

SENATE AMENDMENTS TO SENATE BILL 963

By COMMITTEE ON CONSUMER PROTECTION AND PUBLIC AFFAIRS

May 5

1 On page 1 of the printed bill, line 2, after “ORS” insert “94.572,”.

2 In line 4, after “100.105,” insert “100.110, 100.115, 100.120, 100.125, 100.130,”.

3 In line 5, after “100.510,” insert “100.515,” and after “100.540” delete the rest of the line and
4 insert “, 100.600 and 100.640 and sections 24 and 26, chapter 803,”.

5 Delete lines 10 through 32.

6 On page 2, delete lines 1 and 2 and insert:

7 **“SECTION 2. (1) Each member of the board of directors must be an individual and, except
8 as provided in subsections (2) and (3) of this section, an owner or co-owner of a lot in the
9 planned community.**

10 **“(2) A director appointed by a declarant under ORS 94.600 need not be an owner or co-
11 owner of a lot in the planned community.**

12 **“(3)(a) Except as otherwise provided in the bylaws, prior to election to the board of di-
13 rectors, an individual described in this subsection shall, upon request of the board, provide
14 the board with documentation satisfactory to the board that the individual is qualified to
15 represent the entity or is a trustee or is serving in a fiduciary capacity for the owner of a
16 lot.**

17 **“(b) If a corporation, limited liability company or partnership owns a lot in the planned
18 community or owns an interest in an entity that owns a lot in the planned community, an
19 officer, employee or agent of a corporation, a member, manager, employee or agent of a
20 limited liability company, or a partner, employee or agent of a partnership may serve on the
21 board of directors.**

22 **“(c) A trustee may serve on the board of directors if the trustee holds legal title to a lot
23 in the planned community for the benefit of the owner of the beneficial interest in the lot.**

24 **“(d) An executor, administrator, guardian, conservator, or other individual appointed by
25 a court to serve in a fiduciary capacity for an owner of a lot in the planned community, or
26 an officer or employee of an entity if an entity is appointed, may serve on the board of di-
27 rectors.**

28 **“(4) The position of an individual serving on the board of directors under subsection (3)
29 of this section automatically becomes vacant if the individual no longer meets the require-
30 ments of subsection (3) of this section.”.**

31 After line 26, insert:

32 **“SECTION 3a.** ORS 94.572 is amended to read:

33 **“94.572. (1)(a) A Class I or Class II planned community created before January 1, 2002, that was
34 not created under ORS 94.550 to 94.783 is subject to this section and ORS 94.550, 94.590, 94.595 (5)
35 to (9), 94.625, 94.630 (1), (3) and (4), 94.640, 94.641, 94.642, 94.645, 94.647, 94.650, 94.652, 94.655, 94.657,**

1 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675, 94.676, 94.680, 94.690, 94.695, 94.704, 94.709,
2 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.770, 94.775, 94.777 and 94.780 **and sections 2 and 3**
3 **of this 2009 Act** to the extent that those statutes are consistent with any governing documents. If
4 the governing documents do not provide for the formation of an association, the requirements of this
5 subsection are not effective until the formation of an association in accordance with paragraph (b)
6 of this subsection. If a provision of the governing documents is inconsistent with this subsection, the
7 owners may amend the governing documents using the procedures in this subsection:

8 “(A) In accordance with the procedures for the adoption of amendments in the governing docu-
9 ments and subject to any limitations in the governing documents, the owners may amend the in-
10 consistent provisions of the governing documents to conform to the extent feasible with this section
11 and ORS 94.550, 94.590, 94.595 (5) to (9), 94.625, 94.630 (1), (3) and (4), 94.640, 94.641, 94.642, 94.645,
12 94.647, 94.650, 94.652, 94.655, 94.657, 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675, 94.676,
13 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.770, 94.775, 94.777
14 and 94.780 **and sections 2 and 3 of this 2009 Act**. Nothing in this paragraph requires the owners
15 to amend a declaration or bylaws to include the information required by ORS 94.580 or 94.635.

16 “(B) If there are no procedures for amendment in the governing documents:

17 “(i) For an amendment to a recorded governing document other than bylaws, the owners may
18 amend the inconsistent provisions of the document to conform to this section and ORS 94.550, 94.590,
19 94.595 (5) to (9), 94.625, 94.630 (1), (3) and (4), 94.640, 94.641, 94.642, 94.645, 94.647, 94.650, 94.652,
20 94.655, 94.657, 94.658, 94.660, 94.661, 94.662, 94.665, 94.670, 94.675, 94.676, 94.680, 94.690, 94.695,
21 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.770, 94.775, 94.777 and 94.780 **and**
22 **sections 2 and 3 of this 2009 Act** by a vote of at least 75 percent of the owners in the planned
23 community.

24 “(ii) For an amendment to the bylaws, the owners may amend the inconsistent provisions of the
25 bylaws to conform to this section and ORS 94.550, 94.590, 94.595 (5) to (9), 94.625, 94.630 (1), (3) and
26 (4), 94.640, 94.641, 94.642, 94.645, 94.647, 94.650, 94.652, 94.655, 94.657, 94.658, 94.660, 94.661, 94.662,
27 94.665, 94.670, 94.675, 94.676, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723,
28 94.728, 94.733, 94.770, 94.775, 94.777 and 94.780 **and sections 2 and 3 of this 2009 Act** by a vote of
29 at least a majority of the owners in the planned community.

30 “(iii) An amendment may be adopted at a meeting held in accordance with the governing docu-
31 ments or by another procedure permitted by the governing documents following the procedures
32 prescribed in ORS 94.647, 94.650 or 94.660.

33 “(iv) An amendment to a recorded declaration shall be executed, certified and recorded as pro-
34 vided in ORS 94.590 (2) and (3) and shall be subject to ORS 94.590 (5). An amendment to the bylaws
35 and any other governing document shall be executed and certified as provided in ORS 94.590 (3) and
36 shall be recorded in the office of the recording officer of every county in which the planned com-
37 munity is located if the bylaws or other governing document to which the amendment relates were
38 recorded.

39 “(C) An amendment adopted pursuant to this paragraph shall include:

40 “(i) A reference to the recording index numbers and date of recording of the declaration or
41 other governing document, if recorded, to which the amendment relates; and

42 “(ii) A statement that the amendment is adopted pursuant to the applicable subparagraph of this
43 paragraph.

44 “(b)(A) If the governing documents do not provide for the formation of an association of owners,
45 at least 10 percent of the owners in the planned community or any governing entity may initiate the

1 formation of an association as provided in this paragraph. The owners or the governing entity ini-
2 tiating the association formation shall call an organizational meeting for the purpose of voting
3 whether to form an association described in ORS 94.625. The notice of the meeting shall:

4 “(i) Name the initiating owners or governing entity;

5 “(ii) State that the organizational meeting is for the purpose of voting whether to form an as-
6 sociation in accordance with the proposed articles of incorporation;

7 “(iii) State that if the owners vote to form an association, the owners may elect the initial board
8 of directors provided for in the articles of incorporation and may adopt the initial bylaws;

9 “(iv) State that to form an association requires an affirmative vote of at least a majority of the
10 owners in the planned community, or, if a larger percentage is specified in the applicable governing
11 document, the larger percentage;

12 “(v) State that to adopt articles of incorporation, to elect the initial board of directors pursuant
13 to the articles of incorporation or to adopt the initial bylaws requires an affirmative vote of at least
14 a majority of the owners present;

15 “(vi) State that if the initial board of directors is not elected, an interim board of directors shall
16 be elected pursuant to bylaws adopted as provided in subparagraph (C) of this paragraph;

17 “(vii) State that a copy of the proposed articles of incorporation and bylaws will be available
18 at least five business days before the meeting and state the method of requesting a copy; and

19 “(viii) Be delivered in accordance with the declaration and bylaws. If there is no governing
20 document or the document does not include applicable provisions, the owners or governing entity
21 shall follow the procedures prescribed in ORS 94.650 (4).

