

SENATE AMENDMENTS TO SENATE BILL 847

By COMMITTEE ON HOUSING AND DEVELOPMENT

April 10

1 On page 1 of the printed bill, line 2, after “94.550,” delete the rest of the line and lines 3 through
2 5 and insert “100.015, 100.022, 100.105, 100.110, 100.115, 197.303, 197.758, 197.830, 215.427 and 227.178
3 and sections 3 and 4, chapter 639, Oregon Laws 2019, section 3, chapter 18, Oregon Laws 2021,
4 sections 4 and 6, chapter 67, Oregon Laws 2021, and section 23, chapter 13, Oregon Laws 2023
5 (Enrolled House Bill 2001); repealing section 4, chapter 18, Oregon Laws 2021; and declaring an
6 emergency.”.

7 Delete lines 7 through 18 and delete pages 2 through 32 and insert:
8

“RESIDENTIAL USE OF COMMERCIAL LANDS

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11 “**SECTION 1.** Section 2 of this 2023 Act is added to and made a part of ORS 197.286 to
12 197.314.

13 “**SECTION 2.** (1) Notwithstanding an acknowledged comprehensive plan or land use reg-
14 ulations, within an urban growth boundary a local government shall allow, on lands zoned
15 to allow only commercial uses and not industrial uses, the siting and development of:

16 “(a) Residential structures subject to an affordable housing covenant as provided in ORS
17 456.270 to 456.295 making each unit affordable to a household with income less than or equal
18 to 60 percent of the area median income as defined in ORS 456.270; or

19 “(b) Mixed use structures with ground floor commercial units and residential units sub-
20 ject to an affordable housing covenant as provided in ORS 456.270 to 456.295 making the
21 properties affordable to moderate income households, as defined in ORS 456.270.

22 “(2) The local government may only apply those approval standards, conditions and pro-
23 cedures under ORS 197.307, that would be applicable to the residential zone of the local gov-
24 ernment that is most comparable in density to the allowed commercial uses.

25 “(3) Development under this section does not:

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

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

29 “(A) The development on the property cannot be adequately served by water, sewer,
30 storm water drainage or streets, or will not be adequately served at the time that develop-
31 ment on the lot is complete;

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

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

34 “(D) The development of the property is constrained by land use regulations based on
35 statewide land use planning goals relating to:

1 extensions, except as provided in subsection (10) of this section for mediation, may not exceed 215
2 days.

3 “(6) The period set in subsection (1) of this section applies:

4 “(a) Only to decisions wholly within the authority and control of the governing body of the
5 county; and

6 “(b) Unless the parties have agreed to mediation as described in subsection (10) of this section
7 or ORS 197.319 (2)(b).

8 “(7) Notwithstanding subsection (6) of this section, the period set in subsection (1) of this section
9 and the 100-day period set in ORS 197.311 do not apply to:

10 “(a) A decision of the county making a change to an acknowledged comprehensive plan or a
11 land use regulation that is submitted to the Director of the Department of Land Conservation and
12 Development under ORS 197.610[.]; or

13 “(b) **A decision of a county involving an application for the development of residential**
14 **structures within an urban growth boundary, where the county has tentatively approved the**
15 **application and extends these periods by no more than seven days in order to assure the**
16 **sufficiency of its final order.**

17 “(8) Except when an applicant requests an extension under subsection (5) of this section, if the
18 governing body of the county or its designee does not take final action on an application for a
19 permit, limited land use decision or zone change within 120 days or 150 days, as applicable, after
20 the application is deemed complete, the county shall refund to the applicant either the unexpended
21 portion of any application fees or deposits previously paid or 50 percent of the total amount of such
22 fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees
23 incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible
24 for the costs of providing sufficient additional information to address relevant issues identified in
25 the consideration of the application.

26 “(9) A county may not compel an applicant to waive the period set in subsection (1) of this
27 section or to waive the provisions of subsection (8) of this section or ORS 197.311 or 215.429 as a
28 condition for taking any action on an application for a permit, limited land use decision or zone
29 change except when such applications are filed concurrently and considered jointly with a plan
30 amendment.

31 “(10) The periods set forth in subsections (1) and (5) of this section and ORS 197.311 may be
32 extended by up to 90 additional days, if the applicant and the county agree that a dispute concerning
33 the application will be mediated.

34 “**SECTION 4.** ORS 227.178 is amended to read:

35 “227.178. (1) Except as provided in subsections (3), (5) and (11) of this section, the governing
36 body of a city or its designee shall take final action on an application for a permit, limited land use
37 decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after
38 the application is deemed complete.

39 “(2) If an application for a permit, limited land use decision or zone change is incomplete, the
40 governing body or its designee shall notify the applicant in writing of exactly what information is
41 missing within 30 days of receipt of the application and allow the applicant to submit the missing
42 information. The application shall be deemed complete for the purpose of subsection (1) of this sec-
43 tion or ORS 197.311 upon receipt by the governing body or its designee of:

44 “(a) All of the missing information;

45 “(b) Some of the missing information and written notice from the applicant that no other infor-

1 mation will be provided; or

2 “(c) Written notice from the applicant that none of the missing information will be provided.

3 “(3)(a) If the application was complete when first submitted or the applicant submits the re-
4 quested additional information within 180 days of the date the application was first submitted and
5 the city has a comprehensive plan and land use regulations acknowledged under ORS 197.251, ap-
6 proval or denial of the application shall be based upon the standards and criteria that were appli-
7 cable at the time the application was first submitted.

8 “(b) If the application is for industrial or traded sector development of a site identified under
9 section 12, chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan,
10 approval or denial of the application must be based upon the standards and criteria that were ap-
11 plicable at the time the application was first submitted, provided the application complies with
12 paragraph (a) of this subsection.

13 “(4) On the 181st day after first being submitted, the application is void if the applicant has been
14 notified of the missing information as required under subsection (2) of this section and has not sub-
15 mitted:

16 “(a) All of the missing information;

17 “(b) Some of the missing information and written notice that no other information will be pro-
18 vided; or

19 “(c) Written notice that none of the missing information will be provided.

20 “(5) The 120-day period set in subsection (1) of this section or the 100-day period set in ORS
21 197.311 may be extended for a specified period of time at the written request of the applicant. The
22 total of all extensions, except as provided in subsection (11) of this section for mediation, may not
23 exceed 245 days.

24 “(6) The 120-day period set in subsection (1) of this section applies:

25 “(a) Only to decisions wholly within the authority and control of the governing body of the city;
26 and

27 “(b) Unless the parties have agreed to mediation as described in subsection (11) of this section
28 or ORS 197.319 (2)(b).

29 “(7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of
30 this section and the 100-day period set in ORS 197.311 do not apply to:

31 “(a) A decision of the city making a change to an acknowledged comprehensive plan or a land
32 use regulation that is submitted to the Director of the Department of Land Conservation and De-
33 velopment under ORS 197.610[.];

34 “(b) **A decision of a city involving an application for the development of residential**
35 **structures within an urban growth boundary, where the city has tentatively approved the**
36 **application and extends these periods by no more than seven days in order to assure the**
37 **sufficiency of its final order.**

38 “(8) Except when an applicant requests an extension under subsection (5) of this section, if the
39 governing body of the city or its designee does not take final action on an application for a permit,
40 limited land use decision or zone change within 120 days after the application is deemed complete,
41 the city shall refund to the applicant, subject to the provisions of subsection (9) of this section, ei-
42 ther the unexpended portion of any application fees or deposits previously paid or 50 percent of the
43 total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional
44 governmental fees incurred subsequent to the payment of such fees or deposits. However, the ap-
45 plicant is responsible for the costs of providing sufficient additional information to address relevant

1 issues identified in the consideration of the application.

2 “(9)(a) To obtain a refund under subsection (8) of this section, the applicant may either:

3 “(A) Submit a written request for payment, either by mail or in person, to the city or its
4 designee; or

5 “(B) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court
6 shall award an amount owed under this section in its final order on the petition.

7 “(b) Within seven calendar days of receiving a request for a refund, the city or its designee shall
8 determine the amount of any refund owed. Payment, or notice that no payment is due, shall be made
9 to the applicant within 30 calendar days of receiving the request. Any amount due and not paid
10 within 30 calendar days of receipt of the request shall be subject to interest charges at the rate of
11 one percent per month, or a portion thereof.

12 “(c) If payment due under paragraph (b) of this subsection is not paid within 120 days after the
13 city or its designee receives the refund request, the applicant may file an action for recovery of the
14 unpaid refund. In an action brought by a person under this paragraph, the court shall award to a
15 prevailing applicant, in addition to the relief provided in this section, reasonable attorney fees and
16 costs at trial and on appeal. If the city or its designee prevails, the court shall award reasonable
17 attorney fees and costs at trial and on appeal if the court finds the petition to be frivolous.

18 “(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this
19 section or to waive the provisions of subsection (8) of this section or ORS 197.311 or 227.179 as a
20 condition for taking any action on an application for a permit, limited land use decision or zone
21 change except when such applications are filed concurrently and considered jointly with a plan
22 amendment.

23 “(11) The periods set forth in subsections (1) and (5) of this section and ORS 197.311 may be
24 extended by up to 90 additional days, if the applicant and the city agree that a dispute concerning
25 the application will be mediated.

26 “**SECTION 5.** ORS 197.830 is amended to read:

27 “197.830. (1) Review of land use decisions or limited land use decisions under ORS 197.830 to
28 197.845 shall be commenced by filing a notice of intent to appeal with the Land Use Board of Ap-
29 peals.

