

**MAP AND SURVEY
PREPARATION GUIDELINES
(REVISED 5/2/2019)
FOR CONDOMINIUMS, COOPERATIVES, PLAT COMMUNITIES AND
MISCELLANEOUS COMMUNITIES CREATED UNDER
WASHINGTON UNIFORM COMMON INTEREST OWNERSHIP ACT
WUCIOA (CH. 64.90 RCW)**

(Chapter 277, Laws of 2018; SSB 6175; Amended Chapter 238, Laws of 2019)

NOTE: These REVISED Guidelines replace the Guidelines dated 7-1-2018

THIS MATERIAL IS GENERAL IN NATURE AND DOES NOT PURPORT TO BE EXHAUSTIVE OF ALL ISSUES CONCERNING COMMON INTEREST COMMUNITIES AND TITLE INSURANCE IN WASHINGTON. EACH UNDERWRITER MUST DETERMINE INDIVIDUAL COMPANY PRACTICE FOR ISSUES DISCUSSED HEREIN.

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MAP and SURVEY PREPARATION GUIDELINES (WUCIOA)

IMPORTANT NOTES:

See acknowledgments and the DISCLAIMER on page 72.

*These guidelines apply to **condominiums**, **cooperatives** and **miscellaneous** communities (and to a limited extent, **plat** communities) created by the simultaneous recording of a **declaration** and **map** on or after July 1, 2018, pursuant to the Washington Uniform Common Interest Ownership Act (WUCIOA), RCW 64.90 et seq. (Ch. 277, Laws of 2018).*

*Condominiums created **on or after** July 1, 1990, (including “phased” projects for which later phases are recorded after July 1, 2018) will continue to be governed by the Washington Condominium Act (WCA), RCW 64.34 et seq., except to the extent the governing documents have been amended to incorporate provisions of WUCIOA.*



Condominiums created **before** July 1, 1990, (including “phased” projects for which later phases are recorded after July 1, 1990) will continue to be governed by the Horizontal Property Regimes Act (HPR), RCW 64.32 et seq., except to the extent the governing documents have been amended to incorporate provisions of WCA or WUCIOA.

Plats and similar subdivisions, while defined and affected by WUCIOA, continue to be covered by Ch. 58.17 RCW and local ordinances adopted pursuant thereto, for survey requirements. This material does not address survey platting requirements for subdivisions covered by that statute but **DOES** address additional map requirements imposed by WUCIOA.

Cooperatives and **miscellaneous** communities as defined by WUCIOA were not subject to statutory survey provisions prior to July 1, 2018.

Guidelines prepared for WCA in 1990 by the Washington Land Title Association still apply to the survey map and plans for condominiums prepared under that statute. This material discusses some requirements imposed by WCA, but does not replace those guidelines.

1.0 INTRODUCTION

Ch. 64.90 RCW (Ch. 277, Laws of 2018, amended Ch. 238, Laws of 2019) known as the Washington Uniform Common Interest Ownership Act, or WUCIOA) was adopted with an effective date of July 1, 2018 (amendment effective July 28, 2019). With respect to the subdivision of land, it defines four types of “**common interest communities**” (CICs): *condominium*, *cooperative*, *plat community* and *miscellaneous community*. (See “Definitions” in §2.0 below on page 7.) Most subdivisions, but not all, created in Washington State after July 1, 2018, will fall into one of these CIC categories.

The creation of a CIC requires the concurrent¹ recording of two *governing documents*: a *declaration* and a *map*^a of the land and units created by the declaration. (See “Definitions” in §2.0 below on page 7.)

The declaration, not the map, creates the CIC.² Note, however, that for a plat community an amendment to the declaration must conform to the approved and recorded plat and amended plat.³

The map is recorded as a single separate document. It is not attached as an exhibit to the declaration, with one exception. For plats, WUCIOA permits certain elements of map requirements to be made part of or attached to the declaration.⁴ Nonetheless, for purposes of WUCIOA, the map is construed as part of the declaration.⁵

Only a licensed surveyor can prepare and certify the map for a CIC when it is a survey.⁶ When it is not a survey (this is optional for cooperatives only), the same map information is required, but must be certified by the declarant.⁷

The declarant must also execute the map and include a specific statement, called a “*declaration*”.⁸

^a Note that under the prior WCA there were two components for a condominium map – a survey map (for the project) and a set of plans (for units). A surveyor could do both (and typically did so), but the set of plans showing the units could be done by an architect or engineer. This is changed under WUCIOA – a survey, prepared and certified by a surveyor, is required for all CICs (except in some cases, a cooperative).



This statement on the map is not to be confused with the written declaration^a required by WUCIOA⁹ for CICs that is the equivalent of “covenants, conditions and restrictions” (CCRs) type of document that are historically common to plats and similar subdivisions^b created pursuant to statute.¹⁰ Of course, CCRs can apply to any parcel or parcels, whether or not formally subdivided. Thus, WUCIOA can apply to miscellaneous communities.^c

NOTE: The surveyor’s work must be coordinated closely with the title insurance company and the developer’s attorney when reviewing the requirements relating to the map.

Most new projects will include a *public offering statement* (POS), and the title company and surveyor should review that document as well. All three documents should be consistent.

The map must conform to the technical requirements (style, size, form and quality of the map) prescribed by the county recorder’s office,¹¹ and if it is a survey, it must also comply with the requirements of the Survey Recording Act.¹²

NOTE: In addition to these guidelines, the surveyor should also refer to the appropriate checklist used by the title company to determine insurability of units for the type of CIC being created. It is important to note that such checklists do NOT include all WUCIOA requirements applicable to CICs.

2.0 DEFINITIONS

Some definitions will be of use to the surveyor. Most commentary below focuses on WUCIOA.

2.1 COMMON INTEREST COMMUNITY

The definition of a *common interest community* (“CIC”) is:

“Common Interest Community” means real estate described in a declaration with respect to which ***a person, by virtue of the person’s ownership of a unit, is obligated to pay for a share*** of real estate taxes, insurance premiums, maintenance, or improvement of, or services or other expenses ***related to, common elements, other units, or other real estate*** described in the declaration.”¹³

NOTE 1: The definition is not based on (1) the physical nature or appearance of a CIC, (2) the type of unit, nor (3) whether there are common elements.

^a See “Declaration” in §2.2 on page 8 for the definition.

^b See “Plat and Plat Community” in §2.7 on page 10 and also “Plats and Plat Communities” in §5.0 on page 22 for discussions relating to plats.

^c See “Miscellaneous Community” in §2.8 on page 11 and “Miscellaneous Communities” in §6.0 on page 23 for additional discussions relating to that type of CIC.



NOTE 2: This definition does not state that it applies to projects created only after July 1, 2018, pursuant to WUCIOA. Although the term is defined in WUCIOA and WUCIOA applies to all CICs created after July 1, 2018,¹⁴ the language of the statute suggests the definition of CIC could apply to projects created before July 1, 2018.^a

NOTE 3: This may be a consideration when dealing with phased projects. See “Post-WUCIOA Phases Added to Pre-WUCIOA Projects” in §7.0 below on page 27 for situations where this might come into play.

[NOTES 2 and 3 may be deleted or revised if WUCIOA is amended to clarify this discrepancy.]

All *condominiums* and *cooperatives* are CICs.

Not all plats are CICs. However, a plat where lot owners must share expenses would be a *plat community*.

A subdivision that is not a condominium, cooperative or plat community is a miscellaneous community (assuming it has a declaration or other document, including a survey or map, that includes provisions qualifying it as a CIC).

There are some exceptions to this definition, applicable to plat communities and miscellaneous communities.¹⁵ (See “Exemptions to WUCIOA” in §8.0 below on page 30.) In addition to certain limited types of agreements (see “Voluntary Easements & Covenants” in §8.1 below on page 30^b), principal exemptions apply to (1) non-residential use and (2) the number of lots. See “Small Projects” in §8.2 below on page 31 and “Non-Residential – Other CICs” in §8.4 below on page 31. Thus, *some* plat communities and miscellaneous communities would be exempt from *parts* of WUCIOA, although the developer can elect to apply WUCIOA in its entirety.

2.2 DECLARATION

Under WUCIOA, a *declaration* is the instrument, *however denominated*, that creates a common interest community, including any amendments to the instrument.¹⁶ Note that the map does not create the CIC, but is ancillary.¹⁷

The WCA and HPR definitions of “declaration” are similar, albeit relating only to condominiums under those statutes.¹⁸

Note that for a plat community the information required in a declaration by WUCIOA would be in the typical “covenants, conditions and restrictions” (generally referred to as CCRs) that are common to plats. Such CCRs would still a declaration under WUCIOA.

^a RCW 64.90.080, .085 and .095 refer to “*common interest communities*” created before July 1, 2018.

^b Including “An easement or covenant that requires the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, driveway, well, or other similar use does not create a common interest community”. RCW 64.90.115.



Not all plats, including short plats, necessarily have separate CCR documents. The qualifying information required of a declaration under WUCIOA could be on the face of the plat or even in deeds as lots are sold.

NOTE 1: A plat community might use a document entitled “Covenants, Conditions, Restrictions and Easements” or something similar. It would be equivalent to a declaration as defined in WUCIOA and need not be titled “declaration.” Some references in this material are “declaration/CCRs” in context of plats, but there is no requirement that the WUCIOA declaration document have a particular title.¹⁹

NOTE 2: The concept of “general plan covenants” or “general plan restrictions” can be imposed on multiple lots by including the provisions in each deed as the lots are sold. (That is, there is no separate CCR document.) While not common, if deed covenants are encountered that ***relate to payment of common expenses applicable to multiple lots***, the matter should be referred to the title company’s underwriting counsel.

2.3 MAP

Under WUCIOA, the *map* is the drawing (for most CICs it must be a survey) that, among other things, delineates and describes the boundaries of the following elements of the CIC:

1. the land,
2. units,
3. land that is subject to development rights,
4. certain other improvements, and
5. easements encumbering and appurtenant to the land.²⁰

If provided for in the declaration, it will include land that can be added later pursuant to a reserved development right. Under WCA and HPR, surveys were required for condominiums, which could be supplemented by plans for unit data.

The map does not “create” a CIC but rather is ancillary to the declaration.²¹ The data in the declaration and map must be consistent.

The WUCIOA map includes a certification by the surveyor and a declaration by the declarant. (See “Required Certificates and Declaration” in §16.7 below on page 56.) It must be a survey for all CICs, with one exception: the map for a cooperative need not be a survey if it includes the required data and a specific certification by the declarant.²²

The WCA and HPR maps were required to include “as built” certifications for condominiums.²³ The concept is similar under WUCIOA.

For more details about the map, see “Map Preparation” in §16.0 below on page 52.



2.4 SURVEY

WUCIOA uses the same definition of *survey* that is in RCW 58.09.020.²⁴ It is required for CICs, except that a map for a cooperative need not be a survey if the declaration includes all information required on a survey, and the declarant provides a specific certification.²⁵

2.5 CONDOMINIUM

A *condominium* is a statutory form of land division (separate ownership, along with taxation and financeability, of separate portions), and the term refers to the entire project (not an individual unit). In a condominium (1) there are common elements (which is all of the property outside the boundaries of the units²⁶), and (2) those common elements are owned by the unit owners as tenants in common.²⁷ All condominiums are CICs.

Note that a condominium must have common elements.

NOTE: If a CIC purports to be a condominium but does not have common elements, or if the declaration provides for a different form of ownership of the common elements (such as being vested in the owners association) the title company should consult with underwriting.

The common elements of a condominium cannot be partitioned²⁸ or otherwise owned or encumbered by a unit owner, the owners association or any third party independent of an interest in a unit.^a (However, there are provisions for conveying or encumbering portions of the common elements by the owners association.²⁹) Thus, any attempt to separately convey or encumber the common elements in a condominium must be reviewed by title company underwriting before insuring title to the purportedly conveyed or encumbered land or any individual unit.

See, in general, “Post-WUCIOA Phases Added to Pre-WUCIOA Projects” in §7.0 below on page 27, and also “Condominium” in §7.1 below on page 27 for a discussion of post-WUCIOA additions to pre-WUCIOA condominiums.

2.6 COOPERATIVE

A *cooperative* is a statutory form of real property ownership (at least in context of exclusive possessory interests in portions of the land), but unless the declaration states that the interest of the unit owner is real property for all purposes, it is personal property.³⁰ This may affect title insurability. All cooperatives created after July 1, 2018 (and those created prior to that date if the declaration is amended to incorporate provisions of WUCIOA), are CICs.

In a cooperative all of the real estate (including the units) is owned by an association, each member of which is entitled, by virtue of (a) the member’s ownership interest in the association and (b) a proprietary lease, to exclusive possession of a unit.³¹ It is not possible to separately own, convey

^a “...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.”



or encumber an interest in the property of the cooperative^a independent of the possessory interest of the unit owner in a unit.³² Thus, any attempt to convey or encumber the common elements in a cooperative must be reviewed by title company underwriting before insuring title to any individual unit.

All of the property outside the unit boundaries is common elements, but not a separate “parcel” vested in the unit owners; rather it is part of the entirety of the property, title to which is vested in the owners association.³³

WUCIOA requires a map for a cooperative, and the map can, but need not, be a survey.³⁴ However, if it is not a survey, the same map data and certification (by the declarant instead of the surveyor) are still required. The map would define the boundaries of the units, which would in most situations create a “good and sufficient” legal description for title insurance purposes.

2.7 PLAT AND PLAT COMMUNITY

A *plat* (including short plats and binding site plans³⁵; see “Binding Site Plan” in §2.16 below on page 17) is a traditional form of statutory land subdivision:

1. in which units (lots or tracts) have been created by subdivision or short subdivision as both are defined in RCW 58.17.020, and
2. in which the boundaries of units are established pursuant to Ch. 58.17 RCW.

A *plat community* is a plat that meets the foregoing criteria, but is also a CIC because:

3. it has the elements of shared expenses relating to other land as included in the definition of CIC (see “Common Interest Community” in §2.1 above on page 7).³⁶

Thus, if a plat does not have this CIC characteristic, it is not a plat community.

NOTE: A plat community (a plat that is also a CIC) is a new concept in Washington under WUCIOA. For additional discussion, see “Plats and Plat Communities” in §5.0 below on page 24.)

WUCIOA requirements for maps relating to plat communities generally involve notice and disclosure information but do not affect the existing statutory and regulatory requirements for the recorded plat community survey that creates the subdivision of land (pursuant to Ch. 58.17 RCW).

NOTE 1: The applicability of the definition^b of a CIC to a plat would determine whether the plat is a plat community as defined by WUCIOA, and thus whether the provisions of WUCIOA would apply. See “Plats and Plat Communities” in §5.0 below on page 24 for further discussion of this issue.

^a “In a cooperative, any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.”

^b See the definition of CIC in “Common Interest Community” in §2.1 on page 6.



NOTE 2: See also, in general, “Post-WUCIOA Phases Added to Pre-WUCIOA Projects” in §7.0 below on page 27, and also see in particular “Plat Divisions recorded Before and after July 1, 2018” in §7.3 below on page 28 for a discussion of post-WUCIOA additions to pre-WUCIOA plats.

A plat community may or may not have common elements (which typically would be one or more separately surveyed and identified tracts or parcels of land, such as private roads, parks, tracts with community buildings or recreational features, greenbelts, drainage areas, etc.). But if it does, there might not be any obligation for lot owners to share costs related to common elements. If that is the case, it would not be a plat community.

Common elements in a plat community can be either conveyed to the owners association or owned by the lot owners as tenants in common.³⁷

This latter is often accomplished by dedication language on the face of the plat, but could be stated in the declaration (CCRs). It also generally is not intended to be accomplished by a separate deed to all of the lot owners, and there might or might not be an express inclusion of the respective undivided interest in the initial conveyance to each lot owner.

A plat community could involve vertically “stacked” lots (see “Subdivision Compliance” in §4.2 below on page 19), but such a CIC might also be accomplished with a miscellaneous community (see “Miscellaneous Community” in §2.8 below below).

NOTE 1: The fact that the unit owners could own the common elements as tenants in common, which is also a defining characteristic of a condominium, does not necessarily create a conflict with WUCIOA’s definition of a condominium,^a because the plat community will have been created and recorded as a plat pursuant to Ch. 58.17 RCW, and that type of ownership is contemplated by the definition of plat community.

NOTE 2: A plat community that (a) is not subject to any development rights, AND (b) contains no more than twelve units, AND (c) provides in the declaration that average annual assessments for residential units are less than \$300 (to be adjusted for inflation) is only subject to three WUCIOA sections^b (although the declaration can provide that all of WUCIOA applies).³⁸ See also “Small Projects” in §8.2 below on page 31.

2.8 MISCELLANEOUS COMMUNITY

A *miscellaneous community* is any CIC that is not a plat community, condominium or cooperative. However, the creation of a miscellaneous community cannot be in violation of Ch. 58.17 RCW,³⁹ which in general means that it cannot be inconsistent with the exemptions to platting found in

^a “Condominium” means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. RCW 64.90.010(11).

^b RCW 64.90.020 (separate titles and taxation), RCW 64.90.025 (applicability of local ordinances, regulations, and building codes) & RCW 64.90.030 (eminent domain).



RCW 58.17.040. As is the case with plats, not all exempt divisions of land are CICs; it takes the existence of a declaration (or any similar document, including a map, containing relevant language) characterizing the land division as a miscellaneous community to make it a CIC.^a

NOTE: A miscellaneous community is a new concept in Washington under WUCIOA. For additional discussion, see “ Miscellaneous Communities” in §6.0 below on page 25.

A miscellaneous community may or may not have common elements, but, if it does, those common elements can be conveyed to the owners association or owned by the unit/lot owners as tenants in common.⁴⁰ Note however, the latter element would also be a defining characteristic of a condominium.⁴¹ If a CIC purports to be a miscellaneous community, but (1) has common elements that are (2) owned by the unit owners as tenants in common, title insurance underwriting should be consulted.

NOTE 1: The fact that the unit owners could own the common elements as tenants in common, which is also a defining characteristic of a condominium, does not necessarily create a conflict with WUCIOA’s definition of a condominium,^b because the miscellaneous community will have been created “in a manner not inconsistent with” Ch. 58.17 RCW.

NOTE 2: A miscellaneous community that (a) is not subject to any development rights, AND (b) contains no more than twelve units, AND (c) provides in the declaration that average annual assessments for residential units are less than \$300 (to be adjusted for inflation) is only subject to three WUCIOA sections^c (although the declaration can provide that all of WUCIOA applies).⁴²

A miscellaneous community that does not create any “stacked” vertical units (that is, all units are side-by-side, and no unit is above or below another unit) would have characteristics common to a plat community. Thus, if a CIC purports to be a miscellaneous community but has all the characteristics of a plat (especially if there are no common areas), the insurability of a unit, and in particular, the availability of a subdivision endorsement, should be referred to title company underwriting.

See also “ Miscellaneous Communities” in §6.0 below on page 25, including provisions for possible exemption from WUCIOA. See also “Exemptions to WUCIOA” in §8.0 below on page 30.

^a See the definition of CIC in “Common Interest Community” in §2.1 on page 6.

^b “Condominium” means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. RCW 64.90.010(11).

^c RCW 64.90.020 (separate titles and taxation), RCW 64.90.025 (applicability of local ordinances, regulations, and building codes) & RCW 64.90.030 (eminent domain).



2.9 UNIT

A *unit* is the individually defined space (separating it from other units and from common elements) within the CIC. The unit can be sold or leased independent of other units. In context of the requirements of WUCIOA, it includes lots and tracts in a platted subdivision (and this material uses “units/lots” in context of plat communities and miscellaneous communities), and defined spaces in condominiums, cooperatives and miscellaneous communities.

NOTE: In a condominium or cooperative, any defined space can be a unit. Thus, parking spaces, moorage slips and airplane tie-down spaces (as examples) that are more commonly designated as limited common elements (LCE) can be units. A project might have some of these elements, such as parking spaces, that are units and some that are LCE.

It is important that the declaration and the map be consistent when distinguishing such areas, and that if the spaces are intended to be units (typically airspace units, or units with some physical boundaries and some airspace boundaries – see “Units Without Physical Boundaries” in §11.2 below on page 38) that they meet the statutory requirements.

The boundaries of all units must be surveyed, except for some cooperatives.⁴³

2.10 COMMON ELEMENTS

Common elements are all of the CIC land except the units. While it is typical that most CICs have common elements (and they are an essential element for condominiums and cooperatives), not all plat communities or miscellaneous communities will have them. (See also “Conveyance of Common Elements after CIC Created” in §4.6 below on page 22.)

2.10.1 CONDOMINIUM COMMON ELEMENTS

A condominium has common elements, which must be owned by the unit owners as tenants in common. Common elements are essentially everything that is not within the boundaries of a unit. Common elements are (1) not separately taxable, and (2) not subject to partitioning.⁴⁴

NOTE: A condominium always has common elements. Also, when units are added by phasing (see “Phasing – Adding Land & Units” in §15.1 below on page 49 and “Phasing – Adding New Units in Common Elements” in §15.4 below on page 51), all common elements are essentially a single parcel, and all unit owners own an undivided interest in the entirety of all common elements. This interest is an indivisible element of the distinct title to the wholly owned unit.

In contrast, while a plat community may have common elements that are owned by the lot owners as tenants in common (see “Plat or Miscellaneous Community Common Elements” in §2.10.3 below on page 15), that title is independent of title to the lot.



