

Senate Bill 847

Sponsored by Senators JAMA, ANDERSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Freezes tax assessed value for certain new residential construction for five property tax years. Applies to tax years beginning on or after July 1, 2023.

Allows residential uses on lands zoned for commercial uses within urban growth boundaries.

Limits Land Use Board of Appeals' review of approved middle income developments and allows board to accept additional evidence upon which to review such approvals. Sunsets January 2, 2028.

Makes permanent requirements that local governments allow siting of certain emergency shelters, conditioned upon latest estimates of percentage of individuals experiencing homelessness.

Awards attorney fees for successful appeal of local government's denial of emergency shelter application.

Expands definition of "residential homes" and "residential facilities" that local governments must approve under same standards as other residential uses. Allows attorney fees for certain applicants whose approval is appealed.

Exempts certain affordable housing from Oregon Planned Community Act.

Restricts local governments' ability to regulate condominium form of ownership.

Requires cities or counties to accept funding letters to affordable housing developers as sufficient assurances needed to approve subdivision plat.

Exempts certain affordable housing projects from requirement to pay prevailing rate of wage.

Amends definitions of "middle housing" and "needed housing" to include single room occupancies.

Requires all cities to allow duplexes on certain lands zoned to allow single-family dwellings. Updates deadlines for compliance by affected cities. Appropriates moneys from General Fund to Department of Land Conservation and Development to provide grants to affected cities.

Adds Metro and special districts to surplus real property reporting requirements.

Except as provided, provisions become operative January 1, 2024.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to property; creating new provisions; amending ORS 92.090, 94.550, 100.022, 100.105, 100.110, 100.115, 100.116, 100.600, 197.303, 197.660, 197.665, 197.667, 197.670, 197.758, 197.791, 197.843 and 279C.810, sections 3 and 4, chapter 639, Oregon Laws 2019, and section 3, chapter 18, Oregon Laws 2021; repealing section 4, chapter 18, Oregon Laws 2021; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

HOUSING DENSITY PROPERTY TAX VALUATION

SECTION 1. (1) As used in this section, "eligible property" means a newly constructed accessory dwelling unit, as defined in ORS 215.501, or newly constructed middle housing, as defined in ORS 197.758, that is used as the occupant's primary residence.

(2) Eligible property may be granted a frozen assessed value determined under subsection (3) of this section for the property tax year for which the frozen assessed value is first granted and the following four consecutive property tax years.

(3) The frozen assessed value of eligible property shall equal the assessed value of the eligible property as shown on the later of:

(a) The tax statement delivered pursuant to ORS 311.250 for the first property tax year

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 that begins after the date on which the certificate of occupancy for the property is issued;
2 or

3 (b) The tax statement delivered pursuant to ORS 311.250 for the last property tax year
4 that began before the date on which the property is first occupied.

5 (4) The assessed value of the eligible property for any property tax year during the period
6 of the frozen assessed value shall be the least of:

7 (a) The eligible property's maximum assessed value as determined under ORS 308.146;

8 (b) The eligible property's real market value; or

9 (c) The eligible property's frozen assessed value.

10 (5) A claim for a frozen assessed value for property under this section must:

11 (a) Be in writing on a form supplied by the Department of Revenue;

12 (b) Describe the property;

13 (c) Recite all facts establishing the eligibility of the property for the frozen assessed
14 value; and

15 (d) Have attached:

16 (A) Any information or documentation required by the department; and

17 (B) A written declaration by the applicant, subject to penalties for false swearing, that
18 the statements contained in the claim are true.

19 (6)(a) For an initial claim for a frozen assessed value, the claim must be filed with the
20 assessor of the county in which the property is located:

21 (A) If the claimant's occupancy begins on or after July 1 and on or before March 15 of
22 the immediately succeeding calendar year, after January 1 and on or before April 15 imme-
23 diately preceding the property tax year for which the frozen assessed value is claimed; or

24 (B) If the claimant's occupancy begins after March 15 and before July 1, on or before
25 August 1 of the property tax year for which the frozen assessed value is claimed.

26 (b) For claims for a continued frozen assessed value, the claim must be filed with the
27 county assessor after January 1 and on or before April 15 immediately preceding the prop-
28 erty tax year for which the frozen assessed value is claimed.

29 (7) If the property is determined to be eligible property, a timely claim for the frozen
30 assessed value has the effect of requiring the county assessor to determine the total amount
31 of taxes due on the eligible property in accordance with this section.

32 (8) Any individual aggrieved by the denial of a claim for a frozen assessed value under
33 this section may appeal to the Oregon Tax Court in the manner provided under ORS 305.404
34 to 305.560.

35 (9) Each year that eligible property is granted a frozen assessed value, the county
36 assessor shall enter on the assessment and tax roll that the eligible property has a frozen
37 assessed value pursuant to this section and is subject to potential additional taxes as pro-
38 vided under subsection (12) of this section by adding the notation "potential additional
39 taxes."

40 (10) If eligible property is transferred to new ownership within the five-year period of
41 frozen assessed value, the frozen assessed value may continue for the remaining number of
42 years if the property is occupied as the new owner's primary residence and timely claims are
43 filed under subsections (5) and (6) of this section.

44 (11) Upon the earlier of the expiration of the five-year period of frozen assessed value or
45 the addition of new property or new improvements as defined in ORS 308.149 to the tax ac-

1 count of the eligible property, the eligible property shall have for the immediately succeeding
 2 property tax year the assessed value the property would have had if it had never been
 3 granted a frozen assessed value and shall be assessed and taxed as other property similarly
 4 situated is assessed and taxed.

5 (12)(a) Upon notice or discovery that, as of January 1 of any assessment year within the
 6 five-year period of frozen assessed value, the eligible property is no longer occupied as the
 7 primary residence of any individual, the county assessor shall:

8 (A) Immediately terminate the eligible property’s frozen assessed value;

9 (B) Assess and tax the eligible property as other property similarly situated is assessed
 10 and taxed; and

11 (C) Notwithstanding ORS 311.235, add to the general property tax roll for the property
 12 tax year next following the termination, to be collected and distributed in the same manner
 13 as other ad valorem property taxes, an amount equal to the difference between the taxes
 14 assessed against the eligible property and the taxes that would otherwise have been assessed
 15 against the eligible property, for each of the number of years for which the eligible property
 16 was granted a frozen assessed value.

17 (b) This subsection does not apply if the eligible property is unoccupied because the oc-
 18 cupant is required to be absent from the eligible property by reason of health or active mil-
 19 itary service.

20 (c) Additional taxes collected under this section shall be deemed to have been imposed in
 21 the year to which the additional taxes relate.

22 (13) The frozen assessed value available under this section is in addition to and not in lieu
 23 of any other property tax limit, exemption or partial exemption, special assessment or
 24 deferral.

25 (14) ORS 315.037 does not apply to this section.

26
 27 **RESIDENTIAL USE OF COMMERCIAL LANDS**

28
 29 **SECTION 2.** Section 3 of this 2023 Act is added to and made a part of ORS chapter 197.

30 **SECTION 3.** (1) Notwithstanding an acknowledged comprehensive plan or land use regu-
 31 lations, within an urban growth boundary a local government may not prohibit the siting and
 32 development of residential uses on any lands zoned to allow for commercial use. The local
 33 government may only apply those clear and objective approval standards, conditions and
 34 procedures that would be applicable to the residential zone of the local government that is
 35 most comparable in density to the allowed commercial uses.

36 (2) Subsection (1) of this section does not:

37 (a) Trigger any requirement that a local government consider or update an analysis as
 38 required by a statewide planning goal relating to economic development.

39 (b) Apply on lands where the local government determines that:

40 (A) The development on the property cannot be adequately served by water, sewer, storm
 41 water drainage or streets, or will not be adequately served at the time that development on
 42 the lot is complete;

43 (B) The property contains a slope of 25 percent or greater;

44 (C) The property is within a 100-year floodplain; or

45 (D) The development of the property is constrained by land use regulations based on

1 statewide land use planning goals relating to:

2 (i) Natural disasters and hazards; or

3 (ii) Natural resources, including air, water, land or natural areas, but not including open
4 spaces.

5
6 **APPEALS OF MIDDLE INCOME HOUSING APPROVALS**
7

8 **SECTION 4. Section 5 of this 2023 Act is added to and made a part of ORS 197.830 to**
9 **197.845.**

10 **SECTION 5. The Land Use Board of Appeals shall affirm a land use decision or limited**
11 **land use decision by a local government that the board would otherwise remand under ORS**
12 **197.828 or 197.835 (5) to (9), if the decision was to approve the development of middle income**
13 **housing, as defined in ORS 197.843, and:**

14 (1) **The respondent or intervenor requests that the board take additional evidence and**
15 **make findings of fact on matters for which the board may find that the respondent lacked**
16 **substantial evidence on the whole record and the board’s findings on those matters would**
17 **support the respondent’s decision; or**

18 (2) **The respondent’s sole errors were procedural, as described in ORS 197.828 (2)(d) or**
19 **197.835 (9)(a)(B).**

20 **SECTION 6. Section 5 of this 2023 Act is repealed on January 2, 2028.**

21 **SECTION 7. ORS 197.843 is amended to read:**

22 197.843. (1) The Land Use Board of Appeals shall award attorney fees to an applicant whose
23 application is only for the development of affordable housing[, *as defined in ORS 197.308, or publicly*
24 *supported housing, as defined in ORS 456.250,*] **or supportive housing,** if the board affirms a
25 quasi-judicial land use decision approving the application or reverses a quasi-judicial land use deci-
26 sion denying the application.

27 (2) A party who was awarded attorney fees under this section or ORS 197.850 shall repay the
28 fees plus any interest from the time of the judgment if the property upon which the fees are based
29 is developed for a use other than affordable housing **or supportive housing.**

30 (3) **Notwithstanding ORS 197.830 (2), a person may not petition the board for review of a**
31 **land use decision or limited land use decision approving the development of middle income**
32 **housing unless the petitioner is an individual who has a primary residence within one-half**
33 **mile of the proposed development.**

34 [(3)] (4) As used in this section:

35 (a) **“Affordable housing” means affordable housing as defined in ORS 197.308 or publicly**
36 **supported housing as defined in ORS 456.250.**

37 [(a)] (b) “Applicant” includes:

38 (A) An applicant with a funding reservation agreement with a public funder for the purpose of
39 developing publicly supported housing;

40 (B) A housing authority, as defined in ORS 456.005;

41 (C) A qualified housing sponsor, as defined in ORS 456.548;

42 (D) A religious nonprofit corporation;

43 (E) A public benefit nonprofit corporation whose primary purpose is the development of afford-
44 able housing; and

45 (F) A local government that approved the application of an applicant described in this para-

1 graph.

2 [(b)] (c) “Attorney fees” includes prelitigation legal expenses, including preparing the applica-
3 tion and supporting the application in local land use hearings or proceedings.

4 (d) “Middle income housing” means residential housing:

5 (A) In which each unit on the property is made available to own or rent to families with
6 incomes of 120 percent or less of the area median income as determined by the Oregon
7 Housing Stability Council based on information from the United States Department of
8 Housing and Urban Development; and

9 (B) Whose affordability is enforceable, including as described in ORS 456.270 to 456.295,
10 for a duration of not less than 15 years.

11 (e) “Supportive housing” means a residential facility or residential home, as those terms
12 are defined in ORS 197.660.

