

**MISCELLANEOUS COMMUNITY CHECKLIST (WUCIOA)
FOR TITLE INSURANCE
Washington Land Title Association**



Ch. 64.90 RCW (Chapter 277, Laws of 2018; SSB 6175)
Washington Uniform Common Interest Ownership Act

**This Checklist *only* for Miscellaneous Communities recorded after July 1, 2018
See separate checklists for condos, plat communities & cooperatives created after July 1, 2018,
And for condos created before July 1, 2018**

Dated as of **6/25/2021** (Check WLTA webpage for updates)

Project Name:		County:			
Attorney:		Surveyor:			
Title Company:		Developer:			
New Filing <input type="checkbox"/>	Resale <input type="checkbox"/>	Conversion n/a ^a	Leasehold <input type="checkbox"/>	Non-RE ^b <input type="checkbox"/>	Timeshare ^c <input type="checkbox"/>

NOTE 1: At least the draft declaration and draft map, and where applicable, the draft public offering statement, for all CICs should be reviewed and compared for consistency by the (a) title company, (b) declarant, (c) declarant’s attorney and (d) surveyor prior to any of them being signed, notarized and recorded.

NOTE 2: Check Indicates information required by statute to be in the declaration/CCRs or map.

NOTE 3: The term “map” includes a survey.

NOTE 5: If * shown instead of the information need not be included, but if included must be in accordance with the provisions of the referenced statute.

NOTE 6: The definition of “common interest community” (CIC) is *not* based on *ownership* of common elements, but rather *shared expenses* relating to that type of ownership. RCW 64.90.010(10). The four types of CICs are: *condominiums* (all of which are CICs), *cooperatives* (all are CICs), *“plat communities”* (not all are CICs) and *“miscellaneous communities”* (the latter being essentially any CIC that is not a plat community, condominium or cooperative). Excluded: a lessee’s obligation to pay or share expenses and mutual agreements to share expenses for such things as driveways, party walls, wells, etc.¹

NOTE 6: *Endnotes contain relevant comments relevant to title insurance underwriting and should be reviewed in connection with the associated checklist item.*

The following terms are used in this checklist:

Unit(s)/Lot(s) – WUCIOA uses the defined term “unit”. A unit/lot is a tract or parcel “designated for separate ownership.”² With respect to a “lot” (as that term is typically used with most subdivisions, including “large lot” subdivisions exempt from Ch. 58.17 RCW³), most lots are units for WUCIOA purposes. That is, the WUCIOA term “unit” is not used in context of common area or limited common area parcels in a miscellaneous community, even though such parcels might also have a “lot”

^a The WUCIOA provisions relating to conversions apply to units in a building. This is unlikely in a miscellaneous community, but possible.

^b This can include manufactured homes and mobile homes titled under Ch. 65.20 RCW that may or may not be fixtures or real property. See also “**Manufactured Homes**” in this checklist.

^c Timesharing is regulated by Chapter 64.36 RCW. Title insurability of individual timeshare interests in any CIC should be reviewed by senior underwriting counsel. However, see also “**Timesharing**” in this checklist.



or “tract” number on the survey map and can be conveyed to the homeowners association or owned by unit owners as tenants in common.

Declaration/CCRs – Most miscellaneous communities will have a document commonly referred to as CCRs (“covenants, conditions and restrictions”). For purposes of WUCIOA, any document that contains such provisions, whatever it is called, is defined as a “declaration” for purposes of WUCIOA. The document need not be identified as a “declaration.”

64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
★ CONFIRM TYPE OF COMMON INTEREST COMMUNITY ★ ★ GENERAL APPLICABILITY TO THE CIC BEING REVIEWED ★				
010(11)	Project is a <i>condominium</i> where unit owner has undivided interest in common elements; will be so labeled. USE <i>DIFFERENT</i> CHECKLIST (Different checklists for pre-WUCIOA condos prior to 7-1-2018 & post-WUCIOA condos after 7-1-2018)	X	X	X
010(15)	Project is a <i>cooperative</i> where association owns land & improvements; unit owner has proprietary lease; will be so labeled. Refer to underwriting and USE <i>DIFFERENT</i> CHECKLIST	X	X	X
010(33)	Project is a <i>miscellaneous community</i> , that is a project where owners share common expenses but is that is NOT either a (a) condominium, (b) cooperative or (c) plat community; will be so labeled. Refer to underwriting, and USE <i>DIFFERENT</i> CHECKLIST	<input type="checkbox"/>	X	X
	A miscellaneous community that has (a) common elements and/or (b) obligations to share ANY common expenses, may be claimed as exempt as noted below (see “ Exemptions ” below). WUCIOA would not apply if exempt; do not use this checklist. <i>Refer claimed exemption to title company underwriting.</i>	X	X	X
010(10)	Is a unit/lot owner obligated to share in any common expenses? If “NO” do not use this checklist. (Refer to title company underwriting.) If “YES” go to next two questions. SEE however ★ Exemptions ★ below for (1) non-residential & (2) small miscellaneous communities.	<input type="checkbox"/>	<input type="checkbox"/>	X
010(37)	The miscellaneous community is a later <i>division</i> or <i>phase</i> of a pre-WUCIOA subdivision (claimed exempt from Ch. 58.17 RCW, likely a “large lot” subdivision ⁴) recorded before July 1, 2018. If so, it must comply with WUCIOA and be reviewed using THIS checklist ⁵ UNLESS both: (a) the first pre-July 1, 2018, division provided for phasing, AND (b) the post-July 1, 2018, phase expressly stipulates that it is being added in accordance with those provisions. Title company should refer to underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
★ EXEMPTIONS ★				
100(1)	NON-RESIDENTIAL exemption: A miscellaneous community that would otherwise be a CIC miscellaneous community and that is restricted <i>entirely</i> to non-residential ⁶ use is not subject to WUCIOA <i>unless</i> the declaration/CCRs provides: (a) that it is so subject, or (b) that only certain sections ⁷ of WUCIOA apply. Q = Does the declaration/CCRs for a non-residential miscellaneous community provide that any part of WUCIOA applies? (Refer to title company underwriting if unsure.) If “YES” it is a CIC miscellaneous community; complete this checklist. (See also “ Units/Lots – Use ” below.) If “NO” it may not be a CIC miscellaneous community. ⁸ Refer to title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	X



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
100(4)	<p>NON-RESIDENTIAL exemption – MIXED USE: A miscellaneous community that includes both non-residential units/lots and units/lots <i>that MAY be used</i> for residential purposes might not be subject to WUCIOA.</p> <p>HOWEVER, if the units/lots that may be used for residential purposes would otherwise constitute a CIC, then WUCIOA applies.⁹</p> <p>For title insurance purposes, a mixed-use miscellaneous community should be considered subject to WUCIOA. Any claimed exemption should be referred to title company underwriting. (See also “Units/Lots – Use” below.)</p> <p>Q = Does the declaration/CCRs for a mixed-use assert that WUCIOA does not apply?</p> <p>If “NO” continue with checklist.</p> <p>If “YES” (e.g., title company requested to ignore WUCIOA) – refer to underwriting.</p>	<input type="checkbox"/>	<input type="checkbox"/>	
075(2)	<p>SMALL CIC exemption: A “small” miscellaneous community is not subject to WUCIOA¹⁰ if: (1) the miscellaneous community is NOT subject to development rights,¹¹ AND (2) the miscellaneous community contains no more than 12 lots, AND (3) the declaration/CCRs provides that the average annual assessment¹² of all RESIDENTIAL lots may not exceed \$300,¹³ AND (4) the declaration/CCRs <i>does not</i> state that it is subject to all of WUCIOA.</p> <p>Q = Do all of the above apply?</p> <p>If “YES” do not complete this checklist.</p> <p>Title company should refer to underwriting to confirm all items apply.</p> <p>If “NO” it is miscellaneous community. Complete this checklist.</p>	<input type="checkbox"/>	<input type="checkbox"/>	
075(2)	<p>Caveat for Small Project CIC Exemption: A residential miscellaneous community typically involves unimproved lots upon which improvements will be built (either by the declarant one or more developers who purchases lots for resale). A claim of exemption could be based on statement that there are no development rights to <i>add</i> improvements (pursuant to a development right) but there is a right to <i>complete</i> improvements described in the declaration or POS.</p> <p>Title company should refer to underwriting if there is a claimed exemption.</p>	<input type="checkbox"/>	<input type="checkbox"/>	
100(1) 075(2)	<p>Summary: Is miscellaneous community exempt under RCW 64.90.100(1), 64.90.100(4) or 64.90.075(2) as above?</p> <p>If “YES” do not use this checklist.</p> <p>Refer to title company underwriting if unsure.</p> <p>If “NO” it is a miscellaneous community. Complete this checklist.</p>	<input type="checkbox"/>	<input type="checkbox"/>	
320	<p>Large Scale Community – Not exemption as such, but WUCIOA requirements will apply when any unit/lot is eventually conveyed.</p> <p>Refer a purported large-scale community to title company underwriting.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<p>Is the land located within the boundaries of an Indian reservation?</p> <p>If “YES” complete this checklist but refer to title insurance senior underwriting for additional review.¹⁴</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
★ OTHER REVIEWS ★				
	Review is final – documents recorded – review again only if amendments.	<input type="checkbox"/>		
	Review is preliminary – documents not yet recorded – must review again.	<input type="checkbox"/>		
	Was declaration/CCRs and/or map amended? (If “YES” review; see “ Amendments ” below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
610	Is there a <i>public offering statement</i> (POS)? (Applicable to new CIC miscellaneous communities – must be reviewed). ¹⁵	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
610	Was final POS reviewed by title company and surveyor for (a) inconsistencies with declaration or map, (b) list or other identification of principal common amenities? ¹⁶ (See also “ Principal Common Amenities ” below.) If “NO” – POS must be reviewed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
610	Is there a revised POS to be reviewed? If “YES” review the revised POS.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
640	Was owner association’s resale certificate (for an existing CIC miscellaneous community ¹⁷) reviewed for disclosures of: (a) assessments, (b) use, age or leasing restrictions, (c) right of first refusal or option to purchase, (d) judgments against association (also see checklist item below), (e) building code violations, (f) violation of governing documents, (g) pending condemnation or sale of common elements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
605(6)	Was declarant’s resale certificate (for a new CIC miscellaneous community ¹⁸) reviewed for disclosures of: (a) assessments, (b) use, age or leasing restrictions, (c) right of first refusal or option to purchase, (d) judgments against association (also see checklist item below), (e) building code violations, (f) violation of governing documents, (g) pending condemnation or sale of common elements PLUS additional information required by RCW 64.90.605(6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
640	Was resale certificate provided to escrow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
490	As to judgments against the association, they attach to all lots/units. The name of the owners association should be checked for judgements when insuring title to any unit/lot in a miscellaneous community. Q = Has a search for judgments against the name of the owners association been done?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
310	<input checked="" type="checkbox"/> If merged or consolidated with another miscellaneous community (or any other type of CIC), review new CIC governing documents and refer to title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
★ DECLARATION/CCRs ★				
Name				
200(1)(a) & (b)	<input checked="" type="checkbox"/> There is either (a) a separate declaration/CCRs (most common) or (b) declaration/CCR provisions are on the face of the miscellaneous community map (uncommon but permitted). Such language is required if there are any cost sharing provisions (e.g., assessments) relating to other property. If “NO” refer to underwriting. If “N/A” (i.e., there are no assessments for obligations relating to other property) it is not a CIC and this checklist is not required. Refer to underwriting if any question about this. If “YES” <input checked="" type="checkbox"/> continue with this checklist.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(a)	<input checked="" type="checkbox"/> Name of miscellaneous community (must match verbatim name on map ¹⁹).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(1)(a)	<input checked="" type="checkbox"/> Includes a statement immediately after the name that it is a miscellaneous community .	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(1)(a)	<input checked="" type="checkbox"/> If phased (later division of same miscellaneous community), does name/title reference the division/phase number in the name/title of both declaration/CCRs & miscellaneous community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
200(1)(b)	<input checked="" type="checkbox"/> Name is not identical to any other CIC approved by the county	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
200(1)(a)	<input checked="" type="checkbox"/> Executed in the same manner as a deed (name of declarant/authorized signatories and proper acknowledgments)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Recording				
200(1)(a)	<input checked="" type="checkbox"/> Recorded	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
200(1) 245(3)	<input checked="" type="checkbox"/> Recorded simultaneously with map – see endnote as to where maps might be indexed ²⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(1)(d)	<input checked="" type="checkbox"/> Reference to map (may be included with cross-reference to map recording data)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(1)(l)	<input checked="" type="checkbox"/> Cross reference to map recording data ²¹	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
025(5)	* Reviewed and approved by county assessor (if required in your county) ²²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(2) & 285	If amended, see “ Amendments ” below	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Common Elements²³				
	NOTE: Common elements may be <i>dedicated</i> to the lot/unit owners, or to an owners association, on the face of the map when the miscellaneous community is recorded, or <i>conveyed</i> by the declarant to the owners association.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	* The miscellaneous community has common elements such as separate tracts (whether called lots, tracts, parcels, etc., and whether owned by the owners association or lot owners as tenants in common). ²⁴ (Not a requirement to have common elements.) NOTE: This could be an access easement over one unit/lot that benefits other units/lots, with each unit/lot having an obligation to share maintenance expenses. If “YES” <input checked="" type="checkbox"/> see OPTIONS below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
200(3)(c)	<input checked="" type="checkbox"/> OPTION 1: There are common elements AND they have been conveyed by declarant to the owners association (a) <i>contemporaneously with the recording of the miscellaneous community</i> OR (b) <i>before the first WUCIOA unit/lot is conveyed</i> . ²⁵ (Not a requirement to have common elements.) If “NO” see <input checked="" type="checkbox"/> next question OPTION 2 and refer to underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
200(3)(c)	<input checked="" type="checkbox"/> OPTION 2: There are common elements AND they are owned by lot owners as tenants in common by virtue of (a) a <i>dedication</i> on the map OR (b) in the declaration/CCRs. ²⁶ (Not a requirement to have common elements.) If “NO” see <input checked="" type="checkbox"/> next question.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
200(3)(c)	<input checked="" type="checkbox"/> OPTION 3: There are common elements AND they are owned by unit/lot owners as tenants in common by virtue of a <i>conveyance</i> of an undivided interest in the common elements to each unit/lot owner in each unit/lot deed. ²⁷ If “NO” refer to underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
465(1)(a)	* Have any common elements been conveyed by the association, OR Does the current transaction involve such a conveyance? (Not a requirement to have common elements.) If “YES” title company should consult with underwriting, particularly if access is affected, to confirm compliance with relevant statutory subdivision procedures. ²⁸	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
465(1)(b)	* Have any common elements been encumbered by the association, OR Does current transaction involve such an encumbrance, such as a mortgage? If “YES” title company should consult with underwriting to confirm compliance with statutory procedures. ²⁹ IMPORTANT NOTE: See additional endnote. ³⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250	* Have portions of the common elements been withdrawn by declarant pursuant to a reserved development right? ³¹ If “YES” see “ Development Rights ” and “ Amendments ” below and title company consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Has the owners association withdrawn parts of the common elements or purportedly “partially terminated” any portion of the miscellaneous community? ³² If “YES” see previous endnotes and “ Amendments ” below; title company consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
Miscellaneous				
225(1)(o)	<input checked="" type="checkbox"/> Statement on the first page that the CIC is subject to WUCIOA. ³³	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
650(1)(a)(i) 610(1)(q)	<input checked="" type="checkbox"/> Are all underlying liens (some examples: blanket construction mortgage; tax liens or judgments against declarant or owners association) released as to unit/lot to be insured? ³⁴	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
650(1)(b) 650(2)(b)	<input checked="" type="checkbox"/> If an underlying lien is <i>not</i> released, purchaser has accepted this in writing OR title insurance against loss is provided. ³⁵ Refer to title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
010	* Definitions, if included, consistent with statutory definitions. If “NO” refer to underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
215(a)&(b)	* Is there any failure of the declaration/CCRs to comply with the statute? ³⁶ If “YES” refer to underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
215(a)&(b)	* If there is a failure of the declaration/CCRs to comply with the statute, is it insignificant ? (See prior endnote – refer to underwriting for determination.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
030	* Portions of (a) the unit/lot to be insured, (b) common elements or (c) other units/lots have been taken by eminent domain. ³⁷ If “YES” for any of these, title company should consult with underwriting. See also “ Amendments ” below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230	<input checked="" type="checkbox"/> Is the miscellaneous community being created on a leasehold interest? If “YES” see “ Leasehold Miscellaneous Communities ” below. ³⁸	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
605(6)(d) 610(1)(hh)(ii)	Is timesharing permitted? (This may not be in the declaration/CCRs but must be in the POS). If “YES” title company should consult with underwriting. (See “ Timesharing ” below)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
250	Are there reserved development rights? (See “ Development Rights ” and “ Amendments ” below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250	Have development rights been exercised? (See “ Development Rights ” and “ Amendments ” below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290	<input checked="" type="checkbox"/> Are termination procedures included? ³⁹ (See “ Termination ” below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Written Legal Descriptions – Declaration/CCRs				
025(3) 58.17.040(7)	<input checked="" type="checkbox"/> All property being subdivided (submitted to the miscellaneous community CIC) is one (or more) entire tax parcel or “legal lot” (e.g., no part of the miscellaneous community is only a <i>portion</i> of any tax parcel or “legal” lot). ⁴⁰ If “NO” title company should consult with underwriting for underwriting related to the possible failure of an individual unit/lot to be a “legal” lot under Ch. 58.17 RCW. ⁴¹	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(1)(b)	<input checked="" type="checkbox"/> Legal description of entire miscellaneous community (multiple parcels need not be contiguous ⁴²).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	* Description of each appurtenant easement (generally relates to easements benefiting the entire CIC land), if any. ⁴³ Include any intended but as-yet unrecorded easements. See next line	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Are any new (as-yet unrecorded) easements benefiting the miscellaneous community land intended to be granted or dedicated to unit owners as part of the development process either BEFORE or AFTER recording? If “YES” discuss among title company, attorney, declarant & surveyor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Is there intended to be any dedication to the public or for public purposes? If “YES” discuss between title company, attorney, declarant & surveyor. It may not be possible, unlike with a plat dedication under RCW 58.17.020(3) to accomplish a dedication without subdividing under Ch. 58.17 RCW. If this is intended, discuss among title company, attorney, declarant & surveyor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* There is a right to add later divisions/phases. (See also “ Development Rights ” section below for more about development rights.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
225(1)(g) 025(3)	<input checked="" type="checkbox"/> SCENARIO 1 as to later divisions/phases: Land can be added later AND <i>if known at recording</i> there is a legal description of land (comprising or comprised of “legal” lots ⁴⁴) not initially included in the miscellaneous community but that can be added pursuant to reserved development right to add it. ⁴⁵	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g) 315	<input checked="" type="checkbox"/> SCENARIO 2 as to later divisions/phases: Land can be added later, but not described, and there is a statement that land can be added pursuant to reserved development right to add “ <i>unspecified real estate</i> ” as phases/divisions that will be subject to the same declaration/CCRs. ⁴⁶ Title company underwriting should be consulted if unspecified real estate can be added.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g) 315	<input checked="" type="checkbox"/> SCENARIO 3: As to later divisions/phases: There is (a) a legal description of land that can be added, PLUS (b) a statement that “ <i>unspecified real estate</i> ” can also be added, and that no assurances are made as to the location or legal description of that unspecified real estate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
315	<input checked="" type="checkbox"/> If the declaration provides for the addition of “ <i>unspecified real estate</i> ” it states a time period during which it can be added.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
315	<input checked="" type="checkbox"/> If the declaration provides for the addition of “ <i>unspecified real estate</i> ” it states that the area of the added land cannot exceed 10% of the area either (a) the land included in the miscellaneous community, or (b) the land included in the miscellaneous community plus land described in the declaration as addable in the future.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
315	<input checked="" type="checkbox"/> If the declaration provides for the addition of “ <i>unspecified real estate</i> ” it states that the total number of units cannot exceed the number of units provided for in the original declaration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	<input checked="" type="checkbox"/> <i>If known at recording</i> , legal description of land included in initial miscellaneous community that can be withdrawn pursuant to reserved development right. ⁴⁷ NOTE: The legal description can be (a) a unit/lot, (b) common area tract or parcel (even if numbered or lettered) in the miscellaneous community. <i>See endnote</i> . (Also: see “ Development Rights ” section below for more detail.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	<input checked="" type="checkbox"/> <i>If known at recording</i> , description(s) of all land subject to other development rights. (See “ Development Rights ” section below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(f) & 010(20)(b)	<input checked="" type="checkbox"/> Description ⁴⁸ of any land that may later be allocated as LCE. If “YES” see next question. NOTE: The legal description can (and likely will) be a common element lot, tract or parcel in the miscellaneous community. However, it could also be “unit” as defined in WUCIOA. (See also “ Development Rights ” and “ Limited Common Elements – Declaration ” and “ Amendments ” sections below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(f) & 010(20)(b)	<input checked="" type="checkbox"/> A statement that those described portions intended as future LCE may be so allocated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(c)	<input checked="" type="checkbox"/> Description of each portion subject to a lease. See also “ Leasehold Miscellaneous Communities ” below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Units/Lots – Boundaries in Declaration				
	NOTE 1: Unit/lot boundaries in a miscellaneous community are as shown in the map/survey recorded pursuant to RCW 64.90.245. ⁴⁹	X	X	X
	NOTE 2: Unit/lot boundaries in a miscellaneous community may be similar to those for plat communities, which are typically only vertical (side) boundaries, extending “from the center of the earth to the heavens above.” However, units can have upper and lower boundaries similar to condominiums. Whatever the boundaries are they should be identified in the declaration for a miscellaneous community and delineated on the map/survey. Consult with title underwriting if there are any questions.	X	X	X



