

GENERAL

1. What state statutes apply to Common Interest Communities in your state?

The Connecticut Unit Ownership Act applies to condominiums created prior to January 1, 1977. The Connecticut Condominium Act applies to condominiums created between January 1, 1977 and December 31, 1983. The Connecticut Common Interest Ownership Act applies to all common interest communities created on or after January 1, 1984 and applies to many of the activities of common interest communities created prior to that date (Connecticut General Statutes, Sections 47-200 through 47-299). The Connecticut Revised Non Stock Corporation Act applies to all associations that are incorporated as non-stock corporations. (Connecticut General Statutes, Sections 33-1000 through 33-1330)

2. Are Common Interest Communities required to incorporate? No.

Can they be incorporated? Yes. Section 47-243 of the Common Interest Ownership Act requires that the association shall be organized as a business or nonstock corporation, trust, partnership or unincorporated association.

Advantages/Disadvantages? Most associations in Connecticut have been incorporated as non stock corporations. The advantage to incorporating is that the corporation statutes provide guidance concerning a number of matters not addressed by the Common Interest Ownership Act.

3. Is there a state agency which has authority to regulate and oversee the affairs of Common Interest Communities? What is the scope of its power and authority? No.

4. On the state level, what are the annual reporting requirements of a Common Interest Community, if any, and to whom?

If it is incorporated, the association is required to file an annual report with the Secretary of the State concerning its corporate status. The association is also required to file annually with the town clerk of the town in which it is located information about the contact person for obtaining resale certificates.

MEMBERSHIP MEETINGS

5. Is an Annual Meeting of Members required?

Yes. (Common Interest Ownership Act, Subsection 47-250(a))

6. How are Special Meetings of the Members called?

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A special meeting of the members may be called by the president, a majority of the executive board, or by unit owners having at least twenty percent of the votes in the association. (Common Interest Ownership Act, Subsection 47-250(a)(2))

7. What are the Notice Requirements for Membership Meetings?

Notice of a membership meeting must be sent at least 5 days before the meeting, or at least 10 days before if the meeting agenda includes a proposed change to the association rules. Notices can be given by hand delivery, U.S. mail with postage paid, or commercially reasonable delivery service. Notices are effective when sent. If a unit owner furnishes the association with a mailing address that is not the unit, the association should send notices to that address rather than the unit. If the unit owner furnishes the association with an electronic (e-mail or fax) address, the association may give notice to the unit owner by electronic means at the electronic address. (Common Interest Ownership Act, Section 47-261c)

8. What are Quorum Requirements for Membership Meetings?

The Common Interest Ownership Act Section 47-251 contains a default quorum requirement of twenty percent of the voting power in the association. The documents of most associations opt out of the default provision and state that a quorum is whoever is present at the meeting.

9. Can Members use Proxies? Yes. (Common Interest Ownership Act, Subsection 47-252(c))

Absentee Ballots? No.

Mail Ballots? Yes if the vote is to be taken by mail-in ballots. Mail-in ballots cannot be used if the vote is taken at a meeting. (Common Interest Ownership Act, Subsection 47-252(d))

10. Can Members Raise Concerns or Issues at a Membership Meeting?

Unit owners are to be given a reasonable opportunity at any unit owners' meeting to comment regarding any matter affecting the common interest community or the association. This unit owner right to comment is not limited to the items on the agenda of the meeting. (Common Interest Ownership Act, Subsection 47-250(a).) The documents of most associations however limit the matters that can be acted on at a membership meeting to those matters listed in the notice of the meeting.

11. Can Non-Members attend Membership Meetings? (Attorneys of Members?Guests of Members? Local or National Media representatives?)

A non-member who holds a proxy for a member may attend. There are no other provisions in the statute, or in most documents requiring other non-members to be admitted. Under Robert's Rules, which applies to all associations unless their documents provide otherwise, an association can exclude non-members from its meetings.

BOARD MEETINGS

12. Are Board of Directors required to hold Regular Board Meetings?

Yes the board of directors is required to meet at least two times per year (Common Interest Ownership Act, Subsection 47-250(b)(3))

13. How are Special Meetings of the Board called?

There is no statutory procedure. Most association bylaws provide that meeting can be called by the president or a majority of the directors.

