

SB 847-19
(LC 3802)
3/30/23 (RLM/ps)

Requested by Senator JAMA

**PROPOSED AMENDMENTS TO
SENATE BILL 847**

1 On page 1 of the printed bill, line 2, after “94.550,” delete the rest of the
2 line and lines 3 through 5 and insert “100.015, 100.022, 100.105, 100.110,
3 100.115, 197.303, 197.758, 197.830, 215.427 and 227.178 and sections 3 and 4,
4 chapter 639, Oregon Laws 2019, section 3, chapter 18, Oregon Laws 2021,
5 sections 4 and 6, chapter 67, Oregon Laws 2021, and section 23, chapter ____,
6 Oregon Laws 2023 (Enrolled House Bill 2001); repealing section 4, chapter
7 18, Oregon Laws 2021; and declaring an emergency.”.

8 Delete lines 7 through 18 and delete pages 2 through 32 and insert:
9

10 **“RESIDENTIAL USE OF COMMERCIAL LANDS**

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

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

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

1 **“(b) Mixed use structures with ground floor commercial units and**
2 **residential units subject to an affordable housing covenant as provided**
3 **in ORS 456.270 to 456.295 making the properties affordable to moderate**
4 **income households, as defined in ORS 456.270.**

5 **“(2) The local government may only apply those approval standards,**
6 **conditions and procedures under ORS 197.307, that would be applicable**
7 **to the residential zone of the local government that is most compara-**
8 **ble in density to the allowed commercial uses.**

9 **“(3) Development under this section does not:**

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

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

14 **“(A) The development on the property cannot be adequately served**
15 **by water, sewer, storm water drainage or streets, or will not be ade-**
16 **quately served at the time that development on the lot is complete;**

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

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

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

21 **“(i) Natural disasters and hazards; or**

22 **“(ii) Natural resources, including air, water, land or natural areas,**
23 **but not including open spaces.**

24 **“(c) Apply on lands that are vacant or that were added to the urban**
25 **growth boundary within the last fifteen years.**

26
27 **“RESIDENTIAL APPROVAL PROCEDURES**

28
29 **“SECTION 3. ORS 215.427 is amended to read:**

30 **“215.427. (1) Except as provided in subsections (3), (5) and (10) of this**

1 section, for land within an urban growth boundary and applications for
2 mineral aggregate extraction, the governing body of a county or its designee
3 shall take final action on an application for a permit, limited land use deci-
4 sion or zone change, including resolution of all appeals under ORS 215.422,
5 within 120 days after the application is deemed complete. The governing body
6 of a county or its designee shall take final action on all other applications
7 for a permit, limited land use decision or zone change, including resolution
8 of all appeals under ORS 215.422, within 150 days after the application is
9 deemed complete, except as provided in subsections (3), (5) and (10) of this
10 section.

11 “(2) If an application for a permit, limited land use decision or zone
12 change is incomplete, the governing body or its designee shall notify the
13 applicant in writing of exactly what information is missing within 30 days
14 of receipt of the application and allow the applicant to submit the missing
15 information. The application shall be deemed complete for the purpose of
16 subsection (1) of this section and ORS 197.311 upon receipt by the governing
17 body or its designee of:

18 “(a) All of the missing information;

19 “(b) Some of the missing information and written notice from the appli-
20 cant that no other information will be provided; or

21 “(c) Written notice from the applicant that none of the missing informa-
22 tion will be provided.

23 “(3)(a) If the application was complete when first submitted or the appli-
24 cant submits additional information, as described in subsection (2) of this
25 section, within 180 days of the date the application was first submitted and
26 the county has a comprehensive plan and land use regulations acknowledged
27 under ORS 197.251, approval or denial of the application shall be based upon
28 the standards and criteria that were applicable at the time the application
29 was first submitted.

30 “(b) If the application is for industrial or traded sector development of a

1 site identified under section 12, chapter 800, Oregon Laws 2003, and proposes
2 an amendment to the comprehensive plan, approval or denial of the applica-
3 tion must be based upon the standards and criteria that were applicable at
4 the time the application was first submitted, provided the application com-
5 plies with paragraph (a) of this subsection.

6 “(4) On the 181st day after first being submitted, the application is void
7 if the applicant has been notified of the missing information as required
8 under subsection (2) of this section and has not submitted:

9 “(a) All of the missing information;

10 “(b) Some of the missing information and written notice that no other
11 information will be provided; or

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

13 “(5) The period set in subsection (1) of this section or the 100-day period
14 set in ORS 197.311 may be extended for a specified period of time at the
15 written request of the applicant. The total of all extensions, except as pro-
16 vided in subsection (10) of this section for mediation, may not exceed 215
17 days.

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

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

21 “(b) Unless the parties have agreed to mediation as described in sub-
22 section (10) of this section or ORS 197.319 (2)(b).

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

26 “(a) A decision of the county making a change to an acknowledged com-
27 prehensive plan or a land use regulation that is submitted to the Director
28 of the Department of Land Conservation and Development under ORS
29 197.610[.]; **or**

30 “(b) **A decision of a county involving an application for the devel-**

1 **opment of residential structures within an urban growth boundary,**
2 **where the county has tentatively approved the application, and ex-**
3 **tends these periods by no more than seven days in order to assure the**
4 **sufficiency of its final order.**

5 “(8) Except when an applicant requests an extension under subsection (5)
6 of this section, if the governing body of the county or its designee does not
7 take final action on an application for a permit, limited land use decision
8 or zone change within 120 days or 150 days, as applicable, after the applica-
9 tion is deemed complete, the county shall refund to the applicant either the
10 unexpended portion of any application fees or deposits previously paid or 50
11 percent of the total amount of such fees or deposits, whichever is greater.
12 The applicant is not liable for additional governmental fees incurred subse-
13 quent to the payment of such fees or deposits. However, the applicant is re-
14 sponsible for the costs of providing sufficient additional information to
15 address relevant issues identified in the consideration of the application.

16 “(9) A county may not compel an applicant to waive the period set in
17 subsection (1) of this section or to waive the provisions of subsection (8) of
18 this section or ORS 197.311 or 215.429 as a condition for taking any action
19 on an application for a permit, limited land use decision or zone change ex-
20 cept when such applications are filed concurrently and considered jointly
21 with a plan amendment.

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

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

27 “227.178. (1) Except as provided in subsections (3), (5) and (11) of this
28 section, the governing body of a city or its designee shall take final action
29 on an application for a permit, limited land use decision or zone change,
30 including resolution of all appeals under ORS 227.180, within 120 days after

1 the application is deemed complete.

2 “(2) If an application for a permit, limited land use decision or zone
3 change is incomplete, the governing body or its designee shall notify the
4 applicant in writing of exactly what information is missing within 30 days
5 of receipt of the application and allow the applicant to submit the missing
6 information. The application shall be deemed complete for the purpose of
7 subsection (1) of this section or ORS 197.311 upon receipt by the governing
8 body or its designee of:

9 “(a) All of the missing information;

10 “(b) Some of the missing information and written notice from the appli-
11 cant that no other information will be provided; or

12 “(c) Written notice from the applicant that none of the missing informa-
13 tion will be provided.

14 “(3)(a) If the application was complete when first submitted or the appli-
15 cant submits the requested additional information within 180 days of the date
16 the application was first submitted and the city has a comprehensive plan
17 and land use regulations acknowledged under ORS 197.251, approval or de-
18 nial of the application shall be based upon the standards and criteria that
19 were applicable at the time the application was first submitted.

20 “(b) If the application is for industrial or traded sector development of a
21 site identified under section 12, chapter 800, Oregon Laws 2003, and proposes
22 an amendment to the comprehensive plan, approval or denial of the applica-
23 tion must be based upon the standards and criteria that were applicable at
24 the time the application was first submitted, provided the application com-
25 plies with paragraph (a) of this subsection.

26 “(4) On the 181st day after first being submitted, the application is void
27 if the applicant has been notified of the missing information as required
28 under subsection (2) of this section and has not submitted:

29 “(a) All of the missing information;

30 “(b) Some of the missing information and written notice that no other

1 information will be provided; or

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

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

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

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

11 “(b) Unless the parties have agreed to mediation as described in sub-
12 section (11) of this section or ORS 197.319 (2)(b).

