

Requested by Representative KROPF

**PROPOSED AMENDMENTS TO
HOUSE BILL 3318**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and delete line 3 and insert “and prescribing an effective
3 date.

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

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

7 “Whereas the Stevens Road tract has poor quality soils and has no asso-
8 ciated water rights; and

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

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

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

15 “Whereas this 2021 Act is intended to result in a dense, master-planned
16 development focused primarily on providing affordable and workforce hous-
17 ing in a complete community context; now, therefore,”.

18 Delete lines 5 through 30 and delete pages 2 and 3 and insert:

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

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

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

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

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

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

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

9 **“(a) Is located in tax lot 100 of section 11, township 18 south, range**
10 **12 east of the Willamette Meridian in Deschutes County;**

11 **“(b) Was conveyed to the Department of State Lands through a lot**
12 **line adjustment bargain and sale deed recorded on October 17, 2019, in**
13 **the deed records of Deschutes County under recorder number**
14 **2019-39926; and**

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

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

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

19 **“(b) If taken by the city, are not subject to any review except by**
20 **the Department of Land Conservation and Development under sections**
21 **2 to 9 of this 2021 Act.**

22 **“(c) If taken by the department, are not considered rulemaking and**
23 **are not subject to ORS 183.325 to 183.410 or 183.710 to 183.730 and, not-**
24 **withstanding ORS 183.484 or 183.485, are appealable directly to the**
25 **Court of Appeals.**

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

30 **“(2) If the department approves Stevens Road planning amendments**

1 under sections 7 to 9 of this 2021 Act:

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

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

11 **“SECTION 4. Confirmation of intent.** The Department of Land
12 Conservation and Development may not approve an urban growth
13 boundary amendment or Stevens Road planning amendments under
14 sections 6 to 9 of this 2021 Act unless, on or before December 31, 2022:

15 “(1) The city has submitted a letter to the department expressing
16 the city’s nonbinding intent to consider a conceptual plan under sec-
17 tion 5 of this 2021 Act; and

18 “(2) The owner of the Stevens Road tract has submitted a letter to
19 the department giving its consent to the city’s pursuit of the urban
20 growth boundary expansion and planning amendments under sections
21 6 to 9 of this 2021 Act.

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

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

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

30 “(2) At least 14 days before each opportunity for public participation

1 under subsection (3) of this section, the city must provide published
2 notice of the opportunity.

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

5 “(a) A public open house;

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

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

10 “(d) A public comment period.

11 “(4) Before consideration of a conceptual plan, the city must con-
12 sult with, and provide the opportunity for written comment from, the
13 owner of the Stevens Road tract and the Department of Land Conser-
14 vation and Development.

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

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

18 “(a) The department has received the letters described in section 4
19 of this 2021 Act; and

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

24 “(7) The department may not approve an urban growth boundary
25 expansion or Stevens Road planning amendments under sections 6 to
26 9 of this 2021 Act unless the department has approved the city’s con-
27 ceptual plan under this section.

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

1 “(9) No later than 90 days after receiving a notice of remand, the
2 city may approve and submit an amended conceptual plan to the de-
3 partment for review under this section.

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

10 “(a) The department has received the letters required by section 4
11 of this 2021 Act;

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

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

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

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

24 “(a) The department has received the letters required by section 4
25 of this 2021 Act;

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

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

30 “(d) The proposed Stevens Road planning amendments were ap-

1 proved by the city through an ordinance adopted and submitted to the
2 department under section 8 of this 2021 Act;

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

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

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

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

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

18 “SECTION 8. City procedural requirements to approve Stevens Road
19 planning amendments. (1) Stevens Road planning amendments may
20 be approved only by an ordinance adopted by the city’s council under
21 this section.

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

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

- 1 “(a) A public open house;
- 2 “(b) A meeting of the city’s planning commission where public tes-
- 3 timony is considered;
- 4 “(c) A meeting of the city’s council where public testimony is con-
- 5 sidered;
- 6 “(d) A public comment period; and
- 7 “(e) Any other opportunity for public participation required by city
- 8 ordinance or regulation before adoption of amendments to a compre-
- 9 hensive plan or enactment of land use regulations.

10 “(4) At least seven days before consideration of an ordinance under

11 this section, the city’s council must receive written recommendations

12 from the city’s planning commission on the Stevens Road planning

13 amendments.

14 “(5) Before consideration of an ordinance under this section, the

15 city must consult with, and provide opportunity for written comment

16 from:

- 17 “(a) Any owner of the Stevens Road tract;
- 18 “(b) The Department of Land Conservation and Development;
- 19 “(c) Deschutes County;
- 20 “(d) The Bend Park and Recreation District; and
- 21 “(e) Any other local government or special district with jurisdiction
- 22 over the Stevens Road tract or whose service is likely to be impacted
- 23 by development of the Stevens Road tract.

24 “(6) Within 10 days after adoption of an ordinance under this sec-

25 tion, the city shall submit a copy of the ordinance and any supporting

26 information to the department.

27 “SECTION 9. Standards in lieu of goals. (1) Notwithstanding ORS

28 197.250 or 197.612 or any statewide land use planning goal, the Depart-

29 ment of Land Conservation and Development shall approve Stevens

30 Road planning amendments provided the department determines, in its

1 **discretion, that the Stevens Road planning amendments, with respect**
2 **to the Stevens Road tract, include:**

3 **“(a) An inventory of significant historical artifacts, cultural sites**
4 **and natural resources.**

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

6 **“(c) Land use regulations for the protection and preservation of**
7 **significant resources and designated areas identified in paragraphs (a)**
8 **and (b) of this subsection.**

9 **“(d) Land use regulations that comply with applicable wildfire**
10 **planning and development requirements, including requirements in**
11 **regulations adopted to implement a statewide planning goal relating**
12 **to natural disasters and hazards.**

13 **“(e) Areas designated for adequate employment lands that account**
14 **for the city’s most recent economic opportunity analysis, including**
15 **consideration of subsequent economic development activities and**
16 **trends.**

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

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

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

26 **“(C) Exceed a minimum density standard of seven residential units**
27 **per net residential acre; and**

28 **“(D) On the date the Stevens Road planning amendments are ap-**
29 **proved, comply with land use regulations adopted by the city, or any**
30 **minimum applicable rules adopted by the department, to implement**

1 **ORS 197.758 and the amendments to ORS 197.312 by section 7, chapter**
2 **639, Oregon Laws 2019.**

3 **“(g) Sufficient areas designated for mixed use development to sup-**
4 **port and integrate viable commercial and residential uses along with**
5 **transportation options, including walking, bicycling and transit use.**

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

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

9 **“(B) Adequate consideration is given to the financing, scheduling**
10 **and development of urban services, as defined in ORS 195.065.**

11 **“(i) Land use regulations for transportation that:**

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

14 **“(B) Give adequate consideration to transportation networks that**
15 **connect the Stevens Road tract to other areas within the urban growth**
16 **boundary of the city.**

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

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

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

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

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

28 **“(A) At least 18 net acres made affordable to:**

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

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

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

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

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

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

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

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

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