13 EMERGENCY SHELTER SITING

14
15
16 **SECTION 8.** Section 4, chapter 18, Oregon Laws 2021, as amended by section 3, chapter
17 47, Oregon Laws 2022, is repealed.

18 **SECTION 9.** Section 3, chapter 18, Oregon Laws 2021, is amended to read:

19 **Sec. 3.** (1) A local government shall approve an application for the development or use of land
20 for an emergency shelter, as defined in [section 2 of this 2021 Act] **197.782**, on any property,
21 notwithstanding ORS chapter 195, 197, 197A, 215 or 227 or any statewide [plan] **planning goal**, rule
22 of the Land Conservation and Development Commission or local land use regulation, zoning ordi-
23 nance, regional framework plan, functional plan or comprehensive plan, if the emergency shelter:

24 (a) Includes sleeping and restroom facilities for clients;

25 (b) Will comply with applicable building codes;

26 (c) Is located inside an urban growth boundary or in an area zoned for rural residential use as
27 defined in ORS 215.501;

28 (d) Will not result in the development of a new building that is sited within an area designated
29 under a statewide planning goal relating to natural disasters and hazards, including flood plains or
30 mapped environmental health hazards, unless the development complies with regulations directly
31 related to the hazard;

32 (e) Has adequate transportation access to commercial and medical services; and

33 (f) Will not pose any unreasonable risk to public health or safety.

34 (2) An emergency shelter allowed under this section must be operated by:

35 (a) A local government as defined in ORS 174.116;

36 (b) An organization with at least two years’ experience operating an emergency shelter using
37 best practices that is:

38 (A) A local housing authority as defined in ORS 456.375;

39 (B) A religious corporation as defined in ORS 65.001; or

40 (C) A public benefit corporation, as defined in ORS 65.001, whose charitable purpose includes
41 the support of homeless individuals, that has been recognized as exempt from income tax under
42 section 501(a) of the Internal Revenue Code [on or before January 1, 2018] **for at least three years**
43 **before the date of the application for a shelter**; or

44 (c) A nonprofit corporation partnering with any other entity described in this subsection.

45 (3) An emergency shelter approved under this section:

- 1 (a) May provide on-site for its clients and at no cost to the clients:
- 2 (A) Showering or bathing;
- 3 (B) Storage for personal property;
- 4 (C) Laundry facilities;
- 5 (D) Service of food prepared on-site or off-site;
- 6 (E) Recreation areas for children and pets;
- 7 (F) Case management services for housing, financial, vocational, educational or physical or be-
- 8 havioral health care services; or
- 9 (G) Any other services incidental to shelter.

10 (b) May include youth shelters, winter or warming shelters, day shelters and family violence
 11 shelter homes as defined in ORS 409.290.

12 (4) An emergency shelter approved under this section may also provide additional services not
 13 described in subsection (3) of this section to individuals who are transitioning from unsheltered
 14 homeless status. An organization providing services under this subsection may charge a fee of no
 15 more than \$300 per month per client and only to clients who are financially able to pay the fee and
 16 who request the services.

17 (5) The approval of an emergency shelter under this section is not a land use decision and is
 18 subject to review only under ORS 34.010 to 34.100. **A court shall award attorney fees to an ap-**
 19 **plicant who prevails on an appeal under this subsection.**

20 (6) **An application for an emergency shelter is not subject to approval under this section**
 21 **if filed when the most recently completed point-in-time count, as reported to the United**
 22 **States Department of Housing and Urban Development under 24 C.F.R. part 578, indicates**
 23 **that the total sheltered and unsheltered homeless population is less than 0.18 percent of the**
 24 **state population, based on the latest estimate from the Portland State University Population**
 25 **Research Center.**

26
 27 **SITING RESIDENTIAL CARE**

28
 29 **SECTION 10.** ORS 197.660 is amended to read:
 30 197.660. As used in ORS 197.660 to 197.670[, 215.213, 215.263, 215.283, 215.284 and 443.422]:

31 (1) “Residential facility” means a **building or cluster of buildings for residential use that**
 32 **may provide treatment or training, that serves between 6 and 15 individuals, not including**
 33 **any necessary staff persons required to meet licensing requirements, including:**

34 (a) **A residential [care, residential training or residential treatment] facility, as [those terms are]**
 35 **defined in ORS 443.400, [that provides residential care alone or in conjunction with treatment or**
 36 **training or a combination thereof for six to fifteen individuals who need not be related. Staff persons**
 37 **required to meet licensing requirements shall not be counted in the number of facility residents, and**
 38 **need not be related to each other or to any resident of the residential facility.] including secure res-**
 39 **idential treatment homes and facilities described in ORS 443.465;**

40 (b) **Community housing as defined in ORS 426.502, including licensed residential treat-**
 41 **ment facilities;**

42 (c) **Community housing as defined in ORS 427.330;**

43 (d) **Community-based structured housing as defined in ORS 443.480;**

44 (e) **A continuing care retirement community, as defined in ORS 101.020;**

45 (f) **Independent residence facilities, as described in ORS 418.475; or**

1 (g) **Community-based housing, as described in ORS 430.643 (1)(a).**

2 (2) “Residential home” means a **building for residential use that may provide treatment or**
 3 **training that serves five or fewer individuals, not including any necessary staff persons re-**
 4 **quired to meet licensing requirements, including:**

5 (a) A residential treatment [or] **home or residential** training home, as defined in ORS 443.400,
 6 **including secure residential treatment homes and facilities described in ORS 443.465;**

7 (b) A residential facility registered under ORS 443.480 to 443.500 [or];

8 (c) An adult foster home licensed under ORS 443.705 to 443.825 [*that provides residential care*
 9 *alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals*
 10 *who need not be related. Staff persons required to meet licensing requirements shall not be counted in*
 11 *the number of facility residents, and need not be related to each other or to any resident of the resi-*
 12 *dential home.*];

13 (d) **Community housing as defined in ORS 426.502, including licensed residential treat-**
 14 **ment facilities;**

15 (e) **Community housing as defined in ORS 427.330;**

16 (f) **Community-based structured housing as defined in ORS 443.480;**

17 (g) **Independent residence facilities, as described in ORS 418.475; or**

18 (h) **Community-based housing, as described in ORS 430.643 (1)(a).**

19 (3) “Zoning requirement” means any standard, criteria, condition, review procedure, permit re-
 20 quirement or other requirement adopted [*by a city or county under the authority of ORS chapter 215*
 21 *or 227*] **as a land use regulation** that applies to the approval or siting of a residential facility or
 22 residential home. A zoning requirement does not include a [*state or*] local health, safety, [*building,*]
 23 occupancy or fire code requirement.

24 **SECTION 11.** ORS 197.667 is amended to read:

25 197.667. (1) A residential facility [*shall be*] **is** a permitted use in any zone where multifamily
 26 residential uses are a permitted use.

27 (2) A residential facility [*shall be*] **is** a conditional use in any zone where multifamily residential
 28 uses are a conditional use.

29 (3) A [*city or county*] **local government** may allow a residential facility in a residential zone
 30 other than those zones described in subsections (1) and (2) of this section, including a zone where
 31 a single-family dwelling is allowed.

32 (4) A [*city or county*] **local government** may require an applicant proposing to site a residential
 33 facility within its jurisdiction to supply the [*city or county*] **local government** with a copy of the
 34 entire application and supporting documentation for state licensing of the facility, except for infor-
 35 mation which is exempt from public disclosure under ORS 192.311 to 192.478. However, [*cities and*
 36 *counties shall*] **a local government may** not require independent proof of the same conditions that
 37 have been required by the Department of Human Services under ORS 418.205 to 418.327 for licensing
 38 of a residential facility.

39 **SECTION 12.** ORS 197.665 is amended to read:

40 197.665. (1) Residential homes [*shall be*] **are** a permitted use in:

41 (a) Any residential zone, including a residential zone which allows a single-family dwelling; and

42 (b) Any commercial zone which allows a single-family dwelling.

43 (2) A [*city or county*] **local government** may not impose any zoning requirement on the estab-
 44 lishment and maintenance of a residential home in a zone described in subsection (1) of this section
 45 that is more restrictive than a zoning requirement imposed on a single-family dwelling in the same

1 zone.

2 (3) A [city or county] **local government** may:

3 (a) Allow a residential home in an existing dwelling in any area zoned for farm use, including
4 an exclusive farm use zone established under ORS 215.203;

5 (b) Impose zoning requirements on the establishment of a residential home in areas described in
6 paragraph (a) of this subsection, provided that these requirements are no more restrictive than those
7 imposed on other nonfarm single-family dwellings in the same zone; and

8 (c) Allow a division of land for a residential home in an exclusive farm use zone only as de-
9 scribed in ORS 215.263 (9).

10 **SECTION 13.** ORS 197.670 is amended to read:

11 197.670. [(1) *As of October 3, 1989, no city or county shall*] **A local government may not:**

12 [(a)] (1) Deny an application for the siting of a residential home in a residential or commercial
13 zone described in ORS 197.665 (1).

14 [(b)] (2) Deny an application for the siting of a residential facility in a zone where multifamily
15 residential uses are allowed, unless the [city or county] **local government** has adopted a siting
16 procedure [which] **that** implements the requirements of ORS 197.667.

17 [(2) *Every city and county shall amend its zoning ordinance to comply with ORS 197.660 to 197.667*
18 *as part of periodic land use plan review occurring after January 1, 1990. Nothing in this section pro-*
19 *hibits a city or county from amending its zoning ordinance prior to periodic review.*]

20
21 **PLANNED COMMUNITY ACT EXEMPTIONS**

22
23 **SECTION 14.** ORS 94.550 is amended to read:

24 94.550. As used in ORS 94.550 to 94.783:

25 (1) "Assessment" means any charge imposed or levied by a homeowners association on or
26 against an owner or lot pursuant to the provisions of the declaration or the bylaws of the planned
27 community or provisions of ORS 94.550 to 94.783.

28 (2) "Blanket encumbrance" means a trust deed or mortgage or any other lien or encumbrance,
29 mechanic's lien or otherwise, securing or evidencing the payment of money and affecting more than
30 one lot in a planned community, or an agreement affecting more than one lot by which the developer
31 holds such planned community under an option, contract to sell or trust agreement.

32 (3) "Class I planned community" means a planned community that:

33 (a) Contains at least 13 lots or in which the declarant has reserved the right to increase the
34 total number of lots beyond 12; and

35 (b) Has an estimated annual assessment, including an amount required for reserves under ORS
36 94.595, exceeding \$10,000 for all lots or \$100 per lot based on:

37 (A) For a planned community created on or after January 1, 2002, the initial estimated annual
38 assessment, including a constructive assessment based on a subsidy of the association through a
39 contribution of funds, goods or services by the declarant; or

40 (B) For a planned community created before January 1, 2002, a reasonable estimate of the cost
41 of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as
42 of January 1, 2002.