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

16 “(a) A decision of the city making a change to an acknowledged com-
17 prehensive plan or a land use regulation that is submitted to the Director
18 of the Department of Land Conservation and Development under ORS
19 197.610[.];

20 “(b) **A decision of a city involving an application for the develop-**
21 **ment of residential structures within an urban growth boundary,**
22 **where the city has tentatively approved the application, and extends**
23 **these periods by no more than seven days in order to assure the suf-**
24 **ficiency of its final order.**

25 “(8) Except when an applicant requests an extension under subsection (5)
26 of this section, if the governing body of the city or its designee does not take
27 final action on an application for a permit, limited land use decision or zone
28 change within 120 days after the application is deemed complete, the city
29 shall refund to the applicant, subject to the provisions of subsection (9) of
30 this section, either the unexpended portion of any application fees or depos-

1 its previously paid or 50 percent of the total amount of such fees or deposits,
2 whichever is greater. The applicant is not liable for additional governmental
3 fees incurred subsequent to the payment of such fees or deposits. However,
4 the applicant is responsible for the costs of providing sufficient additional
5 information to address relevant issues identified in the consideration of the
6 application.

7 “(9)(a) To obtain a refund under subsection (8) of this section, the appli-
8 cant may either:

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

11 “(B) Include the amount claimed in a mandamus petition filed under ORS
12 227.179. The court shall award an amount owed under this section in its final
13 order on the petition.

14 “(b) Within seven calendar days of receiving a request for a refund, the
15 city or its designee shall determine the amount of any refund owed. Payment,
16 or notice that no payment is due, shall be made to the applicant within 30
17 calendar days of receiving the request. Any amount due and not paid within
18 30 calendar days of receipt of the request shall be subject to interest charges
19 at the rate of one percent per month, or a portion thereof.

20 “(c) If payment due under paragraph (b) of this subsection is not paid
21 within 120 days after the city or its designee receives the refund request, the
22 applicant may file an action for recovery of the unpaid refund. In an action
23 brought by a person under this paragraph, the court shall award to a pre-
24 vailing applicant, in addition to the relief provided in this section, reason-
25 able attorney fees and costs at trial and on appeal. If the city or its designee
26 prevails, the court shall award reasonable attorney fees and costs at trial
27 and on appeal if the court finds the petition to be frivolous.

28 “(10) A city may not compel an applicant to waive the 120-day period set
29 in subsection (1) of this section or to waive the provisions of subsection (8)
30 of this section or ORS 197.311 or 227.179 as a condition for taking any action

1 on an application for a permit, limited land use decision or zone change ex-
2 cept when such applications are filed concurrently and considered jointly
3 with a plan amendment.

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

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

9 “197.830. (1) Review of land use decisions or limited land use decisions
10 under ORS 197.830 to 197.845 shall be commenced by filing a notice of intent
11 to appeal with the Land Use Board of Appeals.

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

14 “(a) Filed a notice of intent to appeal the decision as provided in sub-
15 section (1) of this section; and

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

18 “(3) If a local government makes a land use decision without providing
19 a hearing, except as provided under ORS 215.416 (11) or 227.175 (10), or the
20 local government makes a land use decision that is different from the pro-
21 posal described in the notice of hearing to such a degree that the notice of
22 the proposed action did not reasonably describe the local government’s final
23 actions, a person adversely affected by the decision may appeal the decision
24 to the board under this section:

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

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

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

30 “(a) A person who was not provided notice of the decision as required

1 under ORS 215.416 (11)(c) or 227.175 (10)(c) may appeal the decision to the
2 board under this section within 21 days of receiving actual notice of the
3 decision.

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

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

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

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

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

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

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

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

29 “(b) May not exceed 10 years after the date of the decision if notice of a
30 hearing or an administrative decision made pursuant to ORS 197.195 or

1 197.797 is required but has not been provided.

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

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

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

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

13 “(c) Failure to comply with the deadline or to pay the filing fee set forth
14 in paragraph (a) of this subsection shall result in denial of a motion to in-
15 tervene.

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

20 “(9) A notice of intent to appeal a land use decision or limited land use
21 decision shall be filed not later than 21 days after the date the decision
22 sought to be reviewed becomes final. A notice of intent to appeal plan and
23 land use regulation amendments processed pursuant to ORS 197.610 to
24 197.625 shall be filed not later than 21 days after notice of the decision
25 sought to be reviewed is mailed or otherwise submitted to parties entitled
26 to notice under ORS 197.615. Failure to include a statement identifying when,
27 how and to whom notice was provided under ORS 197.615 does not render the
28 notice defective. Copies of the notice of intent to appeal shall be served upon
29 the local government, special district or state agency and the applicant of
30 record, if any, in the local government, special district or state agency pro-

1 ceeding. The notice shall be served and filed in the form and manner pre-
2 scribed by rule of the board and shall be accompanied by a filing fee of \$300.
3 If a petition for review is not filed with the board as required in subsections
4 (10) and (11) of this section, the board shall award the filing fee to the local
5 government, special district or state agency.

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

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

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

27 “(12) The petition shall include a copy of the decision sought to be re-
28 viewed and shall state:

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

30 “(b) The date of the decision.

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

2 “(13)(a) The board shall adopt rules establishing deadlines for filing pe-
3 titions and briefs and for oral argument.

4 “(b) **The local government or state agency may withdraw its deci-**
5 **sion for purposes of reconsideration** at any time:

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

7 “(B) Prior to:

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

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

13 “(c) If a local government or state agency withdraws an order for pur-
14 poses of reconsideration, it shall, within such time as the board may allow,
15 affirm, modify or reverse its decision. If the petitioner is dissatisfied with the
16 local government or agency action after withdrawal for purposes of recon-
17 sideration, the petitioner may refile the notice of intent and the review shall
18 proceed upon the revised order. An amended notice of intent is not required
19 if the local government or state agency, on reconsideration, affirms the order
20 or modifies the order with only minor changes.

21 “(14) The board shall issue a final order within 77 days after the date of
22 transmittal of the record. If the order is not issued within 77 days the ap-
23 plicant may apply in Marion County or the circuit court of the county where
24 the application was filed for a writ of mandamus to compel the board to issue
25 a final order.

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

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

30 “(b) Shall award reasonable attorney fees and expenses to the prevailing

1 party against any other party who the board finds presented a position or
2 filed any motion without probable cause to believe the position or motion
3 was well-founded in law or on factually supported information.

4 “(c) Shall award costs and attorney fees to a party as provided in ORS
5 197.843.

6 “(16) Orders issued under this section may be enforced in appropriate ju-
7 dicial proceedings.

8 “(17)(a) The board shall provide for the publication of its orders that are
9 of general public interest in the form it deems best adapted for public con-
10 venience. The publications shall constitute the official reports of the board.

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

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

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

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

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

27 “(c) A list of respondents, the number of reviews involving each respond-
28 ent and the rate at which reviews involving the respondent have resulted in
29 decisions of the board to uphold, reverse or remand the land use decision or
30 limited land use decision. Additionally, when a respondent is the local gov-

1 ernment that made the land use decision or limited land use decision, the
2 board shall track whether the local government appears before the board.

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

6

7

“EMERGENCY SHELTER SITING

8

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

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

13 “**Sec. 3.** (1) A local government shall approve an application for the de-
14 velopment or use of land for an emergency shelter, as defined in [*section 2*
15 *of this 2021 Act*] **197.782**, on any property, notwithstanding **this chapter or**
16 **ORS chapter 195, [197,] 197A, 215 or 227 or any statewide [plan] land use**
17 **planning goal**, rule of the Land Conservation and Development Commission
18 or local land use regulation, zoning ordinance, regional framework plan,
19 functional plan or comprehensive plan, if the emergency shelter:

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

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

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

24 “(d) Will not result in the development of a new building that is sited
25 within an area designated under a statewide planning goal relating to na-
26 tural disasters and hazards, including flood plains or mapped environmental
27 health hazards, unless the development complies with regulations directly
28 related to the hazard;

29 “(e) Has adequate transportation access to commercial and medical ser-
30 vices; and

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

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

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

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

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

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

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

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

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

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

18 “(A) Showering or bathing;

19 “(B) Storage for personal property;

20 “(C) Laundry facilities;

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

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

23 “(F) Case management services for housing, financial, vocational, educa-
24 tional or physical or behavioral health care services; or

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

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

28 “(4) An emergency shelter approved under this section may also provide
29 additional services not described in subsection (3) of this section to individ-
30 uals who are transitioning from unsheltered homeless status. An organiza-

1 tion providing services under this subsection may charge a fee of no more
2 than \$300 per month per client and only to clients who are financially able
3 to pay the fee and who request the services.

