

A-Engrossed
House Bill 3318

Ordered by the House June 17
Including House Amendments dated June 17

Sponsored by Representatives KROPF, ZIKA

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.

[Exempts dog training facilities from state structural specialty codes.]
[Provides that lawful units of land whose property lines are relocated by certain judgments remain lawful units. Prohibits requiring additional validating procedures or denying permits because of judicial boundary changes.]

Requires, if certain conditions are met, Department of Land Conservation and Development to approve City of Bend's expansion of urban growth boundary to include specified lands and allows department to approve other land use regulations for those lands.

Sunsets provisions on January 2, 2030.

[Declares emergency, effective on passage.]

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to use of land; and prescribing an effective date.

3 Whereas the Stevens Road tract is Common School Fund land and its sale will generate revenue
4 to directly support Oregon's students; and

5 Whereas the Stevens Road tract is not zoned for farm or forest uses; and

6 Whereas the Stevens Road tract has poor quality soils and has no associated water rights; and

7 Whereas as the Stevens Road tract is directly adjacent to an existing urban growth boundary
8 of the City of Bend; and

9 Whereas the City of Bend in particular is experiencing an acute housing crisis and a need for
10 affordable and workforce housing; and

11 Whereas the City of Bend in particular has an acute shortage of large parcels available for
12 subsidized affordable housing; and

13 Whereas this 2021 Act is intended to result in a dense, master-planned development focused
14 primarily on providing affordable and workforce housing in a complete community context; now,
15 therefore,

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

17 **SECTION 1. Sections 2 to 9 of this 2021 Act are added to and made a part of ORS chapter**
18 **197.**

19 **SECTION 2. Definitions. As used in sections 2 to 9 of this 2021 Act:**

20 (1) "City" means the City of Bend.

21 (2) "Council" has the meaning given that term in ORS 227.010.

22 (3) "Planning commission" means a planning commission described in ORS 227.090.

23 (4) "Stevens Road planning amendments" means amendments to the city's comprehen-

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 sive plans, land use regulations or zoning maps that affect the development of the Stevens
2 Road tract.

3 (5) “Stevens Road tract” means land that:

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

6 (b) Was conveyed to the Department of State Lands through a lot line adjustment bar-
7 gain and sale deed recorded on October 17, 2019, in the deed records of Deschutes County
8 under recorder number 2019-39926; and

9 (c) Consists of 261.66 acres, more or less.

10 **SECTION 3. Stevens Road planning generally.** (1) Actions taken under sections 2 to 9 of
11 this 2021 Act:

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

13 (b) If taken by the city, are not subject to any review except by the Department of Land
14 Conservation and Development under sections 2 to 9 of this 2021 Act.

15 (c) If taken by the department, are not considered rulemaking and are not subject to
16 ORS 183.325 to 183.410 or 183.710 to 183.730 and, notwithstanding ORS 183.484 or 183.485, are
17 appealable directly to the Court of Appeals.

18 (d) If taken under an exercise of discretion authorized under sections 2 to 9 of this 2021
19 Act, are a final action, are entitled to deference and are not subject to an evidentiary review
20 on appeal notwithstanding ORS 34.040 (1)(c), 183.482 (8)(c) or 183.484 (5)(c).

21 (2) If the department approves Stevens Road planning amendments under sections 7 to
22 9 of this 2021 Act:

23 (a) Any subsequent land use decision within the Stevens Road tract is a land use decision
24 subject to the ordinary procedures and requirements of ORS chapters 197 and 227, statewide
25 land use planning goals, rules adopted by the Land Conservation and Development Commis-
26 sion or the department, the city’s comprehensive plan and land use regulations and the re-
27 quirements set forth in section 9 (1) of this 2021 Act.

28 (b) Violations of sections 2 to 9 of this 2021 Act may be the basis for the initiation of
29 enforcement action under ORS 197.319 to 197.335.

30 **SECTION 4. Confirmation of intent.** The Department of Land Conservation and Develop-
31 ment may not approve an urban growth boundary amendment or Stevens Road planning
32 amendments under sections 6 to 9 of this 2021 Act unless, on or before December 31, 2022:

33 (1) The city has submitted a letter to the department expressing the city’s nonbinding
34 intent to consider a conceptual plan under section 5 of this 2021 Act; and

35 (2) The owner of the Stevens Road tract has submitted a letter to the department giving
36 its consent to the city’s pursuit of the urban growth boundary expansion and planning
37 amendments under sections 6 to 9 of this 2021 Act.