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
Units/Lots – General				
	NOTE 3: A “lot” in a miscellaneous community, typically is also a “unit” under WUCIOA. Also, while a lot, tract or parcel that is equivalent to an un-numbered WUCIOA common area or limited common area in other CICs can also have an identifying number, such numbered lots or tracts would generally not be considered a “unit” as defined under WUCIOA. ⁵⁰	X	X	X
225(1)	<input checked="" type="checkbox"/> Unit/lot numbers shown.	<input type="checkbox"/>	<input type="checkbox"/>	X
225(1)(c)	<input checked="" type="checkbox"/> Total number of units/lots initially created. ⁵¹	<input type="checkbox"/>	<input type="checkbox"/>	X
225(1)(c)	* Units/lots can be added later – e.g., additional division(s), by adding land to the same miscellaneous community, that is/are subject to the same declaration/CCRs, pursuant to a reserved development right). If “YES” see ▼ next question.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(c)	<input checked="" type="checkbox"/> Maximum number of units/lots that can be created after all phasing (additional divisions) is completed. ⁵² If “NO” refer to title company underwriting. Also see ▼ next question.	<input type="checkbox"/>	<input type="checkbox"/>	X
320	* Declaration/CCRs states that it is a “large scale community” (500 or more acres & development right to create 500 or more possible residential units). ⁵³ Any large-scale community should be referred to title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
240(3) & 260(2) & (3)	<input checked="" type="checkbox"/> Provides approval process for incorporating common elements or limited common elements (generally, tracts or parcels, whether or not numbered, that are not WUCIOA units/lots) into a unit/lot. ⁵⁴ If “YES” see ▼ next question.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
240(3) & 260(2) & (3)	<input checked="" type="checkbox"/> Requires (a) approval of a % all owners [default is 67% if not stated otherwise], (b) recorded amendment to declaration/CCRs & map executed by affected unit/lot owner(s) and the association certifying proper adoption. ⁵⁵	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
255	<input checked="" type="checkbox"/> Provision for alteration of units/lots and common elements (creating apertures between two units/lots in common ownership). ⁵⁶ If “YES” refer to title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	X
260	<input checked="" type="checkbox"/> Provision for relocation of unit/lot boundaries (portion of a unit/lot being incorporated into another unit). ⁵⁷ If done, requires amending the declaration/CCRs & the map.	<input type="checkbox"/>	<input type="checkbox"/>	X
265(1)	<input checked="" type="checkbox"/> Provision for subdivision of units. ⁵⁸	<input type="checkbox"/>	<input type="checkbox"/>	X
265(2)	<input checked="" type="checkbox"/> Provision for combination of units. ⁵⁹	<input type="checkbox"/>	<input type="checkbox"/>	X
	* Confirm access to each unit/lot, either directly to a public right of way, or through common elements or another unit/lot to an open public right of way. ⁶⁰	<input type="checkbox"/>	<input type="checkbox"/>	X
Allocated Interests				
	NOTE: Allocated interests for miscellaneous communities are generally not a title insurance issue but would be relevant to confirm sufficiency of votes required for actions that do impact title insurance.	X	X	X
225(1)(j) & 235(1)	<input checked="" type="checkbox"/> Allocated interests given for assessments : Percentages <input type="checkbox"/> Fractions <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(j) & 235(1)	<input checked="" type="checkbox"/> Allocated interests given for voting : Percentages <input type="checkbox"/> Fractions <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
235(2)	<input checked="" type="checkbox"/> Formulas given for determining each allocation ⁶¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
235(5)	<input checked="" type="checkbox"/> If percentages, they total “100%” <input type="checkbox"/> If Fractions, total “1” <input type="checkbox"/> ⁶²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
235(2) & 235(4)(b)	<input checked="" type="checkbox"/> There is no discrimination (including by utilizing cumulative or class voting) in favor of declarant owned units to avoid statutory provisions. ⁶³ Answer should be "YES." If there is discrimination the answer is "NO" and title company should consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
235(3)	<input checked="" type="checkbox"/> Formulas given to be used to reallocate allocated interests (assessments and voting) if units/lots are added or withdrawn later. (Would usually be related to exercise of reserved development rights. See also "Development Rights" below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Units/Lots – Use				
100(1)	* Are all units/lots exclusively nonresidential? ⁶⁴ If "YES" the default is that WUCIOA does not apply unless the declaration/CCRs provides for one of three levels of applicability. Refer to underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
100(4)	* Does declaration/CCRs claim exemption based on mixed-use? ⁶⁵ If "YES" consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(3)	* Are there restrictions on use of unit/lot to be insured? ⁶⁶ If "YES" review for insurability per endnote.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(3)	* Are there restrictions on occupancy of unit/lot to be insured? ⁶⁷ If "YES" review for insurability per endnote.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	* Are there restrictions on alienation of unit/lot to be insured? ⁶⁸ If "YES" review for insurability per endnote, AND: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(1)(k)	* Contains right of first refusal in favor of owners association or others. If "YES" title company should consult with underwriting. AND/OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
225(1)(k)	* Contains option to purchase in favor of owners association or others. If "YES" title company should consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
510(9)(c)	* Contains restrictions on <i>leasing</i> of units. If "YES" and if insuring a leasehold estate in a unit, title company should consult with underwriting. ⁶⁹	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Owners Association				
225(1)(a)	<input checked="" type="checkbox"/> Name of owners association given <i>and</i> it agrees throughout declaration/CCRs.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
400(3)	<input checked="" type="checkbox"/> Incorporated as either a for-profit corporation, non-profit corporation or LLC.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
405(2)(i) & 465	* Power to convey or encumber common elements, or to subject them to an easement or lease.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
405(2)(h)	* Power to acquire title or interest to real estate. ⁷⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
300	* Provisions for membership in a master association (with any other CIC). ⁷¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
305	* Provisions for subassociation within the miscellaneous community (fewer than all of the units/lots). ⁷²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
310	* Provisions for merger or consolidation with another <i>miscellaneous community</i> (cannot be condo, cooperative or plat community). (See "Merger or Consolidation" below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limited Common Elements (LCE) – Declaration				
	NOTE 1: LCE are not typical for a miscellaneous community. However, consider areas (such as an access parcel connecting a lot to a dedicated street) that are likely tracts identified for easement purposes benefitting one or more units/lots. Such a common area tract in a miscellaneous community that is to be used by one or more but not all units/lots, could also be appropriately called an LCE under WUCIOA.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	NOTE 2: An appurtenant easement parcel can be given a lot, tract or parcel number, even if it is also an LCE. The declaration/CCRs should identify the tract or parcel as LCE and identify the unit(s)/lot(s) that can use that LCE.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
	NOTE 3: LCE cannot be allocated/assigned “as shown on the map” or any other type of purported allocation to a unit/lot – it must be specifically allocated in the declaration/CCRs. ⁷³ LCE must be allocated (assigned to a unit/lot) in the declaration/CCRs (or an amendment). ⁷⁴			
	NOTE 4: Also, LCE cannot be “created” without being allocated in the declaration, and with the intent to be allocated to a unit/lot later, such as by recital in the unit/lot conveyance. ⁷⁵ They must be allocated in the declaration.			
	NOTE 5: However, LCE be cannot created and allocated to a unit owned by the declarant with the intent to be allocated (as a reserved development right) to OTHER units/lots later as units/lots are conveyed BUT the declaration must be amended to RE-ALLOCATE those LCE. ⁷⁶			
	NOTE 6: As with condos, the description of a unit/lot legal in a deed or mortgage/deed of trust should NOT include express identification of (a) any individual LCE, (b) voting interests or (c) assessment allocations. ⁷⁷ <i>See endnote</i> – Title company should refer to underwriting if requested to include such information in the legal description of a miscellaneous community unit/lot.			
	NOTE 7: The concept of LCE in a CIC (particularly in a condominium) is akin to creating an easement appurtenant. In that sense it may be possible to create an easement appurtenant to individual units/lots by appropriate recitals in on the map, and not identify servient tenement parcels as LCE.			
225(1)(e)	<input checked="" type="checkbox"/> Description of all LCE, if there are any. ⁷⁸	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Confirm that LCE are NOT intended to be units/lots. If intended to be units, discrepancy must be resolved. Title company should consult with underwriting.			
	* LCE numbering system agrees with map. If “NO” title company should consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	
240(1)(a)	<input checked="" type="checkbox"/> <i>All</i> and <i>each</i> LCE allocated (assigned) to units/lots in declaration. ⁷⁹ (Can be allocated to declarant-owned unit(s) for later reallocation by amendment.) If LCE purportedly created but not allocated, title company should consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	
225(1)(f) & 010(20)(b)	<input checked="" type="checkbox"/> Statement that declarant can allocate CE as LCE if the land subject to development right for such allocation is described. (See also “ Written Legal Descriptions – Declaration/CCRs ” above.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(f) & 010(20)(b)	<input checked="" type="checkbox"/> Land subject to development right for allocation of CE as LCE is described. ⁸⁰ (See also “ Written Legal Descriptions – Declaration/CCRs ” above.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
240(2)(a) & (b)	<input checked="" type="checkbox"/> Provides approval process for reallocation of LCE between/among non-declarant owned units. Requires (1) approval by the board, and (2) recorded amendment to declaration/CCRs executed by association certifying proper adoption. ⁸¹ If different procedure provided, title company should consult with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	
240(3)	<input checked="" type="checkbox"/> Provides approval process to reallocate (convert) common elements to LCE. Requires (1) allocation of new LCE to unit(s)/lot(s), (2) approval of % all owners [default is 67% if not stated otherwise], (3) recorded amendment to declaration/CCRs & map executed by association certifying proper adoption.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
240(3)	<input checked="" type="checkbox"/> Provides approval process for incorporating LCE into a unit/lot. Requires (1) approval of % all owners [default is 67% if not stated otherwise], (2) recorded amendment to declaration/CCRs & map executed by association certifying proper adoption.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250(1)	<input checked="" type="checkbox"/> If declaration/CCRs & map amended to reallocate LCE, all declaration/CCRs requirements met.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
240(2)(a)	* Declaration/CCRs & all amendments have been reviewed to confirm current LCE allocation to unit/lot being insured AND deeds in chain of title reviewed to confirm no inconsistencies. (Deeds should not have recited any LCE allocations. Any such recitals should be reviewed by title company underwriting to confirm consistent with declaration as amended.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Assessment Liens				
485(2)(a)	<input checked="" type="checkbox"/> States that owners association assessment lien does not have priority over liens recorded before creation of the miscellaneous community. If "NO" consult with title underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
485(2)(b) & 485(3) & 485(6)	<input checked="" type="checkbox"/> States that owners association assessment lien has <i>limited</i> statutory priority ⁸² over security interest in the unit/lot (i.e., a mortgage/deed of trust) recorded before date assessment lien became due, unless foreclosed judicially. If "NO" consult with title underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
485(2)(c)	<input checked="" type="checkbox"/> States that owners association assessment lien does not have priority over real estate taxes and assessments. If "NO" consult with title underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
485(4)	<input checked="" type="checkbox"/> States that lien is prior to mechanics' or material supplier's liens. Should be "NO" or silent on this issue; if "YES" consult with title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
485(5)	<input checked="" type="checkbox"/> States that lien is subject to Ch. 6.13 (homestead exemption). Should be "NO" or silent on this issue; if "YES" consult with title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
485(13)(b)	<input checked="" type="checkbox"/> States that nonjudicial foreclosure under Ch. 61.24 RCW permitted, and includes required language (including naming a trustee pursuant to RCW 61.24.010). Non-judicial provisions not required, but if so must be in conformance. ⁸³	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
★ MAP (SHOULD BE A SURVEY)⁸⁴ ★				
Name, Execution & Miscellaneous				
245(8)(a)	<input checked="" type="checkbox"/> Name of miscellaneous community shown (must match verbatim name on declaration ⁸⁵).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(a)	<input checked="" type="checkbox"/> Includes a statement <i>immediately after the name</i> that it is a <i>miscellaneous community</i> .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(3) 58.17.165	<input checked="" type="checkbox"/> Executed by declarant. ⁸⁶	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
215(a)&(b)	* Is there is a failure of the map to comply with WUCIOA statute? ⁸⁷	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
215(a)&(b)	* Is failure of the map to comply with the statute insignificant?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(o)	<input checked="" type="checkbox"/> Shows other matters customarily shown on land surveys . ⁸⁸	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recording				
245(3)	<input checked="" type="checkbox"/> Recorded – See endnote as to index location ⁸⁹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
200(1) 245(3)	<input checked="" type="checkbox"/> Recorded concurrently with declaration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(3)	<input checked="" type="checkbox"/> Cross reference to declaration/CCRs recording data. ⁹⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(7)	<input checked="" type="checkbox"/> Delivered to county assessor.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
025(5)	* Approval by the county assessor (if required in your county). ⁹¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
Declarant Declaration (Can be on map attached to declaration)				
	<p>NOTE: Note that a miscellaneous community map need not be a survey, but should be for title insurance purposes. It could be submitted for local subdivision approval as a survey or other map, and be a recording that differs little in appearance from a pre-WUCIOA subdivision. To the extent that the subdivision map also includes required WUCIOA elements, it is not necessarily up to the local (city or county) platting authority to either (a) look for WUCIOA elements on the face of the map/survey, (b) look for WUCIOA elements in a separate declaration/CCRs document, or (c) review and approve any WUCIOA required elements.</p>	X	X	X
225(6)(c)	<input checked="" type="checkbox"/> Declarant's declaration/CCRs with statutory language.	<input type="checkbox"/>	<input type="checkbox"/>	X
225(3)	<input checked="" type="checkbox"/> Execution by declarant (with "Declarant Declaration").	<input type="checkbox"/>	<input type="checkbox"/>	X
	* Proper recitals and acknowledgment form for declarant signature.	<input type="checkbox"/>	<input type="checkbox"/>	X
Surveyor Certification – if Survey (Can be on map attached to declaration)				
	<p>NOTE 1: Note that a miscellaneous community map need not be a survey, but should be for title insurance purposes. It could be submitted for local subdivision approval as a survey or other map, and be a recording that differs little in appearance from a pre-WUCIOA subdivision. To the extent that the subdivision map also includes required WUCIOA elements, it is not necessarily up to the local (city or county) platting authority to either (a) look for WUCIOA elements on the face of the map/survey, (b) look for WUCIOA elements in a separate declaration/CCRs document, or (c) review and approve any WUCIOA required elements.</p>	X	X	X
	<p>NOTE 2: The statutory form of certification includes a reference to the Survey Recording Act, which may not be applicable to a miscellaneous community map/survey. This may be addressed in a corrective amendment in a future legislative session. It may be appropriate for the surveyor to incorporate a reference to the appropriate statute relating to subdivisions and local ordinances adopted pursuant thereto or to exempt subdivisions, such as for a "large lot" subdivision.</p>	X	X	X
225(6)(a) & 010(53) & 58.09.080	<input checked="" type="checkbox"/> Surveyor's certificate with statutory language. ⁹²	<input type="checkbox"/>	<input type="checkbox"/>	X
	* Proper acknowledgment form for surveyor's signature.	<input type="checkbox"/>	<input type="checkbox"/>	X
Declarant Certification – if not a Survey (Can be on map attached to declaration)				
	<p>NOTE: Note that a miscellaneous community map need not be a survey, but should be for title insurance purposes. If not it could be submitted for local subdivision approval as a survey or other map, and be a recording that differs little in appearance from a pre-WUCIOA subdivision. To the extent that the subdivision map also includes required WUCIOA elements, it is not up to the local (city or county) platting authority to either (a) look for WUCIOA elements on the face of the map/survey, (b) look for WUCIOA elements in a separate declaration/CCRs document, or (c) review and approve any WUCIOA required elements.</p>			
225(6)(a) & 010(53) & 58.09.080	<input checked="" type="checkbox"/> Declarant's certificate with statutory language. ⁹³	<input type="checkbox"/>	<input type="checkbox"/>	
	* Proper acknowledgment form for declarant's signature.	<input type="checkbox"/>	<input type="checkbox"/>	
Unit/Lot Numbering				
245(8)(j)	<input checked="" type="checkbox"/> Identifying number of each unit/lot.	<input type="checkbox"/>	<input type="checkbox"/>	X