4 “(5)(a) The approval **or denial** of an emergency shelter under this section
5 **may be made without a hearing. Whether or not a hearing is held, the**
6 **approval or denial** is not a land use decision and is subject to review only
7 under ORS 34.010 to 34.100.

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

9 “(A) A local government, and any intervening applicant, that pre-
10 **vails on the appeal of a local government’s approval; and**

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

13 “(6) An application for an emergency shelter is not subject to ap-
14 **proval under this section if, at the time of filing, the most recently**
15 **completed point-in-time count, as reported to the United States De-**
16 **partment of Housing and Urban Development under 24 C.F.R. part 578,**
17 **indicated that the total sheltered and unsheltered homeless population**
18 **was less than 0.18 percent of the state population, based on the latest**
19 **estimate from the Portland State University Population Research**
20 **Center.**

21

22 “SINGLE EXIT MULTIFAMILY DWELLINGS

23

24 “SECTION 8. On or before October 1, 2025, the Department of Con-
25 **sumer and Business Services shall review and adopt updates to the**
26 **State of Oregon Structural Specialty Code through the Building Codes**
27 **Structures Board established under ORS 455.132 to allow a residential**
28 **occupancy to be served by a single exit, consistent with the following**
29 **policies of this state:**

30 “(1) The reduction, to the extent practicable, of costs and barriers

1 to the construction of midsize multifamily dwellings, including those
2 offering family-size housing with sprinklers on smaller lots, while
3 maintaining safety, public health and the general welfare with respect
4 to construction and occupancy.

5 “(2) Encouraging a variety of less expensive housing types that al-
6 low single-exit residential buildings under certain circumstances con-
7 sistent with other adopted building codes, including those codes
8 adopted in Seattle, Washington.

9
10 **“PLANNED COMMUNITY ACT EXEMPTIONS**

11
12 **“SECTION 9.** ORS 94.550 is amended to read:

13 “94.550. As used in ORS 94.550 to 94.783:

14 “(1) ‘Assessment’ means any charge imposed or levied by a homeowners
15 association on or against an owner or lot pursuant to the provisions of the
16 declaration or the bylaws of the planned community or provisions of ORS
17 94.550 to 94.783.

18 “(2) ‘Blanket encumbrance’ means a trust deed or mortgage or any other
19 lien or encumbrance, mechanic’s lien or otherwise, securing or evidencing
20 the payment of money and affecting more than one lot in a planned commu-
21 nity, or an agreement affecting more than one lot by which the developer
22 holds such planned community under an option, contract to sell or trust
23 agreement.

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

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

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

30 “(A) For a planned community created on or after January 1, 2002, the

1 initial estimated annual assessment, including a constructive assessment
2 based on a subsidy of the association through a contribution of funds, goods
3 or services by the declarant; or

4 “(B) For a planned community created before January 1, 2002, a reason-
5 able estimate of the cost of fulfilling existing obligations imposed by the
6 declaration, bylaws or other governing document as of January 1, 2002.

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

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

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

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

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

16 “(B) For a planned community created before January 1, 2002, a reason-
17 able estimate of the cost of fulfilling existing obligations imposed by the
18 declaration, bylaws or other governing document as of January 1, 2002.

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

21 “(6) ‘Common expenses’ means expenditures made by or financial liabil-
22 ities incurred by the homeowners association and includes any allocations
23 to the reserve account under ORS 94.595.

24 “(7) ‘Common property’ means any real property or interest in real prop-
25 erty within a planned community which is owned, held or leased by the
26 homeowners association or owned as tenants in common by the lot owners,
27 or designated in the declaration or the plat for transfer to the association.

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

30 “(9) ‘Declarant’ means any person who creates a planned community un-

1 der ORS 94.550 to 94.783.

2 “(10) ‘Declarant control’ means any special declarant right relating to
3 administrative control of a homeowners association, including but not lim-
4 ited to:

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

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

11 “(c) The right of the declarant to exercise powers and responsibilities
12 otherwise assigned by the declaration or bylaws or by the provisions of ORS
13 94.550 to 94.783 to the association, officers of the association or board of di-
14 rectors of the association.

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

17 “(12) ‘Electric vehicle charging station’ or ‘charging station’ means a fa-
18 cility designed to deliver electrical current for the purpose of charging one
19 or more electric motor vehicles.

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

23 “(14) ‘Governing document’ means articles of incorporation, bylaws, a
24 declaration or a rule, regulation or resolution that was properly adopted by
25 the homeowners association or any other instrument or plat relating to
26 common ownership or common maintenance of a portion of a planned com-
27 munity that is binding upon lots within the planned community.

28 “(15) ‘Governing entity’ means an incorporated or unincorporated associ-
29 ation, committee, person or any other entity that has authority under a
30 governing document to maintain commonly maintained property, to impose

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

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

6 “(17) ‘Majority’ or ‘majority of votes’ or ‘majority of owners’ means more
7 than 50 percent of the 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
13 otherwise specified, but does not include a person holding only a security
14 interest in a lot.

15 “(20) ‘Percent of owners’ or ‘percentage of owners’ means the owners re-
16 presenting the specified voting rights as determined under ORS 94.658.

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

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

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

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

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

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

30 **“(i) Subject to an affordability restriction, including an affordable**

1 **housing covenant, as defined in ORS 456.270; or**

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

3 “(22) ‘Purchaser’ means any person other than a declarant who, by means
4 of a voluntary transfer, acquires a legal or equitable interest in a lot, other
5 than as security for an obligation.

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

9 “(24) ‘Recorded declaration’ means an instrument recorded with the re-
10 cording officer of the county in which the planned community is located that
11 contains covenants, conditions and restrictions that are binding upon lots in
12 the planned community or that impose servitudes on the real property.

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

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

18 “(b) Expanding the planned community or withdrawing property from the
19 planned community under ORS 94.580 (3) and (4);

20 “(c) Converting lots into common property;

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

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

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

26 “(27) ‘Turn over’ means the act of turning over administrative responsi-
27 bility pursuant to ORS 94.609 and 94.616.

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

1 property.

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

4

5 **“REGULATION OF CONDOMINIUMS**

6

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

8 “100.015. The Real Estate Commissioner **has the exclusive right to**
9 **regulate the submission of property to the provisions of this chapter**
10 **and** may adopt such rules as are necessary for the administration of this
11 chapter.

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

13 “100.022. [(1)] **Except as provided under ORS 100.015 or explicitly re-**
14 **quired or allowed under this chapter,** a zoning, subdivision, building code
15 or other [*real property law,*] **regulation by a public body, agency rule or**
16 **local ordinance or regulation may not [*prohibit*]:**

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

19 **“(2) Impose any restriction or requirement upon a structure, property**
20 **or development that is submitted or proposed to be submitted to the con-**
21 **dominium form of ownership under this chapter that it would not impose**
22 **upon a structure or development under a different form of ownership[.], in-**
23 **cluding:**

24 **“(a) Any charge, tax or fee;**

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

29 **“(c) Any additional permitting requirements or conditions of ap-**
30 **proval of the property or development; or**

1 **“(d) Any other requirements.**

2 “[(2) *Except as set forth in this section, no provision of this chapter inval-*
3 *idates or modifies any provision of any zoning, subdivision, building code or*
4 *other real property use law, ordinance or regulation.*]

5 “[(3) *Subsection (1) of This section does not prohibit any governmental ap-*
6 *proval required under this chapter.*]

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

8 “100.110. (1)(a) Before a declaration, supplemental declaration or an
9 amendment thereto may be recorded, it must be approved as provided in this
10 section by the county assessor of the county in which the property is located
11 and the Real Estate Commissioner.