22 “(B) At least five business days before the organizational meeting, the initiating owners or
23 governing entity shall cause articles of incorporation and bylaws to be drafted. The bylaws shall
24 include, to the extent applicable, the information required by ORS 94.635.

25 “(C) At the organizational meeting:

26 “(i) Representatives of the initiating owners or governing entity shall, to the extent not incon-
27 sistent with the governing documents, conduct the meeting according to Robert’s Rules of Order as
28 provided in ORS 94.657.

29 “(ii) The initiating owners or governing entity shall make available copies of the proposed arti-
30 cles of incorporation and the proposed bylaws.

31 “(iii) The affirmative vote of at least a majority of the owners of a planned community, or, if a
32 larger percentage is specified in the applicable governing document, the larger percentage, is re-
33 quired to form an association under this paragraph.

34 “(iv) If the owners vote to form an association, the owners shall adopt articles of incorporation
35 and may elect the initial board of directors as provided in the articles of incorporation, adopt bylaws
36 and conduct any other authorized business by an affirmative vote of at least a majority of the
37 owners present. If the owners do not elect the initial board of directors, owners shall elect an in-
38 terim board of directors by an affirmative vote of at least a majority of the owners present to serve
39 until the initial board of directors is elected.

40 “(v) An owner may vote by proxy, or by written ballot, if approved, in the discretion of a ma-
41 jority of the initiating owners or governing entity.

42 “(D) Not later than 10 business days after the organizational meeting, the board of directors
43 shall:

44 “(i) Cause the articles of incorporation to be filed with the Secretary of State under ORS chap-
45 ter 65;

1 “(ii) Cause the notice of planned community described in subsection (4) of this section to be
2 prepared, executed and recorded in accordance with subsection (4) of this section;

3 “(iii) Provide a copy of the notice of planned community to each owner, together with a copy
4 of the adopted articles of incorporation and bylaws, if any, or a statement of the procedure and
5 method for adoption of bylaws described in subparagraph (C) of this paragraph. The copies and any
6 statement shall be delivered to each lot, mailed to the mailing address of each lot or mailed to the
7 mailing addresses designated by the owners in writing; and

8 “(iv) Cause a statement of association information to be prepared, executed and recorded in
9 accordance with ORS 94.667.

10 “(E) If the owners vote to form an association, all costs incurred under this paragraph, including
11 but not limited to the preparation and filing of the articles of incorporation, drafting of bylaws,
12 preparation of notice of meeting and the drafting, delivery and recording of all notices and state-
13 ments shall be a common expense of the owners and shall be allocated as provided in the appropri-
14 ate governing document or any amendment thereto.

15 “(2)(a) The owners of lots in a Class I or Class II planned community that are subject to the
16 provisions of ORS chapter 94 specified in subsection (1) of this section may elect to be subject to
17 any other provisions of ORS 94.550 to 94.783 upon compliance with the procedures prescribed in
18 subsection (1) of this section.

19 “(b) If the owners of lots in a Class I or Class II planned community elect to be subject to ad-
20 ditional provisions of ORS 94.550 to 94.783, unless the notice of planned community otherwise re-
21 quired or permitted under subsection (4) of this section includes a statement of the election pursuant
22 to this paragraph, the board of directors of the association shall cause the notice of planned com-
23 munity described in subsection (4) of this section to be prepared, executed and recorded in accord-
24 ance with subsection (4) of this section.

25 “(3)(a) The owners of lots in a Class III planned community created before January 1, 2002, may
26 elect to be subject to provisions of ORS 94.550 to 94.783 upon compliance with the applicable pro-
27 cedures in subsection (1) of this section.

28 “(b) If the owners of lots in a Class III planned community elect to be subject to provisions of
29 ORS 94.550 to 94.783, the board of directors of the association shall cause the notice of planned
30 community described in subsection (4) of this section to be prepared, executed and recorded in ac-
31 cordance with subsection (4) of this section.

32 “(4) The notice of planned community required or permitted by this section shall be:

33 “(a) Titled ‘Notice of Planned Community under ORS 94.572’;

34 “(b) Executed by the president and secretary of the association; and

35 “(c) Recorded in the office of the recording officer of every county in which the property is lo-
36 cated.

37 “(5) The notice of planned community shall include:

38 “(a) The name of the planned community and association as identified in the recorded declara-
39 tion, conditions, covenants and restrictions or other governing document and, if different, the cur-
40 rent name of the association;

41 “(b) A list of the properties, described as required for recordation in ORS 93.600, within the ju-
42 risdiction of the association;

43 “(c) Information identifying the recorded declaration, conditions, covenants and restrictions or
44 other governing documents and a reference to the recording index numbers and date of recording
45 of the governing documents;

1 “(d) A statement that the property described in accordance with paragraph (b) of this subsection
2 is subject to specific provisions of the Oregon Planned Community Act;

3 “(e) A reference to the specific provisions of the Oregon Planned Community Act that apply to
4 the subject property and a reference to the subsection of this section under which the application
5 is made; and

6 “(f) If an association is formed under subsection (1)(b)(A) of this section, a statement to that
7 effect.

8 “(6) An amended statement shall include a reference to the recording index numbers and the
9 date of recording of prior statements.

10 “(7) The county clerk may charge a fee for recording a statement under this section according
11 to the provisions of ORS 205.320 (4).

12 “(8) The board of directors of an association not otherwise required to cause a notice of planned
13 community described in subsection (4) of this section to be prepared and recorded under this section
14 may cause a notice of planned community to be prepared, executed and recorded as provided in
15 subsection (4) of this section.

16 “(9) Title to a unit, lot or common property in a Class I or Class II planned community created
17 before January 1, 2002, may not be rendered unmarketable or otherwise affected by a failure of the
18 planned community to be in compliance with a requirement of this section.

19 “(10) As used in this section:

20 “(a) ‘Governing entity’ means an incorporated or unincorporated association, committee, person
21 or any other entity that has authority, under a governing document, to maintain commonly main-
22 tained property, impose assessments on lots or to act on behalf of lot owners within the planned
23 community on matters of common concern.

24 “(b) ‘Recorded declaration’ means an instrument recorded with the county recording officer of
25 the county in which the planned community is located that contains conditions, covenants and re-
26 strictions binding lots in the planned community or imposes servitudes upon the real property.”.

27 On page 10, line 14, delete the period and insert “; and”.

28 On page 11, line 19, after “votes” insert “that may be”.

29 On page 12, line 14, after the period delete the rest of the line and line 15.

30 In line 44, delete “sections” and insert “subsections”.

31 On page 13, line 2, delete “transfer” and insert “transfers” and delete the third comma and after
32 “pursuant” insert “to”.

