsites), common elements, percentage interest appurtenant to each unit, voting provisions, statements regarding purpose and use restrictions for each building & unit, name and address of resident agent under s.703.23, and signatures of declarants **and first mortgagees** which have been notarized or authenticated. Condominium name must be exactly the same on the declaration & plat.

4. Condominium Plat s. 703.11

This is a filed document. Must have: name of condo which is exactly the same name as on the declaration, the county the property is located in, **3 X 3** inch (or more) recording space on first page, the pages must be numbered unless there is only 1 page (page 1 of 3 pages etc.) and the condominium name on each page, survey and certificate of a professional land surveyor, floor plan showing dimensions of each unit (unless none are planned), and show common elements to the extent feasible. Must be legibly prepared with a binding margin of 1.5 inches on the left side and a 1-inch margin on all other sides on durable white media that is 14 X 22 inches, with a permanent nonfading black image. Unit numbers must be unique within the entire condominium and the condo name must be unique within the county. County may require a county review process and approval by county review authority. (703.115)

5. Condominium Addendums s. 703.11(5) and Amendments s. 703.09(2)

Addendums to condo **plats** and Amendments to condo **declarations** are recorded. Usually, a change to the plat affects the percentage of interest in the common elements so there would also be an amendment to the declaration. These addendums and amendments can be recorded separately **only** if the change affects just the one type of instrument and not the other. It is rather common to have a change in the



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declaration that does not affect the plat but very rare for a change to only affect the plat. . Sec.703.095 (2) states that “The register of deeds may record an amendment, addendum, or correction instrument only if it complies with s. 703.065 and satisfies all of the following criteria: (a) It refers to the condominium instrument, amendment, or addendum being modified or corrected, including the document number assigned to the instrument being modified, and if volume and page numbers are assigned to the document being modified or corrected, the volume and page where the document is recorded. (b) It is numbered consecutively or states that it is an amendment and restatement of the condominium instrument being modified or corrected. (c) Identifies all units in the condominium. (d) Clearly states the changes being made to the instrument it is modifying or correcting.”

6. Condominium Lien s. 703.165(3)

A Statement of Condominium Lien and the Release are filed with the Clerk of Courts.

7. Condominium Expansion s. 703.26

The declarant may reserve the right to expand a condominium for a period not exceeding 10 years from the date of recording of the declaration by subjecting additional property to the condominium declaration and by including on the original condominium plat the outlines of land, buildings and common elements of the new property that may be added. The declaration must describe each parcel of property and the maximum number of units which may be added, along with the percentage interests, liabilities and rights, and the number of votes each unit will have following the addition of property to the condominium. If the above conditions are met, the declarant must record an amendment to the declaration and an addendum to the plat in compliance with s.703.26 (3) and s.703.095, to add the property. s. 703.26(3d) states that “Property included in a reservation of the right to expand is not subject to the condominium declaration and is not part of the condominium until an amendment and addendum under sub. (3) adding the property to the condominium is recorded.”

8. Condominium Removal s. 703.28(1)

All of the unit owners may remove all or any part of the property from the provisions of this chapter by an instrument to that effect, duly recorded, provided the holders of all liens affecting any of the units consent or agree. **The consent of the mortgagees must be recorded.** s. 703.28(1m) states “Before a certified survey map, condominium plat, subdivision plat or other plat may be recorded and filed for property that is subject to a condominium declaration, the condominium shall first be removed from the provisions of this chapter by recording a removal instrument. This subdivision does not apply to a merger or consolidation under s. 703.275.”

s. 703.28(2) states “Upon removal of any property from this chapter, the property shall be deemed to be owned in common by the unit owners. The undivided interest in the property owned in common which appertains to each unit owner shall be the percentage of undivided interest previously owned by the owner in the common elements.”

It appears the name of the condominium is not subject to amendment as it is the unique identifier that all subsequent filings must refer to therefore falling under s. 703.28.

9. Condominium Mergers. s. 703.275

Any 2 or more condominiums, including 2 or more small condominiums or any combination of small condominiums and other condominiums, by agreement of the unit owners as provided in this section, may be merged or consolidated into a single condominium. Unless the agreement otherwise provides, the resultant condominium is, for all purposes, the legal successor of all of the preexisting condominiums and the operations and activities of all associations of the preexisting condominiums shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets and liabilities of the preexisting associations. The resultant condominium shall bear the name of one of the preexisting condominiums.

DEFINITIONS. In this section:

(a) “Preexisting condominium” means a condominium that existed before a merger or consolidation under this section.



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(b) "Restatement of the declaration of a resultant condominium" means an amendment to the declaration of the preexisting condominium that bears the same name as the resultant condominium that complies with s. 703.09.

(c) "Resultant condominium" means a condominium that results from a merger or consolidation under this section.

(d) "Resultant condominium plat" means an addendum to the plat of the preexisting condominium that bears the same name as the resultant condominium that complies with s. 703.11.

10. Statutory Reserve Account s. 703.163

Reserve account statements are required for most residential condominiums according to Wisconsin Statute 703.163. This document states whether or not the condominium will establish a reserve account for major repairs, and it is recorded by the declarant and/or condominium association. Condo reserve account statements should accompany new condo declarations and plats but we can only advise, not police this requirement. Older condominiums have 18 months to vote on and record their CRA statement. Condominium reserve account statements are optional for small condominiums (12 units or less).

11. Small Condos s. 703.365 - (12 units or less - may be residential, commercial or a combination)

The declaration is streamlined in that the undivided percentage interest shall be allocated equally among the units, and each unit shall have one vote at the association meetings. Less is also required of the plat that may be an "as built" survey of the property described in the declaration, and the buildings and other improvements on the property. The plat has the same size, paging & archival requirements as other condo plats. The floor plans must show the location and designation of each unit in the building (dimensions may be on the plat or in the declaration - at least one or the other) and any limited common elements appurtenant to each unit of a small condominium. Common elements need not be identified on the plat.