12 “(b) Before a declaration, supplemental declaration or, if required under
13 subsection (3) of this section, an amendment thereto may be recorded, it must
14 be approved by the tax collector of the county in which the property is lo-
15 cated.

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

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

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

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

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

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

30 “(b) The plat complies with the requirements of ORS 100.115 or the plat

1 amendment complies with ORS 100.116.

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

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

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

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

19 “(4) Subject to subsection (6) of this section, the commissioner shall ap-
20 prove the declaration or amendment thereto if:

21 “(a) The declaration or the amendment thereto complies with the re-
22 quirements of ORS 100.105 and 100.135 and other provisions of this chapter;

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

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

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

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

1 “(B) An affidavit that the notice of conversion was given in accordance
2 with ORS 100.305 and copies of the written consent of any tenants as pro-
3 vided in ORS 100.305 (6) or a signed statement that no tenants were entitled
4 to notice under ORS 100.305; or

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

7 “(e) A copy of the plat executed by the declarant and prepared in con-
8 formance with ORS 100.115 or plat amendment prepared in conformance with
9 ORS 100.116 is submitted;

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

12 “(A) Executed by the declarant, the professional land surveyor who signed
13 the surveyor’s certificate on the plat, the attorney for the declarant, a rep-
14 resentative of the title insurance company that issued the information re-
15 quired under ORS 100.640 (1)(e) or 100.668 (2)(d) or another person authorized
16 by the declarant in writing to execute the certification; and

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

19 “(g) A copy of a reserve study has been submitted, if a disclosure state-
20 ment was issued under ORS 100.655 and the reserve study was not included
21 pursuant to ORS 100.640 (1)(g).

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

23 “(a) The supplemental declaration complies with the requirements of ORS
24 100.120 and other provisions of this chapter;

25 “(b) The supplemental plat complies with the requirements of ORS
26 100.115;

27 “(c) The supplemental declaration is for a conversion condominium and
28 the declarant has complied with the requirements of subsection (4)(d) of this
29 section; and

30 “(d) A copy of the supplemental plat and a certification of plat execution

1 described in subsection (4)(e) and (f) of this section have been submitted.

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

5 “(7) Before the commissioner approves the declaration, supplemental dec-
6 laration or amendment thereto under this section:

7 “(a) The declarant or other person requesting approval shall pay to the
8 commissioner a fee determined by the commissioner under ORS 100.670; and

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

13 “(8) If the declaration, supplemental declaration or amendment thereto
14 approved by the commissioner under subsection (4) or (5) of this section is
15 not recorded in accordance with ORS 100.115 within one year from the date
16 of approval by the commissioner, the approval automatically expires and the
17 declaration, supplemental declaration or amendment thereto must be resub-
18 mitted for approval in accordance with this section. The commissioner’s ap-
19 proval must set forth the date on which the approval expires.

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

21 “100.115. (1) A plat of the land described in the declaration or a supple-
22 mental plat described in a supplemental declaration, complying with ORS
23 92.050, 92.060 (1) and (2), 92.080 and 92.120, shall be recorded simultaneously
24 with the declaration or supplemental declaration. The plat or supplemental
25 plat shall be titled in accordance with subsection (3) of this section and
26 shall:

27 “(a) Show the location of:

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

30 “(B) For a condominium containing units described in ORS 100.020

1 (3)(b)(C) or (D), the moorage space or floating structure. The location shall
2 be referenced to a point on the boundary of the upland property regardless
3 of a change in the location resulting from a fluctuation in the water level
4 or flow.

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

7 “(A) For units in a building described in ORS 100.020 (3)(b)(A), the hori-
8 zontal and vertical boundaries of each unit and the common elements to
9 which each unit has access. The vertical boundaries shall be referenced to
10 a known benchmark elevation or other reference point as approved by the
11 city or county surveyor;

12 “(B) For a space described in ORS 100.020 (3)(b)(B), the horizontal
13 boundaries of each unit and the common elements to which each unit has
14 access. If the space is located within a structure, the vertical boundaries also
15 shall be shown and referenced to a known benchmark elevation or other
16 reference point as approved by the city or county surveyor;

17 “(C) For a moorage space described in ORS 100.020 (3)(b)(C), the hori-
18 zontal boundaries of each unit and the common elements to which each unit
19 has access; and

20 “(D) For a floating structure described in ORS 100.020 (3)(b)(D), the hor-
21 izontal and vertical boundaries of each unit and the common elements to
22 which each unit has access. The vertical boundaries shall be referenced to
23 an assumed elevation of an identified point on the floating structure even
24 though the assumed elevation may change with the fluctuation of the water
25 level where the floating structure is moored.

26 “(c) Identify and show, to the extent feasible, the location and dimensions
27 of all limited common elements described in the declaration. The plat may
28 not include any statement indicating to which unit the use of any noncon-
29 tiguous limited common element is reserved.

30 “(d) Include a statement, including signature and official seal, of a regis-

1 tered architect, registered professional land surveyor or registered profes-
2 sional engineer certifying that the plat fully and accurately depicts the
3 boundaries of the units of the building and that construction of the units and
4 buildings as depicted on the plat has been completed, except that the pro-
5 fessional land surveyor who prepared the plat need not affix a seal to the
6 statement.

7 “(e) Include a surveyor’s certificate, complying with ORS 92.070, that in-
8 cludes information in the declaration in accordance with ORS 100.105 (1)(a)
9 and a metes and bounds description or other description approved by the city
10 or county surveyor.

11 “(f) Include a statement by the declarant that the property and improve-
12 ments described and depicted on the plat are subject to the provisions of ORS
13 100.005 to 100.627.

14 “[g] *Include such signatures of approval as may be required by local or-*
15 *dinance or regulation.*]

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

18 “[i] **(h)** If the condominium is a flexible condominium, show the location
19 and dimensions of all variable property identified in the declaration and la-
20 bel the variable property as ‘WITHDRAWABLE VARIABLE PROPERTY’ or
21 ‘NONWITHDRAWABLE VARIABLE PROPERTY,’ with a letter different
22 from those designating a unit, building or other tract of variable property.
23 If there is more than one tract, each tract shall be labeled in the same
24 manner.

25 “(2) The supplemental plat required under ORS 100.150 (1) shall be re-
26 corded simultaneously with the supplemental declaration. The supplemental
27 plat shall be titled in accordance with subsection (3) of this section and
28 shall:

29 “(a) Comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080, 92.120 and
30 subsection (3) of this section.

1 “(b) If any property is withdrawn:
2 “(A) Show the resulting perimeter boundaries of the condominium after
3 the withdrawal; and
4 “(B) Show the information required under subsection [(1)(i)] **(1)(h)** of this
5 section as it relates to any remaining variable property.
6 “(c) If any property is reclassified, show the information required under
7 subsection (1)(a) to (d) of this section.
8 “(d) Include a ‘Declarant’s Statement’ that the property described on the
9 supplemental plat is reclassified or withdrawn from the condominium and
10 that the condominium exists as described and depicted on the plat.
11 “(e) Include a surveyor’s certificate complying with ORS 92.070.
12 “(3) The title of each supplemental plat described in ORS 100.120 shall
13 include the complete name of the condominium, followed by the additional
14 language specified in this subsection and the appropriate reference to the
15 stage being annexed or tract of variable property being reclassified. Each
16 supplemental plat for a condominium recorded on or after January 1, 2002,
17 shall be numbered sequentially and shall:
18 “(a) If property is annexed under ORS 100.125, include the words ‘Sup-
19 plemental Plat No. ____: Annexation of Stage ____’; or
20 “(b) If property is reclassified under ORS 100.150, include the words
21 ‘Supplemental Plat No. ____: Reclassification of Variable Property, Tract
22 ____.’
23 “(4) Upon request of the county surveyor or assessor, the person offering
24 a plat or supplemental plat for recording shall also file an exact copy, cer-
25 tified by the surveyor who made the plat to be an exact copy of the plat,
26 with the county assessor and the county surveyor. The exact copy shall be
27 made on suitable drafting material having the characteristics of strength,
28 stability and transparency required by the county surveyor.
29 “(5) Before a plat or a supplemental plat may be recorded, it must be ap-
30 proved by the city or county surveyor as provided in ORS 92.100. Before ap-

1 proving the plat as required by this section, the city or county surveyor
2 shall:

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

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

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

8 “(A) The designation and area in square feet of each unit shown on the
9 plat and the unit designations and areas contained in the declaration in ac-
10 cordance with ORS 100.105 (1)(d);

11 “(B) Limited common elements identified on the plat and the information
12 contained in the declaration in accordance with ORS 100.105 (1)(h);

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

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

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

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

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

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

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

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

2 “(a) A description of the property, including property on which a unit or
3 a limited common element is located, whether held in fee simple, leasehold,
4 easement or other interest or combination thereof, that is being submitted
5 to the condominium form of ownership and that conforms to the description
6 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
8 in the property being submitted to the condominium form of ownership,
9 whether fee simple, leasehold, easement or other interest or combination
10 thereof.