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
225(1)(d)	<input checked="" type="checkbox"/> Identifying number of each unit/lot agrees with declaration	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	* Confirm consistency in both declaration/CCRs & map with respect to non-traditional units/lots that might otherwise be units, LCE or common elements (e.g., parking spaces, RV spaces, moorage slips, etc., as examples)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(2)	See also “ Amendments ” below	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Written Legal Descriptions – Map (See also “Non-Unit Boundaries – Map Drawing” below)				
	Is any land abutting or running through the miscellaneous community intended to be conveyed or dedicated to the public for roads or similar purposes BEFORE OR AFTER recording? ⁹⁴ <i>If “YES” discuss among title company, attorney, declarant & surveyor.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(b)	<input checked="" type="checkbox"/> Legal description(s) of entire initial miscellaneous community (if multiple parcels, need not be contiguous ⁹⁵).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
025(3) 58.17.040(7)	<input checked="" type="checkbox"/> All property being subdivided (submitted to the miscellaneous community) is one (or more) entire tax parcel or “legal lot” (e.g., no part of the miscellaneous community is only a <i>portion</i> of any tax parcel or “legal” lot). ⁹⁶ If “NO” title company should consult with underwriting for underwriting related to the possible failure of an individual unit/lot to be a “legal” lot under Ch. 58.17 RCW. ⁹⁷	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
245(8)(h)	* Legal description of each appurtenant easement, if any. ⁹⁸ Include as yet unrecorded easements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Are any new (as yet unrecorded) easements benefitting the miscellaneous community land intended to be granted as part of the development process either BEFORE or AFTER recording? <i>If “YES” discuss among title company, attorney, declarant & surveyor.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(e) & 225(1)(g)	<input checked="" type="checkbox"/> <i>If known at recording</i> , legal description of land not included in initial miscellaneous community but can be added pursuant to reserved development right to phase. ⁹⁹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(d) & 225(1)(g)	<input checked="" type="checkbox"/> <i>If known at recording</i> , legal description of land included in initial miscellaneous community that can be withdrawn pursuant to reserved development right. ¹⁰⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	<input checked="" type="checkbox"/> <i>If known at recording</i> , description(s) of all land subject to other development rights. ¹⁰¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(k) & 230(1)(c)	<input checked="" type="checkbox"/> Legal description of each portion subject to a lease. (See also “ Leasehold Plat Communities ” below.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(j) & 58.09.060	<input checked="" type="checkbox"/> All descriptions tied to sufficient monumented reference corners (section corners, plats, streets, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
245(8)(j)	<input checked="" type="checkbox"/> Identifies elevation benchmark used to establish horizontal boundaries (should be an officially established monument). NOTE: for “airspace” units, benchmark not necessary if location is “otherwise” reasonably described or depicted. ¹⁰²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Easements				
245(8)(h)	<input checked="" type="checkbox"/> Location and dimension of appurtenant easements, if any, delineated on map (whether or not title insurable as appurtenant). ¹⁰³	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(h)	<input checked="" type="checkbox"/> Shows location and dimensions of all recorded easements burdening the land, with recording data. ¹⁰⁴	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(h)	<input checked="" type="checkbox"/> Shows location and dimensions of all unrecorded easements burdening the land, with source (recording data, observed use, etc.). ¹⁰⁵	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
Encroachments¹⁰⁶				
245(14)	Shown on (a) subdivision map (survey or map as required/permitted by local ordinance), or (b) map attached to declaration/CCRs instead of on either recorded survey (if required by local ordinance) or other map	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(g) 245(14)	<input checked="" type="checkbox"/> Shows extent (location, dimensions) of all encroachments, including, for example: (a) either way across miscellaneous community property lines <input type="checkbox"/> (b) either way across parcels subject to development rights <input type="checkbox"/> (c) onto easements located on miscellaneous community land <input type="checkbox"/> (d) other <input type="checkbox"/> Describe _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Improvements – Map Drawing¹⁰⁷				
245(14)	Shown on (a) subdivision map (survey or map as required/permitted by local ordinance), or (b) map attached to declaration/CCRs instead of on either recorded survey (if required by local ordinance) or other map	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(f) 245(14)	<input checked="" type="checkbox"/> Location and dimensions of all existing buildings containing or comprising units/lots. (Not likely to be common with miscellaneous communities.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(10)	<input checked="" type="checkbox"/> Identifies any unit/lot in which the declarant has reserved a development right to create (a) additional WUCIOA units/lots (by subdividing) <input type="checkbox"/> (b) common elements <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(9)	* Approximate location & dimensions of contemplated improvements, if they are shown (optional to be shown on map, even if described in declaration/CCRs).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(9)	<input checked="" type="checkbox"/> If any contemplated improvements shown, labeled (one or the other is required) as follows: “MUST BE BUILT” <input type="checkbox"/> “NEED NOT BE BUILT” <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Non-Unit Boundaries – Map Drawing				
245(8)(b)	<input checked="" type="checkbox"/> All land that is the entire initial miscellaneous community.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
245(8)(l)	<input checked="" type="checkbox"/> Distance between non-contiguous parcels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(e) & 225(1)(g)	<input checked="" type="checkbox"/> If known at recording , land not included in initial miscellaneous community but can be added pursuant to reserved development right to phase. ¹⁰⁸ (SEE also “ Development Rights ” section below.) OK to show on map attached to declaration/CCRs instead of on separate map/survey. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(e)	<input checked="" type="checkbox"/> If such land, must be labeled “SUBJECT TO DEVELOPMENT RIGHTS TO ADD UNITS THAT WILL RESULT IN A REALLOCATION OF ALLOCATED INTERESTS.” OK to show on map attached to declaration/CCRs instead of on separate map/survey. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(d)	<input checked="" type="checkbox"/> If known at recording , land included in initial miscellaneous community that can be withdrawn pursuant to reserved development right. (SEE “ Development Rights ” section below for specifics.) OK to show on map attached to declaration/CCRs instead of on miscellaneous community map. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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Miscellaneous Community Checklist – Ch. 64.90 RCW

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
245(8)(d)	<input checked="" type="checkbox"/> If such land, must be labeled “MAY BE WITHDRAWN FROM THE MISCELLANEOUS COMMUNITY.” ¹⁰⁹ OK to show on map attached to declaration/CCRs instead of on separate map/survey. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	* <i>If known at recording and described in declaration</i> , land subject to other development rights. ¹¹⁰ (See “ Development Rights ” section below for specifics.) OK to show on map attached to declaration/CCRs instead of on miscellaneous community map. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	* If such land is described and shown, <i>recommended</i> that it be labeled “SUBJECT TO DEVELOPMENT RIGHTS.” ¹¹¹ OK to show on map attached to declaration/CCRs instead of on miscellaneous map. <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(k) & 230(1)(c)	<input checked="" type="checkbox"/> Portions of the land subject to a lease, if any. Can be shown on map attached to declaration/CCRs instead of on miscellaneous map <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(k)	<input checked="" type="checkbox"/> If such land, must be labeled “LEASEHOLD REAL ESTATE.” ¹¹² Can be shown on map attached to declaration/CCRs instead of on miscellaneous map <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Limited Common Elements – Map Drawing				
<p>NOTE 1: LCE would not be typical in miscellaneous communities. (a) Improvements that are typical LCE in other CICs (examples: porches, decks, patios, storage, parking areas) would typically within the boundaries of a WUCIOA miscellaneous community unit/lot but need not be.</p> <p>(b) Other types of LCE (examples: moorage space, RV parking spaces/areas) can be located outside the boundaries of a unit/lot.</p> <p>(c) If there are LCE, the map (i) does not allocate/assign LCE to units/lots and (ii) while labeling and numbering LCE is required (and must be consistent with the declaration), the map need not identify allocations of LCE to units/lots that are made in the declaration.</p>				
<p>NOTE 2: LCE are by definition portions of the common elements that have been allocated to specified (but fewer than all) units/lots in the declaration as LCE. See RCW 64.90.101(30). If the intent is to create parking spaces to be allocated to specific units/lots after the declaration/CCRs is recorded, and as the project is developed, then the area must be designated as common elements subject to the right to create <i>and allocate</i> LCE by amending the declaration/CCRs. See RCW 64.90.225(1)(f).</p> <p>Alternatively, areas intended to be allocated LCE in the future can be created and allocated in bulk to one or more units/lots. Then the development right would be reserved to amend the declaration to reallocate from the initial unit/lot allocation to different units/lots.</p>				