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

40 (a) Explains in general terms the expected Stevens Road planning amendments, including
41 intended uses and zoning of the Stevens Road tract; and

42 (b) Explains the factual basis and reasons for the expected Stevens Road planning
43 amendments.

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

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

- 3 (a) A public open house;
- 4 (b) A meeting of the city's planning commission where public testimony is considered;
- 5 (c) A meeting of the city's council where public testimony is considered; and
- 6 (d) A public comment period.

7 (4) Before consideration of a conceptual plan, the city must consult with, and provide the
8 opportunity for written comment from, the owner of the Stevens Road tract and the De-
9 partment of Land Conservation and Development.

10 (5) The city may not submit an approved conceptual plan to the department after July
11 1, 2022.

12 (6) The department may approve the conceptual plan if:

- 13 (a) The department has received the letters described in section 4 of this 2021 Act; and
- 14 (b) In the department's discretion, considering the conceptual plan along with any sup-
15 porting documentation and relevant public comment, the proposed development of the
16 Stevens Road tract would be capable of meeting the requirements of sections 7 to 9 of this
17 2021 Act.

18 (7) The department may not approve an urban growth boundary expansion or Stevens
19 Road planning amendments under sections 6 to 9 of this 2021 Act unless the department has
20 approved the city's conceptual plan under this section.

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

23 (9) No later than 90 days after receiving a notice of remand, the city may approve and
24 submit an amended conceptual plan to the department for review under this section.

25 **SECTION 6. Stevens Road urban growth boundary expansion.** (1) Notwithstanding ORS
26 197.286 to 197.314, 197.626 or 197A.320 or any statewide land use planning goal related to
27 housing or urbanization, the Department of Land Conservation and Development shall ap-
28 prove an expansion of the urban growth boundary submitted by the city and approved by the
29 city by ordinance, if the department determines that:

- 30 (a) The department has received the letters required by section 4 of this 2021 Act;
- 31 (b) The department has approved the city's conceptual plan under section 5 of this 2021
32 Act; and
- 33 (c) The proposed urban growth boundary expansion adds all of the Stevens Road tract
34 and no other lands to the area within the city's urban growth boundary.

35 (2) The city shall include the lands brought within the city's urban growth boundary un-
36 der this section in the city's inventory of buildable lands under ORS 197.296 (3)(a).

37 **SECTION 7. Department approval of Stevens Road proposed planning amendments.** (1)
38 Notwithstanding ORS 197.612, the Department of Land Conservation and Development shall
39 approve Stevens Road planning amendments submitted by the city if:

- 40 (a) The department has received the letters required by section 4 of this 2021 Act;
- 41 (b) The department has approved the city's conceptual plan under section 5 of this 2021
42 Act;
- 43 (c) The department has approved an expansion of the city's urban growth boundary under
44 section 6 of this 2021 Act;

45 (d) The proposed Stevens Road planning amendments were approved by the city through

1 an ordinance adopted and submitted to the department under section 8 of this 2021 Act;

2 (e) The proposed Stevens Road planning amendments comply with the requirements and
3 standards in section 9 of this 2021 Act; and

4 (f) The Stevens Road planning amendments are submitted on or before January 1, 2025.

5 (2) The Stevens Road planning amendments submitted under sections 7 to 9 of this 2021
6 Act are not operable until they are approved by the department.

7 (3) The department may consider public comments and testimony before considering ap-
8 proval of the Stevens Road planning amendments.

9 (4) The department shall approve, remand or remand in part the Stevens Road planning
10 amendments within 180 days. Notwithstanding subsection (1)(f) of this section, within 180
11 days of a remand, the city may resubmit Stevens Road planning amendments for approval
12 under sections 7 to 9 of this 2021 Act.

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

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

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

22 (a) A public open house;

23 (b) A meeting of the city's planning commission where public testimony is considered;

24 (c) A meeting of the city's council where public testimony is considered;

25 (d) A public comment period; and

26 (e) Any other opportunity for public participation required by city ordinance or regu-
27 lation before adoption of amendments to a comprehensive plan or enactment of land use
28 regulations.

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

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

34 (a) Any owner of the Stevens Road tract;

35 (b) The Department of Land Conservation and Development;

36 (c) Deschutes County;

37 (d) The Bend Park and Recreation District; and

38 (e) Any other local government or special district with jurisdiction over the Stevens Road
39 tract or whose service is likely to be impacted by development of the Stevens Road tract.

40 (6) Within 10 days after adoption of an ordinance under this section, the city shall submit
41 a copy of the ordinance and any supporting information to the department.

