

## SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 4012

By COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

February 26

- 1 On page 1 of the printed A-engrossed bill, delete lines 5 through 23 and delete pages 2 and 3.
- 2 On page 4, delete lines 1 through 32 and insert:
- 3 **“SECTION 1. Sections 2 to 9 of this 2020 Act are added to and made a part of ORS**
- 4 **chapter 197.**
- 5 **“SECTION 2. Definitions. As used in sections 2 to 9 of this 2020 Act:**
- 6 **“(1) ‘City’ means the City of Bend.**
- 7 **“(2) ‘Council’ has the meaning given that term in ORS 227.010.**
- 8 **“(3) ‘Planning commission’ means a planning commission described in ORS 227.030.**
- 9 **“(4) ‘Stevens Road planning amendments’ means amendments to the city’s comprehen-**
- 10 **sive plans, land use regulations or zoning maps that affect the development of the Stevens**
- 11 **Road tract.**
- 12 **“(5) ‘Stevens Road tract’ means land that:**
- 13 **“(a) Is located in tax lot 100 of section 11, township 18 south, range 12 east of the**
- 14 **Willamette Meridian in Deschutes County;**
- 15 **“(b) Was conveyed to the Department of State Lands through a lot line adjustment bar-**
- 16 **gain and sale deed recorded on October 17, 2019, in the deed records of Deschutes County**
- 17 **under recorder number 2019-39926; and**
- 18 **“(c) Consists of 261.66 acres, more or less.**
- 19 **“SECTION 3. Stevens Road planning generally. (1) Actions taken under sections 2 to 9**
- 20 **of this 2020 Act:**
- 21 **“(a) Are not land use decisions, as defined in ORS 197.015.**
- 22 **“(b) If taken by the city, are not subject to any review except by the Department of Land**
- 23 **Conservation and Development under sections 2 to 9 of this 2020 Act.**
- 24 **“(c) If taken by the department, are not considered rulemaking and are not subject to**
- 25 **ORS 183.325 to 183.410 or 183.710 to 183.730 and, notwithstanding ORS 183.484 or 183.485, are**
- 26 **appealable directly to the Court of Appeals.**
- 27 **“(d) If taken under an exercise of discretion authorized under sections 2 to 9 of this 2020**
- 28 **Act, are a final action, are entitled to deference and are not subject to an evidentiary review**
- 29 **on appeal notwithstanding ORS 34.040 (1)(c), 183.482 (8)(c) or 183.484 (5)(c).**
- 30 **“(2) If the department approves Stevens Road planning amendments under sections 7 to**
- 31 **9 of this 2020 Act:**
- 32 **“(a) Any subsequent land use decision within the Stevens Road tract is a land use deci-**
- 33 **sion subject to the ordinary procedures and requirements of ORS chapters 197 and 227,**
- 34 **statewide land use planning goals, rules adopted by the Land Conservation and Development**
- 35 **Commission or the department, the city’s comprehensive plan and land use regulations plus**

1 the requirements set forth in section 9 (1) of this 2020 Act.

2 “(b) Violations of sections 2 to 9 of this 2020 Act may be the basis for the initiation of  
3 enforcement action under ORS 197.319 to 197.335.

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

5 “(a) ‘Development opportunity’ means the unused active right to apply to a county for  
6 approval of the establishment of a small-scale recreation community under section 3 (2),  
7 chapter 636, Oregon Laws 2009.

8 “(b) ‘Holder of a development opportunity’ or ‘holder’ means either the owner of a de-  
9 velopment opportunity or the person granted the exclusive right to use a development op-  
10 portunity conveyed by written contract from the holder of a development opportunity.

11 “(2) The holder of a development opportunity may convey the development opportunity  
12 to another person only by a written contract. If the holder of a development opportunity  
13 applies to a county for the approval of the establishment of a small-scale recreation com-  
14 munity under sections 2 to 5, chapter 636, Oregon Laws 2009, on or before June 29, 2020, the  
15 development opportunity is void and the holder may not act under this section.

16 “(3) The Department of Land Conservation and Development may not approve an urban  
17 growth boundary amendment or Stevens Road planning amendments under sections 6 to 9  
18 of this 2020 Act unless:

19 “(a) On or before June 29, 2020, a holder of a development opportunity has submitted a  
20 letter to the owner of the Stevens Road tract and to the city expressing the holder’s non-  
21 binding interest in selling or conveying the development opportunity to the owner of the  
22 Stevens Road tract;

23 “(b) On or before July 31, 2020, the owner of the Stevens Road tract has submitted a  
24 letter to a holder of a development opportunity under paragraph (a) of this subsection and  
25 to the city expressing the owner’s nonbinding interest in purchasing or acquiring the devel-  
26 opment opportunity; and

27 “(c) At the time of the department’s approval, the owner of the Stevens Road tract is the  
28 holder of a development opportunity.

