Enrolled
Senate Bill 1551

Sponsored by Senators GELSER BLOUIN, GOLDEN; Senators BROADMAN, PHAM K, PROZANSKI, Representatives FRAGALA, MCDONALD (Presession filed.)

CHAPTER .....

AN ACT

Relating to fire hardening of residential properties; creating new provisions; amending ORS 94.572, 94.573 and 94.630; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2026 Act is added to and made a part of ORS chapter 93.

SECTION 2. (1) As used in this section, "fire-hardened building materials" means materials that meet any of the following criteria as most recently adopted as of the effective date of this 2026 Act:

(a) The criteria for construction in wildland areas set forth in the International Wildland-Urban Interface Code;

(b) The criteria for construction in wildland areas set forth in the National Fire Protection Association Standard 1140; or

(c) The criteria included within a wildfire-prepared home as established by the Insurance Institute for Business and Home Safety.

(2) A provision in a recorded document, including a declaration as defined in ORS 94.550, is void and unenforceable to the extent that the provision would:

(a) Prohibit the installation, use or maintenance of fire-hardened building materials on a residential property; or

(b) Prohibit the removal of materials that are not fire-hardened building materials, including fences and other structures, from a residential property.

SECTION 3. Section 4 of this 2026 Act is added to and made a part of ORS 94.550 to 94.783.

SECTION 4. (1) A provision in a planned community's governing documents is void and unenforceable to the extent that it:

(a) Prohibits both the removal of materials that are not fire-hardened building materials, as defined in section 2 of this 2026 Act, and the replacement of materials that are not fire-hardened building materials with fire-hardened building materials; or

(b) Limits the design, dimensions, placement, maintenance or external appearance of fire-hardened building materials in a way that:

(A) Has the practical effect of prohibiting the use of all fire-hardened building materials; or

(B) Requires the use of fire-hardened building materials that cost substantially more than other fire-hardened building materials of similar quality to the materials proposed by

the owner such that the cost practically prevents the owner from using fire-hardened building materials or imposes an unreasonable burden on the owner.

(2) If an owner applies to install fire-hardened building materials or remove nonfire-hardened building materials under this section, the application is deemed approved unless the association denies or requests modifications to the application in a written opinion that:

(a) Is delivered within 90 days after the application is filed;

(b) Demonstrates in reasonable detail the basis for the denial and the scope of any necessary modifications; and

(c) Is not arbitrary or capricious.

SECTION 5. ORS 94.572 is amended to read:

94.572. (1) A Class I or Class II planned community created before January 1, 2002, that was not created under ORS 94.550 to 94.783 is subject to this section and ORS 94.550, 94.573, 94.574, 94.576, 94.577, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642, 94.644, 94.645, 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, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.762, 94.770, 94.775, 94.777, 94.779 and 94.780 **and section 4 of this 2026 Act** to the extent that those statutes are consistent with any governing documents of the planned community.

(2) If the governing documents of a planned community described in subsection (1) of this section do not provide for the formation of a homeowners association, the requirements of this section are not effective until the formation of an association in accordance with ORS 94.574.

(3) If a provision of the governing documents of a planned community described in subsection (1) of this section is inconsistent with this section, the owners may amend the governing documents using the procedures in ORS 94.573.

SECTION 6. ORS 94.573 is amended to read:

94.573. (1)(a)(A) The owners in a Class I or Class II planned community created before January 1, 2002, that was not created under ORS 94.550 to 94.783 may amend any provision of the planned community's governing documents to conform with this section and ORS 94.550, 94.572, 94.574, 94.576, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642, 94.644, 94.645, 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, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.762, 94.770, 94.775, 94.777, 94.779 and 94.780 **and section 4 of this 2026 Act**.

(B) An amendment to any provision of a planned community's governing documents made pursuant to this paragraph must be executed in accordance with the procedures for the adoption of amendments prescribed by, and subject to any limitations specified in, the planned community's governing documents.

(C) Nothing in this section or ORS 94.572 requires the owners to amend a declaration or bylaws to include the information required by ORS 94.580 or 94.635.

(b) If a planned community's governing documents do not provide procedures to amend the provisions of the governing documents:

(A) The owners may amend the inconsistent provisions of a governing document other than bylaws to conform with this section and ORS 94.550, 94.572, 94.574, 94.576, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642, 94.644, 94.645, 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, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.762, 94.770, 94.775, 94.777 and 94.780 **and section 4 of this 2026 Act** by a vote of at least 75 percent of the owners in the planned community.