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

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

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

23 “ _____

24 NOTICE

25

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

30 “ _____

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

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

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

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

7 “(B) A statement of the unit to which the use of each limited common
8 element is reserved, provided the statement is not a reference to an assign-
9 ment of use specified on the plat; and

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

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

14 “(j) The voting rights allocated to each unit in accordance with ORS
15 100.525 or, in the case of condominium units committed as property in a
16 timeshare plan defined in ORS 94.803, the voting rights allocated in the
17 timeshare instrument.

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

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

24 “(m) The method of amending the declaration and the percentage of vot-
25 ing rights required to approve an amendment of the declaration in accord-
26 ance with ORS 100.135.

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

1 roadways within and adjacent to the condominium.

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

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

10 “(q) Any other details regarding the property that the person executing
11 the declaration considers desirable. However, if a provision required to be
12 in the bylaws under ORS 100.415 is included in the declaration, the voting
13 requirements for amending the bylaws also govern the amendment of the
14 provision in the declaration.

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

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

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

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

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

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

3 “(3) Unless expressly prohibited by the declaration and subject to the re-
4 quirements of ORS 100.135 (2) and subsections (9) and (10) of this section:

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

8 “(b) Before the termination date specified in the declaration or supple-
9 mental declaration under subsection (7)(d) of this section, the termination
10 date may be extended for a period not exceeding five years.

11 “(c) The general description under subsection (2)(c) of this section and the
12 information included in the declaration or supplemental declaration in ac-
13 cordance with subsection (7)(c), (g) and (h) of this section may be changed
14 by an amendment to the declaration or supplemental declaration and plat
15 or supplemental plat.

16 “(4) The information included in the declaration or supplemental decla-
17 ration in accordance with subsection (2)(a) and (d) of this section and sub-
18 section (7)(a), (b), (e), (f) and (k) of this section may not be changed unless
19 all owners agree to the change and an amendment to the declaration or
20 supplemental declaration and, if applicable, the plat or supplemental plat are
21 recorded in accordance with this chapter.

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

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

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

30 “(a) A statement that the rights provided for under ORS 100.150 (1) are

1 being reserved.

2 “(b) A statement:

3 “(A) Of any limitations on rights reserved under ORS 100.150 (1), includ-
4 ing whether the consent of any unit owner is required, and if so, a statement
5 of the method by which the consent is ascertained; or

6 “(B) That there are no limitations on rights reserved under ORS 100.150
7 (1).

8 “(c) A statement of the total number of tracts of variable property within
9 the condominium, including:

10 “(A) A designation of each tract as withdrawable variable property or
11 nonwithdrawable variable property;

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

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

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

18 “(d) The termination date, which is the date after which any right re-
19 served under ORS 100.150 (1) will terminate, and a statement of the circum-
20 stances, if any, that will terminate any right on or before the date specified.
21 Subject to ORS 100.120, the termination date from the date of recording of
22 the conveyance of the first unit in the condominium to a person other than
23 the declarant may not exceed:

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

27 “(B) Seven years.

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

29 “(f) A statement that the method used to establish the allocations of un-
30 divided interest in the common elements, the method used to determine li-

1 ability for common expenses and right to common profits and the method
2 used to allocate voting rights as additional units are created is the same as
3 stated in the declaration in accordance with subsection (1)(g), (i) and (j) of
4 this section.

5 “(g) A general description of all existing improvements and the nature
6 and proposed use of any improvements that may be made on variable prop-
7 erty if the improvements might substantially increase the proportionate
8 amount of the common expenses payable by existing unit owners.

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

12 “(i) A statement that the plat shows the location and dimensions of all
13 withdrawable variable property that is labeled ‘WITHDRAWABLE VARI-
14 ABLE PROPERTY.’

15 “(j) A statement that if by the termination date all or a portion of the
16 withdrawable variable property has not been withdrawn or reclassified, the
17 withdrawable variable property is automatically withdrawn from the condo-
18 minium as of the termination date.

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

20 “(L) A statement of whether or not all or any portion of the variable
21 property may not be withdrawn from the condominium and, if so, with re-
22 spect to the nonwithdrawable variable property:

23 “(A) A statement that the plat shows the location and dimensions of all
24 nonwithdrawable variable property that is labeled ‘NONWITHDRAWABLE
25 VARIABLE PROPERTY.’

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

28 “(C) A statement that, if by the termination date all or a portion of the
29 variable property designated as ‘nonwithdrawable variable property’ has not
30 been reclassified, the property is automatically reclassified as of the termi-

1 nation date as a general common element of the condominium and any in-
2 terest in the property held for security purposes is automatically
3 extinguished by the classification.

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

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

11 “(8) The plan of development for any variable property included in the
12 declaration or any supplemental declaration of any stage in accordance with
13 subsection (7) of this section is subject to any plan of development included
14 in the declaration in accordance with subsection (2) of this section, except
15 that the time limitation specified in subsection (7)(d) of this section governs
16 any right reserved under ORS 100.150 (1) with respect to any variable prop-
17 erty.

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

20 “(10)(a) Approval by the unit owners is not required for a declarant to
21 redesignate withdrawable variable property as ‘nonwithdrawable variable
22 property’ under ORS 100.150 (1) by supplemental declaration and supple-
23 mental plat, for any reason, including if the redesignation is required by the
24 local governing body to comply with any planning or zoning regulation or
25 ordinance.

26 “(b) If as a result of a redesignation under paragraph (a) of this sub-
27 section, the information required to be included in the supplemental decla-
28 ration under subsection (7)(L)(B) of this section is inconsistent with the
29 information included in the declaration or supplemental declaration in ac-
30 cordance with subsection (7)(g) of this section, an amendment to the decla-

1 ration or supplemental declaration and plat or supplemental plat approved
2 by at least 75 percent of owners is required.

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

7 “(a) A reference to the recording index numbers and date of recording of
8 the instrument creating the interest; or

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

13

14 **“SUBDIVIDING FOR DEVELOPMENT OF AFFORDABLE HOUSING**

15

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

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

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

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

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

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

14 “(3) No plat of a proposed subdivision or partition shall be approved un-
15 less:

16 “(a) Streets and roads for public use are dedicated without any reserva-
17 tion or restriction other than reversionary rights upon vacation of any such
18 street or road and easements for public or private utilities.

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

22 “(c) The subdivision or partition plat complies with any applicable zoning
23 ordinances and regulations and any ordinance or regulation adopted under
24 ORS 92.044 that are then in effect for the city or county within which the
25 land described in the subdivision or partition plat is situated.

26 “(d) The subdivision or partition plat is in substantial conformity with
27 the provisions of the tentative plan for the subdivision or partition, as ap-
28 proved.

29 “(e) The subdivision or partition plat contains a donation to the public
30 of all common improvements, including but not limited to streets, roads,

1 parks, sewage disposal and water supply systems, the donation of which was
2 made a condition of the approval of the tentative plan for the subdivision
3 or partition.