43 (4) "Class II planned community" means a planned community that:

44 (a) Is not a Class I planned community;

45 (b) Contains at least five lots; and

- 1 (c) Has an estimated annual assessment exceeding \$1,000 for all lots based on:
- 2 (A) For a planned community created on or after January 1, 2002, the initial estimated annual
- 3 assessment, including a constructive assessment based on a subsidy of the association through a
- 4 contribution of funds, goods or services by the declarant; or
- 5 (B) For a planned community created before January 1, 2002, a reasonable estimate of the cost
- 6 of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as
- 7 of January 1, 2002.
- 8 (5) "Class III planned community" means a planned community that is not a Class I or II
- 9 planned community.
- 10 (6) "Common expenses" means expenditures made by or financial liabilities incurred by the
- 11 homeowners association and includes any allocations to the reserve account under ORS 94.595.
- 12 (7) "Common property" means any real property or interest in real property within a planned
- 13 community which is owned, held or leased by the homeowners association or owned as tenants in
- 14 common by the lot owners, or designated in the declaration or the plat for transfer to the associ-
- 15 ation.
- 16 (8) "Condominium" means property submitted to the provisions of ORS chapter 100.
- 17 (9) "Declarant" means any person who creates a planned community under ORS 94.550 to 94.783.
- 18 (10) "Declarant control" means any special declarant right relating to administrative control of
- 19 a homeowners association, including but not limited to:
- 20 (a) The right of the declarant or person designated by the declarant to appoint or remove an
- 21 officer or a member of the board of directors;
- 22 (b) Any weighted vote or special voting right granted to a declarant or to units owned by the
- 23 declarant so that the declarant will hold a majority of the voting rights in the association by virtue
- 24 of such weighted vote or special voting right; and
- 25 (c) The right of the declarant to exercise powers and responsibilities otherwise assigned by the
- 26 declaration or bylaws or by the provisions of ORS 94.550 to 94.783 to the association, officers of the
- 27 association or board of directors of the association.
- 28 (11) "Declaration" means the instrument described in ORS 94.580 which establishes a planned
- 29 community, and any amendments to the instrument.
- 30 (12) "Electric vehicle charging station" or "charging station" means a facility designed to de-
- 31 liver electrical current for the purpose of charging one or more electric motor vehicles.
- 32 (13) "Electronic meeting" means a meeting that is conducted through telephone, teleconference,
- 33 video conference, web conference or any other live electronic means where at least one participant
- 34 is not physically present.
- 35 (14) "Governing document" means articles of incorporation, bylaws, a declaration or a rule,
- 36 regulation or resolution that was properly adopted by the homeowners association or any other in-
- 37 strument or plat relating to common ownership or common maintenance of a portion of a planned
- 38 community that is binding upon lots within the planned community.
- 39 (15) "Governing entity" means an incorporated or unincorporated association, committee, person
- 40 or any other entity that has authority under a governing document to maintain commonly main-
- 41 tained property, to impose assessments on lots or to act on matters of common concern on behalf
- 42 of lot owners within the planned community.
- 43 (16) "Homeowners association" or "association" means the organization of owners of lots in a
- 44 planned community, created under ORS 94.625, required by a governing document or formed under
- 45 ORS 94.574.

1 (17) "Majority" or "majority of votes" or "majority of owners" means more than 50 percent of
2 the votes in the planned community.

3 (18) "Mortgagee" means any person who is:

- 4 (a) A mortgagee under a mortgage;
- 5 (b) A beneficiary under a trust deed; or
- 6 (c) The vendor under a land sale contract.

7 (19) "Owner" means the owner of any lot in a planned community, unless otherwise specified,
8 but does not include a person holding only a security interest in a lot.

9 (20) "Percent of owners" or "percentage of owners" means the owners representing the specified
10 voting rights as determined under ORS 94.658.

11 (21)(a) "Planned community" means any subdivision under ORS 92.010 to 92.192 that results in
12 a pattern of ownership of real property and all the buildings, improvements and rights located on
13 or belonging to the real property, in which the owners collectively are responsible for the mainte-
14 nance, operation, insurance or other expenses relating to any property within the planned commu-
15 nity, including common property, if any, or for the exterior maintenance of any property that is
16 individually owned.

17 (b) "Planned community" does not mean:

- 18 (A) A condominium under ORS chapter 100;
- 19 (B) A subdivision that is exclusively commercial or industrial; *[or]*
- 20 (C) A timeshare plan under ORS 94.803 to 94.945[.]; **or**

21 **(D) A development in which each residential unit is either:**

- 22 **(i) Subject to an affordability restriction, including an affordable housing covenant, as**
23 **defined in ORS 456.270; or**
- 24 **(ii) Owned by a public benefit or religious nonprofit corporation.**

25 (22) "Purchaser" means any person other than a declarant who, by means of a voluntary trans-
26 fer, acquires a legal or equitable interest in a lot, other than as security for an obligation.

27 (23) "Purchaser for resale" means any person who purchases from the declarant more than two
28 lots for the purpose of resale whether or not the purchaser for resale makes improvements to the
29 lots before reselling them.

30 (24) "Recorded declaration" means an instrument recorded with the recording officer of the
31 county in which the planned community is located that contains covenants, conditions and re-
32 strictions that are binding upon lots in the planned community or that impose servitudes on the real
33 property.

34 (25) "Special declarant rights" means any rights, in addition to the rights of the declarant as a
35 lot owner, reserved for the benefit of the declarant under the declaration or ORS 94.550 to 94.783,
36 including but not limited to:

37 (a) Constructing or completing construction of improvements in the planned community which
38 are described in the declaration;

39 (b) Expanding the planned community or withdrawing property from the planned community
40 under ORS 94.580 (3) and (4);

41 (c) Converting lots into common property;

42 (d) Making the planned community subject to a master association under ORS 94.695; or

43 (e) Exercising any right of declarant control reserved under ORS 94.600.

44 (26) "Successor declarant" means the transferee of any special declarant right.

45 (27) "Turn over" means the act of turning over administrative responsibility pursuant to ORS

1 94.609 and 94.616.

2 (28) "Unit" means a building or portion of a building located upon a lot in a planned community
3 and designated for separate occupancy or ownership, but does not include any building or portion
4 of a building located on common property.

5 (29) "Votes" means the votes allocated to lots in the declaration under ORS 94.580 (2).

6
7 **LOCAL REGULATION OF CONDOMINIUMS**

8
9 **SECTION 15.** ORS 100.022 is amended to read:

10 100.022. (1) A zoning, subdivision, building code or other real property law, ordinance or regu-
11 lation may not:

12 (a) Prohibit **or restrict** the condominium form of ownership; *[or]*

13 (b) **Require any review or approval by any person of a condominium plat or declaration**
14 **that meets the requirements of ORS 100.020 (3); or**

15 (c) Impose any **restriction or** requirement upon a structure or development proposed to be
16 submitted to the condominium form of ownership under this chapter that it would not impose upon
17 a structure or development **that is or would be** under a different form of ownership.

18 (2) Except as set forth in this section, *[no provision of]* this chapter *[invalidates or modifies]* **does**
19 **not invalidate or modify** any provision of any zoning, subdivision, building code or other real
20 property use law, ordinance or regulation **relating to siting and design of new construction.**

21 (3) Subsection (1) of this section does not prohibit any governmental approval required under
22 this chapter.

23 **SECTION 16.** ORS 100.105 is amended to read:

24 100.105. (1) A declaration must contain:

25 (a) A description of the property, including property on which a unit or a limited common ele-
26 ment is located, whether held in fee simple, leasehold, easement or other interest or combination
27 thereof, that is being submitted to the condominium form of ownership and that conforms to the
28 description in the surveyor's certificate provided under ORS 100.115 (1).

29 (b) Subject to subsection (11) of this section, a statement of the interest in the property being
30 submitted to the condominium form of ownership, whether fee simple, leasehold, easement or other
31 interest or combination thereof.

32 (c) Subject to subsections (5) and (6) of this section, the name by which the property is known
33 and a general description of each unit and the building or buildings, including the number of stories
34 and basements of each building, the total number of units and the principal materials of which they
35 are constructed.

36 (d) The unit designation, a statement that the location of each unit is shown on the plat, a de-
37 scription of the boundaries and area in square feet of each unit and any other data necessary for
38 proper identification. The area of a unit must be the same as shown for that unit on the plat de-
39 scribed in ORS 100.115 (1).

40 (e) A notice in substantially the following form in at least 12-point type in all capitals or bold-
41 face:

42
43
44 **NOTICE**
45

1 THE SQUARE FOOTAGE AREAS STATED IN THIS DECLARATION AND THE PLAT ARE
 2 BASED ON THE BOUNDARIES OF THE UNITS AS DESCRIBED IN THIS DECLARATION AND
 3 MAY VARY FROM THE AREA OF UNITS CALCULATED FOR OTHER PURPOSES.

4
 5
 6 (f) A description of the general common elements.

7 (g) An allocation to each unit of an undivided interest in the common elements in accordance
 8 with ORS 100.515 and the method used to establish the allocation.

9 (h) The designation of any limited common elements including:

10 (A) A general statement of the nature of the limited common element;

11 (B) A statement of the unit to which the use of each limited common element is reserved, pro-
 12 vided the statement is not a reference to an assignment of use specified on the plat; and

13 (C) The allocation of use of any limited common element appertaining to more than one unit.

14 (i) The method of determining liability for common expenses and right to common profits in ac-
 15 cordance with ORS 100.530.

16 (j) The voting rights allocated to each unit in accordance with ORS 100.525 or, in the case of
 17 condominium units committed as property in a timeshare plan defined in ORS 94.803, the voting
 18 rights allocated in the timeshare instrument.

19 (k) A statement of the general nature of use, residential or otherwise, for which the building or
 20 buildings and each of the units is intended.

21 (L) A statement that the designated agent to receive service of process in cases provided in ORS
 22 100.550 (1) is named in the Condominium Information Report which will be filed with the Real Estate
 23 Agency in accordance with ORS 100.250 (1)(a).

24 (m) The method of amending the declaration and the percentage of voting rights required to
 25 approve an amendment of the declaration in accordance with ORS 100.135.

26 (n) A statement as to whether or not the association of unit owners pursuant to ORS 100.405 (5)
 27 and (8) has authority to grant leases, easements, rights of way, licenses and other similar interests
 28 affecting the general and limited common elements of the condominium and consent to vacation of
 29 roadways within and adjacent to the condominium.

30 (o) If the condominium contains a floating structure described in ORS 100.020 (3), a statement
 31 regarding the authority of the board of directors of the association, subject to ORS 100.410, to
 32 temporarily relocate the floating structure without a majority vote of affected unit owners.

33 (p) Any restrictions on alienation of units. Any such restrictions created by documents other
 34 than the declaration may be incorporated by reference in the declaration to the official records of
 35 the county in which the property is located.

36 (q) Any other details regarding the property that the person executing the declaration considers
 37 desirable. However, if a provision required to be in the bylaws under ORS 100.415 is included in the
 38 declaration, the voting requirements for amending the bylaws also govern the amendment of the
 39 provision in the declaration.

40 (2) In the event the declarant proposes to annex additional property to the condominium under
 41 ORS 100.125, the declaration also must contain a general description of the plan of development **and**
 42 **a description of the additional property that may be annexed to the condominium**, including:

43 (a) The maximum number of units to be included in the condominium.

44 (b) The date after which any right to annex additional property will terminate.

45 (c) **A legal description of the additional property that may be annexed.**

1 [(c)] (d) A general description of the nature and proposed use of any additional common elements
 2 which declarant proposes to annex to the condominium, if such common elements might substantially
 3 increase the proportionate amount of the common expenses payable by existing unit owners.

4 [(d)] (e) A statement that the method used to establish the allocation of undivided interest in
 5 the common elements, the method used to determine liability for common expenses and right to
 6 common profits and the method used to allocate voting rights for each unit annexed is as stated in
 7 the declaration in accordance with subsection (1)(g), (i) and (j) of this section.