(B) The owners may amend the inconsistent provisions of the bylaws to conform with this section and ORS 94.550, 94.572, 94.574, 94.576, 94.590, 94.595 (5) to (9), 94.625, 94.626, 94.630 (1), (3) and (4), 94.639, 94.640, 94.641, 94.642, 94.644, 94.645, 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, 94.680, 94.690, 94.695, 94.704, 94.709, 94.712, 94.716, 94.719, 94.723, 94.728, 94.733, 94.762, 94.770, 94.775, 94.777, 94.779, and 94.780 **and section 4 of this 2026 Act** by a vote of at least a majority of the owners in the planned community.

(C) The owners may adopt an amendment to the provisions of a governing document at a meeting held in accordance with the governing documents or by another procedure permitted by the governing documents that follows the procedures prescribed in ORS 94.647, 94.650 or 94.660.

(2) The owners of a planned community described in subsection (1) of this section shall execute, certify and record an amendment adopted pursuant to subsection (1) of this section to:

(a) A recorded declaration as provided in ORS 94.590 (2), (3) and (5).

(b) The bylaws or any other governing document as provided in ORS 94.590 (3). If the bylaws or other governing document to which the amendment relates were recorded, the owners shall cause an amendment to the bylaws or other governing document to be recorded in the office of the recording officer of every county in which the planned community is located.

(3) An amendment adopted pursuant to subsection (1) of this section shall include:

(a) A reference to the recording index numbers and date of recording of the governing document, if recorded, to which the amendment relates; and

(b) A statement that the amendment is adopted.

SECTION 7. ORS 94.630 is amended to read:

94.630. (1) Subject to subsection (2) of this section and ORS 94.762, 94.763, 94.776, 94.778 and 94.779 **and section 4 of this 2026 Act**, and except as otherwise provided in its declaration or bylaws, a homeowners association may:

(a) Adopt and amend bylaws, rules and regulations for the planned community;

(b) Adopt and amend budgets for revenues, expenditures and reserves, and collect assessments from owners for common expenses and the reserve account established under ORS 94.595;

(c) Hire and terminate managing agents and other employees, agents and independent contractors;

(d) Defend against any claims, proceedings or actions brought against it;

(e) Subject to subsection (4) of this section, initiate or intervene in litigation or administrative proceedings in its own name and without joining the individual owners in the following:

(A) Matters relating to the collection of assessments and the enforcement of governing documents;

(B) Matters arising out of contracts to which the association is a party;

(C) Actions seeking equitable or other nonmonetary relief regarding matters that affect the common interests of the owners, including but not limited to the abatement of nuisance;

(D) Matters, including but not limited to actions for damage, destruction, impairment or loss of use, relating to or affecting:

(i) Individually owned real property, the expenses for which, including maintenance, repair or replacement, insurance or other expenses, the association is responsible; or

(ii) Common property;

(E) Matters relating to or affecting the lots or interests of the owners including but not limited to damage, destruction, impairment or loss of use of a lot or portion thereof, if:

(i) Resulting from a nuisance or a defect in or damage to common property or individually owned real property, the expenses for which, including maintenance, repair or replacement, insurance or other expenses, the association is responsible; or

(ii) Required to facilitate repair to any common property; and

(F) Any other matter to which the association has standing under law or pursuant to the declaration or bylaws;

(f) Make contracts and incur liabilities;

(g) Regulate the use, maintenance, repair, replacement and modification of common property;

(h) Cause additional improvements to be made as a part of the common property;

(i) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, except that common property may be conveyed or subjected to a security interest only pursuant to ORS 94.665;

(j) Grant easements, leases, licenses and concessions through or over the common property as provided in ORS 94.665;

(k) Modify, close, remove, eliminate or discontinue the use of common property, including any improvement or landscaping, regardless of whether the common property is mentioned in the declaration, provided that:

(A) Nothing in this paragraph is intended to limit the authority of the association to seek approval of the modification, closure, removal, elimination or discontinuance by the owners; and

(B) Modification, closure, removal, elimination or discontinuance other than on a temporary basis of any swimming pool, spa or recreation or community building must be approved by at least a majority of owners voting on the matter at a meeting or by written ballot held in accordance with the declaration, bylaws or ORS 94.647;

