

HB 4063-4  
(LC 40)  
2/8/24 (RLM/ps)

Requested by HOUSE COMMITTEE ON HOUSING AND HOMELESSNESS (at the request of Representative Maxine Dexter)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4063**

1 On page 1 of the printed bill, line 3, delete “92.010,” and delete “92.060,”.

2 In line 5, delete “197A.420,”.

3 On page 9, delete lines 35 through 45 and delete pages 10 through 16.

4 On page 17, delete lines 1 through 13 and insert:

5 **“SECTION 10.** ORS 92.031 is amended to read:

6 “92.031. (1) As used in this section, ‘middle housing land division’ means  
7 a partition or subdivision of a lot or parcel on which the development of  
8 middle housing is allowed under ORS 197A.420 (2) or (3).

9 “(2) A city or county shall approve a tentative plan for a middle housing  
10 land division if the application includes:

11 “(a) A proposal for development of middle housing in compliance with the  
12 Oregon residential specialty code and land use regulations applicable to the  
13 original lot or parcel allowed under ORS 197A.420 (5);

14 “(b) Separate utilities for each dwelling unit;

15 “(c) Proposed easements necessary for each dwelling unit on the plan for:

16 “(A) Locating, accessing, replacing and servicing all utilities;

17 “(B) Pedestrian access from each dwelling unit to a private or public  
18 road;

19 “(C) Any common use areas or shared building elements;

20 “(D) Any dedicated driveways or parking; and

21 “(E) Any dedicated common area;

1 “(d) Exactly one dwelling unit on each resulting lot or parcel, except for  
2 lots, parcels or tracts used as common areas; and

3 “(e) Evidence demonstrating how buildings or structures on a resulting  
4 lot or parcel will comply with applicable building codes provisions relating  
5 to new property lines and, notwithstanding the creation of new lots or par-  
6 cels, how structures or buildings located on the newly created lots or parcels  
7 will comply with the Oregon residential specialty code.

8 “(3) A city or county may add conditions to the approval of a tentative  
9 plan for a middle housing land division to:

10 “(a) Prohibit the further division of the resulting lots or parcels.

11 “(b) Require that a notation appear on the final plat indicating that the  
12 approval was given under this section.

13 “(4) In reviewing an application for a middle housing land division, a city  
14 or county:

15 “(a) Shall apply the procedures under ORS 197.360 to 197.380.

16 “(b) May require street frontage improvements where a resulting lot or  
17 parcel abuts the street consistent with land use regulations implementing  
18 ORS 197A.420.

19 “(c) May not subject an application to approval criteria except as pro-  
20 vided in this section, including that a lot or parcel require driveways, vehicle  
21 access, parking or minimum or maximum street frontage.

22 “(d) May not subject the application to procedures, ordinances or regu-  
23 lations adopted under ORS 92.044 or 92.046 that are inconsistent with this  
24 section or ORS 197.360 to 197.380.

25 “(e) May allow the submission of an application for a middle housing land  
26 division at the same time as the submission of an application for building  
27 permits for the middle housing.

28 “(f) May require the dedication of right of way if the original parcel did  
29 not previously provide a dedication.

30 “(5) The type of middle housing developed on the original parcel is not

1 altered by a middle housing land division.

2 “(6) Notwithstanding ORS 197A.425 (1), a city or county is not required  
3 to allow an accessory dwelling unit on a lot or parcel resulting from a mid-  
4 dle housing land division.

5 **“(7) Notwithstanding any other provision of ORS 92.010 to 92.192,**  
6 **within the same calendar year as an original partition, a city or**  
7 **county may allow one of the resulting vacant parcels to be further**  
8 **divided into not more than three parcels through a middle housing**  
9 **land division, provided that:**

10 **(a) The original partition was not a middle housing land division;**  
11 **and**

12 **(b) The original parcel or parcels not divided will not be part of the**  
13 **resulting partition plat for the middle housing land division.**

14 “[~~(7)~~] **(8)** The tentative approval of a middle housing land division is void  
15 if and only if a final subdivision or partition plat is not approved within  
16 three years of the tentative approval. Nothing in this section or ORS 197.360  
17 to 197.380 prohibits a city or county from requiring a final plat before issuing  
18 building permits.

19 **“SECTION 11.** ORS 92.325 is amended to read:

20 “92.325. [~~(1)~~ *Except as provided in subsection (2) of this section, no person*  
21 *shall*] **A person may not** sell or lease any subdivided lands or series parti-  
22 tioned lands without having complied with all the applicable provisions of  
23 ORS 92.305 to 92.495[.]