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
	<p>NOTE 3: (a) As noted in NOTE 2 above, the declaration can provide that portions of the common elements can be designated as subject to the development right to create and allocate LCE in the future.</p> <p>(b) A specific metes and bounds legal description of those portions of the common elements that can be converted to and allocated as individual LCE is not required on the map, nor are these areas required to be described, delineated or labeled on the map. But if they are shown, they must be consistent with the declaration.</p> <p>(c) This would not be typical to miscellaneous communities. If this is provided for in the declaration, title company and surveyor should consult with declarant counsel.</p>	X	X	X
245(8)(n)	<input checked="" type="checkbox"/> General location of LCE, if any, including: porches <input type="checkbox"/> decks <input type="checkbox"/> balconies <input type="checkbox"/> patios <input type="checkbox"/> storage <input type="checkbox"/> moorage spaces <input type="checkbox"/> parking spaces <input type="checkbox"/> RV parking spaces <input type="checkbox"/> Other <input type="checkbox"/> _____ NOTE: Dimensions need not be shown, nor boundaries tied to property corners.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(n)	<input checked="" type="checkbox"/> Identifying number of each LCE shown & agrees with declaration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250(1)	<input checked="" type="checkbox"/> If declaration/CCRs & map amended to create and allocate LCE, all map data requirements met.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Principal Common Amenities – Map Drawing				
	NOTE 1: The terms “common amenity” or “principal common amenity” are not defined in WUCIOA. However, they are required to be identified in the POS, and if so must be shown on the map. RCW 64.90.245(8)(m). The POS should be reviewed to confirm whether any are described.	X	X	X
	<p>NOTE 2: Examples might include:</p> <p>(a) interior roadways (particularly, as to a miscellaneous community, private roads that are not dedicated in the map/survey to the public),</p> <p>(b) access easement strips that provide access to lots from dedicated streets,</p> <p>(c) greenbelts,</p> <p>(d) walkways,</p> <p>(e) parking areas,</p> <p>(f) garages (such as individual parking spaces or moorage slips that are not LCE but benefit the entire CIC),</p> <p>(g) swimming pool,</p> <p>(h) tennis courts,</p> <p>(i) play areas,</p> <p>(j) clubhouse or other community building, etc.</p> <p>If none are expressly described but there appear to be features in the miscellaneous community that might be considered such, the matter should be referred to title company underwriting.</p>	X	X	X
245(8)(m)	<input checked="" type="checkbox"/> General location principal common amenities, if any are described in the POS (must review POS to confirm if there are any).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
★ DEVELOPMENT RIGHTS ★ The title company should consult with underwriting to review the use of Development Rights with plat communities.				
	<p>NOTE 1: Many development rights that are typical for other CICs, such as condominiums, would not typically be used with miscellaneous communities. For example, instead of phasing by adding additional land to an existing miscellaneous community, subject to the same declaration/CCRs, a separate miscellaneous community can be recorded with a similar declaration/CCRs and a using a master association to tie both CICs together. Nonetheless, a miscellaneous community can have development rights similar to those typical of condominiums, including the right to add additional land and units/lots by phasing.</p> <p>NOTE 2: This review section is for miscellaneous community with development rights before any are exercised.</p> <p>NOTE 3: After development rights have been exercised, confirm that the original declaration/CCRs complies with this review, and then see “★ Amendments ★” below to confirm all declaration/CCRs and map data are complete.</p>	X	X	X
225(1)(g)	<input checked="" type="checkbox"/> Original declaration/CCRs describes all development rights. ¹¹³ (NOTE: This is independent of whether or not a legal description of affected land is included.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	<p>* Identify typical development rights that affect title insurance, for future reference:</p> <p>(a) project is large scale community¹¹⁴ – WUCIOA requirement to be met by amendment when a unit/lot is conveyed – refer to title company underwriting <input type="checkbox"/></p> <p>(b) right to add specified (described) land <input type="checkbox"/></p> <p>(c) right to add land (whether on specified or unspecified real estate¹¹⁵) and create new units/lots on that land <input type="checkbox"/></p> <p>(d) the right to add “unspecified real estate”¹¹⁶ <input type="checkbox"/></p> <p>(e) right to create new units/lots within common elements <input type="checkbox"/></p> <p>(f) right to subdivide unit(s)/lot(s) to create new units/lots <input type="checkbox"/></p> <p>(g) right to reallocate LCE <input type="checkbox"/></p> <p>(h) right to create new common elements <input type="checkbox"/></p> <p>(i) right to create and allocate new LCE <input type="checkbox"/></p> <p>(j) right to withdraw land and units/lots <input type="checkbox"/></p> <p>(k) other: (name _____). <input type="checkbox"/></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
235(3)	<input checked="" type="checkbox"/> If units/lots to be added or withdrawn, formula for reallocating allocated interests.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	<input checked="" type="checkbox"/> Declaration/CCRs describes all <i>special declarant rights</i> . ¹¹⁷	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(h)(i)	<input checked="" type="checkbox"/> Either: A statement in the declaration/CCRs for each development right: (a) fixing the boundaries of those portions of the land (see also “ Written Legal Descriptions – Declaration/CCRs ” above) subject to the right, <i>and</i> (b) regulating the order in which those portions may be subjected to the right. OR ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(h)(i)	<input checked="" type="checkbox"/> A statement in the declaration/CCRs for each development right that no assurances are provided as to fixed boundaries and sequence. AND ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(h)(ii)	<input checked="" type="checkbox"/> A statement in the declaration/CCRs as to each development right that if it is exercised in any portion of the land subject to that right, whether it must be exercised in all or in any other portion of the remainder of that land that is subject to that right.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(i)	<input checked="" type="checkbox"/> Any other conditions or limitations on exercise of development rights, ¹¹⁸ including the lapse thereof. (Review for insurability if exercised.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g) 010(20)(a)	<input checked="" type="checkbox"/> Added land: Description(s) of all land (not already part of the miscellaneous community) that may be added as additional phase(s). (This would not be “unspecified real estate”. ¹¹⁹) OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
225(1)(h)(i)	<input checked="" type="checkbox"/> Added land: If no description of future phase land, declaration/CCRs states that no assurances are made with respect to location. (NOTE that “unspecified real estate” ¹²⁰ may be applicable if the future land is unknown, but the development right to add it must be included. Not applicable if it is a “large scale community”.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g) 010(20)(a)	<input checked="" type="checkbox"/> Common elements – improvements: Description of each portion of the common elements subject to a development right to add improvements. ¹²¹ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(h)(i)	<input checked="" type="checkbox"/> Common elements – improvements: If no description of such land, declaration/CCRs states that no assurances are made with respect to location.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g) 010(20)(b)	<input checked="" type="checkbox"/> Common elements – new units/lots: Description of each portion of the common elements subject to a development right to create new units/lots. ¹²² OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(h)(i)	<input checked="" type="checkbox"/> Common elements – new units/lots: If no description of such land, declaration/CCRs states that no assurances are made with respect to location.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g) 010(20)(d)	<input checked="" type="checkbox"/> Common elements – withdrawal: Description of each portion of the common elements subject to the right to withdraw. ¹²³ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(h)(i)	<input checked="" type="checkbox"/> Common elements – withdrawal: If no description of such land, declaration/CCRs states that no assurances are made with respect to the location of withdrawable land. ¹²⁴	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g) 010(20)(c)	<input checked="" type="checkbox"/> Declaration/CCRs identifies unit(s)/lot(s) subject to the development right to subdivide or combine or to convert into common elements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(g)	<input checked="" type="checkbox"/> Time limit for each development right to be exercised <i>if</i> description of affected land is included.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(h)(i)	<input checked="" type="checkbox"/> Description of (a) each portion of common element land <i>or</i> (b) future phase land not currently in the miscellaneous community, if any, with respect to which development rights can be exercised at different times. (NOTE that this would not necessarily apply to “unspecified real estate”.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
315	* Unspecified real estate: If unidentified and undescribed land may be added to the miscellaneous community by future amendment. See “★ Amendments ★” below if land is being added pursuant to this statute.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250 245(12)	If development rights have been exercised, declaration/CCRs & map have been amended, and data updated for all new units/lots. See also “★ Amendments ★” below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
★ AMENDMENTS ★				
Declaration/CCRs Amendments Includes amendments pursuant to Development Rights				
	NOTE: Each current <i>and</i> prior recorded amendment to the declaration/CCRs & map should be reviewed for impact on unit/lot to be insured, whether existing or created by the amendment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(4)	<input checked="" type="checkbox"/> Related map amendment filed simultaneously.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(2)	<input checked="" type="checkbox"/> Cross reference to recording data of original declaration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(2)	<input checked="" type="checkbox"/> Cross reference to recording data of all prior amendments to declaration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(2)	<input checked="" type="checkbox"/> Cross reference to recording data of concurrent map amendment (required especially if, for example (a) <i>creating new units/lots</i> within the miscellaneous community, or (b) <i>adding land, with or without new units/lots</i> , or (c) if <i>unit/lot boundaries change</i>)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Cross reference to recording data for original map (not expressly required but recommended).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Cross reference to recording data for all prior amendments to original map (not required but recommended).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Varies	<input checked="" type="checkbox"/> Executed by declarant if required by statute (for example: exercising development rights, such as adding land and/or units/lots, withdrawing land and/or units/lots). ¹²⁵	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
Varies	<input checked="" type="checkbox"/> Executed by owners association if required by declaration/CCRs and/or statute (typically applicable after declarant control period ends). ¹²⁶	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Varies	<input checked="" type="checkbox"/> Executed by unit/lot owner(s) if required by declaration/CCRs and/or statute (typically for unit/lot changes or re-allocation of LCE among units/lots). ¹²⁷	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Properly executed and acknowledged for each signatory entity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Varies	* Approval by requisite % of owners. Confirm for title insurability.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Varies	* Approval by requisite % of lenders. Confirm for title insurability.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(12)	<input checked="" type="checkbox"/> If adding additional land that was described in the declaration/CCRs), revised legal description(s) shown.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(12) 315	<input checked="" type="checkbox"/> If adding “unspecified real estate” (land NOT described in the declaration/CCRs), revised legal description(s) shown. See <input checked="" type="checkbox"/> below also, and refer to title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(12) 315	<input checked="" type="checkbox"/> Area of “unspecified specified real estate” (land NOT described in the declaration), does NOT exceed 10% of the area of the land: (a) included in the original miscellaneous community (if no additional land that could be added was described), OR (b) included in the original miscellaneous community PLUS the area of all additional land described in the original declaration/CCRs. Refer to title company underwriting, even if “YES”.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/> If <i>land, units/lots</i> or <i>LCE</i> added, all requirements for declaration/CCRs & map met.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(j)	<input checked="" type="checkbox"/> If <i>adding, combining</i> or <i>subdividing</i> units, all resulting unit/lot numbers shown.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* If <i>adding, combining</i> or <i>subdividing</i> units, unit/lot numbers agree with amended map.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250(3)(b) 250(5)	<input checked="" type="checkbox"/> If <i>adding, subdividing, or combining</i> units, shows changes in all allocated interests.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(d)	<input checked="" type="checkbox"/> If <i>adding, combining</i> or <i>subdividing</i> units, describes unit/lot data – area	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(d)	<input checked="" type="checkbox"/> If <i>adding, combining</i> or <i>subdividing</i> units, describes unit/lot data – bedrooms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(d)	<input checked="" type="checkbox"/> If <i>adding, combining</i> or <i>subdividing</i> units, describes unit/lot data – bathrooms	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* If relocating unit/lot boundaries, describes result.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250(3)(a)	<input checked="" type="checkbox"/> If <i>converting</i> unit/lot to <i>LCE</i> , shows changes to allocated interests.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/> If withdrawing land, revised legal description(s) shown.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
250(6)	<input checked="" type="checkbox"/> If withdrawing land on which a unit/lot has been sold, consent by the unit/lot owner.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/> If withdrawing units/lots (usually on land being withdrawn), shows changes in allocated interests for remaining units/lots. ¹²⁸	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* If land withdrawn by condemnation, declaration/CCRs & maps amended. ¹²⁹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* If land added OR withdrawn for any reason, remaining land and new CIC miscellaneous boundaries comply with Ch. 58.17 RCW, and comprise “legal lots.”	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
225(1)(c) & 240(1)(a) 250(1)	<input checked="" type="checkbox"/> If creating/adding LCE (including converting a unit/lot to LCE): (a) describes LCE (b) allocates LCE to units/lots (<i>all must be allocated</i>)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
320	<input checked="" type="checkbox"/> Land and residential units/lots are being added to a large scale community. Amendment to be reviewed by this checklist to confirm WUCIOA compliance for all land and units/lots created and added. Refer to title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If land withdrawn, all land (both the withdrawn land and the remaining CIC miscellaneous community land) complies with Ch. 58.17 RCW and all resulting parcels are “legal lots.”	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
MAP Amendments Includes amendments pursuant to Development Rights				
	NOTE: Each prior recorded amendment to the declaration/CCRs & map should be reviewed for impact on unit/lot to be insured, whether it is existing or newly created by the amendment.	X	X	X
245(4)	<input checked="" type="checkbox"/> Declaration/CCRs amendment filed simultaneously.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(4)	<input checked="" type="checkbox"/> Cross reference to recording data of: (a) earlier declaration/CCRs <input type="checkbox"/> (b) earlier map <input type="checkbox"/> (not required, but recommended) (c) concurrent declaration/CCRs amendment <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Various	<input checked="" type="checkbox"/> Executed by declarant if required by statute (for example: exercising development rights, such as adding land and/or units/lots, withdrawing land and/or units/lots). ¹³⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Various	<input checked="" type="checkbox"/> Executed by owners association if required by declaration/CCRs and/or statute (typically applicable after declarant control period ends). ¹³¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Various	<input checked="" type="checkbox"/> Executed by unit/lot owner(s) if required by declaration/CCRs and/or statute (typically for unit/lot changes or re-allocation of LCE among units/lots). ¹³²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(6)(a) & 245(12)	<input checked="" type="checkbox"/> Certificate executed by surveyor (if map is a survey). ¹³³ If not a survey, refer to title company underwriting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(6)(a) & 245(12)	<input checked="" type="checkbox"/> Certificate executed by declarant (if map is not a survey). ¹³⁴ If not a survey, refer to title company underwriting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	* Properly executed and acknowledged for each signatory entity.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(12)	<input checked="" type="checkbox"/> If <i>land, units/lots</i> or <i>LCE</i> added, all data requirements as to units/lots and LCE for new CIC miscellaneous community are met. (Includes unit/lot numbers.) ¹³⁵	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(i) & 245(8)(j)	If unit/lot boundaries relocated, new boundaries shown, as applicable. ¹³⁶	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
245(8)(i) & 245(8)(j)	If unit/lot subdivided or combined, new boundaries shown, as applicable. ¹³⁷	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If land withdrawn, all land (both the withdrawn land and the remaining CIC miscellaneous community land) complies with Ch. 58.17 RCW and all resulting parcels are "legal lots."	<input type="checkbox"/>	<input type="checkbox"/>	X
★ LEASEHOLD MISCELLANEOUS COMMUNITIES¹³⁸ ★ (Title company should consult with underwriting, and refer also to guidelines for insuring leasehold estates and severed improvements)				
230(1)	<input checked="" type="checkbox"/> One of the following is required as to each lease/sublease: ¹³⁹ (a) each full lease/sublease is recorded <input type="checkbox"/> or (b) memorandum of each lease/sublease is recorded <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
230(1)	<input checked="" type="checkbox"/> (Sub)lessor(s) executed the declaration/CCRs.	<input type="checkbox"/>	<input type="checkbox"/>	X
	* (Sub)lessor(s) signature(s) properly acknowledged.	<input type="checkbox"/>	<input type="checkbox"/>	X
	* If multiple leases/subleases, review each lease/sublease in the chain of title to confirm insurability and no conflicting provisions between them (if applicable) and the declaration/CCRs, including termination date(s).	<input type="checkbox"/>	<input type="checkbox"/>	X
230(1)(a)	<input checked="" type="checkbox"/> Recording number of full (sub)lease(s). ¹⁴⁰ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(a)	<input checked="" type="checkbox"/> Statement where complete (sub)lease(s) can be inspected. ¹⁴¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(c)	<input checked="" type="checkbox"/> Legal description of the leased land. ¹⁴²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(b)	<input checked="" type="checkbox"/> Statement of the date on which each (sub)lease is scheduled to expire. ¹⁴³	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(f)	<input checked="" type="checkbox"/> Statement of any rights of unit/lot owners to renew or extend the lease. ¹⁴⁴ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
230(1)(f)	<input checked="" type="checkbox"/> Statement that the unit/lot owners do not have the right to renew or extend the lease.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(d)	<input checked="" type="checkbox"/> Statement outlining the right of unit/lot owners to redeem. ¹⁴⁵ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(d)	<input checked="" type="checkbox"/> Statement that the unit/lot owners do not have the right to redeem. The miscellaneous community would be terminated if the reversion to lessor is not redeemed or if the lease is otherwise terminated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(e)	<input checked="" type="checkbox"/> Statement of the right of unit/lot owners to remove improvements if the lease terminates without redemption by the unit/lot owners. OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(1)(e)	<input checked="" type="checkbox"/> A statement that unit/lot owners have no rights to remove improvements if the lease terminates.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is the lease for both the land and all then-existing and currently existing improvements (where improvements are the subject of the miscellaneous community)? ¹⁴⁶	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Is the lease only for vacant land (no existing improvements)? IF SO: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Does the lease provide for constructive severance (i.e., lessee or unit/lot owners as lessees will have leasehold interest in land and fee in improvements), including a recorded deed from the lessor to the lessee of existing and future improvements? ¹⁴⁷ If not, see additional comments in footnote.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Was/were any and all (sub)lease(s) extended, renewed or replaced? ¹⁴⁸ If "YES" title company must review with underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(2)	* Are there provisions that the owners association can collect proportionate rents from unit/lot owners and represent the unit/lot owners in all matters relating to the lease? ¹⁴⁹ If so: (a) in the declaration/CCRs <input type="checkbox"/> (b) in the lease <input type="checkbox"/> (c) documents are consistent <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(4)	Was there a merger of the fee and leasehold estates as to any unit/lot or all units/lots (that is, acquisition of the lessor's interest in the lease by unit/lot owners)? ¹⁵⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Was the lease terminated, which would either (a) terminate the miscellaneous community or (b) reduce its size? If "YES" discuss with title company underwriting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
230(5)	<input checked="" type="checkbox"/> Provision in declaration/CCRs for reallocation of allocated interests if lease termination reduces number of units. If there is a termination, the declaration/CCRs and map must be amended. Reallocation would be the same as for condemnation in RCW 64.90.030(1).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Any termination of a lease, whether it affects the entire CIC miscellaneous community (terminating the miscellaneous community) or only a portion (especially if it reduces the number of units) should be referred to title company underwriting to determine title insurability of (a) remaining units/lots (if any), or (b) any interests in any of the land surviving the termination.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
★ MANUFACTURED HOMES ★ (Title company should consult with underwriting)				
	If the title has not been eliminated pursuant to Ch. 65.20 RCW, a manufactured home (which term includes a mobile home) is not real property as defined in a title insurance policy. It may become real property as defined in a policy if the title is eliminated. If so, a CIC miscellaneous community unit/lot <i>might</i> be insured (a) without excepting the manufactured home from the legal description, (b) including the value of the manufactured home in the policy amount, and/or (c) including one of the ALTA 7-06 series endorsements on the policy. <i>Answering the following questions will not be the sole determining factor in providing such insurance.</i> ¹⁵¹	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
010(57)(c)	* Declaration/CCRs says manufactured/mobile home will be part of unit/lot if title eliminated under Ch. 65.20 RCW. This is permitted. If "YES" AND IF title eliminated, it <i>might</i> be insurable (not excluded from legal description of unit/lot & insure for full value) based on the title company's underwriting guidelines for manufactured homes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
010(57)(c)	* Declaration/CCRs says manufactured/mobile home is not part of unit, even if title eliminated under Ch. 65.20 RCW. This is permitted. If "YES" title to the manufactured/mobile home might not be expressly or impliedly insurable (excluded from legal description of unit/lot & reduced policy amount) based on the title company's underwriting guidelines for manufactured homes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
255(4)	Has title to manufactured home been eliminated? If "YES" refer to title company underwriting guidelines for ultimate insurability. SEE ENDNOTE ¹⁵²	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
★ TIMESHARING¹⁵³ ★ (Title company should consult with underwriting before insuring any timeshare interest. Requirements may vary.)				
	Title insurability of timeshare interests is based on timeshare underwriting guidelines for each title insurance underwriter, but would require, at a minimum, express permission in the declaration/CCRs & a unique description of each timeshare segment that can be conveyed. The interest of all individual timeshare segments must account for 100% of the interest in the unit/lot that is being timeshared.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	Timesharing is expressly permitted in declaration.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	If timesharing permitted, confirm whether the interest to be insured is or is not a fractional timeshare interest. (A unit/lot in a miscellaneous community that permits timesharing may still be conveyed in its entirety and not divided into fractional interests or timeshare segments.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Interest of each timeshare segment ("fractional interest") owner is for a specified undivided interest, distinctly described and labeled (numbered) in the title to unit/lot, in common with the other timeshare segment owners of the same unit/lot, and NOT membership in a "club."	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Each timeshare segment fixed in time (not undefined or "floating"). (Rotation between fixed time periods may be permitted, as long as specific segment clearly identifies the time periods of each rotation.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Each timeshare segment/fractional interest clearly identified by number or letter that is unique to interest to be insured. ¹⁵⁴	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
★ TERMINATION OF MISCELLANEOUS COMMUNITY¹⁵⁵ ★ (Title company should consult with underwriting)				
	Any termination of a miscellaneous community (proposed, in progress or completed), whether it affects the entire CIC miscellaneous community (terminating the miscellaneous community) or only a portion (especially if it reduces the number of units/lots) should be referred to title company underwriting, particularly if the interests of any of the unit/lot owners is to be conveyed after termination.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
290(1)	<input checked="" type="checkbox"/> Requires at least 80% vote for approval of termination (if there are any residential units). Percentage required by the declaration: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
290(1)	<input checked="" type="checkbox"/> Provides for less than 80% vote for approval of termination (only if there are <i>no</i> residential units/lots). Percentage required by the declaration: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290	* Termination under RCW 64.90.290 proposed, in progress or completed. <i>Title company should consult with underwriting to confirm that procedures will be/were followed and that the interests of former unit/lot owners will be insurable. The following items would apply to the procedure used.</i> ¹⁵⁶	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(2)	<input checked="" type="checkbox"/> Written termination agreement executed or ratified (same requirements as for a deed) by requisite % of owners. Percentage obtained: _____	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
290(2)	<input checked="" type="checkbox"/> Termination agreement specifies date after which agreement is void unless recorded by that date.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
290(2)	<input checked="" type="checkbox"/> Termination agreement recorded by specified date.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
290(2)	<input checked="" type="checkbox"/> Amended termination agreement is recorded and complies with both RCW 64.90.290(1) & (2).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCENARIO 1:				
290(3)(b)	* CIC miscellaneous community contains no units/lots with horizontal boundaries between them (i.e., all units/lots are side-by-side; none are “stacked”). THIS IS LIKELY FOR A MISCELLANEOUS COMMUNITY. IF SO: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(b)	* Termination agreement provides for sale of portions of former common elements not necessary for habitability of a unit/lot. ¹⁵⁷ (Optional.) OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(b)	* Termination agreement provides for sale of one or more individual former units/lots because declaration/CCRs provided for it. ¹⁵⁸ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(b)	* Termination agreement provides for sale of one or more individual former units/lots because all owners have consented to it. ¹⁵⁹ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(b)	* Termination agreement does not provide for any sale after termination. ¹⁶⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCENARIO 2:				
290(3)(a)	* CIC miscellaneous community contains only units/lots with horizontal boundaries between them (i.e., only “stacked” units, and no units/lots that are only side-by-side, with no unit above or below). THIS IS NOT A COMMON SCENARIO FOR A MISCELLANEOUS COMMUNITY, BUT IS POSSIBLE. IF SO: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(a)	* Termination agreement provides for sale of all land after termination, including terms of sale. ¹⁶¹ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(a)	* Termination agreement does not provide for any sale after termination. ¹⁶²	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCENARIO 3:				
290(3)(c)	* CIC miscellaneous community contains some units/lots with horizontal boundaries between them and some with no such boundaries (i.e., some units/lots are side-by-side only with no unit above or below & some are “stacked”). THIS IS NOT A COMMON SCENARIO FOR A MISCELLANEOUS COMMUNITY, BUT POSSIBLE. IF SO: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(c)	* Termination agreement provides for sale of portions of former common elements not necessary for habitability of a unit/lot. ¹⁶³ (Optional.) OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(c)	* Termination agreement provides for sale of one or more individual former units/lots because declaration/CCRs provided for it. ¹⁶⁴ OR: ▼	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
290(3)(c)	* Termination agreement provides for sale of one or more individual former units/lots because all owners of the building to be sold have consented to it. ¹⁶⁵	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCENARIO 4:				



