

HOUSE AMENDMENTS TO HOUSE BILL 4012

By COMMITTEE ON AGRICULTURE AND LAND USE

February 17

1 In line 2 of the printed bill, after “land;” insert “creating new provisions; repealing sections 2,
2 3, 4 and 5, chapter 636, Oregon Laws 2009;”.

3 Delete lines 4 through 10 and insert:

4 **“SECTION 1. Sections 2 to 8 of this 2020 Act are added to and made a part of ORS
5 chapter 197.**

6 **“SECTION 2. Definitions. As used in sections 2 to 8 of this 2020 Act:**

7 **“(1) ‘Stevens Road planning amendments’ means amendments enacted by the governing
8 body of the City of Bend:**

9 **“(a) To the city’s comprehensive plans, land use regulations or zoning maps that affect
10 the development of the Stevens Road tract; or**

11 **“(b) To the city’s urban growth boundary to include the Stevens Road tract within the
12 boundary.**

13 **“(2) ‘Stevens Road tract’ means land that:**

14 **“(a) Is located to the southeast of the City of Bend in Deschutes County, south of
15 Stevens Road, east of Southeast 27th Street, north of Rickard Road and west of Larsen Road;**

16 **“(b) As of the effective date of this 2020 Act, is owned by the State of Oregon as ‘school
17 lands’ as described in ORS 273.251;**

18 **“(c) Is not located within an urban growth boundary for the City of Bend; and**

19 **“(d) Includes 260 acres, more or less.**

20 **“SECTION 3. Approval of Stevens Road planning amendments. (1) The Department of
21 Land Conservation and Development may approve Stevens Road planning amendments, sub-
22 mitted to the department by the City of Bend on or before January 1, 2026, whether sub-
23 mitted together or separately, as provided in sections 2 to 8 of this 2020 Act.**

24 **“(2) Actions taken by the City of Bend or the department under sections 2 to 8 of this
25 2020 Act are not land use decisions, as defined in ORS 197.015.**

26 **“(3) Decisions of the department under sections 2 to 8 of this 2020 Act are not considered
27 rulemaking and are not subject to ORS 183.325 to 183.410 or 183.710 to 183.730.**

28 **“(4) Any action taken by the City of Bend or the department under an exercise of dis-
29 cretion authorized under sections 2 to 8 of this 2020 Act is a final action and is not subject
30 to any appeal or review.**

31 **“SECTION 4. Transfer of development opportunity. (1) As used in this section:**

32 **“(a) ‘Development opportunity’ means the unused active right to apply to a county for
33 approval of the establishment a small-scale recreation community under section 3 (2), chap-
34 ter 636, Oregon Laws 2009.**

35 **“(b) ‘Holder of a development opportunity’ means either the owner of a development op-**

1 portunity or the person granted the exclusive right to use a development opportunity con-
2 veyed by written contract from a holder of a development opportunity.

3 “(2) The holder of a development opportunity may convey the development opportunity
4 rights to any other person only by a written contract. If the holder of a development op-
5 portunity or owner of a Metolius resort site applies to a county for the approval of the es-
6 tablishment of a small-scale recreation community on or before June 29, 2020, under sections
7 2 to 5, chapter 636, Oregon Laws 2009, the development opportunity is void and without fur-
8 ther effect under this section.

9 “(3) The Department of State Lands may use moneys in the Common School Fund to
10 purchase a development opportunity.

11 “(4) The Department of Land Conservation and Development may not approve Stevens
12 Road planning amendments under sections 2 to 8 of this 2020 Act unless the City of Bend
13 demonstrates that:

14 “(a) On or before June 29, 2020, a holder of a development opportunity has submitted a
15 letter to the owner of the Stevens Road tract and the City of Bend expressing its nonbinding
16 interest in selling or conveying the holder’s development opportunity to the owner of the
17 Stevens Road tract;

18 “(b) On or before July 31, 2020, the owner of the Stevens Road tract has submitted a
19 letter to any interested holder of a development opportunity and the City of Bend expressing
20 the owner’s nonbinding interest in purchasing or acquiring the holder’s development oppor-
21 tunity; and

22 “(c) On or before the first submission of any Stevens Road planning amendments to the
23 department, the owner of the Stevens Road tract is the holder of a development opportunity.

24 “SECTION 5. Conceptual plan approval. (1) As used in this section, ‘conceptual plan’
25 means a document that:

26 “(a) Explains in general terms the Stevens Road planning amendments, including in-
27 tended uses and zoning of the Stevens Road tract; and

28 “(b) Has been approved by the governing body of the City of Bend after consideration in
29 at least one public meeting.

30 “(2) The Department of Land Conservation and Development may not approve Stevens
31 Road planning amendments under sections 2 to 8 of this 2020 Act unless the department has
32 first approved the City of Bend’s conceptual plan under this section.

33 “(3) No later than January 31, 2021, the City of Bend may approve a conceptual plan and
34 submit the plan to the department.

35 “(4) The department may approve the (4) conceptual plan, provided the department deter-
36 mines:

37 “(a) That the City of Bend has received the letters described in section 4 (4)(a) and (b)
38 of this 2020 Act; and

39 “(b) In the department’s discretion, that Stevens Road planning amendments that comply
40 with the conceptual plan would be capable of meeting the requirements of sections 2 to 8 of
41 this 2020 Act.

42 “(5) No later than 90 days after receiving a conceptual plan, the department shall approve
43 or reject the conceptual plan by written notice delivered to the City of Bend.

44 “(6) No later than 120 days after receiving a notice of rejection from the department, the
45 City of Bend may approve and submit an amended conceptual plan for review under this

1 section.