2.10.2 COOPERATIVE COMMON ELEMENTS

In a cooperative, the title to all of the land, including the units, is owned by the owners association, but the land outside of the unit boundaries is common elements. Cooperative common elements are not separately taxable and are not subject to partitioning.⁴⁵

2.10.3 PLAT OR MISCELLANEOUS COMMUNITY COMMON ELEMENTS

A plat community or miscellaneous community may or may not have common elements, but if it does, they would be separate parcels, independent of the units/lots. (They could of course, still be identified as “lots”, “tracts” or “parcels” or some similar term.)

There are three common approaches to effectuating the desired type of ownership of such land:

1. the parcel(s) can be conveyed by the declarant to the owners association before the first lot/unit is conveyed,
2. the parcel(s) can be owned by the lot/unit owners in undivided interests as tenants in common by virtue of a dedication on the face of the map or in the declaration/CCRs, or
3. the parcel(s) can be owned by the unit/lot owners in undivided interests as tenants in common by virtue of being conveyed by the declarant to each lot/unit owner as each lot/unit is sold. (Note that this latter option is not expressly contemplated by RCW 64.90.200(3)(c).)

NOTE: THE DECLARATION MAY PROVIDE OTHERWISE. Any variation from these methods of common element ownership should be referred to title insurance underwriting.

The approach to common elements used for a particular plat is generally not an issue for title insurers unless (a) title to such common elements is to be insured, or (b) such undivided interest is requested to be included in the legal description or vesting for the unit/lot being insured. However, the title company may require one of the above options to be effective at the time the plat is recorded.

These parcels may be taxed separately, particularly if title is held in the name of the owners association.

NOTE 1: Note that if, for whatever reason, title is not conveyed by the declarant to the owners association or expressly dedicated to the lot/unit owners as tenants in common, RCW 64.90.200(3)(c) provides that title to the common elements is deemed conveyed to the owners association at the time the first unit is conveyed.

However, the title company should refer any request to insure title in the owners association based on this statute to senior underwriting.

NOTE 2: A common element tract or parcel in a plat can also be allocated as a limited common element to one or more lots. See “Limited Common Elements” in §2.11 below and also see “Limited Common Elements” in §13.0 below on page 43, and as to the map, see “Limited Common Elements” in §16.8.9 below on page 63.



2.11 LIMITED COMMON ELEMENTS

Limited common elements are portions of the common elements reserved for the use of one or more, but not all, units.⁴⁶ In most cases, LCE will apply to condominiums and cooperatives, since platted lots typically include such areas within the unit/lot boundaries.

However, a common element tract or parcel in a plat community or miscellaneous community can be allocated as a limited common element to one or more, but not all, units (lots). An example might be a separate access tract in a short plat, which will not be part of any of the lots but that would serve fewer than all of the lots. See “Limited Common Elements” in §13.0 below on page 43, and “Limited Common Elements” in §16.8.9 below on page 63.

NOTE: In a condominium, certain elements of a property that are commonly designated as LCE, such as parking spaces, boat moorage slips or airplane hangar spaces, can be alternatively be created as units instead of remaining portions of the common elements to be allocated as LCE. The map and declaration must be consistent in distinguishing between units and LCE.

2.12 DEVELOPMENT RIGHTS

Development rights (see also “Development Rights” in §15.0 below on page 48 for more details) are rights reserved in the declaration to, among other things:

1. add land (which land can, but need not be, described in the declaration) with newly created units (commonly referred to as “phasing”; see “Phasing – Adding Land & Units” in §15.1 below on page 49),
2. create new units within the common elements (another form of phasing; see “Phasing – Adding New Units in Common Elements” in §15.4 below on page 51),
3. convert/subdivide a unit into additional units (see “Phasing – Subdividing Units” in §15.5 below on page 51), and
4. withdraw land from a CIC.⁴⁷

This is distinguished from a “special declarant right” (see “Special Declarant Rights” in §2.13 below). A special declarant right can include the right to exercise a development right, but special declarant rights themselves generally do not relate information shown on a map.

See “Development Rights” in §15.0 below on page 48 for additional discussion of development rights.

In a plat community or miscellaneous community, phasing does not typically involve adding new units/lots to the existing plat. Rather, it would involve either a new CIC on additional land or a new CIC imposed upon “development” tracts within the plat. In either event the new CIC adopts or imposes the existing declaration/CCRs of the first phase.

Also, see “Post-WUCIOA Phases Added to Pre-WUCIOA Projects” in §7.0 below on page 27 for a discussion of phases added to pre-WUCIOA projects.



2.13 SPECIAL DECLARANT RIGHTS

Special declarant rights are those rights reserved to a declarant that in general do not impact the preparation of a map. They include the right to exercise a reserved development right, including the right to use the common elements for purposes of exercising those rights.⁴⁸

2.14 CONVERSION BUILDING

WUCIOA defines a *conversion building*⁴⁹ in context of declarant disclosures, notices and occupancy rights. In general, for purposes of map preparation and certifications by the surveyor, there is no distinction between new construction and a conversion building.

NOTE: To the extent that a surveyor might also provide engineering services that address declarant obligations relating to conversion buildings, this material does not discuss those issues.

2.15 PUBLIC OFFERING STATEMENT

The *public offering statement* (“POS”) is a disclosure document that must be prepared by the developer and delivered to prospective unit purchasers for most new CICs.⁵⁰ It must be accompanied by the declaration and map.⁵¹

Some items (“principal common amenities”) required to be included in a POS must be on the map.⁵² Thus, the surveyor should see the POS as soon as a draft is available, and review the final POS prior to certifying the map. See “Principal Common Amenities” in §16.8.14 below on page 65.

The declaration and map may be provided to a prospective purchaser in draft form for purposes of the POS. See “Draft Map” in §16.1 below on page 53.

2.16 BINDING SITE PLAN

Under the WCA (but not WUCIOA), a condominium on a portion of a legal lot could be exempt from platting if the entirety of the lot was first subjected to a binding site plan.⁵³ This required that all the land eventually be included in one or more condominiums.

This exemption is not applicable to condominiums created after July 1, 2018. See also “Subdivision Compliance by CIC” in §4.2 below on page 19.

3.0 TITLE REPORT

The surveyor should receive a current **title report**, which is usually in the form of a **subdivision guarantee**. Such title reports, which should not be recorded, are typically required by a city or county when processing applications for plats under Ch. 58.17 RCW, and can be used by the developer, the developer’s attorney and the surveyor for CIC preparation as well. A title report will reflect the public record as to the ownership and legal description of the land that is to become



a CIC, including in some cases, future phase land. Any recorded easements and similar matters of record affecting the land (whether encumbering it or appurtenant to it) should also be in the report.

NOTE: The surveyor should notify the title company and the developer's attorney at once if the surveyor's data in any way conflicts with the title report.

For example, there may be apparent easement or similar rights (such as might arise from encroachments) observed by the surveyor that are potentially appurtenant to or encumber the CIC land that are not shown on the title report.

Other examples include possible new easements appurtenant or encumbering that are intended to be created during the development process. (See "New Road Dedications & Easements" in §10.0 below on page 33.)

All such matters, even recorded easements that are purportedly appurtenant but not deemed sufficient for title insurance purposes by a title company, should be discussed with the title company and the declarant's attorney, but still must be shown on the map.

Prior to certifying the map, the surveyor should request an updated title report.

The map, along with the declaration, should be submitted for review and approval by a title insurance company, preferably well in advance of recording. It is easier to correct and update either document, but especially the map, prior to recording than to amend them after they are recorded.

4.0 SUBDIVISION OF LAND IN GENERAL

Subdivision of land is often thought of in the context of creating side-by-side parcels, with only vertical boundaries between them. This can be done using legal descriptions to establish the boundaries without formal platting. Ch. 58.17 RCW imposes limitations and requirements on most such subdivisions (also called plats) in Washington, although there are exemptions.⁵⁴

Thus, a plat created pursuant to local ordinances based on Ch. 58.17 RCW, has historically been a side-by-side subdivision of lots where there are no defined horizontal (upper or lower) boundaries (the concept has been described as extending "from the center of the earth to the heavens above").

It is also possible to create separate of parcels of land that are stacked vertically (a separate parcel located above or below another distinct parcel), again by use of legal descriptions to define the horizontal (upper and lower) boundaries in addition to the traditional vertical (side) boundaries.

A condominium, particularly and historically in the context of a multistory building with residential dwelling units, has been the most common way to subdivide land vertically. The statutory process of expressly permitting such a division of land not only provides for separate ownership of the individual units without utilizing Ch. 58.17 RCW but also enables separate taxation and encumbrance of the individual units.

Under WUCIOA, a cooperative is also a permitted form of vertical division of land, as is a miscellaneous community. Each can involve units that are either stacked vertically or located side-by-side.



However, until WUCIOA provided for a miscellaneous community, while a vertical subdivision could be (and has been) the subject of a plat or non-formal lot division, local subdivision ordinances may not expressly contemplate it. In addition, separate taxation of the created “lots” might not be available in a particular jurisdiction. And, financing might not be available even if the parcels are separately taxed. Presumably, the creation of a miscellaneous community could be utilized to address such situations.

Nonetheless, any attempt to vertically subdivide land other than as a condominium or cooperative, even as a miscellaneous community, should be referred to underwriting counsel.

4.1 TITLE INSURANCE AND SUBDIVISION IN GENERAL

Title insurance policies exclude matters relating to subdivision compliance or violations thereof.⁵⁵ Although affirmative coverage endorsements related to certain subdivision matters are often requested by insureds, they might not be available for certain types of subdivisions if there is any question as to whether the insured land is a “legal lot.”

Similarly, with respect to CICs (particularly condominiums), endorsements relating to compliance with enabling legislation (such as the HPR, WCA or WUCIOA) may or may not be available with respect to units in CICs, depending on the result of the title company’s review of the CIC documents.^a

Note that whether or not the project is a CIC, and even if there are no CCRs (or no WUCIOA declaration) that address such matters, the title policy might still except from coverage matters inherently applicable to ownership of stacked or adjoining parcels that may not be “legal” lots. Examples of such exceptions include rights of support (for improvements located in the upper or adjoining parcels), access to individual parcels, so-called party wall rights and obligations, lateral support (evidenced by retaining walls, for example) and similar maintenance rights and/or obligations.

4.2 SUBDIVISION COMPLIANCE BY CIC

A *condominium* or *cooperative* (that is, a CIC that is not a plat community or miscellaneous community) can be created on the entirety of any legal lot or multiple legal lots, without requiring a separate plat that would be subject to conformance with Ch. 58.17 RCW.⁵⁶ However, if any portion of a legal lot is to be subjected to a *condominium* or *cooperative* CIC, a plat is first required.

IMPORTANT NOTE: As to condominiums, this differs from those created under the WCA. Under the WCA a *condominium* (only) on a portion of a tax parcel might be exempt from platting if a binding site plan (see “Binding Site Plan” in §2.16 above on page 17) was first used to “subdivide” all the property as permitted by statute⁵⁷ and local ordinances adopted pursuant thereto.

^a Title insurance checklists are or will be available for most CICs.



HOWEVER, RCW 58.17.040(17) was not amended to provide an exemption to platting if a binding site plan is used to accommodate a condominium (or any other CIC) created after July 1, 2018, on a portion of the binding site plan pursuant to RCW 64.90 *et seq.* Any request to utilize a binding site plan in connection with the creation of a condominium after July 1, 2018, should be referred to the title company's underwriting or counsel.

NOTE 2: Parcels or tracts in a binding site plan are not necessarily "legal lots" nor required to be segregated into tax parcels by the assessor. Requests to insure a parcel created by a binding site plan should be referred to the title company's underwriting or counsel.

Where otherwise required by local ordinance, a "lot consolidation" would typically not be required when a CIC is created on multiple legal lots.

Similarly, property in a *miscellaneous community* that is otherwise in compliance with the exemptions in Ch. 58.17 RCW also does not need to be subject to a separately recorded plat. (See also "Miscellaneous Communities" in §6.0 below on page 25.)

Once the declaration for a WUCIOA-compliant CIC is recorded, the units thereby created are "legal lots."

Note also that any unit in any CIC can itself be subjected to another CIC.⁵⁸ For example, in a mixed use project, separate units can be created on the land (perhaps in a miscellaneous community; see "Miscellaneous Communities" in §6.0 below on page 25), each intended for a different use (a commercial/retail space, a hotel, an office building, a parking garage and a residential condominium, for example). Then, a condominium or cooperative CIC that is intended for one of those uses could be created within individual miscellaneous CIC units.

4.3 WHEN NOT A LEGAL LOT

If any single CIC is to be created on only a portion of any existing legal lot (typically, but not necessarily, based on tax parcels), a plat (including a short plat or, with respect to condominiums created prior to July 1, 2018, under the WCA, a binding site plan pursuant to RCW 58.17.040(7) if permitted by local ordinance) may be required to create a legal lot or lots upon which the CIC can then be created. If this is not done, endorsements relating to either, or both, subdivision compliance or WUCIOA compliance may not be available.

NOTE: Requests to insure any unit, or any portion of CIC land, within a CIC that is not itself created on the entirety of one or more "legal lots" should be referred to the title company's underwriting or counsel.

4.4 WITHDRAWAL OF LAND – DEVELOPMENT RIGHT

The following applies mainly to condominiums, cooperatives and miscellaneous communities. As to a plat community, withdrawal of land, while possibly requiring a plat amendment pursuant to Ch. 58.17 RCW, would not normally affect title, or insurability of title, to individual remaining



units/lots. In addition, if an amendment to a plat community is required by Ch. 58.17 RCW, the withdrawn land would presumably constitute a “legal” lot.

Partial withdrawal under WUCIOA, which involves separating an existing CIC into two or more parcels for separate ownership, is a form of subdivision.

Thus, if a CIC other than a plat community has been initially created on the entirety of one or more legal lots, and the declarant elects to withdraw a portion of the land pursuant to a reserved development right,⁵⁹ the land may have to be subdivided pursuant to the requirements of Ch. 58.17 RCW.

This would be a complicated process, which may or may not require joinder of all unit owners, to the extent that they are owners (especially in a condominium, by virtue of their title to an undivided interest in the common elements) of the land being subdivided.

However, if the particular portion of land that is to be withdrawn from the CIC was a legal lot prior to the creation of the CIC, a subdivision complying with Ch. 58.17 RCW may not be a necessary component of the withdrawal process. If withdrawal of a portion of a CIC is planned, the issue should be discussed with a title company, and may need to be run by the local platting agency.

In any withdrawal situation (other than for a plat community), an amendment to the map will be required to revise the legal description of the CIC and to revise the survey drawing to reflect the new CIC legal description.⁶⁰

In addition, withdrawal of CIC land will require an amendment to the declaration to revise the legal description of the CIC land and, if necessary, reallocate the allocated interests if unsold units are included in the withdrawn land.

NOTE: There is no express requirement for a declaration amendment, HOWEVER, all map amendments must be accompanied by an amendment to the declaration.⁶¹ See also “Map Amendments” in §17.0 below on page 69.

Note that WUCIOA contemplates the withdrawal of all of the CIC land (assuming that no unit has been sold).⁶² Assuming no units have been sold, such a withdrawal would be more appropriate than a termination contemplated by RCW 64.90.290.

NOTE: Any withdrawal of CIC land, even if pursuant to a reserved development right, should be reviewed by the title company’s underwriting counsel.

4.5 WITHDRAWAL OR PARTIAL TERMINATION – NOT PER DEVELOPMENT RIGHT

There may be circumstances in which common elements of a CIC other than a cooperative (and as to a cooperative, a portion of the land comprising the cooperative) could be withdrawn from a CIC (a) independent of a conveyance of that land to a third party pursuant to RCW 64.90.465, and (b) not in connection with a reserved development right. The process might also be referred to as a partial termination, and might be assumed as appropriate, particularly if a conveyance is intended to occur subsequent to the withdrawal or partial termination.



If done, the approval process must comply with either the statutory provisions for conveyance of common elements⁶³ or a termination of the CIC⁶⁴ even though it would not be a complete termination of the entire CIC.

The declaration and map must be amended when the boundaries of the CIC are altered. (See also “Map Amendments” in §17.0 below on page 69.) In any event, such an action could be subject to compliance with subdivision requirements in accordance with Ch. 58.17 RCW.

A termination can also be subject to review by the county assessor solely for the purpose of re-allocating the assessed value for ad valorem tax purposes.⁶⁵ While this statute refers to full termination, it would necessarily be applicable to any partial termination or withdrawal.

NOTE: Any withdrawal of or purported “partial termination” as to CIC land by the association should be reviewed by the title company’s senior underwriting counsel.

4.6 CONVEYANCE OF COMMON ELEMENTS AFTER CIC CREATED

A conveyance of common elements after the creation of a CIC, although contemplated and in some cases permitted by WUCIOA,⁶⁶ might impact subdivision compliance.

The declaration and map must both be amended to reflect the changes to the legal description of the project. The statute merely provides that the undivided interests of the unit owners (and unit encumbrances as to those interests) in the conveyed land are terminated after the conveyance.⁶⁷

NOTE: Any revision of a CIC by conveyance of a portion of the land should be reviewed by the title company’s underwriting counsel and may need to be reviewed or approved by the local platting agency.

4.6.1 CONVEYANCE OF COMMON ELEMENTS – CONDOMINIUM

If, after the creation of a condominium, the owners association conveys any part of the common elements as permitted by statute,⁶⁸ the declaration and map should be amended to reflect the revised legal descriptions. As with a withdrawal by a declarant (see “Withdrawal of Land” in §4.4 above) this may result in a need to comply with local subdivision requirements pursuant to Ch. 58.17 RCW, even if considered a lot line adjustment. Again, notwithstanding the ability of the owners association to make the conveyance on behalf of the unit owners, the local platting agency might impose additional requirements.

If the declaration and map are not amended, title companies will take exception for the effect of the conveyance in any title commitment or policies written on remaining individual units. In addition, the legal description of individual units after a conveyance but before any related amendments have been recorded, may exclude any “land” that was conveyed and that would otherwise be considered part of the common elements, pending the amendments.

As to the conveyed land, title insurance (including endorsements relating to subdivision or compliance with enabling statutes), if available, would probably be, in part, conditioned on the existence and sufficiency of such amendments. Appropriate exceptions to coverage relating to the CIC would probably be shown in any title commitment or policy, pending the amendments.



NOTE: See “New Road Dedications & Easements” in §10.0 below on page 33 for a discussion of dealing with potential reduction of the size of a condominium prior to the creation of the CIC.

4.6.2 CONVEYANCE OF COMMON ELEMENTS – COOPERATIVE

If, after the creation of a cooperative, the owners association conveys any part of the land comprising the cooperative as permitted by statute,⁶⁹ the declaration and map should be amended to reflect the revised legal descriptions. As with a withdrawal by a declarant (see “Withdrawal of Land” in §4.4 above) this may result in a need to comply with local subdivision requirements pursuant to Ch. 58.17 RCW, even if considered a lot line adjustment. Again, notwithstanding the ability of the owners association to make the conveyance on behalf of the unit owners, the local platting agency might impose additional requirements.

If the declaration and map are not amended, title companies will take exception the effect of the conveyance in any title commitment or policies written on individual units.

Title insurance for the conveyed land would probably be, in part, based on such amendments.

4.6.3 CONVEYANCE OF COMMON ELEMENTS – MISCELLANEOUS COMMUNITY

As with a plat community, common elements in a miscellaneous community would be separate parcels, and although WUCIOA addresses the procedures for conveying them,⁷⁰ it would not normally impact the map, particularly if the conveyance was of the entirety of the common element tract. If a portion of such tract is to be conveyed, an amendment to the CIC declaration and map might be required in addition to a plat pursuant to Ch. 58.17 RCW so that the resulting CIC land is “...not inconsistent with Ch. 58.17 RCW”⁷¹). However, such changes to the CIC land should not impact the title to any individual unit/lot.

4.6.4 CONVEYANCE OF COMMON ELEMENTS – PLAT COMMUNITY

Common elements in a plat community would typically be separate lots, and although WUCIOA addresses the procedures for conveying them,⁷² it would not normally impact the map, particularly if the conveyance was of the entirety of a common element tract. If a portion of such tract is to be conveyed, any amendment would be pursuant to Ch. 58.17 RCW, but would not impact the title to any remaining individual unit/lot. Title insurance for the conveyed land would be subject to title company review of both the process required by statute and the form of ownership of the common element parcels. (See the discussion of common element ownership in the “Plat and Plat Community” in §2.7 above on page 11.)

4.7 PUBLIC LANDS AS PART OF A CIC

A declarant may create a CIC on public lands, such as harbor areas and tidelands owned by the State of Washington. The declarant will typically have a leasehold estate on such lands.



A lease of a portion of public land, such as from the State of Washington or a port authority, may not require a subdivision. Such leases have been common with moorage condominium CICs created under the WCA.

See also “Legal Descriptions” in §16.8.1 below on page 58.

NOTE: Any CIC that is created on or that includes a leasehold estate on any portion of public lands should be reviewed by the title company’s underwriting or counsel.

5.0 PLATS AND PLAT COMMUNITIES

A plat community is a new concept in Washington State, introduced by WUCIOA. It does not involve a new type of subdivision, nor does WUCIOA change the way plats are created and approved. Rather, a plat community is a CIC created by the recordation of a declaration that accompanies or is included within a recorded plat approved under Ch. 58.17 RCW and local ordinances adopted pursuant thereto (see “Plat and Plat Community” in §2.7 above on page 11).