30 “(2) Except as provided in ORS 197.620, a person may petition the board for review of a land
31 use decision or limited land use decision if the person:

32 “(a) Filed a notice of intent to appeal the decision as provided in subsection (1) of this section;
33 and

34 “(b) Appeared before the local government, special district or state agency orally or in writing.

35 “(3) If a local government makes a land use decision without providing a hearing, except as
36 provided under ORS 215.416 (11) or 227.175 (10), or the local government makes a land use decision
37 that is different from the proposal described in the notice of hearing to such a degree that the notice
38 of the proposed action did not reasonably describe the local government’s final actions, a person
39 adversely affected by the decision may appeal the decision to the board under this section:

40 “(a) Within 21 days of actual notice where notice is required; or

41 “(b) Within 21 days of the date a person knew or should have known of the decision where no
42 notice is required.

43 “(4) If a local government makes a land use decision without a hearing pursuant to ORS 215.416
44 (11) or 227.175 (10):

45 “(a) A person who was not provided notice of the decision as required under ORS 215.416 (11)(c)

1 or 227.175 (10)(c) may appeal the decision to the board under this section within 21 days of receiving
2 actual notice of the decision.

3 “(b) A person who is not entitled to notice under ORS 215.416 (11)(c) or 227.175 (10)(c) but who
4 is adversely affected or aggrieved by the decision may appeal the decision to the board under this
5 section within 21 days after the expiration of the period for filing a local appeal of the decision es-
6 tablished by the local government under ORS 215.416 (11)(a) or 227.175 (10)(a).

7 “(c) A person who receives notice of a decision made without a hearing under ORS 215.416 (11)
8 or 227.175 (10) may appeal the decision to the board under this section within 21 days of receiving
9 actual notice of the nature of the decision, if the notice of the decision did not reasonably describe
10 the nature of the decision.

11 “(d) Except as provided in paragraph (c) of this subsection, a person who receives notice of a
12 decision made without a hearing under ORS 215.416 (11) or 227.175 (10) may not appeal the decision
13 to the board under this section.

14 “(5) If a local government makes a limited land use decision which is different from the proposal
15 described in the notice to such a degree that the notice of the proposed action did not reasonably
16 describe the local government’s final actions, a person adversely affected by the decision may appeal
17 the decision to the board under this section:

18 “(a) Within 21 days of actual notice where notice is required; or

19 “(b) Within 21 days of the date a person knew or should have known of the decision where no
20 notice is required.

21 “(6) The appeal periods described in subsections (3), (4) and (5) of this section:

22 “(a) May not exceed three years after the date of the decision, except as provided in paragraph
23 (b) of this subsection.

24 “(b) May not exceed 10 years after the date of the decision if notice of a hearing or an admin-
25 istrative decision made pursuant to ORS 197.195 or 197.797 is required but has not been provided.

26 “(7)(a) Within 21 days after a notice of intent to appeal has been filed with the board under
27 subsection (1) of this section, any person described in paragraph (b) of this subsection may intervene
28 in and be made a party to the review proceeding by filing a motion to intervene and by paying a
29 filing fee of \$100.

30 “(b) Persons who may intervene in and be made a party to the review proceedings, as set forth
31 in subsection (1) of this section, are:

32 “(A) The applicant who initiated the action before the local government, special district or state
33 agency; or

34 “(B) Persons who appeared before the local government, special district or state agency, orally
35 or in writing.

36 “(c) Failure to comply with the deadline or to pay the filing fee set forth in paragraph (a) of this
37 subsection shall result in denial of a motion to intervene.

38 “(8) If a state agency whose order, rule, ruling, policy or other action is at issue is not a party
39 to the proceeding, it may file a brief with the board as if it were a party. The brief shall be due on
40 the same date the respondent’s brief is due and shall be accompanied by a filing fee of \$100.

41 “(9) A notice of intent to appeal a land use decision or limited land use decision shall be filed
42 not later than 21 days after the date the decision sought to be reviewed becomes final. A notice of
43 intent to appeal plan and land use regulation amendments processed pursuant to ORS 197.610 to
44 197.625 shall be filed not later than 21 days after notice of the decision sought to be reviewed is
45 mailed or otherwise submitted to parties entitled to notice under ORS 197.615. Failure to include a

1 statement identifying when, how and to whom notice was provided under ORS 197.615 does not
2 render the notice defective. Copies of the notice of intent to appeal shall be served upon the local
3 government, special district or state agency and the applicant of record, if any, in the local gov-
4 ernment, special district or state agency proceeding. The notice shall be served and filed in the form
5 and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$300. If a
6 petition for review is not filed with the board as required in subsections (10) and (11) of this section,
7 the board shall award the filing fee to the local government, special district or state agency.

8 “(10)(a) Within 21 days after service of the notice of intent to appeal, the local government,
9 special district or state agency shall transmit to the board the original or a certified copy of the
10 entire record of the proceeding under review. By stipulation of all parties to the review proceeding
11 the record may be shortened. The board may require or permit subsequent corrections to the record;
12 however, the board shall issue an order on a motion objecting to the record within 60 days of re-
13 ceiving the motion. If the board denies a petitioner’s objection to the record, the board may establish
14 a new deadline for the petition for review to be filed that may not be less than 14 days from the
15 later of the original deadline for the brief or the date of denial of the petitioner’s record objection.

16 “(b) Within 10 days after service of a notice of intent to appeal, the board shall provide notice
17 to the petitioner and the respondent of their option to enter into mediation pursuant to ORS 197.860.
18 Any person moving to intervene shall be provided such notice within seven days after a motion to
19 intervene is filed. The notice required by this paragraph shall be accompanied by a statement that
20 mediation information or assistance may be obtained from the Department of Land Conservation and
21 Development.

22 “(11) A petition for review of the land use decision or limited land use decision and supporting
23 brief shall be filed with the board as required by the board under subsection (13) of this section.

24 “(12) The petition shall include a copy of the decision sought to be reviewed and shall state:

25 “(a) The facts that establish that the petitioner has standing.

26 “(b) The date of the decision.

27 “(c) The issues the petitioner seeks to have reviewed.

28 “(13)(a) The board shall adopt rules establishing deadlines for filing petitions and briefs and for
29 oral argument.

30 “(b) **The local government or state agency may withdraw its decision for purposes of re-**
31 **consideration** at any time:

32 “(A) Subsequent to the filing of a notice of intent; and

33 “(B) Prior to:

34 “(i) The date set for filing the record[,] or[,]

35 “(ii) On appeal of a decision under ORS 197.610 to 197.625 **or relating to the development of**
36 **a residential structure**, [*prior to*] the filing of the respondent’s brief[, *the local government or state*
37 *agency may withdraw its decision for purposes of reconsideration*].

38 “(c) If a local government or state agency withdraws an order for purposes of reconsideration,
39 it shall, within such time as the board may allow, affirm, modify or reverse its decision. If the
40 petitioner is dissatisfied with the local government or agency action after withdrawal for purposes
41 of reconsideration, the petitioner may refile the notice of intent and the review shall proceed upon
42 the revised order. An amended notice of intent is not required if the local government or state
43 agency, on reconsideration, affirms the order or modifies the order with only minor changes.

44 “(14) The board shall issue a final order within 77 days after the date of transmittal of the re-
45 cord. If the order is not issued within 77 days the applicant may apply in Marion County or the

1 circuit court of the county where the application was filed for a writ of mandamus to compel the
2 board to issue a final order.

3 “(15) Upon entry of its final order, the board:

4 “(a) May, in its discretion, award costs to the prevailing party including the cost of preparation
5 of the record if the prevailing party is the local government, special district or state agency whose
6 decision is under review.

7 “(b) Shall award reasonable attorney fees and expenses to the prevailing party against any other
8 party who the board finds presented a position or filed any motion without probable cause to believe
9 the position or motion was well-founded in law or on factually supported information.

10 “(c) Shall award costs and attorney fees to a party as provided in ORS 197.843.

11 “(16) Orders issued under this section may be enforced in appropriate judicial proceedings.

12 “(17)(a) The board shall provide for the publication of its orders that are of general public in-
13 terest in the form it deems best adapted for public convenience. The publications shall constitute
14 the official reports of the board.

15 “(b) Any moneys collected or received from sales by the board shall be paid into the Board
16 Publications Account established by ORS 197.832.

17 “(18) Except for any sums collected for publication of board opinions, all fees collected by the
18 board under this section that are not awarded as costs shall be paid over to the State Treasurer to
19 be credited to the General Fund.

20 “(19) The board shall track and report on its website:

21 “(a) The number of reviews commenced, as described in subsection (1) of this section, the num-
22 ber of reviews commenced for which a petition is filed under subsection (2) of this section and, in
23 relation to each of those numbers, the rate at which the reviews result in a decision of the board
24 to uphold, reverse or remand the land use decision or limited land use decision. The board shall
25 track and report reviews under this paragraph in categories established by the board.

26 “(b) A list of petitioners, the number of reviews commenced and the rate at which the
27 petitioner’s reviews have resulted in decisions of the board to uphold, reverse or remand the land
28 use decision or limited land use decision.

29 “(c) A list of respondents, the number of reviews involving each respondent and the rate at
30 which reviews involving the respondent have resulted in decisions of the board to uphold, reverse
31 or remand the land use decision or limited land use decision. Additionally, when a respondent is the
32 local government that made the land use decision or limited land use decision, the board shall track
33 whether the local government appears before the board.

34 “(d) A list of reviews, and a brief summary of the circumstances in each review, under which
35 the board exercises its discretion to require a losing party to pay the attorney fees of the prevailing
36 party.

