COLORADO PLANNED COMMUNITY & CONDOMINIUMS
MULTIUNIT CHECKLIST

The following information is required for legal review of your project. Please indicate on left line where legal requirement is located on Declaration, Bylaws, Articles of Incorporation and Plat.

CCIOA 38-33.3-205. (1) THE DECLARATION MUST CONTAIN

_____ (a) The names of the common interest community and the association.

_____ (a,1) A statement that the common interest community is a condominium, cooperative or planned community;

_____ (b) The name of every county in which any part of the common interest community is situated;

_____ (c) A legally sufficient description of the real estate included in the common interest community;

_____ (d) A statement of the maximum number of units that the declarant reserves the right to create;

_____ (e) In a condominium or planned community, a description, which may be by plat or map, of the boundaries or each unit created by the declaration, including the unit's identifying number; or, in a cooperative, a description, which may be by plat or map, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;

_____ (f) A description of any limited common elements, other than those specified in section 38-33.3-202 (1) (b) and (1) (d) or shown on the map as provided in section 38-33.3-209 (2) (j) and, in a planned community, any real estate that is or must become common elements;

_____ (g) A description of any real estate, except real estate subject to development rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in section 39-33.3-202 (1) (b) and (1) (d), together with a statement that they may be so allocated;

_____ (h) A description of any development rights and other special declarant rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies and a time limit within which each of those rights must be exercised;

_____ (i) If any development right may be exercised with respect to different parcels or real estate at different times, a statement to that effect together with;

_____ (i,I) Either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards; and

_____ (i,II) A statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of the real estate;

_____ (j) Any other conditions or limitations under which the rights described in paragraph (h) of this subsection (l) may be exercised or will lapse;

_____ (k) An allocation to each unit of the allocated interests in the manner described in section 38-33.3-207;

_____ (l) Any restrictions on the use, occupancy, and alienation of the units and on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sales, condemnation, or casualty loss to the unit or to the common Interest community or on termination of the common interest community;

_____ (m) The recording data for recorded easements and licenses appurtenant to, or included in, the common interest community or to which any portion of the common interest community is or may become subject by virtue of a reservation;

_____ (n) The declaration must contain all matters required by sections 38-33.3-201, 38-33.3-206 to 38-33.3-209, 38-33.3-215, 38-33.3-216, and 38-33.3-303(4) as follows;

_____ (o) Reasonable provisions concerning the manner in which notice of matters affecting the common interest community may be given to unit owners by the association or other unit owners;

_____ (2) The declaration may contain any other matters the declarant considers appropriate.

_____ (3) The plats and maps described in section 38-33.3-209 may contain certain information required to be included in the declaration by this section.

38-33.3-201 CREATION OF COMMON INTEREST COMMUNITIES.

_____ (1) A common interest community may be created pursuant to this article only by recording a declaration executed in the same manner as a deed and, in a cooperative, by conveying the real estate subject to the declaration to the association. The declaration must be recorded in every county in which any portion of the common interest community is located and must be indexed in the grantee's index in the name of the common interest community and in the name of the association and in the grantor's index in the name of each person executing the declaration. No common interest community is created until the plat or map for the common interest community is recorded.

_____ (2) In a common interest community with horizontal unit boundaries, a declaration, or an amendment to a declaration, creating or adding units shall include a certificate of completion executed by an independent licensed or registered engineer, surveyor, or architect stating that all structural components of all buildings containing or comprising any units thereby created are substantially completed.

38-33.3-206 LEASEHOLD COMMON INTEREST COMMUNITIES. (CANNOT BE APPROVED BY LOCAL OFFICE. MUST BE FORWARDED TO CENTRAL OFFICE IN WASHINGTON, D.C.)

_____ (1) Any lease, the expiration or termination of which may terminate the common interest community or reduce its size, must be recorded. In a leasehold condominium or leasehold planned community, the declaration must contain the signature of each lessor of any such lease in order for the provisions of this section to be effective.