64.90 §§	STATUTORY PROVISIONS	YES	NO	N/A
325	<input checked="" type="checkbox"/> Judicial termination. Must be referred to title company underwriting for determination of insurability after termination. NOTE: This contemplates (a) reduction in size of the CIC miscellaneous community as well as (b) complete termination of the miscellaneous community. ¹⁶⁶	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
★ MERGER OR CONSOLIDATION WITH ANOTHER CIC MISCELLANEOUS COMMUNITY ★ (Title company should consult with underwriting)				
445	* Actual merger or consolidation with another <i>miscellaneous community</i> . ¹⁶⁷ (Merger with non- miscellaneous community is not provided for by statute.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
445(2)	<input checked="" type="checkbox"/> Merger or consolidation agreement properly executed (including appropriate form of acknowledgement by each association).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
445(2)	<input checked="" type="checkbox"/> Merger or consolidation agreement properly recorded.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
445(3) 220	<input checked="" type="checkbox"/> Merger or consolidation agreement identifies successor miscellaneous community and declaration. NOTE: Name of successor CIC miscellaneous community should be expressly stated. ¹⁶⁸	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
445(3)	<input checked="" type="checkbox"/> Merger or consolidation agreement reallocates allocated interests for all units/lots. ¹⁶⁹	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	* Merger or consolidation agreement identifies all units/lots (reconciles conflicts with numbering systems, if any). If conflicts, may need to amend maps/surveys. ¹⁷⁰	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	* Merger or consolidation agreement incorporates reference to all maps/surveys. If applicable, confirm no need for map/survey amendments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
★ CONVERSION BUILDINGS ★				
010(13) & 665	The provisions in WUCIOA relating to conversions apply to units in a building, and thus would not likely apply to a miscellaneous community. It may, however apply. For example, a parcel with one or more existing single family homes, duplexes, townhomes or apartment building is subdivided into multiple units/lots.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Endnotes on following pages



¹ RCW 64.90.110 and 64.90.115

² RCW 64.90.101(57)(a): “Unit” means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to RCW 64.90.225(1)(d).”

³ RCW 58.17.040(2)

⁴ RCW 58.17.040(2)

⁵ See also “Miscellaneous Communities” in §8.4 of WUCIOA Map Guidelines in the Examiners Manual.

⁶ Note that the terms “nonresidential” and “residential” are used in the statute but are not defined terms; nor is any use defined, such as “commercial” or other types of uses. Refer to underwriting if there are any questions about use.

⁷ The default is that a non-residential miscellaneous community is not subject to WUCIOA *unless* the declaration/CCRs so provides. There are three categories of optional applicability: either (a) All of WUCIOA applies. (b) 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) apply. (c) Three sections apply:

(a) RCW 64.90.020 (separate titles and taxation). Note that these elements are already common to miscellaneous communities, and thus 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 miscellaneous community is entirely non-residential, the declaration/CCRs should be reviewed to determine if WUCIOA applies, and if so, to what extent.

⁸ If the intent is that a non-residential miscellaneous community is not subject to any portion of WUCIOA, it would be helpful if the declaration expressly so stated in order to avoid ambiguity

⁹ RCW 64.90.100(4)

¹⁰ Except: (a) RCW 64.90.020 (separate titles and taxation). Note that these elements are already common to miscellaneous communities, and thus 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.

¹¹ Thus, a CIC miscellaneous community is subject to WUCIOA if it is subject to any development right, no matter how many units/lots. NOTE that RCW 64.90.010(2)(a) defines a development right as including the right to *add* improvements to a CIC. Nonetheless, that arguably ought not apply to the typical expectation of a unit/lot purchaser in a subdivision (for example, a “large lot” subdivision exempt from Ch. 58.17 RCW pursuant to RCW 58.17.040(2)) with vacant lots that homes would be built on all of the units/lots (whether by the declarant, one or more builders who buy lots for development and resale, or even the individual unit purchaser). A claimed exemption under RCW 64.90.075(2) probably would be less problematic if the declaration or POS expressly identifies homes or similar future improvements that will be built, and notes that those are pursuant to a special declarant right to *complete* improvements pursuant to RCW 64.90.010(51)(a). If there are potential unanticipated possible improvements that cannot be simply characterized, a statement to that effect could presumably be added. It is unlikely that a small project would be subject to significant future improvements.

¹² Exclusive of optional user fees and insurance premiums paid by the owners association. RCW 64.90.075(2).

¹³ Subject to inflation. RCW 64.90.065

¹⁴ Land located within the boundaries of an Indian reservation is not subject to Washington state statutory and regulatory requirements for subdivision (and other governmental restraints, such as zoning) unless the tribe has entered into an



agreement with state or local government to apply Washington laws and/or regulations. This checklist should still be completed, but the project should be referred to senior title underwriting for additional review.

¹⁵ As noted, this would not *necessarily* be required for “small” miscellaneous communities and entirely non-residential miscellaneous communities.

¹⁶ A review, although not required, of all items listed in RCW 64.90.610 to be included in the POS can be helpful to confirm that there are no discrepancies between the POS, the declaration/CCRs & the map that might impact insurability of a unit/lot. NOTE: RCW 64.90.445 provides a list of transactions that do not require a POS. Title company should consult with underwriting if POS not available.

¹⁷ NOTE: RCW 64.90.445 provides a list of transactions that *do not* require a resale certificate. Title company should consult with underwriting if one is not available.

¹⁸ A declarant would provide a resale certificate instead of a POS after the expiration of time frames set forth in RCW 64.90.605(5), but must provide a resale certificate PLUS additional information pursuant to RCW 64.90.605(6). (NOTE that RCW 64.90.445 provides a list of transactions that do not require a resale certificate.) Title company should consult with underwriting if a resale certificate is offered instead of a POS.

¹⁹ RCW 64.90.245(8)(a)

²⁰ County recording offices will establish recording procedures for documents such as declarations and maps (including plats, short plats, binding site plans, condominiums, miscellaneous communities etc.). Generally, the maps for plats, short plats, condominiums and surveys are assigned unique recording numbers and may be filed in dedicated indexes for the type of subdivision or general survey. The map for a miscellaneous community generally is a survey but might not be (possible exceptions are addressed in the separate “WUCIOA Map & Survey Guidelines”). A recorder’s office may elect to create an index category for miscellaneous communities or may index them with general survey recordings. It is up to each county to decide how to index maps, and the location/numbering system is not an issue for WUCIOA review.

²¹ This should be provided for and shown, but failure to insert the data is not a significant failure and will not impair the existence of the CIC. RCW 64.90.215(4)(b). (NOTE: In part, this provision allows for rare instances when the recording data cannot be readily entered onto the document by the county recorder’s office at the moment of recording.)

²² RCW 64.90.025(5) permits review and approval of the declaration/CCRs by the assessor “...solely for the purpose of allocating the assessed value and property taxes.” Most subdivision ordinances require this information, which review/approval will likely be evidenced on the face of the map.

²³ Common elements (CEs) in a miscellaneous community are typically separate parcels or tracts that are not intended to be conveyed as WUCIOA units/lots. (NOTE: There is no requirement that a miscellaneous community have CEs.) The CEs may be identified on the map as lots, tracts, parcels, etc., and with number or letter designations. There are three common approaches to ownership of such land: (a) they can be conveyed by the declarant to the owners association before the first unit/lot is conveyed, (b) they can be owned by the unit/lot 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 (c) they 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 unit/lot owner as each unit/lot is sold. (NOTE that this latter option is not expressly contemplated by RCW 64.90.200(3)(c).) **THE DECLARATION MAY PROVIDE OTHERWISE** than these three approaches; the title company should refer any variation to underwriting.

NOTE: This is generally not an issue for title insurers unless (a) title to such CEs is to be insured, or (b) such undivided interest is requested to be included in the legal description or vesting for the WUCIOA unit/lot being insured. The title company may require one option to be effective at the time the miscellaneous community is recorded.

²⁴ A miscellaneous community can, but need not, have common elements. If so, and if there are shared expense obligations relating to them, it would be a *miscellaneous community* **IF IT IS NOT** a condominium, plat community or cooperative. Common elements are typically conveyed to and owned by the owners association, but alternatively the common elements may be owned by all lot owners as tenants in common (see previous footnote). Note that a common element (or common amenity) need not be a separate parcel or tract in the CIC. As an example, it could be an easement over one unit/lot in an



underlying plat or short plat that provides access and utilities to other lots, where each lot is obligated to share maintenance expenses.

²⁵ This statute provides that if such a conveyance is not made, title is nonetheless deemed to have been conveyed at the time of the first deed of a unit/lot. HOWEVER, the title company should refer to underwriting any request to insure title to any miscellaneous community common element based on this provision.

²⁶ This statute provides that if such a dedication is not made, title is nonetheless deemed to have been conveyed at the time of the first deed of a unit/lot. HOWEVER, the title company should refer to underwriting any request to insure title to any common element based on this provision.

²⁷ This statute could be construed to provide that if such individual conveyances are not made, title is nonetheless deemed to have been conveyed to the owners association at the time of the first deed of a unit/lot. HOWEVER, that should not be assumed, particularly if the map or the declaration/CCRs contemplates such conveyances. The title company should refer to underwriting any request to insure title to common elements based on this statutory provision.

²⁸ Conveyance or encumbrance of miscellaneous community common elements after the miscellaneous community is recorded should not impact subdivision compliance under Ch. 58.17 RCW or a “large lot” subdivision ordinance unless there is an intent to un-subdivide the entire CIC.

There are 3 likely scenarios: (a) Title to the affected common element is currently or was vested in the owners association. In this situation, title to other units/lots is unaffected, BUT the process should be reviewed, with consideration being given to whether coverage relating to possible violation of the CCRs is available when insuring title to other units/lots. (b) The affected common element was owned by unit/lot owners as tenants in common. In this situation, title to the other units/lots no longer includes an undivided interest in the conveyed common element. RCW 64.90.465(7)(a). Again, the process should be reviewed, with consideration being given as to whether coverage relating to possible violation of the CCRs is available when insuring title to other units/lots. (c) Title to the conveyed common element is to be insured. In this situation the process should be reviewed for statutory compliance by the owners association for the conveyance, including consideration being given as to whether coverage relating to possible violation of the CCRs is available. Possible re-subdivision pursuant to Ch. 58.17 RCW may be required, since a common element tract (although approved for that purpose when the underlying land subdivision was approved pursuant to Ch. 58.17 RCW or a “large lot” ordinance if exempt from Ch. 58.17 RCW) may not be a “legal lot” for other purposes. Title company should consult with underwriting.

The declaration/CCRs & map data required by WUCIOA **MAY** need to be amended **IF** (a) the conveyance involves withdrawal from the CIC but (b) is not intended to un-subdivide a previous subdivision. Note the following:

(1) If the intent is to convey the common element land but to have it remain part of the CIC miscellaneous community, an amendment of the declaration/CCRs & map data may not be necessary. This should be referred to underwriting. The conveyance of common elements by the Association is governed by RCW 64.90.465. See also RCW 64.90.405(2)(h)(i).

(2) If the intent is to also withdraw the parcel from the miscellaneous community, that likely involves re-platting pursuant to Ch. 58.17 RCW and local ordinances (or a “large lot” subdivision ordinance if it was previously exempt from Ch. 58.17 RCW) in addition to amending the declaration/CCRs & map data that would be required by WUCIOA.

²⁹ There are 3 likely scenarios: (a) Title to the affected common element is vested in the owners association. In this situation, title to other units/lots is unaffected, BUT the process should be reviewed, with consideration being given to whether coverage relating to possible violation of the CCRs is available when insuring title to other units/lots. (b) The affected common element was owned by unit/lot owners as tenants in common. Again, the process should be reviewed, and consideration being given to whether coverage relating to possible violation of the CCRs is available when insuring title to other units/lots. (c) The mortgage of the common element is to be insured. In this situation, the process should be reviewed for compliance with WUCIOA, including consideration being given as to whether coverage relating to possible violation of the CCRs is available. (4) ***Title company should consult with underwriting if the land to be insured is or will be the subject of a foreclosure of such a mortgage.***

³⁰ In particular, if miscellaneous community common elements are mortgaged, each title insurance underwriter will determine insurability vis-à-vis priority of all encumbrances, notwithstanding RCW 64.90.465(7)(b).



³¹ This may also involve a review and approval pursuant to local ordinance, whether or not a survey was required (for example, a “large lot” subdivision). That is, withdrawal of any units/lots, including common elements, in a miscellaneous community likely involves re-platting pursuant to local ordinance, notwithstanding that it might be exempt from Ch. 58.17 RCW.

Possible scenarios include:

(1) Withdrawn land might not be subject to any WUCIOA provisions (that is, if the owner will not be obligated to share in any expenses related to other property). However, it may still necessarily require re-subdividing underlying parcel pursuant to either Ch. 58.17 RCW or as required by local ordinance if exempt from Ch. 58.17 RCW (for example, a “large lot” subdivision). Nonetheless, the declaration/CCRs & WUCIOA required map data must be amended to exclude the withdrawn land.

(2) The withdrawal of property in a miscellaneous community may involve re-subdividing pursuant to either Ch. 58.17 RCW or as required by local ordinance if exempt from Ch. 58.17 RCW (for example, a “large lot” subdivision) even if the withdrawn land is not also a CIC.