37
38 **“EMERGENCY SHELTER SITING**

39
40 **“SECTION 6. Section 4, chapter 18, Oregon Laws 2021, as amended by section 3, chapter**
41 **47, Oregon Laws 2022, is repealed.**

42 **“SECTION 7. Section 3, chapter 18, Oregon Laws 2021, is amended to read:**

43 **“Sec. 3. (1) A local government shall approve an application for the development or use of land**
44 **for an emergency shelter, as defined in [section 2 of this 2021 Act] ORS 197.782, on any property,**
45 **notwithstanding this chapter or ORS chapter 195, [197,] 197A, 215 or 227 or any statewide [plan]**

1 **land use planning goal**, rule of the Land Conservation and Development Commission or local land
2 use regulation, zoning ordinance, regional framework plan, functional plan or comprehensive plan,
3 if the emergency shelter:

4 “(a) Includes sleeping and restroom facilities for clients;

5 “(b) Will comply with applicable building codes;

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

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

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

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

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

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

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

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

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

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

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

25 “(3) An emergency shelter approved under this section:

26 “(a) May provide on-site for its clients and at no cost to the clients:

27 “(A) Showering or bathing;

28 “(B) Storage for personal property;

29 “(C) Laundry facilities;

30 “(D) Service of food prepared on-site or off-site;

31 “(E) Recreation areas for children and pets;

32 “(F) Case management services for housing, financial, vocational, educational or physical or
33 behavioral health care services; or

34 “(G) Any other services incidental to shelter.

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

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

42 “(5)(a) The approval **or denial** of an emergency shelter under this section **may be made with-**
43 **out a hearing. Whether or not a hearing is held, the approval or denial** is not a land use de-
44 cision and is subject to review only under ORS 34.010 to 34.100.

45 “(b) **A reviewing court shall award attorney fees to:**

1 “(A) A local government, and any intervening applicant, that prevails on the appeal of a
2 local government’s approval; and

3 “(B) An applicant that prevails on an appeal of a local government’s denial.

4 “(6) An application for an emergency shelter is not subject to approval under this section
5 if, at the time of filing, the most recently completed point-in-time count, as reported to the
6 United States Department of Housing and Urban Development under 24 C.F.R. part 578, in-
7 dicated that the total sheltered and unsheltered homeless population was less than 0.18 per-
8 cent of the state population, based on the latest estimate from the Portland State University
9 Population Research Center.

10
11 “SINGLE EXIT MULTIFAMILY DWELLINGS

12
13 “SECTION 8. On or before October 1, 2025, the Department of Consumer and Business
14 Services shall review and adopt updates to the State of Oregon Structural Specialty Code
15 through the Building Codes Structures Board established under ORS 455.132 to allow a resi-
16 dential occupancy to be served by a single exit, consistent with the following policies of this
17 state:

18 “(1) The reduction, to the extent practicable, of costs and barriers to the construction
19 of midsize multifamily dwellings, including those offering family-size housing with sprinklers
20 on smaller lots, while maintaining safety, public health and the general welfare with respect
21 to construction and occupancy.

22 “(2) Encouraging a variety of less expensive housing types that allow single-exit resi-
23 dential buildings under certain circumstances consistent with other adopted building codes,
24 including those codes adopted in Seattle, Washington.

25
26 “PLANNED COMMUNITY ACT EXEMPTIONS

27
28 “SECTION 9. ORS 94.550 is amended to read:

29 “94.550. As used in ORS 94.550 to 94.783:

30 “(1) ‘Assessment’ means any charge imposed or levied by a homeowners association on or
31 against an owner or lot pursuant to the provisions of the declaration or the bylaws of the planned
32 community or provisions of ORS 94.550 to 94.783.

33 “(2) ‘Blanket encumbrance’ means a trust deed or mortgage or any other lien or encumbrance,
34 mechanic’s lien or otherwise, securing or evidencing the payment of money and affecting more than
35 one lot in a planned community, or an agreement affecting more than one lot by which the developer
36 holds such planned community under an option, contract to sell or trust agreement.

37 “(3) ‘Class I planned community’ means a planned community that:

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

40 “(b) Has an estimated annual assessment, including an amount required for reserves under ORS
41 94.595, exceeding \$10,000 for all lots or \$100 per lot based on:

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

45 “(B) For a planned community created before January 1, 2002, a reasonable estimate of the cost

1 of fulfilling existing obligations imposed by the declaration, bylaws or other governing document as
2 of January 1, 2002.

3 “(4) ‘Class II planned community’ means a planned community that:

4 “(a) Is not a Class I planned community;

5 “(b) Contains at least five lots; and

6 “(c) Has an estimated annual assessment exceeding \$1,000 for all lots based on:

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

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

13 “(5) ‘Class III planned community’ means a planned community that is not a Class I or II
14 planned community.

15 “(6) ‘Common expenses’ means expenditures made by or financial liabilities incurred by the
16 homeowners association and includes any allocations to the reserve account under ORS 94.595.

17 “(7) ‘Common property’ means any real property or interest in real property within a planned
18 community which is owned, held or leased by the homeowners association or owned as tenants in
19 common by the lot owners, or designated in the declaration or the plat for transfer to the associ-
20 ation.

21 “(8) ‘Condominium’ means property submitted to the provisions of ORS chapter 100.

22 “(9) ‘Declarant’ means any person who creates a planned community under ORS 94.550 to 94.783.

23 “(10) ‘Declarant control’ means any special declarant right relating to administrative control of
24 a homeowners association, including but not limited to:

25 “(a) The right of the declarant or person designated by the declarant to appoint or remove an
26 officer or a member of the board of directors;

27 “(b) Any weighted vote or special voting right granted to a declarant or to units owned by the
28 declarant so that the declarant will hold a majority of the voting rights in the association by virtue
29 of such weighted vote or special voting right; and

30 “(c) The right of the declarant to exercise powers and responsibilities otherwise assigned by the
31 declaration or bylaws or by the provisions of ORS 94.550 to 94.783 to the association, officers of the
32 association or board of directors of the association.

33 “(11) ‘Declaration’ means the instrument described in ORS 94.580 which establishes a planned
34 community, and any amendments to the instrument.

35 “(12) ‘Electric vehicle charging station’ or ‘charging station’ means a facility designed to deliver
36 electrical current for the purpose of charging one or more electric motor vehicles.

37 “(13) ‘Electronic meeting’ means a meeting that is conducted through telephone, teleconference,
38 video conference, web conference or any other live electronic means where at least one participant
39 is not physically present.

40 “(14) ‘Governing document’ means articles of incorporation, bylaws, a declaration or a rule,
41 regulation or resolution that was properly adopted by the homeowners association or any other in-
42 strument or plat relating to common ownership or common maintenance of a portion of a planned
43 community that is binding upon lots within the planned community.

44 “(15) ‘Governing entity’ means an incorporated or unincorporated association, committee, person
45 or any other entity that has authority under a governing document to maintain commonly main-

1 tained property, to impose assessments on lots or to act on matters of common concern on behalf
2 of lot owners within the planned community.

3 “(16) ‘Homeowners association’ or ‘association’ means the organization of owners of lots in a
4 planned community, created under ORS 94.625, required by a governing document or formed under
5 ORS 94.574.

6 “(17) ‘Majority’ or ‘majority of votes’ or ‘majority of owners’ means more than 50 percent of the
7 votes in the planned community.

8 “(18) ‘Mortgagee’ means any person who is:

9 “(a) A mortgagee under a mortgage;

10 “(b) A beneficiary under a trust deed; or

11 “(c) The vendor under a land sale contract.

12 “(19) ‘Owner’ means the owner of any lot in a planned community, unless otherwise specified,
13 but does not include a person holding only a security interest in a lot.

14 “(20) ‘Percent of owners’ or ‘percentage of owners’ means the owners representing the specified
15 voting rights as determined under ORS 94.658.

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

22 “(b) ‘Planned community’ does not mean:

23 “(A) A condominium under ORS chapter 100;

24 “(B) A subdivision that is exclusively commercial or industrial; [*or*]

25 “(C) A timeshare plan under ORS 94.803 to 94.945[.]; **or**

26 **“(D) A development established on or after January 1, 2024, in which each residential unit**
27 **is either:**

28 **“(i) Subject to an affordability restriction, including an affordable housing covenant, as**
29 **defined in ORS 456.270; or**

30 **“(ii) Owned by a public benefit or religious nonprofit corporation.**

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

33 “(23) ‘Purchaser for resale’ means any person who purchases from the declarant more than two
34 lots for the purpose of resale whether or not the purchaser for resale makes improvements to the
35 lots before reselling them.

36 “(24) ‘Recorded declaration’ means an instrument recorded with the recording officer of the
37 county in which the planned community is located that contains covenants, conditions and re-
38 strictions that are binding upon lots in the planned community or that impose servitudes on the real
39 property.

40 “(25) ‘Special declarant rights’ means any rights, in addition to the rights of the declarant as a
41 lot owner, reserved for the benefit of the declarant under the declaration or ORS 94.550 to 94.783,
42 including but not limited to:

43 “(a) Constructing or completing construction of improvements in the planned community which
44 are described in the declaration;

45 “(b) Expanding the planned community or withdrawing property from the planned community

1 under ORS 94.580 (3) and (4);

2 “(c) Converting lots into common property;

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

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

5 “(26) ‘Successor declarant’ means the transferee of any special declarant right.

6 “(27) ‘Turn over’ means the act of turning over administrative responsibility pursuant to ORS
7 94.609 and 94.616.

