

Requested by Representative CLEM

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4012**

1 On page 1 of the printed A-engrossed bill, delete lines 5 through 23 and
2 delete pages 2 and 3.

3 On page 4, delete lines 1 through 32 and insert:

4 **“SECTION 1. Sections 2 to 9 of this 2020 Act are added to and made
5 a part of ORS chapter 197.**

6 **“SECTION 2. Definitions. As used in sections 2 to 9 of this 2020 Act:**

7 **“(1) ‘City’ means the City of Bend.**

8 **“(2) ‘Council’ has the meaning given that term in ORS 227.010.**

9 **“(3) ‘Planning commission’ means a planning commission described
10 in ORS 227.030.**

11 **“(4) ‘Stevens Road planning amendments’ means amendments to
12 the city’s comprehensive plans, land use regulations or zoning maps
13 that affect the development of the Stevens Road tract.**

14 **“(5) ‘Stevens Road tract’ means land that:**

15 **“(a) Is located in tax lot 100 of section 11, township 18 south, range
16 12 east of the Willamette Meridian in Deschutes County;**

17 **“(b) Was conveyed to the Department of State Lands through a lot
18 line adjustment bargain and sale deed recorded on October 17, 2019, in
19 the deed records of Deschutes County under recorder number
20 2019-39926; and**

21 **“(c) Consists of 261.66 acres, more or less.**

1 **SECTION 3. Stevens Road planning generally.** (1) Actions taken
2 under sections 2 to 9 of this 2020 Act:

3 “(a) Are not land use decisions, as defined in ORS 197.015.

4 “(b) If taken by the city, are not subject to any review except by
5 the Department of Land Conservation and Development under sections
6 2 to 9 of this 2020 Act.

7 “(c) If taken by the department, are not considered rulemaking and
8 are not subject to ORS 183.325 to 183.410 or 183.710 to 183.730 and, not-
9 withstanding ORS 183.484 or 183.485, are appealable directly to the
10 Court of Appeals.

11 “(d) If taken under an exercise of discretion authorized under
12 sections 2 to 9 of this 2020 Act, are a final action, are entitled to def-
13 erence and are not subject to an evidentiary review on appeal not-
14 withstanding ORS 34.040 (1)(c), 183.482 (8)(c) or 183.484 (5)(c).

15 “(2) If the department approves Stevens Road planning amendments
16 under sections 7 to 9 of this 2020 Act:

17 “(a) Any subsequent land use decision within the Stevens Road
18 tract is a land use decision subject to the ordinary procedures and re-
19 quirements of ORS chapters 197 and 227, statewide land use planning
20 goals, rules adopted by the Land Conservation and Development
21 Commission or the department, the city’s comprehensive plan and
22 land use regulations plus the requirements set forth in section 9 (1)
23 of this 2020 Act.

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

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

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

1 2009.

2 “(b) ‘Holder of a development opportunity’ or ‘holder’ means either
3 the owner of a development opportunity or the person granted the
4 exclusive right to use a development opportunity conveyed by written
5 contract from the holder of a development opportunity.

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

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

16 “(a) On or before June 29, 2020, a holder of a development opportu-
17 nity has submitted a letter to the owner of the Stevens Road tract and
18 to the city expressing the holder’s nonbinding interest in selling or
19 conveying the development opportunity to the owner of the Stevens
20 Road tract;

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

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

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

1 “(a) Explains in general terms the expected Stevens Road planning
2 amendments, including intended uses and zoning of the Stevens Road
3 tract; and

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

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

9 “(3) Before consideration of a conceptual plan, the city must pro-
10 vide opportunities for public participation, including at least:

11 “(a) A public open house;

12 “(b) A meeting of the city’s planning commission where public tes-
13 timony is considered;

14 “(c) A meeting of the city’s council where public testimony is con-
15 sidered; and

16 “(d) A public comment period.

17 “(4) Before consideration of a conceptual plan, the city must con-
18 sult with, and provide the opportunity for written comment from, the
19 owner of the Stevens Road Tract and the Department of Land Con-
20 servation and Development.

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

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

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

26 “(b) In the department’s discretion, considering the conceptual plan
27 along with any supporting documentation and relevant public com-
28 ment, the proposed development of the Stevens Road tract would be
29 capable of meeting the requirements of sections 7 to 9 of this 2020 Act.

30 “(7) The department may not approve an urban growth boundary

1 expansion or Stevens Road planning amendments under sections 6 to
2 9 of this 2020 Act unless the department has approved the city's con-
3 ceptual plan under this section.

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

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

10 **“SECTION 6. Stevens Road urban growth boundary expansion.** (1)
11 Notwithstanding ORS 197.286 to 197.314, 197.626 or 197A.320 or any
12 statewide land use planning goal related to housing or urbanization,
13 the Department of Land Conservation and Development shall approve
14 an expansion of the urban growth boundary submitted by the city and
15 approved by the city by ordinance, if the department determines that:

16 “(a) The owner of the Stevens Road tract is the holder of the de-
17 velopment opportunity under section 4 (3)(c) of this 2020 Act;

18 “(b) The department has approved the city's conceptual plan under
19 section 5 of this 2020 Act; and

20 “(c) The proposed urban growth boundary expansion adds all of the
21 Stevens Road tract and no other lands to the area within the city's
22 urban growth boundary.

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

26 (a) January 1, 2026; or

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

29 **“SECTION 7. Department approval of Stevens Road proposed plan-**
30 **ning amendments.** (1) Notwithstanding ORS 197.612, the Department

1 of Land Conservation and Development shall approve Stevens Road
2 planning amendments submitted by the city if:

3 “(a) The owner of the Stevens Road tract is the holder of a devel-
4 opment opportunity under section 4 (3)(c) of this 2020 Act;

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

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

9 “(d) The proposed Stevens Road planning amendments were ap-
10 proved by the city through an ordinance adopted and submitted to the
11 department under section 8 of this 2020 Act;

12 “(e) The proposed Stevens Road planning amendments comply with
13 the requirements and standards in section 9 of this 2020 Act; and

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

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

19 “(3) The department may consider public comments and testimony
20 before considering approval of the Stevens Road planning amend-
21 ments.