It is not up to the surveyor to determine if a subdivision plat requires a declaration that creates a CIC. However, if the surveyor is working on a project that looks like it would be a CIC, but the developer is not asking for the map data and certification required for CICs (and that information is not in a declaration), it is recommended that the that the surveyor make inquiries of the developer or the developer’s counsel and document the answer.

Even an apparently minor comment on the face of the plat (for example: “each lot owner to share the cost of maintaining ____”) might trigger the requirement to comply with WUCIOA. While such information can be in a separate declaration, it is the obligation to share costs, and not where that obligation is stated, that triggers the application of WUCIOA to a plat.

NOTE: Title insurance underwriting should be consulted for a determination as to whether a plat should be considered a CIC that is subject to WUCIOA.

5.1 NON-COMPLIANCE WITH WUCIOA – TITLE INSURABILITY

Note that a plat or plat community that is not in compliance with WUCIOA may not affect the title insurability of a lot/unit. However, lack of compliance could affect the ability or willingness of a title company to insure development rights or units created in the future pursuant to development rights. The title company may be reluctant to assume that a lot owner would not challenge the ability of the developer to add lots to the plat, for example, or assume that owners in an earlier division of a plat would not object to the imposition of obligations relating to a swimming pool added in a later division of that plat.

NOTE: Title insurance underwriting should be consulted for a determination as to whether a plat community complies with WUCIOA.



5.2 LIMITED APPLICABILITY TO PLAT COMMUNITY

A plat community (e.g., platted lots subject to a declaration; see “Plat and Plat Community” in §2.7 above on page 11) that

1. is not subject to any development rights, AND
2. contains no more than twelve units, AND
3. provides in the declaration that average annual assessments for residential units are less than \$300 (to be adjusted for inflation) is only subject to three WUCIOA sections (although the declaration can provide that all of WUCIOA applies).⁷³ (See also “Small Projects” in §8.2 below on page 31.)

NOTE: Title insurance underwriting should be consulted for a determination as to whether a plat community is subject to all of WUCIOA.

6.0 MISCELLANEOUS COMMUNITIES

A miscellaneous community is a new concept in Washington State, introduced by WUCIOA. It does not create a new type of subdivision; rather it deals with the application of WUCIOA to parcels of land that are not otherwise part of a condominium, a cooperative or a plat community. This section discusses what might a miscellaneous community by default (because it is not expressly a condominium, cooperative or plat community), types of projects that might be intentionally developed as a miscellaneous community, compliance with WUCIOA and applicability of WUCIOA.

A CIC (that is, where a unit owner is obligation to pay common expenses) that creates units but that is not a plat community, condominium or cooperative is a miscellaneous community. However, the units must be “...lawfully created in a manner not inconsistent with Ch. 58.17 RCW.”⁷⁴ Thus, a miscellaneous community can be created on the entirety of any legal lot or on multiple parcels, without requiring a separate plat, as long as that arrangement would not be in violation of Ch. 58.17 RCW.

A commercial mixed-use project, where separate CICs are created for each type of use might lend itself to this type of CIC. An example might include a single parcel that is to be developed with several buildings or portions of buildings dedicated to various uses such as commercial/retail, hotel use, office space residential condos, a parking garage, etc. A miscellaneous community could also be created as part of a boundary line adjustment affecting several existing legal lots and the creation of a common element parcel, such as a beach tract or community parcel with shared expenses, that would not otherwise be exempt (see “Exemptions to WUCIOA” in §8.0 below on page 30 and NOTE 2 in “Miscellaneous Community” in §2.8 above on page 12).

6.1 NON-COMPLIANCE WITH WUCIOA – TITLE INSURABILITY

Note that a miscellaneous community that is not in compliance with WUCIOA may not affect the title insurability of a lot/unit. However, lack of compliance could affect the ability or willingness of a title company to insure development rights or units created in the future pursuant to



development rights. The title company may be reluctant to assume that a lot owner would not challenge the ability of the developer to add lots to the plat, for example, or assume that owners in an earlier division of a plat would not object to the imposition of obligations relating to a swimming pool added in a later division of that plat.

Some uses might be construed as requiring a different type of CIC. For example, a purported miscellaneous community that consists solely of units that are side-by-side (such as is common with a row of adjacent townhomes), whether or not there are non-unit areas of real estate that are identified as common elements, could arguably be subject to review and approval pursuant to Ch. 58.17 RCW as a plat. (Note that this situation also might require certification of substantial completion as discussed in “Recording – Unit Boundary Substantial Completion” in §12.1 below on page 41.) Title insurability of a unit in such a CIC should be referred to title company underwriting.

Similarly, a purported miscellaneous community that includes only “stacked” units (such as a residential apartment building with individual units), particularly if there are common elements outside of the unit boundaries that are owned by the unit owners as tenants in common, could arguably be considered as qualifying only as a condominium under WUCIOA.

NOTE 1: If a CIC purports to be a miscellaneous community but has elements that are otherwise unique to either a plat community or a condominium, it should be reviewed by the title company’s underwriting counsel. Additionally, if a unit is insured, affirmative coverage (generally offered by a policy endorsement) relating to (a) the policy exclusion for matters relating to subdivision, or (b) compliance with applicable HPR, WCA or WUCIOA statutes should be reviewed by underwriting counsel.

NOTE 2: Title insurance underwriting should be consulted for a determination as to whether a miscellaneous community complies with WUCIOA, or might be more properly identified as a condominium or plat community.

6.2 LIMITED APPLICABILITY TO MISCELLANEOUS COMMUNITY

A miscellaneous community that

- (a) is not subject to any development rights, AND
- (b) contains no more than twelve units, AND
- (c) provides in the declaration that average annual assessments for residential units are less than \$300 (to be adjusted for inflation)

is only subject to three WUCIOA sections⁷⁵ (although the declaration can provide that all of WUCIOA applies).⁷⁶ (See also “Small Projects” in §8.2 below on page 31.)

NOTE: Title insurance underwriting should be consulted for a determination as to whether a miscellaneous community is subject to all of WUCIOA.



7.0 POST-WUCIOA PHASES ADDED TO PRE-WUCIOA PROJECTS

WUCIOA as adopted effective July 1, 2018, does not address those phased projects (see “Development Rights” in §15.0 below on page 48 for a discussion of phasing) where units are added after July 1, 2018, to a CIC first recorded prior to that date (and thus, at that time, not subject to WUCIOA).

This issue was addressed in a corrective amendment in the 2019 legislative session.⁷⁷ Units that are added to a pre-existing non-WUCIOA development (arguably still a CIC; see the definition in “Common Interest Community” in §2.1 above on page 7) are exempt from WUCIOA, *but only if*

1. the original declaration *expressly* provided for the right to add lots/units/phases, and
2. the amendment to the declaration and map adding units *expressly* subjects the units created by the additional phase to the pre-existing declaration pursuant to those originally reserved rights.

Assuming these two conditions are met, then none of the units in any phase would be subject to WUCIOA.

This presumes that the original declaration/CCRs provides for phasing and that future phases will be incorporated in and become part of the original CIC. Such provisions have typically been included in declarations for phased condominiums created under the WCA. The phasing process for pre-WUCIOA condominiums is well established and explicitly described in those declarations.

However, they may not be expressly included in pre-WUCIOA plat CCRs. In addition, plat “divisions” typically involve new plats, even if the new lots are created on a “development lot” within the original plat, and even if all lots in all divisions will be subject to one set of CCRs. (See “Plat Divisions recorded Before and after July 1, 2018” in §7.3 below on page 28 for further discussion of “phased” plats.)

NOTE 1: Any phase, division or addition, however, denominated, added to a pre-WUCIOA CIC should be referred to title insurance counsel or underwriting to confirm applicability of and/or compliance with WUCIOA. Title insurance underwriting should be consulted for a determination as to whether (a) a phase added after July 1, 2018, to any pre-WUCIOA CIC is subject to WUCIOA, and (b) whether the declaration and/or map of any pre-WUCIOA CIC would have to be amended to comply with WUCIOA if units are added by phasing after July 1, 2018.

NOTE 2: The declarant can opt to apply WUCIOA to the new units. However, this may create an ambiguity as to whether any portion of WUCIOA would apply to those units in the pre-WUCIOA phase(s), particularly units/lots still owned by the declarant. Such situations should be referred to the title company’s underwriting or counsel.

7.1 CONDOMINIUM PHASES RECORDED BEFORE AND AFTER JULY 1, 2018

Condominiums declarations created under the WCA before July 1, 2018, generally contain express phasing provisions as a reserved development right.

If:



1. the original declaration expressly provided for phasing by adding units, whether (1) within the common elements, (2) on land added to the project or (3) by subdividing a unit (see “Development Rights” in §15.0 below on page 48), AND
2. the phasing amendment expressly states that units are being added pursuant to those development rights, THEN

the added units would not be subject to WUCIOA.

Note that it is likely that the above conditions would be met, since (1) provisions for phasing as a reserved development right are typically included in pre-WUCIOA declarations, and (2) such development rights are typically referenced in the phasing amendment.

NOTE 1: Nonetheless, title insurance underwriting should be consulted in all condominium phasing situations, for a determination as to whether units in any subsequent phase of a pre-July 1, 2018, condominium should be treated as subject to any of the provisions of WUCIOA.

NOTE 2: Title insurance underwriting should be consulted in all condominium phasing situations, for a determination as to whether units in any subsequent phase of a pre-July 1, 2018, condominium should be treated as subject to any provisions of WUCIOA.

See “Use of Master Association” in §7.5 below on page 30 for a possible alternative approach to post-WUCIOA phasing that might be applied to condominiums.

7.2 COOPERATIVES

This issue likely would not apply to cooperatives, since any pre-WUCIOA cooperative would not typically provide for additional phases. Any cooperative recorded after that date will be subject to WUCIOA.

However, title insurance underwriting should be consulted if additional units are added after July 1, 2018, to a cooperative that was created before that date.

7.3 PLAT DIVISIONS RECORDED BEFORE AND AFTER JULY 1, 2018

As noted in “Plats and Plat Communities” in §5.0 above on page 24, under WUCIOA there will be no changes in the way a plat is prepared and recorded. However, if land within a plat is also a CIC it will be a plat community and must include WUCIOA data and WUCIOA certifications. The plat itself must be recorded concurrently with the declaration, with a cross reference to the recorded declaration.⁷⁸

CCRs for plat and plat divisions generally do not contain express phasing rights equivalent to those found in condominium declarations. However, there may be provisions (for example) disclosing that additional lots, albeit included in a plat recorded as a separate plat division, will be part of the CIC.

If:



1. the original CCRs/declaration expressly provided for adding lots/units, AND
2. the CCRs/declaration amendment expressly states that the units are being added pursuant to those development rights, THEN

the added units would not be subject to WUCIOA.

However, plat divisions are typically not added pursuant to the type of development right provisions common to condominium projects. Note that the likelihood that (1) CCRs for a pre-WUCIOA plat including express provisions for phasing as a reserved development right, and (2) such development rights being referenced in a phasing amendment is small.

Thus, if either of the following apply, then the presumption is that any plat (even if called a phase or division added to an existing pre-WUCIOA plat) recorded after July 1, 2018, will be subject to WUCIOA:

1. The original CCRs do not contain express provisions for expanding the subdivision, no matter what the second set of CCRs say about adding divisions.
2. The original CCRs contain provisions for adding land and lots/units to the subdivision, but the amended CCRs do not expressly stipulate that the lots/units are added pursuant to those provisions.

NOTE 1: Title insurance underwriting should be consulted in all plat phasing situations, for a determination as to whether units in any subsequent phase of a pre-July 1, 2018, plat should be treated as subject to any of the provisions of WUCIOA.

NOTE 2: See “Use of Master Association” in §7.5 below on page 30 for a possible alternative approach to post-WUCIOA phasing that might be applied to divisions in plat.

7.4 MISCELLANEOUS COMMUNITIES

This issue likely would not apply to miscellaneous communities, since that type of CIC did not exist prior to July 1, 2018. Thus, there are no pre-WUCIOA miscellaneous communities that will have additional phases added after July 1, 2018. Any new miscellaneous community recorded after that date will be subject to WUCIOA.

NOTE: Any miscellaneous community that purports to be a phase to a pre-WUCIOA miscellaneous community (and thus purportedly exempt from WUCIOA) should be reviewed by title company counsel or underwriting.

As noted in “Common Interest Community” in §2.1 above on page 7 the definition of a CIC is not based on whether or not there are common elements (homeowner or association owned features such as common park tracts, roadways, drainage parcels, wells, etc.), but rather whether there are



obligations to share costs (maintenance, taxes, or other expenses) for any property other than the unit owner's unit.^a

7.5 USE OF MASTER ASSOCIATION

One possible approach to these phasing issues for units added to a pre-WUCIOA project is the use of a master association⁷⁹ tying separate projects together.

Thus, the CCRs for a plat division could mirror the CCRs for the first plat, but with the addition of WUCIOA requirements, making it a plat community. Then, a master association could be created that ties the separate projects together. In that situation, a title company would probably show an exception for the relevant declaration/CCR document for when insuring lots in each plat, but also except from coverage the master association declaration.

8.0 EXEMPTIONS TO WUCIOA

There are some full or partial exemptions from the provisions of WUCIOA. In general, a claim of exemption under any of these provisions should be referred to title company underwriting.

8.1 VOLUNTARY EASEMENTS & COVENANTS

An easement or covenant that requires the owners of separately owned parcels of real estate to share costs or other obligations associated with a party wall, driveway, well, or other similar use does not create a common interest community.⁸⁰ Even though the obligations bind successive owners (once the mutual and voluntary agreement has been entered into) the owners do not have to comply with WUCIOA.

Some likely examples:

1. Two adjoining residential lots in an established residential neighborhood sharing a driveway.
2. A well located on a rural parcel benefitting both that parcel and an adjoining parcel, where both lots share maintenance costs.
3. A multiple lot subdivision, where some lots share access over and maintenance costs for a common driveway located on a common area tract, owned by the owners association, between the respective lots. There are no other common expense obligations imposed on the lot owners.
4. A short plat with 4 lots, which contains on its face provisions for a common access tract owned by each owner in undivided interests as tenants in common (alternatively, the access tract is an easement area encumbering one lot) and obligating each lot owner to share 25% of the maintenance costs. There are no other common expense obligations.

The title company should refer to underwriting any question of whether such an arrangement is exempt from WUCIOA.

^a See the definition of CIC in "Common Interest Community" in §2.1 on page 6.



8.2 SMALL PROJECTS

A plat community or miscellaneous community that

- a. is not subject to any development rights, AND
- b. contains no more than twelve units, AND
- c. provides in the declaration that average annual assessments for residential units are less than \$300 (to be adjusted for inflation, and subject to good faith on the part of the declarant⁸¹)

is only subject to three WUCIOA sections.^a (See also “Limited Applicability to Plat Community” in §5.2 above on page 25 and “Limited Applicability to Miscellaneous Community” in §6.2 above on page 26.)

However, the declaration can provide that all of WUCIOA applies.⁸²

8.3 NON-RESIDENTIAL – CONDOMINIUM

A condominium where all units are restricted to non-residential uses is exempt from some disclosure provisions.⁸³

For title insurance purposes all condominiums are subject to WUCIOA.

8.4 NON-RESIDENTIAL – OTHER CICS

A CIC (other than a condominium) that where all units are restricted to non-residential uses is, by default, not subject to WUCIOA *unless* the declaration so provides.⁸⁴

There are three categories of optional applicability:

1. All of WUCIOA.
2. Only RCW 64.90.010 through 64.90.325 (essentially, all of WUCIOA except those sections pertaining to the management of the association and purchaser protections).
3. Three sections:
 - a. RCW 64.90.020 (separate titles and taxation). Note that these elements are already common to plats. They are not significant for title insurance review purposes.
 - b. RCW 64.90.025 (applicability of local ordinances, regulations, and building codes). Again, these elements are not generally significant for title insurance review purposes.
 - c. RCW 64.90.030 (eminent domain). Again, this issue not generally significant for title insurance review purposes.

If a plat community, miscellaneous community or cooperative is entirely non-residential, the declaration should be reviewed to determine if WUCIOA

^a RCW 64.90.020 (separate titles and taxation), RCW 64.90.025 (applicability of local ordinances, regulations, and building codes) & RCW 64.90.030 (eminent domain). These generally do not impact title insurance.



applies, and if so, to what extent. The title company should refer to underwriting.

8.5 MIXED USE PROJECTS

Any CIC that includes both non-residential units and units *that may be used* for residential purposes might not be subject to WUCIOA.

However, if the units *that may be* used for residential purposes would otherwise constitute a CIC, then WUCIOA applies.⁸⁵

For title insurance purposes, a mixed-use CIC (including plat communities, miscellaneous communities and cooperatives) should be considered subject to WUCIOA. The title company should refer to underwriting if there is any question about a claimed exemption from WUCIOA.

9.0 ACCESS

For title insurance purposes, there must be actual physical access between each unit and a public right of way. The declaration should expressly provide for such access; if not, the matter should be referred to title company underwriting. Access to all units/lots in a plat community will likely be required by the plat approval process. Access for other types of CICs should be confirmed.

9.1 ACCESS TO INDIVIDUAL UNITS

Access to individual units can be shown on the map to the extent necessary to confirm either direct access to a public right of way, or access to and across easements (which might be the case with plat community units/lots) or a common element parcel (which in this instance might also be designated as LCE and allocated to specific units).

It would also apply to units contained in or comprised of a building: doorways, steps, stairways, hallways, elevator shafts, individual walkways and driveways, etc.

If any unit does not have access, it should be noted on the map.⁸⁶ The title company should consult with underwriting if there is any question of access to individual units.

9.2 ACCESS TO THE CIC

The CIC must abut a public right of way or have direct physical access to a public right of way over a title insurable easement appurtenant. The surveyor should disclose a lack of access, or any impediment to a right to access a public right of way, to the declarant and title company.

See also “New Road Dedications & Easements” in §10.0 below. Easements benefiting and burdening the CIC land must be shown on the map.⁸⁷ See also “Recorded Easements” in §16.8.12 below on page 64 and “Unrecorded Easements” in §16.8.13 below on page 64.



10.0 NEW ROAD DEDICATIONS & EASEMENTS

Prior to certifying the map, the surveyor should inquire as to any intended actions by the declarant that would change the legal description or use of the CIC land. Such actions may be intended to occur contemporaneous with the CIC development, but might not necessarily be reflected in the legal description of the CIC land (if intended to be appurtenant) nor shown in the map (whether appurtenant or encumbering) when it is recorded.

Such actions can include:

1. Dedication or conveyance of public rights of way adjoining or running through the land. In particular with condominiums and cooperatives, the intended creation of roads might require a revision of the legal description if the dedication or conveyance would result in a reduction in the size of the CIC when it is created.

For a condominium or cooperative, such dedication would occur independently of and preferably prior to the recordation of the declaration and map. In any event, those CIC governing documents would exclude the dedicated right of way, even if the condominium or cooperative is recorded prior to the completion of the right of way dedication.

NOTE 1: The title company should be consulted if the right of way is not intended to be created at the time the CIC is recorded. It will be necessary to address title insurance issues such the legal description to be used in the declaration and map, as well as insurable access.

NOTE 2: If a road dedication or deed is not possible prior to the recordation of a condominium CIC, see “Conveyance of Common Elements – Condominium” in §4.6.1 above on page 22 for a discussion of how the eventual conveyance must be handled.

In a plat community, road dedications would be part of the platting approval process.

Note that with condominiums and cooperatives interior roads are not “dedicated” to public use in the map, as is common with plat communities. Such roads would be shown on the map, but would be part of the common elements.

2. Grants of easements benefitting other land and encumbering the CIC land, even it related to future phase land owned by the declarant.
3. Reservation of easements over adjoining land, particularly owned by the declarant, that will benefit and be appurtenant to the CIC land. This may be the case with phase development.

The surveyor, title company, declarant and the declarant’s attorney should all be aware of such intended actions and resolve any issues relating map requirements and title insurance requirements.

10.1 DEDICATIONS FOR PUBLIC PURPOSES

The declarant’s declaration for a CIC *that is not a plat community* is not for any public purposes, since the creation of a condominium, cooperative or miscellaneous community does not involve



dedication of any public right of way. Interior roads and driveways are part of the common elements; they are not public.

NOTE: If any part of the CIC project (other than a plat community) is to be dedicated for public use, that should be done prior to the recordation of the CIC governing documents (and the legal description of the CIC land would not include it). If there is a delay in that process, the legal description in the declaration and map should probably still exclude that land.

If that is not done, any land within the common elements of a condominium, cooperative or miscellaneous community (after the declaration and map are recorded) that is to be conveyed or dedicated for a public right of way would first have to be conveyed pursuant to RCW 64.90.415 or condemned pursuant to RCW 64.90.030, and then withdrawn from the CIC by proper amendment to both the declaration and the map.

10.2 APPURTENANT EASEMENTS

An interior roadway within a condominium, cooperative or miscellaneous community is not an easement appurtenant to the property or to the units in the CIC. In a condominium or cooperative it would be a portion of the common elements. In a miscellaneous community it could be a common element tract – that is, not a unit/lot for conveyance to a purchaser, but rather to be owned by the unit owners as tenants in common or to be conveyed to the owners association. See “Limited Common Elements” in §13.0 below on page 43.

However, an interior roadway in such projects might be an easement appurtenant to other CICs in a larger master development, or appurtenant to future phase land if the current phase lies between a public road and the future phase land.