14. What are the Notice requirements for Board Meetings?

Unless a meeting of the board or a committee authorized to act for the association is included in a schedule given to the unit owners, the secretary or other officer specified in the bylaws must give notice of each board meeting to each director and to each unit owner.

- a. The notice must be given at least five days before the meeting and state the time, date, place and agenda of the meeting.
- b. If, at the meeting, the board will vote on a change in the rules notice must be given at least ten days before the meeting.

If any materials are distributed to the board or a committee authorized to act for the association before the meeting, the board or committee must at the same time make copies of those materials reasonably available to unit owners. This requirement excludes copies of unapproved minutes and materials that are to be considered in executive session. (Common Interest Ownership Act, Subsections 47-250(b)(5) and (6))

Are Members required to be notified as well? Yes.

15. What constitutes a quorum for Board Meetings?

A quorum of the board is present for purposes of determining the validity of any action taken at a meeting of the board only if individuals entitled to cast a majority of the votes on that board are present at the time a vote regarding that action is taken.

If a quorum is present when a vote is taken, the affirmative vote of a majority of the directors present is the act of the board unless a greater vote is required by the declaration or bylaws. (Common Interest Ownership Act, Subsection 47-251(b))

16. Can Board Members use Proxies?

No. (Connecticut Non Stock Act, Subsection 33-1095(b))

17. Which meetings of the Board of Directors are open to all homeowners?

Meetings of the board or of a committee authorized to act for the association must be open to unit owners and to any person whom a unit owner designates as his or her personal

representative, except when the board meets in executive session (Common Interest Ownership Act, Subsection 47-250(b)(1)).

18. Does a Member have the right to address the Board of Directors during the meeting?

At each board meeting, or a meeting of a committee authorized to act for the association, the board or committee shall provide a reasonable opportunity for unit owners to comment regarding any matter affecting the common interest community and the association. The board can adopt reasonable rules and procedures prohibiting unit owners from interrupting the regular conduct of business and the time of other speakers, setting reasonable limits on the number of speakers at any one meeting and the repetitiveness of unit owner comments, and limiting the total time the unit owner comment period may consume during any one meeting. (Common Interest Ownership Act, Subsection 47-250(b)(4))

19. Can the Board of Directors meet in Closed or Executive Session? If so, for what purpose?

The board and any committees of the board may hold an executive session only during a regular or special meeting. The board or a committee authorized to act for the association may meet in executive session only to do the following:

- a. Consult with the association's attorney about legal matters;
- b. Discuss existing or potential litigation, mediation, arbitration, or administrative proceedings;
- c. Discuss labor or personnel matters;
- d. Discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage; or
- e. Prevent public knowledge of the matter to be discussed if the board or committee determines that public knowledge would violate the privacy of any person.

No final vote or action may be taken during an executive session (Common Interest Ownership Act, Subsection 47-250(b)(1)).

20. Are Minutes of Board Meetings required? Yes. (Common Interest Ownership Act, Subsection 47-260(a)(2))

When can Members see the minutes of such meetings? The members can see the minutes once the minutes have been approved by the board. (Common Interest Ownership Act, Subsection 47-250(b)(6))

21. Does a Member have a right to audio- or video-record meetings of the Board? Under what circumstances or conditions?

This is not addressed by the Connecticut statutes.

22. Can Non-Members attend Board Meetings?

Only a non-member who is designated as a representative by a unit owner may attend a board meeting. (Common Interest Ownership Act, Subsection 47-250(b)(1))

ADMINISTRATION

23. Does a Member have a right to review books and records of the Association?

Yes, most books and records can be reviewed by members. (Common Interest Ownership Act, Subsection 47-260(b))

- a. **If no, what books and records can be reviewed?** N/A
- b. **Can the Member obtain copies of the books and records requested?** Yes. (Common Interest Ownership Act, Subsection 47-260(b))
- c. **Does a Member have to pay for copies of the books and records?** Yes. (Common Interest Ownership Act, Subsection 47-260(e))
- d. **Are there books and records which the Association can withhold or otherwise prevent a Member from reviewing?** Yes. (Common Interest Ownership Act, Subsections 47-260(c) and 260(d)).