33 On page 16, line 24, delete “any owner” and insert “one or more owners”.

34 In line 25, delete “expense” and insert “loss or cost” and delete “lot of the owner” and insert
35 “lots of the responsible owners”.

36 On page 17, delete lines 21 through 42 and insert:

37 “**SECTION 18. (1) Each member of the board of directors of the association of unit own-
38 ers must be an individual and, except as provided in subsections (2) and (3) of this section,
39 an owner or co-owner of a unit in the condominium.**

40 “**(2) A director appointed by a declarant under ORS 100.200 need not be an owner or co-
41 owner of a unit in the condominium.**

42 “**(3)(a) Except as otherwise provided in the bylaws, prior to election to the board of di-
43 rectors, an individual described in this subsection, upon request of the board, shall provide
44 the board with documentation satisfactory to the board that the individual is qualified to
45 represent the entity or is a trustee or is serving in a fiduciary capacity for the owner of a**

1 **unit.**

2 **“(b) If a corporation, limited liability company or partnership owns a unit in the condo-**
3 **minium or owns an interest in an entity that owns a unit in the condominium, an officer,**
4 **employee or agent of a corporation, a member, manager, employee or agent of a limited li-**
5 **ability company, or a partner, employee or agent of a partnership may serve on the board**
6 **of directors.**

7 **“(c) A trustee may serve on the board of directors if the trustee holds legal title to a unit**
8 **in the condominium in trust for the benefit of the owner of the beneficial interest in the unit.**

9 **“(d) An executor, administrator, guardian, conservator, or other individual appointed by**
10 **a court to serve in a fiduciary capacity for an owner of a unit, or an officer or employee of**
11 **an entity if the person appointed is an entity, may serve on the board of directors.**

12 **“(4) The position of an individual serving on the board of directors under subsection (3)**
13 **of this section automatically becomes vacant if the individual no longer meets the require-**
14 **ments of subsection (3) of this section.”.**

15 In line 45, after “structure” insert “or development”.

16 On page 18, line 1, delete “physically identical”.

17 In line 43, restore the bracketed material and delete the boldfaced material.

18 In line 44, after “purposes” insert “as provided in subsection (5) of this section”.

19 On page 19, line 1, after “(5)” insert “(a)”.

20 In line 3, restore the bracketed material and delete the boldfaced material.

21 After line 4, insert:

22 **“(b) As used in this subsection, ‘nonresidential purposes’ includes apartments within a condo-**
23 **minium in which the apartments are not separate units or units that are restricted in use by the**
24 **unit owner to less than full-time residential purposes.”.**

25 Delete lines 9 through 14 and insert:

26 **“(8) If an association creates not more than two additional units from common elements by an**
27 **amendment to the declaration under ORS 100.135, then ORS 100.635 (2), 100.640 (8) to (12), 100.655,**
28 **100.705, 100.720, 100.725, 100.730, 100.735 and 100.745 do not apply to the sale of the units by the**
29 **association.”.**

30 In line 44, after the first “and” insert “, if an additional unit is created from common
31 elements,”.

32 On page 20, line 10, delete “ORS 100.115” and insert “section 43 of this 2009 Act”.

33 On page 24, delete lines 37 through 40 and insert:

34 **“(b) The association of a condominium created on or after September 27, 2007, shall be organ-**
35 **ized:**

36 **“(A) As a corporation for profit or a nonprofit corporation; or**

37 **“(B) If the condominium consists of four or fewer units, excluding units used for parking, storage**
38 **or other use ancillary to a unit, as an unincorporated association, corporation for profit or a**
39 **nonprofit corporation.”.**

40 On page 29, line 16, after “(b)” delete the rest of the line and insert “Twenty percent of the
41 votes that may be cast by persons who are present in person, by proxy or by absentee ballot, if
42 absentee ballots are permitted.”.

43 On page 31, line 8, delete the first “the”.

44 On page 32, line 18, delete “paragraphs (b) and (c)” and insert “paragraph (b)”.

45 On page 37, line 27, delete “, 100.115 and 100.135” and insert “and 100.135 and section 43 of this

1 2009 Act”.

2 On page 38, line 4, delete “ORS 100.115 (9) and (10)” and insert “section 43 of this 2009 Act”.

3 In line 18, delete “(2)” and insert “(1)”.

4 In line 29, delete “(2)” and insert “(1)”.

5 On page 39, line 43, after “100.910” insert “and section 43 of this 2009 Act”.

6 On page 40, line 26, delete “(2)(i)” and insert “(1)(i)”.

7 In line 28, delete “(2)(i)” and insert “(1)(i)”.

8 On page 43, after line 7, insert:

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

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

13 “(b) Before a declaration, [*or*] supplemental declaration **or an amendment thereto** may be re-
14 corded, it must be approved by the tax collector of the county in which the property is located.

15 “(c) A declaration, **supplemental declaration** or amendment thereto may not be approved un-
16 less the requirements of subsections (2) to [(6)] (7) of this section are met. Approval shall be evi-
17 denced by execution of the declaration or amendment or by a written approval attached thereto.

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

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

21 “(b) The plat and floor plans comply with the requirements of ORS 100.115.

22 “(3) The tax collector of the county in which the property is located shall approve the declara-
23 tion or supplemental declaration, or an amendment that adds property to the condominium or
24 changes the boundary of a unit for which a plat is required under [*ORS 100.115 (9)(a)*] **section 43**
25 **of this 2009 Act**, if:

26 “(a) All ad valorem taxes, special assessments, fees, or other charges required by law to be
27 placed upon the tax roll which have or will become a lien upon the property during the tax year
28 have been paid;

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

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

34 “(4) Subject to subsection (5)(b) of this section, the commissioner shall approve the declaration
35 or amendment thereto if:

36 “(a) The declaration or the amendment thereto complies with the requirements of ORS 100.105
37 and 100.135;

38 “(b) The bylaws adopted under ORS 100.410 comply with the requirements of ORS 100.410 and
39 100.415;

40 “(c) The plat [*and floor plans comply*] **complies** with the requirements of ORS 100.115;

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

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

44 “(B) An affidavit that the notice of conversion was given in accordance with ORS 100.305 and
45 copies of the written consent of any tenants who received the notice of conversion before expiration

1 of the notice; or

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

4 “(e) A paper copy of the plat executed by the declarant and prepared in conformance with ORS
5 100.115 and a certification of plat execution, on a form prescribed and furnished by the commis-
6 sioner, have been submitted stating that the paper copy is a true copy of the plat signed by the
7 declarant. The certification may be executed by the declarant, the professional land surveyor who
8 signed the surveyor’s certificate on the plat, the attorney for the declarant, a representative of the
9 title insurance company that issued the information required under ORS 100.640 (5) or 100.660 (2)(d)
10 or another person authorized by the declarant in writing to execute the certification.

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

12 “**(a) The supplemental declaration complies with the requirements of ORS 100.120;**

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

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

16 “**(d) A paper copy of the supplemental plat described in subsection (4)(e) of this section**
17 **has been submitted.**

18 “[5] **(6)** Approval by the commissioner *[shall not be]* **is not** required for an amendment to a
19 declaration transferring the right of use of a limited common element pursuant to ORS 100.515 (5).