It would be appropriate to (a) state in the declaration (and delineate and label on the map) such property as encumbered by an easement for the benefit of the identified land that is not yet part of the CIC (or that will not be incorporated into the CIC), and (b) reference that easement as being appurtenant to the other land when conveying or encumbering it.

The title company should consult with underwriting as to the sufficiency of such a reservation or grant for insurability of the easement.

And, if the benefitted land is incorporated into a condominium or cooperative by a phase amendment, the easement would merge into the title of the owners (or cooperative corporation, if applicable) and the roadways would become part of the common elements of the larger project.

11.0 UNIT BOUNDARIES

WUCIOA provides flexibility with respect to unit boundaries. However, it should be noted that WUCIOA provisions tend to focus on boundaries that would be applicable to units in a building (often typical of condominiums and cooperatives), and not on boundaries that would be typical for a plat community or miscellaneous community. Lots in a plat typically would have only vertical (side) boundaries, and the upper and lower boundaries would be “from the center of the earth to



the heavens above.” (See also “Units Without Physical Boundaries” in §11.2 below on page 38.) Because WUCIOA requires boundaries to be defined in the declaration if they are NOT the default boundaries for all CICs (see item #1 following), this must now be stated in the declaration/CCR for plat communities, and not just for condominiums, cooperatives and miscellaneous communities.

Unit boundaries are, or can be:

1. As to a plat community, the boundaries are as shown on the plat as recorded pursuant to Ch. 58.17 RCW.⁸⁸ These boundaries are typically only vertical, “from the center of the earth to the heavens above” and running through the lot lines shown on the map. However, the plat map can describe and delineate horizontal boundaries for any lot, and can provide that a boundary is based on physical monumentation such as a party wall that separates townhome style construction.⁸⁹
2. As to a miscellaneous community, the boundaries are the same as for a plat community, because a miscellaneous community can only be created in a manner not inconsistent with a Ch. 58.17 RCW.⁹⁰ They can also be defined differently.⁹¹
3. As to condominiums and cooperatives, the *statutory default*, which is the interior *unfinished surfaces*^a of physically constructed walls, floors and ceilings. This is typical of an existing multi-floor building containing multiple units.

The declaration may also state this if it applies, but if it is silent, then this is the default unit boundary.⁹²

4. Determined by the physical location of any type of improvement, such as, for example, (a) connected townhouses where only vertical boundaries, defined by the exterior surfaces of the two abutting party walls, are what separates units (this might be the case in a plat community or a miscellaneous community), (b) separate single-family structures, where the exterior of the building is the unit boundary, or (c) a multistory building, where one or more entire floors comprise one unit and the horizontal boundary between units is a plane in the space between the floor and ceiling and the vertical boundaries are the exterior surfaces of the building.

The vertical boundary between two side-by-side units in plat community, a miscellaneous community or in a “traditional” multi-floor building, could be a plane in space that is located at the center of a common wall or a plane that lies in the gap separating the units. This is especially practical if the type of construction has two adjoining walls that are separated by a gap, and might also be utilized in townhouse type of construction. In that case, the entirety of each wall could lie within the unit boundaries.

^a RCW 64.90.210(1)(a): “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.” RCW 64.90.225(1)(d): the declaration must state “...a description of the boundaries of each unit *if and to the extent they are different from the boundaries* stated in RCW 64.90.210(1)(a).”

This approach could also apply to the horizontal boundaries between units. That is, the boundary could be a plane in space that lies halfway between the floor of the upper unit and the ceiling of the lower unit, or a gap between the floor and ceiling. Again, in this situation, the entirety of the floor of the upper unit would be contained in that unit, and the entirety of the ceiling of the lower unit would be contained in that unit.

NOTE: This type of boundary may be easier and less expensive to survey. However, it would not be the default boundary (interior surfaces of walls for each unit) and must be described in the declaration.

This situation is also not the air space boundary situation described in “Units Without Physical Boundaries” in §11.2 below on page 38. In that context, the “substantial completion” requirements (see “Substantial Completion” in §12.0 below on page 40) are still applicable for this situation.

5. So-called “planes in space” that do not tie to any physical monument.

This is a typical boundary for a plat subdivision created pursuant to Ch. 58.17 RCW, and likely also for a miscellaneous community, but it can be utilized for any type of CIC.

Units in condominiums and cooperatives (and perhaps miscellaneous communities) that have these characteristics are commonly referred to as “airspace” units. (See “Units Without Physical Boundaries” in §11.2 below.) They would be typical for plat communities as well, but platted lots would not typically be perceived as “airspace” units.

NOTE: It may be advisable to have the boundaries of an airspace unit, particularly the horizontal (upper and lower) boundaries, of an airspace unit located so as to encompass the entirety of a contemplated improvement. Examples might include:

- a. the foundation and roof antennae of a building, but not the space below the foundation or the space above the highest point of the structure,
 - b. the draft and mast of a boat to be located in a moorage unit,
 - c. the entirety of a building such as a single-family home,
 - d. the entirety of a multi-unit building that will itself be another CIC.
6. Boundaries can be a combination of any of the above examples, where some of the boundaries are planes in space (including the space between exterior walls of two adjoining units) and others the interior or exterior surface of a wall, floor or ceiling, some other part of a building structure, or another physical monument. Another example might be a parking space, where the lower elevation is the surface of the ground, and the side and upper boundaries are planes in space.

All boundaries, whether based on physical monumentation or planes in space, are to be (a) described in the declaration⁹³ (except to the extent that the declarant

elects to opt for the default boundaries^a) and (b) shown, as to both *location* and *dimensions*, on the map⁹⁴ (even if the default boundaries are used).

The surveyor's certification will also distinguish such boundaries. See **SCHEDULE A** and **SCHEDULE B** for suggested language.

Refer to "Vertical Unit Boundaries" in §16.8.18 below on page 66 and "Horizontal Unit Boundaries" in §16.8.19 below on page 67 for how that information can be reflected on the map.

11.1 UNITS WITH PHYSICAL BOUNDARIES

If unit boundaries are based on physical monuments, the units must be substantially completed in accordance with the map at the time of recording. See "Substantial Completion" in §12.0 below on page 40.

This includes units with a boundary that is a plane or space located between the walls of adjoining units or between the ceiling of one unit and the floor of another unit, as described in "Unit Boundaries" in §11.0 above on page 34.

So-called "shell" units (e.g., where walls are up, but the space is essentially unfinished) may be created. In such cases, however, the unit boundaries must physically exist before the declaration and map are recorded, even if interior spaces or surfaces are unfinished. Recording is not dependent on availability for occupancy. (See "Recording – Unit Boundary Substantial Completion" in §12.1 below on page 41.)

However, an uncompleted unit may not be conveyed, except under limited circumstances.⁹⁵ These include:

1. A conveyance of all of the units in a common interest community in a single transaction;
2. A conveyance to other than a purchaser;^b
3. An agreement to convey that may be canceled at any time and for any reason by the purchaser without penalty;
4. A conveyance of a unit restricted to nonresidential uses, except and to the extent otherwise agreed to in writing by the seller and purchaser of that unit.

^a The default for unit boundaries (that is, unless the declaration specifies otherwise) are the "traditional" boundaries of walls, floors, ceilings, doors and windows. RCW 64.90.210(1)(a) & RCW64.90.210(1)(d)

^b A purchaser is defined as "...a person, other than a declarant or a dealer, which by means of a voluntary transfer acquires a legal or equitable interest in a unit other than as security for an obligation." RCW 64.90.010(39). A dealer is defined as "...a person who, together with such person's affiliates, owns or has a right to acquire either six or more units in a common interest community or fifty percent or more of the units in a common interest community containing more than two units." RCW 64.90.010(39). Thus, a bulk sale of multiple unfinished units could be done.



11.2 UNITS WITHOUT PHYSICAL BOUNDARIES

Units without physical boundaries are typical of a plat community and miscellaneous community, but are permitted for all CICs. As noted above^a lots in a plat typically would have only vertical (side) boundaries, and the upper and lower boundaries would be “from the center of the earth to the heavens above.” This does not have to be stated in the declaration for a plat community or miscellaneous community.

With respect to condominiums, cooperatives, units with boundaries that are not based on physical monumentation are sometimes referred to as “airspace” units. These are units within which can be placed boats, houseboats, automobiles (parking spaces), mobile homes, aircraft, etc. Some of the boundaries may be physically monumented, such as the surface of a concrete slab or the sides of a pier for moorage slips, but more often they are a plane in space.

It is also possible for existing improvements, such as a single family detached dwelling or an entire multi-unit building to be included within the boundaries of an airspace unit.

Another example is a portion of the land that might be set aside for future construction of a building (either a single detached unit or a multi-unit building). In this case the development right to add units would not apply to a part of the common element land. Rather, the declarant would reserve the development right to subdivide the airspace unit into several units once the improvement is built. (See also “Phasing – Subdividing Units” in §15.5 below on page 51.)

Yet another example would be a parking space or boar moorage slip that might otherwise be designated as LCE.

Also, a unit (a parking space, for example) can have some boundaries that are based on physical monumentation (in this example, the ground level) and some that are airspace (the sides and upper elevation). The surveyor’s certification will also distinguish such boundaries. See **SCHEDULE A** and **SCHEDULE B** for suggested language.

Units in a plat community and a miscellaneous community typically would not have horizontal (upper and lower) boundaries, but to the extent there are such boundaries they would be delineated or otherwise identified on the map.⁹⁶

NOTE: For all CICs, even though there might not be physical walls or other structures surrounding or defining airspace unit boundaries, all boundaries must still be delineated on the map. They must be tied to property corners (for the vertical, or side boundaries) and to a fixed elevation bench mark (for horizontal, or upper and lower, boundaries).

In these cases, the surveyor will *not* certify the airspace units as substantially complete, but must still, however, certify as to the correctness of the boundaries shown. The statutory form is shown on **SCHEDULE A**, which also incorporates the certification required by the Survey Recording Act.⁹⁷

^a See “Unit Boundaries” in §11.0 on page 26.



11.3 UNIT STRUCTURES

Note that, as to a condominium or cooperative, there may or may not be an improvement within an airspace unit at the time the map is recorded with the declaration. The declaration will usually describe the type of improvements that may be placed within the unit (whether a boat, mobile home or single family detached home, for example) and will often define a fixed improvement such as a house as a “*unit structure*” or similar term.

Unit structures that are within the boundaries of an airspace unit when the condominium or cooperative is recorded should be located vis-à-vis the unit boundary on the map.⁹⁸ This is especially important if there are any encroachments of the improvements onto the common elements. However, the unit structure dimensions, number of rooms and area are not required to be reflected on the map, even if that information is to be in the declaration.

NOTE: Although the area of each unit is typically calculated by the surveyor, it is not required to be shown on the map. However, if is shown, it should be consistent with the areas shown in the declaration.

Whether the declaration and map will need to be amended in the future as **unit structures** are erected is a matter that will be addressed in the declaration.

11.4 MANUFACTURED HOMES AND HOUSEBOATS

In general, and irrespective of the application of WUCIOA to real property, a manufactured home (which term includes a mobile home) is not “Land” as defined in the American Land Title Association (ALTA) title insurance policy.⁹⁹ As such, it would typically not be included in the policy’s legal description of the land on which it is located, and the policy amount will be reduced to exclude its value. However, it may become real property (in context of the definition of “Land” in that policy) pursuant to Ch. 65.20 RCW, and if so, a unit on which a manufacture home in a CIC might be insured as follows:

1. without excepting the manufactured home from the legal description,
2. including its value in the policy amount, and
3. including one of the ALTA 7-06 series endorsements on the policy.

The statute contemplates that the declaration can permit the elimination of title to a manufactured home, and if it does, also expressly provides that the mobile home is part of the unit and that no other unit owner or the association has any interest in it.¹⁰⁰

Similarly, a houseboat would not necessarily be “Land” as defined in that ALTA title insurance policy but may become a fixture on that land under certain circumstances, and if so, a unit in a CIC might be insured as follows:

1. without excepting the houseboat from the legal description, and
2. including the value of the houseboat in the policy amount.



Any request to insure title to and/or the value of a houseboat should be referred to the title company's senior underwriting.

As to CICs, a manufactured home or houseboat may be intended to be placed within the airspace that defines a CIC unit. Since these improvements may become part of the unit in a CIC, as well as included in the title policy definition of "Land", and because of the increased value of the unit, a discussion is included here.

As to the CIC map, it would not be necessary to show the location of a manufactured home or houseboat within unit boundaries as depicted on the map, whether or not it has lost its status as a manufactured home or personal property, except to the extent that it (a) encroaches outside of the unit/lot boundary, onto either another unit/lot or common elements, or (b) falls into the category of "other matters customarily shown on surveys."¹⁰¹ This is particularly true for a plat community and a miscellaneous community. (See also "Improvements within Airspace Units" in §16.8.8 below on page 62.)

NOTE: Compliance with WUCIOA will not be the sole determining factor in insurability of manufactured homes or houseboats. Each title insurance underwriter will apply its guidelines for such insurance in conjunction with compliance with WUCIOA.

12.0 SUBSTANTIAL COMPLETION

The term "substantial completion" (and the HPR and WCA statutory term "as built") can be confusing in context of WUCIOA, and is discussed here for clarification.

NOTE: In all cases, a unit cannot be conveyed until both the declaration and the map are recorded, whether or not there are any improvements on or in a unit.¹⁰²

Completion as to all CICs has two components.

1. The first component applies to the surveyor (or, optionally, the declarant, if it is a cooperative) with respect to the *boundaries of the units* that are shown on the map. This is tied to the *ability to record* the declaration and map.¹⁰³ All CIC boundaries have to be located on the map. Additionally, *if they are defined by walls, floors and ceilings* those *boundaries* must substantially completed. (See "Recording – Unit Boundary Substantial Completion" in §12.1 below and "Units With Physical Boundaries" in §11.1 above on page 37.)

For a plat community or miscellaneous community, this completion is required, but as practical matter, completion does not relate to unit boundaries for most plat communities and miscellaneous communities, *unless* a boundary is defined by physical monumentation. This would be an unusual situation and should be referred to title company underwriting.

2. The second component relates to the declarant as to *availability of occupancy* with respect to the *ability to convey* a unit, and is applicable only if a POS is required.¹⁰⁴ Thus, in this context,



completion to the level of occupancy may not be needed if a POS is not required.^a (See “Conveyance – Unit Substantial Completion” in §12.2 below on page 42.)

In some situations, the map can be prepared in draft format for inclusion with a POS in advance of recording, in which case the certifications relating to boundaries would not be signed until it is recorded. See “Draft Map” in §16.1 below on page 53.

12.1 RECORDING – UNIT BOUNDARY SUBSTANTIAL COMPLETION

Before the declaration and map for any CIC can be recorded, the map must be certified^b as to all unit boundaries.¹⁰⁵

The map for a condominium, miscellaneous community or plat *must* be a survey prepared and certified by a licensed land surveyor.¹⁰⁶

The map for a cooperative *may* be a survey, and if so, must also be prepared and certified by a licensed land surveyor.¹⁰⁷ Alternatively for a cooperative, the declarant has the option to provide a non-survey map. In the latter case, the declarant would make the certification as to boundaries, which can be in the declaration and not on a separately recorded map.¹⁰⁸

Note that the requirement for, and the language of, the ***certification relating to boundaries is the same*** whether it is provided by the surveyor or by the declarant.

As to all maps:

1. For any unit with airspace boundaries (see “Units Without Physical Boundaries” in §11.2 above on page 38), the surveyor (or, optionally for a cooperative, the declarant) must certify them as being located as shown on the map.

This would likely be the norm for, but not exclusive to, a plat community and a miscellaneous community map. But it could apply to a condominium or cooperative where the units have airspace boundaries, that is, where units are not located in a building either contains or comprises that unit.

2. For any unit with boundaries based on physical monuments, including *but not limited to* walls, floors and ceilings, the surveyor (or, optionally for a cooperative, the declarant) must certify that the unit boundaries are substantially complete.¹⁰⁹

This would be typical of, but not exclusive to, a condominium or cooperative where the units are located in a building that either contains or comprises that unit.

In all CICs the unit boundaries are located and fixed by the recording of the declaration and map.

The surveyor must be cognizant of the intent of the declarant as to whether the units are to have physical monumented boundaries or airspace boundaries, and the declaration, map and POS must be consistent.

^a See RCW 64.90.600 for a list of exemptions from POS requirements.

^b For a plat community, this can be in the declaration.



If the intent is to have physically monumented boundaries, the surveyor will be certifying those boundaries as substantially complete (except, optionally for a cooperative, the declarant elects to forego a survey, in which case the declarant will be making that certification).

Note that the WUCIOA form of single certification for the surveyor^a (or, optionally, the declarant for some cooperatives^b) is applicable for all CIC maps (including plats), and need not be modified based on the nature of unit boundaries.

Also, to the extent that a CIC has some units with physical boundaries and some with airspace boundaries, the certifications need not be modified (because the suggested certification language applies to both types), but it may need to include additional clarifying language to identify the units to which each certification applies.

Thus, ***both the declaration and the map must identify those units*** that have each type of boundary. The declaration will define boundaries that are applicable to units, and if they differ among units, should additionally include a statement to that effect. An example:

“(a) As to Unit(s) _____, the horizontal and vertical boundaries of are determined by the walls, floors and ceilings thereof. (b) As to Unit(s) _____, the horizontal and vertical boundaries of are not determined by physical boundaries. [Add, if applicable: (c) As to Unit(s) _____, some of the horizontal and vertical boundaries are determined by the walls, floors and ceilings thereof, and some of the horizontal and vertical boundaries are not determined by physical boundaries.]”

If option (c) is included, the statement should identify which *specific* boundaries are so defined.

The map should also contain a similar statement (see SCHEDULE A, SCHEDULE B and SCHEDULE E). Using this approach will avoid the need to amend the actual certification language.

12.2 CONVEYANCE – UNIT SUBSTANTIAL COMPLETION

Although not relevant to the requirements for a map, the following is included for clarification of “completion.” Once the declaration and map for a condominium or cooperative is recorded (see “Recording – Unit Boundary Substantial Completion” in §12.1 above on page 41) units can be conveyed^c under the following circumstances:

1. If no POS is required, the unit may be conveyed.^d

^a See **SCHEDULE A** for new projects and **SCHEDULE B** for phase amendments adding units.

^b See **SCHEDULE C** for new projects and **SCHEDULE D** for phase amendments adding units.

^c A contract for sale (purchase and sale agreement) can be executed.

^d If a POS is not being provided for a new project that would appear to require one, the title company should consult with underwriting.



2. If a POS is required, as to an airspace unit that includes a building that contains multiple spaces that are not themselves units, the unit may be conveyed. An example of this would be an apartment building containing residential apartments that will be leased or rented but will not constitute units that will be sold.
3. If a POS is required, as to an airspace unit that does not include a building, the unit may be conveyed. Examples of this latter category include units for moorage slips, parking spaces, and airplane hangar spaces (where such spaces are not LCE).
4. If a POS is required, as to an airspace unit containing a “unit structure,” or similar improvement (no part of which constitutes a unit boundary), the existence of such would not appear to impact whether the unit can be conveyed, but should be referred to title company underwriting.
5. If a POS is required,
 - a. as to a unit (a) in a building *containing that unit* or (b) in a building *comprising that unit*, the unit may be conveyed only if substantially completed and available for occupancy, and all structural components and mechanical systems of the building containing or comprising that unit must be substantially completed, unless
 - b. as to such units, unit may be conveyed only if the declarant (or dealer as defined in WUCIOA¹¹⁰) and a purchaser have specifically agreed in writing as to the extent to which the unit will not be substantially completed and available and to which any structural components and mechanical systems will not be substantially completed at the time of conveyance.

A building “containing that unit” generally could be considered applicable to, for example, a traditional multistory building with stacked units, or a row of townhouses where portions of the building structure are unit boundaries.

An example of a building that “comprises” that unit, an example might be a detached single-family home where the entire building constitutes the unit, and none of the “yard” space surrounding it is part of the unit. Another example might be a unit in a miscellaneous community or condominium that where multiple floors of a building constitute one unit (such as a hotel) and multiple floors contain another unit for commercial or office use.

As noted, these conveyance requirements are not related to whether or not the declaration and map can be recorded.

Thus, a title company will want to confirm that a unit to be insured can be conveyed and should consult with underwriting if there is any question about whether an airspace unit that contains any type of building is subject to this statutory provision.

13.0 LIMITED COMMON ELEMENTS

The declaration will state which portions of the common elements are allocated as LCE. In a condominium or cooperative these may include decks, patios, driveways, open or covered parking spaces, garages, yard areas, stairs or hallways.



NOTE: Care should be taken that areas that are commonly designated as LCE are not intended to be units. See definitions “Unit” in §2.9 above on page 14 and “Limited Common Elements” in §2.11 above on page 16, and “Units Without Physical Boundaries” in §11.2 above on page 38.

In a plat community or miscellaneous community, an LCE might involve an access tract or well site that might serve some, but not all, units/lots.

NOTE: The concept of LCE in connection with a platted subdivision pursuant to Ch. 58.17 RCW is new. It will be necessary to further identify common tracts in a plat community or miscellaneous community as common elements, and further identify those common elements that will be used by fewer than all units/lots as LCE.

All LCE allocations are to be made in the declaration; the map does not make or recite the allocations, but only identifies and shows the location of specific LCE.

NOTE: All LCE must be allocated (assigned) to one or more units. See “Future LCE Allocations” in §13.2 below on page 45.