The association must withhold its records from inspection and copying to the extent that they concern the following matters:

- (1) Personal information, which means information capable of being associated with a particular individual through one or more identifiers, including, but not limited to, a Social Security number, a driver's license number, a state identification card number, an account number, a credit or debit card number, a passport number, an alien registration number or a health insurance identification number, and does not include publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media;
- (2) Personnel, salary, and medical records relating to any specific individual, unless the individual agrees to waive the records' protection from disclosure to the requesting unit owner; or
- (3) Information whose disclosure would violate any law, including but not limited to, CIOA as amended.

The association may withhold the following records from inspection and copying that concern the following matters [*Subsection 47-260(d)*]:

- (1) Contracts, leases, and other commercial transactions for the purchase of goods or services that are under current negotiation;

- (2) Existing or potential litigation or mediation, arbitration, or administrative proceedings;
- (3) Existing or potential matters involving federal, state, or local administrative or other formal proceedings before a governmental tribunal for the enforcement of the declaration, bylaws, or rules;
- (4) Communications with the association's attorney that are protected by the attorney-client privilege or the attorney work-product doctrine; in other words, confidential communications between the attorney and the association for the provision of legal advice and documents prepared by the attorney for the association in connection with existing or potential lawsuits involving the association;
- (5) Records of an executive session of the board; and
- (6) Files and records for individual units other than the unit of the requesting unit owner.

24. What are the Reserve requirements in the State? There are no reserve requirements

Are Reserve Studies mandated? No.

What reporting requirements does the Association have with respect to the status of the Reserves, the Reserve Accounts or the funding of the Reserves? The association's annual budget distributed to the unit owners must include a statement of the amount of any reserves and a statement of the basis on which such reserves are calculated and funded. (Common Interest Ownership Act, Subsections 47-261e(a))

25. What are the resale disclosure requirements?

The association is required to furnish resale certificates to unit owners. Resale purchasers of units are given five days from the receipt of the resale certificate to cancel a purchase contract prior to sale. (Common Interest Ownership Act, Subsections 47-270(c))

Resale certificates must include the following:

- a. A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit held by the association;
- b. a statement setting forth the amount of the periodic common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;
- c. a statement of any other fees payable by the owner of the unit being sold;
- d. a statement of any capital expenditures in excess of one thousand dollars approved by the executive board for the current and next succeeding fiscal year;
- e. a statement of the amount of any reserves for capital expenditures;

- f. the current operating budget of the association;
- g. a statement of any unsatisfied judgments against the association and the existence of any pending suits or administrative proceedings in which the association is a party, including foreclosures but excluding other collection matters;
- h. a statement of the insurance coverage provided for the benefit of unit owners, including any schedule of standard fixtures, improvements and betterments in the units covered by the association's insurance that the association prepared;
- i. a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner on sale, condemnation, casualty loss to the unit or the common interest community or termination of the common interest community;
- m. in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real property taxes and interest paid by the association;
- n. if the association is unincorporated, the name of the statutory agent for service of process filed with the Secretary of the State pursuant to section 47-244a;
- o. a statement describing any pending sale or encumbrance of common elements;
- p. a statement disclosing the effect on the unit to be conveyed of any restrictions on the owner's right to use or occupy the unit or to lease the unit to another person;
- q. a statement disclosing the number of units whose owners are at least sixty days' delinquent in paying their common charges on a specified date within sixty days of the date of the statement;
- r. a statement disclosing the number of foreclosure actions brought by the association during the past twelve months and the number of such actions pending on a specified date within sixty days of the date of the statement; and
- s. any established maintenance standards adopted by the association.

26. Does the Membership by Vote or the Board of Directors establish the Assessment?

The budget and special assessments are adopted by the board. After the board adopts them, the unit owners are given an opportunity to veto them by vote of a majority of all voting power in the community. (Common Interest Ownership Act, Subsections 47-261e(a) and (b))

27. Is a budget required?

Yes. (Common Interest Ownership Act, Subsections 47-261e(a))

28. Is an annual audit required? No.

29. Does the State regulate the collection of assessments? Yes.

a. What happens if a Member is delinquent in the payment of assessments?

The association can sue to collect the delinquent assessment, foreclose its lien on the unit, or both. (Common Interest Ownership Act, Section 47-258)

The board may suspend any right or privilege of a unit owner who fails to pay an assessment, but may not:

- (1) Deny a unit owner or other occupant access to the owner's unit or its limited common elements;
- (2) Suspend a unit owner's right to vote or participate in meetings of the association;
- (3) Prevent a unit owner from seeking election as a director or officer of the association; or
- (4) Withhold services provided to a unit or a unit owner by the association if the effect of withholding the service would be to endanger the health, safety or property of any person. (Common Interest Ownership Act, Subsection 47-244(a)(19))

b. How can an association increase annual assessments?