8 “(28) ‘Unit’ means a building or portion of a building located upon a lot in a planned community
9 and designated for separate occupancy or ownership, but does not include any building or portion
10 of a building located on common property.

11 “(29) ‘Votes’ means the votes allocated to lots in the declaration under ORS 94.580 (2).

13 “REGULATION OF CONDOMINIUMS

14
15 “**SECTION 10.** ORS 100.015 is amended to read:

16 “100.015. The Real Estate Commissioner **has the exclusive right to regulate the submission**
17 **of property to the provisions of this chapter and** may adopt such rules as are necessary for the
18 administration of this chapter.

19 “**SECTION 11.** ORS 100.022 is amended to read:

20 “100.022. *[(1)]* **Except as provided under ORS 100.015 or explicitly required or allowed under**
21 **this chapter,** a zoning, subdivision, building code or other *[real property law,]* **regulation by a**
22 **public body, agency rule or local** ordinance or regulation may not *[prohibit]:*

23 “(1) **Have the effect of prohibiting or restricting** the condominium form of ownership; or

24 “(2) Impose any **restriction or** requirement upon a structure, **property** or development **that**
25 **is submitted or** proposed to be submitted to the condominium form of ownership under this chapter
26 that it would not impose upon a structure or development under a different form of ownership[.],
27 **including:**

28 “(a) **Any charge, tax or fee;**

29 “(b) **A review or approval process by any person of a declaration, bylaw, plat, articles of**
30 **incorporation, regulation, resolution or any other document relating to the condominium or**
31 **the submission of the property or development to the condominium form of ownership;**

32 “(c) **Any additional permitting requirements or conditions of approval of the property or**
33 **development; or**

34 “(d) **Any other requirements.**

35 “[2] *Except as set forth in this section, no provision of this chapter invalidates or modifies any*
36 *provision of any zoning, subdivision, building code or other real property use law, ordinance or regu-*
37 *lation.]*

38 “[3] *Subsection (1) of This section does not prohibit any governmental approval required under*
39 *this chapter.]*

40 “**SECTION 12.** ORS 100.110 is amended to read:

41 “100.110. (1)(a) Before a declaration, supplemental declaration or an amendment thereto may be
42 recorded, it must be approved as provided in this section by the county assessor of the county in
43 which the property is located and the Real Estate Commissioner.

44 “(b) Before a declaration, supplemental declaration or, if required under subsection (3) of this
45 section, an amendment thereto may be recorded, it must be approved by the tax collector of the

1 county in which the property is located.

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

5 “(d) If the requirements of subsections (2) to (7) of this section are met, the commissioner,
6 county assessor and tax collector, if applicable,[:]

7 “[*(A)*] shall approve the declaration, supplemental declaration or amendment[:; and]

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

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

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

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

15 “(3) The tax collector of the county in which the property is located shall approve the declara-
16 tion or supplemental declaration, or an amendment that adds property to the condominium, changes
17 the boundary of a unit or creates an additional unit from all or parts of other units or from all or
18 parts of other units and common elements for which a plat amendment is required under ORS
19 100.116, if:

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

23 “(b) Advance payment of ad valorem taxes, special assessments, fees or other charges for the
24 affected units that are not on the tax roll and for which payment is required under paragraph (a)
25 of this subsection has been made to the tax collector utilizing the procedures contained in ORS
26 92.095 and 311.370; and

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

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

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

33 “(b) The bylaws adopted under ORS 100.410 comply with the requirements of ORS 100.410 and
34 100.415 and other provisions of this chapter;

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

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

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

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

43 “(C) Any applicable combination of the requirements of subparagraphs (A) and (B) of this para-
44 graph;

45 “(e) A copy of the plat executed by the declarant and prepared in conformance with ORS 100.115

1 or plat amendment prepared in conformance with ORS 100.116 is submitted;

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

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

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

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

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

12 “(a) The supplemental declaration complies with the requirements of ORS 100.120 and other
13 provisions of this chapter;

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

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

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

19 “(6) Approval by the commissioner is not required for an amendment to a declaration trans-
20 ferring the right of use of a limited common element pursuant to ORS 100.515 (5).

21 “(7) Before the commissioner approves the declaration, supplemental declaration or amendment
22 thereto under this section:

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

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

28 “(8) If the declaration, supplemental declaration or amendment thereto approved by the com-
29 missioner under subsection (4) or (5) of this section is not recorded in accordance with ORS 100.115
30 within one year from the date of approval by the commissioner, the approval automatically expires
31 and the declaration, supplemental declaration or amendment thereto must be resubmitted for ap-
32 proval in accordance with this section. The commissioner’s approval must set forth the date on
33 which the approval expires.

34 “**SECTION 13.** ORS 100.115 is amended to read:

35 “100.115. (1) A plat of the land described in the declaration or a supplemental plat described in
36 a supplemental declaration, complying with ORS 92.050, 92.060 (1) and (2), 92.080 and 92.120, shall
37 be recorded simultaneously with the declaration or supplemental declaration. The plat or supple-
38 mental plat shall be titled in accordance with subsection (3) of this section and shall:

39 “(a) Show the location of:

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

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

1 “(b) Show the designation, location, dimensions and area in square feet of each unit including:
2 “(A) For units in a building described in ORS 100.020 (3)(b)(A), the horizontal and vertical
3 boundaries of each unit and the common elements to which each unit has access. The vertical
4 boundaries shall be referenced to a known benchmark elevation or other reference point as ap-
5 proved by the city or county surveyor;
6 “(B) For a space described in ORS 100.020 (3)(b)(B), the horizontal boundaries of each unit and
7 the common elements to which each unit has access. If the space is located within a structure, the
8 vertical boundaries also shall be shown and referenced to a known benchmark elevation or other
9 reference point as approved by the city or county surveyor;
10 “(C) For a moorage space described in ORS 100.020 (3)(b)(C), the horizontal boundaries of each
11 unit and the common elements to which each unit has access; and
12 “(D) For a floating structure described in ORS 100.020 (3)(b)(D), the horizontal and vertical
13 boundaries of each unit and the common elements to which each unit has access. The vertical
14 boundaries shall be referenced to an assumed elevation of an identified point on the floating struc-
15 ture even though the assumed elevation may change with the fluctuation of the water level where
16 the floating structure is moored.
17 “(c) Identify and show, to the extent feasible, the location and dimensions of all limited common
18 elements described in the declaration. The plat may not include any statement indicating to which
19 unit the use of any noncontiguous limited common element is reserved.
20 “(d) Include a statement, including signature and official seal, of a registered architect, regis-
21 tered professional land surveyor or registered professional engineer certifying that the plat fully and
22 accurately depicts the boundaries of the units of the building and that construction of the units and
23 buildings as depicted on the plat has been completed, except that the professional land surveyor who
24 prepared the plat need not affix a seal to the statement.
25 “(e) Include a surveyor’s certificate, complying with ORS 92.070, that includes information in the
26 declaration in accordance with ORS 100.105 (1)(a) and a metes and bounds description or other de-
27 scription approved by the city or county surveyor.
28 “(f) Include a statement by the declarant that the property and improvements described and
29 depicted on the plat are subject to the provisions of ORS 100.005 to 100.627.
30 “[g] *Include such signatures of approval as may be required by local ordinance or regulation.*]
31 “[h] **(g)** Include any other information or data not inconsistent with the declaration that the
32 declarant desires to include.
33 “[i] **(h)** If the condominium is a flexible condominium, show the location and dimensions of all
34 variable property identified in the declaration and label the variable property as ‘WITHDRAWABLE
35 VARIABLE PROPERTY’ or ‘NONWITHDRAWABLE VARIABLE PROPERTY,’ with a letter differ-
36 ent from those designating a unit, building or other tract of variable property. If there is more than
37 one tract, each tract shall be labeled in the same manner.
38 “(2) The supplemental plat required under ORS 100.150 (1) shall be recorded simultaneously with
39 the supplemental declaration. The supplemental plat shall be titled in accordance with subsection
40 (3) of this section and shall:
41 “(a) Comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080, 92.120 and subsection (3) of this
42 section.
43 “(b) If any property is withdrawn:
44 “(A) Show the resulting perimeter boundaries of the condominium after the withdrawal; and
45 “(B) Show the information required under subsection [(1)(i)] **(1)(h)** of this section as it relates

1 to any remaining variable property.

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

4 “(d) Include a ‘Declarant’s Statement’ that the property described on the supplemental plat is
5 reclassified or withdrawn from the condominium and that the condominium exists as described and
6 depicted on the plat.

7 “(e) Include a surveyor’s certificate complying with ORS 92.070.

8 “(3) The title of each supplemental plat described in ORS 100.120 shall include the complete
9 name of the condominium, followed by the additional language specified in this subsection and the
10 appropriate reference to the stage being annexed or tract of variable property being reclassified.
11 Each supplemental plat for a condominium recorded on or after January 1, 2002, shall be numbered
12 sequentially and shall:

13 “(a) If property is annexed under ORS 100.125, include the words ‘Supplemental Plat No.
14 _____: Annexation of Stage _____’; or

15 “(b) If property is reclassified under ORS 100.150, include the words ‘Supplemental Plat No.
16 _____: Reclassification of Variable Property, Tract _____.’