Major LCE must be shown as noted below.

For purposes of preparing a map, types of LCE include:

1. Certain physical elements designed to serve a single unit including a “...chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture [that] lies partially within and partially outside the designated boundaries of a unit...”¹¹¹ need not be shown. (This would apply generally to a condominium or cooperative.)
2. Similarly, other LCE, including “...fireplaces, shutters, awnings, window boxes, doorsteps, stoops, porches...and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit’s boundaries”¹¹² need not be shown. (Again, this would be generally applicable to a condominium or cooperative.)
3. While such areas are not automatically LCE and are not required to be so designated, some areas are almost always designated as LCE, including specifically porches, decks, balconies, patios,¹¹³ and front, side or rear yards that are not within the boundaries of an airspace unit. (See “Units Without Physical Boundaries” in §11.2 above on page 38.) These typically are adjacent to the unit. Assuming the declaration so classifies them, they must be delineated, labeled and (if applicable) numbered on the map.¹¹⁴ Only the general location (not dimensions tied to any monumentation) need be shown. (Again, this would typically apply generally to a condominium or cooperative, and not necessarily to a plat community or a miscellaneous community.)

NOTE: The statute requires that the map show the general location of some, but not all, of these¹¹⁵ on the map. (See “Limited Common Elements” in §16.8.9 below on page 63.) It is recommended that others, such as side, back and front



yard areas also be located on the map, as well as ANY other type of LCE space that is not physically adjacent to a unit.

4. Other common examples (typically, but not exclusively, for condominiums and cooperatives) include individual parking spaces, storage facilities, moorage slips, airplane hangar spaces, etc., which – assuming they are designated in the declaration as LCE – also must be delineated, labeled and numbered on the map.¹¹⁶ For condominiums and cooperatives, only the general location (not dimensions tied to any monumentation) need be shown. However, a notation as to “typical size” or similar descriptive language, may be useful in the future if such LCE will need to be reconstructed or re-stripped. For plat communities and miscellaneous communities, any LCE probably will be located on a specific tract or parcel that is surveyed and delineated on the plat map. The map may identify such an area as a “lot” but however labeled, if it is a limited common element it should be so labeled.

NOTE 1: In a plat community, particularly in a short plat, such areas would typically be common area conveyed to the owners association or owned by the unit/lot owners as tenants in common. The right of access in such plats is typically treated as an easement appurtenant, particularly if used for access, utilities, well or drainage purposes, etc. This is still acceptable, but it would also be appropriate to identify such a tract or parcel as LCE, even if the plat identifies the tract as reserved or granted as an easement benefiting one or more units/lots to satisfy platting requirements.

NOTE 2: In a plat community, the boundaries of all units, lots, tracts, etc., will be surveyed. If for some reason only a portion of a common element tract or parcel will be allocated as an LCE to a unit/lot, dimensions of that LCE portion need not be shown. However, it would likely be practical to do so.

Refer to title company underwriting if there is any question about identification, dimensions or location of any LCE in a plat community or miscellaneous community.

See also “Identification of LCE” in §13.4 below on page 47 and “Boundaries and Area of LCE” in §13.5 below on page 47.

13.1 REALLOCATION OF LIMITED COMMON ELEMENTS

LCE can be reallocated pursuant to a reserved development right¹¹⁷ (see “Development Rights” in §15.0 below on page 48), or by mutual agreement between the affected unit owners and the consent of the owners association.¹¹⁸ Reallocations must be by recorded amendment to the declaration.¹¹⁹ An amendment to the map would not be necessary in situations where the LCE were created and allocated to units.

13.2 FUTURE LCE ALLOCATIONS

Note that LCE are still common elements, but they are portions of the common elements that have been allocated (assigned) to a unit. Thus, if there are such areas that will not be currently allocated



LCE (for example, general unassigned parking spaces that are intended to be allocated as LCE in the future, they **would not** be designated as LCE in the declaration, but rather described as “real estate that may be allocated” as LCE.¹²⁰

Alternatively, the LCE can be created and allocated to a unit, but identified as subject to reallocation as units are conveyed.

The title company should consult with underwriting for any variation from these provisions.

NOTE: All LCE must be assigned. (See also “Future LCE Allocations” in §13.2 above on page 45.) In a plat community or miscellaneous community, it is unlikely that any common element would be intended to be allocated as LCE at a future date – all LCE would typically be identifiable when the declaration/CCRs and map are recorded.

However, in a condominium or cooperative, it is common that some LCE will not be allocated to specific units until some future date when those units are conveyed by the declarant.

Thus, if portion of the common elements is to be allocated later, it is not initially an LCE. If LCE are to be allocated permanently to specific units as they are conveyed (even in a plat community or miscellaneous community), they must either be:

(a) allocated as LCE to a declarant-owned unit (and identified in both the declaration and on the map) and then reallocated by recorded declaration and amendments pursuant to a reserved development right¹²¹ (see “Reallocation of Limited Common Elements” in §13.1 above on page 45), or

(b) remain part of the common elements and designated or described as real estate subject to the development right to be created and allocated later¹²² as LCE by recorded declaration and map amendments.

In both situations the reallocation would be pursuant to a reserved development right, and one or more amendments to the declaration (and the map, if not initially an LCE) must be recorded that coincide with the conveyances of the affected units by the declarant.

Any attempt to create un-allocated LCE should be referred to title company underwriting.

The statute does not require future LCE to be individually delineated on the map, nor for these areas to be labeled on the map. However, if such portions of the common elements are described in the declaration, it is recommended that they also be identified on the map. Note also that even if they are physically present (for example, striped and numbered parking spaces) they need not be shown on the map.

However, doing so (and by identifying the and numbering the spaces as subject to the development right to allocated as LCE) may preclude the need to amend the map when the declaration amendment is recorded. The amendment can then refer to the common element spaces by number that are being allocated as LCE to



specific units. If those spaces are not shown on the original map, it must also be amended to show the location and identifying number of the LCE spaces. See also “Reallocation of Limited Common Elements” in §16.8.10 below on page 63.

13.3 FUTURE LCE ALLOCATIONS – TAXATION

The county assessor may require that any amendment allocating LCE to units be submitted for re-valuation of units for ad valorem tax purposes.¹²³

13.4 IDENTIFICATION OF LCE

LCE that are physically separated from the unit, such as parking spaces (whether garage, carport or open), moorage slips and storage lockers usually need to be separately numbered or lettered to facilitate (a) readily identifiable allocation to individual units, and (b) valuation by the assessor for tax purposes.

Numbering of all LCE in the declaration and on the map must be consistent.

13.5 BOUNDARIES AND AREA OF LCE

Only the general location of LCE need to be shown; it is not necessary to survey the boundaries of or to show the square footage or floor and ceiling elevations, nor tie vertical boundaries to monuments.¹²⁴ However, their relative scale and location with respect to property lines, other LCE, adjoining units, support columns, elevator shafts, etc., should be indicated. Dimensions and area can be shown, however, if desired.

13.6 PART OF UNIT INSTEAD OF LCE

In some cases, typically with a condominium or cooperative, the declaration may provide that patios, decks, garages, carport spaces, storage rooms, or other areas that are traditionally treated as LCE may actually be part of an adjoining unit. If so, boundaries, area and elevation data is required, as would be the case for all portions of a unit.

For example, an enclosed garage may be physically connected to a unit (such as with a “townhouse” style of construction). It may therefore be included by definition in the declaration as part of the unit, rather than as a separate limited common element. Dimensions and elevations would then need to be shown and the area must be included in computing the total approximate unit area. Another example might be an adjacent patio that has no ceiling.

NOTE: Although the area of each unit is typically calculated by the surveyor, it is not required to be shown on the map. However, if is shown, it should be consistent with the areas shown in the declaration. Also, if applicable, a distinction should be made as to areas that might otherwise be LCE (adjacent carport, enclosed garage, patio or deck areas) but that are part of the unit.

There is an exception to this horizontal boundary requirement.¹²⁵ For example, a deck or patio that is to be part of a unit (rather than LCE) might have the same elevations as the adjoining portion of



the unit. If so, the map need not repeat this data if the location of the upper elevation is “reasonably located or depicted”.¹²⁶ See also “Horizontal Unit Boundaries” in §16.8.19 below on page 67.

13.7 NOT PART OF UNIT

If an enclosed space that is connected to a unit (such as the garage example mentioned in “Part of Unit” in §13.6 above on page 47) is to be designated as an LCE instead of part of the unit, then sufficient dimensions must be shown in order that by such delineation it is excluded from the unit dimensions and area.

NOTE: Although the area of each unit is typically calculated by the surveyor, it is not required to be shown on the map. However, if is shown, it should be consistent with the areas shown in the declaration.

14.0 PRINCIPAL COMMON AMENITIES

The terms “common amenity” and “principal common amenity” are not defined in the statute, but presumably include features of a CIC that benefit the entire property as opposed to individual units (in which case they might be more appropriately identified as LCE). This might include interior roadways (particularly, as to a plat community, either private roads that are not dedicated in the plat to the public, or access easement strips that provide access to lots from dedicated streets), greenbelts, walkways, parking areas or garages (such as individual parking spaces or moorage slips that are not LCE but benefit the entire CIC), a swimming pool, tennis courts, play areas, a clubhouse or other community building, etc.

Note that the POS will identify principal common amenities, but they are not required to be identified in the declaration. Thus, the POS should be reviewed to determine if there are principal common amenities that should be identified on the map. (See “Principal Common Amenities” in §16.8.14 below on page 65.)

If there is any question about whether particular feature of a CIC is a principal common amenity, the title company should refer the matter to underwriting.

15.0 DEVELOPMENT RIGHTS

See the definition of *development rights* in “Development Rights” in §2.12 above on page 16.

The most common *development right* that particularly impacts the map preparation involves what is commonly called “phasing.” This includes instances in which

1. new land can be added with units/lots (see “Phasing – Adding Land & Units” in §15.1 below on page 49 and “Addition of Unspecified Real Estate” in §15.3 below on page 50), or
2. new units can be added on land already included within the initial CIC (see “Phasing – Adding New Units in Common Elements” in §15.4 below on page 51), or
3. a new unit can be created by subdividing another unit or combining one or more existing units (see “Phasing – Subdividing Units” in §15.5 below on page 51).



Another development right that impacts the map preparation involves withdrawing land from the CIC. (See “Withdrawable Land” in §15.6 below on page 52.)

All are permitted by WUCIOA.¹²⁷

Development rights can apply to either common elements or units/lots within the CIC or land located outside the boundaries of the CIC.

Note that in a plat community phasing (in context of WUCIOA) generally does not involve adding new lots to an existing plat, but rather adding a new plat division that utilizes the same declaration/CCRs. A plat community could have a large “development” lot/unit where title is retained by the declarant/developer for future subdivision. Even in this situation, however, that lot would typically be replatted as a new plat.

NOTE: The creation of new plats that will be affected by a single declaration/CCRs (or added to an existing declaration/CCRs by a “spreading” amendment) with respect to shared expenses across all subdivisions may create a single CIC.

15.1 PHASING – ADDING LAND & UNITS

If there is a reserved right to add units by phasing that involves the addition of land that is not initially included in the CIC when it is first recorded, the declaration may describe that land,¹²⁸ and if so, the map should describe and delineate the initial phase as a separate and distinct parcel.¹²⁹

NOTE: It may be that the declarant might not describe future potential phase land in the declaration if it was not owned by the declarant when the declaration is recorded. However, there is no requirement for such land to be owned by the declarant. (See “Addition of Unspecified Real Estate” in §15.3 below on page 50.)

Although executed by a party not in title, the declaration will not necessarily encumber the “future phase” land. Notice of such phasing provides disclosure to unit purchasers in the first phase. Nonetheless, a declarant may be reluctant to describe land not yet owned.

If land is described that that declarant does not yet own, title companies will determine, when insuring potential “future phase” land, whether to show the declaration, and if it is shown, how to describe the declaration when insuring such land.

WUCIOA requirements also apply to amendments to both the declaration and map that add land – that is, such land can also be subject to development rights, which must be described and delineated in the same manner as in the original declaration.

NOTE: See also “Post-WUCIOA Phases Added to Pre-WUCIOA Projects” in §7.0 above on page 27 for a discussion of phasing as it relates to the addition of units after July 1,2018, to a CIC created before that date.



The name of the CIC as shown on the map *should not* include the reference to the phase number (such as “Phase I” or “Phase 1”) of the CIC being created or expanded. See “Heading and CIC Name” in §16.5 below on page 55.

If the first phase and later phases are not comprised of separate legal lots, a prior plat subdivision complying with Ch. 58.17 RCW (including a binding site plan where permitted) may be required for the non-compliant parcels, so that the resulting CIC land (as well as remaining portions of that land not being added) does not constitute a violation of that chapter. See also “Subdivision Compliance by CIC” in §4.2 above on page 19.

15.2 MULTIPLE PARCELS AT DIFFERENT TIMES

If there are multiple parcels within the CIC subject to a development right, or if there are multiple parcels that may be added at different times, the declaration must so state.

If so, it must either (a) describe the parcels and state the order in which the rights can be exercised or the order in which they can be added, or (b) must state that no assurances are made in that regard.¹³⁰

If the parcels are described, then the map must show it and label them.¹³¹ See “Legal Descriptions” in §16.8.1 below on page 58.

Also, if (a) parcels can be added at different times and (b) if the right is exercised *on only a portion of such a parcel*, the declaration must also state whether that development right must be exercised in all or in any other portion *of the remainder of that land* originally subject to the right.¹³²

15.3 ADDITION OF UNSPECIFIED REAL ESTATE

WUCIOA provides for the addition of *unspecified* land to a plat community or miscellaneous community.¹³³ The right to add such land is a development right, which must be described in the declaration, but it is not necessary to describe the land that can be added. (But if future phase land is described it is not “unspecified”, and must be shown on the map.¹³⁴ This applies to all CICs.)

However, if unspecified land to be added to a plat community or miscellaneous community is not described in the original declaration, it can be added by amending the declaration and maps only subject to the following conditions:

1. the right to add “unspecified land” must be included in the declaration,
2. it must be done within the time limit specified in the declaration,
3. the area of the land when added cannot exceed ten percent (10%) of the land initially included in the plat community or miscellaneous community *plus* any land that could be added that was described in the declaration, and
4. the total number of units cannot exceed the number of units provided for in the original declaration.

Thus, if potential phase land was described in the original declaration, additional “unspecified” land could be added by amending the declaration, but the additional land cannot exceed either (a) 10% of the original land (if no additional future phase land was described in the declaration, or (b)



10% of the original land plus whatever land was described in the original declaration as potential phase land.

15.4 PHASING – ADDING NEW UNITS IN COMMON ELEMENTS

Both WCA and WUCIOA expressly permit the declarant to create new units in the future on part of the common elements of the initial CIC, that is, within the boundaries of the original property description.

Note that this can also apply to plat communities or miscellaneous communities where a large tract is a unit/lot owned by the declarant/developer, and is not a common element parcel. The unit/lot can be reserved for future subdivision within the plat pursuant to Ch. 58.17 RCW and local ordinances adopted pursuant thereto. In this case, subdivision of units is more likely the approach that will be used. See “Phasing – Subdividing Units” in §15.5 below.

This type of phasing does not involve the addition of land, and therefore allows phasing (particularly for condominiums) when creation of a legal lot for each phase parcel is not permitted or is impractical. In such situations the portion or portions of the CIC land that will be subject to these development rights must be separately described and delineated and labeled on the map *if the description of the land is included in the declaration*.¹³⁵ See also “Map Preparation” in §16.0 below on page 52, and “Map Drawing” in §16.8 below on page 58.

Note also that title insurers may be reluctant to consider a “right to create” a unit as an insurable interest in real property. An alternative that would be especially practical for a condominium or cooperative involves the creation of “airspace” units which can be subdivided. In a plat community or miscellaneous community this would be done with a unit/lot and not a common element. See “Phasing – Subdividing Units” in §15.5 below.

15.5 PHASING – SUBDIVIDING UNITS

The term “phasing” can also be applied to the reserved development right to add units within an existing unit. Examples in a condominium or cooperative would probably take the form of subdividing an airspace unit or subdividing a unit consisting of an entire floor of an existing building.

In a plat community or miscellaneous community, a large unit/lot that is intended for future subdivision would be used.

Airspace units (in a condominium) can be approximately the same size and location of individual units to be created, or they can be larger areas that can be further subdivided into traditional units. For example, an area within which a multi-story and multi-unit building will be built could be one airspace unit, or an area within which a row of five townhouses will be built could be represented as five airspace units. Each unit will be subject to the development right to construct improvements, and if necessary, the subject to the right to be subdivided.



In a condominium or cooperative, once the improvements are built, the unit is would then be subdivided into the newly created units, and both the declaration and the map will need to be amended to reflect the more traditional unit boundaries of the constructed units.

In a plat community or miscellaneous community, the subdivision can occur as permitted by the applicable local ordinance adopted pursuant to Ch. 58.17 RCW.

As to condominiums and cooperatives, refer also to “Units Without Physical Boundaries” in §11.2 above on page 38. Such units would require the appropriate certification on SCHEDULE A attached.

15.6 WITHDRAWABLE LAND

Land can be withdrawn from a CIC.¹³⁶ The declaration must describe the land or state that no assurances are made in that regard,¹³⁷ but if described, the map must delineate it.¹³⁸ See “Legal Descriptions” in §16.8.1 below on page 58.

NOTE: Land described as withdrawable cannot be withdrawn once a unit within that portion of the CIC,md legal description has been conveyed.¹³⁹

15.7 SUBDIVIDE, COMBINE OR CONVERT UNITS

The declaration can reserve the development right to subdivide, combine, or convert a unit previously created into additional units or common elements.¹⁴⁰ These units must be identified in the declaration and shown and labeled on the map.¹⁴¹

15.8 OTHER DEVELOPMENT RIGHTS

The declarant may reserve the right to add other improvements or make changes within the CIC that do not involve either the addition of land and/or units or the withdrawal of land.

The land affected by each such development right must be described in the declaration,¹⁴² but there is no express requirement to describe or delineate such land on the map. However, especially if required by the declaration, it can be described and shown on the map, and labelled appropriately.

NOTE: The surveyor should consult with the developer’s attorney and the title company if there is any question about the need for a written legal description or delineation required for these types of development rights. (See also “Legal Descriptions” in §16.8.1 below on page 58.)

16.0 MAP PREPARATION

Specific information is required on the map. (For specific information relating to the drawing itself, see also “Map Drawing” in §16.8 below on page 58.) For a plat community map, some information is either not required or is permitted to be shown on a map that is incorporated into the declaration/CCRs.¹⁴³ Those exceptions are noted below.



NOTE: However, as a practical matter, most of this information, some of which is generated by the surveyor, probably will appear on the plat map if permitted by the local platting authority.

16.1 DRAFT MAP

The final map cannot be recorded until the boundaries of units are substantially completed^a and the required map certifications can be made.¹⁴⁴ However, the declarant might need to deliver the POS to prospective unit purchasers before completion of the project. If so, it must contain at least an *unsigned draft* of the map prepared by the surveyor. It must contain all available information and data required by WUCIOA and outlined in this material, but would not be certified by the surveyor as completed.

The surveyor should also mark the draft map with the phrase “DRAFT” and may also add “PRELIMINARY: NOT FINAL FOR RECORDING” or a similar disclaimer such as is used on preliminary subdivision plats. However, the draft should show as much detail as possible, to avoid the need to continue to provide additional draft versions of the map with an amended POS to prospective purchasers.

NOTE: The final map must be (1) completed, (2) compared to the final declaration, as well as to the POS and a current title report, and (3) reviewed by both the title company and developer’s attorney prior to recording.

16.2 LOCAL RECORDING REQUIREMENTS

The surveyor should be familiar with local recording requirements when preparing the map. The map must be recorded in size, form, and material as established by the county recorder, and/or applicable statutes or ordinances.¹⁴⁵ Requirements may vary from county to county. (Refer also to RCW 58.09.050.)

A recording certificate for the county auditor to fill in must be provided. This will be where the recording number and/or the volume and page for the document will be shown.

Note that for cooperatives, in those situations where the declarant has opted out of using a survey, the map, if separately recorded with the declaration, will probably still need to meet the local recording standards. In any event, it must be legible.

NOTE 1: If a non-survey map for a cooperative is used and made a part of the declaration as permitted by statute,¹⁴⁶ care should be taken to make sure that it is of a size and format that is **legible**. Typically, copies of recorded documents are reproduced in a substantially reduced size. Non-survey maps *should not be made*

^a As noted in “Recording – Unit Boundary Substantial Completion” in §12.1, this applies to units with physical boundaries, such as walls, floors and ceilings. Also, this is not the “completion” that is related to whether the unit can be conveyed (based on completion of structural and mechanical components of a unit), nor to occupancy. That aspect of completion is addressed in RCW 64.90.630(2) and is an issue for the declarant. See “Conveyance – Unit Substantial Completion” in §12.2.



full size (in a size and format similar to a survey) and then reduced for inclusion in a declaration. They may be unreadable. In addition, the further reduction when reproduced will render them virtually unreadable.