(3) As to the withdrawal of only common elements, possible re-subdivision of the underlying land may be required, since a common element tract (although approved for that purpose when the land underlying the CIC was approved) may not be a “legal lot” for other purposes. In this situation, the re-subdivided parcel may still be subject to the declaration/CCRs & map data requirements of WUCIOA for the original miscellaneous community or may be subject to new WUCIOA requirements if it is going to be a CIC.

In all cases when any property is withdrawn from a miscellaneous community, the title company should consult with underwriting.

³² The declaration/CCRs & map for a miscellaneous community must be amended if any portion is withdrawn.

This may also involve a review and approval pursuant to local ordinance, whether or not a survey was required (for example, a “large lot” subdivision). That is, withdrawal of any units/lots, including common elements, in a miscellaneous community likely involves re-subdividing pursuant to local ordinance, notwithstanding that it might be exempt from Ch. 58.17 RCW.

The following scenarios might apply:

(1) If units/lots are to be “withdrawn” from a miscellaneous community, they might still be lots in the underlying subdivision, even if the miscellaneous community is no longer a CIC. That might be the case if the withdrawn units/lots would not be subject to an obligation to share costs with respect to other property, but still remain legally subdivided lots. The declaration/CCRs & maps must still both be amended.

(2) Alternatively, units/lots might be un-subdivided but still remain obligated to share such costs (perhaps still qualifying as a new miscellaneous community). Possible re-subdivision of the withdrawn parcel pursuant to either Ch. 58.17 RCW or as required by local ordinance if exempt from Ch. 58.17 RCW (for example, a “large lot” subdivision) may be required.

(3) Common element tracts might be withdrawn. Again, possible subdivision pursuant to either Ch. 58.17 RCW or as required by local ordinance if exempt from Ch. 58.17 RCW (for example, a “large lot” subdivision) may be required, since a common element tract (although approved for that purpose when the subdivision of the underlying land was approved) may not be a “legal lot” for other purposes.

In all cases when any property is withdrawn from a miscellaneous community, the title company should consult with underwriting.

³³ This was added by a 2019 amendment to WUCIOA.

³⁴ New projects typically are encumbered by a blanket construction mortgage or deed of trust (although this provision is not just limited to such liens), which must be released as *to the unit/lot insured*. RCW 64.90.650(1)(a)(i). See also RCW 64.90.610(1)(q), where the POS is required to disclose any lien on the common elements that will not be released. Examples include local assessments, labor or material liens. Title company should refer all such lien issues to underwriting.



³⁵ Liens not released pursuant to RCW 64.90.650(1)(a)(i) must either be (a) accepted in writing by the purchaser (RCW 64.90.650(2)(b)), or (b) insured against by a title insurer (RCW 64.90.650(1)(b)). (NOTE: The method by which such insurance could be provided, if any, would be based on each title insurance underwriter’s underwriting guidelines.)

³⁶ If there is *any* possible failure to comply with the statute, the title company should consult with underwriting for a determination of insurability in the event there may be a “significant” failure to comply.

³⁷ The declaration/CCRs & map must be amended if with respect to the affected unit/lot, although withdrawal of property in a miscellaneous community likely involves re-subdivision of the underlying land under either Ch. 58.17 RCW or as required by local ordinance if exempt from Ch. 58.17 RCW (for example, a “large lot” subdivision. Title company should consult with underwriting.

³⁸ A leasehold miscellaneous community is where the declarant has a leasehold interest in the underlying land that is being subjected to the CIC, and either (a) the buildings are included in the leasehold estate, where fee title to the land and the improvements together remains vested in the lessor, or (b) the lease is a ground lease, where the lessee/declarant improves the land and fee title to the improvements may or may not have been constructively severed by the lessee/declarant. Title company should consult with underwriting for all leasehold CICs.

³⁹ This is in context of terminating a CIC, that is, with respect to provisions required for a defined miscellaneous community, and not necessarily in context of terminating a subdivision pursuant to Ch. 58.17 RCW. Any such termination must comply with Ch. 58.17 RCW (or local ordinance, if exempt from Ch. 59.17 RCW, such as might be the case with a “large lot” subdivision), but additional provisions may apply to the provisions of a WUCIOA required CIC declaration.

⁴⁰ See RCW 64.90.025(3), which says “This chapter ***must not be construed to permit*** the creation of a condominium or cooperative or miscellaneous community ***on a lot, tract, or parcel of land*** that could not be sold or transferred without violating chapter 56.17 RCW”. An example of a “legal” lot that can be submitted to a CIC could be (a) one or more entire lots in a plat or short plat, (b) part of an approved and recorded binding site plan, or (c) part of an approved and recorded boundary line adjustment. So-called “large lot” subdivisions (based on the subdivision exemption in RCW 58.17.040(2)) presumably would be a subdivision of an existing single tax parcel. Title company should refer to underwriting if there are any questions about whether the land being subjected to a CIC is a legal lot.

⁴¹ If subdivision approval pursuant to Ch. 58.17 RCW and local ordinances have not been applied to the land based on the so-called “large lot” exemption in RCW 58.17.040(2), the local jurisdiction may still have ordinances regulating subdivision vis-à-vis tax parcels, as well as imposing survey requirements.

⁴² RCW 64.90.245(8)(l)

⁴³ An appurtenant easement benefiting the entire miscellaneous community is likely required by local ordinances (either based on Ch. 8.17 RCW or local ordinances if exempt from that statute) to be delineated on the miscellaneous community map (if not a survey, title insurance underwriting should be consulted), particularly if it is required for access. It is also arguably a “principal common amenity” (RCW 64.90.245(8)(m)) whether or not included in the legal description of the underlying subdivision. In that case, it would be required to be located and dimensioned on the map. RCW 64.90.245(8)(h) & (m). (NOTE: this can be done on the survey or a separate map that is incorporated in the declaration/CCRs. RCW 64.90.245(14).) Nonetheless, such easements are not expressly required to be recited in the legal description of either the declaration/CCRs or the map.

HOWEVER, for title insurance purposes, an easement appurtenant to the land being submitted as a plat community should be (a) included in the legal descriptions of the land in the declaration/CCRs & on the map, (b) identified in the declaration/CCRs as to its purpose, (c) delineated on the map, and (d) reviewed for title insurability.

In general, an easement appurtenant to the miscellaneous community project would not be included in the legal description of a unit/lot once the miscellaneous community is recorded (even if insurable), since it would be part of the common elements. If, however, after review, the easement is determined to not be insurable, an exception from coverage may be appropriate; title company should consult with underwriting.

⁴⁴ See RCW 64.90.025(3), which says “This chapter ***must not be construed to permit*** the creation of a condominium or cooperative or miscellaneous community ***on a lot, tract, or parcel of land*** that could not be sold or transferred without violating chapter 56.17 RCW”. An example of a “legal” lot that can be submitted to a CIC could be (a) one or more entire lots



in a plat or short plat, (b) part of an approved and recorded binding site plan, or (c) part of an approved and recorded boundary line adjustment. So-called “large lot” subdivisions (based on the subdivision exemption in RCW 58.17.040(2)) presumably would be a subdivision of an existing single tax parcel. Title company should refer to underwriting if there are any questions about whether the land being subjected to a CIC is a legal lot.

⁴⁵ The declaration/CCRs can provide for phasing without including a legal description of future phase land, but (a) it must be included if it is known at the time of recording, or (b) a statement must be included that no assurances are made in that regard. NOTE: “Phasing” for a miscellaneous community would typically accomplished by creating a new subdivision (subject to the same declarations/CCRs as earlier divisions) pursuant to Ch. 58.17 RCW (or local ordinance, if exempt from Ch. 59.17 RCW, such as might be the case with a “large lot” subdivision). In this situation, the legal description of the land being subdivided would be described and included, but un-subdivided lands which will be subdivided later must also be described *if known*.

⁴⁶ The declaration/CCRs can provide for phasing without including a legal description of future phase land, but (a) it must be included if it is known at the time of recording, or (b) a statement must be included that no assurances are made in that regard. NOTE: “Phasing” for a miscellaneous community would typically accomplished by creating a new subdivision (subject to the same declarations/CCRs as earlier divisions) pursuant to Ch. 58.17 RCW (or local ordinance, if exempt from Ch. 59.17 RCW, such as might be the case with a “large lot” subdivision). In this situation, the legal description of the land being subdivided would be described and included, but un-subdivided lands which will be subdivided later must also be described *if known*.

⁴⁷ If there is withdrawable land, the title company should refer to underwriting. Withdrawable land is not typically contemplated by subdivisions, whether pursuant to Ch. 58.17 RCW (or local ordinance, if exempt from Ch. 59.17 RCW, such as might be the case with a “large lot” subdivision). In this situation, the legal description of the land being subdivided would be described and included, but un-subdivided lands which will be subdivided later must also be described *if known*.

Land in a subdivision might instead be identified as a parcel that could be developed as a later phase or division, perhaps by re-subdividing. However, to the extent such land could be withdrawn (before re-subdividing) it should be described. If it is all of the miscellaneous community, that can be stated. NOTE, HOWEVER, if withdrawable land is described, once a unit/lot is sold that is located on ***any land*** that could be otherwise withdrawn if not for that unit/lot sale, that right to withdraw terminates. (See “**Development Rights**” section.)

⁴⁸ Limited common elements have not typically been identified in subdivision created pursuant to Ch. 58.17 RCW (or ordinances for any other type of subdivision if exempt, such as a “large lot” subdivision). However, all or part of a common element parcel could be further allocated to one or more units/lots as a limited common element. This requirement pertains to identifying those common element parcels that could be allocated in the future. If applicable, this requirement would likely be met by identifying the affected parcels; no metes and bounds of a portion of a parcel would be necessary in most cases. If a portion of a whole parcel is affected, a description of that portion is required.

Also, the right to create LCE in the future is a development right (RCW 64.90.010(20)(b)) and as such the declarant can opt to either (a) describe that right, but not identify specific land, or (b) describe the right and describe the affected land affected land *may be* described in the declaration/CCRs pursuant to RCW 64.90.225(1)(g) and if so, the description and delineation *can be* (but is not required to be) included on the map. Surveyor must consult with declarant.

⁴⁹ See also RCW 64.90.210(1)(a). In a miscellaneous community the unit boundaries will typically be the same as in a plat, short plat or binding site plan subdivision, where “planes in space” define all boundaries (usually vertical but sometimes also horizontal) that are not tied to physical monuments (such as walls, floors and ceilings in building).

⁵⁰ RCW 64.90.010(57)(a): “Unit” means a physical portion of the common interest community *designated for separate ownership or occupancy*, the boundaries of which are described pursuant to RCW 64.90.225(1)(d).” It is possible for “lots” or “tracts” in a miscellaneous community to have numbered tracts that are not units.

⁵¹ This does not mean units/lots that are not currently created and that could be created and added by later amendments adding phase or plat divisions pursuant to a “phasing” development right. Rather, it relates to actual units/lots created.

⁵² This is the maximum number of ***additional*** units that can be added by later plat phases or divisions (which would be subject to the same declaration/CCRs) and would not include the count of initially created units. The declaration/CCRs need



not identify the number of units that might be added in any particular possible future phase, but must state a maximum. RCW 64.90.225(1)(c).

⁵³ The declaration for such projects (large scale communities) need not initially state the maximum number of units that can be created. RCW 64.90.320(2). In addition, it need not show information required for individual units until (a) those units are created and (b) a unit is conveyed. RCW 64.32.320(2) and (3) and RCW 64.90.225(1)(c) thru (n) apply at that time. The approach likely would involve the recordation of a declaration/CCRs without any units being initially created. At the time any unit is to be conveyed, then the declaration/CCRs must be amended with respect to that unit (and describe any land where any units have been conveyed). Such projects are unlikely to apply to a typical CIC plat, but if so, title company should consult with underwriting.

⁵⁴ **IMPORTANT:** This situation likely will also require re-subdividing or a boundary line adjustment, pursuant to Ch. 58.17 RCW, and/or local ordinances adopted pursuant thereto, or adopted for exempt subdivisions, such as for a “large lot” subdivision). WUCIOA, while requiring amendments to the declaration/CCRs & map data, **does not** contravene the platting or subdivision requirements established pursuant to Ch. 58.17 RCW or local ordinances for exempt subdivisions. Rather, the re-subdivision or boundary line adjustment must also comply with WUCIOA, particularly with respect to owner and association approval.

Note that any change in unit/lot boundaries requires words of conveyance between the affected unit/lot owners as to the portions of subdivided lots (which in this context would likely be common elements) incorporated into other units/lots. While such conveyances have always been an essential element of a boundary line adjustment process, WUCIOA expressly requires them. RCW 64.90.260(3)(b). NOTE: A conveyance by the owners association would also be required in the case of common elements or limited common elements being incorporated into a unit/lot, if title to the common elements is vested in the owners association. However, if common elements are vested in the unit/lot owners as tenants in common, all owners would have to join in the conveyance.

Note that there are two separate sections dealing with incorporation of common elements into a unit/lot. RCW 64.90.240(3) deals mainly with incorporation of limited common elements into a unit/lot, but includes mention of common element incorporation as well. RCW 64.90.260(2) & (3) deals more specifically with incorporation of common elements. The provisions are similar. If any common elements are to be incorporated into a unit, the procedure should be reviewed by title company underwriting to confirm that it is not inconsistent with either section of the statute.

⁵⁵ **IMPORTANT:** This situation likely will also require re-subdividing or a boundary line adjustment, pursuant to Ch. 58.17 RCW, and local ordinances adopted pursuant thereto. WUCIOA, while requiring amendments to the declaration/CCRs & map data, **does not** contravene the platting requirements. Rather, the re-plat or boundary line adjustment must also comply with WUCIOA, particularly with respect to owner and association approval.

Note that any change in unit/lot boundaries requires words of conveyance between the affected unit/lot owners as to the portions of platted lots (which in this context are common elements) incorporated into other units/lots. While such conveyances have always been an essential element of the plat boundary line adjustment process, WUCIOA expressly requires them. RCW 64.90.260(3)(b). NOTE: A conveyance by the owners association would also be required in the case of common elements or limited common elements being incorporated into a unit/lot, if title to the common elements is vested in the owners association. However, if common elements are vested in the unit/lot owners as tenants in common, all owners would have to join in the conveyance.

Note that there are two separate sections dealing with incorporation of common elements into a unit/lot. RCW 64.90.240(3) deals mainly with incorporation of limited common elements into a unit/lot, but includes mention of common element incorporation as well. RCW 64.90.260(2) & (3) deals more specifically with incorporation of common elements. The provisions are similar. If any common elements are to be incorporated into a unit, the procedure should be reviewed by title company underwriting to confirm that it is not inconsistent with either section of the statute.

⁵⁶ Note that RCW 64.90.255 deals with apertures in common element walls between units that are being combined after both are in common ownership. This would typical for condominium units located in a building rather than a unit/lot in a miscellaneous community or airspace units in another type of CIC. However, it might apply to party walls of adjoining units/lots in a “zero lot line” townhome type of miscellaneous community. Under this section it is not necessary to amend the declaration/CCRs or the map to assign a different unit/lot number, nor to reallocate allocated interests, because the resulting



combination results in the two units/lots merely being in common ownership. Generally, however, any combination of units/lots should be referred to title company underwriting.

Note, however, that instead of this (RCW 64.90.255) statute, the provisions of RCW 64.90.265(2) could also be applied, where (a) the two units will be re-numbered, and (b) related changes to area, allocated interests and unit/lot boundaries are to be reflected in amendments to the declaration/CCRs.

Title company underwriting should be consulted to confirm compliance with whichever statute is applied and to confirm insurability of the unit(s) after combination.

NOTE: RCW 64.90.265(2) also mentions a *portion* of an adjoining unit/lot. This situation likely will also require re-platting or a boundary line adjustment, pursuant to Ch. 58.17 RCW, and local ordinances adopted pursuant thereto (and/or local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision). WUCIOA, while requiring amendments to the declaration/CCRs & map data, **does not** contravene the mandated subdivision requirements. Rather, the re-subdivision or boundary line adjustment must also comply with WUCIOA, particularly with respect to owner and association approval.

Any attempt to incorporate a *portion* of one unit/lot into another unit/lot as contemplated under this statute (RCW 64.90.255) instead of RCW 64.90.260(1) or instead of RCW 64.90.265(2) without

- (a) a boundary line adjustment per platting regulations under Ch. 58.17 RCW and local ordinances (or local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision),
- (b) conveyance between the affected unit/lot owners, and
- (c) amending both the declaration/CCRs & the map to revise the
 - (i) area,
 - (ii) allocated interests, and
 - (iii) new boundaries, of each unit/lot (as contemplated by RCW 64.90.265(4))

should be referred to the title company’s underwriter to confirm insurability of the unit(s) after combination. As noted elsewhere, this is essential a “lot line adjustment” and compliance with Ch. 58.17 RCW and local ordinances adopted pursuant thereto (or local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision) is also required.

⁵⁷ WUCIOA, while requiring amendments to the declaration/CCRs & map data, **does not** contravene mandated platting requirements. Rather, the re-subdivision or boundary line adjustment must also comply with WUCIOA. As noted elsewhere, this is essentially a “lot line adjustment” and compliance with Ch. 58.17 RCW and local ordinances adopted pursuant thereto (or local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision) is also required. Generally, any combination of units/lots should be referred to title company underwriting.