20 “[6] **(7)** Before the commissioner approves the declaration, **supplemental declaration** or
21 amendment thereto under this section:

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

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

27 “[7] **(8)** If the declaration or amendment thereto approved by the commissioner under sub-
28 section (4) of this section is not recorded in accordance with ORS 100.115 within two years from the
29 date of approval by the commissioner, the approval *[shall]* automatically *[expire]* **expires** and the
30 declaration, **supplemental declaration** or amendment thereto must be resubmitted for approval in
31 accordance with this section. The commissioner’s approval shall set forth the date on which the
32 approval *[will expire]* **expires**.

33 “**SECTION 41.** ORS 100.115 is amended to read:

34 “100.115. *[(1) When a declaration or a supplemental declaration under ORS 100.125 is made and*
35 *approved as required, it shall, upon the payment of the fees provided by law, be recorded by the re-*
36 *cording officer. The fact of recording and the date thereof shall be entered thereon. At the time of re-*
37 *cording the declaration or supplemental declaration, the person offering it for record shall also file an*
38 *exact copy, certified by the recording officer to be a true copy thereof, with the county assessor.]*

39 “[2] **(1)** A plat of the land described in the declaration or a supplemental plat described in a
40 supplemental declaration, complying with ORS 92.050, 92.060 (1) and (2), 92.080 and 92.120, shall be
41 recorded simultaneously with the declaration or supplemental declaration. Upon request, the person
42 offering the plat or supplemental plat for recording shall also file an exact copy, certified by the
43 surveyor who made the plat to be an exact copy of the plat, with the county assessor and the county
44 surveyor. The exact copy shall be made on suitable drafting material having the characteristics of
45 strength, stability and transparency required by the county surveyor. The plat or supplemental

1 plat[,] **shall be** titled in accordance with subsection [(4)] (3) of this section[,] **and** shall:

2 “(a) Show the location of:

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

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

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

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

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

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

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

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

28 “(d) Include a statement, including signature and official seal, of a registered architect, regis-
29 tered professional land surveyor or registered professional engineer certifying that the plat fully and
30 accurately depicts the boundaries of the units of the building and that construction of the units and
31 buildings as depicted on the plat has been completed, except that the professional land surveyor who
32 prepared the plat need not affix a seal to the statement.

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

36 “(f) Include a statement by the declarant that the property and improvements described and
37 depicted on the plat are subject to the provisions of ORS 100.005 to 100.625.

38 “(g) Include such signatures of approval as may be required by local ordinance or regulation.

39 “(h) Include any other information or data not inconsistent with the declaration that the
40 declarant desires to include.

41 “(i) If the condominium is a flexible condominium, show the location and dimensions of all var-
42 iable property identified in the declaration and label the variable property as ‘WITHDRAWABLE
43 VARIABLE PROPERTY’ or ‘NONWITHDRAWABLE VARIABLE PROPERTY,’ with a letter differ-
44 ent from those designating a unit, building or other tract of variable property. If there is more than
45 one tract, each tract shall be labeled in the same manner.

1 “[(3)] (2) The supplemental plat required under ORS 100.150 (1) shall be recorded simultaneously
2 with the supplemental declaration. *[Upon request, the person offering the supplemental plat for re-*
3 *recording shall also file an exact copy, certified by the surveyor who made the plat to be an exact copy*
4 *of the plat, with the county assessor and the county surveyor. The exact copy shall be made on suitable*
5 *drafting material having the characteristics of strength, stability and transparency required by the*
6 *county surveyor.]* The supplemental plat[,] **shall be** titled in accordance with subsection [(4)] (3) of
7 this section[,] **and** shall:

8 “(a) Comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080, 92.120 and subsections [(4) and] (3)
9 **to** (5) of this section.

10 “(b) If any property is withdrawn:

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

12 “(B) Show the information required under subsection [(2)(i)] (1)(i) of this section as it relates to
13 any remaining variable property.

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

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

19 “(e) Include a surveyor’s *[affidavit]* **certificate** complying with ORS 92.070.

20 “[4)] (3) The title of each supplemental plat described in ORS 100.120 shall include the complete
21 name of the condominium, followed by the additional language specified in this subsection and the
22 appropriate reference to the stage being annexed or tract of variable property being reclassified.
23 Each supplemental plat for a condominium recorded on or after January 1, 2002, shall be numbered
24 sequentially and shall:

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

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

29 “(4) **Upon request of the county surveyor or assessor, the person offering a plat or sup-**
30 **plemental plat for recording shall also file an exact copy, certified by the surveyor who made**
31 **the plat to be an exact copy of the plat, with the county assessor and the county surveyor.**
32 **The exact copy shall be made on suitable drafting material having the characteristics of**
33 **strength, stability and transparency required by the county surveyor.**

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

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

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

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

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

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

45 “(C) The description of the property in the surveyor’s certificate included on the plat and the

1 description contained in the declaration in accordance with ORS 100.105 (1)(a); and

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

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

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

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

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

13 “[8)(a) *Whenever variable property is reclassified or withdrawn as provided in ORS 100.155 (1)*
14 *or (2) or property is removed as provided in ORS 100.600 (2), the county surveyor shall, upon the*
15 *surveyor’s copy of all previously recorded plats relating to the variable property or property being re-*
16 *moved and upon any copy thereof certified by the county clerk, trace, shade or make other appropriate*
17 *marks or notations, including the date and the surveyor’s name or initials, with archival quality black*
18 *ink in such manner as to denote the reclassification, withdrawal or removal. The recording index*
19 *numbers and date of recording of the supplemental declaration and plat or amendment and amended*
20 *plat shall also be referenced on the copy of each plat. The original plat may not be changed or cor-*
21 *rected after the plat is recorded.]*

22 “[b) *For performing the activities described in this subsection, the county clerk shall collect a fee*
23 *set by the county governing body. The county clerk shall also collect a fee set by the county governing*
24 *body to be paid to the county surveyor for services provided under this subsection.]*

25 “[9) *In addition to the provisions of subsection (12) of this section, a plat, including any floor*
26 *plans that are a part of the plat, may be amended as follows:]*

27 “[a)(A) *Except as otherwise provided in ORS 100.600, a change to the boundary of the property,*
28 *a unit or a limited common element or a change to the configuration of other information required to*
29 *be graphically depicted on the plat shall be made by a plat entitled ‘Plat Amendment’ that shall ref-*
30 *erence in the title of the amendment the recording information of the original plat and any previous*
31 *plat amendments.]*

32 “[B) *The plat amendment shall comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080 and 92.120*
33 *and shall include:]*

34 “[i) *A graphic depiction of the change.]*

35 “[ii) *For a change to the boundary of the property, a surveyor’s certificate, complying with ORS*
36 *92.070.]*

37 “[iii) *For a change to a boundary of a unit or a limited common element or a change to other*
38 *information required to be graphically depicted, the statement of a registered architect, registered pro-*
39 *fessional land surveyor or registered professional engineer described in subsection (2)(d) of this*
40 *section.]*

41 “[iv) *A declaration by the chairperson and secretary on behalf of the association of unit owners*
42 *that the plat is being amended pursuant to this subsection. Such declaration shall be executed and ac-*
43 *knowledged in the manner provided for acknowledgment of deeds.]*

44 “[C) *The plat amendment shall be accompanied by an amendment to the declaration authorizing*
45 *such plat amendment. The declaration amendment shall be executed, approved and recorded in ac-*

1 cordance with ORS 100.110 and 100.135.]