8 **(f) If the additional property being annexed is the final stage of the condominium, and
 9 the plat of the final stage will result in a portion of a legally established unit of land being
 10 left out of the condominium that was included in the description of the additional property
 11 under paragraph (c) of this section, an attached declaration by a local government with ju-
 12 risdiction over the condominium that:**

13 **(A) States that the exclusion of such a remainder from the condominium will not violate
 14 any applicable planning or zoning regulation or ordinance;**

15 **(B) Includes a legal description of the remainder of the additional property; and**

16 **(C) Is executed on behalf of the governing body or appropriate department of the local
 17 government.**

18 [(e)] (g) Such other information as the Real Estate Commissioner requires in order to carry out
 19 the purposes of this chapter.

20 (3) Unless expressly prohibited by the declaration and subject to the requirements of ORS
 21 100.135 (2) and subsections (9) and (10) of this section:

22 (a) Not later than two years following the termination date specified in subsection (2)(b) of this
 23 section, the termination date may be extended for a period not exceeding five years.

24 (b) Before the termination date specified in the declaration or supplemental declaration under
 25 subsection (7)(d) of this section, the termination date may be extended for a period not exceeding
 26 five years.

27 (c) The general description under subsection [(2)(c)] **(2)(d)** of this section and the information
 28 included in the declaration or supplemental declaration in accordance with subsection (7)(c), (g) and
 29 (h) of this section may be changed by an amendment to the declaration or supplemental declaration
 30 and plat or supplemental plat.

31 (4) The information included in the declaration or supplemental declaration in accordance with
 32 subsection (2)(a) and [(d)] (e) of this section and subsection (7)(a), (b), (e), (f) and (k) of this section
 33 may not be changed unless all owners agree to the change and an amendment to the declaration
 34 or supplemental declaration and, if applicable, the plat or supplemental plat are recorded in ac-
 35 cordance with this chapter.

36 (5) The name of the property shall include the word “condominium” or “condominiums” or the
 37 words “a condominium.”

38 (6) A condominium may not bear a name which is the same as or deceptively similar to the name
 39 of any other condominium located in the same county.

40 (7) If the condominium is a flexible condominium containing variable property, the declaration
 41 shall also contain a general description of the plan of development, including:

42 (a) A statement that the rights provided for under ORS 100.150 (1) are being reserved.

43 (b) A statement:

44 (A) Of any limitations on rights reserved under ORS 100.150 (1), including whether the consent
 45 of any unit owner is required, and if so, a statement of the method by which the consent is ascer-

- 1 tained; or
- 2 (B) That there are no limitations on rights reserved under ORS 100.150 (1).
- 3 (c) A statement of the total number of tracts of variable property within the condominium, in-
4 cluding:
- 5 (A) A designation of each tract as withdrawable variable property or nonwithdrawable variable
6 property;
- 7 (B) Identification of each variable tract by a label in accordance with ORS 100.115 [(1)(i)]
8 **(1)(h)**;
- 9 (C) A statement of the method of labeling each tract depicted on the plat in accordance with
10 ORS 100.115 [(1)(i)] **(1)(h)**; and
- 11 (D) A statement of the total number of tracts of each type of variable property.
- 12 (d) The termination date, which is the date after which any right reserved under ORS 100.150
13 (1) will terminate, and a statement of the circumstances, if any, that will terminate any right on or
14 before the date specified. Subject to ORS 100.120, the termination date from the date of recording
15 of the conveyance of the first unit in the condominium to a person other than the declarant may
16 not exceed:
- 17 (A) Twenty years, only if a condominium consists, or may consist if the condominium is a flexi-
18 ble condominium, exclusively of units to be used for nonresidential purposes; or
- 19 (B) Seven years.
- 20 (e) The maximum number of units that may be created.
- 21 (f) A statement that the method used to establish the allocations of undivided interest in the
22 common elements, the method used to determine liability for common expenses and right to common
23 profits and the method used to allocate voting rights as additional units are created is the same as
24 stated in the declaration in accordance with subsection (1)(g), (i) and (j) of this section.
- 25 (g) A general description of all existing improvements and the nature and proposed use of any
26 improvements that may be made on variable property if the improvements might substantially in-
27 crease the proportionate amount of the common expenses payable by existing unit owners.
- 28 (h) A statement of whether or not the declarant reserves the right to create limited common
29 elements within any variable property, and if so, a general description of the types that may be
30 created.
- 31 (i) A statement that the plat shows the location and dimensions of all withdrawable variable
32 property that is labeled "WITHDRAWABLE VARIABLE PROPERTY."
- 33 (j) A statement that if by the termination date all or a portion of the withdrawable variable
34 property has not been withdrawn or reclassified, the withdrawable variable property is automat-
35 ically withdrawn from the condominium as of the termination date.
- 36 (k) A statement of the rights of the association under ORS 100.155 (2).
- 37 (L) A statement of whether or not all or any portion of the variable property may not be with-
38 drawn from the condominium and, if so, with respect to the nonwithdrawable variable property:
- 39 (A) A statement that the plat shows the location and dimensions of all nonwithdrawable variable
40 property that is labeled "NONWITHDRAWABLE VARIABLE PROPERTY."
- 41 (B) A description of all improvements that may be made and a statement of the intended use of
42 each improvement.
- 43 (C) A statement that, if by the termination date all or a portion of the variable property desig-
44 nated as "nonwithdrawable variable property" has not been reclassified, the property is automat-
45 ically reclassified as of the termination date as a general common element of the condominium and

1 any interest in the property held for security purposes is automatically extinguished by the classi-
 2 fication.

3 (D) A statement of the rights of the association under ORS 100.155 (3).

4 (m) A statement by the local governing body or appropriate department thereof that the with-
 5 drawal of any variable property designated as “withdrawable variable property” in the declaration
 6 in accordance with paragraph (L) of this subsection, will not violate any applicable planning or
 7 zoning regulation or ordinance. The statement may be attached as an exhibit to the declaration.

8 (8) The plan of development for any variable property included in the declaration or any sup-
 9 plemental declaration of any stage in accordance with subsection (7) of this section is subject to any
 10 plan of development included in the declaration in accordance with subsection (2) of this section,
 11 except that the time limitation specified in subsection (7)(d) of this section governs any right re-
 12 served under ORS 100.150 (1) with respect to any variable property.

13 (9) The information included in the declaration in accordance with subsection (7)(j), (k) and (m)
 14 of this section may not be deleted by amendment.

15 (10)(a) Approval by the unit owners is not required for a declarant to redesignate withdrawable
 16 variable property as “nonwithdrawable variable property” under ORS 100.150 (1) by supplemental
 17 declaration and supplemental plat, for any reason, including if the redesignation is required by the
 18 local governing body to comply with any planning or zoning regulation or ordinance.

19 (b) If as a result of a redesignation under paragraph (a) of this subsection, the information re-
 20 quired to be included in the supplemental declaration under subsection (7)(L)(B) of this section is
 21 inconsistent with the information included in the declaration or supplemental declaration in ac-
 22 cordance with subsection (7)(g) of this section, an amendment to the declaration or supplemental
 23 declaration and plat or supplemental plat approved by at least 75 percent of owners is required.

24 (11) The statement of an interest in property other than fee simple submitted to the condomin-
 25 ium form of ownership and any easements, rights or appurtenances belonging to property submitted
 26 to the condominium form of ownership, whether leasehold or fee simple, must include:

27 (a) A reference to the recording index numbers and date of recording of the instrument creating
 28 the interest; or

29 (b) A reference to the law, administrative rule, ordinance or regulation that creates the interest
 30 if the interest is created under law, administrative rule, ordinance or regulation and not recorded
 31 in the office of the recording officer of the county in which the property is located.

32 **SECTION 17.** ORS 100.110 is amended to read:

33 100.110. (1)(a) Before a declaration, supplemental declaration or an amendment thereto may be
 34 recorded, it must be approved as provided in this section by the county assessor of the county in
 35 which the property is located and the Real Estate Commissioner.

36 (b) Before a declaration, supplemental declaration or, if required under subsection (3) of this
 37 section, an amendment thereto may be recorded, it must be approved by the tax collector of the
 38 county in which the property is located.

39 (c) A declaration, supplemental declaration or amendment thereto may not be approved unless
 40 the requirements of subsections (2) to (7) of this section are met. Approval must be evidenced by
 41 execution of the declaration or amendment or by a written approval attached thereto.

42 (d) If the requirements of subsections (2) to (7) of this section are met, the commissioner, county
 43 assessor and tax collector, if applicable:

44 (A) Shall approve the declaration, supplemental declaration or amendment; and

45 *[(B) May not impose additional requirements not specified in subsections (2) to (7) of this section.]*

(B) Other than as specified in this section, may not:

(i) Charge a fee;

(ii) Allow or require review or approval by any person; or

(iii) Impose any additional requirements, review or approval criteria.

(2) The county assessor of the county in which the property is located shall approve a declaration, supplemental declaration or amendment thereto if:

(a) The name complies with ORS 100.105 (5) and (6); and

(b) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with ORS 100.116.

(3) The tax collector of the county in which the property is located shall approve the declaration or supplemental declaration, or an amendment that adds property to the condominium, changes the boundary of a unit or creates an additional unit from all or parts of other units or from all or parts of other units and common elements for which a plat amendment is required under ORS 100.116, if:

(a) All ad valorem taxes, special assessments, fees, or other charges required by law to be placed upon the tax roll for the affected units that have or will become a lien upon the property during the tax year have been paid;

(b) Advance payment of ad valorem taxes, special assessments, fees or other charges for the affected units that are not on the tax roll and for which payment is required under paragraph (a) of this subsection has been made to the tax collector utilizing the procedures contained in ORS 92.095 and 311.370; and

(c) The additional taxes, penalty, and any interest attributable thereto, required because of disqualification of the affected units from any special assessment have been paid.

(4) Subject to subsection (6) of this section, the commissioner shall approve the declaration or amendment thereto if:

(a) The declaration or the amendment thereto complies with the requirements of ORS 100.105 and 100.135 and other provisions of this chapter;

(b) The bylaws adopted under ORS 100.410 comply with the requirements of ORS 100.410 and 100.415 and other provisions of this chapter;

(c) The plat complies with the requirements of ORS 100.115 or the plat amendment complies with ORS 100.116 and other provisions of this chapter;

(d) The declaration is for a conversion condominium and the declarant has submitted:

(A) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and that the notice period has expired;

(B) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and copies of the written consent of any tenants as provided in ORS 100.305 (6) or a signed statement that no tenants were entitled to notice under ORS 100.305; or

(C) Any applicable combination of the requirements of subparagraphs (A) and (B) of this paragraph;

(e) A copy of the plat executed by the declarant and prepared in conformance with ORS 100.115 or plat amendment prepared in conformance with ORS 100.116 is submitted;

(f) A certification of plat execution, on a form prescribed and furnished by the commissioner, is:

(A) Executed by the declarant, the professional land surveyor who signed the surveyor's certificate on the plat, the attorney for the declarant, a representative of the title insurance company that issued the information required under ORS 100.640 (1)(e) or 100.668 (2)(d) or another person authorized by the declarant in writing to execute the certification; and

1 (B) Submitted stating that the copy is a true copy of the plat signed by the declarant; and

2 (g) A copy of a reserve study has been submitted, if a disclosure statement was issued under
3 ORS 100.655 and the reserve study was not included pursuant to ORS 100.640 (1)(g).

