

Requested by Representative CLEM

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2272**

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

4 Delete lines 4 through 8 and insert:

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

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

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

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

10 **“(3) ‘Planning commission’ means a planning commission described  
11 in ORS 227.090.**

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

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

16 **“(a) Is located in tax lot 100 of section 11, township 18 south, range  
17 12 east of the Willamette Meridian in Deschutes County;**

18 **“(b) Was conveyed to the Department of State Lands through a lot  
19 line adjustment bargain and sale deed recorded on October 17, 2019, in  
20 the deed records of Deschutes County under recorder number  
21 2019-39926; and**

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

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

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

5       “(b) If taken by the city, are not subject to any review except by  
6 the Department of Land Conservation and Development under sections  
7 2 to 9 of this 2021 Act.

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

12       “(d) If taken under an exercise of discretion authorized under  
13 sections 2 to 9 of this 2021 Act, are a final action, are entitled to def-  
14 erence and are not subject to an evidentiary review on appeal not-  
15 withstanding ORS 34.040 (1)(c), 183.482 (8)(c) or 183.484 (5)(c).

16       **“(2) If the department approves Stevens Road planning amendments**  
17 **under sections 7 to 9 of this 2021 Act:**

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

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

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

29       “(a) ‘Development opportunity’ means the unused active right to  
30 apply to a county for approval of the establishment of a small-scale

1 recreation community under section 3 (2) chapter 636, Oregon Laws  
2 2009.

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

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

14 “(3) The Department of Land Conservation and Development may  
15 not approve an urban growth boundary amendment or Stevens Road  
16 planning amendments under sections 6 to 9 of this 2021 Act unless:

17 “(a) On or before December 31, 2023, a holder of a development op-  
18 portunity has submitted a letter to the owner of the Stevens Road  
19 tract and to the city, expressing the holder’s nonbinding interest in  
20 selling or conveying the development opportunity to the owner of the  
21 Stevens Road tract;

22 “(b) On or before December 31, 2023, the owner of the Stevens Road  
23 tract has submitted a letter to a holder of a development opportunity  
24 under paragraph (a) of this subsection and to the city, expressing the  
25 owner’s nonbinding interest in purchasing or acquiring the develop-  
26 ment opportunity;

27 “(c) On or before December 31, 2023, the city has submitted a letter  
28 to the owner of the Stevens Road tract and to the department, ex-  
29 pressing the city’s nonbinding intent to consider a conceptual plan  
30 under section 5 of this 2021 Act; and

1       “(d) At the time of the department’s approval, the owner of the  
2 Stevens Road tract is the holder of a development opportunity.

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

6       “(a) Explains in general terms the expected Stevens Road planning  
7 amendments, including intended uses and zoning of the Stevens Road  
8 tract; and

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

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

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

16       “(a) A public open house;

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

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

21       “(d) A public comment period.

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

26       “(5) The city may not submit an approved conceptual plan to the  
27 department after March 31, 2023.

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

29       “(a) The city has received the letters described in section 4 (3)(a)  
30 and (b) of this 2021 Act; and

1       **“(b) In the department’s discretion, considering the conceptual plan**  
2 **along with any supporting documentation and relevant public com-**  
3 **ment, the proposed development of the Stevens Road tract would be**  
4 **capable of meeting the requirements of sections 7 to 9 of this 2021 Act.**

5       **“(7) The department may not approve an urban growth boundary**  
6 **expansion or Stevens Road planning amendments under sections 6 to**  
7 **9 of this 2021 Act unless the department has approved the city’s con-**  
8 **ceptual plan under this section.**

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

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

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

21       **“(a) The owner of the Stevens Road tract is the holder of a devel-**  
22 **opment opportunity under section 4 (3)(c) of this 2021 Act;**

23       **“(b) The department has approved the city’s conceptual plan under**  
24 **section 5 of this 2021 Act; and**

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

28       **“(2) The city shall include the lands brought within the city’s urban**  
29 **growth boundary under this section in the city’s inventory of buildable**  
30 **lands under ORS 197.296 (3)(a).**

1 **“SECTION 7. Department approval of Stevens Road proposed plan-**  
2 **ning amendments.** (1) Notwithstanding ORS 197.612, the Department  
3 of Land Conservation and Development shall approve Stevens Road  
4 planning amendments submitted by the city if:

5 “(a) The owner of the Stevens Road tract is the holder of a devel-  
6 opment opportunity under section 4 (3)(c) of this 2021 Act;

7 “(b) The department has approved the city’s conceptual plan under  
8 section 5 of this 2021 Act;

9 “(c) The department has approved an expansion of the city’s urban  
10 growth boundary under section 6 of this 2021 Act;

11 “(d) The proposed Stevens Road planning amendments were ap-  
12 proved by the city through an ordinance adopted and submitted to the  
13 department under section 8 of this 2021 Act;

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

16 “(f) The Stevens Road planning amendments are submitted on or  
17 before January 1, 2027.