2 “[(D) Before a plat amendment may be recorded, it must be approved by the city or county surveyor
3 as provided in ORS 92.100. The surveyor shall approve the plat amendment if it complies with the
4 requirements of this subsection. The person offering the plat amendment shall:]

5 “[(i) Submit a copy of the proposed amendment to the declaration required under this paragraph
6 when the plat amendment is submitted; and]

7 “[(ii) Submit the original or a copy of the executed amendment to the declaration approved by the
8 commissioner if required by law prior to approval of the plat amendment.]

9 “[(E) Upon request, the person offering the plat amendment for recording shall also file an exact
10 copy, certified by the surveyor who made the plat to be an exact copy of the plat amendment, with the
11 county assessor and the county surveyor. The exact copy shall be made on suitable drafting material
12 having the strength, stability and transparency required by the county surveyor.]

13 “[(b)(A) A change to a restriction or other information not required to be graphically depicted on
14 the plat may be made by amendment of the declaration without a plat amendment described in para-
15 graph (a) of this subsection. An amendment under this paragraph shall include:]

16 “[(i) A reference to recording index numbers and date of recording of the declaration, plat and any
17 applicable supplemental declarations, amendments, supplemental plats or plat amendments.]

18 “[(ii) A description of the change to the plat.]

19 “[(iii) A statement that the amendment was approved in accordance with the declaration and ORS
20 100.135.]

21 “[(B) The amendment shall be executed, approved and recorded in accordance with ORS 100.110
22 and 100.135.]

23 “[(C) Before the amendment may be recorded, it must be approved by the city or county surveyor
24 as provided in ORS 92.100. The surveyor shall approve the amendment if it complies with this sub-
25 section. Such approval shall be evidenced by execution of the amendment or by written approval at-
26 tached thereto.]

27 “[(c)(A) Floor plans of a condominium for which a plat was not required at the time of creation
28 may be amended by an amendment to the declaration. An amendment under this paragraph shall in-
29 clude:]

30 “[(i) A reference to recording index numbers and date of recording of the declaration and any ap-
31 plicable supplemental declarations or amendments.]

32 “[(ii) A description of the change to the floor plans.]

33 “[(iii) A graphic depiction of any change to the boundaries of a unit or common element and a
34 statement by a registered architect, registered professional land surveyor or registered professional en-
35 gineer certifying that such graphic depiction fully and accurately depicts the boundaries of the unit or
36 common element as it currently exists.]

37 “[(B) The amendment shall be approved and recorded in accordance with ORS 100.110 and 100.135
38 except that any change to the floor plans need only comply with the requirements of the unit ownership
39 laws in effect at the time the floor plans were initially recorded.]

40 “[(10) After recording of any declaration amendment or plat amendment pursuant to subsection (9)
41 of this section, the county surveyor shall, upon the surveyor’s copy of all previously recorded plats re-
42 lating to the condominium and any copies filed under ORS 92.120 (3), make such appropriate marks
43 or notations, including the date and the surveyor’s name or initials, with archival quality black ink in
44 such manner as to denote the changes. The recording index numbers and date of recording of the
45 declaration amendment and any plat amendment shall also be referenced on the copy of each plat. The

1 original plat may not be changed or corrected after the plat is recorded.]

2 “[*(11) For performing the services described in subsections (9) and (10) of this section, the county*
3 *surveyor shall collect from the person offering the plat amendment or declaration amendment for ap-*
4 *proval a fee established by the county governing body.*]

5 “[*(12) The following may be amended by an affidavit of correction in accordance with ORS*
6 *92.170:*]

7 “[*(a) A plat, whenever recorded.*]

8 “[*(b) Floor plans recorded prior to October 15, 1983.*]

9 **“SECTION 42. Section 43 of this 2009 Act is added to and made a part of ORS chapter 100.**

10 **“SECTION 43. (1) A plat, including any floor plans that are a part of a plat, recorded**
11 **before October 15, 1983, may be amended as provided in this section.**

12 **“(2)(a) Except as otherwise provided in ORS 100.600, the following must be made by a plat**
13 **entitled ‘Plat Amendment’:**

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

15 **“(B) The creation of an additional unit from common elements; or**

16 **“(C) A change to the configuration of other information required to be graphically de-**
17 **scribed on the plat.**

18 **“(b) The plat amendment shall reference in the title of the amendment the recording**
19 **information of the original plat and any previous plat amendments.**

20 **“(3) The plat amendment shall comply with ORS 92.050, 92.060 (1), (2) and (4), 92.080 and**
21 **92.120 and shall include:**

22 **“(a) A graphic depiction of the change;**

23 **“(b) For a change to the boundary of the property, a surveyor’s certificate that complies**
24 **with ORS 92.070;**

25 **“(c) If the plat amendment is an amendment by correction under section 43b of this 2009**
26 **Act, a statement that the plat amendment is an amendment by correction under section 43b**
27 **of this 2009 Act;**

28 **“(d) A certification, including signature and official seal, of a registered professional land**
29 **surveyor that:**

30 **“(A) The plat amendment accurately depicts the amendments to the plat described in the**
31 **declaration amendment recorded under subsection (5) of this section; and**

32 **“(B) Any construction that changes the boundaries of a unit or limited common element**
33 **or the construction of any additional unit or limited common element has been completed;**
34 **and**

35 **“(e) A declaration by the chairperson and secretary on behalf of the association of unit**
36 **owners that the plat is being amended pursuant to this section. If the amendment to the**
37 **declaration required under subsection (5) of this section is a correction amendment under**
38 **section 43a of this 2009 Act, the declaration shall be by the declarant if the declarant adopts**
39 **the correction amendment under section 43a of this 2009 Act.**

40 **“(4) The declaration required under subsection (3)(e) of this section shall be executed and**
41 **acknowledged in the manner provided for acknowledgment of deeds.**

42 **“(5) The plat amendment shall be accompanied by an amendment to the declaration au-**
43 **thorizing the plat amendment. The declaration amendment shall be executed, approved and**
44 **recorded in accordance with ORS 100.110 and 100.135 or section 43a of this 2009 Act, if the**
45 **declaration amendment is a correction amendment under section 43a of this 2009 Act.**

1 **“(6) Before a plat amendment may be recorded, it must be approved by the city or county**
2 **surveyor as provided in ORS 92.100. The surveyor shall approve the plat amendment if it**
3 **complies with the requirements of this subsection. The person offering the plat amendment**
4 **shall:**

5 **“(a) Submit a copy of the proposed amendment to the declaration required under sub-**
6 **section (3) of this section when the plat amendment is submitted.**

7 **“(b) Submit the original or a copy of the executed amendment to the declaration ap-**
8 **proved by the Real Estate Commissioner if required by law prior to approval of the plat**
9 **amendment.**

10 **“(c) Upon request, file an exact copy, certified by the surveyor who made the plat to be**
11 **an exact copy of the plat amendment, with the county assessor and the county surveyor. The**
12 **exact copy shall be made on suitable drafting material having the strength, stability and**
13 **transparency required by the county surveyor.**

14 **“(7) A change to a restriction or other information not required to be graphically de-**
15 **scribed on the plat may be made by amendment of the declaration without a plat amendment**
16 **described in subsection (3) of this section. A declaration amendment under this subsection**
17 **shall include:**

18 **“(a) References to recording index numbers and date of recording of the declaration or**
19 **plat and any applicable supplemental declarations, amendments, supplemental plats or plat**
20 **amendments.**