The Declaration must state:

_____ (a) The recording data for the lease;

_____ (b) The date on which the lease is schedule to expire;

_____ (c) A legally sufficient description of the real estate subject to the lease;

_____ (d) Any rights of the unit owners to redeem the reversion and the manner whereby those rights may be exercised or state that they do not have those rights;

_____ (e) Any rights of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease or state that they do not have those rights; and

_____ (f) Any rights of the unit owners to renew the lease and the conditions of any renewal or state that they do not have those rights.

_____ (2) After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of a unit owner's share of the rent and otherwise complies with all covenants that, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

_____ (3) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

_____ (4) If the expiration or termination of a lease decreases the number of units in a common interest community, the allocated interests shall be reallocated in accordance with section 38-33.3-107 (l), as though those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed and recorded by the association.

38-33.3-207. Allocation of Allocated interests.

(1) The Declaration must allocate to each unit:

_____ (a) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and to the extent not allocated in the bylaws of the association a portion of the votes in the association;

_____ (b) In a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association and to the extent not allocated in the bylaws of the association a portion of the votes in the association.

_____ (c) In a planned community, a fraction or percentage of the common expenses of the association and to the extent not allocated in the bylaws of the association a portion of the votes in the association.

_____ (2) The declaration must state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

_____ (3) If units may be added to or withdrawn from the common interest community, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the common interest community after the addition or withdrawal.

_____ (4)(a) THE DECLARATION MAY PROVIDE:

_____ (4,a,I) That different allocations of votes shall be made to the units on particular matter specified in the declaration;

_____ (4,a,II) For cumulative voting only for the purpose of electing members of the executive board; and

_____ (4,a,III) For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

_____ (b) A declarant may not utilize cumulative or class voting for the purpose of evading any limitation imposed on declarants by this article, nor may units constitute a class because they are owned by a declarant.

_____ (5) Except for minor variations due to the rounding of fractions or percentages, the sum of the common expense liabilities and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units shall each equal one if stated as fractions or one hundred percent if stated as percentages. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

_____ (6) In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

_____ (7) In a cooperative, any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

38-33.3-208. Limited common elements.

_____ (1,a) Except for the limited common elements described in section 38-33.3-202 (1)(b) and (1)(d), the declaration shall specify to which unit or units each limited common element is allocated.

_____ (1,b) That allocation may not be altered without the consent of the unit owners whose units are affected.

_____ (2) Subject to any provisions of the declaration, a limited common element may be reallocated between or among units after compliance with the procedure set forth in the subsection (2). In order to reallocate limited common elements between or among units, the unit owners of those units, as the applicants, must submit an application for approval of the proposed reallocation to the executive board, which application shall be executed by those unit owners and shall include:

_____ (2,a) The proposed form for an amendment to the declaration as may be necessary to show the reallocation of limited common elements between or among units;

_____ (2,b) A deposit against attorney fees and costs which the association will incur in reviewing and effectuating the application, in an amount reasonably estimated by the executive board; and

_____ (2,c) Such other information as may be reasonably requested by the executive board. No reallocation shall be effective without the approval of the executive board. The reallocation shall be effectuated by an amendment signed by the association and by those unit owners between or among whose units the reallocation is made, which amendment shall be recorded as provided in section 38-33.3-217(3). All costs and attorney fees incurred by the association as a result of the application shall be the sole obligation of the applicants.

_____ (3) A common element not previously allocated as a limited common element may be so allocated only pursuant to provisions in the declaration made in accordance with section 38-33.3-205(1)(g). The allocations must be made by amendments to the declaration prepared, executed, and recorded by the declarant.

38-33.3-209. Plats and maps.

_____ (1) Plats and maps are a part of the declaration and are required for all common interest communities except cooperatives. Separate plats and maps are not required by this article if all the information required by this section is contained in either a plat or a map. Each plat and map must be clear and legible and contain a certification that the plat or map contains all the information required by this section.