Note that RCW 64.90.260(1) contemplates relocation of boundaries between units, which is also mentioned in RCW 64.90.255 and provided for in RCW 64.90.265(2). If a *portion* of a unit/lot is to be incorporated into another unit/lot, the provisions of either this RCW 64.90.260 or RCW 64.90.265(2) & (4) should be applied and **not** the provisions of RCW 64.90.255. Title company underwriting should be consulted to confirm insurability of the units/lots after combination, particularly if RCW 64.90.255 is applied, and also assuming compliance with Ch. 58.17 RCW and local ordinances adopted pursuant thereto (or local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision).

⁵⁸ This is also subject to Ch. 58.17 RCW and local ordinances adopted pursuant thereto (which might also affect common ownership of two adjoining units/lots in a platted subdivision), or other subdivision (based on local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision). However, if done, requires amending the declaration/CCRs & the map data to ALSO comply with WUCIOA. Title company underwriting should be consulted to confirm insurability of the units/lots after subdivision (and availability of a subdivision endorsement if requested), and also assuming compliance with Ch. 58.17 RCW and local ordinances adopted pursuant thereto (or local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision).

⁵⁹ Mere common ownership of adjoining units/lots in a miscellaneous community might not trigger this requirement. If it does (for example, if the lots will be re-subdivided into one unit/lot), it would also be subject to Ch. 58.17 RCW and local



ordinances adopted pursuant thereto (or local ordinances adopted for exempt subdivisions, such as for a “large lot” subdivision). (Such ordinances might deal with mere common ownership of two adjoining units/lots in a subdivision without an intent to “combine” them.) However, if units/lots are combined, it would also require amending the declaration/CCRs & the map data to comply with WUCIOA. Generally, any combination of units should be referred to title company underwriting.

NOTE: A combination of units (or portions of units) is also contemplated by RCW 64.90.255, but this statute (RCW 64.90.265(2)) is more detailed.

Any attempt to combine two units/lots or *any portion of a unit/lot* into another unit/lot should be referred to title company underwriting to confirm insurability of the unit(s)/lot(s) after combination, particularly if done under RCW 64.90.255.

⁶⁰ This is a basic requirement for title insurance purposes. (Refer also to the discussion of access in the separate WUCIOA map guidelines.) Lots in a plat subdivision (or other subdivision if exempt from Ch. 58.17 RCW) typically abut a public right of way, usually dedicated in the map, but possibly conveyed separately by deed. If not, there are likely two ways to provide for access to lots in a plat that do not abut a right of way:

(a) It might be a portion of a unit/lot that is conveyed by the declarant to a unit/lot owner but subject to an easement for the stated purposes. These areas would not be (for purposes of WUCIOA) a limited common element, because it is an easement located on another unit/lot and not over a common element.

(b) In other cases, it might be a separate tract or parcel that (for purposes of a plat approval) is dedicated as an easement appurtenant to specific lot(s). Such a parcel could also be (for purposes of WUCIOA) a limited common element appurtenant to specific lot(s).

(c) Such a tract, even if not treated as a common element in the declaration/CCRs pursuant to WUCIOA, could be considered a “principal common amenity” with respect to the benefited unit(s)/lot(s), and so should be described shown on the map, as required by RCW 64.90.245(8)(m). Principal common amenities are not required to be shown in the declaration/CCRs, only in the POS (RCW 64.90.610(1)(k)).

⁶¹ If all units stated as having an “equal” interest, that statement can be considered “formula.”

⁶² Minor variations in rounding permitted. If the allocated interest for only one or two units is rounded, it is recommended that the formula could so state, identifying the affected unit(s). BUT, in the event of any discrepancy between allocated interests and the stated formula used to calculate the number, the stated allocated interest prevails. However, discrepancies should be resolved prior to recording, and the title company should consult with underwriting for any remaining discrepancies.

⁶³ But, certain types of class voting are permitted. RCW 64.90.235(4).

⁶⁴ A plat that is exclusively nonresidential is by default NOT subject to WUCIOA (and not a “plat *community*”) but the declarant has the option to include either ALL or SOME WUCIOA provisions.

IN ANY EVENT: If exemption is claimed because of exclusive non-residential use, the title company should consult with underwriting to confirm the extent to which WUCIOA applies.

Note that the terms “nonresidential” and “residential” are used in the statute but are not defined terms; nor is any use defined, such as “commercial” or other types of uses. Refer to underwriting if there are any questions about applicability.

⁶⁵ Note that RCW 64.90.100(1) exempts miscellaneous communities if they are exclusively nonresidential, unless WUCIOA is opted in. However, as to a mixed-use miscellaneous community, RCW 64.90.100(4) says:

“A common interest community that contains both units restricted to nonresidential purposes and units that **may be used** for residential purposes is not subject to this chapter unless the units that **may be used** for residential purposes would comprise a common interest community subject to this chapter in the absence of such nonresidential units or the declaration/CCRs provides that this chapter applies as provided in subsection (2) or (3) of this section.” [Emphasis added.]



One purpose of this statute is intended to confirm that a CIC cannot avoid application of WUCIOA based on *possible* nonresidential use of units. Thus, a subdivision should be considered a CIC and subject to WUCIOA (if not otherwise exempt as a small CIC under RCW 64.90.100(1)).

⁶⁶ Use and age restrictions should be reviewed with respect to possible policy endorsements or other policy coverages relating to violations of recorded restrictions. Note that use “types” are not defined in the statute, although the terms “residential” and “nonresidential” are used in the statute.

⁶⁷ Use and age restrictions should be reviewed with respect to possible policy endorsements or other policy coverages relating to violations of recorded restrictions. Note that use “types” are not defined in the statute, although the terms “residential” and “nonresidential” are used in the statute.

⁶⁸ Includes an option to purchase as well as a right of first refusal.

⁶⁹ This is not related to leasehold CICs, where the declarant creates a CIC on a leasehold estate in the land. It relates to restrictions on the lot owner’s ability to lease the unit/lot.

⁷⁰ Land acquired by a miscellaneous community owners association (or by the unit/lot owners as tenants in common) is *not* automatically part of the CIC legal description but should be considered either a *common element* or a *common amenity*. Whether or not the declaration/CCRs is formally amended to include such land as part of the miscellaneous community, or whether or not the miscellaneous community map (if it is not a survey, title company underwriting should be consulted) is amended pursuant to Ch. 58.17 RCW (or any local ordinance adopted for exempt subdivisions, if applicable), such land should be treated as common elements and in any event is subject to all requirements relating to future conveyance or encumbrance.

⁷¹ The terms and provisions of a master association’s declaration/CCRs & maps would be appropriate exceptions from title coverage. Title company should consult with underwriting if the miscellaneous community owners association is a member as a subassociation of another “master” association (whether or not it is another CIC).

⁷² The terms and provisions of a subassociation’s declaration/CCRs would be appropriate exceptions from title coverage. Title company should consult with underwriting if there is membership in the CIC owners association by another “subassociation”.

⁷³ There should be some flexibility with miscellaneous communities, in the ability to state that LCE are as designated on the map. Even so, the practical way to comply with WUCIOA would be to number LCE to facilitate identification and allocation in the declaration/CCRs.

⁷⁴ The statute arguably is intended to apply to the types of LCE common to condominiums – that is, parking spaces, storage lockers, etc., that a declarant might want to assign only as units/lots are sold and the purchaser makes a selection at that time. Nonetheless, the statute does not make that distinction. However, such types of LCE would not necessarily be present in a typical miscellaneous community.

A more likely miscellaneous community example would be an LCE common area tract that is obviously used for access or utilities to only one or more units/lots identifiable when the miscellaneous community is recorded. Nonetheless, the declaration must make the allocation.

If there are tracts or lots in a miscellaneous community that are identified only as easements on the face of the miscellaneous community, but not also treated as LCE, the matter should be referred to title company underwriting.

⁷⁵ This should not be a problem with most miscellaneous communities, since there are typically no types of LCE in miscellaneous communities that could not be initially allocated when the miscellaneous community is recorded.

⁷⁶ RCW 64.90.010(20)(e)

⁷⁷ LCE can only be identified and allocated (and all *must be* allocated) in the declaration/CCRs, and can only be reallocated by amending that document. Including such data in a unit/lot deed is superfluous and susceptible to error. Thus, RCW 64.90.220(1): “...*the identifying number of the unit is a legally sufficient description of that unit and all rights, obligations, and interests appurtenant to that unit that were created by the governing documents.*” In addition, if LCE are reallocated by declaration/CCRs amendment (the only method for doing so) prior deeds in the chain of title the reference any LCE number



will then be incorrect. Since prior deed descriptions are typically used to when preparing purchase and sale agreements, deeds, mortgages and deeds of trust, the erroneous information can easily be perpetuated. Title company should contact underwriting if requested to identify any LCE (or other allocations) in unit/lot legal descriptions.

HOWEVER, having said that, to the extent that an LCE in a miscellaneous community is probably unique to the unit/lot and readily identifiable, particularly if it is an easement right over an area outside the unit/lot boundary, there may be little risk to including that type of LCE in a legal description. The creation of an easement appurtenant is in this regard similar to the intent of allocating an LCE to a unit. In other words, the concept of LCE in a CIC (particularly in a condominium) is akin to creating an easement appurtenant. In that sense it may be possible to create an easement appurtenant to individual units/lots in a miscellaneous community by appropriate recitals in on the map, and not identify servient tenement parcels as LCE. Refer to title company underwriting if there is any question about LCE vs. easements appurtenant.

⁷⁸ Two types of LCE should be specified:

(a) First, even though automatically LCE pursuant to RCW 64.90.210(3), the following types should be specified to avoid ambiguity, especially for such areas that are to be delineated on the map: “Any fireplaces, shutters, awnings, window boxes, doorsteps, stoops, *porches, balconies, decks, patios*, and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit’s boundaries, are limited common elements allocated exclusively to that unit/lot.” [emphasis added] An LCE yard space should also be noted. This would not likely be common to a miscellaneous community.

(b) Second, LCE that are not attached or adjacent to the unit, such as parking spaces, storage facilities, boat moorage slips, etc., should be specified. Confirm that they are not intended to be units.

NOTE: LCE are to be allocated in the declaration/CCRs & the statutory intent is that they do not need to be included in the legal description of a unit/lot. (RCW 64.90.220(a)) The practice of including any allocated LCE (or allocated interests in the common elements, voting rights or assessment allocations) in a unit/lot deed legal description is superfluous and will potentially create future clouds on titles. Title company should consult with underwriting for any requests to expressly include any LCE in a unit/lot description.

HOWEVER, having said that, to the extent that an LCE in a miscellaneous community is probably unique to the unit/lot and readily identifiable, particularly if it is an easement right over an area outside the unit/lot boundary, there may be little risk to including that type of LCE in a legal description. The creation of an easement appurtenant is in this regard similar to the intent of allocating an LCE to a unit. In other words, the concept of LCE in a CIC (particularly in a condominium) is akin to creating an easement appurtenant. In that sense it may be possible to create an easement appurtenant to individual units/lots in a miscellaneous community by appropriate recitals in on the map, and not identify servient tenement parcels as LCE. Refer to title company underwriting if there is any question about LCE vs. easements appurtenant.

⁷⁹ All LCE *must be* assigned. If LCE are to be allocated later, they must either be (a) allocated to a declarant-owned unit/lot and reallocated by recorded declaration/CCRs & map amendments pursuant to a reserved development right (RCW 64.90.010(20)(b)), or (b) remain part of the common elements and designated/described as real estate subject to the development right (RCW 64.90.010(20)(e)) to be created and allocated as LCE by recorded declaration/CCRs & map amendments. If LCE purportedly created but not allocated, title company should consult with underwriting.

NOTE: A purported LCE that is not allocated to a unit/lot is not, by definition, an LCE. There may be a temptation to attempt to create un-allocated LCE. However, if specific intended LCE, such as parking spaces, exist but are not yet allocated, they can be identified as common elements that can be allocated pursuant to a reserved development right. In this case, the initial map would show the spaces. Including the LCE identifying number – even as a common element – on the initial map recording would preclude the need for a map amendment when the declaration/CCRs amendment is recorded to allocate newly created LCE.

Such LCE can also be allocated in bulk to declarant-owned unit(s), and reallocated pursuant to a reserved development right. In any case, the declaration/CCRs needs to be amended to make the allocation/reallocation, so there is no need to attempt to identify them as LCE in the initial recordings if they aren’t going to be allocated.

⁸⁰ There is no requirement for a metes and bounds or other legal description for those portions of the common elements that can be allocated as individual LCE parking spaces, storage lockers, moorage spaces, etc. Nor are these areas required to be described, delineated or labeled on the map. However, the right to create LCE is a development right (RCW



64.90.010(20)(b)), and if specific areas are improved (such as parking spaces that are numbered and available for future allocation as LCE) the declaration/CCRs should describe this land and the land should be located and labelled on the map.

This may preclude the need for a map amendment when the declarant exercises the development right to create and allocate such areas as LCE.

⁸¹ Approval by *unaffected* unit/lot owners not required for this type of reallocation. The board has 30 days (or other time period if stated in declaration) to approve; approval deemed given if board fails to respond.

⁸² These three sections are read together; the significance is in the issuance of the appropriate ALTA endorsement regarding priority of owners association assessment liens, even if the declaration/CCRs is inconsistent with the statute. Availability of priority coverage for any deed of trust or mortgage over owners association liens, whether or not they are delinquent, is based on each title insurers underwriting guidelines.

⁸³ (a) Requests to insure through a foreclosure of owners association liens should be referred to title company underwriting. (b) Availability of priority coverage for any deed of trust or mortgage over owners association liens, whether or not they are delinquent and whether or not they have been foreclosed, is based on each title insurers underwriting guidelines.

⁸⁴ RCW 64.90.010(31): “Map” means:...(b) with respect to a...miscellaneous community, a map prepared in accordance with the requirements of...” RCW 64.90.245. This statute does not expressly require a survey, nor does it expressly exempt a miscellaneous community from the requirement for a survey. However, a survey may be required for title insurance purposes. For a more detailed discussion of this issue, see the separate “WUCIOA Map & Survey Guidelines”.

⁸⁵ RCW 64.90.225(1)(a)

⁸⁶ A certification by all owners would also be required by RCW 58.17.165.

⁸⁷ Title company should consult with underwriting for any possible failure to comply with the statute for a determination of insurability in the event there may be a “significant” failure to comply.

⁸⁸ This might include (to the extent not covered by other specific requirements for the map) roads, driveways, walkways, fences, rockeries, hedges, retaining walls, encroachments of any kind (onto the CIC plat land from adjoining land, onto adjoining land from the CIC plat land), etc., but not necessarily trees or topographical (such as contours) data.

⁸⁹ County recording offices establish recording procedures, including for documents such as declarations and maps. Generally, the maps for plats, short plats, binding site plans condominiums and surveys are assigned filed in dedicated indexes for the type of subdivision or general survey. The map for a miscellaneous community generally is a survey but might not be (possible exceptions are addressed in the separate “WUCIOA Map & Survey Guidelines”). A recorder’s office may elect to create an index category for miscellaneous communities or may index them with general survey recordings. It is up to each county to decide how to index maps.

⁹⁰ This should be provided for and shown, but failure to insert the data is not a significant failure and will not impair the existence of the CIC plat. RCW 64.90.215(4)(b). (NOTE: In part, this provision allows for rare instances when the recording data cannot be readily entered onto the document by the county recorder’s office at the moment of recording.)

⁹¹ The statute permits review and approval of the declaration/CCRs by the assessor “...solely for the purpose of allocating the assessed value and property taxes” (RCW 64.90.025(5)), but this might include a review of the map and be evidenced on the face of the map.

⁹² The term “survey” is defined in RCW 64.90.010(53), which includes the standards in Chapter 58.09 RCW, including the certification required by RCW 58.09.080. NOTE: While RCW 64.90.245(14) states that the WUCIOA certification can be on a map attached to the declaration, it can also be incorporated into the survey statute language on the face of the plat survey. For a more detailed discussion of this issue, see the separate “WUCIOA Map & Survey Guidelines”.

⁹³ The term “survey” is defined in RCW 64.90.010(53), which includes the standards in Chapter 58.09 RCW, including the certification required by RCW 58.09.080.

WUCIOA neither expressly requires nor exempts miscellaneous communities from the requirement for a survey as the map. For a more detailed discussion of this issue, see the separate “WUCIOA Map & Survey Guidelines”.



NOTE also: While RCW 64.90.245(14) states that the WUCIOA certification can be on a map attached to the declaration, it can also be incorporated into the survey statute language on the face of the miscellaneous community survey.