By adopting or amending an annual budget or other assessment. (Common Interest Ownership Act, Subsection 47-244(a)(2))

c. Under what circumstances can my association levy special assessments?

Whenever the board determines that a special assessment is needed. (Common Interest Ownership Act, Subsection 47-244(a)(2))

d. Are there provisions related to additional assessments or adjustments in the budget or assessment level in the event of a deficit?

There are no special provisions that relate only to deficits.

30. What authority does the association have to access a Unit or Lot? Under what circumstances?

The association has the right to access any unit or lot reasonably necessary for the purpose of maintaining the common elements. (Common Interest Ownership Act, Subsection 47-249(a))

Most documents give the association additional rights of access for purposes such as correcting conditions that threaten the common elements or other units, for maintaining

portions of the units which the association is required to maintain, or for performing inspections.

Except for emergencies, access is permitted only after prior notice and at times reasonably convenient to the unit owner.

31. Does the Association have the authority to adopt rules and regulations? By law or by statute?

The association has the authority to adopt rules regulating the use of, and activities on, the common elements, and, to a limited degree, within the units. (Common Interest Ownership Act, Subsections 47-244(a)(1) and 47-244(b))

32. Does the Association have the authority to access charges or fines for violations by Members? Does the Association have the right to suspend the right of use of the common elements or common areas in the event of a violation? To suspend the right of a Member to vote or otherwise participate in the Association in the event of a violation?

The association has the authority to assess fines for violations by its members after notice and an opportunity to be heard. (Common Interest Ownership Act, Subsection 47-244(a)(11)) Some documents give the association the power to suspend the use of certain common elements in the event of a violation.

33. Is there a requirement to have an internal administrative complaint or Dispute Process? Is it mandatory and or a prerequisite to other legal action?

Subsection 47-244(a)(18) of the Act permits an association to adopt a rule requiring that disputes between the executive board and unit owners or between two or more unit owners be submitted to non-binding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding. Few, if any, associations have adopted such a regulation.

34. Does any applicable statute provide for the removal of a Board Member, several Board members, or the entire Board? Under what conditions? Who decides upon their successors and when?

Yes. Unit owners present in person or by proxy at any meeting of the unit owners at which a quorum is present, or voting by ballot may remove any member of the executive board or any officer elected by the unit owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, except that:

- (a) A member appointed by the declarant may not be removed by a vote of the unit owners during the period of declarant control;
- (b) a member appointed by a government entity or outside nonprofit, may be removed only by the person that appointed that member; and
- (c) the unit owners may not consider whether to remove a member of the executive board or an officer elected by the unit owners at a meeting of the unit owners unless

that subject was listed in the notice of the meeting or in the notice of the vote by ballot.

At any meeting at which a vote to remove a member of the executive board or an officer is to be taken, the member or officer being considered for removal must have a reasonable opportunity to speak before the vote is taken. If the vote is taken by ballot the member or officer being considered for removal shall be given a reasonable opportunity to deliver information to the unit owners. (Common Interest Ownership Act, Subsection 47-261d)

Any vacancy created by the removal of a director by the unit owners can be filled by the vote of the unit owners at the same meeting.

35. **Can an association be placed into receivership by a Court under state law?** Yes.
36. **Does state statute provide for condemnation of common property?** Yes. (Common Interest Ownership Act, Section 47-206)

UNIT/LOT OWNER ISSUES

37. **What action(s) can an association take in the event of non-payment of association assessments? Is foreclosure an option? Under what circumstances? (Please address judicial and non-judicial foreclosure.)**

See the answer to Question 29.a. The association may not commence an action to foreclose a lien on the unit unless the unit owner owes an amount equal to at least two months of common expense assessments, the association has made demand for payment of the amount in a written communication and the board has either voted to commence the foreclosure specifically against that unit or has adopted a standard policy that provides for foreclosure against that unit. (Common Interest Ownership Act, Subsection 47-258(m)).

Connecticut law does not permit non-judicial foreclosures.