21 **“(b) A description of the change to the plat.**

22 **“(c) A statement that the amendment was approved in accordance with the declaration**
23 **and ORS 100.135.**

24 **“(8) The declaration amendment described in subsection (7) of this section shall be exe-**
25 **cuted, approved and recorded in accordance with ORS 100.110 and 100.135.**

26 **“(9) Before the declaration amendment described in subsection (7) of this section may**
27 **be recorded, it must be approved by the city or county surveyor as provided in ORS 92.100.**
28 **The surveyor shall approve the declaration amendment if it complies with subsection (7) of**
29 **this section. Such approval shall be evidenced by execution of the amendment or by written**
30 **approval attached thereto.**

31 **“(10) Floor plans of a condominium for which a plat was not required at the time of**
32 **creation may be amended by amendment of the declaration. An amendment under this sub-**
33 **section shall include:**

34 **“(a) References to recording index numbers and date of recording of the declaration and**
35 **any applicable supplemental declarations or amendments.**

36 **“(b) A description of the change to the floor plans.**

37 **“(c) A graphic depiction of any change to the boundaries of a unit or common element**
38 **and a statement by a registered architect, registered professional land surveyor or registered**
39 **professional engineer certifying that such graphic depiction fully and accurately depicts the**
40 **boundaries of the unit or common element as it currently exists.**

41 **“(11) The declaration amendment described in subsection (10) of this section shall be ap-**
42 **proved and recorded in accordance with ORS 100.110 and 100.135 except that any change to**
43 **the floor plans need only comply with the requirements of the unit ownership laws in effect**
44 **at the time the floor plans were initially recorded.**

45 **“(12) After recording of any declaration amendment or plat amendment pursuant to this**

1 section, the county surveyor shall, upon the surveyor's copy of all previously recorded plats
2 relating to the condominium and any copies filed under ORS 92.120 (3), make such appropri-
3 ate marks or notations, including the date and the surveyor's name or initials, with archival
4 quality black ink in such manner as to denote the changes. The recording index numbers and
5 date of recording of the declaration amendment and any plat amendment shall also be ref-
6 erenced on the copy of each plat. The original plat may not be changed or corrected after
7 the plat is recorded.

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

11 “SECTION 43a. (1) As used in this section and section 43b of this 2009 Act, ‘document’
12 means the declaration, supplemental declaration or bylaws of a condominium.

13 “(2) Notwithstanding a provision in a document or this chapter, a document or an
14 amendment to a document may be corrected by a correction amendment under this section
15 to:

16 “(a) Correct the omission of an exhibit to a document.

17 “(b) Correct a mathematical mistake, including, but not limited to:

18 “(A) The calculation of the stated interest of affected units in the common elements;

19 “(B) The area in square feet of a unit specified in the declaration or supplement decla-
20 ration; and

21 “(C) Liability of a unit for common expenses or right to common profits.

22 “(c) Correct an inconsistency within a document or between or among the documents or
23 a plat, supplemental plat or plat amendment.

24 “(d) Correct an ambiguity, inconsistency or error with respect to an objectively verifiable
25 fact.

26 “(e) Conform the declaration or supplemental declaration to a plat amendment under
27 section 43 of this 2009 Act or an affidavit of correction under section 43b of this 2009 Act.

28 “(f) Correct a provision that is inconsistent with this chapter.

29 “(g) Correct the omission of a provision required under this chapter.

30 “(3) A correction amendment adopted under subsection (4) of this section shall include:

31 “(a) The words ‘Correction Amendment’ in or after the title;

32 “(b) A reference to the recording index numbers and date of recording of the declaration,
33 bylaws, plat, the document being corrected and any other applicable supplemental declara-
34 tions, supplemental plats or amendments to the documents;

35 “(c) A statement of the purpose of the correction; and

36 “(d) A reference to this section.

37 “(4) The board of directors may adopt a correction amendment under this section after
38 giving notice as provided in subsection (8) of this section. No action by the unit owners is
39 required.

40 “(5) The declarant of the condominium may unilaterally adopt a correction amendment
41 under this section to:

42 “(a) A document or an amendment to a document, before the conveyance of the first unit
43 in the condominium.

44 “(b) A supplemental declaration or an amendment to the supplemental declaration, before
45 conveyance of the first unit in the particular phase or stage.

1 “(6) A correction amendment under this section shall be approved by the Real Estate
2 Commissioner under ORS 100.110 and, to the extent required, ORS 100.410, the county
3 assessor in accordance with ORS 100.110 and, if required, the county tax collector.

4 “(7) A correction amendment that corrects the boundary of a unit, common element,
5 variable property or other property interest constitutes a conveyance to the extent neces-
6 sary to effectuate the correction.

7 “(8)(a) Except for a correction amendment adopted by a declarant under subsection (5)
8 of this section, the notice of any meeting of the board of directors at which the board intends
9 to consider adoption of a correction amendment under this section must:

10 “(A) State that the board intends to consider the adoption of a correction amendment.

11 “(B) Specify the document to be corrected.

12 “(C) Include a general description of the nature of the correction.

13 “(b) At least three days before the meeting of the board of directors, a notice of the
14 meeting must be given to all owners in the manner described in ORS 100.420 (3).

15 “(9) The owner of a unit materially affected by the correction must be given notice of the
16 meeting of the board of directors under subsection (8) of this section in the manner required
17 under ORS 100.407 (4).

18 “(10) The board of directors shall provide a copy of the recorded correction amendment
19 and any plat amendment by correction or by affidavit of correction under section 43b of this
20 2009 Act recorded concurrently with the correction amendment to any owner described un-
21 der subsection (9) of this section and to any owner if the correction changes that owner’s:

22 “(a) Allocation of voting rights;

23 “(b) Liability for common expenses that changes the amount of any assessment; or

24 “(c) Allocation of interest in the common elements.

25 “SECTION 43b. (1) Unless the context requires otherwise, as used in this section ‘plat’
26 means:

27 “(a) A plat recorded under ORS 100.115.

28 “(b) Floor plans made part of a plat that was recorded before October 15, 1983.

29 “(c) A supplemental plat recorded under ORS 100.115.

30 “(d) A plat amendment recorded under section 43 of this 2009 Act.

31 “(2) Notwithstanding a provision in a document of a condominium or this chapter, a plat
32 may be corrected by a plat amendment under section 43 of this 2009 Act as provided in sub-
33 section (3) of this section or by an affidavit of correction as provided in subsection (4) of this
34 subsection.

35 “(3) Except as provided in subsection (4) of this section, a correction to a plat must be
36 made by a plat amendment in accordance with section 43 of this 2009 Act. The plat amend-
37 ment by correction may:

38 “(a) Conform the designation, depiction or boundaries of a unit, common elements or
39 variable property on the plat to the physical location or actual dimensions of the unit, com-
40 mon elements or variable property.

41 “(b) Correct a mathematical mistake.

42 “(c) Correct the designation of a unit or limited common element.

43 “(d) Make any other correction permitted under section 43a of this 2009 Act.

44 “(4) An affidavit of correction may correct a plat to:

45 “(a) Show any courses or distances omitted from the plat.