24 “[~~(2)~~ *With respect to a developer, chapter 643, Oregon Laws 1975, applies*  
25 *only to a developer who acquires a lot, parcel or interest in a subdivision or*  
26 *series partition for which a public report has been issued after September 13,*  
27 *1975, and a developer who acquires a lot or parcel in a subdivision for which*  
28 *a revised public report has been issued under ORS 92.410.]*

29 “[~~(3)~~ *Except as otherwise provided in paragraph (g) of this subsection,*]  
30 **except that:**

- 1       **(1)** ORS 92.305 to 92.495 do not apply to the sale or leasing of:
- 2       “(a) Apartments or similar space within an apartment building;
- 3       “(b) Cemetery lots, parcels or units in Oregon;
- 4       “(c) Subdivided lands and series partitioned lands in Oregon that are not
- 5 in unit ownership or being developed as unit ownerships created under ORS
- 6 chapter 100, to be used for residential purposes and that qualify under ORS
- 7 92.337;
- 8       “(d) Property submitted to the provisions of ORS chapter 100;
- 9       “(e) Subdivided lands and series partitioned lands in Oregon expressly
- 10 zoned for and limited in use to nonresidential industrial or nonresidential
- 11 commercial purposes;
- 12       “(f) Lands in this state sold by lots or parcels of not less than 160 acres
- 13 each;
- 14       “(g) Timeshares regulated or otherwise exempt under ORS 94.803 and
- 15 94.807 to 94.945;
- 16       “*[(h) Subdivided and series partitioned lands in a city or county which, at*
- 17 *the time tentative approval of a subdivision plat and each partition map for*
- 18 *those lands is given under ORS 92.040 or an ordinance adopted under ORS*
- 19 *92.046, has a comprehensive plan and implementing ordinances that have been*
- 20 *acknowledged under ORS 197.251. The subdivider or series partitioner of such*
- 21 *lands shall comply with ORS 92.425, 92.427, 92.430, 92.433, 92.460 and 92.485*
- 22 *in the sale or leasing of such lands; or]*
- 23       “*[(i)]* **(h)** Mobile home or manufactured dwelling parks, as defined in ORS
- 24 446.003, located in Oregon[.];
- 25       **“(i) Planned community subdivision of manufactured dwellings or**
- 26 **mobile homes created under ORS 92.830 to 92.845;**
- 27       **“(j) Lots or parcels created from an expedited land division under**
- 28 **ORS 197.360; or**
- 29       **“(k) Lots or parcels created from a middle housing land division**
- 30 **under ORS 92.031.**

1       **“(2) The subdivider or series partitioner of subdivided and series**  
2 **partitioned lands in a city or county which, at the time tentative ap-**  
3 **proval of a subdivision plat and each partition map for those lands is**  
4 **given under ORS 92.040 or an ordinance adopted under ORS 92.046, has**  
5 **a comprehensive plan and implementing ordinances that have been**  
6 **acknowledged under ORS 197.251 must only comply with ORS 92.425,**  
7 **92.427, 92.430, 92.433, 92.460 and 92.485 in the sale or leasing of such**  
8 **lands.**

9       **“SECTION 12.** ORS 92.305 is amended to read:

10       “92.305. As used in ORS 92.305 to 92.495:

11       “(1) ‘Blanket encumbrance’ means a trust deed or mortgage or any other  
12 lien or encumbrance, mechanic’s lien or otherwise, securing or evidencing  
13 the payment of money and affecting more than one interest in subdivided or  
14 series partitioned land, or an agreement affecting more than one such lot,  
15 parcel or interest by which the subdivider, series partitioner or developer  
16 holds such subdivision or series partition under an option, contract to sell  
17 or trust agreement.

18       “(2) ‘Commissioner’ means the Real Estate Commissioner.

19       “(3)(a) [*Except as otherwise provided in ORS 92.325 (2),*] ‘Developer’ means  
20 a person who purchases a lot, parcel or interest in a subdivision or series  
21 partition that does not have a single family residential dwelling or duplex  
22 thereon to construct a single family residential dwelling or duplex on the lot,  
23 parcel or interest and to resell the lot, parcel or interest and the dwelling  
24 or duplex for eventual residential use purposes. ‘Developer’ also includes a  
25 person who purchases a lot, parcel or other interest in a subdivision or series  
26 partition that does not have a single family residential dwelling or duplex  
27 thereon for resale to another person.

28       “(b) ‘Developer’ does not mean a ‘developer’ as that term is defined in  
29 ORS 100.005.

30       “(4)(a) ‘Interest’ includes a lot or parcel, and a share, undivided interest

1 or membership which includes the right to occupy the land overnight, and  
2 lessee's interest in land for more than three years or less than three years  
3 if the interest may be renewed under the terms of the lease for a total period  
4 more than three years.

5 “(b) ‘Interest’ does not include any interest in a condominium as that  
6 term is defined in ORS 100.005 or any security interest under a land sales  
7 contract, trust deed or mortgage. ‘Interest’ does not include divisions of land  
8 created by lien foreclosures or foreclosures of recorded contracts for the sale  
9 of real property.

10 “(5) ‘Negotiate’ means any activity preliminary to the execution of a  
11 binding agreement for the sale or lease of land in a subdivision or series  
12 partition, including but not limited to advertising, solicitation and promotion  
13 of the sale or lease of such land.