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

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

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

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

28 “(c) Determine that the following are consistent:

29 “(A) The designation and area in square feet of each unit shown on the plat and the unit des-
30 ignations and areas contained in the declaration in accordance with ORS 100.105 (1)(d);

31 “(B) Limited common elements identified on the plat and the information contained in the dec-
32 laration in accordance with ORS 100.105 (1)(h);

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

35 “(D) For a flexible condominium, the variable property depicted on the plat and the identifica-
36 tion of the property contained in the declaration in accordance with ORS 100.105 (7)(c).

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

38 “(a) Submit a copy of the proposed declaration and bylaws or applicable supplemental declara-
39 tion at the time the plat is submitted; and

40 “(b) Submit the original or a copy of the executed declaration and bylaws or the applicable
41 supplemental declaration approved by the commissioner if required by law prior to approval.

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

1 “**SECTION 14.** ORS 100.105 is amended to read:

2 “100.105. (1) A declaration must contain:

3 “(a) A description of the property, including property on which a unit or a limited common el-
4 ment is located, whether held in fee simple, leasehold, easement or other interest or combination
5 thereof, that is being submitted to the condominium form of ownership and that conforms to the
6 description in the surveyor’s certificate provided under ORS 100.115 (1).

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

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

14 “(d) The unit designation, a statement that the location of each unit is shown on the plat, a
15 description of the boundaries and area in square feet of each unit and any other data necessary for
16 proper identification. The area of a unit must be the same as shown for that unit on the plat de-
17 scribed in ORS 100.115 (1).

18 “(e) A notice in substantially the following form in at least 12-point type in all capitals or
19 boldface:

20 “ _____

21

22

NOTICE

23

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

27

28

29 “(f) A description of the general common elements.

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

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

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

34 “(B) A statement of the unit to which the use of each limited common element is reserved,
35 provided the statement is not a reference to an assignment of use specified on the plat; and

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

37 “(i) The method of determining liability for common expenses and right to common profits in
38 accordance with ORS 100.530.

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

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

44 “(L) A statement that the designated agent to receive service of process in cases provided in
45 ORS 100.550 (1) is named in the Condominium Information Report which will be filed with the Real

1 Estate Agency in accordance with ORS 100.250 (1)(a).

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

4 “(n) A statement as to whether or not the association of unit owners pursuant to ORS 100.405
5 (5) and (8) has authority to grant leases, easements, rights of way, licenses and other similar inter-
6 ests affecting the general and limited common elements of the condominium and consent to vacation
7 of roadways within and adjacent to the condominium.

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

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

14 “(q) Any other details regarding the property that the person executing the declaration consid-
15 ers desirable. However, if a provision required to be in the bylaws under ORS 100.415 is included
16 in the declaration, the voting requirements for amending the bylaws also govern the amendment of
17 the provision in the declaration.

18 “(2) In the event the declarant proposes to annex additional property to the condominium under
19 ORS 100.125, the declaration also must contain a general description of the plan of development,
20 including:

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

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

23 “(c) A general description of the nature and proposed use of any additional common elements
24 which declarant proposes to annex to the condominium, if such common elements might substantially
25 increase the proportionate amount of the common expenses payable by existing unit owners.

26 “(d) A statement that the method used to establish the allocation of undivided interest in the
27 common elements, the method used to determine liability for common expenses and right to common
28 profits and the method used to allocate voting rights for each unit annexed is as stated in the dec-
29 laration in accordance with subsection (1)(g), (i) and (j) of this section.

30 “(e) Such other information as the Real Estate Commissioner requires in order to carry out the
31 purposes of this chapter.

32 “(3) Unless expressly prohibited by the declaration and subject to the requirements of ORS
33 100.135 (2) and subsections (9) and (10) of this section:

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

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

39 “(c) The general description under subsection (2)(c) of this section and the information included
40 in the declaration or supplemental declaration in accordance with subsection (7)(c), (g) and (h) of
41 this section may be changed by an amendment to the declaration or supplemental declaration and
42 plat or supplemental plat.

43 “(4) The information included in the declaration or supplemental declaration in accordance with
44 subsection (2)(a) and (d) of this section and subsection (7)(a), (b), (e), (f) and (k) of this section may
45 not be changed unless all owners agree to the change and an amendment to the declaration or

1 supplemental declaration and, if applicable, the plat or supplemental plat are recorded in accordance
2 with this chapter.

3 “(5) The name of the property shall include the word ‘condominium’ or ‘condominiums’ or the
4 words ‘a condominium.’

5 “(6) A condominium may not bear a name which is the same as or deceptively similar to the
6 name of any other, **different** condominium located in the same county.

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

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

10 “(b) A statement:

11 “(A) Of any limitations on rights reserved under ORS 100.150 (1), including whether the consent
12 of any unit owner is required, and if so, a statement of the method by which the consent is ascer-
13 tained; or

14 “(B) That there are no limitations on rights reserved under ORS 100.150 (1).

15 “(c) A statement of the total number of tracts of variable property within the condominium, in-
16 cluding:

17 “(A) A designation of each tract as withdrawable variable property or nonwithdrawable variable
18 property;

19 “(B) Identification of each variable tract by a label in accordance with ORS 100.115 [(1)(i)]
20 **(1)(h)**;

21 “(C) A statement of the method of labeling each tract depicted on the plat in accordance with
22 ORS 100.115 [(1)(i)] **(1)(h)**; and

23 “(D) A statement of the total number of tracts of each type of variable property.

24 “(d) The termination date, which is the date after which any right reserved under ORS 100.150
25 (1) will terminate, and a statement of the circumstances, if any, that will terminate any right on or
26 before the date specified. Subject to ORS 100.120, the termination date from the date of recording
27 of the conveyance of the first unit in the condominium to a person other than the declarant may
28 not exceed:

29 “(A) Twenty years, only if a condominium consists, or may consist if the condominium is a
30 flexible condominium, exclusively of units to be used for nonresidential purposes; or

31 “(B) Seven years.

32 “(e) The maximum number of units that may be created.

33 “(f) A statement that the method used to establish the allocations of undivided interest in the
34 common elements, the method used to determine liability for common expenses and right to common
35 profits and the method used to allocate voting rights as additional units are created is the same as
36 stated in the declaration in accordance with subsection (1)(g), (i) and (j) of this section.

37 “(g) A general description of all existing improvements and the nature and proposed use of any
38 improvements that may be made on variable property if the improvements might substantially in-
39 crease the proportionate amount of the common expenses payable by existing unit owners.

40 “(h) A statement of whether or not the declarant reserves the right to create limited common
41 elements within any variable property, and if so, a general description of the types that may be
42 created.

43 “(i) A statement that the plat shows the location and dimensions of all withdrawable variable
44 property that is labeled ‘WITHDRAWABLE VARIABLE PROPERTY.’

45 “(j) A statement that if by the termination date all or a portion of the withdrawable variable

1 property has not been withdrawn or reclassified, the withdrawable variable property is automat-
2 ically withdrawn from the condominium as of the termination date.

3 “(k) A statement of the rights of the association under ORS 100.155 (2).

4 “(L) A statement of whether or not all or any portion of the variable property may not be
5 withdrawn from the condominium and, if so, with respect to the nonwithdrawable variable property:

6 “(A) A statement that the plat shows the location and dimensions of all nonwithdrawable vari-
7 able property that is labeled ‘NONWITHDRAWABLE VARIABLE PROPERTY.’

8 “(B) A description of all improvements that may be made and a statement of the intended use
9 of each improvement.

10 “(C) A statement that, if by the termination date all or a portion of the variable property des-
11 ignated as ‘nonwithdrawable variable property’ has not been reclassified, the property is automat-
12 ically reclassified as of the termination date as a general common element of the condominium and
13 any interest in the property held for security purposes is automatically extinguished by the classi-
14 fication.

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

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

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

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

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

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

36 “(11) The statement of an interest in property other than fee simple submitted to the condo-
37 minium form of ownership and any easements, rights or appurtenances belonging to property sub-
38 mitted to the condominium form of ownership, whether leasehold or fee simple, must include:

39 “(a) A reference to the recording index numbers and date of recording of the instrument creat-
40 ing the interest; or

41 “(b) A reference to the law, administrative rule, ordinance or regulation that creates the inter-
42 est if the interest is created under law, administrative rule, ordinance or regulation and not re-
43 corded in the office of the recording officer of the county in which the property is located.

44
45 **“SUBDIVIDING FOR DEVELOPMENT OF AFFORDABLE HOUSING**

1 “**SECTION 15.** ORS 92.090 is amended to read:

2 “92.090. (1) Subdivision plat names shall be subject to the approval of the county surveyor or,
3 in the case where there is no county surveyor, the county assessor. No tentative subdivision plan
4 or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced
5 the same as the name of any other subdivision in the same county, unless the land platted is con-
6 tiguous to and platted by the same party that platted the subdivision bearing that name or unless
7 the party files and records the consent of the party that platted the contiguous subdivision bearing
8 that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of
9 the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision sub-
10 mitted for final approval shall not use block numbers or letters unless such subdivision is a contin-
11 ued phase of a previously recorded subdivision, bearing the same name, that has previously used
12 block numbers or letters.

13 “(2) No tentative plan for a proposed subdivision and no tentative plan for a proposed partition
14 shall be approved unless:

15 “(a) The streets and roads are laid out so as to conform to the plats of subdivisions and parti-
16 tions already approved for adjoining property as to width, general direction and in all other respects
17 unless the city or county determines it is in the public interest to modify the street or road pattern.

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

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

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

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

27 “(b) Streets and roads held for private use and indicated on the tentative plan of such subdivi-
28 sion or partition have been approved by the city or county.

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

32 “(d) The subdivision or partition plat is in substantial conformity with the provisions of the
33 tentative plan for the subdivision or partition, as approved.