1 “(b) Correct an error in any courses or distances shown on the plat.
2 “(c) Correct an error in the description of the real property shown on the plat.
3 “(d) Correct any other errors or omissions when the error or omission is ascertainable
4 from the data shown on the plat.
5 “(e) Correct any other errors or omissions on the plat determined by the county sur-
6 veyor.
7 “(5) Nothing in subsection (4) of this section may be construed to permit changes in
8 courses or distances for the purpose of redesigning unit, common element or variable prop-
9 erty configurations by affidavit of correction under this section.
10 “(6) The affidavit of correction shall be prepared by the registered professional land sur-
11 veyor whose signature and seal are on the plat. In the event of the death, disability or re-
12 tirement from practice of the surveyor, the county surveyor may prepare and record the
13 affidavit of correction.
14 “(7) The affidavit of correction prepared under subsection (6) of this section shall:
15 “(a) Set forth in detail the corrections made; and
16 “(b) Contain the seal and signature of the registered professional land surveyor making
17 the correction which shall be affixed to the affidavit of correction.
18 “(8) The affidavit of correction shall be submitted to the county surveyor for examination
19 and a determination that:
20 “(a) The changes shown on the affidavit of correction are permitted under subsection (4)
21 of this section; and
22 “(b) The affidavit of correction complies with subsection (7)(a) of this section.
23 “(9) If the county surveyor determines that the affidavit of correction complies with
24 subsection (7) of this section, the county surveyor shall sign a certification that the affidavit
25 of correction has been examined and complies with this section. The certification shall be a
26 part of or an attachment to the affidavit of correction.
27 “(10)(a) Before an affidavit of correction is recorded, it must be approved by the Real
28 Estate Commissioner. The affidavit of correction shall be filed with the commissioner under
29 ORS 100.670.
30 “(b) The commissioner shall approve the affidavit of correction if it complies with this
31 section. The approval shall be evidenced by execution of the affidavit of correction.
32 “(11)(a) The surveyor who prepared the affidavit of correction shall cause the affidavit
33 of correction to be recorded by the recording officer of the county where the plat or sup-
34 plemental plat is recorded.
35 “(b) If a correction by an affidavit of correction requires a correction amendment to a
36 document under section 43a of this 2009 Act, the affidavit of correction must be recorded
37 concurrently with the correction amendment.
38 “(12) The surveyor who prepared the affidavit of correction shall cause a copy of the re-
39 corded affidavit of correction to be provided to:
40 “(a) The association of unit owners of the condominium, at the address shown in the
41 Condominium Information Report filed in accordance with ORS 100.250 or such other address
42 of which the surveyor has knowledge.
43 “(b) The county surveyor, unless otherwise directed by the county surveyor.
44 “(c) The commissioner.
45 “(13)(a) Unless otherwise specified in the affidavit of correction, after recording the affi-

1 **davit of correction, the county clerk shall return the affidavit of correction to the county**
2 **surveyor.**

3 **“(b) Upon receipt of the original recorded affidavit of correction or a copy, the county**
4 **surveyor shall note the correction and the recorder’s filing information, with permanent ink,**
5 **upon any true and exact copies filed in accordance with ORS 92.120 (3). The corrections and**
6 **filing information shall be marked in such a manner so as not to obliterate any portion of**
7 **the plat.**

8 **“(14) For recording the affidavit of correction under subsection (11) of this section, the**
9 **county clerk shall collect a fee as provided in ORS 205.320. Corrections or changes are not**
10 **allowed on the original plat once it is recorded.**

11 **“(15) For performing the services described in this section, the county surveyor shall**
12 **collect from the person submitting the affidavit of correction a fee established by the county**
13 **governing body.**

14 **“SECTION 44.** ORS 100.120 is amended to read:

15 **“100.120. (1) To annex additional property to the condominium or to reclassify variable property**
16 **under ORS 100.125 or 100.150, a supplemental declaration and a supplemental plat shall be executed,**
17 **approved and recorded by declarant at the time of each annexation or reclassification. The supple-**
18 **mental plat shall comply with ORS 100.115 and the supplemental declarations shall:**

19 **“(a) Include a reference to recording index numbers and date of recording of the initial decla-**
20 **ration and bylaws.**

21 **“(b) Be consistent with the provisions of the original declaration prepared pursuant to ORS**
22 **100.105 and any prior recorded supplemental declarations.**

23 **“(c) Contain the information required by ORS 100.105 (1) insofar as that information relates to**
24 **the property being annexed or reclassified.**

25 **“(d) State the allocation of undivided interest in the common elements of each unit previously**
26 **submitted to the provisions of this chapter upon the creation or annexation of the additional prop-**
27 **erty.**

28 **“(e) If the stage being annexed contains any variable property, include the information required**
29 **under ORS 100.105 (7) insofar as that information relates to the property being annexed. The ter-**
30 **mination date shall be consistent with the information included in the declaration in accordance**
31 **with ORS 100.105 (2)(b) but may not exceed seven years from the recording of the conveyance of the**
32 **first unit in the stage to a person other than the declarant. Recording shall be in the county in**
33 **which the property is located.**

34 **“(2) If the Condominium Information Report and the Annual Report described in ORS 100.250**
35 **are designated current as provided in ORS 100.255, all such supplemental declarations and plats**
36 **shall be approved, executed and recorded as provided in ORS 100.100, 100.110 and 100.115. No unit**
37 **being annexed or created by a supplemental declaration shall be conveyed until after such record-**
38 **ing.**

39 **“(3) To withdraw all or a portion of variable property from a flexible condominium pursuant to**
40 **ORS 100.150 (1)(b), a supplemental declaration and plat shall be recorded in accordance with sub-**
41 **section (2) of this section. The supplemental plat shall comply with ORS 100.115 [(3)] (2) and the**
42 **supplemental declaration shall:**

43 **“(a) Be consistent with the provisions of the declaration or supplemental declaration drawn**
44 **pursuant to ORS 100.105 (7).**

45 **“(b) Include a metes and bounds legal description of the variable property being withdrawn.**

1 “(c) Include a metes and bounds legal description of the resulting boundaries of the condomin-
2 ium after the withdrawal.

3 “(d) State whether or not any variable property remains which may be reclassified or withdrawn
4 from the condominium and, if property may be withdrawn, include the statement required under ORS
5 100.105 (7)(m).

6 “(e) If any variable property is being redesignated as ‘nonwithdrawable variable property,’ in-
7 clude the information required under ORS 100.105 (7)(L).

8 “(4) Except as provided in subsection (5) of this section, as to property submitted to unit own-
9 ership after October 4, 1977, additional units may not be added within property previously submitted
10 to unit ownership unless all unit owners consent to an amendment to the declaration, plat and any
11 floor plans recorded pursuant to [ORS 100.115] **section 43 of this 2009 Act** in order to provide for
12 such additional units.

13 “(5) As to property submitted to unit ownership before September 27, 1987, if the declaration
14 provides that additional property may be annexed to the condominium, any subsequent stage may
15 contain variable property. The termination date may not be later than the earlier of:

16 “(a) The date specified in the declaration under ORS 100.105 (2)(b); or

17 “(b) Seven years from the recording of the conveyance of the first unit in the condominium to
18 a person other than the declarant. Recording shall be in the county in which the property is located.