⁹⁴ Roads and similar public rights of way are not “dedicated” to such use in a condominium map, as is common with plats and possibly “large lot” subdivisions that are exempt from Ch. 58.17 RCW. In a non-plat situation, creation of the right of way would occur independently and preferably prior to the recordation of the declaration/CCRs & map. A right of way is usually created by easement, deed or condemnation. If created by easement, the legal description of the miscellaneous community land typically should include the land, with the easement shown on the map as burdening the land. If created by conveyance or condemnation, the legal description of the CIC plat in the declaration/CCRs & map would typically exclude the right of way. Excepting the right of way land from the legal description of a miscellaneous community land would be appropriate even if the miscellaneous community is recorded prior to the completion of the formal right of way creation. In all cases, the title company should consult with underwriting (with respect to the description of the miscellaneous community land and any exceptions from title coverage related to the right of way) if the right of way is not created at the time the miscellaneous community is recorded.

⁹⁵ RCW 64.90.245(8)(1)

⁹⁶ See RCW 64.90.025(3), which says “This chapter *must not be construed to permit* the creation of a condominium or cooperative or *miscellaneous community on a lot, tract, or parcel of land* that could not be sold or transferred without violating chapter 56.17 RCW”. An example of a “legal” lot that can be submitted to a CIC could be (a) one or more entire lots in another plat or short plat, (b) part of an approved and recorded binding site plan, or (c) part of an approved and recorded boundary line adjustment. So-called “large lot” subdivisions (based on the subdivision exemption in RCW 58.17.040(2)) presumably would be a subdivision of an existing single tax parcel. Title company should refer to underwriting if there are any questions about whether the land being subjected to a CIC is a legal lot.

⁹⁷ If subdivision approval pursuant to Ch. 58.17 RCW and local ordinances have not been applied to the land based on the so-called “large lot” exemption in RCW 58.17.040(2), the local jurisdiction may still have ordinances regulating subdivision vis-à-vis tax parcels, as well as imposing survey requirements.

⁹⁸ A written description is not required in either the declaration/CCRs or the map, but are to be located and dimensioned on the map; HOWEVER, an easement appurtenant to the land being submitted to a miscellaneous declaration/CCRs should be (a) included in the legal descriptions of the land in the declaration/CCRs & on the map, (b) identified in the declaration/CCRs as to its purpose, (c) delineated on the map, and (d) reviewed for title insurability.

⁹⁹ Phasing can be accomplished by adding land *and* units (not to exceed the maximum number stated pursuant to RCW 64.90.225(1)(c) and RCW 64.90.320)) at a later date. In this situation, “phase 1” land would be described and included, but later phase land must also be described if known.

¹⁰⁰ If it is all of the land, that can be stated; NOTE, however, that once a unit/lot is sold on *any land* that could be otherwise withdrawn, that right to withdraw terminates. (See “**Development Rights**” section.)

¹⁰¹ Note that this is not expressly required (only land subject to development rights to add units/lots & reallocate allocated interests), but is required for the declaration/CCRs & will likely be provided by the surveyor anyway.

¹⁰² The horizontal boundaries must still be identified, as long as the location is “reasonably described or depicted.” That typically would be based on an established datum. If a benchmark is not shown, a map legend or note or other comment should explain why, and indicate how the description or depiction is sufficient. Consult with title company underwriting if a benchmark is not identified.

¹⁰³ “To the extent feasible.” Note that if an easement is not locatable on the map, 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. In addition, it should be confirmed with title company. If not insurable, it should still be included in the declaration/CCRs & included on the map, but title company may limit coverage based on underwriting. Note also that the surveyor is responsible for apparent easements that are not shown in a title report or guarantee.

¹⁰⁴ “To the extent feasible.” Note that if an easement is not locatable on the map, 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.



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- ¹⁰⁵ “To the extent feasible.” Note that if an easement is not locatable on the map, 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.
- ¹⁰⁶ Can be on a map attached to the declaration instead of the plat survey, but must still be shown & certified by declarant. RCW 64.90.245(14).
- ¹⁰⁷ Can be on a map attached to the declaration instead of the plat survey, but must still be shown & and certified by declarant. RCW 64.90.245(14).
- ¹⁰⁸ Phasing can be accomplished by adding land *and* units (not to exceed the maximum number stated pursuant to RCW 64.90.225(1)(c) and RCW 64.90.320)) at a later date. In that situation, “phase 1” land would be described and included and identified as part of the condo, but later phase land must also be separately described, and identified as such, if known.
- ¹⁰⁹ If it is all of the land, that can be stated. NOTE, however, that once a unit/lot is sold on *any land* that could be otherwise withdrawn, that right to withdraw any or all of the land terminates. (See “★ **Development Rights** ★” section.)
- ¹¹⁰ Note that this is not expressly required (only land subject to development rights to add units & reallocate allocated interests is to be described and shown), but the description is required for the declaration/CCRs & will likely be provided by the surveyor anyway.
- ¹¹¹ If it is all of the land, that can be stated in a legend note; (See also “★ **Development Rights** ★” section.)
- ¹¹² If it is all of the land, that can be stated with the description or in a legend note.
- ¹¹³ **Note (1):** A *development right* can apply to a unit, or a portion of the common elements. **Note (2):** A *development right* (defined in RCW 64.90.010(20)) is not a special declarant right, but a *special declarant right* (defined in RCW 64.90.010(51)) may include the right to exercise a development right. **Note (3):** In general, development rights impact title insurance (adding or withdrawing land and/or units/lots, subdividing units/lots, reallocating LCEs, etc.), while special declarant rights do not.
- ¹¹⁴ This is provided for in RCW 64.90.320.
- ¹¹⁵ Provided for in RCW 64.90.315.
- ¹¹⁶ Provided for in RCW 64.90.315.
- ¹¹⁷ Special declarant rights generally do not impact title insurance, but the development rights should be listed among special declarant rights.
- ¹¹⁸ Limitations of the exercise of development rights might affect the insurability of units or limited common elements created pursuant to such rights, and should be reviewed again after their creation. Title company should consult with underwriting if the rights are exercised.
- ¹¹⁹ Provided for in RCW 64.90.315.
- ¹²⁰ Provided for in RCW 64.90.315.
- ¹²¹ The declaration/CCRs may fix boundaries, and if so, they must be described. If the boundaries are not fixed, a separate legal description is not required
- ¹²² The declaration/CCRs may fix boundaries, and if so, they must be described. If the boundaries are not fixed, a separate legal description is not required
- ¹²³ The declaration/CCRs may fix boundaries, and if so, they must be described. If the boundaries are not fixed, a separate legal description is not required.
- ¹²⁴ If not described, none of the land would be withdrawable if any unit/lot has been sold. RCW 64.90.250(4)(a). If withdrawable land is described in the declaration, it cannot be withdrawn if a unit/lot on that portion has been sold, but it can be withdrawn even if unit/lot has been sold on other land that not subject to withdrawal.
- ¹²⁵ This is dependent on the nature of the amendment.



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- ¹²⁶ This is dependent on the nature of the amendment.
- ¹²⁷ This is dependent on the nature of the amendment.
- ¹²⁸ Not expressly provided for, but obviously required. Consult with title company underwriting if not done.
- ¹²⁹ This is not expressly required by statute, but should be done. Consult with title company underwriting if not done.
- ¹³⁰ This is dependent on the nature of the amendment.
- ¹³¹ This is dependent on the nature of the amendment.
- ¹³² This is dependent on the nature of the amendment.
- ¹³³ If required data shown on earlier map(s), can be so certified as to such data without the need to produce a new map. New map required if only some of the required data was on the earlier map(s).
- ¹³⁴ If required data shown on earlier map(s), can be so certified as to such data without the need to produce a new map. New map required if only some of the required data was on the earlier map(s).
- ¹³⁵ This includes legal descriptions of added/withdrawn land and all relevant data for added units and LCE. It also now expressly includes unit/lot numbers for added units/lots to be shown on the map.
- ¹³⁶ In a miscellaneous community this would typically be vertical (side) lot boundaries, and not horizontal (upper or lower) boundaries.
- ¹³⁷ In a miscellaneous community this would typically be vertical (side) lot boundaries, and not horizontal (upper or lower) boundaries.
- ¹³⁸ Refer in general to underwriting guidelines for leasehold estates.
- ¹³⁹ Note that CIC might be created on a sublease. This requirement applies to each lease/sublease in the chain of title.
- ¹⁴⁰ The full lease seldom recorded, but if it has been, recital of that recording number is sufficient to meet the requirement. NOTE: If the lease has also been amended of record, those recording numbers should also be shown.
- ¹⁴¹ This would apply if only a memorandum of the full lease is recorded. NOTE: If there are lease amendments that have not been recorded, this statement should be included, even if the full original lease was recorded; the lease and all amendments would be considered the “complete” lease.
- ¹⁴² If all of the land is subject to one lease, the legal description need not be repeated; a statement to that effect with the description would suffice.
- ¹⁴³ If the lease includes either extensions or renewals (whether automatic or optional), the resultant possible dates can be included with the recital of the expiration date. Also, if there are multiple leases/subleases in the chain of title, all must be recited and confirmed as co-existent. If all leases/subleases do not have the identical terms, that issue must reconciled.
- ¹⁴⁴ This can include a statement of the resultant possible expiration date of the renewed or extended lease.
- ¹⁴⁵ This would relate to the right of unit/lot owners to acquire the lessor’s interest in the lease that would allow the miscellaneous community to continue without termination. The method of such redemption should be stated. Examples include acquisition of the lessor’s interest by the owners association (after which the association might make conveyances to the unit/lot owners), or direct deeds by lessor to each unit/lot owner.
- NOTE: Redemption does not automatically result a merger of the fee with the leasehold, nor does it terminate the lease. The parties must record a document confirming such merger and lease termination. RCW 64.90.230(4).
- ¹⁴⁶ If so, the estate or interest of the unit/lot owner will be leasehold as to the entire interest in (a) the unit/lot, (b) the improvements located on/within the unit/lot, and (c) the allocated interest in the common elements. ***The language in (a) the lease and (b) the declaration/CCRs must be reviewed to confirm that there is no ambiguity in the nature of the unit/lot owner’s title to (a) the unit/lot, (b) the improvements located on/within the unit/lot, and (c) the common elements.***



¹⁴⁷ Constructive severance occurs if the lessor separately conveys improvements to the lessee, independent of the lease of the land. The lessor retains the reversion in the fee title to the land, but no interest in the improvements. If so, the estate or interest of the unit/lot owner might be described in a title insurance policy as similar to the following: “fee as to the unit and improvements located therein, and leasehold as to the interest in the common elements.” (More complete guidelines are in the WLTA Examiners Manual.) If there no constructive severance (i.e., no recorded deed of improvement from lessor to lessee), including silence in the lease as to ownership of improvements added by the lessee, then fee title to improvements should not be expressly insured. However, affirmative coverage by endorsement may be available with respect to such improvements. All leases should be referred to title company underwriting. ***The language in (a) the lease, (b) the declaration/CCRs & (c) any “severance” documents must be reviewed to confirm that there is no ambiguity in the nature of the unit/lot owner’s title to the unit/lot and common elements.***

¹⁴⁸ ***The language in the renewed lease or sublease, and the extension or renewal document (or replacement lease) must be reviewed to confirm that there was no termination of the lease or miscellaneous community, and no ambiguity in the nature of the unit/lot owner’s title to (a) the unit/lot, (b) improvements within the unit/lot, or (c) common elements.*** This should be reviewed by title company underwriting.

¹⁴⁹ This is not required but facilitates the process if the declaration/CCRs permits it.

¹⁵⁰ This would not automatically terminate the lease as to any individual unit/lot or the entire leasehold land, but it would permit the recordation of a confirmation confirming the merger and termination of the lease as contemplated by RCW 64.90.230(4). If there is a merger and formal lease termination as to any unit, the title to the unit/lot would be fee (if the lease was not a sublease) and the lease would not be an exception to title in a title commitment or policy. Must be reviewed by title company underwriting.

¹⁵¹ **IMPORTANT:** Each title company should review title eliminations based on its underwriting guidelines.

¹⁵² The manufactured home title can be eliminated without the consent or joinder of the association, any other unit/lot owner or anyone having a security interest in any other unit/lot or the miscellaneous community common elements.

¹⁵³ Timesharing is not prohibited; if permitted, disclosure must be in the POS (RCW 64.90.610(1)(hh)(ii)). Title insurability of timeshare interests is not dependent on compliance with WCUIOA except to the extent the declaration/CCRs & maps are compliant. Insurability timeshare interests is based on time share underwriting guidelines for each title insurance underwriter, but would require, at a minimum, express permission in the declaration/CCRs & a description of each timeshare segment that can be conveyed.

¹⁵⁴ Identifying each timeshare segment (fractional interest) by number, letter or other distinct identifier reduces allows tracking of the number of tenancies available and sold, and avoids the possibility of conveying, for example, an undivided 1/10 interest 11 or more times.

¹⁵⁵ This is in context of terminating a miscellaneous community. That is, with respect to provisions required for a defined miscellaneous community, and not necessarily in context of terminating a subdivision pursuant to Ch. 58.17 RCW (or any local ordinance dealing with exempt subdivisions, such as for a “large lot” subdivision. Any such termination must comply with the subdivision statute and local ordinances, but additional provisions may apply to the provisions of a CIC declaration/CCRs.

¹⁵⁶ Note that a termination that does not provide for a sale of the land results in vesting of title in the former unit/lot owners as tenants in common, with right of possession of the area that was the former units. Title insurance underwriting must be consulted for any request to insure the interest of any tenant in common.

¹⁵⁷ After termination, (a) title to all of the property to be sold would vest in the association, as trustee for the former unit/lot owners and lienholders, as their interests may appear, and (b) title to all of the property not sold would be vested in the former unit/lot owners, as tenants in common as their interests may appear, each interest being subject to the liens that affected the prior respective units, with the former unit/lot owners each having the right of exclusive occupancy of the space occupied by the former unit/lot (RCW 64.90.290(5)).

¹⁵⁸ After termination, (a) title to all of the property to be sold would vest in the association, as trustee for the former unit/lot owners and lienholders, as their interests may appear, and (b) title to all of the property not sold would be vested in the former unit/lot owners (or the remaining ones, if a former unit/lot was included in the property that was sold), as tenants in



common as their interests may appear, each interest being subject to the liens that affected the prior respective units, with the former unit/lot owners each having the right of exclusive occupancy of the space occupied by the former unit/lot (RCW 64.90.290(5)).

¹⁵⁹ After termination, (a) title to all of the property to be sold would vest in the association, as trustee for the former unit/lot owners and lienholders, as their interests may appear, and (b) title to all of the property not sold would be vested in the former unit/lot owners (or the remaining ones, if a former unit/lot was included in the property that was sold), as tenants in common as their interests may appear, each interest being subject to the liens that affected the prior respective units, with the former unit/lot owners each having the right of exclusive occupancy of the space occupied by the former unit/lot (RCW 64.90.290(5)).

¹⁶⁰ After termination, title to all of the property would be vested in the former unit/lot owners, as tenants in common as their interests may appear, each interest being subject to the liens that affected the prior respective units, with the former unit/lot owners each having the right of exclusive occupancy of the space occupied by the former unit/lot (RCW 64.90.290(5)).

¹⁶¹ After termination, title to all of the property would vest in the association, as trustee for the former unit/lot owners and lienholders, as their interests may appear.

¹⁶² After termination, title to all of the property would be vested in the former unit/lot owners, as tenants in common as their interests may appear, each interest being subject to the liens that affected the prior respective units, with the former unit/lot owners each having the right of exclusive occupancy of the space occupied by the former unit/lot (RCW 64.90.290(5)).

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¹⁶⁵ After termination, (a) title to all of the property to be sold would vest in the association, as trustee for the former unit/lot owners and lienholders, as their interests may appear, and (b) title to all of the property not sold would be vested in the former unit/lot owners (or the remaining ones, if a former unit/lot was included in the property that was sold), as tenants in common as their interests may appear, each interest being subject to the liens that affected the prior respective units, with the former unit/lot owners each having the right of exclusive occupancy of the space occupied by the former unit/lot (RCW 64.90.290(5)).

¹⁶⁶ Note that RCW 64.90.325(2) contemplates a possible reduction in size of the condo, although the context of this section is that “substantially all...units have been destroyed, abandoned or uninhabitable.” Any attempt to judicially reduce the size of a miscellaneous community should be reviewed by the title company senior underwriting.

¹⁶⁷ Note that the statute does not contemplate mergers with other types of CICs. Title company should consult with underwriting for any mergers of associations affecting the miscellaneous community to confirm compliance, for title insurance purposes, with name, successor declaration, and amended allocated interests of all units in the successor CIC as required by RCW 64.90.310(3).

¹⁶⁸ It is recommended that the merger or consolidation agreement identify the name of the successor CIC, which can be utilized in unit/lot deeds to comply with RCW 64.90.220.

¹⁶⁹ The method used should be carefully reviewed for compliance with this statute.



¹⁷⁰ If each CIC uses the same unit/lot numbering system, it is imperative that it be possible to uniquely identify units in the successor CIC. That may require more extensive amendment than is contemplated by RCW 64.90.310, including map amendments.