14 “(6) ‘Lot,’ ‘parcel’ and ‘partition’ have the meaning given those terms in  
15 ORS 92.010.

16 “(7) ‘Person’ includes a natural person, a domestic or foreign corporation,  
17 a partnership, an association, a joint stock company, a trust and any unin-  
18 corporated organization. As used in [ORS 92.305 to 92.495] **this subsection**,  
19 the term ‘trust’ includes a common law or business trust, but does not in-  
20 clude a private trust or a trust created or appointed under or by virtue of  
21 any last will and testament, or by a court.

22 “(8) ‘Real property sales contract’ means an agreement wherein one party  
23 agrees to lease or to convey title to real property to another party upon the  
24 satisfaction of specified conditions set forth in the contract.

25 “(9) ‘Sale’ or ‘lease’ includes every disposition or transfer of land in a  
26 subdivision or a series partition, or an interest or estate therein, by a sub-  
27 divider or series partitioner or a developer, or their agents, including the  
28 offering of such property as a prize or gift when a monetary charge or con-  
29 sideration for whatever purpose is required by the subdivider, series  
30 partitioner or developer or their agents.

1 “(10) ‘Series partitioned lands’ and ‘series partition’ mean a series of  
2 partitions of land located within this state resulting in the creation of four  
3 or more parcels over a period of more than one calendar year.

4 “(11) ‘Series partitioner’ means any person who causes land to be series  
5 partitioned into a series partition, or who undertakes to develop a series  
6 partition, but does not include a public agency or officer authorized by law  
7 to make partitions.

8 “(12)(a) ‘Subdivided lands’ and ‘subdivision’ mean improved or unim-  
9 proved land or lands divided, or created into interests or sold under an  
10 agreement to be subsequently divided or created into interests, for the pur-  
11 pose of sale or lease, whether immediate or future, into 11 or more undivided  
12 interests or four or more other interests. ‘Subdivided lands’ and  
13 ‘subdivision’ include but are not limited to a subdivision of land located  
14 within this state subject to an ordinance adopted under ORS 92.044 and do  
15 not include series partitioned lands.

16 “(b) ‘Subdivided lands’ and ‘subdivision’ do not mean property submitted  
17 to ORS 100.005 to 100.910 or property located outside this state which has  
18 been committed to the condominium form of ownership in accordance with  
19 the laws of the jurisdiction within which the property is located.

20 “(13) ‘Subdivider’ means any person who causes land to be subdivided into  
21 a subdivision, or who undertakes to develop a subdivision, but does not in-  
22 clude a public agency or officer authorized by law to make subdivisions.

23 **“SECTION 13.** ORS 92.425 is amended to read:

24 “92.425. (1) No lot, parcel or interest in a subdivision or series partition  
25 shall be sold by a subdivider, series partitioner or developer by means of a  
26 land sale contract unless a collection escrow is established within this state  
27 with a person or firm authorized to receive escrows under the laws of this  
28 state and all of the following are deposited in the escrow:

29 “(a) A copy of the title report or abstract, as it relates to the property  
30 being sold.

1       “(b) The original sales document or an executed copy thereof relating to  
2 the purchase of real property in the subdivision or series partition clearly  
3 setting forth the legal description of the property being purchased, the  
4 principal amount of the encumbrance outstanding at the date of the sales  
5 document and the terms of the document.

6       “(c) A commitment to give a partial release for the lot, parcel or other  
7 interest being sold from the terms and provisions of any blanket  
8 encumbrance as described in ORS 92.305 (1). Except as otherwise provided  
9 in subsection (4) of this section, the commitment shall be in a form satis-  
10 factory to the Real Estate Commissioner.

11       “(d) A commitment to give a release of any other lien or encumbrance  
12 existing against such lot, parcel or other interest being sold as revealed by  
13 such title report. Except as otherwise provided in subsection (4) of this sec-  
14 tion, the commitment shall be in a form satisfactory to the commissioner.

15       “(e) A warranty or bargain and sale deed in good and sufficient form  
16 conveying merchantable and marketable title to the purchaser of such lot,  
17 parcel or other interest.

18       “(2) The subdivider, series partitioner or developer shall submit written  
19 authorization allowing the commissioner to inspect all escrow deposits es-  
20 tablished pursuant to subsection (1) of this section.

21       “(3) In lieu of the procedures provided in subsection (1) of this section,  
22 the subdivider, series partitioner or developer shall conform to such alter-  
23 native requirement or method which the commissioner may deem acceptable  
24 to carry into effect the intent and provisions of this section.

25       “(4) The requirements of subsection (1)(c) and (d) of this section relating  
26 to use of a commitment form acceptable to the commissioner and the pro-  
27 visions of subsection (2) of this section shall not apply to subdivided or series  
28 partitioned lands described by ORS 92.325 [(3)(h)] (2).

29       “**NOTE:** Sections 14 through 16 were deleted by amendment. Subsequent  
30 sections were not renumbered.”.