42 **SECTION 9. Standards in lieu of goals.** (1) Notwithstanding ORS 197.250 or 197.612 or any
43 statewide land use planning goal, the Department of Land Conservation and Development
44 shall approve Stevens Road planning amendments provided the department determines, in its
45 discretion, that the Stevens Road planning amendments, with respect to the Stevens Road

1 tract, include:

2 (a) An inventory of significant historical artifacts, cultural sites and natural resources.

3 (b) Areas designated for recreational and open space.

4 (c) Land use regulations for the protection and preservation of significant resources and
5 designated areas identified in paragraphs (a) and (b) of this subsection.

6 (d) Land use regulations that comply with applicable wildfire planning and development
7 requirements, including requirements in regulations adopted to implement a statewide plan-
8 ning goal relating to natural disasters and hazards.

9 (e) Areas designated for adequate employment lands that account for the city's most
10 recent economic opportunity analysis, including consideration of subsequent economic de-
11 velopment activities and trends.

12 (f) Within areas zoned for residential purposes, without counting the lands designated
13 under subsection (2) of this section, land use regulations for housing that:

14 (A) Ensure adequate opportunities for the development of all needed housing types, sizes
15 and densities of market-rate housing, including middle housing as defined in ORS 197.758;

16 (B) Exceed the proportions of single-family attached and multifamily housing called for
17 in the city's most recently adopted housing needs analysis under ORS 197.296 (3);

18 (C) Exceed a minimum density standard of nine residential units per gross residential
19 acre; and

20 (D) On the date the Stevens Road planning amendments are approved, comply with land
21 use regulations adopted by the city, or any minimum applicable rules adopted by the de-
22 partment, to implement ORS 197.758 and the amendments to ORS 197.312 by section 7,
23 chapter 639, Oregon Laws 2019.

24 (g) Sufficient areas designated for mixed use development to support and integrate viable
25 commercial and residential uses along with transportation options, including walking, bicy-
26 cling and transit use.

27 (h) Land use regulations ensuring that:

28 (A) Adequate capacity is available, or feasible with development, for water, sewer and
29 storm water services; and

30 (B) Adequate consideration is given to the financing, scheduling and development of ur-
31 ban services, as defined in ORS 195.065.

32 (i) Land use regulations for transportation that:

33 (A) Ensure the development of adequate infrastructure to support walking, bicycling,
34 public transit and motor vehicle movement; and

35 (B) Give adequate consideration to transportation networks that connect the Stevens
36 Road tract to other areas within the urban growth boundary of the city.

37 (j) The adequate consideration of the recommendations and comments received under
38 section 8 (3) to (5) of this 2021 Act.

39 (2) The department may not approve the planning amendments under subsection (1) of
40 this section unless the planning amendments designate at least 20 net acres of land to be:

41 (a) Restricted so the area may be zoned, planned, sited or developed only for residential
42 housing units at a minimum density of nine residential units per gross acre;

43 (b) Conveyed for nominal consideration to the city; and

44 (c) Notwithstanding ORS 91.225 or 197.309, preserved for a period of no less than 50 years
45 as affordable to own or rent as follows:

1 (A) At least 18 net acres made affordable to:

2 (i) Households with incomes of 60 percent or less of the area median income, as defined
3 in ORS 456.270; or

4 (ii) If part of an income-averaging program approved by the Housing and Community
5 Services Department, households whose incomes average 60 percent or less of the area me-
6 dian income.

7 (B) At least two net acres in which at least 80 percent of the units in each contiguous
8 development tract are made affordable to households with 80 percent or less of the area
9 median income.

10 (3) Upon a partition or subdivision of the Stevens Road tract following the approval of
11 the planning amendments under subsection (1) of this section establishing a lot or parcel
12 described in subsection (2) of this section, the owner shall convey that lot or parcel to the
13 city.

14 (4) Neither the city nor the Department of Land Conservation and Development is obli-
15 gated to adopt any specific findings or evaluate any specific criteria in exercising its dis-
16 cretion with respect to any Stevens Road planning amendments under this section and may
17 receive, solicit or consider information from any source.

18 SECTION 10. Sunset. Sections 2 to 9 of this 2021 Act are repealed on January 2, 2030.

19 SECTION 11. Section captions. The section captions used in this 2021 Act are provided
20 only for the convenience of the reader and do not become part of the statutory law of this
21 state or express any legislative intent in the enactment of this 2021 Act.

22 SECTION 12. Effective date. This 2021 Act takes effect on the 91st day after the date on
23 which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

24