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

27 **“SECTION 8. City procedural requirements to approve Stevens Road**
28 **planning amendments.** (1) Stevens Road planning amendments may
29 be approved only by an ordinance adopted by the city’s council under
30 this section.

1 **“(2) At least 20 days before each opportunity for public participation**
2 **under subsection (3) of this section, the city must provide broad public**
3 **notice of the opportunity, including notice through the city’s news-**
4 **letter, online social media, website and electronic mail lists and any**
5 **other commonly used form of public notice used by the city for land**
6 **use matters.**

7 **“(3) Before consideration of an ordinance under this section, the**
8 **city must provide opportunities for public participation, including at**
9 **least:**

10 **“(a) A public open house;**

11 **“(b) A meeting of the city’s planning commission where public tes-**
12 **timony is considered;**

13 **“(c) A meeting of the city’s council where public testimony is con-**
14 **sidered;**

15 **“(d) A public comment period; and**

16 **“(e) Any other opportunity for public participation required by city**
17 **ordinance or regulation before adoption of amendments to a compre-**
18 **hensive plan or enacting land use regulations.**

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

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

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

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

28 **“(c) Deschutes County;**

29 **“(d) The Bend Park and Recreation District; and**

30 **“(e) Other local government or special districts with jurisdiction**

1 over the Stevens Road tract or whose service is likely to be impacted
2 by development of the Stevens Road tract.

3 “(6) Within 10 days after adoption of an ordinance under this sec-
4 tion, the city shall submit a copy of the ordinance and any supporting
5 information to the department.

6 “SECTION 9. Standards in lieu of goals. (1) Notwithstanding ORS
7 197.250 or 197.612 or any statewide land use planning goal, the Depart-
8 ment of Land Conservation and Development shall approve Stevens
9 Road planning amendments if the department determines, in its dis-
10 cretion, that the Stevens Road planning amendments, with respect to
11 the Stevens Road tract, include:

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

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

15 “(c) Land use regulations for the protection and preservation of any
16 significant resources and designated areas identified in paragraphs (a)
17 and (b) of this subsection;

18 “(d) Land use regulations that comply with applicable wildfire
19 planning and development requirements, including requirements in
20 regulations adopted to implement a statewide planning goal relating
21 to natural disasters and hazards;

22 “(e) Areas designated for adequate employment lands that account
23 for the city’s most recent economic opportunity analysis, including
24 consideration of any subsequent economic development activities and
25 trends;

26 “(f) Within areas zoned for residential purposes, land use regu-
27 lations that:

28 “(A) Ensure adequate opportunities for the development of all
29 needed housing types, sizes and densities, including middle housing as
30 defined in ORS 197.758;

1 **“(B) Exceed the single-family attached and multifamily housing**
2 **called for in the city’s most recently adopted housing needs analysis**
3 **under ORS 197.296 (3);**

4 **“(C) Exceed a minimum density standard of six residential units per**
5 **net residential acre; and**

6 **“(D) Comply with ORS 93.277, 94.776, 197.290, 197.291, 197.293, 197.779,**
7 **the amendments to ORS 197.296, 197.303, 197.312 and 456.586 by sections**
8 **5 to 8, chapter 639, Oregon Laws 2019, and the amendments to ORS**
9 **197.296, 197.303, 197.319, 197.320, 227.175, 227.500 and 456.586 by sections**
10 **8a, 10a, 11 to 13, 18 and 20, chapter 640, Oregon Laws 2019, and rules**
11 **and the city’s land use regulations and comprehensive plan amend-**
12 **ments that are operative on the date the Stevens Road planning**
13 **amendments are approved and that implement those laws;**

14 **“(g) Sufficient areas designated for mixed use development to sup-**
15 **port and integrate viable commercial and residential uses along with**
16 **transportation options, including walking, bicycling and transit use;**

17 **“(h) Land use regulations ensuring that:**

18 **“(A) Adequate capacity is available, or feasible with development,**
19 **for water, sewer and storm water services; and**

20 **“(B) Adequate consideration has been given to the financing,**
21 **scheduling and development of urban services, as defined in ORS**
22 **195.065;**

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

24 **“(A) Ensure the development of adequate infrastructure to support**
25 **walking, bicycling, public transit and motor vehicle movement; and**

26 **“(B) Give adequate consideration to transportation networks that**
27 **connect the Stevens Road tract to other areas within the urban growth**
28 **boundary of the city;**

29 **“(j) The designation of between 12.4 and 12.6 acres that, on or before**
30 **January 1, 2029, are restricted so that the area may be zoned, planned,**

1 sited or developed only for residential housing units that, notwith-
2 standing ORS 91.225 and 197.309, will be preserved for a period of no
3 less than 50 years as affordable to own or rent by:

4 “(A) Low income households as defined in ORS 456.270 on at least
5 80 percent of the area; and

6 “(B) Moderate income households as defined in ORS 456.270 on no
7 more than 20 percent of the area; and

8 “(k) The adequate consideration of the comments received under
9 section 8 (3) to (5) of this 2020 Act.

10 “(2) Neither the city nor the department is obligated to adopt any
11 specific findings or evaluate any specific criteria in exercising its dis-
12 cretion with respect to any Stevens Road planning amendments under
13 this section and may receive, solicit or consider information from any
14 source.”.

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

16 Delete line 43 and insert:

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

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

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

21