4 (5) The commissioner shall approve a supplemental declaration if:

5 (a) The supplemental declaration complies with the requirements of ORS 100.120 and other pro-
6 visions of this chapter;

7 (b) The supplemental plat complies with the requirements of ORS 100.115;

8 (c) The supplemental declaration is for a conversion condominium and the declarant has com-
9 plied with the requirements of subsection (4)(d) of this section; and

10 (d) A copy of the supplemental plat and a certification of plat execution described in subsection
11 (4)(e) and (f) of this section have been submitted.

12 (6) Approval by the commissioner is not required for an amendment to a declaration transferring
13 the right of use of a limited common element pursuant to ORS 100.515 (5).

14 (7) Before the commissioner approves the declaration, supplemental declaration or amendment
15 thereto under this section:

16 (a) The declarant or other person requesting approval shall pay to the commissioner a fee de-
17 termined by the commissioner under ORS 100.670; and

18 (b) For an amendment or supplemental declaration, the Condominium Information Report and
19 the Annual Report described in ORS 100.260 must be designated current by the Real Estate Agency
20 as provided in ORS 100.255 and the fee required under ORS 100.670 must be paid.

21 (8) If the declaration, supplemental declaration or amendment thereto approved by the commis-
22 sioner under subsection (4) or (5) of this section is not recorded in accordance with ORS 100.115
23 within one year from the date of approval by the commissioner, the approval automatically expires
24 and the declaration, supplemental declaration or amendment thereto must be resubmitted for ap-
25 proval in accordance with this section. The commissioner's approval must set forth the date on
26 which the approval expires.

27 **SECTION 18.** ORS 100.115 is amended to read:

28 100.115. (1) A plat of the land described in the declaration or a supplemental plat described in
29 a supplemental declaration, complying with ORS 92.050, 92.060 (1) and (2), 92.080 and 92.120, shall
30 be recorded simultaneously with the declaration or supplemental declaration. The plat or supple-
31 mental plat shall be titled in accordance with subsection (3) of this section and shall:

32 (a) Show the location of:

33 (A) All buildings and public roads. The location shall be referenced to a point on the boundary
34 of the property; and

35 (B) For a condominium containing units described in ORS 100.020 (3)(b)(C) or (D), the moorage
36 space or floating structure. The location shall be referenced to a point on the boundary of the up-
37 land property regardless of a change in the location resulting from a fluctuation in the water level
38 or flow.

39 (b) Show the designation, location, dimensions and area in square feet of each unit including:

40 (A) For units in a building described in ORS 100.020 (3)(b)(A), the horizontal and vertical
41 boundaries of each unit and the common elements to which each unit has access. The vertical
42 boundaries shall be referenced to a known benchmark elevation or other reference point as ap-
43 proved by the city or county surveyor;

44 (B) For a space described in ORS 100.020 (3)(b)(B), the horizontal boundaries of each unit and
45 the common elements to which each unit has access. If the space is located within a structure, the

1 vertical boundaries also shall be shown and referenced to a known benchmark elevation or other
2 reference point as approved by the city or county surveyor;

3 (C) For a moorage space described in ORS 100.020 (3)(b)(C), the horizontal boundaries of each
4 unit and the common elements to which each unit has access; and

5 (D) For a floating structure described in ORS 100.020 (3)(b)(D), the horizontal and vertical
6 boundaries of each unit and the common elements to which each unit has access. The vertical
7 boundaries shall be referenced to an assumed elevation of an identified point on the floating struc-
8 ture even though the assumed elevation may change with the fluctuation of the water level where
9 the floating structure is moored.

10 (c) Identify and show, to the extent feasible, the location and dimensions of all limited common
11 elements described in the declaration. The plat may not include any statement indicating to which
12 unit the use of any noncontiguous limited common element is reserved.

13 (d) Include a statement, including signature and official seal, of a registered architect, registered
14 professional land surveyor or registered professional engineer certifying that the plat fully and ac-
15 curately depicts the boundaries of the units of the building and that construction of the units and
16 buildings as depicted on the plat has been completed, except that the professional land surveyor who
17 prepared the plat need not affix a seal to the statement.

18 (e) Include a surveyor's certificate, complying with ORS 92.070, that includes information in the
19 declaration in accordance with ORS 100.105 (1)(a) and a metes and bounds description or other de-
20 scription approved by the city or county surveyor.

21 (f) Include a statement by the declarant that the property and improvements described and de-
22 picted on the plat are subject to the provisions of ORS 100.005 to 100.627.

23 *[(g) Include such signatures of approval as may be required by local ordinance or regulation.]*

24 *[(h)]* (g) Include any other information or data not inconsistent with the declaration that the
25 declarant desires to include.

26 *[(i)]* (h) If the condominium is a flexible condominium, show the location and dimensions of all
27 variable property identified in the declaration and label the variable property as
28 "WITHDRAWABLE VARIABLE PROPERTY" or "NONWITHDRAWABLE VARIABLE
29 PROPERTY," with a letter different from those designating a unit, building or other tract of vari-
30 able property. If there is more than one tract, each tract shall be labeled in the same manner.

31 (2) The supplemental plat required under ORS 100.150 (1) shall be recorded simultaneously with
32 the supplemental declaration. The supplemental plat shall be titled in accordance with subsection
33 (3) of this section and shall:

34 (a) Comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080, 92.120 and subsection (3) of this sec-
35 tion.

36 (b) If any property is withdrawn:

37 (A) Show the resulting perimeter boundaries of the condominium after the withdrawal; and

38 (B) Show the information required under subsection *[(1)(i)]* (1)(h) of this section as it relates to
39 any remaining variable property.

40 (c) If any property is reclassified, show the information required under subsection (1)(a) to (d)
41 of this section.

42 (d) Include a "Declarant's Statement" that the property described on the supplemental plat is
43 reclassified or withdrawn from the condominium and that the condominium exists as described and
44 depicted on the plat.

45 (e) Include a surveyor's certificate complying with ORS 92.070.

1 (3) The title of each supplemental plat described in ORS 100.120 shall include the complete name
 2 of the condominium, followed by the additional language specified in this subsection and the appro-
 3 priate reference to the stage being annexed or tract of variable property being reclassified. Each
 4 supplemental plat for a condominium recorded on or after January 1, 2002, shall be numbered se-
 5 quentially and shall:

6 (a) If property is annexed under ORS 100.125, include the words “Supplemental Plat No.
 7 _____: Annexation of Stage _____”; or

8 (b) If property is reclassified under ORS 100.150, include the words “Supplemental Plat No.
 9 _____: Reclassification of Variable Property, Tract _____.”

10 (4) Upon request of the county surveyor or assessor, the person offering a plat or supplemental
 11 plat for recording shall also file an exact copy, certified by the surveyor who made the plat to be
 12 an exact copy of the plat, with the county assessor and the county surveyor. The exact copy shall
 13 be made on suitable drafting material having the characteristics of strength, stability and transpar-
 14 ency required by the county surveyor.

15 (5) Before a plat or a supplemental plat may be recorded, it must be approved by the city or
 16 county surveyor as provided in ORS 92.100. Before approving the plat as required by this section,
 17 the city or county surveyor shall:

18 (a) Check the boundaries of the plat and units and take measurements and make computations
 19 necessary to determine that the plat complies with this section.

20 (b) Determine that the name complies with ORS 100.105 (5) and (6).

21 (c) Determine that the following are consistent:

22 (A) The designation and area in square feet of each unit shown on the plat and the unit desig-
 23 nations and areas contained in the declaration in accordance with ORS 100.105 (1)(d);

24 (B) Limited common elements identified on the plat and the information contained in the decla-
 25 ration in accordance with ORS 100.105 (1)(h);

26 (C) The description of the property in the surveyor’s certificate included on the plat and the
 27 description contained in the declaration in accordance with ORS 100.105 (1)(a); and

28 (D) For a flexible condominium, the variable property depicted on the plat and the identification
 29 of the property contained in the declaration in accordance with ORS 100.105 (7)(c).

30 (6) The person offering the plat or supplemental plat for approval shall:

31 (a) Submit a copy of the proposed declaration and bylaws or applicable supplemental declaration
 32 at the time the plat is submitted; and

33 (b) Submit the original or a copy of the executed declaration and bylaws or the applicable sup-
 34 plemental declaration approved by the commissioner if required by law prior to approval.

35 (7) For performing the services described in subsection (5)(a) to (c) of this section, the city sur-
 36 veyor or county surveyor shall collect from the person offering the plat for approval a fee of \$150
 37 plus \$25 per building. The governing body of a city or county may establish a higher fee by resol-
 38 ution or order.

39 **SECTION 19.** ORS 100.116 is amended to read:

40 100.116. (1) A plat, including any floor plans that are a part of a plat, recorded before October
 41 15, 1983, may be amended as provided in this section.

42 (2)(a) Except as otherwise provided in ORS 100.600, the following must be made by a plat enti-
 43 tled “Plat Amendment”:

44 (A) A change to the boundary of the property, a unit or a limited common element;

45 (B) The creation of an additional unit from common elements; or

1 (C) A change to the configuration of other information required to be graphically depicted on
2 the plat.

3 (b) The plat amendment must reference in the title of the amendment the recording information
4 of the original plat and any previous plat amendments.

5 (3) The plat amendment must comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080 and 92.120
6 and must include:

7 (a) A graphic depiction of the change;

8 (b) For a change to the boundary of the property, a surveyor's certificate that complies with
9 ORS 92.070;

10 (c) If the plat amendment is an amendment by correction under ORS 100.118, a statement that
11 the plat amendment is an amendment by correction under ORS 100.118;

12 (d) A certification, including signature and official seal, of a registered professional land sur-
13 veyor that:

14 (A) The plat amendment accurately depicts the amendments to the plat described in the decla-
15 ration amendment recorded under subsection (5) of this section; and

16 (B) Any construction that changes the boundaries of a unit or limited common element or the
17 construction of any additional unit or limited common element has been completed; and

18 (e) A declaration executed by the association that the plat is being amended pursuant to this
19 section. If the amendment to the declaration required under subsection (5) of this section is a cor-
20 rection amendment under ORS 100.117, the declaration must be made by the declarant if the
21 declarant adopts the correction amendment under ORS 100.117.

22 (4) The declaration required under subsection (3)(e) of this section must be executed and ac-
23 knowledged.

24 (5) The plat amendment must be accompanied by an amendment to the declaration authorizing
25 the plat amendment. The declaration amendment must be executed, approved and recorded in ac-
26 cordance with ORS 100.110 and 100.135 or, if the declaration amendment is a correction amendment,
27 with ORS 100.117.

28 (6) Before a plat amendment may be recorded, it must be approved by the city or county sur-
29 veyor as provided in ORS 92.100. The surveyor shall approve the plat amendment if it complies with
30 the requirements of this subsection. The person offering the plat amendment shall:

31 (a) Submit a copy of the proposed amendment to the declaration required under subsections (3)
32 to (5) of this section when the plat amendment is submitted.

33 (b) Submit the original or a copy of the executed amendment to the declaration approved by the
34 Real Estate Commissioner if required by law prior to approval of the plat amendment.