NOTE 2: Similarly, as to a plat community (platted lots subjected to a declaration “Plat and Plat Community” in §2.7 above on page 11 and “Plats and Plat Communities” in §5.0 above on page 24), although the certification required by RCW 64.90.245(6)(a) and the information required by RCW 64.90.245(8)(d) through (g) and (k), (m), (n), (9) and (10) can be on a map attached to the declaration and need not be on the plat map,¹⁴⁷ that map (a) would need to be of a size appropriate for attachment to the declaration as an exhibit, and (b) **must be legible**. As a practical matter, it may be appropriate for the surveyor to include that the information on the actual plat map, rather than produce a separate document for use with the declaration.

16.3 RECORDING DATA CROSS-REFERENCE

A cross-reference to the recording number of the accompanying declaration (and if applicable, to all previous maps and declarations) is required.¹⁴⁸ See the examples on SCHEDULE A, SCHEDULE B, SCHEDULE C, SCHEDULE D, SCHEDULE E and SCHEDULE F attached. The information for any concurrent recording would be filled in by the recorder’s office at the time of recording.

Refer also to “Cross Reference to Declaration(s) and Map(s)” in §17.3 below on page 71 in connection with future amendments to the map.

16.4 ASSESSOR REVIEW

The completed map must be delivered to the county assessor.¹⁴⁹ It is not necessary to recite whether taxes affecting any of the property have been paid, because such payment at the time of recording is not required by statute, nor is it necessary to have taxes segregated, whether or not they are paid, for all units prior to recording.

Tax segregation for each unit is not required until and unless a unit is owned by someone other than the declarant.¹⁵⁰

NOTE: The required segregation may not occur prior to the recordation of the first few unit conveyances. However, if taxes are paid (or arrangements satisfactory to the title company are made for such payment) it may be possible to record a conveyance with an excise tax affidavit that recites that it is for “part of” the identified underlying tax parcel or parcels. This arrangement must be approved by the assessor.

In addition, a certificate indicating review and approval by the county assessor is permitted, but not required.¹⁵¹ This review and approval is permitted “...solely for the purpose of allocating the assessed value and property taxes”.



NOTE: This procedure is highly recommended, to avoid last minute refusals to record by the county recorder's office.

16.5 HEADING AND CIC NAME

The name of the CIC, usually in the title or heading, must be shown. It must include the term “a condominium” or “a cooperative” or “a plat community” or “a miscellaneous community” as applicable.¹⁵² Example: “**HOME SWEET HOME, a condominium.**” The name on the map must coincide exactly with the name the declarant has shown on the declaration.

A local jurisdiction may also require that the name of a *plat community* on the map be followed by a statement that the common interest community is a plat community as defined in WUCIOA.

The name should be confirmed as available in advance of recording, and reserved if possible, with the county recorder's office. The name can usually be reserved although a fee may be charged for this. It cannot be the same as any existing CIC in the same county.¹⁵³ If a proposed CIC is submitted with a name that is identical with or too similar to an existing CIC (whether created under an existing plat, the HPR or the WCA) or if it is already “reserved” with the county for a future filing of another CIC project, it will not be accepted for recording.

If the CIC is to be phased (whether by the addition of land and units, or by creating units within the common elements), the name of the CIC as shown on the map **need not** and **should not** include the reference to the phase number (such as “Phase I” or “Phase 1”) of the CIC being created or expanded, for the following reasons:

1. The CIC will have a single name; phase recordings merely add units to that project. The term “phase” in Washington is colloquially applied to portions of a single, albeit expanding, project that are merely recorded sequentially. Thus, each phase in a CIC is still part of a single project, and as each phase is added (land and/or additional units), the legal boundaries of the CIC are merely expanded.
2. The allocated interest in the title to the common elements applicable to each unit in a condominium or cooperative is based on the interest in the entire common elements of the expanded CIC. Those interests are not calculated separately for individual phases.
3. Phasing is optional and may not occur. If it does occur, it need not occur in any particular order.

See also “Phasing – Adding Land & Units” in §15.1 above on page 49.

Thus, for example, a phased condominium CIC named “Nulluslocus Estates, a condominium” would recite only that name in the title. The reference to the fact that the recording is for the first, or any later, phase could be reflected in two places:

1. The intro to the written legal description for the applicable phase.
2. As a label on the map drawing for the applicable phase.



NOTE: Of course, each project could be a separate CIC, with separate allocated interests for units. In such situations, a common approach to this situation is to use a different qualifier, such as “Division I.”

16.6 EXECUTION BY DECLARANT

The declarant is usually the fee owner of the land, but it can also be the owner of a lesser interest, such as a lessee under a lease or even a sublessee. A declarant might be vested with different estates or interests in different parcels that comprise the CIC.

The surveyor should confirm the identity of the declarant with the both (a) the developer’s attorney and (b) the title company in order to prepare a proper format for the signature blanks for the declarant.

Care should be taken to see that the identification of the declarant on the map agrees with the title report and CIC declaration, including names of all of the owners. Acknowledgments should be appropriate to the entity and in the proper form.

It is not necessary that mortgagees or easement holders join in the execution map.

Similarly, in the case of a leasehold or subleasehold CIC (where a lessee or sublessee creates a CIC on the leasehold estate it owns in land and improvements), while the lessor/sublessor must execute the declaration¹⁵⁴, the lessor/sublessor is not required to sign the map.

16.7 REQUIRED CERTIFICATES AND DECLARATION

Unlike the WCA, where certifications and declarations relating to the map were either required or permitted to be in the declaration, they are now required to be shown on the map (although in a plat for a project *that is a plat community CIC*, portions of the map containing such matters may be part of the declaration^a).¹⁵⁵

These requirements also apply to a map amendment, such as a phasing amendment that adds units to a previously created CIC. (See also “Map Amendments” in §17.0 below on page 69.)

16.7.1 DECLARANT SIGNATURE, DECLARATION AND ACKNOWLEDGMENT

The declaration must be executed by the declarant,^b in the same manner as a deed.¹⁵⁶ All signatures should be properly acknowledged.

^a See the important note “Local Recording Requirements” in §16.2 on page 26 for suggestions on the method used by the surveyor.

^b Note that there is no express requirement for execution by the declarant, but obviously that is necessary. It also follows from the requirement that a declaration “must be executed in the same manner as a deed” and the requirement that the certification by the declarant be signed. In addition, the statute expressly requires it for amendments to the declaration made by the declarant. (64.90.200(10), RCW 64.90.240(2), RCW 64.90.245(12), RCW 64.90.250 & RCW 64.90.415(2)(d)).



The map must be similarly executed and acknowledged.¹⁵⁷ (This has always been a requirement for plat communities.¹⁵⁸)

In addition, a *declaration* statement executed and acknowledged by the declarant is required for all CICs and must be shown on all maps.¹⁵⁹ (This can be attached to the declaration.¹⁶⁰) The language must be substantially as shown on SCHEDULE C.

A second optional certification by the declarant (in lieu of the surveyor’s certification discussed in “Surveyor Certification” in §16.7.2 below) would be required for cooperatives *but only if* the declarant has opted to forego using a survey as the map. (See “Optional Cooperative Certificate” in §16.7.3 below, and attached SCHEDULE E.) Otherwise a survey is also required for a cooperative, certified by the surveyor.

16.7.2 SURVEYOR CERTIFICATION

A *certification* by a licensed surveyor is required if the map is a survey.¹⁶¹ The map must be a survey for condominiums, plat communities and miscellaneous communities, but is optional for a cooperative.

This does not mean that the data required for a non-survey map for a cooperative need not include all required data. It only means that the declarant will be certifying the information instead of a surveyor.

The statute requires a certification by a licensed surveyor for all CICs (except, optionally, a cooperative when the declarant has elected to certify the information on a map that is not a survey.)¹⁶²

See SCHEDULE A attached for the statutory language for the surveyor certification. Note that the surveyor’s certificate as required by RCW 58.09.080 for land surveys is incorporated with this language, and if it used, that certificate need not be shown separately.

As to a plat community (platted lots subjected to a declaration), the certification may be made in a map incorporated in or attached to the declaration,^a and need not be on the plat map itself.¹⁶³

16.7.3 OPTIONAL COOPERATIVE CERTIFICATE

A cooperative requires a survey as the map, unless the declarant opts out.¹⁶⁴ However, all data required by WUCIOA for maps must still be shown, and the declarant would make the certification that would otherwise be required of a surveyor.

The statutory language for this form of certification is shown on SCHEDULE E.

^a See the important note “Local Recording Requirements” in §16.2 on page 26 for suggestions on the method used by the surveyor.



16.8 MAP DRAWING

The map drawing must include certain items.

16.8.1 LEGAL DESCRIPTIONS ON MAP

The following written legal description are to be shown on the map:

1. The legal description of the land in the CIC must be shown in full.¹⁶⁵ This would also be in the declaration.¹⁶⁶
2. Any appurtenant easement that benefits the CIC land. A written description for this is not expressly required,¹⁶⁷ but it should be included for title insurance purposes, whether or not a title company considers that the easement is insurable.^a (See also “Access” in §9.0 above on page 32.) The easement can be recited by metes and bounds description or by reference to the recorded document that created it.

This does not include interior roads in a condominium or cooperative, which are part of the common elements. However, if these roadways (in a condominium or cooperative) are easements appurtenant to other property, including future phases, a description may be needed. See “Recorded Easements” in §16.8.12 below on page 64, and “Principal Common Amenities” in §16.8.14 below on page 65, and see also “Dedications for Public Purposes” in §10.1 above on page 33.

Interior roads created within plat community when it is recorded could fall into one of two categories: (a) roads dedicated in the plat for public purposes, or (b) common elements (which might be further designated as LCE for one or more units/lots in that CIC). Neither need be separately described as easements appurtenant in the CIC legal description.

Similarly, roads created within a miscellaneous community when it is recorded likely will be common elements or LCE for that CIC. They need not be separately described as easements appurtenant in the legal description of the CIC.

3. Portions that are leasehold land,¹⁶⁸ unless the entire property is subject to one lease. In that situation, a general statement to that effect as a heading to the CIC description will suffice. (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)
4. Land that may be added later (future “phases”) *if that land is described in the declaration or an amendment to the declaration.*¹⁶⁹ Note that the declarant has the option in the declaration to either fix and describe those boundaries, or to state that no assurances are made with respect to such descriptions.¹⁷⁰

If those boundaries are in the declaration, they must be on the map. (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the

^a A title company will review such easements for insurability and can limit coverage in a policy if it is deemed necessary.



caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

5. Portions of the common elements (or, in a plat community, an actual platted tract or parcel that is not a common element, and where title is retained by the declarant) that are subject to the development right to add units (future “phases,” but not on added land) *if (as to a condominium or cooperative) that land is described in the declaration or an amendment to the declaration.*¹⁷¹ Note that the declarant has the option to either fix and describe those boundaries, or to state that no assurances are made with respect to such descriptions.¹⁷² If they are in the declaration (or an amendment), they must be included on the map. Again, note that in a plat community such land can and should be surveyed as a platted tract or parcel. (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)
6. Land that may be withdrawn pursuant to a reserved development right *if that land is described in the declaration or an amendment to the declaration.*¹⁷³ Note that the declarant has the option in the declaration to either fix and describe those boundaries, or to state that no assurances are made with respect to such descriptions.¹⁷⁴ If they are in the declaration, they must be on the map. (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)
7. Those portions of the land subject to other development rights *if required by the declaration.* (See also “Other Development Rights” §15.8 above on page 52.) (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

16.8.2 LEGAL DESCRIPTIONS FOR DECLARATION

The declaration must include some legal descriptions that are not expressly required to be recited on the map, although the boundaries for some are required to be shown on the map. Generally, the surveyor would be required to provide these descriptions, and as a practical matter, they should be included on the map, even when the boundaries are also delineated on the map.

1. Land that may be allocated subsequently as limited common elements by the declarant.¹⁷⁵
2. Land that may be affected by any development right *if fixed in the declaration.*¹⁷⁶ If fixed, the description must also be included and delineated on the map.¹⁷⁷ The declarant has the option of describing such rights and stating that the boundaries are not to be fixed in the declaration.

See also “Legal Descriptions on Map” in §16.8.1 above on page 58 and “Boundaries” in §16.8.3 below.



16.8.3 BOUNDARIES

The following boundaries must be delineated:^a

1. Land included in the initial CIC.¹⁷⁸ The legal description would also be in the declaration.¹⁷⁹
2. The location of easements, whether they are appurtenant to the CIC land or burden the CIC land.¹⁸⁰ This is “to the extent feasible.” (Note that this is not expressly required for a plat community, but title companies would generally want this included.)

The surveyor should discuss with the title company any concerns about the feasibility of locating and dimensioning any easements.

3. Land included in the initial CIC that is subject only to the development right to withdraw, labeled “MAY BE WITHDRAWN FROM THE [insert type of common interest community; e.g. “CONDOMINIUM” or “COOPERATIVE”].”¹⁸¹ (Note that as to a plat community only this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)
4. Those portions of the common elements subject only to the development right to add units (which would necessarily require reallocating allocated interests for either assessments or voting rights, and title – this latter being applicable to condominiums or cooperatives), labeled “SUBJECT TO DEVELOPMENT RIGHTS TO ADD UNITS THAT WILL RESULT IN A REALLOCATION OF ALLOCATED INTERESTS”.¹⁸²

NOTE 1: This would be especially applicable to a condominium or a cooperative, but, *with respect to the reference to common elements*, not necessarily a plat community or miscellaneous community. That is because as to any parcel within a plat community or miscellaneous community that is intended to be subdivided into additional units/lots, it will not be a common element and but rather a unit, title to which will be retained by the declarant/developer.

HOWEVER, even as to a plat community or miscellaneous community, such a unit lot that is called a tract or parcel in the plat, even if not common element, should be so labeled because allocated interests for assessments and voting could change with the future subdivision.

NOTE 2: As to a plat community **only** this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to **legibility**, in “Local Recording Requirements” in §16.2 above on page 53.

5. Any unit (including a lot in a plat community) subject to the *development right to add units* (which would necessarily require reallocating allocated interests for either assessments or voting rights, and title – this latter being applicable to condominiums or cooperatives).¹⁸³ See also “Units Subject to Development Rights” in §16.8.4 below on page 61.

^a As to a plat community (a plat that is a CIC), see the important note “Local Recording Requirements” in §16.2 on page 26 for suggestions on the method used by the surveyor, particularly the issue of legibility.



6. Future phase land (not included in the initial CIC) subject to the *development right to add units* (which would necessarily require reallocating allocated interests), labeled “SUBJECT TO DEVELOPMENT RIGHTS TO ADD UNITS THAT WILL RESULT IN A REALLOCATION OF ALLOCATED INTERESTS”.¹⁸⁴ (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)
7. Any land subject to development other development rights, but only if required to be shown by the declaration.¹⁸⁵ Such land should be labeled “SUBJECT TO DEVELOPMENT RIGHTS SET FORTH IN THE DECLARATION.” See also “Other Development” in §15.8 above on page 52).

NOTE: As to a plat community *only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

8. The portion or portions of land that is leased, unless one lease covers the entire land. If there is more than one lease, each lease description should be delineated. Leased land must be labeled “LEASEHOLD REAL ESTATE.” (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

16.8.4 UNITS SUBJECT TO DEVELOPMENT RIGHTS

All units must be shown, but if a unit is subject to the development right to convert it to common elements or to create new units within it (including subdividing it), the affected unit must be identified.¹⁸⁶ See also “Phasing – Subdividing Units” in §15.5 above on page 51.

This would also be applicable to large tracts or parcels in a plat community or miscellaneous community that might be subdivided into additional units/lots in the future. (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

There is no statutory language for such “identification” but the following is suggested: “THIS UNIT SUBJECT TO DEVELOPMENT RIGHT SET FORTH IN THE DECLARATION [THAT WILL RESULT IN A REALLOCATION OF ALLOCATED INTERESTS].”

16.8.5 NON-CONTIGUOUS PARCELS

The distance between non-contiguous parcels must be shown.¹⁸⁷ (Not required for a plat community, but this would likely be an element of any recorded plat.)

16.8.6 BUILDING LOCATION AND DIMENSIONS

The location (tied to property corners) and dimensions of any existing building which contains one or more units, or which comprises a unit, must be shown.¹⁸⁸ (Note this is not likely to apply to a plat community, BUT if it does, and *as to a plat community only* this could be contained in a map



attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

It is especially important to locate buildings that contain units on land that is subject to the right to withdraw (whether all of the land or only a portion), because if a unit located on that land is conveyed, the right to withdraw that portion terminates.¹⁸⁹

Any existing *unit structure* (see “Units Without Physical Boundaries” in §11.2 above on page 38 and “Unit Structures” in §11.3 above on page 39) should be located and tied to the airspace unit boundary.¹⁹⁰ See also “Improvements within Airspace Units” in §16.8.8 below below.

16.8.7 UNIT IDENTIFICATION

The map must show the unit *numbers* or *letters* or such other identifying symbol used in the declaration, as the case may be.

NOTE: Although the statute did not originally expressly require unit numbers to be shown on the map, they obviously must be included. This oversight was corrected in a 2019 technical amendment to the statute.^a

The numbering or lettering system for the units (as well as for LCE such as parking spaces or storage lockers) must be consistent with the declaration and with the physical numbering on the doors or spaces themselves.

If an address is used as the unit identification (or shown for any other reason), confirmation should be obtained from the United States Postal Service prior to recording. Note that a street or mailing address can be changed at any time, and it is not recommended that it be used as a unit identification number.

16.8.8 IMPROVEMENTS WITHIN AIRSPACE UNITS

As to condominiums and cooperatives in particular, the statute does not expressly require that improvements located within an airspace unit (such as a single-family home, manufactured home, houseboat, etc., whether or not they are defined in the declaration as a “unit structure” or similar term) be located on the map. However, “all...matters customarily shown on land surveys” must be shown.¹⁹¹

This would be especially important if there are any encroachments of such improvements onto adjoining units/lots, or onto the common elements.

NOTE: Plats normally do not include improvements within the boundaries of individual lots, and most plats are recorded prior to improvements being constructed. However, both a plat community (platted lots subjected to a declaration) and a miscellaneous community would show existing improvements.

^a The revised statute reads: “The location with reference to an established datum of horizontal unit boundaries and that unit’s identifying number.” RCW 64.90.245(8)(j) [*showing added amended language*]

16.8.9 LIMITED COMMON ELEMENTS

The map must show the general location of specific types of LCE as described in the declaration. These include: porches, decks, balconies, patios, storage facilities, moorage spaces and parking spaces.¹⁹² These would be typically applicable to condominiums and cooperatives.

While not required, an LCE front, side or back yard area should also be shown. These would typically apply to units in condominiums and cooperatives where those areas are not within the unit boundaries. See also “Limited Common Elements” in §13.0 above on page 43.

As to plat communities and miscellaneous communities, common area tracts or parcels (whether conveyed to the owners association or owned in common by the unit/lot owners) are often shown on the plat map and designated or dedicated as easements for such purposes as access, utilities, well or drainage. While not expressly required, such tracts or parcels (which may be designated as a lot, whether or not it is also a unit) that are designated or dedicated as easements benefiting certain units/lots could also be further designated as LCE. (The designation/dedication as easements may be a requirement of the platting authority.) See also “Limited Common Elements” in §13.0 above on page 43.

As noted, all common elements that are also to be LCE must be allocated in the declaration. If an allocation is to occur in the future (which must be by amendment to the declaration), the area would initially be common elements but can be identified as common elements that can be allocated pursuant to a reserved development right.

If applicable, identifying **numbers** or **letters** must be shown, corresponding to the numbers or letters shown in the declaration. Typically, porches, decks, balconies and patios will not be numbered, but must still be shown. Non-adjacent moorage spaces and parking spaces typically are numbered. Storage facilities typically would be numbered unless located on a patio, deck or balcony.

If an area that is designated as LCE in the declaration is not also allocated to a unit in the declaration, the title company should consult with underwriting.

See also “Limited Common Elements” in §13.0 above on page 43 and “Reallocation of Limited Common Elements” in §13.1 above on page 45 and “Future LCE Allocations” in §13.2 above on page 45 for more details relating to LCE.

16.8.10 REALLOCATION OF LIMITED COMMON ELEMENTS

Reallocations must be by recorded amendment to the declaration.¹⁹³ However, in the event LCE are reallocated (see “Reallocation of Limited Common Elements” in §13.1 above on page 45), the map should not have to be amended to show LCE, since they would have already been shown. They can be reallocated pursuant to a reserved development right,¹⁹⁴ or by mutual agreement between the affected unit owners and the consent of the owners association.¹⁹⁵

16.8.11 ENCROACHMENTS

The map must show all encroachments either way across property lines (especially those indicating possible possession rights of non-title holders), and *including* those affecting boundaries between



the separately delineated parcels within the CIC that are subject to **development rights**.¹⁹⁶ (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

Encroachments of any so-called “unit structure” onto the common elements or onto adjoining units would also be shown.

16.8.12 RECORDED EASEMENTS

All recorded easements that either burden the property or any part of it, or that are appurtenant to any portion of the land must also be located and dimensioned “to the extent feasible.”¹⁹⁷

NOTE: Note that if an easement is not locatable on the map (for example, a grant of an easement to be located “as constructed”), it should not be ignored, but recited in a map legend, with a notation that it is not feasible to show the location or dimensions. The surveyor should discuss any concerns about feasibility with the title company.

Note that interior roadways of a condominium and cooperative are part of the **common elements**. They need to be delineated but are not easements appurtenant to the land nor to the units. However, they may represent either “principal common amenities” or easements burdening the land if the CIC is part of a larger project of several separate CICs, or if future phase land is granted an easement over them for future development.