38. **Are there state laws that regulate whether a Member can be assessed a charge or otherwise fined by my association for violations? What violations trigger this authority? What procedures must be followed?**

The executive board may impose reasonable fines, after notice and an opportunity to be heard, for violation of the documents and the rules. (Common Interest Ownership Act, Subsection 47-244(a)(11))

- a. What actions can the association take to collect these charges or fines;

Fines can be collected in the same manner as other assessments and charges. (Common Interest Ownership Act, Subsection 47-258(a))

- b. Can any association foreclose on my property for non-payment of these charges or fines? Yes.

39. **What, if any, other internal administrative enforcement options can the association take in the event of a violation of the state statute, association's governing documents, or the rules and regulations of the association?**

Some documents contain a provision permitting the association to suspend the right to use amenities and certain other common elements for violations.

40. **Does any applicable statute regulate the flying of the American Flag?**

Rules regulating display of the flag of the United States of America "must be consistent with federal law." (Common Interest Ownership Act, Subsection 47-261b(d))

41. **Does any applicable statute regular solar panels? Clotheslines?** No to both items.

42. **What are the rules regarding placement of satellite dishes or antennas on my property? (Link to the OTARD Fact Sheet.)**

There are no state laws concerning satellite dishes or antennas. The provisions of the Federal Communications Act and the regulations of the Federal Communications Commission of course apply.

43. **What dispute resolution options do I have if I have a problem with the board?**

Connecticut law does not require any alternative dispute resolution procedures other than notice and an opportunity to be heard before a fine is imposed.

44. **What is the state law regarding recalling board members?**

Board members elected by the unit owners may be removed by a majority of the votes cast at any meeting of the unit owners called for the purpose, at which a quorum is present. (Common Interest Ownership Act, Subsection 47-261b(a))

Directors designated by the declarant, or by a third party such as government agency can only be removed by the party who appointed them.

AMENDMENT OF DOCUMENTS

45. **Does state statute provide for the amendment of the association's documents?**

In Connecticut communities created since 1984, most of the major operative provisions concerning the community are contained in the declaration, including use restrictions, budget and assessment procedures, and provisions related to maintenance and insurance. The bylaws contain only corporate housekeeping matters such as the date of the annual meeting and duties of the officers.

a. What percentage of the owners must approve?

All amendments to the declaration require the approval of at least 67% of the voting power in the association. Some amendments, such as those relating to the use of units, and the creation of development rights require 80% approval. The bylaws can be amended by the board. Amendments to increase the number of units, change the boundaries of any unit or change the allocated interests of a unit, require 100% approval. (Common Interest Ownership Act, Section 47-236)

b. Is percentage based on those voting or totality of the number of owners?

The percentage is based on the total voting power in the community. (Common Interest Ownership Act, Section 47-236)

c. Is the vote taken at a meeting or is it required to be by written consent?

The vote may be taken at a meeting, by mail-in or electronic ballot without a meeting, or by written consents. (Common Interest Ownership Act, Sections 47-236 and 47-252(a))

e. Is mortgagee approval required? Is there a statutory process for obtaining mortgagee approval or providing for a presumptive mortgagee approval?

Mortgagee approval is not required by statute, but most documents require mortgagee approval.

A mortgagee is deemed to have given that consent if the association has not received a refusal to consent 45 days after the association has delivered notice of the proposed amendment or mails the notice by certified mail, return receipt requested. The association may rely on the last recorded security interest of record in delivering or mailing notice to the mortgagee. An amendment to the declaration that affects the priority of a security interest held by a mortgagee or the ability of that mortgagee to foreclose its security interest may not be adopted without that mortgagee's consent in a written communication which is forwarded to the association either in the original or in electronic form. (Common Interest Ownership Act, Subsection 47-236(i))

USE OF TECHNOLOGY

46. Other than a written document or by voting at a meeting, can a Common Interest Community use the most advanced technology, including e-mail or the internet to:

a. Provide notice to Members of any meeting?

The association can give notice to a member by email if the member has given the association an email address. (Common Interest Ownership Act, Subsection 47-261c(a))

b. Obtain votes of the Members?

Members may vote by electronic ballot. (Common Interest Ownership Act, Sections 47-236 and 47-252(a))

c. Obtain the consents, acknowledgements or ratifications of Members?

Yes, to the extent permitted by the documents.

d. Obtain the electronic signatures of Members?

Yes, to the extent permitted by the documents.