35 (c) Upon request of the county assessor or county surveyor, file an exact copy, certified by the
36 surveyor who made the plat to be an exact copy of the plat amendment, with the county assessor
37 and the county surveyor. The exact copy must be made on suitable drafting material having the
38 strength, stability and transparency required by the county surveyor.

39 (7) A change to a restriction or other information not required to be graphically depicted on the
40 plat, or, in the discretion of the city or county surveyor, a change to graphically depicted informa-
41 tion that changes the identity, nature or other descriptive information but does not change the
42 graphic depiction, may be made by amendment of the declaration without a plat amendment de-
43 scribed in subsections (3) to (5) of this section. A declaration amendment under this subsection must
44 include:

45 (a) References to recording index numbers and date of recording of the declaration or plat and

1 any applicable supplemental declarations, amendments, supplemental plats or plat amendments.

2 (b) A description of the change to the plat.

3 (c) A statement that the amendment was approved in accordance with the declaration and ORS
4 100.135.

5 (8) The declaration amendment described in subsection (7) of this section must be executed, ap-
6 proved and recorded in accordance with ORS 100.110 and 100.135.

7 (9) Before the declaration amendment described in subsection (7) of this section may be re-
8 corded, it must be approved by the city or county surveyor as provided in ORS 92.100. The surveyor
9 shall approve the declaration amendment if it complies with subsection (7) of this section. The ap-
10 proval must be evidenced by execution of the amendment or by attached written approval.

11 (10)(a) Subject to paragraph (c) of this subsection, floor plans of a condominium for which floor
12 plans were not required to be shown on a plat at the time of creation of the condominium or at the
13 time of the recording of a supplemental declaration annexing property to the condominium may be
14 amended by:

15 (A) An amendment of the declaration under paragraph (b) of this subsection; or

16 (B) A plat amendment under subsections (3) to (5) of this section.

17 (b) An amendment of the declaration must include:

18 (A) References to recording index numbers and date of recording of the declaration and any
19 applicable supplemental declarations or amendments.

20 (B) A description of the change to the floor plans.

21 (C) A graphic depiction of any change to the boundaries of a unit or common element and a
22 statement by a registered architect, registered professional land surveyor or registered professional
23 engineer certifying that such graphic depiction fully and accurately depicts the boundaries of the
24 unit or common element as it currently exists.

25 (c) Notwithstanding that floor plans were not required to be shown on a plat at the time of
26 creation of the condominium or at the time of the recording of a supplemental declaration annexing
27 property to the condominium, if floor plans are shown on a plat, the plat may not be amended under
28 paragraph (b) of this subsection.

29 (11) The declaration amendment described in subsection (10)(b) of this section must be approved
30 and recorded in accordance with ORS 100.110 and 100.135 except that any change to the floor plans
31 need only comply with the requirements of the unit ownership laws in effect at the time the floor
32 plans were initially recorded.

33 (12) After recording any declaration amendment or plat amendment pursuant to this section, the
34 county surveyor may make appropriate changes to the surveyor's copy of all previously recorded
35 plats relating to the condominium and any copies filed under ORS 92.120 (3). The original plat may
36 not be changed or corrected after the plat is recorded.

37 (13) For performing the services described in subsections (6), (9) and (12) of this section, the
38 county surveyor shall collect from the person offering the plat amendment or declaration amendment
39 for approval a fee established by the county governing body.

40 **(14) Except as provided in this section, a local government may not:**

41 **(a) Require that a plat amendment comply with any ordinance or regulation.**

42 **(b) Require that the plat amendment be approved by any person.**

43 **(c) Condition approval of any permits for the condominium on a plat amendment.**

44 **SECTION 20.** ORS 100.600 is amended to read:

45 100.600. (1)(a) Subject to ORS 100.605, the condominium may be terminated if all of the unit

1 owners remove the property from the provisions of this chapter by executing and recording an in-
 2 strument to that effect and the holders of all liens affecting the units consent thereto or agree, in
 3 either case by instruments duly recorded, that their liens be transferred to the undivided interest
 4 of the unit owner in the property after the termination. The instrument shall state the interest of
 5 each unit owner and lienholder as determined under ORS 100.610.

6 (b) The recording of an instrument of termination shall vacate the plat but shall not vacate or
 7 terminate any recorded covenants, restrictions, easements or other interests not imposed under the
 8 declaration or bylaws or any easement granted by the plat unless the instrument of termination
 9 otherwise provides.

10 (c) Before the instrument of termination may be recorded, it must be signed by the county
 11 assessor for the purpose of acknowledging that the county assessor has been notified of the proposed
 12 termination.

13 (d) The person offering the instrument of termination for recording shall cause a copy of the
 14 recorded instrument, including the recording information, to be filed with the commissioner, the
 15 county assessor and the county surveyor. Upon receipt of the instrument of termination, the county
 16 surveyor may make appropriate annotations on the surveyor's copy of the plat and any copies filed
 17 under ORS 92.120. Corrections or changes are not allowed on the original plat once it is recorded
 18 with the county clerk.

19 (e) Failure to file the copies as required under paragraph (d) of this subsection does not invali-
 20 date the termination.

21 (2) A portion of the property may be removed from the provisions of this chapter by recording
 22 simultaneously with the recording officer an amendment to the declaration and an amended plat
 23 approved as required under ORS 100.110, 100.116 and 100.135. The amendment to the declaration
 24 shall:

25 (a) Include a metes and bounds legal description of the property being removed;

26 (b) Include a metes and bounds legal description of the resulting boundaries of the condominium
 27 after the removal;

28 (c) State the interest of each owner in the property being removed;

29 (d) State the allocation of interest of each unit in the common elements after the removal;

30 (e) Be approved and executed by the owner of any unit being removed and the owner of any unit
 31 to which a limited common element being removed pertains and acknowledged in the manner pro-
 32 vided for acknowledgment of deeds;

33 (f) Be approved by the holder of any first mortgage on a unit or limited common element being
 34 removed;

35 (g) Be approved by at least 90 percent of owners, including any owner whose approval is re-
 36 quired under paragraph (e) of this subsection;

37 (h) Be approved by any other mortgagees whose approval is required under the declaration or
 38 bylaws;

39 (i) Include any other approvals required by the declaration or bylaws; and

40 (j) Include a statement by the local governing body or appropriate department thereof that the
 41 removal will not violate any applicable planning or zoning regulation or ordinance. The statement
 42 may be attached as an exhibit to the amendment.

43 (3) The amended plat required under subsection (2) of this section must:

44 (a) Comply with ORS 100.116; **and**

45 (b) Include a "Statement of Removal" that the property described on the amended plat is re-

1 moved from the condominium and that the condominium exists as described and depicted on the
 2 amended plat. The statement must be made and executed by the association and acknowledged.];
 3 and]

4 [(c) Include such signatures of approval as may be required by local ordinance or regulation.]

5 (4) The tax collector for any taxing unit having a lien for taxes or assessments may consent to
 6 such a transfer of any tax or assessment lien under subsection (1) of this section or the removal of
 7 a portion of the property under subsection (2) of this section.

8
 9 **SUBDIVIDING FOR DEVELOPMENT OF AFFORDABLE HOUSING**

10
 11 **SECTION 21.** ORS 92.090 is amended to read:

12 92.090. (1) Subdivision plat names shall be subject to the approval of the county surveyor or, in
 13 the case where there is no county surveyor, the county assessor. No tentative subdivision plan or
 14 subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the
 15 same as the name of any other subdivision in the same county, unless the land platted is contiguous
 16 to and platted by the same party that platted the subdivision bearing that name or unless the party
 17 files and records the consent of the party that platted the contiguous subdivision bearing that name.
 18 All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivi-
 19 sion plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final
 20 approval shall not use block numbers or letters unless such subdivision is a continued phase of a
 21 previously recorded subdivision, bearing the same name, that has previously used block numbers or
 22 letters.

23 (2) No tentative plan for a proposed subdivision and no tentative plan for a proposed partition
 24 shall be approved unless:

25 (a) The streets and roads are laid out so as to conform to the plats of subdivisions and partitions
 26 already approved for adjoining property as to width, general direction and in all other respects un-
 27 less the city or county determines it is in the public interest to modify the street or road pattern.

28 (b) Streets and roads held for private use are clearly indicated on the tentative plan and all
 29 reservations or restrictions relating to such private roads and streets are set forth thereon.

30 (c) The tentative plan complies with the applicable zoning ordinances and regulations and the
 31 ordinances or regulations adopted under ORS 92.044 that are then in effect for the city or county
 32 within which the land described in the plan is situated.

33 (3) No plat of a proposed subdivision or partition shall be approved unless:

34 (a) Streets and roads for public use are dedicated without any reservation or restriction other
 35 than reversionary rights upon vacation of any such street or road and easements for public or pri-
 36 vate utilities.

37 (b) Streets and roads held for private use and indicated on the tentative plan of such subdivision
 38 or partition have been approved by the city or county.

39 (c) The subdivision or partition plat complies with any applicable zoning ordinances and regu-
 40 lations and any ordinance or regulation adopted under ORS 92.044 that are then in effect for the
 41 city or county within which the land described in the subdivision or partition plat is situated.

42 (d) The subdivision or partition plat is in substantial conformity with the provisions of the ten-
 43 tative plan for the subdivision or partition, as approved.

44 (e) The subdivision or partition plat contains a donation to the public of all common improve-
 45 ments, including but not limited to streets, roads, parks, sewage disposal and water supply systems,

1 the donation of which was made a condition of the approval of the tentative plan for the subdivision
2 or partition.

3 (f) Explanations of all common improvements required as conditions of approval of the tentative
4 plan of the subdivision or partition have been recorded and referenced on the subdivision or parti-
5 tion plat.

6 (4) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a sub-
7 division shall be approved by a city or county unless the city or county has received and accepted:

8 (a) A certification by a city-owned domestic water supply system or by the owner of a privately
9 owned domestic water supply system, subject to regulation by the Public Utility Commission of
10 Oregon, that water will be available to the lot line of each and every lot depicted in the proposed
11 subdivision plat;

12 (b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city
13 or county that a domestic water supply system will be installed by or on behalf of the subdivider
14 to the lot line of each and every lot depicted in the proposed subdivision plat[; *and the amount of*
15 *any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be* **in**
16 **an amount** determined by a registered professional engineer, subject to any change in such amount
17 as determined necessary by the city or county; or

18 (c) [*In lieu of paragraphs (a) and (b) of this subsection,*] A statement that no domestic water
19 supply facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat,
20 even though a domestic water supply source may exist. A copy of any such statement, signed by the
21 subdivider and indorsed by the city or county, shall be filed by the subdivider with the Real Estate
22 Commissioner and shall be included by the commissioner in any public report made for the subdivi-
23 sion under ORS 92.385. If the making of a public report has been waived or the subdivision is oth-
24 erwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the
25 statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the
26 purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed
27 receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the
28 receipt to the commissioner and shall keep any such receipt on file in this state, subject to in-
29 spection by the commissioner, for a period of three years after the date the receipt is taken.