A plat community might include one or more common element access parcels that connect one or more lots to a street that is dedicated in the plat. The parcel might also be appropriately designated as a LCE and also as a principal common amenity (required to be identified in the POS but not in the declaration). However characterized, such parcels should be located on the map.¹⁹⁸ See “Principal Common Amenities” in §16.8.14 below on page 65.

16.8.13 UNRECORDED EASEMENTS

Unrecorded easements (that either burden or benefit the CIC) must be shown “to the extent feasible” that are apparent or of which either *the surveyor or the declarant knows or reasonably should have known*.¹⁹⁹ The surveyor should consult with the declarant and the title company on this issue. (See also “New Road Dedications & Easements” in §10.0 above on page 33.)

Such may include readily identifiable matters such as overhead power lines or driveways, but may also include possible easements disclosed by catch basins, junction boxes, power vaults, etc., for which there is no apparent recorded easement grant, or any unrecorded underground easements in favor of local utilities or adjoining properties.

The surveyor should also determine whether any easements are expected to be recorded during the period before the CIC is recorded or soon thereafter. (See also “New Road Dedications & Easements” in §10.0 above on page 33.)

NOTE: The existence of such easements may be determinable based on discussions with the declarant. If at all possible, such easements should be



recorded prior to the recordation of the declaration and map. In any event, the title company should be made aware of such easements, and will take appropriate exception for them.

The correct status of each must be reflected on the map when the CIC is actually recorded.

16.8.14 PRINCIPAL COMMON AMENITIES

The general location of each *existing* principal common *amenity* as described in the POS^a is to be delineated and labeled.²⁰⁰

See “Principal Common Amenities” in §14.0 above on page 48.

Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.

Note also that in a plat community or miscellaneous community, a private road or common area tract might be designated as an easement benefitting one or more lots. These tracts probably could be additionally identified as LCE in the declaration and on the map) and/or as principal common amenities (on the map).

If there is any question about whether particular feature of a CIC is a principal common amenity, the title company should refer the matter to underwriting.

Note that only *existing* principal common amenities need be shown, but as amendments to the map are made pursuant to phasing or other development rights, they will need to be added if existing at the time of the amendment.

Note that the POS is to also identify those that *will be added* and those that *may be added*. The statute does not require that these be shown on the map, but if they are shown, and if they are improvements, the map must label them as to whether they “must” or “may” be built.²⁰¹ (See also “Future Improvements” in §16.8.15 below.)

16.8.15 FUTURE IMPROVEMENTS

The intended location and dimensions of *future improvements* contemplated by the declaration must be shown, if requested by the declarant.²⁰² This may be in connection with *principal common amenities* or future phase improvements, such as the location of proposed units. The statute does not require that they be shown, but if they are they must be labeled either “**MUST BE BUILT**” or “**NEED NOT BE BUILT**” depending on the provisions of the declaration. (Note that *as to a plat community only* this could be contained in a map attached to the declaration. But, see the caveat, particularly relating to legibility, in “Local Recording Requirements” in §16.2 above on page 53.)

^a RCW 64.90.610(1)(K): “Brief descriptions of (i) the *existing principal common amenities*, (ii) those amenities that *will be added* to the common interest community, and (iii) those amenities that *may be added* to the common interest community.”



This requires coordination between the developer and the surveyor, because the language in the declaration may only identify future improvements, but not indicate whether the map will show them.

16.8.16 OTHER SURVEY MATTERS

Other matters customarily shown on land surveys are required to be shown.²⁰³ This might include (to the extent not covered by other specific requirements for the map) roads, driveways, walkways, fences, rockeries, retaining walls, violations of covenants or restrictions, parties in possession, etc., but not necessarily trees or topographical (such as contours) data. Some of these might also be considered “principal common amenities.”

This would include in particular improvements that create encroachments.

16.8.17 INTERIOR SURFACES

If a unit will have the statutory default boundaries, the interior *unfinished* surface of the walls, floors, and ceilings^a will be the boundaries. Dimensions that are shown on the map would be based on this, as would be the calculated area of the unit.

NOTE: Although the area of each unit is typically calculated by the surveyor, it is not required to be shown on the map. However, if is shown, it should be consistent with the areas shown in the declaration. Also, if applicable, a distinction should be made as to areas that might otherwise be LCE (adjacent carport, enclosed garage, patio or deck areas) but that are part of the unit, as discussed in “Part of Unit Instead of LCE” in §13.6 above on page 47.

Interior partitions such as walls between rooms as well as fixtures and improvements such as cabinets, do not need to be shown if they are part of the unit. As to dropped ceilings and raised or sunken floors, those variations need not be shown, but only if the spaces are within the unit boundaries.

Bearing walls or columns should be shown where possible if they are common elements and they serve or support more than one unit.

See also “Vertical Unit Boundaries” in §16.8.18 below and “Horizontal Unit Boundaries” in §16.8.19 below on page 67.

16.8.18 VERTICAL UNIT BOUNDARIES

Each unit’s *vertical* (e.g., side) boundaries must be tied to property corners using an established monument.²⁰⁴ If the unit is in a building, this can be done by tying the unit’s boundaries to the location and dimensions of the buildings, which in turn would be located on the map. As to units located within a building, interior dimensions of the units need to be shown, *including the*

^a Thus, drywall would be part of the common elements, but paint or wallpaper would not. However, these distinctions will be addressed in the declaration.



dimensions of variations caused by raised or lowered ceilings (unless those spaces are part of the unit; see “Interior Surfaces” in §16.8.17 above), sloped ceilings, and raised or sunken floors (unless those spaces are part of the unit).

NOTE: If boundaries between units is the “plane in space” that is located between the walls of two adjoining units (as discussed in “Unit Boundaries” in §11.0 above on page 34) the area is to be calculated based on the location of those planes in space, and not the interior surfaces of the related walls, floors or ceilings.

See also “Horizontal Unit Boundaries in §16.8.19 below, and in “Limited Common Elements” in §13.0 above on page 43.

Exterior building wall widths and widths of walls between units that are located in a building can be shown to the extent necessary to locate the vertical boundaries of units. Note, however, that wall widths may be difficult or impossible to measure, especially in older buildings. Thus, there is flexibility as to this requirement:

“In showing or projecting the location and dimensions of the vertical boundaries of a unit located in a building, *it is not necessary to show the thickness of the walls constituting the vertical boundaries or otherwise show the distance of those vertical boundaries either from the exterior surface of the building containing that unit or from adjacent vertical boundaries of other units if:* (a) The walls are designated to be the vertical boundaries of that unit; (b) the unit is located within a building, the location and dimensions of the building having been shown on the map under subsection (8)(f) of this section; and (c) the graphic general location of the vertical boundaries are shown in relation to the exterior surfaces of that building and to the vertical boundaries of other units within that building.”²⁰⁵ [emphasis added]

Vertical unit boundaries would be the basis for the calculated square footage of each unit, which is to be shown in the declaration for condominiums, cooperatives and miscellaneous communities, but not plat communities.²⁰⁶ Caution should be exercised to make sure limited common element areas are not included in unit square footage calculations.

Square footage need not be shown on the map. If they are, they must be consistent with the figures shown in the declaration.

NOTE: Although the area of each unit is typically calculated by the surveyor, it is not required to be shown on the map. However, if is shown, it should be consistent with the areas shown in the declaration. Also, if applicable, a distinction should be made as to areas that might otherwise be LCE (adjacent carport, enclosed garage, patio or deck areas) but that are part of the unit, as discussed in “Part of Unit Instead of LCE” in §13.6 above on page 47.

16.8.19 HORIZONTAL UNIT BOUNDARIES (ELEVATIONS)

The horizontal unit boundaries (elevations) must be shown. All elevations must tie to an established elevation datum, with the *bench mark* identified and shown.²⁰⁷ This information for



each unit is often shown on a chart, but can be shown within each unit or by a general statement, whichever is more practical.

Note that as to an individual airspace unit in a condominium, cooperative or miscellaneous community need not have an upper or lower boundary, as long as (a) there are no vertically stacked units above or below that particular unit, and (b) as to condominiums and cooperatives, there are common elements. (See also “Units Without Physical Boundaries” in §11.2 above on page 38.) It is acceptable in such cases for the upper and/or lower horizontal boundary to be defined as the “limits of legal ownership” or similar wording.

For units in a condominium or cooperative that have default unit boundaries, all floor and ceiling elevations, *including variations for raised or lowered ceilings* (unless those spaces are part of the unit; see “Interior Surfaces” in §16.8.17 above on page 66), *sloped ceilings and raised or sunken floors* (unless those spaces are part of the unit), must be shown. (The dimensions of the vertical boundaries of these variations must also be shown, as noted in “Vertical Unit Boundaries” in §16.8.18 above on page 66.)

NOTE: If boundaries between units is the “plane in space” that is located between the floor of one unit and the ceiling of another unit (as discussed in “Unit Boundaries” in §11.0 above on page 34) the area is to be calculated based on the location of those planes in space, and not the interior surfaces of the related walls, floors or ceilings.

If a unit in a building is located on more than one level, it is recommended that the floor and ceiling elevations for each story be shown. This would not be necessary if the boundary between units is the plane in space that is located between the floor elevation of the upper unit and the ceiling elevation of the lower unit, as discussed in “Unit Boundaries” in §11.0 above on page 34.

If a portion of a unit is located outside of a building, it can have the same upper and lower elevations as the adjoining portion of the unit that is located within the building. The requirement is that elevations need not be shown if the location of the horizontal boundaries “is otherwise reasonably described or depicted.”²⁰⁸ If so, a statement may be made to that effect, and only the elevation for one of them need be shown.

However, both must be shown if they differ. For example, there might be an open patio or deck, where the declaration provides that such is part of the unit (rather than as an LCE). If the upper elevation of the patio portion of the unit (where there may not be a physical ceiling) is intended to be the same as the adjoining living room, the elevation for just the living room could be shown with a statement in the patio area that it is the same as the living room. Alternatively, the upper boundary could be the elevation of a second story of the unit (which is required to be shown); again, a statement to that effect could be shown.

If these are LCE rather than part of the unit, however, they must be shown on the map,²⁰⁹ but dimensions and elevations are not required.

See also “Limited Common Elements” in §13.0 above on page 43.



16.9 AREA; NUMBER OF ROOMS

The surveyor may be asked to provide the number of rooms and the calculations used to determine the square footage for units in a condominium, cooperative or miscellaneous community. (This data is not required for a plat community.) It is not necessary to show the square footage or the number of rooms on the map, however. These calculations should be provided to the declarant or declarant's attorney, because they are required to be stated in the declaration.

NOTE: Although the area of each unit is typically calculated by the surveyor, it is not required to be shown on the map. However, if is shown, it should be consistent with the areas shown in the declaration. Also, if applicable, a distinction should be made as to areas that might otherwise be LCE (adjacent carport, enclosed garage, patio or deck areas) but that are part of the unit, as discussed in "Part of Unit Instead of LCE" in §13.6 above on page 47.

17.0 MAP AMENDMENTS

Not all amendments to the declaration require an amendment to the map, but any amendment to the map must include a corresponding, and concurrently recorded, amendment to the declaration.²¹⁰ The surveyor should review the proposed amendment to the declaration to confirm that the map and declaration amendments are consistent.

Reasons for recording an amendment to the map can include the following, showing the party who must execute the amendment:

1. Declarant: Create new units within the common elements (exercise development right).²¹¹
2. Declarant: Add land and create new units on the added land (exercise development right).²¹²
3. Declarant: Withdraw land **IF** no unit within that land has been sold (exercise of development right).²¹³ NOTE: this may require a subdivision of the land pursuant to Ch. 57.18 RCW. See "Withdrawal of Land" in §4.4 above on page 20.
4. Declarant: Correct mistake, inconsistency, error, or ambiguity (declaration and map expressly mentioned).²¹⁴
5. Association: Correct errors on the map (declaration expressly mentioned).²¹⁵
6. Declarant: Subdivision of a unit (exercise of development right, typically an airspace unit).²¹⁶
7. Association *and* affected unit owners: Incorporate common elements or LCE into a unit or convert common element into LCE.²¹⁷
8. Association *and* affected unit owners: (a) Subdivide a unit, or (b) combine two or more units,²¹⁸ or (c) relocate unit boundaries.²¹⁹

NOTE: RCW 64.90.255 also deals with alteration of unit boundaries and common elements such as creating an aperture between units or between a unit and the common elements. This by itself does not itself require an amendment to the map. However, RCW 64.90.255 says "After acquiring an adjoining unit or *an adjoining part of an adjoining unit...*"



This phrase does not mean that this section can also be used to accomplish the relocation of boundaries or combination of units without complying with either RCW 64.90.260 or RCW 64.90.265. That would have to happen independently, and would in any event be necessary to properly identify the resultant units and their identifying numbers, area and allocated interests.

9. Association and affected unit owners: Portions of the land have been taken by condemnation.²²⁰

NOTE: Any land within the common elements of an existing CIC that is to be condemned pursuant to RCW 64.90.030 would also require subsequently amending the declaration and map to show the revised CIC boundaries, but in addition would show any related amended data (number of units, allocated interests, etc.) if affected by the conveyance.

10. Association: Conveyance of common elements.²²¹ This often occurs in connection with the widening of a public right of way abutting the CIC.

NOTE: Any land within the common elements of an existing CIC (other than a plat community) that is to be conveyed for any purpose, including a public right of way, pursuant to RCW 64.90.415. would also require subsequently amending the declaration and map to show the revised CIC boundaries, but in addition would show any related amended data (number of units, allocated interests, etc.) if affected by the conveyance. See also “Conveyance of Common Elements” in §4.6 above on page 22.

11. Association: Partial termination, i.e., a withdrawal of a portion of the common elements. This is not expressly permitted, but may be attempted instead of a conveyance under RCW 64.90.415. It may or may not attempt to utilize the procedure for full termination under RCW 64.90.290. See also “Withdrawal or Partial Termination – Not Per Development Right” in §4.5 above on page 21. In this scenario, it may be intended that the conveyance of the former common elements be done after the withdrawal. (Such a conveyance may have to be executed by all unit owners and require affirmative partial releases as to any unit encumbrance.) The amended declaration and map would show the revised CIC boundaries, but in addition would show any related amended data (number of units, allocated interests, etc.) if affected by the termination.

This entire process of any of the above procedures – especially a purported “partial termination” – should be reviewed by a title company, even if there is no pending title transaction relating to an individual unit.

17.1 RECORDING REQUIREMENTS

As with the original map, each map filed for a common interest community, and any amendments to the map, must be in the style, size, form, and quality as prescribed by the recording authority of the county where filed, and a copy must be delivered to the county assessor.²²²



17.2 AMENDED MAP HEADING

The first page must show as part of the heading the name of the CIC as it appears on the original map (matching the declaration), including the type of CIC. See also “Heading and CIC Name” in §16.5 above on page 55.

17.3 CROSS REFERENCE TO DECLARATION(S) AND MAP(S)

An amended map must include a cross-reference to the recording data of (1) the earlier recorded original declaration, (2) the earlier recorded map, (3) the concurrent amendment to the declaration, and (3) any earlier amendments to either the map or the declaration.²²³

While not expressly required, it is recommended that the cross reference include the original map and all subsequent amendments to the map to date. This will avoid ambiguity as to the changes being made and which maps are being superseded or amended.

These recitals can be contained in the CIC declaration signed by, as appropriate, the declarant, or the owners association, and the affected unit owners. See SCHEDULE B, SCHEDULE D, SCHEDULE E and SCHEDULE F for examples.

17.4 EXECUTION, CERTIFICATION AND DECLARATION

Any map amendment must be executed by the same party who executes the corresponding amendment to the declaration.²²⁴

Note that the amended map must include a certification by the surveyor in most cases, and a declaration in all cases, which are consistent with the statutory requirements relating to the original CIC map. These include:

1. The *certification* by the surveyor as to the boundaries of any newly created units, must be updated. It may be necessary to revise the certification language shown in SCHEDULE A to address the nature of the amendment while still including the substantive elements of the statutory certificate. An example is shown in SCHEDULE B. The language of the certification can also be modified to limit the certification to only the newly added units, if the original map included certification for the original units and they are not-being re-certified. If new units are not being created, the certification can delete the reference to unit boundaries.
2. Similarly, the form of declaration by the declarant as shown in SCHEDULE C may also need to be revised to address the nature of the amendment while still including the substantive elements of the statutory declaration. An example is shown in SCHEDULE D.
3. If the amendments are made by the association (and in some cases, the affected unit owners), it would be appropriate to amend the form of certification as suggested on SCHEDULE F.

17.5 COMPLIANCE WITH WUCIOA

An amended map must comply with all of the requirements and standards applicable to the original map, including being a survey (except for some cooperatives). The map must show the necessary detail as was required for the initial map.



This would include the description of added land, descriptions, depictions and labelling of land subject to development rights, data for newly created units, LCE depictions, encroachments, principal common amenities, and signatures by necessary parties, including individual unit owners as appropriate.

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DISCLAIMER

This material is not intended to be a legal opinion on matters of law or the status of title to real property, nor a substitute for the advice or guidance of legal counsel as to its applicability to individual situations.

This material (and other related materials, including checklists) is designed to provide information about the Washington Uniform Common Interest Ownership Act (WUCIOA; Ch 64.90 RCW) as it relates to title insurance review of projects that come under the purview of that statute. As such it may be of interest to individual employees of members of the Washington Land Title Association (WLTA). Those employees may be examiners, title officers, advisory title officers or underwriters and title counsel.

The information is presumed to be helpful in the day-to-day process of examining titles to real property for the ultimate purpose of insuring titles by a title insurance company. However, the material is neither a textbook nor an instruction manual, nor is it an absolute guide of title practices. Each member title insurer or title company shall determine its specific guidelines or rules of title practice for its employees. In addition, any specific rule adopted by any one company is not necessarily the same that would be adopted by another company in the same or similar circumstances.

No manual can anticipate every problem or issue that might present itself to an examiner of titles, nor provide absolute rules for dealing with the problems and issues faced by examiners, whether or not mentioned in this material. Notwithstanding any possible implication to the contrary in this material, member companies may decide on a different approach to a title issue than what is suggested herein.



SCHEDULE A

Surveyor's Certificate Required for all Maps that are Surveys.^a

SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of _____ [*name of party requesting the survey, i.e, typically the declarant*] on _____ [*date*].

I hereby certify that this map for _____ [*name of CIC*] is based upon an actual survey of the property herein described; that the bearings and distances are correctly shown; that all information required by the Washington Uniform Common Interest Ownership Act is supplied herein; and that all horizontal and vertical boundaries of the units, (1) to the extent determined by the walls, floors, or ceilings thereof, or other physical monuments, are substantially completed in accordance with said map, or (2) to the extent such boundaries are not defined by physical monuments, such boundaries are shown on the map.

NAME

SIGNATURE

LICENSE OR CERTIFICATE NUMBER

ACKNOWLEDGMENT (appropriate form for signatory)

The following or similar statement would also be required on the face of the map, if some units have physical boundaries and some have airspace boundaries, as defined in the declaration (see "Substantial Completion" in §12.0 above on page 40).

As to Unit(s) _____, the horizontal and vertical boundaries of are determined by the walls, floors and ceilings thereof. (b) As to Unit(s) _____, the horizontal and vertical boundaries of are not determined by physical boundaries. [*Add, if applicable: (c) As to Unit(s) _____, some of the horizontal and vertical boundaries, as identified on the map, are determined by the walls, floors and ceilings thereof, and some of the horizontal and vertical boundaries, as identified on the map, are not determined by physical boundaries.*]

When amendments are made to an existing map (for example, when additional units are adding pursuant to reserved development rights, or changes in unit boundaries because of subdivision or combination, etc.), the map must be similarly certified by the surveyor. SCHEDULE B is an example of such a certification.

^a (1) Required for all CICs *except cooperatives when the declarant has opted out of a survey* (see **SCHEDULE E** for that form of declarant's certificate).

(2) This is permitted to be included in or attached to the declaration for a plat community rather than shown on the plat survey.

(3) This incorporates the surveyors certificate required by RCW 58.09.080. (4) Also, see generally "Surveyor Certification" in §16.7.2 on page 28.



SCHEDULE B

SURVEYOR'S CERTIFICATE [*For amendment*]

This amended map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of _____ [*name of party requesting the survey, for example, the declarant for development rights, or the association for other amendments*] on _____ [*date*].

I hereby certify that this amended map for _____ [*name of CIC*] is based upon an actual survey of the property herein described; that the bearings and distances are correctly shown; that all information required by the Washington Uniform Common Interest Ownership Act is supplied herein; and [*as to units _____ only*]^a that all horizontal and vertical boundaries of the units, (1) to the extent determined by the walls, floors, or ceilings thereof, or other physical monuments, are substantially completed in accordance with said map, or (2) to the extent such boundaries are not defined by physical monuments, such boundaries are shown on the map.

NAME

SIGNATURE

LICENSE OR CERTIFICATE NUMBER

ACKNOWLEDGMENT (appropriate form for signatory)

The following or similar statement may also be required on the face of the map, if some units have physical boundaries and some have airspace boundaries, as defined in the declaration (see “Substantial Completion” in §12.0 above on page 40).

As to Unit(s) _____, the horizontal and vertical boundaries of are determined by the walls, floors and ceilings thereof. (b) As to Unit(s) _____, the horizontal and vertical boundaries of are not determined by physical boundaries. [*Add, if applicable: (c) As to Unit(s) _____, some of the horizontal and vertical boundaries, as identified on the map, are determined by the walls, floors and ceilings thereof, and some of the horizontal and vertical boundaries, as identified on the map, are not determined by physical boundaries.*]

^a (1) The surveyor must certify as to newly added units in the same manner as the original map.