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

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

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

29 **“SECTION 8. City procedural requirements to approve Stevens Road**  
30 **planning amendments.** (1) Stevens Road planning amendments may

1 be approved only by an ordinance adopted by the city's council under  
2 this section.

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

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

12 “(a) A public open house;

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

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

17 “(d) A public comment period; and

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

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

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

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

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

30 “(c) Deschutes County;

1       “(d) The Bend Park and Recreation District; and  
2       “(e) Other local government or special districts with jurisdiction  
3 over the Stevens Road tract or whose service is likely to be impacted  
4 by development of the Stevens Road tract.

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

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

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

16       “(b) Areas designated for recreational and open space.

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

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

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

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



1       “(A) Ensure adequate opportunities for the development of all  
2 needed housing types, sizes and densities of market-rate housing, in-  
3 cluding middle housing as defined in ORS 197.758;

4       “(B) Exceed the proportions of single-family attached and multi-  
5 family housing called for in the city’s most recently adopted housing  
6 needs analysis under ORS 197.296 (3);

7       “(C) Exceed a minimum density standard of seven residential units  
8 per net residential acre; and

9       “(D) On the date the Stevens Road planning amendments are ap-  
10 proved, comply with land use regulations adopted by the city, or any  
11 minimum applicable rules adopted by the department, to implement  
12 ORS 197.758 and the amendments to ORS 197.312 by section 7, chapter  
13 639, Oregon Laws 2019.

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 is given to the financing, scheduling  
21 and development of urban services, as defined in ORS 195.065.

22       “(i) Land use regulations for transportation that:

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

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

28       “(j) The adequate consideration of the recommendations and com-  
29 ments received under section 8 (3) to (5) of this 2021 Act.

30       “(2) The department may not approve the planning amendments

1 under subsection (1) of this section unless the planning amendments  
2 designate at least 18 net acres of land to be:

3 “(a) Restricted so the area may be zoned, planned, sited or devel-  
4 oped only for residential housing units at a minimum density of  
5 seven residential units per net acre;

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

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

9 “(A) At least 16 net acres made affordable to:

10 “(i) Households with incomes of 60 percent or less of the area me-  
11 dian income, as defined in ORS 456.270; or

12 “(ii) If part of an income-averaging program approved by the  
13 Housing and Community Services Department, households whose in-  
14 comes average 60 percent or less of the area median income.

15 “(B) At least two net acres in which at least 80 percent of the units  
16 in each contiguous development tract are made affordable to house-  
17 holds with 80 percent or less of the area median income.

18 “(3) Upon a partition or subdivision of the Stevens Road tract fol-  
19 lowing the approval of the planning amendments under subsection (1)  
20 of this section establishing a lot or parcel described in subsection (2)  
21 of this section, the owner shall convey that lot or parcel to the city.

22 “(4) Neither the city nor the Department of Land Conservation and  
23 Development is obligated to adopt any specific findings or evaluate any  
24 specific criteria in exercising its discretion with respect to any Stevens  
25 Road planning amendments under this section and may receive, solicit  
26 or consider information from any source.

27 “**SECTION 10.** Section 3, chapter 636, Oregon Laws 2009, as amended by  
28 section 1, chapter 888, Oregon Laws 2009, section 1, chapter 404, Oregon  
29 Laws 2011, section 1, chapter 748, Oregon Laws 2015, section 1, chapter 494,  
30 Oregon Laws 2017 and section 8, chapter 15, Oregon Laws 2018, is amended

1 to read:

2 “**Sec. 3.** (1) Notwithstanding ORS 215.700 to 215.780, one or two small-  
3 scale recreation communities may be established as specified in sections 2  
4 to 5, chapter 636, Oregon Laws 2009.

5 “(2) The owner of a Metolius resort site may apply to a county for ap-  
6 proval of a small-scale recreation community within three years after [*June*  
7 *29, 2017,*] **the effective date of this 2021 Act** if:

8 “(a) Prior to June 29, 2010, the owner notified the Department of Land  
9 Conservation and Development that the owner elected to seek approval of a  
10 small-scale recreation community; [*and*]

11 “(b) The owner renews the election described in paragraph (a) of this  
12 subsection within 30 days after June 29, 2017[.]; **and**

13 “**(c) The owner renews the election described in paragraph (a)**  
14 **within 30 days after the effective date of this 2021 Act.**

15 “(3) A small-scale recreation community authorized under sections 2 to  
16 5, chapter 636, Oregon Laws 2009, may be established only in conjunction  
17 with a transfer of development opportunity from a Metolius resort site. A  
18 transfer of development opportunity must be carried out through an agree-  
19 ment between the owner of a Metolius resort site and the owner of the site  
20 proposed for development of a small-scale recreation community. In the  
21 agreement, the owner of the Metolius resort site must:

22 “(a) Agree to limit the use of the Metolius resort site, consistent with the  
23 management plan in consideration for the opportunity to participate in the  
24 development of the small-scale recreation community; and

25 “(b) Agree to grant a conservation easement pursuant to ORS 271.715 to  
26 271.795 that:

27 “(A) Limits the use of the Metolius resort site to be consistent with the  
28 management plan;

29 “(B) Allows public access to that portion of the site that is not developed;  
30 and

1       “(C) Contains other provisions, as required by the Department of Land  
2 Conservation and Development, that are necessary to ensure that the con-  
3 servation easement is enforceable.

