

# House Bill 3342

Sponsored by Representative HELM (at the request of Condominium and HOA Working Group)

## SUMMARY

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

Restricts ability for public bodies other than Real Estate Agency to regulate or condition properties based on submission to condominium form of ownership.

Allows condominium to change its name to name similar to its own.

## A BILL FOR AN ACT

1  
2 Relating to condominiums; amending ORS 100.015, 100.022, 100.105, 100.110 and 100.115.

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

4 **SECTION 1.** ORS 100.015 is amended to read:

5 100.015. The Real Estate Commissioner **has the exclusive right to regulate the submission**  
6 **of property to the provisions of this chapter and** may adopt such rules as are necessary for the  
7 administration of this chapter.

8 **SECTION 2.** ORS 100.022 is amended to read:

9 100.022. *[(1)]* **Except as provided under ORS 100.015 or explicitly required or allowed under**  
10 **this chapter,** a zoning, subdivision, building code or other *[real property law,]* **regulation by a**  
11 **public body, agency rule or local** ordinance or regulation may not *[prohibit]:*

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

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

17 (a) **Any charge, tax or fee;**

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

21 (c) **Any additional permitting requirements or conditions of approval of the property or**  
22 **development; or**

23 (d) **Any other requirements.**

24 *[(2) Except as set forth in this section, no provision of this chapter invalidates or modifies any*  
25 *provision of any zoning, subdivision, building code or other real property use law, ordinance or regu-*  
26 *lation.]*

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

29 **SECTION 3.** ORS 100.110 is amended to read:

30 100.110. (1)(a) Before a declaration, supplemental declaration or an amendment thereto may be  
31 recorded, it must be approved as provided in this section by the county assessor of the county in

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

1 which the property is located and the Real Estate Commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (b) The bylaws adopted under ORS 100.410 comply with the requirements of ORS 100.410 and  
 35 100.415 and other provisions of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 **SECTION 4.** ORS 100.115 is amended to read:

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

39 (a) Show the location of:

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

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

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

1 any remaining variable property.

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

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

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

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

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

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

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

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

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

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

28 (c) Determine that the following are consistent:

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

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

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

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

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

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

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

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

**SECTION 5.** ORS 100.105 is amended to read:

100.105. (1) A declaration must contain:

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

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

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

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

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

---

NOTICE

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

---

(f) A description of the general common elements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) A statement:

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

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

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

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

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

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

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

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

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

31 (B) Seven years.

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

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

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

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

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

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



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

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

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

6 (A) A statement that the plat shows the location and dimensions of all nonwithdrawable variable  
 7 property that is labeled “NONWITHDRAWABLE VARIABLE PROPERTY.”

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

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

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

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

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

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

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

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

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

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

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