34 “(e) The subdivision or partition plat contains a donation to the public of all common improve-
35 ments, including but not limited to streets, roads, parks, sewage disposal and water supply systems,
36 the donation of which was made a condition of the approval of the tentative plan for the subdivision
37 or partition.

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

41 “(4) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a
42 subdivision shall be approved by a city or county unless the city or county has received and ac-
43 cepted:

44 “(a) A certification by a city-owned domestic water supply system or by the owner of a privately
45 owned domestic water supply system, subject to regulation by the Public Utility Commission of

1 Oregon, that water will be available to the lot line of each and every lot depicted in the proposed
2 subdivision plat;

3 “(b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the
4 city or county that a domestic water supply system will be installed by or on behalf of the subdivi-
5 der to the lot line of each and every lot depicted in the proposed subdivision plat[; *and the amount*
6 *of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be*]
7 **in an amount** determined by a registered professional engineer, subject to any change in such
8 amount as determined necessary by the city or county; or

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

21 “(5) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a
22 subdivision shall be approved by a city or county unless the city or county has received and ac-
23 cepted:

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

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

34 “(c) [*In lieu of paragraphs (a) and (b) of this subsection,*] A statement that no sewage disposal
35 facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, where
36 the Department of Environmental Quality has approved the proposed method or an alternative
37 method of sewage disposal for the subdivision in its evaluation report described in ORS 454.755
38 (1)(b). A copy of any such statement, signed by the subdivider and indorsed by the city or county
39 shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the
40 commissioner in the public report made for the subdivision under ORS 92.385. If the making of a
41 public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision
42 Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of
43 a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement
44 for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery
45 of such a statement, shall immediately send a copy of the receipt to the commissioner and shall keep

1 any such receipt on file in this state, subject to inspection by the commissioner, for a period of three
2 years after the date the receipt is taken.

3 **“(6) A city or county shall accept as other assurance, as used in subsections (4)(b) and**
4 **(5)(b) of this section, one or more award letters from public funding sources made to a sub-**
5 **divider who is subdividing the property to develop affordable housing, that is or will be sub-**
6 **ject to an affordability restriction as defined in ORS 456.250 or an affordable housing**
7 **covenant as defined in ORS 456.270, if the awards total an amount greater than the project**
8 **cost.**

9 “[6] (7) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of
10 a subdivision or partition located within the boundaries of an irrigation district, drainage district,
11 water control district, water improvement district or district improvement company shall be ap-
12 proved by a city or county unless the city or county has received and accepted a certification from
13 the district or company that the subdivision or partition is either entirely excluded from the district
14 or company or is included within the district or company for purposes of receiving services and
15 subjecting the subdivision or partition to the fees and other charges of the district or company.

17 **“SINGLE ROOM OCCUPANCIES**

18
19 **“SECTION 16. Section 17 of this 2023 Act and ORS 197.758 are added to and made a part**
20 **of ORS 197.286 to 197.314.**

21 **“SECTION 17. (1) As used in this section ‘single room occupancy’ means a residential**
22 **development with no fewer than four attached units that are independently rented, lockable**
23 **and provide living and sleeping space for the exclusive use of an occupant, but require that**
24 **the occupant share sanitary or food preparation facilities with other units in the occupancy.**

25 **“(2) Within an urban growth boundary, each local government shall allow the develop-**
26 **ment of a single room occupancy:**

27 **“(a) With up to six units on each lot or parcel zoned to allow for the development of a**
28 **detached single-family dwelling; and**

29 **“(b) With the number of units consistent with the density standards of a lot or parcel**
30 **zoned to allow for the development of a residential dwellings with five or more units.**

31 **“SECTION 18. ORS 197.303, as amended by section 27, chapter 13, Oregon Laws 2023 (Enrolled**
32 **House Bill 2001), is amended to read:**

33 **“197.303. (1) As used in ORS 197.296 and this section, ‘needed housing’ means all housing on land**
34 **zoned for residential use or mixed residential and commercial use that is determined to meet the**
35 **need shown for housing within an urban growth boundary at price ranges and rent levels that are**
36 **affordable to households within the county with a variety of incomes, including but not limited to**
37 **households with low incomes, very low incomes and extremely low incomes, as those terms are de-**
38 **defined by the United States Department of Housing and Urban Development under 42 U.S.C. 1437a.**
39 **‘Needed housing’ includes the following housing types:**

40 **“(a) Attached and detached single-family housing, middle housing types as described in ORS**
41 **197.758 and multiple family housing for both owner and renter occupancy;**

42 **“(b) Government assisted housing;**

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

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

1 “(e) Agriculture workforce housing;

2 “(f) Housing for individuals with a variety of disabilities related to mobility or communications
3 that require accessibility features;

4 “(g) Housing for older persons, as defined in ORS 659A.421; [and]

5 “(h) Housing for college or university students, if relevant to the region[.]; **and**

6 **“(i) Single room occupancies as defined in section 17 of this 2023 Act.**

7 “(2) For the purpose of estimating housing needs, as described in ORS 197.296 (3)(b), Metro shall
8 adopt findings and perform an analysis that estimates each of the following factors:

9 “(a) Projected needed housing units over the next 20 years;

10 “(b) Current housing underproduction;

11 “(c) Housing units needed for people experiencing homelessness; and

12 “(d) Housing units projected to be converted into vacation homes or second homes during the
13 next 20 years.

14 “(3) At the time Metro performs the analysis under subsection (2) of this section, Metro shall
15 allocate a housing need for each city within Metro.

16 “(4) In making an allocation under subsection (3) of this section, Metro shall consider:

17 “(a) The forecasted population growth under ORS 195.033 or 195.036;

18 “(b) The forecasted regional job growth;

19 “(c) An equitable statewide distribution of housing for income levels described in section 2 (4),
20 **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001) [of this 2023 Act].**

21 “(d) The estimates made under subsection (2) of this section; and

22 “(e) The purpose of the Oregon Housing Needs Analysis under section 1 (1), **chapter 13, Oregon**
23 **Laws 2023 (Enrolled House Bill 2001) [of this 2023 Act].**

24 “(5) Metro shall make the estimate described in subsection (2) of this section using a shorter
25 time period than since the last review under ORS 197.296 (2)(a)(B) if Metro finds that the shorter
26 time period will provide more accurate and reliable data related to housing need. The shorter time
27 period may not be less than three years.

28 “(6) Metro shall use data from a wider geographic area or use a time period longer than the
29 time period described in subsection (2) of this section if the analysis of a wider geographic area or
30 the use of a longer time period will provide more accurate, complete and reliable data relating to
31 trends affecting housing need than an analysis performed pursuant to subsection (2) of this section.
32 Metro must clearly describe the geographic area, time frame and source of data used in an estimate
33 performed under this subsection.

34 “(7) Subsection (1)(a) and (d) of this section does not apply to a city with a population of less
35 than 2,500.

36 “(8) Metro may take an exception under ORS 197.732 to the definition of ‘needed housing’ in
37 subsection (1) of this section in the same manner that an exception may be taken under the goals.

38 **“SECTION 19.** Section 23, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), is amended
39 to read:

40 **“Sec. 23.** (1) As used in ORS 197.286 to 197.314, and except as provided in subsection (2) of this
41 section:

42 “(a) ‘Needed housing’ means housing by affordability level, as described in section 2 (4), **chapter**
43 **13, Oregon Laws 2023 (Enrolled House Bill 2001) [of this 2023 Act]**, type, characteristics and lo-
44 cation that is necessary to accommodate the city’s allocated housing need over the 20-year planning
45 period in effect when the city’s housing capacity is determined.

1 “(b) ‘Needed housing’ includes the following housing types:
2 “(A) Detached single-family housing, middle housing types as described in ORS 197.758 and
3 multifamily housing that is owned or rented;
4 “(B) Government assisted housing;
5 “(C) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
6 “(D) Manufactured homes on individual lots planned and zoned for single-family residential use
7 that are in addition to lots within designated manufactured dwelling subdivisions;
8 “(E) Housing for agricultural workers;
9 “(F) Housing for individuals with a variety of disabilities, related to mobility or communications
10 that require accessibility features;
11 “(G) Housing for older persons, as defined in ORS 659A.421; [and]
12 “(H) Housing for college or university students, if relevant to the region[.]; and
13 **“(I) Single room occupancies as defined in section 17 of this 2023 Act.**
14 “(2) Subsection (1)(b)(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 “(3) At the time that a city is required to inventory its buildable lands under ORS 197.297 (1)
18 or section 21 or 22, **chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001)** [of this 2023 Act],
19 the city shall determine its needed housing under this section.
20 “(4) In determining needed housing the city must demonstrate that the projected housing types,
21 characteristics and locations are:
22 “(a) Attainable for the allocated housing need by income, including consideration of publicly
23 supported housing;
24 “(b) Appropriately responsive to current and projected market trends; and
25 “(c) Responsive to the factors in ORS 197.290 (2)(b) to (d).

26 “SITING DUPLEXES 27 28

29 **“SECTION 20.** ORS 197.758 is amended to read:
30 “197.758. (1) As used in this section:
31 “(a) ‘Cottage clusters’ means groupings of no fewer than four detached housing units per acre
32 with a footprint of less than 900 square feet each and that include a common courtyard.
33 “(b) ‘Middle housing’ means:
34 “(A) Duplexes;
35 “(B) Triplexes;
36 “(C) Quadplexes;
37 “(D) Cottage clusters; and
38 “(E) Townhouses.
39 “(c) ‘Townhouses’ means a dwelling unit constructed in a row of two or more attached units,
40 where each dwelling unit is located on an individual lot or parcel and shares at least one common
41 wall with an adjacent unit.
42 “(2) Except as provided in subsection (4) of this section, each city with a population of 25,000
43 or more and each county or city within a metropolitan service district shall allow the development
44 of:
45 “(a) All middle housing types in areas zoned for residential use that allow for the development

1 of detached single-family dwellings; and

2 “(b) A duplex on each lot or parcel zoned for residential use that allows for the development
3 of detached single-family dwellings.