_____ (2) In addition to meeting the requirements of a land survey plat as set forth in section 38-51-102, each plat must show:

_____ (2,a) The name and a general schematic plan of the entire common interest community;

_____ (2,b) The location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real estate;

_____ (2,c) A legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;

_____ (2,d) The extent of any existing encroachments across any common interest community boundary;

_____ (2,e) To the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the common interest community;

_____ (2,f) The location and dimensions of any vertical boundaries not shown or projected on maps recorded pursuant to subsection (4) of this section and that unit's identifying number;

_____ (2,g) The location, with reference to established data, of horizontal boundaries, if any, not shown or projected on maps recorded pursuant to subsection (4) of this section, and that unit's identifying number;

_____ (2,h) A legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";

_____ (2,i) The distance between noncontiguous parcels of real estate comprising the common interest community; and

_____ (2,j) The approximate location and dimensions of limited common elements, including porches, balconies, and patios, other than the limited common elements described in section 33-33.3-202 (1)(b) and (1)(d).

_____ (4) To the extent not shown or projected on the plats, maps of the units must show or project:

_____ (4,a) The location and dimensions of the vertical boundaries of each unit and that unit's identifying number;

_____ (4,b) Horizontal boundaries, if any, with reference to all established data, and that unit's identifying number;

_____ (4,c) Any units in which the declarant has reserved the right to create additional units or common elements, identified appropriately; and

_____ (4,d) The approximate location and dimensions of limited common elements, including porches, balconies, and patios, other than parking spaces and other than common elements described in section 38-33.3-202(1)(b) and (1)(d).

_____ (5) Unless the declaration provides otherwise, the horizontal boundaries of any part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the plats and maps.

_____ (6) Upon exercising any development right, the declarant shall record either new plats and maps with respect to that real estate reflecting change as a result of such exercise necessary to conform to the requirements of subsections (1), (2) and (4) of this section or new certifications of plats and maps previously recorded in those plats and maps otherwise conform to the requirements of subsections (1), (2), and (4) of this section.

_____ (7) Any certification of a plat or map required by this article must be made by a registered land surveyor.

_____ (8) The requirements of a plat or map under this article shall not be deemed to satisfy any subdivision platting requirement enacted by a county or municipality pursuant to section 30-28-133, C.R.S., Part 1 of Article 23 of Title 31, C.R.S. or a similar provision of a home rule city, nor shall the plat or map requirements under this article be deemed to be incorporated into any subdivision platting requirements enacted by a county or municipality.

38-33.3-215. Use for sales purposes.

_____ (1) A declarant may maintain sales offices, management offices, and models in the common interest community only if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location and relocation thereof. Any real estate used a as a sales office, management office, or model and not designated a unit by the declartion is a common element. If a declarant ceases to be a unit owner, such declarant ceased to have any rights with regard to any real estate used as a sales office, management office, or model, unless it is removed promptly from the common interest community in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the common interest community. This section is subject to the provisions of other state laws and to local ordinances.

38-33.3-216. Easement rights.

_____ (1) Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights, whether arising under this arising under this article or reserved in the declartion.

_____ (2) In a planned community, subject to the provisions of the declaration and the ability of the association to regulate and convey or encumber the common elements as set forth in sections 38-33.3-302 (1)(f) and 38-33.3-312, the unit owners have an easement:

_____ (2,a) In the common elements for the purpose of access to their units; and

_____ (2,b) To use the common elements and all other real estate that must become common elements for all other purposes.

38.33.3-217. Amendment of declaration.

_____ (1) Except in cases of amendments that may be executed by a declarant under section 38-33.3-208(3), 38-33.3-209(6), 38-33.3-210, or 38-33.3-222, or by association under section 38-33.3-107, 38-33.3-206(4), 38-33.3-208(2), 38-33.3-212, 38-33.3-213, or 38-33.3-218(11) and (12) and except as limited by subsection (4) of this section the declaration, including the plats and maps, may be amended only by vote or agreement of unit owners of units to which at least sixty-seven percent of the votes in the association are allocated or any larger percentage the declaration specifies. The Declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use.

38-33.3-303(4). Budget.

_____ (1) Within thirty days after adoption of any proposed budget for the common interest community, the executive board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing or other delivery of the summary. Unless at that meeting a majority of all unit owners or any larger percentage specified in the declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the unit owners must be continued until such time as the unit owners ratify a subsequent budget proposed by the executive board.