(2) If only new units are to be certified, this phrase can be amended to identify only those units, unless the intent is to re-certify the information shown for the original units.

(3) If the amendment does not include the addition of new units, the phrase “...and that all horizontal and vertical boundaries of the units, (1) to the extent determined by the walls, floors, or ceilings thereof, or other physical monuments, are substantially completed in accordance with said map, or (2) to the extent such boundaries are not defined by physical monuments, such boundaries are shown on the map” can be deleted.

(4) Again, note that this contemplates a single certification form whether or not the unit boundaries are “planes in space” or physical monuments, such as floors, ceilings and walls. Each type of boundary must be delineated on the survey.



SCHEDULE C

Declarant's Declaration – required on all CICs^a

DECLARATION BY DECLARANT

The undersigned owner or owners of the interest in the real estate described herein hereby declare this map and dedicate the same for a common interest community named _____ [*name of CIC*], a _____ [*type of CIC*], as that term is defined in the Washington Uniform Common Interest Ownership Act, solely to meet the requirements of the Washington Uniform Common Interest Ownership Act and not for any public purpose. This map and any portion thereof is restricted by law and the Declaration for _____ [*repeat name of CIC*], recorded under _____ [*name of county*] County Recording No. _____ [*recording number*].^b

NAME/ENTITY

SIGNATURE/TITLE

ACKNOWLEDGMENT (appropriate form for signatory)

When amendments are made to an existing map (for example, when additional units are added pursuant to reserved development rights, or changes in unit boundaries because of subdivision or combination, etc.), the map must include a similar declaration by the declarant. SCHEDULE D is an example of such a declaration.

^a (1) This is permitted to be included in or attached to the declaration for a plat community rather than shown on the plat survey.

(2) See generally “Declarant Signature, Declaration” in §16.7.1 on page 28.

^b This must also include reference to the recording data for the earlier declaration and/or map plus any and all earlier amendments to either, if the current recording were an amendment to the map.



SCHEDULE D

DECLARATION BY DECLARANT [*For amendment*]

The undersigned owner or owners of the interest in the real estate described herein hereby declare this map and dedicate the same for a common interest community named _____ [*name of CIC*], a _____ [*type of CIC*], as that term is defined in the Washington Uniform Common Interest Ownership Act, solely to meet the requirements of the Washington Uniform Common Interest Ownership Act and not for any public purpose.

This amended map and any portion thereof is restricted by law and is recorded with an amendment to the declaration for _____ [*repeat name of CIC*] recorded under _____ [*name of county*] County Recording No. _____ [*recording number*], and amendment(s) thereto recorded under Recording No(s). _____.^a

NAME/ENTITY

SIGNATURE/TITLE

ACKNOWLEDGMENT (appropriate form for signatory)

^a Include all prior amendments to the declaration and the maps.



SCHEDULE E

Declarant's Certificate – Required for any Map that is not a Survey
(Applicable to cooperatives only, as an option)^a

CERTIFICATE BY DECLARANT

I hereby certify on behalf of _____ [*name of declarant*] that this map for _____ [*name of CIC*] was made by me or under my direction in conformance with the requirements of *RCW 64.90.245*; that all information required by the Washington Uniform Common Interest Ownership Act is supplied herein; and that all horizontal and vertical boundaries of the units, (1) to the extent determined by the walls, floors, or ceilings thereof, or other physical monuments, are substantially completed in accordance with said map, or (2) to the extent such boundaries are not defined by physical monuments, such boundaries are shown on the map.^b

NAME/ENTITY

SIGNATURE/TITLE

ACKNOWLEDGMENT (appropriate form for signatory)

NOTE: If the certification is for an amended map that is not a survey, the following can be added before the signatures:

This amended map and any portion thereof is restricted by law and is recorded with an amendment to the declaration for _____ [*repeat name of CIC*] recorded under _____ [*name of county*] County Recording No. _____ [*recording number*], and amendment(s) thereto recorded under Recording No(s). _____.^c

The following or similar statement may also be required on the face of the map, if some units have physical boundaries and some have airspace boundaries, as defined in the declaration (see "Substantial Completion" in §12.0 above on page 40).

(a) As to Unit(s) _____, the horizontal and vertical boundaries of are determined by the walls, floors and ceilings thereof. (b) As to Unit(s) _____, the horizontal and vertical boundaries of are not determined by physical boundaries. [*Add, if applicable:* (c) As to Unit(s) _____, some of the horizontal and vertical boundaries, as identified on the map, are determined by the walls, floors and ceilings thereof, and some of the horizontal and vertical boundaries, as identified on the map, are not determined by physical boundaries.]

^a See "Optional Cooperative Certificate" in §16.7.3 on page 28.

^b Note that this contemplates a single certification form whether or not the unit boundaries are "planes in space" or physical monuments, such as floors, ceilings and walls. Each type of boundary must be delineated on the map.

^c Include all prior amendments to the declaration and the maps.



SCHEDULE F

Association's and Unit Owner's Certification

Appropriate for any Map Amendment that is NOT Recorded by a Declarant
NOTE: The Surveyors Certificate in SCHEDULE B would also be required.

CERTIFICATON

The undersigned, including as shown, the owner or owners of the interest in the real estate described herein, hereby certify on behalf of _____ [*name of association*] [*and*] [*add name(s) of affected unit owner(s) if required*] that this amendment to the map for _____ [*name of CIC*], a _____ [*type of CIC*], was made by me or under my [*or "our" if appropriate*] direction in conformance with the requirements of RCW 64.90.245; as that term is defined in the Washington Uniform Common Interest Ownership Act, solely to meet the requirements of the Washington Uniform Common Interest Ownership Act and not for any public purpose, and further certify that all information required by the Washington Uniform Common Interest Ownership Act is supplied herein;

This amended map is recorded with an amendment to the declaration for _____ [*repeat name of CIC*] recorded under _____ [*name of county*] County Recording No. _____ [*recording number*], and amendment(s) thereto recorded under Recording No(s). _____.^a

NAME(S) OF AFFECTED UNIT OWNERS

ASSOCIATION NAME/ENTITY

SIGNATURES/TITLE

ACKNOWLEDGMENTS (appropriate form for signatory)

¹ RCW 64.90.245(3)

² RCW 64.90.010(19) & RCW 64.90.245(1)

³ RCW 64.90.245(4)

⁴ RCW 64.90.245(14)

⁵ RCW 64.90.245(1)

⁶ RCW 64.90.245(6)(a) & RCW 64.90.245(13); see also Ch. 58.09 RCW.

⁷ RCW 64.90.245(6)(b)

⁸ RCW 64.90.245(3) & RCW 64.90.245 (6)(c).

⁹ RCW 64.90.200(1)(a)

¹⁰ RCW 58.17, *et seq.*

^a This recital should include not only the contemporaneously recorded amendment to the declaration, but also all previously recorded amendments to either of the declaration or map.



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- ¹¹ RCW 64.90.245(7)
- ¹² RCW 64.90.010(31), requiring compliance with Title 58 RCW, *et seq.*
- ¹³ RCW 64.90.010(10)
- ¹⁴ RCW 64.90.075(1)
- ¹⁵ RCW 64.90.075, RCW 64.90.110 & RCW 64.90.115
- ¹⁶ RCW 64.90.010(19)
- ¹⁷ RCW 64.90.245(1)
- ¹⁸ WCA RCW 64.34.020(17) & HPR 64.32.010(9)
- ¹⁹ RCW 64.90.010(19): “ ‘Declaration’ means the instrument, *however denominated*, that creates a common interest community, including any amendments to the instrument.”
- ²⁰ RCW 64.90.010(31) (This is also in WCA RCW 64.34.232 & HPR RCW 64.32.100)
- ²¹ RCW 64.90.245(1)
- ²² RCW 64.90.245(5)
- ²³ WCA RCW 64.34.200(2) & HPR RCW 64.32.100
- ²⁴ RCW 64.90.010(53)
- ²⁵ RCW 64.90.245(5)
- ²⁶ RCW 64.90.010(7)(a)
- ²⁷ RCW 64.90.010(11): “Condominium” means a common interest community in which *portions of the real estate are designated for separate ownership* and the *remainder of the real estate is designated for common ownership* solely by the owners of those portions. A common interest community is *not a condominium unless* the undivided interests in the common elements *are vested in the unit owners.*”
- ²⁸ RCW 64.90.235(6)(a)
- ²⁹ RCW 64.90.465
- ³⁰ RCW 64.90.020(1)
- ³¹ RCW 64.90.010(15)
- ³² RCW 64.90.235(6)(b)
- ³³ RCW 64.90.010(7)(a)
- ³⁴ RCW 64.90.245(6)(b) and RCW 64.90.245(8)(c)
- ³⁵ RCW 58.17.040(7)
- ³⁶ RCW 64.90.010(37)
- ³⁷ RCW 64.90.010(7)(b)
- ³⁸ RCW 64.90.075(2) & (3)
- ³⁹ RCW 64.90.010(33)
- ⁴⁰ RCW 64.90.010(7)(b)
- ⁴¹ RCW 64.90.010(11)
- ⁴² RCW 64.90.075(2) & (3)
- ⁴³ RCW 64.90.245(6)(b) and RCW 64.90.245(8)(c)



⁴⁴ RCW 64.90.210(6)(a)

⁴⁵ RCW 64.90.210(6)(a)

⁴⁶ RCW 64.90.010(30)

⁴⁷ RCW 64.90.010(20)

⁴⁸ RCW 64.90.010(51)

⁴⁹ RCW 64.90.015(13)

⁵⁰ RCW 64.90.600(1)

⁵¹ RCW 64.90.610(3)

⁵² RCW 64.90.245(8)(m)

⁵³ RCW 58.17.040(7)

⁵⁴ RCW 58.17.040

⁵⁵ The ALTA Owner's and Loan Policies (6-17-06) include the following exclusion from coverage: "The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of: 1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to... (iii) the subdivision of land;..."

⁵⁶ RCW 64.90.025(3): "Ch. 58.17 RCW does not apply to the creation of a condominium or a cooperative. This chapter must not be construed to permit the creation of a condominium or cooperative on a lot, tract, or parcel of land that could not be sold or transferred without violating chapter 58.17 RCW."

⁵⁷ RCW 58.17.040(7)

⁵⁸ RCW 64.90.010(10)

⁵⁹ RCW 64.90.010(20)

⁶⁰ RCW 64.90.245(12)

⁶¹ RCW 64.90.245(4)

⁶² RCW 64.90.250(4)

⁶³ RCW 64.90.465

⁶⁴ RCW 64.90.290

⁶⁵ RCW 64.90.025(5)

⁶⁶ RCW 64.90.465

⁶⁷ RCW 64.90.465(7)(a)

⁶⁸ RCW 64.90.465(1)(a)

⁶⁹ RCW 64.90.465(2)(a)

⁷⁰ RCW 64.90.465(1)(a)

⁷¹ RCW 64.90.010(33)

⁷² RCW 64.90.465(1)(a)

⁷³ RCW 64.90.075(2) & (3): RCW 64.90.020 (separate titles and taxation), RCW 64.90.025 (applicability of local ordinances, regulations, and building codes) & RCW 64.90.030 (eminent domain)

⁷⁴ RCW 64.90.010(33)



⁷⁵ RCW 64.90.020 (separate titles and taxation), RCW 64.90.025 (applicability of local ordinances, regulations, and building codes) & RCW 64.90.030 (eminent domain)

⁷⁶ RCW 64.90.075(2) & (3)

⁷⁷ RCW 64.90.075(4) “...[*new section*] Except as otherwise provided in RCW 64.90.080, this chapter does not apply to any common interest community created within this state after July 1, 2018, if: (a) That common interest community is made part of a common interest community created in this state prior to July 1, 2018, pursuant to a right *expressly* set forth in the declaration of the preexisting common interest community; and (b) The declaration creating that common interest community *expressly* subjects that common interest community to the declaration of the preexisting common interest community pursuant to such right described in (a) of this subsection.” [*emphasis added*] [Sec. 203, Ch. 238, Laws of 2019, amending RCW 64.90.075]

⁷⁸ RCW 64.90.245(3)

⁷⁹ RCW 64.90.300

⁸⁰ RCW 64.90.115

⁸¹ RCW 64.90.075(3)

⁸² RCW 64.90.075(2) & (3)

⁸³ RCW 64.90.100(2)

⁸⁴ RCW 64.90.100(1)

⁸⁵ RCW 64.90.100(4)

⁸⁶ RCW 64.90.280(2)

⁸⁷ RCW 64.90.245(8)(h)

⁸⁸ RCW 64.90.010(37)

⁸⁹ RCW 64.90.210(1): “Except as provided by...in the case of a plat community...the map...”

⁹⁰ RCW 64.90.010(33)

⁹¹ RCW 64.90.210(1): “Except as provided by...in the case of a...miscellaneous community...the map...”

⁹² RCW 64.90.210(1)(a) & RCW 64.90.225(1)(d)

⁹³ RCW 64.90.225(1)(d)

⁹⁴ RCW 64.90.245(8)(i) & (j) and certified pursuant to RCW 64.90.245(6)(a)

⁹⁵ RCW 64.90.630(2) & RCW 64.90.600

⁹⁶ RCW 64.90.010(37) & RCW 64.90.210(1)

⁹⁷ RCW 58.09.080

⁹⁸ RCW 64.90.245(8)(o)

⁹⁹ The ALTA Owner’s and Loan Policies (6-17-06) define land as: “Land”: The land described in Schedule A, and affixed improvements *that by law constitute real property*. The term “Land” does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy. [*emphasis added*]

¹⁰⁰ RCW 64.90.010(57)(c) & RCW 64.90.255(4)

¹⁰¹ RCW 64.90.245(8)(o)

¹⁰² RCW 64.90.200(2) & RCW 64.90.630(1)

¹⁰³ RCW 64.90.200(2)



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- 104 RCW 64.90.630(2)
 - 105 RCW 64.90.200(2)
 - 106 RCW 64.90.245(6)(a) & RCW 64.90.245(13)
 - 107 RCW 64.90.245(5)
 - 108 RCW 64.90.245(5) & RCW 64.90.245(6)(b)
 - 109 RCW 64.90.245(6)(a) or (b)
 - 110 RCW 64.90.010(16)
 - 111 RCW 64.90.210(1)(b)
 - 112 RCW 64.90.210(3)
 - 113 RCW 64.90.245(8)(n)
 - 114 RCW 64.90.245(8)(n)
 - 115 RCW 64.90.245(8)(n)
 - 116 RCW 64.90.245(8)(n)
 - 117 RCW 64.90.010(20)(b) & (e)
 - 118 RCW 64.90.240(1)(b) & (2a)
 - 119 RCW 64.90.240(2)(b) & (3)
 - 120 RCW 64.90.225(1)(f)
 - 121 RCW 64.90.010(20)(b) & RCW 64.90.225(1)(f)
 - 122 RCW 64.90.010(20)(e)
 - 123 RCW 64.90.025(5)
 - 124 RCW 64.90.225(n)
 - 125 RCW 64.90.225(8)(j)
 - 126 RCW 64.90.225(8)(j)
 - 127 RCW 64.90.010(20)
 - 128 RCW 64.90.225(1)(g) & (h)
 - 129 RCW 64.90.245(8)(e)
 - 130 RCW 64.90.225(1)(g) & (h)
 - 131 RCW 64.90.245(8)(e)
 - 132 RCW 64.90.225(1)(h)(ii)
 - 133 RCW 64.90.315
 - 134 RCW 64.90.225(1)(h)(i)
 - 135 RCW 64.90.245(8)(e)
 - 136 RCW 64.90.010(20)
 - 137 RCW 64.90.225(1)(h)(i)
 - 138 RCW 64.90.245(8)(d)
 - 139 RCW 64.90.250(4)



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- ¹⁴⁰ RCW 64.90.010(20); RCW 64.90.250
- ¹⁴¹ RCW 64.90.245(8)(e)
- ¹⁴² RCW 64.90.225(1)(g)
- ¹⁴³ RCW 64.90.245(2); RCW 64.90.245(14)
- ¹⁴⁴ RCW 64.90.200(2)
- ¹⁴⁵ RCW 64.90.245(7)
- ¹⁴⁶ RCW 64.90.245(5)
- ¹⁴⁷ RCW 64.90.245(14)
- ¹⁴⁸ RCW 64.90.245(3)
- ¹⁴⁹ RCW 64.90.245(7)
- ¹⁵⁰ RCW 64.90.020(2)(b)
- ¹⁵¹ RCW 64.90.025(5)
- ¹⁵² RCW 64.90.225(1)(a)
- ¹⁵³ RCW 64.90.200(1)(b)
- ¹⁵⁴ RCW 64.90.230(1)
- ¹⁵⁵ RCW 64.90.245(14)
- ¹⁵⁶ RCW 64.90.200(1)(a)
- ¹⁵⁷ RCW 64.90.245(3)
- ¹⁵⁸ RCW 58.17.165
- ¹⁵⁹ RCW 64.90.245(6)(b)
- ¹⁶⁰ RCW 64.90.245(14)
- ¹⁶¹ RCW 64.90.245(13)
- ¹⁶² RCW 64.90.245(5) & (6)(b) & RCW 64.90.245(13)
- ¹⁶³ RCW 64.90.245(14)
- ¹⁶⁴ RCW 64.90.245(5)
- ¹⁶⁵ RCW 64.90.245(8)(b)
- ¹⁶⁶ RCW 64.90.225(1)(b)
- ¹⁶⁷ RCW 64.90.245(8)(h) does require the map to show the location and dimensions of recorded appurtenant easements and unrecorded easements “to the extent feasible.” Note that this is not required for a plat community (RCW 64.90.245(2)), but title insurers may still want to see the location of recorded easements that might not have already been required in the platting process.
- ¹⁶⁸ RCW 64.90.245(k)
- ¹⁶⁹ RCW 64.90.245(8)(e)
- ¹⁷⁰ RCW 64.90.225(1)(g) & RCW 64.90.225(1)(h)(i)
- ¹⁷¹ RCW 64.90.245(8)(e)
- ¹⁷² RCW 64.90.225(1)(g) & RCW 64.90.225(1)(h)(i)
- ¹⁷³ RCW 64.90.245(8)(d)



¹⁷⁴ RCW 64.90.225(1)(g) & RCW 64.90.225(1)(h)(i)

¹⁷⁵ RCW 64.90.225(1)(e)

¹⁷⁶ RCW 64.90.225(1)(g), (h) and (i)

¹⁷⁷ RCW 64.90.245(8)(d)

¹⁷⁸ RCW 64.90.245(8)(b)

¹⁷⁹ RCW 64.90.225(1)(b)

¹⁸⁰ RCW 64.90.245(8)(h)

¹⁸¹ RCW 64.90.245(8)(d)

¹⁸² RCW 64.90.245(8)(e)

¹⁸³ RCW 64.90.245(10)

¹⁸⁴ RCW 64.90.245(8)(e)

¹⁸⁵ In general, RCW 64.90.225(1)(g) describes the criteria for this analysis

¹⁸⁶ RCW 64.90.245(10) & RCW 64.90.250(3)

¹⁸⁷ RCW 64.90.245(8)(l)

¹⁸⁸ RCW 64.90.245(8)(f)

¹⁸⁹ RCW 64.90.250(4) & RCW 64.34.236(4)

¹⁹⁰ RCW 64.90.245(8)(o)

¹⁹¹ RCW 64.90.245(8)(o)

¹⁹² RCW 64.90.245(8)(n)

¹⁹³ RCW 64.90.240(2)(b) & (3)

¹⁹⁴ RCW 64.90.010(20)(b) & (e)

¹⁹⁵ RCW 64.90.240(1)(b) & (2a)

¹⁹⁶ RCW 64.90.245(8)(g)

¹⁹⁷ RCW 64.90.245(8)(h)

¹⁹⁸ Required for title insurance purposes, although RCW 64.90.245(8)(m) would also expressly require it for principal common amenities.

¹⁹⁹ RCW 64.90.245(8)(h)

²⁰⁰ RCW 64.90.245(8)(m), as listed in the POS pursuant to RCW 64.90.610(1)(k). (NOTE: for a plat community, the information can be on a map attached to the declaration, but could be on the plat survey.)

²⁰¹ RCW 64.90.245(9)

²⁰² RCW 64.90.245(9)

²⁰³ RCW 64.90.245(8)(o)

²⁰⁴ RCW 64.90.245

²⁰⁵ RCW 64.90.245(15)

²⁰⁶ RCW 64.90.225(1)(d)

²⁰⁷ RCW 64.90.245(8)(j)

²⁰⁸ RCW 64.90.225(8)(j)



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- 209 RCW 64.90.245(8)(n)
 - 210 RCW 64.90.245(4)
 - 211 RCW 64.90.250
 - 212 RCW 64.90.250
 - 213 RCW 64.90.250
 - 214 RCW 64.90.285(10)
 - 215 RCW 64.90.285(11)
 - 216 RCW 64.90.250
 - 217 RCW 64.90.240(3)
 - 218 RCW 64.90.265(4)
 - 219 RCW 64.90.260(3)(a) & (b)
 - 220 RCW 64.90.030
 - 221 RCW 64.90.465
 - 222 RCW 64.90.245(7)
 - 223 RCW 64.90.245(4)
 - 224 RCW 64.90.245(4)