30 (5) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a sub-
31 division shall be approved by a city or county unless the city or county has received and accepted:

32 (a) A certification by a city-owned sewage disposal system or by the owner of a privately owned
33 sewage disposal system that is subject to regulation by the Public Utility Commission of Oregon that
34 a sewage disposal system will be available to the lot line of each and every lot depicted in the
35 proposed subdivision plat;

36 (b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city
37 or county that a sewage disposal system will be installed by or on behalf of the subdivider to the
38 lot line of each and every lot depicted on the proposed subdivision plat[; *and the amount of such*
39 *bond, irrevocable letter of credit, contract or other assurance shall be* **in an amount** determined by
40 a registered professional engineer, subject to any change in such amount as the city or county
41 considers necessary; or

42 (c) [*In lieu of paragraphs (a) and (b) of this subsection,*] A statement that no sewage disposal
43 facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, where
44 the Department of Environmental Quality has approved the proposed method or an alternative
45 method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755

1 (1)(b). A copy of any such statement, signed by the subdivider and indorsed by the city or county
 2 shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the
 3 commissioner in the public report made for the subdivision under ORS 92.385. If the making of a
 4 public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision
 5 Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of
 6 a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement
 7 for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery
 8 of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep
 9 any such receipt on file in this state, subject to inspection by the commissioner, for a period of three
 10 years after the date the receipt is taken.

11 **(6) A city or county shall accept as other assurance, as used in subsections (4)(b) and**
 12 **(5)(b) of this section, one or more award letters from public or other reliable funding sources**
 13 **made to a subdivider who is subdividing the property to develop affordable housing, if the**
 14 **awards total an amount greater than the project cost.**

15 [(6)] (7) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a
 16 subdivision or partition located within the boundaries of an irrigation district, drainage district,
 17 water control district, water improvement district or district improvement company shall be ap-
 18 proved by a city or county unless the city or county has received and accepted a certification from
 19 the district or company that the subdivision or partition is either entirely excluded from the district
 20 or company or is included within the district or company for purposes of receiving services and
 21 subjecting the subdivision or partition to the fees and other charges of the district or company.

22
 23 **PREVAILING WAGES FOR AFFORDABLE**
 24 **HOUSING DEVELOPMENT**
 25

26 **SECTION 22.** ORS 279C.810 is amended to read:

27 279C.810. (1) As used in this section:

28 (a) “Funds of a public agency” does not include:

29 (A) Funds provided in the form of a government grant to a nonprofit organization, unless the
 30 government grant is issued for the purpose of construction, reconstruction, major renovation or
 31 painting;

32 (B) Building and development permit fees paid or waived by the public agency;

33 (C) Tax credits or tax abatements;

34 (D) Land that a public agency sells to a private entity at fair market value;

35 (E) The difference between:

36 (i) The value of land that a public agency sells to a private entity as determined at the time of
 37 the sale after taking into account any plan, requirement, covenant, condition, restriction or other
 38 limitation, exclusive of zoning or land use regulations, that the public agency imposes on the de-
 39 velopment or use of the land; and

40 (ii) The fair market value of the land if the land is not subject to the limitations described in
 41 sub-subparagraph (i) of this subparagraph;

42 (F) Staff resources of the public agency used to manage a project or to provide a principal
 43 source of supervision, coordination or oversight of a project;

44 (G) Staff resources of the public agency used to design or inspect one or more components of
 45 a project;

1 (H) Moneys derived from the sale of bonds that are loaned by a state agency to a private entity,
2 unless the moneys will be used for a public improvement;

3 (I) Value added to land as a consequence of a public agency's site preparation, demolition of real
4 property or remediation or removal of environmental contamination, except for value added in ex-
5 cess of the expenses the public agency incurred in the site preparation, demolition or remediation
6 or removal when the land is sold for use in a project otherwise subject to ORS 279C.800 to 279C.870;
7 or

8 (J) Bonds, or loans from the proceeds of bonds, issued in accordance with ORS chapter 289 or
9 ORS 441.525 to 441.595, unless the bonds or loans will be used for a public improvement.

10 (b) "Nonprofit organization" means an organization or group of organizations described in sec-
11 tion 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of
12 the Internal Revenue Code.

13 (2) ORS 279C.800 to 279C.870 do not apply to:

14 (a) *[Projects]* **A project** for which the contract price does not exceed \$50,000. In determining the
15 **contract** price of a project, a public agency:

16 (A) May not include the value of donated materials or work *[performed on the project by]* **that**
17 individuals volunteering to the public agency **perform on the project** without pay; and

18 (B) Shall include the value of work performed by every person paid by a contractor or subcon-
19 tractor in any manner for the person's work on the project.

20 (b) *[Projects]* **A project** for which *[no]* funds of a public agency are **not** directly or indirectly
21 used. In accordance with ORS chapter 183, the Commissioner of the Bureau of Labor and Industries
22 shall adopt rules to carry out the provisions of this paragraph.

23 (c) *[Projects]* **A project**:

24 (A) That *[are]* **is** privately owned;

25 (B) That *[use]* **uses** funds of a private entity;

26 (C) In which **a public agency will occupy or use** less than 25 percent of the square footage
27 of *[a]* **the** completed project *[will be occupied or used by a public agency]*; and

28 (D) For which less than \$750,000 of funds of a public agency are used.

29 (d) *[Projects for]* Residential construction that *[are]* **is** privately owned and *[that predominantly*
30 *provide]* **at least 60 percent of which consists of** affordable housing. As used in this paragraph:

31 (A) "Affordable housing" means housing that serves occupants whose incomes are no greater
32 than 60 percent of the area median income or, if the occupants are owners, whose incomes are no
33 greater than 80 percent of the area median income.

34 *[(B) "Predominantly" means 60 percent or more.]*

35 *[(C)]* **(B)** "Privately owned" *[includes]* **means**:

36 (i) Affordable housing provided on real property *[owned by]* **that** a public agency **owns**, if the
37 **public agency leases the** real property and related structures *[are leased]* to a private entity for
38 50 or more years; and

39 (ii) Affordable housing owned by a partnership, nonprofit corporation or limited liability com-
40 pany in which a housing authority, as defined in ORS 456.005, is a general partner, director or
41 managing member and the housing authority is not a majority owner in the partnership, nonprofit
42 corporation or limited liability company.

43 *[(D)]* **(C)** "Residential construction" *[includes the construction, reconstruction, major renovation]*
44 **means**:

45 (i) **A project in which a public agency or a private owner converts a building or develop-**

1 **ment from commercial use to housing;**

2 **(ii) The portions of a mixed-use building or development that are affordable housing, if**
3 **at least 60 percent of the building or development consists of affordable housing;**

4 **(iii) A project for constructing, reconstructing, performing a major renovation of or**
5 **painting [of] a single-family [houses] house or apartment [buildings] building that is not more than**
6 **four stories in height and furnishing all incidental items, such as site work, parking areas, utilities,**
7 **streets and sidewalks, [pursuant to] in accordance with the United States Department of Labor’s**
8 **“All Agency Memorandum No. 130: Application of the Standard of Comparison “Projects of a Char-**
9 **acter Similar” Under Davis-Bacon and Related Acts,” dated March 17, 1978[. However, the commis-**
10 **sioner may consider different definitions of residential construction in determining whether a project**
11 **is a residential construction project for purposes of this paragraph, including definitions that:]; or**

12 **(iv) Other types of construction that the commissioner can consider in determining**
13 **whether a prevailing rate of wage applies to a project, including types of construction that:**

14 *[(i) Exist] (I) Are defined in local ordinances or codes; or*

15 *[(ii)] (II) Differ, in the prevailing practice of a particular trade or occupation, from the United*
16 *States Department of Labor’s description of residential construction.*

17 18 **SURPLUS REAL PROPERTY INVENTORY**

19
20 **SECTION 23. ORS 197.791 is added to and made a part of ORS chapter 197.**

21 **SECTION 24. ORS 197.791 is amended to read:**

22 197.791. (1) As used in this section[.],

23 *[(a) “Local government” means a city or county.]*

24 *[(b) “surplus real property” means real property in which [a government entity holds title*
25 *through a deed or other legal instrument] a local government or special district owns an interest*
26 *that is no longer suitable or needed for the duties and responsibilities of the government entity[.]*
27 **and that is located within an urban growth boundary or area zoned for rural residential use**
28 **as defined in ORS 215.501.**

29 (2) The Department of Land Conservation and Development shall develop and implement an
30 electronic system for receiving and displaying *[inventory information described in]* **surplus real**
31 **property submitted under** subsection (3) of this section. The electronic system must be a web-based
32 or online system that allows:

33 (a) Government entities to upload inventories described in subsection (3) of this section using
34 a template developed by the department; and

35 (b) The general public to search and view information stored by the system.

36 (3)*[(a)]* No later than January 1 of each even-numbered year, each local government **and special**
37 **district** shall prepare and submit to the department, using the system developed under subsection
38 (2) of this section, an inventory of surplus real property owned by the local government **or special**
39 **district.** *[that is:]*

40 *[(A) Located inside an urban growth boundary; or]*

41 *[(B) Located in an area zoned for rural residential use as defined in ORS 215.501.]*

42 *[(b) A mass transit district established under ORS 267.010 to 267.394 or a transportation district*
43 *organized under ORS 267.510 to 267.650 may submit to the department an inventory of surplus real*
44 *property owned by the district as described in paragraph (a) of this subsection.]*

45 (4) Nothing in this section requires the department to verify the accuracy of information re-

1 ceived by the department using the system developed under subsection (2) of this section before
2 making the information available to the public.

3 (5) No later than February 1 of each even-numbered year, the department shall present the in-
4 formation received by the department under subsection (3) of this section in a report to the interim
5 committees of the Legislative Assembly related to housing in the manner provided under ORS
6 192.245.

8 DUPLEXES AND SINGLE ROOM OCCUPANCIES

9
10 **SECTION 25.** ORS 197.758 is amended to read:

11 197.758. (1) As used in this section:

12 (a) "Cottage clusters" means groupings of no fewer than four detached housing units per acre
13 with a footprint of less than 900 square feet each and that include a common courtyard.

14 (b) "Middle housing" means:

15 (A) Duplexes;

16 (B) Triplexes;

17 (C) Quadplexes;

18 (D) Cottage clusters; *[and]*

19 (E) Townhouses[.]; **and**

20 **(F) Single room occupancies with up to six units.**

21 **(c) "Single room occupancy" means a residential development with no fewer than four**
22 **independently rented, privately accessible and lockable single-unit rooms and with at least**
23 **one shared kitchen if a kitchen is not provided in each unit and at least one shared bathroom**
24 **if a bathroom is not provided in each unit.**

25 *[(c)]* **(d) "Townhouses"** means a dwelling unit constructed in a row of two or more attached
26 units, where each dwelling unit is located on an individual lot or parcel and shares at least one
27 common wall with an adjacent unit.

28 (2) Except as provided in subsection (4) of this section, each city with a population of 25,000 or
29 more and each county or city within a metropolitan service district shall allow the development
30 of[.:]

31 *[(a)]* all middle housing types in areas zoned for residential use that allow for the development
32 of detached single-family dwellings[.]; *and]*

33 *[(b)]* *A duplex on each lot or parcel zoned for residential use that allows for the development of*
34 *detached single-family dwellings.]*

35 (3) Except as provided in subsection (4) of this section, each city *[not within a metropolitan ser-*
36 *vice district with a population of more than 10,000 and less than 25,000]* shall allow the development
37 of a duplex on each lot or parcel zoned for residential use that allows for the development of de-
38 tached single-family dwellings. Nothing in this subsection prohibits a local government from allowing
39 middle housing types in addition to duplexes.