4 “(f) Explanations of all common improvements required as conditions of
5 approval of the tentative plan of the subdivision or partition have been re-
6 corded and referenced on the subdivision or partition plat.

7 “(4) Subject to any standards and procedures adopted pursuant to ORS
8 92.044, no plat of a subdivision shall be approved by a city or county unless
9 the city or county has received and accepted:

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

15 “(b) A bond, irrevocable letter of credit, contract or other assurance by
16 the subdivider to the city or county that a domestic water supply system will
17 be installed by or on behalf of the subdivider to the lot line of each and
18 every lot depicted in the proposed subdivision plat[; *and the amount of any*
19 *such bond, irrevocable letter of credit, contract or other assurance by the sub-*
20 *divider shall be*] **in an amount** determined by a registered professional en-
21 gineer, subject to any change in such amount as determined necessary by the
22 city or county; or

23 “(c) [*In lieu of paragraphs (a) and (b) of this subsection,*] A statement that
24 no domestic water supply facility will be provided to the purchaser of any
25 lot depicted in the proposed subdivision plat, even though a domestic water
26 supply source may exist. A copy of any such statement, signed by the sub-
27 divider and indorsed by the city or county, shall be filed by the subdivider
28 with the Real Estate Commissioner and shall be included by the commis-
29 sioner in any public report made for the subdivision under ORS 92.385. If the
30 making of a public report has been waived or the subdivision is otherwise

1 exempt under the Oregon Subdivision Control Law, the subdivider shall de-
2 liver a copy of the statement to each prospective purchaser of a lot in the
3 subdivision at or prior to the signing by the purchaser of the first written
4 agreement for the sale of the lot. The subdivider shall take a signed receipt
5 from the purchaser upon delivery of such a statement, shall immediately send
6 a copy of the receipt to the commissioner and shall keep any such receipt
7 on file in this state, subject to inspection by the commissioner, for a period
8 of three years after the date the receipt is taken.

9 “(5) Subject to any standards and procedures adopted pursuant to ORS
10 92.044, no plat of a subdivision shall be approved by a city or county unless
11 the city or county has received and accepted:

12 “(a) A certification by a city-owned sewage disposal system or by the
13 owner of a privately owned sewage disposal system that is subject to regu-
14 lation by the Public Utility Commission of Oregon that a sewage disposal
15 system will be available to the lot line of each and every lot depicted in the
16 proposed subdivision plat;

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

24 “(c) [*In lieu of paragraphs (a) and (b) of this subsection,*] A statement that
25 no sewage disposal facility will be provided to the purchaser of any lot de-
26 picted in the proposed subdivision plat, where the Department of Environ-
27 mental Quality has approved the proposed method or an alternative method
28 of sewage disposal for the subdivision in its evaluation report described in
29 ORS 454.755 (1)(b). A copy of any such statement, signed by the subdivider
30 and indorsed by the city or county shall be filed by the subdivider with the

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

12 **“(6) A city or county shall accept as other assurance, as used in**
13 **subsections (4)(b) and (5)(b) of this section, one or more award letters**
14 **from public funding sources made to a subdivider who is subdividing**
15 **the property to develop affordable housing, that is or will be subject**
16 **to an affordability restriction as defined in ORS 456.250 or an affor-**
17 **able housing covenant as defined in ORS 456.270, if the awards total an**
18 **amount greater than the project cost.**

19 “[6] (7) Subject to any standards and procedures adopted pursuant to
20 ORS 92.044, no plat of a subdivision or partition located within the bounda-
21 ries of an irrigation district, drainage district, water control district, water
22 improvement district or district improvement company shall be approved by
23 a city or county unless the city or county has received and accepted a cer-
24 tification from the district or company that the subdivision or partition is
25 either entirely excluded from the district or company or is included within
26 the district or company for purposes of receiving services and subjecting the
27 subdivision or partition to the fees and other charges of the district or
28 company.

29

30

“SINGLE ROOM OCCUPANCIES

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

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

9 **“(2) Within an urban growth boundary, each local government shall**
10 **allow the development of a single room occupancy:**

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

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

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

18 **“197.303. (1) As used in ORS 197.296 and this section, ‘needed housing’**
19 **means all housing on land zoned for residential use or mixed residential and**
20 **commercial use that is determined to meet the need shown for housing**
21 **within an urban growth boundary at price ranges and rent levels that are**
22 **affordable to households within the county with a variety of incomes, in-**
23 **cluding but not limited to households with low incomes, very low incomes**
24 **and extremely low incomes, as those terms are defined by the United States**
25 **Department of Housing and Urban Development under 42 U.S.C. 1437a.**
26 **‘Needed housing’ includes the following housing types:**

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

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

1 “(c) Mobile home or manufactured dwelling parks as provided in ORS
2 197.475 to 197.490;

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

6 “(e) Agriculture workforce housing;

7 “(f) Housing for individuals with a variety of disabilities related to mo-
8 bility or communications that require accessibility features;

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

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

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

14 “(2) For the purpose of estimating housing needs, as described in ORS
15 197.296 (3)(b), Metro shall adopt findings and perform an analysis that esti-
16 mates each of the following factors:

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

18 “(b) Current housing underproduction;

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

20 “(d) Housing units projected to be converted into vacation homes or sec-
21 ond homes during the next 20 years.

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

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

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

27 “(b) The forecasted regional job growth;

28 “(c) An equitable statewide distribution of housing for income levels de-
29 scribed in section 2 (4), **chapter __, Oregon Laws 2023 (Enrolled House**
30 **Bill 2001)** [*of this 2023 Act*].

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

2 “(e) The purpose of the Oregon Housing Needs Analysis under section 1
3 (1), **chapter __, Oregon Laws 2023 (Enrolled House Bill 2001)** [*of this*
4 *2023 Act*].

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

10 “(6) Metro shall use data from a wider geographic area or use a time pe-
11 riod longer than the time period described in subsection (2) of this section
12 if the analysis of a wider geographic area or the use of a longer time period
13 will provide more accurate, complete and reliable data relating to trends af-
14 fecting housing need than an analysis performed pursuant to subsection (2)
15 of this section. Metro must clearly describe the geographic area, time frame
16 and source of data used in an estimate performed under this subsection.

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

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

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

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

26 “(a) ‘Needed housing’ means housing by affordability level, as described
27 in section 2 (4), **chapter __, Oregon Laws 2023 (Enrolled House Bill 2001)**
28 [*of this 2023 Act*], type, characteristics and location that is necessary to ac-
29 commodate the city’s allocated housing need over the 20-year planning period
30 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
3 ORS 197.758 and multifamily housing that is owned or rented;
4 “(B) Government assisted housing;
5 “(C) Mobile home or manufactured dwelling parks as provided in ORS
6 197.475 to 197.490;
7 “(D) Manufactured homes on individual lots planned and zoned for
8 single-family residential use that are in addition to lots within designated
9 manufactured dwelling subdivisions;
10 “(E) Housing for agricultural workers;
11 “(F) Housing for individuals with a variety of disabilities, related to mo-
12 bility or communications that require accessibility features;
13 “(G) Housing for older persons, as defined in ORS 659A.421; [and]
14 “(H) Housing for college or university students, if relevant to the
15 region[.]; **and**
16 “(I) **Single room occupancies as defined in section 17 of this 2023**
17 **Act.**
18 “(2) Subsection (1)(b)(A) and (D) of this section does not apply to:
19 “(a) A city with a population of less than 2,500.
20 “(b) A county with a population of less than 15,000.
21 “(3) At the time that a city is required to inventory its buildable lands
22 under ORS 197.297 (1) or section 21 or 22, **chapter __, Oregon Laws 2023**
23 **(Enrolled House Bill 2001)** [of this 2023 Act], the city shall determine its
24 needed housing under this section.
25 “(4) In determining needed housing the city must demonstrate that the
26 projected housing types, characteristics and locations are:
27 “(a) Attainable for the allocated housing need by income, including con-
28 sideration of publicly supported housing;
29 “(b) Appropriately responsive to current and projected market trends; and
30 “(c) Responsive to the factors in ORS 197.290 (2)(b) to (d).