29 “**SECTION 5. Conceptual plan approval.** (1) As used in this section, ‘conceptual plan’  
30 means an ordinance or resolution adopted by the city’s council that:

31 “(a) Explains in general terms the expected Stevens Road planning amendments, includ-  
32 ing intended uses and zoning of the Stevens Road tract; and

33 “(b) Explains the factual basis and reasons for the expected Stevens Road planning  
34 amendments.

35 “(2) At least 14 days before each opportunity for public participation under subsection (3)  
36 of this section, the city must provide published notice of the opportunity.

37 “(3) Before consideration of a conceptual plan, the city must provide opportunities for  
38 public participation, including at least:

39 “(a) A public open house;

40 “(b) A meeting of the city’s planning commission where public testimony is considered;

41 “(c) A meeting of the city’s council where public testimony is considered; and

42 “(d) A public comment period.

43 “(4) Before consideration of a conceptual plan, the city must consult with, and provide  
44 the opportunity for written comment from, the owner of the Stevens Road Tract and the  
45 Department of Land Conservation and Development.

1       “(5) The city may not submit an approved conceptual plan to the department after March  
2 31, 2021.

3       “(6) The department may approve the conceptual plan, if:

4       “(a) The city has received the letters described in section 4 (3)(a) and (b) of this 2020 Act;  
5 and

6       “(b) In the department’s discretion, considering the conceptual plan along with any sup-  
7 porting documentation and relevant public comment, the proposed development of the  
8 Stevens Road tract would be capable of meeting the requirements of sections 7 to 9 of this  
9 2020 Act.

10       “(7) The department may not approve an urban growth boundary expansion or Stevens  
11 Road planning amendments under sections 6 to 9 of this 2020 Act unless the department has  
12 approved the city’s conceptual plan under this section.

13       “(8) No later than 90 days after receiving a conceptual plan, the department shall approve  
14 or remand the conceptual plan by written notice delivered to the city.

15       “(9) No later than 120 days after receiving a notice of remand, the city may approve and  
16 submit an amended conceptual plan to the department for review under this section.

17       “SECTION 6. Stevens Road urban growth boundary expansion. (1) Notwithstanding ORS  
18 197.286 to 197.314, 197.626 or 197A.320 or any statewide land use planning goal related to  
19 housing or urbanization, the Department of Land Conservation and Development shall ap-  
20 prove an expansion of the urban growth boundary submitted by the city and approved by the  
21 city by ordinance, if the department determines that:

22       “(a) The owner of the Stevens Road tract is the holder of the development opportunity  
23 under section 4 (3)(c) of this 2020 Act;

24       “(b) The department has approved the city’s conceptual plan under section 5 of this 2020  
25 Act; and

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

28       “(2) Lands that are added within the city’s urban growth boundary under this section  
29 may not be included within an adopted inventory of buildable lands under ORS 197.296 (3)(a)  
30 before the earlier of:

31       “(a) January 1, 2026; or

32       “(b) The date that the lands are no longer owned or managed by the Department of State  
33 Lands.

34       “SECTION 7. Department approval of Stevens Road proposed planning amendments. (1)  
35 Notwithstanding ORS 197.612, the Department of Land Conservation and Development shall  
36 approve Stevens Road planning amendments submitted by the city if:

37       “(a) The owner of the Stevens Road tract is the holder of a development opportunity  
38 under section 4 (3)(c) of this 2020 Act;

39       “(b) The department has approved the city’s conceptual plan under section 5 of this 2020  
40 Act;

41       “(c) The department has approved an expansion of the city’s urban growth boundary  
42 under section 6 of this 2020 Act;

43       “(d) The proposed Stevens Road planning amendments were approved by the city through  
44 an ordinance adopted and submitted to the department under section 8 of this 2020 Act;

45       “(e) The proposed Stevens Road planning amendments comply with the requirements and

1 standards in section 9 of this 2020 Act; and

2 “(f) The Stevens Road planning amendments are submitted on or before January 1, 2026.

3 “(2) The Stevens Road planning amendments submitted under sections 7 to 9 of this 2020  
4 Act are not operable until approved by the department.

5 “(3) The department may consider public comments and testimony before considering  
6 approval of the Stevens Road planning amendments.

7 “(4) The department shall approve, remand or remand in part the Stevens Road planning  
8 amendments within 180 days. Notwithstanding subsection (1)(f) of this section, within 180  
9 days of a remand, the city may resubmit Stevens Road planning amendments for approval  
10 under sections 7 to 9 of this 2020 Act.

11 “SECTION 8. City procedural requirements to approve Stevens Road planning amend-  
12 ments. (1) Stevens Road planning amendments may be approved only by an ordinance  
13 adopted by the city’s council under this section.

14 “(2) At least 20 days before each opportunity for public participation under subsection (3)  
15 of this section, the city must provide broad public notice of the opportunity, including notice  
16 through the city’s newsletter, online social media, website and electronic mail lists and any  
17 other commonly used form of public notice used by the city for land use matters.

18 “(3) Before consideration of an ordinance under this section, the city must provide op-  
19 portunities for public participation, including at least:

20 “(a) A public open house;

21 “(b) A meeting of the city’s planning commission where public testimony is considered;

22 “(c) A meeting of the city’s council where public testimony is considered;

23 “(d) A public comment period; and

24 “(e) Any other opportunity for public participation required by city ordinance or regu-  
25 lation before adoption of amendments to a comprehensive plan or enacting land use regu-  
26 lations.