38-33.3-301 Organization of unit owners' association.

_____ (1) A unit owners' association shall be organized no later than the date the first unit in the common interest community is conveyed to a purchaser. The membership of the association at all times shall consist exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under section 33-3.3-218, or their heirs, personal representatives, successors, or assigns. The association shall be organized as a nonprofit, not-for-profit, or for-profit corporation in accordance with the laws of the State of Colorado; except that the failure of the association to incorporate will not adversely affect either the existence of the common interest community for purposes of this article or the rights of persons acting in reliance upon such existence, other than as specifically provided in section 38-33.3-316.

THE ARTICLES OF INCORPORATION SHALL CONTAIN:

7-21-102 - Articles of incorporation.

(1) The articles of incorporation shall set forth:

_____ (1,a) A corporate name for the nonprofit corporation that satisfies the requirements of section 7-22-103;

_____ (1,b) The street address of the nonprofit corporation's initial registered office, and the name of its initial registered agent at that office;

_____ (1,c) The name and address of each incorporator;

_____ (1,d) Whether or not the nonprofit corporation will have members;

_____ (1,e) Provisions not inconsistent with law regarding the distribution of assets on dissolution.

(2) The articles of incorporation need not set forth any of the corporate powers encumbered in articles 20 to 29 of this title.

(3) The articles of incorporation may set forth:

_____ (3,a) The purpose or purposes for which the nonprofit corporation is organized which may be, either alone or in combination with other purposes, the transaction of any lawful activity;

_____ (3,b) The names and address of the individuals who are to serve as the initial directors;

_____ (3,c) Provisions not inconsistent with law regarding:

_____ (3,c,I) Managing and regulating the affairs of the nonprofit corporation;

_____ (3,c,II) Defining, limiting, and regulating the owners of the nonprofit corporation, its board of directors, and members of any class if members; and

_____ (3,c,III) The characteristics, qualifications, and obligations attaching to any class of members;

_____ (3,d) A provision eliminating or limiting the personal liability of a director as provided in section 7-22-101(1)(r);

_____ (3,e) Any provision that, under articles 20-29 of this title, is required or permitted to be set forth in the bylaws.

The Bylaws must contain the following:

38-33.3-306. Bylaws.

(1) In addition to complying with applicable sections, if any, of the "Colorado Corporation Code", Articles 1 to 10 of Title 7, C.R.S., or the "Colorado Nonprofit Corporation Act", Articles 20 to 29 of Title 7, C.R.S., if the common interest community is organized pursuant.

Thereto, the bylaws of the association must provide:

_____ (a) The number of members of the executive board and the titles of the officer of the association.

_____ (b) Election by the executive board of a president, a treasurer, a secretary, and any other officers of the association the bylaws specify;

_____ (c) The qualifications, powers and duties, and terms of office of, and manner of electing and removing, executive board members and officers and the manner of filling vacancies;

_____ (d) which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;

_____ (e) which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association;

_____ (f) A method for amending the bylaws.

_____ (2) Subject to the provisions of the declaration, the bylaws may provide for any other matters the association deems necessary and appropriate.

_____ (3)(a) If an association with thirty or more units delegates powers of the executive board or officers relating to collection, deposit, transfer, or disbursement of association funds to other persons or to a managing agent, the bylaws of the association shall require the following:

_____ (I) That the other persons or managing agent maintain fidelity insurance coverage or a bond in an amount of not less than fifty thousand dollars or such higher amount as the executive board may require;

_____ (II) That the other persons or managing agent maintain all funds and accounts of the association separate from the funds and accounts of other associations managed by the other persons or managing agent and maintain all reserve accounts of each association so managed separate from operational accounts of the association;

(b) This subsection (3) is repealed, effective July 1, 1996.

38-33.3-308. Meetings.

The meetings of the association shall be held at least once each year. Special meetings of the association may be called by the president, by a majority of the executive board, or by the unit owners having twenty percent, or any lower percentage specified in the bylaws, of the votes in the association. No less than ten nor more than fifty days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove an officer or member of the executive board.