1 “(4) This section does not apply to:
2 “(a) Cities with a population of 1,000 or fewer;
3 “(b) Lands not within an urban growth boundary;
4 “(c) Lands that are not incorporated and also lack sufficient urban ser-
5 vices, as defined in ORS 195.065;
6 “(d) Lands that are not zoned for residential use, including lands zoned
7 primarily for commercial, industrial, agricultural or public uses; or
8 “(e) Lands that are not incorporated and are zoned under an interim
9 zoning designation that maintains the land’s potential for planned urban
10 development.

11 “(5) Local governments may regulate siting and design of middle housing
12 required to be permitted under this section, provided that the regulations do
13 not, individually or cumulatively, discourage the development of all middle
14 housing types permitted in the area through unreasonable costs or delay.
15 Local governments may regulate middle housing to comply with protective
16 measures adopted pursuant to statewide land use planning goals.

17 “(6) This section does not prohibit local governments from permitting:
18 “(a) Single-family dwellings in areas zoned to allow for single-family
19 dwellings; or
20 “(b) Middle housing in areas not required under this section.

21 “(7) **A local government that amends its comprehensive plan or land**
22 **use regulations relating to allowing additional middle housing is not**
23 **required to consider whether the amendments significantly affect an**
24 **existing or planned transportation facility.**

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

27 “**Sec. 3.** (1) Notwithstanding ORS 197.646, a local government shall adopt
28 land use regulations or amend its comprehensive plan to implement [*section*
29 *2 of this 2019 Act*] **ORS 197.758** no later than:

30 “(a) June 30, 2021, for each city subject to [*section 2 (3) of this 2019 Act*;

1 or] **ORS 197.758 (3) (2021 Edition);**

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

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

6 “(2) The Land Conservation and Development Commission, with the as-
7 sistance of the Building Codes Division of the Department of Consumer and
8 Business Services, shall develop a model middle housing ordinance no later
9 than December 31, 2020.

10 “(3) A local government that has not acted within the time provided under
11 subsection (1) of this section shall directly apply the model ordinance de-
12 veloped by the commission under subsection (2) of this section under ORS
13 197.646 (3) until the local government acts as described in subsection (1) of
14 this section.

15 “(4) In adopting regulations or amending a comprehensive plan under this
16 section, a local government shall consider ways to increase the affordability
17 of middle housing by considering ordinances and policies that include but
18 are not limited to:

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

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

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

24 “[*(5) When a local government makes a legislative decision to amend its*
25 *comprehensive plan or land use regulations to allow middle housing in areas*
26 *zoned for residential use that allow for detached single-family dwellings, the*
27 *local government is not required to consider whether the amendments signif-*
28 *icantly affect an existing or planned transportation facility.*]

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

1 “**Sec. 4.** (1) [*Notwithstanding section 3 (1) or (3) of this 2019 Act,*] The
2 Department of Land Conservation and Development may grant to a local
3 government that is subject to [*section 2 of this 2019 Act*] **ORS 197.758** an
4 extension of the time allowed to adopt land use regulations or amend its
5 comprehensive plan under section 3, **chapter 639, Oregon Laws 2019** [*of this*
6 *2019 Act*].

7 “(2) An extension under this section may be applied only to specific areas
8 where the local government has identified water, sewer, storm drainage or
9 transportation services that are [*either*] significantly deficient [*or are ex-*
10 *pected to be significantly deficient before December 31, 2023,*] and for which
11 the local government has established a plan of actions that will remedy the
12 deficiency in those services that is approved by the department. The exten-
13 sion may not extend beyond the date that the local government intends to
14 correct the deficiency under the plan.

15 “(3) In areas where the extension under this section does not apply, the
16 local government shall apply its own land use regulations consistent with
17 section 3 (1), **chapter 639, Oregon Laws 2019**, [*of this 2019 Act*] or the
18 model ordinance developed under section 3 (2), **chapter 639, Oregon Laws**
19 **2019** [*of this 2019 Act*].

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

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

24 “(b) June 30, 2021, for a local government subject to [*section 2 (2) of this*
25 *2019 Act.*] **ORS 197.758 (2)**.

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

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

30 “(a) Within 90 days of receipt of a complete request from a city subject

1 to [section 2 (3) of this 2019 Act.] **ORS 197.758 (3).**

2 “(b) Within 120 days of receipt of a complete request from a local gov-
3 ernment subject to [section 2 (2) of this 2019 Act.] **ORS 197.758 (2).**

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

7 “(a) Defining the affected areas;

8 “(b) Calculating deficiencies of water, sewer, storm drainage or transpor-
9 tation services;

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

11 “(d) The components and timing of a remediation plan necessary to qual-
12 ify for an extension;

13 “(e) Standards for evaluating applications; and

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

16 **SECTION 23.In addition to and not in lieu of any other appropri-**
17 **ation, there is appropriated to the Department of Land Conservation**
18 **and Development, for the biennium beginning July 1, 2023, out of the**
19 **General Fund, the amount of \$1,250,000, to provide grants to local**
20 **governments to assist them in amending their comprehensive plans**
21 **as required under section 3 (1)(c), chapter 639, Oregon Laws 2019.**

22

23 **“REMOVING RECORDED DISCRIMINATORY PROVISIONS**

24

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

27 **“SECTION 25. (1) Notwithstanding ORS 94.590, 94.625, 100.110,**
28 **100.135, 100.411 or 100.413 or any requirement of the declaration or by-**
29 **laws, an amendment to the declaration or bylaws of a planned com-**
30 **munity or condominium is effective and may be made and recorded in**

1 the county clerk's office of a county in which any portion of the
2 property is situated without the vote of the owners or the board
3 members and without the prior approval of the Real Estate Commis-
4 sioner, county assessor or any other person if:

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

7 “(b) The amendment is signed by the president and secretary of the
8 homeowners association.

9 “(2) The first page or cover sheet of an instrument amending the
10 declaration or bylaws must comply with the recording requirements
11 of ORS chapter 205 and must be in substantially the following form:

12 “ _____
13 **AMENDMENT OF [DECLARATION/BYLAWS]**
14 **TO COMPLY WITH ORS 93.270 (2).**

15
16 Pursuant to this section, the undersigned states:

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

20 2. This document amends the [declaration/bylaws] of the associ-
21 ation.

22 3. The [declaration was/bylaws were] first recorded under instru-
23 ment number (or book and page number) _____ recorded
24 on _____.

25 4. The [declaration was/bylaws were] most recently amended or re-
26 stated, if ever, under instrument number (or book and page number)
27 _____ recorded on _____.

28 5. The undersigned have determined that the current
29 [declarations/bylaws] of the [planned community/condominium], as
30 last amended or revised, may fail to comply with ORS 93.270. The fol-

1 **lowing amendments to the [declaration/bylaws] remove provisions that**
2 **are not allowed and are unenforceable under ORS 93.270 (2). No other**
3 **changes to the document are being made except as may be necessary**
4 **to correct scriveners' errors or to conform format and style.**

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

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

8 _____
9 _____

10

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

12

13 **Name: _____**

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

15 **Address: _____**

16 _____

17 **Phone No.: _____**

18

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

20

21 **Name: _____**

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

23 **Address: _____**

24 _____

25 **Phone No.: _____**

26

27 **STATE OF OREGON)**

28) **ss.**

29 **County of _____)**

30 **The foregoing instrument was acknowledged before me this _____**

1 day of _____ 20____ by _____ and _____.

2 _____

3 Notary Public for Oregon

4 My commission expires: _____

5 “ _____

6 “(3) If an instrument recorded under this section affects a condo-
7 minium, the condominium association shall file a copy of the recorded
8 instrument with the Real Estate Commissioner.