4 “(3) Except as provided in subsection (4) of this section, each city not within a metropolitan
5 service district with a population of [*more than 10,000*] **2,500 or greater** and less than 25,000 shall
6 allow the development of a duplex on each lot or parcel zoned for residential use that allows for the
7 development of detached single-family dwellings. Nothing in this subsection prohibits a local gov-
8 ernment from allowing middle housing types in addition to duplexes.

9 “(4) This section does not apply to:

10 “(a) Cities with a population of 1,000 or fewer;

11 “(b) Lands not within an urban growth boundary;

12 “(c) Lands that are not incorporated and also lack sufficient urban services, as defined in ORS
13 195.065;

14 “(d) Lands that are not zoned for residential use, including lands zoned primarily for commer-
15 cial, industrial, agricultural or public uses; or

16 “(e) Lands that are not incorporated and are zoned under an interim zoning designation that
17 maintains the land’s potential for planned urban development.

18 “(5) Local governments may regulate siting and design of middle housing required to be per-
19 mitted under this section, provided that the regulations do not, individually or cumulatively, dis-
20 courage the development of all middle housing types permitted in the area through unreasonable
21 costs or delay. Local governments may regulate middle housing to comply with protective measures
22 adopted pursuant to statewide land use planning goals.

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

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

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

26 “(7) **A local government that amends its comprehensive plan or land use regulations re-**
27 **lating to allowing additional middle housing is not required to consider whether the amend-**
28 **ments significantly affect an existing or planned transportation facility.**

29 “**SECTION 21.** Section 3, chapter 639, Oregon Laws 2019, is amended to read:

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

32 “(a) June 30, 2021, for each city subject to [*section 2 (3) of this 2019 Act; or*] **ORS 197.758 (3)**
33 **(2021 Edition);**

34 “(b) June 30, 2022, for each local government subject to [*section 2 (2) of this 2019 Act.*] **ORS**
35 **197.758 (2); or**

36 “(c) **June 30, 2025, for each city subject to ORS 197.758 (3), as amended by section 20 of**
37 **this 2023 Act.**

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

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

45 “(4) In adopting regulations or amending a comprehensive plan under this section, a local gov-

1 ernment shall consider ways to increase the affordability of middle housing by considering ordi-
2 nances and policies that include but are not limited to:

3 “(a) Waiving or deferring system development charges;

4 “(b) Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523,
5 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and

6 “(c) Assessing a construction tax under ORS 320.192 and 320.195.

7 “[5] *When a local government makes a legislative decision to amend its comprehensive plan or*
8 *land use regulations to allow middle housing in areas zoned for residential use that allow for detached*
9 *single-family dwellings, the local government is not required to consider whether the amendments sig-*
10 *nificantly affect an existing or planned transportation facility.*]

11 “**SECTION 22.** Section 4, chapter 639, Oregon Laws 2019, is amended to read:

12 “**Sec. 4.** (1) [Notwithstanding section 3 (1) or (3) of this 2019 Act,] The Department of Land
13 Conservation and Development may grant to a local government that is subject to [section 2 of this
14 2019 Act] **ORS 197.758** an extension of the time allowed to adopt land use regulations or amend its
15 comprehensive plan under section 3, **chapter 639, Oregon Laws 2019** [of this 2019 Act].

16 “(2) An extension under this section may be applied only to specific areas where the local gov-
17 ernment has identified water, sewer, storm drainage or transportation services that are [either] sig-
18 nificantly deficient [or are expected to be significantly deficient before December 31, 2023,] and for
19 which the local government has established a plan of actions that will remedy the deficiency in
20 those services that is approved by the department. The extension may not extend beyond the date
21 that the local government intends to correct the deficiency under the plan.

22 “(3) In areas where the extension under this section does not apply, the local government shall
23 apply its own land use regulations consistent with section 3 (1), **chapter 639, Oregon Laws 2019**,
24 [of this 2019 Act] or the model ordinance developed under section 3 (2), **chapter 639, Oregon Laws**
25 **2019** [of this 2019 Act].

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

28 “(a) December 31, 2020, for a city subject to [section 2 (3) of this 2019 Act.] **ORS 197.758 (3)**
29 **(2021 Edition).**

30 “(b) June 30, 2021, for a local government subject to [section 2 (2) of this 2019 Act.] **ORS 197.758**
31 **(2).**

32 “**(c) June 30, 2024, for each city subject to ORS 197.758 (3), as amended by section 20 of**
33 **this 2023 Act.**

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

35 “(a) Within 90 days of receipt of a complete request from a city subject to [section 2 (3) of this
36 2019 Act.] **ORS 197.758 (3).**

37 “(b) Within 120 days of receipt of a complete request from a local government subject to [section
38 2 (2) of this 2019 Act.] **ORS 197.758 (2).**

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

41 “(a) Defining the affected areas;

42 “(b) Calculating deficiencies of water, sewer, storm drainage or transportation services;

43 “(c) Service deficiency levels required to qualify for the extension;

44 “(d) The components and timing of a remediation plan necessary to qualify for an extension;

45 “(e) Standards for evaluating applications; and

1 “(f) Establishing deadlines and components for the approval of a plan of action.

2 **SECTION 23.** In addition to and not in lieu of any other appropriation, there is appro-
3 priated to the Department of Land Conservation and Development, for the biennium begin-
4 ning July 1, 2023, out of the General Fund, the amount of \$1,250,000, to provide grants to local
5 governments to assist them in amending their comprehensive plans as required under sec-
6 tion 3 (1)(c), chapter 639, Oregon Laws 2019.

7
8 **“REMOVING RECORDED DISCRIMINATORY PROVISIONS**

9
10 **“SECTION 24.** Section 25 of this 2023 Act is added to and made a part of ORS chapter 93.

11 **“SECTION 25.** (1) Notwithstanding ORS 94.590, 94.625, 100.110, 100.135, 100.411 or 100.413
12 or any requirement of the declaration or bylaws, an amendment to the declaration or bylaws
13 of a planned community or condominium is effective and may be made and recorded in the
14 county clerk’s office of a county in which any portion of the property is situated without the
15 vote of the owners or the board members and without the prior approval of the Real Estate
16 Commissioner, county assessor or any other person if:

17 “(a) The amendment is made to conform the declarations or bylaws to the requirements
18 of ORS 93.270 (2); and

19 “(b) The amendment is signed by the president and secretary of the homeowners associ-
20 ation.

21 “(2) The first page or cover sheet of an instrument amending the declaration or bylaws
22 must comply with the recording requirements of ORS chapter 205 and must be in substan-
23 tially the following form:

24 “ _____

25
26 **AMENDMENT OF [DECLARATION/BYLAWS]**
27 **TO COMPLY WITH ORS 93.270 (2).**

28
29 Pursuant to this section, the undersigned states:

30 1. The undersigned are the president and secretary for the [homeowners/condominium
31 owners] association _____ (name) in _____ County.

32 2. This document amends the [declaration/bylaws] of the association.

33 3. The [declaration was/bylaws were] first recorded under instrument number (or book
34 and page number) _____ recorded on _____.

35 4. The [declaration was/bylaws were] most recently amended or restated, if ever, under
36 instrument number (or book and page number) _____ recorded on
37 _____.

38 5. The undersigned have determined that the current [declarations/bylaws] of the
39 [planned community/condominium], as last amended or revised, may fail to comply with ORS
40 93.270. The following amendments to the [declaration/bylaws] remove provisions that are not
41 allowed and are unenforceable under ORS 93.270 (2). No other changes to the document are
42 being made except as may be necessary to correct scriveners’ errors or to conform format
43 and style.

44 6. Under this section, a vote of the association is not required.

45 7. The description of the real property in _____ County affected by this

1 document is:

2 _____
3 _____

4
5 Dated this _____ day of _____ 20____.

6
7 Name: _____
8 President, _____ (association name)
9 Address: _____
10 _____
11 Phone No.: _____

12
13 Dated this _____ day of _____ 20____.

14
15 Name: _____
16 Secretary, _____ (association name)
17 Address: _____
18 _____
19 Phone No.: _____

20
21 STATE OF OREGON)
22) ss.
23 County of _____)

24 The foregoing instrument was acknowledged before me this ____ day of _____
25 20____ by _____ and _____.

26 _____
27 Notary Public for Oregon
28 My commission expires: _____

29 “ _____
30

31 “(3) If an instrument recorded under this section affects a condominium, the condomin-
32 ium association shall file a copy of the recorded instrument with the Real Estate Commis-
33 sioner.