19 “**SECTION 45.** ORS 100.125 is amended to read:

20 “100.125. Subject to ORS 100.120 (4), if the declaration complies with ORS 100.105 (2), until the
21 termination date, additional property may be annexed to the condominium by the recording of a
22 supplemental declaration and supplemental plat in accordance with ORS [100.115 and] 100.120 **and**
23 **section 43 of this 2009 Act.**

24 “**SECTION 46.** ORS 100.130 is amended to read:

25 “100.130. (1) Subject to any limitations contained in the declaration, the boundaries between
26 adjoining units, including any intervening common elements, may be relocated or eliminated by an
27 amendment to the declaration. The owners of the affected units shall submit to the board of direc-
28 tors of the association a proposed amendment which shall identify the units involved, state any re-
29 allocations of common element interest, voting rights, common expense liability and right to common
30 profits and contain words of conveyance. The board of directors shall approve the amendment unless
31 it determines within 45 days that the reallocations are unreasonable or the relocation or elimination
32 will impair the structural integrity or mechanical systems of the condominium or lessen the support
33 of any portion of the condominium.

34 “(2) The board of directors of the association of unit owners may require the owners of the af-
35 fected units to submit an opinion of a registered architect or registered professional engineer that
36 the proposed relocation or elimination will not impair the structural integrity or mechanical systems
37 of the condominium or lessen the support of any portion of the condominium.

38 “(3) The board of directors of the association or any agent appointed by the board of directors
39 may supervise the work necessary to effect the boundary relocation or elimination.

40 “(4) Any expenses incurred under subsections (2) and (3) of this section shall be charged to the
41 owners of the units requesting the boundary relocation or elimination.

42 “(5) The amendment shall be executed by the owners and mortgagees or trust deed beneficiaries
43 of the affected units, certified by the chairperson and secretary of the association and approved and
44 recorded in accordance with ORS 100.135 (2)(b).

45 “(6) An amendment to the plat and any floor plans necessary to show the altered boundaries

1 between the adjoining units shall be recorded in accordance with [ORS 100.115] **section 43 of this**
2 **2009 Act.**

3 “**SECTION 47.** ORS 100.515 is amended to read:

4 “100.515. (1) Each unit shall be entitled to an undivided interest in the common elements in the
5 allocation expressed in the declaration. Such allocation shall be expressed as a fraction or percent-
6 age of undivided interest in the common elements. Except as otherwise provided in this chapter, the
7 allocation of undivided interest of each unit in the common elements as expressed in a declaration
8 shall not be altered unless all unit owners having an interest in the particular common element
9 agree thereto and record an amendment to the declaration setting forth the altered allocation of
10 each unit having an interest.

11 “(2) The sums of the undivided interest in the common elements shall equal one if stated as
12 fractions or 100 percent if stated as percentages.

13 “(3) The undivided interest in the common elements shall not be separated from the unit to
14 which it appertains and shall be conveyed or encumbered with the unit even though such interest
15 is not expressly mentioned or described in the conveyance or other instrument.

16 “(4) The common elements shall remain undivided and no unit owner shall bring any action for
17 partition or division of any part thereof, except as provided in this chapter. Any covenant to the
18 contrary is void.

19 “(5) Notwithstanding subsections (1) and (3) of this section, except where expressly prohibited
20 by the declaration or bylaws, the right of use of any unit in a limited common element may be
21 transferred to any other unit. Such transfer shall occur only if the existing unit owner and all
22 mortgagees of the unit for which the right of use of the limited common element is presently re-
23 served and the unit owner to whom the right of use is being transferred agree to and record an
24 amendment to the declaration setting forth the transfer.

25 “(6) Notwithstanding subsections (1) and (3) of this section, in the case where a single unit is
26 originally designed and constructed to be two or more separate hotel, motel or other similar living
27 accommodations with separate bathrooms and separate entrances from a hallway, balcony, staircase
28 or other common element, the owner, or owners, with the consent of the holder, or holders, of any
29 recorded mortgage or lien on the unit, may separate such unit into two or more units each having
30 such separate bathrooms and entrances from such common elements. Such persons may divide be-
31 tween such separate units the allocation of the common elements assigned to the original unit on
32 substantially the basis that the square footage of such separated units bears to the total square
33 footage of the original unit by recording an amendment to the declaration signed by such owner,
34 or owners, of original unit together with an amendment to any plat and floor plan of such original
35 unit recorded pursuant to [ORS 100.115] **section 43 of this 2009 Act** showing the division thereof
36 into such two or more units. The amendment shall comply with [ORS 100.115] **section 43 of this**
37 **2009 Act.** Such separated parts of the original unit shall not be used for any purpose other than the
38 purpose for which such separable parts were originally designed and constructed and thereafter
39 have generally been used.

40 “**SECTION 48.** ORS 100.640 is amended to read:

41 “100.640. The following documents and information shall be submitted to the Real Estate Com-
42 missioner as part of the filing required under ORS 100.635:

43 “(1) A copy of the proposed or recorded declaration or supplemental declaration of condominium
44 ownership drawn in conformance with ORS 100.105 or 100.120, or the law applicable in the state
45 where the condominium was created;

1 “(2) A copy of the proposed or recorded bylaws drawn in conformance with ORS 100.415 or the
2 law applicable in the state where the condominium was created;

3 “(3) A copy of the full size plat prepared in conformance with ORS 100.115 [(2)] (1) or the law
4 applicable in the state where the condominium was created, or a copy of the site plan;

5 “(4) A statement from the county assessor or county surveyor that the name for the condomi-
6 nium is acceptable under ORS 100.105 (6);

7 “(5) A copy of a preliminary title report, title insurance policy or condominium guarantee that
8 has been issued within the preceding 30 days, including a map showing the location of property de-
9 scribed in the report, policy or guarantee or other evidence of title satisfactory to the commissioner;

10 “(6) A copy of all restrictive covenants, reservations or other documents that may create an
11 encumbrance on or limit the use of the property other than those restrictions contained in the
12 declaration or bylaws;

13 “(7) A copy of the reserve study required by ORS 100.175 and other sources of information that
14 serve as a basis for calculating reserves in accordance with ORS 100.175, unless the information is
15 contained in the disclosure statement;

16 “(8) The following sample forms:

17 “(a) Unit sales agreement, including the notice to purchaser of cancellation rights in accordance
18 with ORS 100.730 and 100.740, the statement required by ORS 93.040 (2) and any warranty required
19 under ORS 100.185; and

20 “(b) A receipt for documents required under ORS 100.725;

21 “(9) If required by ORS 100.680:

22 “(a) A copy of the escrow agreement drawn in conformance with ORS 100.680 and executed by
23 both the declarant and the escrow agent. If individual escrow agreements or instructions are to be
24 executed by the purchaser, other than the standard escrow instruction required by the escrow agent,
25 submit sample form and a letter from the escrow agent, agreeing to the establishment of the escrows
26 and the procedure set forth in the sample form; and

27 “(b) A unit sales agreement drawn in conformance with ORS 100.680;

28 “(10) If any of the sales will be by means of an installment contract of sale:

29 “(a) A copy of the escrow agreement or escrow instructions executed by the developer and the
30 escrow agent providing for the establishment of collection escrows and the deposit of documents in
31 accordance with ORS 100.720; and

32 “(b) The proposed installment contract of sale form, if available;

33 “(11) Any other documents by which the purchasers will be bound;

34 “(12) Any report or disclosure statement issued for the condominium, by the federal government
35 and any other state; and

36 “(13) A statement of any additional facts or information which the developer desires to submit
37 to the commissioner.”.

38