27 “(4) At least seven days before consideration of an ordinance under this section, the  
28 city’s council must receive written recommendations from the city’s planning commission  
29 on the Stevens Road planning amendments.

30 “(5) Before consideration of an ordinance under this section, the city must consult with,  
31 and provide opportunity for written comment from:

32 “(a) Any owner of the Stevens Road tract;

33 “(b) The Department of Land Conservation and Development;

34 “(c) Deschutes County;

35 “(d) The Bend Park and Recreation District; and

36 “(e) Other local government or special districts with jurisdiction over the Stevens Road  
37 tract or whose service is likely to be impacted by development of the Stevens Road tract.

38 “(6) Within 10 days after adoption of an ordinance under this section, the city shall sub-  
39 mit a copy of the ordinance and any supporting information to the department.

40 “SECTION 9. Standards in lieu of goals. (1) Notwithstanding ORS 197.250 or 197.612 or any  
41 statewide land use planning goal, the Department of Land Conservation and Development  
42 shall approve Stevens Road planning amendments if the department determines, in its dis-  
43 cretion, that the Stevens Road planning amendments, with respect to the Stevens Road  
44 tract, include:

45 “(a) An inventory of significant historical artifacts, cultural sites and natural resources;

1           “(b) Areas designated for recreational and open space;

2           “(c) Land use regulations for the protection and preservation of any significant resources

3 and designated areas identified in paragraphs (a) and (b) of this subsection;

4           “(d) Land use regulations that comply with applicable wildfire planning and development

5 requirements, including requirements in regulations adopted to implement a statewide plan-

6 ning goal relating to natural disasters and hazards;

7           “(e) Areas designated for adequate employment lands that account for the city’s most

8 recent economic opportunity analysis, including consideration of any subsequent economic

9 development activities and trends;

10          “(f) Within areas zoned for residential purposes, land use regulations that:

11           “(A) Ensure adequate opportunities for the development of all needed housing types, sizes

12 and densities, including middle housing as defined in ORS 197.758;

13           “(B) Exceed the single-family attached and multifamily housing called for in the city’s

14 most recently adopted housing needs analysis under ORS 197.296 (3);

15           “(C) Exceed a minimum density standard of six residential units per net residential acre;

16 and

17           “(D) Comply with ORS 93.277, 94.776, 197.290, 197.291, 197.293, 197.779, the amendments to

18 ORS 197.296, 197.303, 197.312 and 456.586 by sections 5 to 8, chapter 639, Oregon Laws 2019,

19 and the amendments to ORS 197.296, 197.303, 197.319, 197.320, 227.175, 227.500 and 456.586 by

20 sections 8a, 10a, 11 to 13, 18 and 20, chapter 640, Oregon Laws 2019, and rules and the city’s

21 land use regulations and comprehensive plan amendments that are operative on the date the

22 Stevens Road planning amendments are approved and that implement those laws;

23          “(g) Sufficient areas designated for mixed use development to support and integrate via-

24 ble commercial and residential uses along with transportation options, including walking,

25 bicycling and transit use;

26          “(h) Land use regulations ensuring that:

27           “(A) Adequate capacity is available, or feasible with development, for water, sewer and

28 storm water services; and

29           “(B) Adequate consideration has been given to the financing, scheduling and development

30 of urban services, as defined in ORS 195.065;

31          “(i) With respect to transportation, land use regulations that:

32           “(A) Ensure the development of adequate infrastructure to support walking, bicycling,

33 public transit and motor vehicle movement; and

34           “(B) Give adequate consideration to transportation networks that connect the Stevens

35 Road tract to other areas within the urban growth boundary of the city;

36          “(j) The designation of between 12.4 and 12.6 acres that, on or before January 1, 2029, are

37 restricted so that the area may be zoned, planned, sited or developed only for residential

38 housing units that, notwithstanding ORS 91.225 and 197.309, will be preserved for a period of

39 no less than 50 years as affordable to own or rent by:

40           “(A) Low income households as defined in ORS 456.270 on at least 80 percent of the area;

41 and

42           “(B) Moderate income households as defined in ORS 456.270 on no more than 20 percent

43 of the area; and

44          “(k) The adequate consideration of the comments received under section 8 (3) to (5) of

45 this 2020 Act.

1       “(2) Neither the city nor the department is obligated to adopt any specific findings or  
2 evaluate any specific criteria in exercising its discretion with respect to any Stevens Road  
3 planning amendments under this section and may receive, solicit or consider information  
4 from any source.”.

5       In line 33, delete “9” and insert “10”.

6       Delete line 43 and insert:

7       “**SECTION 11. Sunset. Sections 2 to 9 of this 2020 Act are repealed on January 2, 2030.**”.

8       In line 44, delete “11” and insert “12”.

9       On page 5, line 2, delete “12” and insert “13”.

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