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

11 “Sec. 4. (1) On or before December 31, [2022] 2024, each homeowners as-
12 sociation of a planned community first established before September
13 1, 2021, shall review [each governing document currently binding on the
14 planned community, or the lots or the lot owners within] the declaration and
15 bylaws of the planned community and shall:

16 “(a) Amend [or restate] each document as necessary to remove all re-
17 strictions against the use of the community or the lots not allowed under
18 ORS 93.270 (2) as provided under section 25 of this 2023 Act; or

19 “(b) Execute and record a [declaration] certification that the homeowners
20 association has reviewed the [governing documents binding on] declaration
21 and bylaws of the planned community and that the documents do not con-
22 tain any restriction, rule or regulation against the use of the community or
23 the lots by a person or group of persons because of race, color, religion, sex,
24 sexual orientation, gender identity, national origin, marital status, familial
25 status, source of income, disability or the number of individuals, including
26 family members, persons of close affinity or unrelated persons, who are si-
27 multaneously occupying a dwelling unit within occupancy limits.

28 “(2) [Notwithstanding ORS 94.590 or 94.625 or any requirement of the dec-
29 laration or bylaws, an amendment to or a restatement of the declaration or
30 bylaws under subsection (1)(a) of this section is effective and] A certification

1 **under subsection (1)(b) of this section:**

2 “(a) May be recorded without the vote of the owners or the board mem-
3 bers [*if the amendment or restatement includes a certification signed by the*
4 *president and secretary of the homeowners association that the amended or*
5 *restated declaration or bylaws does not change that document except as re-*
6 *quired under this section and as may be necessary to correct scriveners’ errors*
7 *or to conform format and style.*]; **and**

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

9 “ _____
10 **CERTIFICATION OF COMPLIANCE WITH ORS 93.270 (2).**

11
12 **Pursuant to section 4, chapter 67, Oregon Laws 2021, the under-**
13 **signed states:**

14 **1. The undersigned are the president and secretary for the home-**
15 **owners association _____ (name) in _____ County.**

16 **2. The declaration was first recorded under instrument number (or**
17 **book and page number) _____ recorded on _____.**
18 **The declaration was most recently amended or restated, if ever, under**
19 **instrument number _____ recorded on _____.**

20 **3. The bylaws were first recorded, if ever, under instrument number**
21 **(or book and page number) _____ recorded on**
22 **_____. The bylaws were most recently amended or restated,**
23 **if ever, under instrument number _____ recorded on**
24 **_____.**

25 **4. The undersigned have determined that the current declarations**
26 **and bylaws of the planned community, as last amended or revised,**
27 **conform with ORS 93.270 (2) and that there are no provisions that**
28 **would restrict the use of the community or the lots or units of the**
29 **community because of race, color, religion, sex, sexual orientation,**
30 **gender identity, national origin, marital status, familial status, source**

1 of income, disability or the number of individuals, including family
2 members, persons of close affinity or unrelated persons, who are si-
3 multaneously occupying a dwelling unit within occupancy limits. Any
4 such provision that may inadvertently remain is void and
5 unenforceable.

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

7 6. The description of the real property in _____ County
8 affected by this document is:

9 _____
10 _____

11

12 Dated this _____ day of _____ 20____.

13

14 Name: _____

15 President, _____ (association name)

16 Dated this _____ day of _____ 20____.

17

18 Name: _____

19 Secretary, _____ (association name)

20

21 STATE OF OREGON)

22) ss.

23 County of _____)

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

26

Notary Public for Oregon

27

28 My commission expires: _____

29

30 “ _____

“SECTION 27. Section 6, chapter 67, Oregon Laws 2021, as amended by

1 section 5c, chapter 367, Oregon Laws 2021, is amended to read:

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

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

10 “(b) Execute and record a [*declaration*] **certification** that the association
11 has reviewed the [*governing documents binding on*] **declaration and bylaws**
12 **of** the condominium and that the documents do not contain any restriction,
13 rule or regulation against the use of the condominium or the units by a
14 person or group of persons because of race, color, religion, sex, sexual ori-
15 entation, gender identity, national origin, marital status, familial status,
16 source of income, disability or the number of individuals, including family
17 members, persons of close affinity or unrelated persons, who are simultane-
18 ously occupying a dwelling unit within occupancy limits.

19 “(2) [*Notwithstanding ORS 100.110, 100.135, 100.413 or any requirement of*
20 *the declaration or bylaws, an amendment to or a restatement of the declaration*
21 *or bylaws under this section, upon submission and approval of the Real Estate*
22 *Commissioner under ORS 100.123, 100.125, 100.668 and 100.675, is effective*
23 *and*] **A certification under subsection (1)(b) of this section:**

24 “(a) May be recorded without the vote of the owners or the board mem-
25 bers [*if the amended or restated declaration or bylaws includes a certification*
26 *signed by the president and secretary of the association that the amended or*
27 *restated declaration or bylaws does not change that document except as re-*
28 *quired under this section and as may be necessary to correct scriveners’ errors*
29 *or to conform format and style.*]; **and**

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

1 “

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

3
4 Pursuant to section 6, chapter 67, Oregon Laws 2021, the under-
5 signed states:

6 1. The undersigned are the president and secretary for the condo-
7 minium owners association _____ (name) in _____
8 County.

9 2. The declaration was first recorded under instrument number (or
10 book and page number) _____ recorded on _____.
11 The declaration was most recently amended or restated, if ever, under
12 instrument number _____ recorded on _____.

13 3. The bylaws were first recorded, if ever, under instrument number
14 (or book and page number) _____ recorded on
15 _____. The bylaws were most recently amended or restated,
16 if ever, under instrument number _____ recorded on
17 _____.

18 4. The undersigned have determined that the current declarations
19 and bylaws of the condominium, as last amended or revised, conform
20 with ORS 93.270 (2) and that there are no provisions that would restrict
21 the use of the community or the lots or units of the community be-
22 cause of race, color, religion, sex, sexual orientation, gender identity,
23 national origin, marital status, familial status, source of income, dis-
24 ability or the number of individuals, including family members, per-
25 sons of close affinity or unrelated persons, who are simultaneously
26 occupying a dwelling unit within occupancy limits. Any such provision
27 that may inadvertently remain is void and unenforceable.

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

29 6. The description of the real property in _____ County
30 affected by this document is:

1 _____
2 _____

3
4 Dated this _____ day of _____ 20____.

5
6 Name: _____
7 President, _____ (association name)

8 Dated this _____ day of _____ 20____.

9
10 Name: _____
11 Secretary, _____ (association name)

12
13 STATE OF OREGON)
14) ss.
15 County of _____)

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

18 _____
19 Notary Public for Oregon
20 My commission expires: _____

21 “ _____

22 **“SECTION 28. (1) The amendments to sections 4 and 6, chapter 67,**
23 **Oregon Laws 2021, by sections 26 and 27 of this 2023 Act are intended**
24 **to extend the deadline for compliance with those sections and to clar-**
25 **ify the process by which associations may comply with those sections.**

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

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

30 **“(b) Complied with the requirements of section 4 or 6, chapter 67,**

1 Oregon Laws 2021, that were in effect before the effective date of this
2 2023 Act, notwithstanding the former deadline for compliance of De-
3 cember 31, 2022.

4
5 **“AFFORDABLE HOUSING ON PUBLIC UTILITY LANDS**

6
7 **“SECTION 29. (1) As used in this section, ‘affordable housing’**
8 **means affordable housing as defined in ORS 197.308 or publicly sup-**
9 **ported housing as defined in ORS 456.250.**

10 **“(2)(a) To facilitate the development of affordable housing in this**
11 **state, the Public Utility Commission may allow a public utility to sell,**
12 **or convey at below market price or as a gift, the public utility’s in-**
13 **terest in real property for the purpose of the real property being used**
14 **for the development of affordable housing.**

15 **“(b) The instrument that conveys, or contracts to convey, the pub-**
16 **lic utility’s interest in the real property must include an affordable**
17 **housing covenant as provided in ORS 456.270 to 456.295.**

18 **“(3) A public utility may not recover costs from customers for**
19 **selling, or conveying at below market price or as a gift, the public**
20 **utility’s interest in real property under this section.**

21
22 **“UNIT CAPTIONS**

23
24 **“SECTION 30. The unit captions used in this 2023 Act are provided**
25 **only for the convenience of the reader and do not become part of the**
26 **statutory law of this state or express any legislative intent in the**
27 **enactment of this 2023 Act.**

28
29 **“OPERATIVE AND EFFECTIVE DATES**

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

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

9