40 (4) This section does not apply to:

41 *[(a)]* *Cities with a population of 1,000 or fewer;*

42 *[(b)]* **(a)** Lands not within an urban growth boundary;

43 *[(c)]* **(b)** Lands that are not incorporated and also lack sufficient urban services, as defined in
44 ORS 195.065;

45 *[(d)]* **(c)** Lands that are not zoned for residential use, including lands zoned primarily for com-

1 commercial, industrial, agricultural or public uses; or

2 [(e)] (d) Lands that are not incorporated and are zoned under an interim zoning designation that
 3 maintains the land’s potential for planned urban development.

4 (5) Local governments may regulate siting and design of middle housing required to be permitted
 5 under this section, provided that the regulations do not, individually or cumulatively, discourage the
 6 development of all middle housing types permitted in the area through unreasonable costs or delay.
 7 Local governments may regulate middle housing to comply with protective measures adopted pur-
 8 suant to statewide land use planning goals.

9 (6) This section does not prohibit local governments from permitting:

10 (a) Single-family dwellings in areas zoned to allow for single-family dwellings; or

11 (b) Middle housing in areas not required under this section.

12 (7) **A local government that amends its comprehensive plan or land use regulations re-**
 13 **lating to allowing additional middle housing:**

14 (a) **Shall consider ways to increase the affordability of middle housing by considering**
 15 **ordinances and policies that include but are not limited to:**

16 (A) **Waiving or deferring system development charges;**

17 (B) **Adopting or amending criteria for property tax exemptions under ORS 307.515 to**
 18 **307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to**
 19 **308.481; and**

20 (C) **Assessing a construction tax under ORS 320.192 and 320.195.**

21 (b) **Is not required to consider whether the amendments significantly affect an existing**
 22 **or planned transportation facility.**

23 **SECTION 26.** ORS 197.303 is amended to read:

24 197.303. (1) As used in ORS 197.286 to 197.314, “needed housing” means all housing on land
 25 zoned for residential use or mixed residential and commercial use that is determined to meet the
 26 need shown for housing within an urban growth boundary at price ranges and rent levels that are
 27 affordable to households within the county with a variety of incomes, including but not limited to
 28 households with low incomes, very low incomes and extremely low incomes, as those terms are de-
 29 fined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.
 30 “Needed housing” includes the following housing types:

31 (a) Attached and detached single-family housing and multiple family housing for both owner and
 32 renter occupancy;

33 (b) Government assisted housing;

34 (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;

35 (d) Manufactured homes on individual lots planned and zoned for single-family residential use
 36 that are in addition to lots within designated manufactured dwelling subdivisions; *[and]*

37 (e) Housing for farmworkers[.]; **and**

38 (f) **Single room occupancies as defined in ORS 197.758.**

39 (2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), a local
 40 government shall use the population projections prescribed by ORS 195.033 or 195.036 and shall
 41 consider and adopt findings related to changes in each of the following factors since the last review
 42 under ORS 197.296 (2)(a)(B) and the projected future changes in these factors over a 20-year plan-
 43 ning period:

44 (a) Household sizes;

45 (b) Household demographics;

- 1 (c) Household incomes;
- 2 (d) Vacancy rates; and
- 3 (e) Housing costs.

4 (3) A local government shall make the estimate described in subsection (2) of this section using
 5 a shorter time period than since the last review under ORS 197.296 (2)(a)(B) if the local government
 6 finds that the shorter time period will provide more accurate and reliable data related to housing
 7 need. The shorter time period may not be less than three years.

8 (4) A local government shall use data from a wider geographic area or use a time period longer
 9 than the time period described in subsection (2) of this section if the analysis of a wider geographic
 10 area or the use of a longer time period will provide more accurate, complete and reliable data re-
 11 lating to trends affecting housing need than an analysis performed pursuant to subsection (2) of this
 12 section. The local government must clearly describe the geographic area, time frame and source of
 13 data used in an estimate performed under this subsection.

14 (5) Subsection (1)(a) and (d) of this section does not apply to:

- 15 (a) A city with a population of less than 2,500.
- 16 (b) A county with a population of less than 15,000.

17 (6) A local government may take an exception under ORS 197.732 to the definition of “needed
 18 housing” in subsection (1) of this section in the same manner that an exception may be taken under
 19 the goals.

20 **SECTION 27. In addition to and not in lieu of any other appropriation, there is appro-**
 21 **riated to the Department of Land Conservation and Development, for the biennium begin-**
 22 **ning July 1, 2023, out of the General Fund, the amount of \$1, to provide grants to local**
 23 **governments to assist them in amending their comprehensive plans as required under sec-**
 24 **tion 3 (1)(c), chapter 639, Oregon Laws 2019.**

25
 26 **CAPTIONS**

27
 28 **SECTION 28. The unit captions used in this 2023 Act are provided only for the conven-**
 29 **ience of the reader and do not become part of the statutory law of this state or express any**
 30 **legislative intent in the enactment of this 2023 Act.**

31
 32 **OPERATIVE, APPLICABLE AND EFFECTIVE DATES**

33
 34 **SECTION 29. (1) Sections 3 and 5 of this 2023 Act and the amendments to ORS 92.090,**
 35 **94.550, 100.022, 100.105, 100.110, 100.115, 100.116, 100.600, 197.303, 197.660, 197.665, 197.667,**
 36 **197.670, 197.758, 197.791, 197.843 and 279C.810 by sections 7, 10 to 22 and 24 to 26 of this 2023**
 37 **Act become operative on January 1, 2024.**

38 (2) The Commissioner of the Bureau of Labor and Industries may adopt rules and take
 39 any other action before the operative date specified in subsection (1) of this section that is
 40 necessary to enable the commissioner, on and after the operative date specified in subsection
 41 (1) of this section, to undertake and exercise all of the duties, functions and powers con-
 42 ferred on the commissioner by the amendments to ORS 279C.810 by section 22 of this 2023
 43 Act.

44 **SECTION 30. Section 1 of this 2023 Act applies to property tax years beginning on or af-**
 45 **ter July 1, 2023.**

1 **SECTION 31.** Section 5 of this 2023 Act and the amendments to ORS 197.843 by section
 2 7 of this 2023 Act apply to decisions for which a notice of intent to appeal, as described in
 3 ORS 197.830 (1), was filed on or after January 1, 2024.

4 **SECTION 32.** The amendments to ORS 279C.810 by section 22 of this 2023 Act apply to:

5 (1) Procurements that a public agency advertises or solicits or, if the public agency does
 6 not advertise or solicit the procurement, contracts for public works into which the public
 7 agency enters on and after the operative date specified in section 29 of this 2023 Act; and

8 (2) Projects for residential construction, as defined in ORS 279C.210 (2)(d), for which
 9 parties to the project enter into contracts on and after the operative date specified in section
 10 29 of this 2023 Act.

11 **SECTION 33.** Section 3, chapter 639, Oregon Laws 2019, is amended to read:

12 **Sec. 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt land use regulations
 13 or amend its comprehensive plan to implement [*section 2 of this 2019 Act*] **ORS 197.758** no later than:

14 (a) June 30, 2021, for each city subject to [*section 2 (3) of this 2019 Act; or*] **ORS 197.758 (3)**
 15 **(2021 Edition);**

16 (b) June 30, 2022, for each local government subject to [*section 2 (2) of this 2019 Act.*] **ORS**
 17 **197.758 (2); or**

18 (c) **June 30, 2025, for each city subject to ORS 197.758 (3), as amended by section 25 of this**
 19 **2023 Act.**

20 (2) The Land Conservation and Development Commission, with the assistance of the Building
 21 Codes Division of the Department of Consumer and Business Services, shall develop a model middle
 22 housing ordinance no later than December 31, 2020.

23 (3) A local government that has not acted within the time provided under subsection (1) of this
 24 section shall directly apply the model ordinance developed by the commission under subsection (2)
 25 of this section under ORS 197.646 (3) until the local government acts as described in subsection (1)
 26 of this section.

27 [*(4) In adopting regulations or amending a comprehensive plan under this section, a local govern-*
 28 *ment shall consider ways to increase the affordability of middle housing by considering ordinances and*
 29 *policies that include but are not limited to:]*

30 [*(a) Waiving or deferring system development charges;]*

31 [*(b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523,*
 32 *307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and]*

33 [*(c) Assessing a construction tax under ORS 320.192 and 320.195.]*

34 [*(5) When a local government makes a legislative decision to amend its comprehensive plan or land*
 35 *use regulations to allow middle housing in areas zoned for residential use that allow for detached*
 36 *single-family dwellings, the local government is not required to consider whether the amendments sig-*
 37 *nificantly affect an existing or planned transportation facility.]*

38 **SECTION 34.** Section 4, chapter 639, Oregon Laws 2019, is amended to read:

39 **Sec. 4.** (1) [*Notwithstanding section 3 (1) or (3) of this 2019 Act,*] The Department of Land Con-
 40 servation and Development may grant to a local government that is subject to [*section 2 of this 2019*
 41 *Act*] **ORS 197.758** an extension of the time allowed to adopt land use regulations or amend its
 42 comprehensive plan under section 3, **chapter 639, Oregon Laws 2019** [*of this 2019 Act*].

43 (2) An extension under this section may be applied only to specific areas where the local gov-
 44 ernment has identified water, sewer, storm drainage or transportation services that are [*either*] sig-
 45 nificantly deficient [*or are expected to be significantly deficient before December 31, 2023,*] and for

1 which the local government has established a plan of actions that will remedy the deficiency in
 2 those services that is approved by the department. The extension may not extend beyond the date
 3 that the local government intends to correct the deficiency under the plan.

4 (3) In areas where the extension under this section does not apply, the local government shall
 5 apply its own land use regulations consistent with section 3 (1), **chapter 639, Oregon Laws 2019,**
 6 *[of this 2019 Act]* or the model ordinance developed under section 3 (2), **chapter 639, Oregon Laws**
 7 **2019** *[of this 2019 Act]*.

8 (4) A request for an extension by a local government must be filed with the department no later
 9 than:

10 (a) December 31, 2020, for a city subject to *[section 2 (3) of this 2019 Act.]* **ORS 197.758 (3) (2021**
 11 **Edition).**

12 (b) June 30, 2021, for a local government subject to *[section 2 (2) of this 2019 Act.]* **ORS 197.758**
 13 **(2).**

14 (c) **June 30, 2024, for each city subject to ORS 197.758 (3), as amended by section 25 of this**
 15 **2023 Act.**

16 (5) The department shall grant or deny a request for an extension under this section:

17 (a) Within 90 days of receipt of a complete request from a city subject to *[section 2 (3) of this*
 18 *2019 Act.]* **ORS 197.758 (3).**

19 (b) Within 120 days of receipt of a complete request from a local government subject to *[section*
 20 *2 (2) of this 2019 Act.]* **ORS 197.758 (2).**

21 (6) The department shall adopt rules regarding the form and substance of a local government's
 22 application for an extension under this section. The department may include rules regarding:

- 23 (a) Defining the affected areas;
- 24 (b) Calculating deficiencies of water, sewer, storm drainage or transportation services;
- 25 (c) Service deficiency levels required to qualify for the extension;
- 26 (d) The components and timing of a remediation plan necessary to qualify for an extension;
- 27 (e) Standards for evaluating applications; and
- 28 (f) Establishing deadlines and components for the approval of a plan of action.

29 **SECTION 35. This 2023 Act being necessary for the immediate preservation of the public**
 30 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
 31 **on its passage.**