34 “SECTION 26. Section 4, chapter 67, Oregon Laws 2021, as amended by section 5b, chapter 367,
35 Oregon Laws 2021, is amended to read:

36 “Sec. 4. (1) On or before December 31, [2022] 2024, each homeowners association of a planned
37 community first established before September 1, 2021, shall review [each governing document
38 currently binding on the planned community, or the lots or the lot owners within] the declaration and
39 bylaws of the planned community and shall:

40 “(a) Amend [or restate] each document as necessary to remove all restrictions against the use
41 of the community or the lots not allowed under ORS 93.270 (2) as provided under section 25 of
42 this 2023 Act; or

43 “(b) Execute and record a [declaration] certification that the homeowners association has re-
44 viewed the [governing documents binding on] declaration and bylaws of the planned community and
45 that the documents do not contain any restriction, rule or regulation against the use of the com-

1 munity or the lots by a person or group of persons because of race, color, religion, sex, sexual ori-
2 entation, gender identity, national origin, marital status, familial status, source of income, disability
3 or the number of individuals, including family members, persons of close affinity or unrelated per-
4 sons, who are simultaneously occupying a dwelling unit within occupancy limits.

5 “(2) [Notwithstanding ORS 94.590 or 94.625 or any requirement of the declaration or bylaws, an
6 amendment to or a restatement of the declaration or bylaws under subsection (1)(a) of this section is
7 effective and] **A certification under subsection (1)(b) of this section:**

8 “(a) May be recorded without the vote of the owners or the board members [if the amendment
9 or restatement includes a certification signed by the president and secretary of the homeowners asso-
10 ciation that the amended or restated declaration or bylaws does not change that document except as
11 required under this section and as may be necessary to correct scriveners’ errors or to conform format
12 and style.]; and

13 “(b) **Must be in substantially the following form:**

14 “ _____

15
16 **CERTIFICATION OF COMPLIANCE WITH ORS 93.270 (2).**

17
18 **Pursuant to section 4, chapter 67, Oregon Laws 2021, the undersigned states:**

19 **1. The undersigned are the president and secretary for the homeowners association**
20 _____ (name) in _____ County.

21 **2. The declaration was first recorded under instrument number (or book and page num-**
22 **ber) _____ recorded on _____. The declaration was most re-**
23 **cently amended or restated, if ever, under instrument number _____ recorded**
24 **on _____.**

25 **3. The bylaws were first recorded, if ever, under instrument number (or book and page**
26 **number) _____ recorded on _____. The bylaws were most re-**
27 **cently amended or restated, if ever, under instrument number _____ recorded**
28 **on _____.**

29 **4. The undersigned have determined that the current declarations and bylaws of the**
30 **planned community, as last amended or revised, conform with ORS 93.270 (2) and that there**
31 **are no provisions that would restrict the use of the community or the lots or units of the**
32 **community because of race, color, religion, sex, sexual orientation, gender identity, national**
33 **origin, marital status, familial status, source of income, disability or the number of individ-**
34 **uals, including family members, persons of close affinity or unrelated persons, who are si-**
35 **multaneously occupying a dwelling unit within occupancy limits. Any such provision that**
36 **may inadvertently remain is void and unenforceable.**

37 **5. Under this section, a vote of the association is not required.**

38 **6. The description of the real property in _____ County affected by this**
39 **document is:**

40 _____
41 _____

42
43 **Dated this _____ day of _____ 20_____.**

44
45 **Name: _____**

1 **President, _____ (association name)**

2 **Dated this _____ day of _____ 20_____.**

4 **Name: _____**

5 **Secretary, _____ (association name)**

7 **STATE OF OREGON)**

8 **) ss.**

9 **County of _____)**

10 **The foregoing instrument was acknowledged before me this _____ day of _____**
11 **20_____ by _____ and _____.**

13 **Notary Public for Oregon**

14 **My commission expires: _____**

15 **“ _____**

17 **“SECTION 27.** Section 6, chapter 67, Oregon Laws 2021, as amended by section 5c, chapter 367,
18 Oregon Laws 2021, is amended to read:

19 **“Sec. 6.** (1) On or before December 31, [2022] **2024**, each association of a condominium **first**
20 **established before September 1, 2021**, that includes units used for residential purposes shall re-
21 view *[each governing document currently binding on the condominium or the units or unit owners*
22 *within]* **the declaration and bylaws of** the condominium and shall:

23 **“(a)** Amend *[or restate]* each document as necessary to remove all restrictions against the use
24 of the condominium or the units not allowed under ORS 93.270 (2) **as provided under section 25**
25 **of this 2023 Act; or**

26 **“(b)** Execute and record a *[declaration]* **certification** that the association has reviewed the
27 *[governing documents binding on]* **declaration and bylaws of** the condominium and that the docu-
28 ments do not contain any restriction, rule or regulation against the use of the condominium or the
29 units by a person or group of persons because of race, color, religion, sex, sexual orientation, gender
30 identity, national origin, marital status, familial status, source of income, disability or the number
31 of individuals, including family members, persons of close affinity or unrelated persons, who are si-
32 multaneously occupying a dwelling unit within occupancy limits.

33 **“(2)** *[Notwithstanding ORS 100.110, 100.135, 100.413 or any requirement of the declaration or by-*
34 *laws, an amendment to or a restatement of the declaration or bylaws under this section, upon sub-*
35 *mission and approval of the Real Estate Commissioner under ORS 100.123, 100.125, 100.668 and*
36 *100.675, is effective and]* **A certification under subsection (1)(b) of this section:**

37 **“(a)** May be recorded without the vote of the owners or the board members *[if the amended or*
38 *restated declaration or bylaws includes a certification signed by the president and secretary of the as-*
39 *sociation that the amended or restated declaration or bylaws does not change that document except as*
40 *required under this section and as may be necessary to correct scriveners’ errors or to conform format*
41 *and style.]; and*

42 **“(b) Must be in substantially the following form:**

43 **“ _____**

44 **CERTIFICATION OF COMPLIANCE WITH ORS 93.270 (2).**

1 Pursuant to section 6, chapter 67, Oregon Laws 2021, the undersigned states:

2 1. The undersigned are the president and secretary for the condominium owners associ-

3 ation _____ (name) in _____ County.

4 2. The declaration was first recorded under instrument number (or book and page num-

5 ber) _____ recorded on _____. The declaration was most re-

6 cently amended or restated, if ever, under instrument number _____ recorded

7 on _____.

8 3. The bylaws were first recorded, if ever, under instrument number (or book and page

9 number) _____ recorded on _____. The bylaws were most re-

10 cently amended or restated, if ever, under instrument number _____ recorded

11 on _____.

12 4. The undersigned have determined that the current declarations and bylaws of the

13 condominium, as last amended or revised, conform with ORS 93.270 (2) and that there are

14 no provisions that would restrict the use of the community or the lots or units of the com-

15 munity because of race, color, religion, sex, sexual orientation, gender identity, national or-

16 igin, marital status, familial status, source of income, disability or the number of individuals,

17 including family members, persons of close affinity or unrelated persons, who are simul-

18 taneously occupying a dwelling unit within occupancy limits. Any such provision that may

19 inadvertently remain is void and unenforceable.

20 5. Under this section, a vote of the association is not required.

21 6. The description of the real property in _____ County affected by this

22 document is:

23 _____

24 _____

25

26 Dated this _____ day of _____ 20____.

27

28 Name: _____

29 President, _____ (association name)

30 Dated this _____ day of _____ 20____.

31

32 Name: _____

33 Secretary, _____ (association name)

34

35 STATE OF OREGON)

36) ss.

37 County of _____)

38 The foregoing instrument was acknowledged before me this _____ day of _____

39 20____ by _____ and _____.

40 _____

41 Notary Public for Oregon

42 My commission expires: _____

43 “ _____

44

45 “SECTION 28. (1) The amendments to sections 4 and 6, chapter 67, Oregon Laws 2021,

1 by sections 26 and 27 of this 2023 Act are intended to extend the deadline for compliance with
2 those sections and to clarify the process by which associations may comply with those
3 sections.

4 “(2) Sections 4 and 6, chapter 67, Oregon Laws 2021, as amended by sections 26 and 27
5 of this 2023 Act, do not apply to a planned community or condominium that:

6 “(a) Was established on or after September 1, 2021; or

7 “(b) Complied with the requirements of section 4 or 6, chapter 67, Oregon Laws 2021, that
8 were in effect before the effective date of this 2023 Act, notwithstanding the former deadline
9 for compliance of December 31, 2022.

10
11 “AFFORDABLE HOUSING ON PUBLIC UTILITY LANDS
12

13 “SECTION 29. (1) As used in this section, ‘affordable housing’ means affordable housing
14 as defined in ORS 197.308 or publicly supported housing as defined in ORS 456.250.

15 “(2)(a) To facilitate the development of affordable housing in this state, the Public Utility
16 Commission may allow a public utility to sell, or convey at below market price or as a gift,
17 the public utility’s interest in real property for the purpose of the real property being used
18 for the development of affordable housing.

19 “(b) The instrument that conveys, or contracts to convey, the public utility’s interest in
20 the real property must include an affordable housing covenant as provided in ORS 456.270 to
21 456.295.

22 “(3) A public utility may not recover costs from customers for selling, or conveying at
23 below market price or as a gift, the public utility’s interest in real property under this sec-
24 tion.

25
26 “UNIT CAPTIONS
27

28 “SECTION 30. 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 AND EFFECTIVE DATES
33

34 “SECTION 31. Sections 2, 17, 25 and 29 of this 2023 Act and the amendments to ORS
35 92.090, 94.550, 100.015, 100.022, 100.105, 100.110, 100.115, 197.303, 197.830, 215.427 and 227.178 and
36 section 23, chapter 13, Oregon Laws 2023 (Enrolled House Bill 2001), by sections 3 to 5, 9 to
37 15, 18 and 19 of this 2023 Act become operative on January 1, 2024.

38 “SECTION 32. This 2023 Act being necessary for the immediate preservation of the public
39 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
40 on its passage.”
41