4       “(4)(a) A small-scale recreation community authorized under sections 2 to  
5 5, chapter 636, Oregon Laws 2009, must be sited on land that is within a  
6 county described in paragraph (b) of this subsection and that is either or  
7 both of the following:

8       “(A) Planned and zoned for forest use; or

9       “(B) Rural and not subject to statewide land use planning goals relating  
10 to agricultural lands or forestlands.

11       “(b) A small-scale recreation community may be established in:

12       “(A) Baker County;

13       “(B) Clatsop County;

14       “(C) Columbia County;

15       “(D) Coos County;

16       “(E) Crook County;

17       “(F) Curry County;

18       “(G) Douglas County;

19       “(H) Grant County;

20       “(I) Harney County;

21       “(J) Josephine County;

22       “(K) Klamath County;

23       “(L) Lake County;

24       “(M) Lincoln County;

25       “(N) Linn County;

26       “(O) Malheur County;

27       “(P) Morrow County;

28       “(Q) Sherman County;

29       “(R) Umatilla County;

30       “(S) Wallowa County;

1 “(T) Wasco County; or

2 “(U) Wheeler County.

3 “(5) A small-scale recreation community authorized under sections 2 to  
4 5, chapter 636, Oregon Laws 2009, may not be sited on land that is:

5 “(a) Within an area identified as ‘Area 1’ or ‘Area 2’ in the management  
6 plan.

7 “(b) Within an area protected as a significant resource in an acknowl-  
8 edged comprehensive plan provision implementing statewide land use plan-  
9 ning goals relating to:

10 “(A) Open space and scenic and historic areas;

11 “(B) Natural or conservation management unit requirements for estuarine  
12 resources; or

13 “(C) Beaches and dunes.

14 “(6)(a) All land on which a small-scale recreation community authorized  
15 under sections 2 to 5, chapter 636, Oregon Laws 2009, is sited must be at  
16 least one-quarter mile from the nearest state park.

17 “(b) Any buildings or other improvements developed within the bounda-  
18 ries of land on which a small-scale recreation community authorized under  
19 sections 2 to 5, chapter 636, Oregon Laws 2009, is sited must be located at  
20 least one mile from the nearest state park.

21 “(7) If a county listed in subsection (4)(b)(B), (D), (F), (G) or (M) of this  
22 section approves an application for a small-scale recreation community that  
23 also requires a federal license or permit, that approval shall be deemed to  
24 constitute an acknowledged exception under ORS 197.732 to any applicable  
25 statewide land use planning goal with which the use would not otherwise  
26 comply.

27 **“SECTION 11. Repeal of small-scale recreation community author-**  
28 **ization.** (1) **Section 2, chapter 636, Oregon Laws 2009, is repealed on**  
29 **January 2, 2024.**

30 **“(2) Section 3, chapter 636, Oregon Laws 2009, as amended by section**

1 **1, chapter 888, Oregon Laws 2009, section 1, chapter 404, Oregon Laws**  
2 **2011, section 1, chapter 748, Oregon Laws 2015, section 1, chapter 494,**  
3 **Oregon Laws 2017, section 8, chapter 15, Oregon Laws 2018, and section**  
4 **10 of this 2021 Act, is repealed on January 2, 2024.**

5 **“(3) Section 4, chapter 636, Oregon Laws 2009, as amended by section**  
6 **2, chapter 888, Oregon Laws 2009, is repealed on January 2, 2024.**

7 **“(4) Section 5, chapter 636, Oregon Laws 2009, as amended by section**  
8 **3, chapter 888, Oregon Laws 2009, and section 9, chapter 15, Oregon**  
9 **Laws 2018, is repealed on January 2, 2024.**

10 **“SECTION 12. Sunset. Sections 2 to 9 of this 2021 Act are repealed**  
11 **on January 2, 2030.**

12 **“SECTION 13. Section captions. The section captions used in this**  
13 **2021 Act are provided only for the convenience of the reader and do**  
14 **not become part of the statutory law of this state or express any leg-**  
15 **islative intent in the enactment of this 2021 Act.**

16 **“SECTION 14. Emergency clause. This 2021 Act being necessary for**  
17 **the immediate preservation of the public peace, health and safety, an**  
18 **emergency is declared to exist, and this 2021 Act takes effect on its**  
19 **passage.”.**

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