(L) Impose and receive any payments, fees or charges for the use, rental or operation of the common property and services provided to owners;

(m) Adopt rules regarding the termination of utility services paid for out of assessments of the association and access to and use of recreational and service facilities available to owners. The rules must provide for written notice and an opportunity to be heard before the association may terminate the rights of any owners to receive the benefits or services until the correction of any violation covered by the rule has occurred;

(n) Impose charges for late payment of assessments and attorney fees related to the collection of assessments and, after giving written notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, rules and regulations of the association, provided that the charge imposed or the fine levied by the association is based:

(A) On a schedule contained in the declaration or bylaws, or an amendment to either that is delivered to each lot, mailed to the mailing address of each lot or mailed to the mailing addresses designated in writing by the owners; or

(B) On a resolution of the association or its board of directors that is delivered to each lot, mailed to the mailing address of each lot or mailed to the mailing addresses designated in writing by the owners;

(o) Impose reasonable charges for the preparation and recordation of amendments to the declaration;

(p) Provide for the indemnification of its officers and the board of directors and maintain liability insurance for directors and officers;

(q) Assign its right to future income, including the right to receive common expense assessments; and

(r) Exercise any other powers necessary and proper for the administration and operation of the association.

(2) A declaration may not impose any limitation on the ability of the association to deal with a declarant that is more restrictive than the limitations imposed on the ability of the association to deal with any other person, except during the period of declarant control under ORS 94.600.

(3) A permit or authorization, or an amendment, modification, termination or other instrument affecting a permit or authorization, issued by the board of directors that is authorized by law, the declaration or bylaws may be recorded in the deed records of the county in which the planned community is located. A permit or authorization, or an amendment, modification, termination or other instrument affecting a permit or authorization, recorded under this subsection shall:

(a) Be executed by the president and secretary of the association and acknowledged in the manner provided for acknowledgment of instruments by the officers;

(b) Include the name of the planned community and a reference to where the declaration and any applicable supplemental declarations are recorded;

(c) Identify, by the designations stated or referenced in the declaration or applicable supplemental declaration, all affected lots and common property; and

(d) Include other information and signatures if required by law, the declaration, bylaws or the board of directors.

(4)(a) Subject to paragraph (f) of this subsection, before initiating litigation or an administrative proceeding in which the association and an owner have an adversarial relationship, the party that

intends to initiate litigation or an administrative proceeding shall offer to use any dispute resolution program available within the county in which the planned community is located that is in substantial compliance with the standards and guidelines adopted under ORS 36.175. The written offer must be hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the association, for the other party.

(b) If the party receiving the offer does not accept the offer within 10 days after receipt by written notice hand-delivered or mailed by certified mail, return receipt requested, to the address, contained in the records of the association, for the other party, the initiating party may commence the litigation or the administrative proceeding. The notice of acceptance of the offer to participate in the program must contain the name, address and telephone number of the body administering the dispute resolution program.

(c) If a qualified dispute resolution program exists within the county in which the planned community is located and an offer to use the program is not made as required under paragraph (a) of this subsection, litigation or an administrative proceeding may be stayed for 30 days upon a motion of the noninitiating party. If the litigation or administrative action is stayed under this paragraph, both parties shall participate in the dispute resolution process.

(d) Unless a stay has been granted under paragraph (c) of this subsection, if the dispute resolution process is not completed within 30 days after receipt of the initial offer, the initiating party may commence litigation or an administrative proceeding without regard to whether the dispute resolution is completed.

(e) Once made, the decision of the court or administrative body arising from litigation or an administrative proceeding may not be set aside on the grounds that an offer to use a dispute resolution program was not made.

(f) The requirements of this subsection do not apply to circumstances in which irreparable harm to a party will occur due to delay or to litigation or an administrative proceeding initiated to collect assessments, other than assessments attributable to fines.

SECTION 8. Sections 2 and 4 of this 2026 Act apply to recorded documents and governing documents executed before, on or after the effective date of this 2026 Act.

SECTION 9. This 2026 Act takes effect on the 91st day after the date on which the 2026 regular session of the Eighty-third Legislative Assembly adjourns sine die.

Passed by Senate February 19, 2026

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House March 2, 2026

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Julie Fahey, Speaker of House

Received by Governor:

.....M.,....., 2026

Approved:

.....M.,....., 2026

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2026

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Tobias Read, Secretary of State