2 **SECTION 6. Urban growth boundary expansion.** (1) Notwithstanding ORS 197.286 to
3 197.314, 197.626 and 197A.320 or any statewide land use planning goal related to housing or
4 urbanization, the Department of Land Conservation and Development shall approve an
5 amendment to the urban growth boundary submitted by the City of Bend if the department
6 determines that:

7 “(a) The department has approved the city’s conceptual plan under section 5 of this 2020
8 Act;

9 “(b) The owner of the Stevens Road tract is the holder of the development opportunity
10 under section 4 (4)(c) of this 2020 Act; and

11 “(c) The proposed boundary amendment adds all of the Stevens Road tract and no other
12 lands to the area within the city’s urban growth boundary.

13 “(2) Lands that are added within the urban growth boundary under this section may not
14 be included within any city inventory of buildable lands under ORS 197.296 (3)(a) while they
15 remain owned or managed by the Department of State Lands.

16 **SECTION 7. Approval of Stevens Road planning amendments.** Except for amendments
17 to the City of Bend’s urban growth boundary approved under section 6 of this 2020 Act, the
18 Department of Land Conservation and Development shall approve Stevens Road planning
19 amendments if:

20 “(1) The department has approved the city’s conceptual plan under section 5 of this 2020
21 Act;

22 “(2) The owner of the Stevens Road tract is the holder of the development opportunity
23 under section 4 (4)(c) of this 2020 Act;

24 “(3) The department has approved an amendment to the urban growth boundary under
25 section 6 of this 2020 Act; and

26 “(4) The department determines that the proposed Stevens Road planning amendments
27 will comply with the standards under section 8 of this 2020 Act.

28 **SECTION 8. Standards in lieu of goals.** (1) The Department of Land Conservation and
29 Development may approve or remand in part or in whole any Stevens Road planning
30 amendment based upon a determination by the department, in its discretion, and
31 notwithstanding ORS 197.250 or 197.612 or any statewide land use planing goal, that the City
32 of Bend has, in adopting the Stevens Road planning amendments:

33 “(a) Held at least one public meeting, after at least 14 days’ public notice, for the purpose
34 of discussing the amendments;

35 “(b) Given adequate consideration to the preservation of any important or unique his-
36 torical artifacts or natural resources within the Stevens Road tract;

37 “(c) Given adequate consideration to planning for wildfire risk within the Stevens Road
38 tract;

39 “(d) Included within the Stevens Road tract areas designated for recreational and open
40 space amenities;

41 “(e) Given adequate consideration to the economic needs of the region, including ade-
42 quate lands designated for commercial and industrial uses;

43 “(f) Given adequate consideration to the full mix of needed housing types, sizes and den-
44 sity, including opportunities for middle housing as defined in ORS 197.758;

45 “(g) Provided standards with respect to lands zoned for residential uses that exceed the

1 City of Bend’s goals for single-family attached and multifamily housing in the city’s most
2 recently adopted housing needs analysis under ORS 197.296 (3);

3 “(h) Given adequate consideration to integrating mixed use development within the
4 Stevens Road tract;

5 “(i) Given adequate consideration to the financing, scheduling and development of urban
6 services, as defined in ORS 195.065, servicing the Stevens Road tract;

7 “(j) Ensured the development of adequate transportation infrastructure to support
8 walking, bicycling, public transit and motor vehicles within the Stevens Road tract;

9 “(k) Given adequate consideration to transportation networks that connect the Stevens
10 Road tract to other areas within the City of Bend; and

11 “(L) Given adequate consideration of coordination with other local government or special
12 districts with jurisdiction over the Stevens Road tract or whose service is likely to be im-
13 pacted by development of the tract.

14 “(2) Neither the City of Bend nor the department is obligated to adopt any specific
15 findings or evaluate any specific criteria in exercising its discretion to approve or deny
16 Stevens Road planning amendments under this section. The department and city may receive
17 or solicit information from any source in making determinations under this section. The
18 department may, but is not obligated to, accept public comments and testimony before
19 making its decision.

20 “SECTION 9. Repeal of small-scale recreation community authorization. (1) Section 2,
21 chapter 636, Oregon Laws 2009, is repealed on July 1, 2020.

22 “(2) Section 3, chapter 636, Oregon Laws 2009, as amended by section 1, chapter 888,
23 Oregon Laws 2009, section 1, chapter 404, Oregon Laws 2011, section 1, chapter 748, Oregon
24 Laws 2015, section 1, chapter 494, Oregon Laws 2017, and section 8, chapter 15, Oregon Laws
25 2018, is repealed on July 1, 2020.

26 “(3) Section 4, chapter 636, Oregon Laws 2009, as amended by section 2, chapter 888,
27 Oregon Laws 2009, is repealed on July 1, 2020.

28 “(4) Section 5, chapter 636, Oregon Laws 2009, as amended by section 3, chapter 888,
29 Oregon Laws 2009, and section 9, chapter 15, Oregon Laws 2018, is repealed on July 1, 2020.

30 “SECTION 10. Sunset. Sections 2 to 8 of this 2020 Act are repealed on January 2, 2027.

31 “SECTION 11. Section captions. The section captions used in this 2020 Act are provided
32 only for the convenience of the reader and do not become part of the statutory law of this
33 state or express any legislative intent in the enactment of this 2020 Act.

34 “SECTION 12. Emergency clause. This 2020 Act being necessary for the immediate pres-
35 ervation of the public peace, health and safety, an emergency is declared to exist, and this
36 2020 Act takes effect on its passage.”

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