

A-Engrossed
House Bill 4012

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

Sponsored by Representative CLEM (Pre-session filed.)

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.

[Directs Department of Land Conservation and Development to study laws related to use of land and to report to Legislative Assembly no later than September 15, 2020.]

Requires Department of Land Conservation and Development to approve City of Bend's expansion of urban growth boundary, and allows department to approve other land use regulations for city on specified lands, if owner of land possesses development opportunity transferred from Metolius resort site owner and city meets other conditions. Sunsets provisions on January 2, 2027.

Sunsets, on July 1, 2020, laws allowing Metolius resort site owners to use development opportunity to develop small-scale recreation communities.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to use of land; creating new provisions; repealing sections 2, 3, 4 and 5, chapter 636,
3 Oregon Laws 2009; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 8 of this 2020 Act are added to and made a part of ORS chapter**
6 **197.**

7 **SECTION 2. Definitions. As used in sections 2 to 8 of this 2020 Act:**

8 (1) "Stevens Road planning amendments" means amendments enacted by the governing
9 body of the City of Bend:

10 (a) To the city's comprehensive plans, land use regulations or zoning maps that affect
11 the development of the Stevens Road tract; or

12 (b) To the city's urban growth boundary to include the Stevens Road tract within the
13 boundary.

14 (2) "Stevens Road tract" means land that:

15 (a) Is located to the southeast of the City of Bend in Deschutes County, south of Stevens
16 Road, east of Southeast 27th Street, north of Rickard Road and west of Larsen Road;

17 (b) As of the effective date of this 2020 Act, is owned by the State of Oregon as "school
18 lands" as described in ORS 273.251;

19 (c) Is not located within an urban growth boundary for the City of Bend; and

20 (d) Includes 260 acres, more or less.

21 **SECTION 3. Approval of Stevens Road planning amendments. (1) The Department of**
22 **Land Conservation and Development may approve Stevens Road planning amendments, sub-**
23 **mitted to the department by the City of Bend on or before January 1, 2026, whether sub-**

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.

mitted together or separately, as provided in sections 2 to 8 of this 2020 Act.

(2) Actions taken by the City of Bend or the department under sections 2 to 8 of this 2020 Act are not land use decisions, as defined in ORS 197.015.

(3) Decisions of the department under sections 2 to 8 of this 2020 Act are not considered rulemaking and are not subject to ORS 183.325 to 183.410 or 183.710 to 183.730.

(4) Any action taken by the City of Bend or the department under an exercise of discretion authorized under sections 2 to 8 of this 2020 Act is a final action and is not subject to any appeal or review.

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

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

(b) “Holder of a development opportunity” means either the owner of a development opportunity or the person granted the exclusive right to use a development opportunity conveyed by written contract from a holder of a development opportunity.

(2) The holder of a development opportunity may convey the development opportunity rights to any other person only by a written contract. If the holder of a development opportunity or owner of a Metolius resort site applies to a county for the approval of the establishment of a small-scale recreation community on or before June 29, 2020, under sections 2 to 5, chapter 636, Oregon Laws 2009, the development opportunity is void and without further effect under this section.

(3) The Department of State Lands may use moneys in the Common School Fund to purchase a development opportunity.

(4) The Department of Land Conservation and Development may not approve Stevens Road planning amendments under sections 2 to 8 of this 2020 Act unless the City of Bend demonstrates that:

(a) On or before June 29, 2020, a holder of a development opportunity has submitted a letter to the owner of the Stevens Road tract and the City of Bend expressing its nonbinding interest in selling or conveying the holder’s development opportunity to the owner of the Stevens Road tract;

(b) On or before July 31, 2020, the owner of the Stevens Road tract has submitted a letter to any interested holder of a development opportunity and the City of Bend expressing the owner’s nonbinding interest in purchasing or acquiring the holder’s development opportunity; and

(c) On or before the first submission of any Stevens Road planning amendments to the department, the owner of the Stevens Road tract is the holder of a development opportunity.

SECTION 5. Conceptual plan approval. (1) As used in this section, “conceptual plan” means a document that:

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

(b) Has been approved by the governing body of the City of Bend after consideration in at least one public meeting.

(2) The Department of Land Conservation and Development may not approve Stevens Road planning amendments under sections 2 to 8 of this 2020 Act unless the department has first approved the City of Bend’s conceptual plan under this section.

1 (3) No later than January 31, 2021, the City of Bend may approve a conceptual plan and
2 submit the plan to the department.

3 (4) The department may approve the conceptual plan, provided the department deter-
4 mines:

5 (a) That the City of Bend has received the letters described in section 4 (4)(a) and (b) of
6 this 2020 Act; and

7 (b) In the department's discretion, that Stevens Road planning amendments that comply
8 with the conceptual plan would be capable of meeting the requirements of sections 2 to 8 of
9 this 2020 Act.

10 (5) No later than 90 days after receiving a conceptual plan, the department shall approve
11 or reject the conceptual plan by written notice delivered to the City of Bend.

12 (6) No later than 120 days after receiving a notice of rejection from the department, the
13 City of Bend may approve and submit an amended conceptual plan for review under this
14 section.

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

20 (a) The department has approved the city's conceptual plan under section 5 of this 2020
21 Act;

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

24 (c) The proposed boundary amendment adds all of the Stevens Road tract and no other
25 lands to the area within the city's urban growth boundary.

26 (2) Lands that are added within the urban growth boundary under this section may not
27 be included within any city inventory of buildable lands under ORS 197.296 (3)(a) while they
28 remain owned or managed by the Department of State Lands.

29 **SECTION 7. Approval of Stevens Road planning amendments.** Except for amendments to
30 the City of Bend's urban growth boundary approved under section 6 of this 2020 Act, the
31 Department of Land Conservation and Development shall approve Stevens Road planning
32 amendments if:

33 (1) The department has approved the city's conceptual plan under section 5 of this 2020
34 Act;

35 (2) The owner of the Stevens Road tract is the holder of the development opportunity
36 under section 4 (4)(c) of this 2020 Act;

37 (3) The department has approved an amendment to the urban growth boundary under
38 section 6 of this 2020 Act; and

39 (4) The department determines that the proposed Stevens Road planning amendments
40 will comply with the standards under section 8 of this 2020 Act.

41 **SECTION 8. Standards in lieu of goals.** (1) The Department of Land Conservation and
42 Development may approve or remand in part or in whole any Stevens Road planning
43 amendment based upon a determination by the department, in its discretion, and
44 notwithstanding ORS 197.250 or 197.612 or any statewide land use planing goal, that the City
45 of Bend has, in adopting the Stevens Road planning amendments:

1 (a) Held at least one public meeting, after at least 14 days' public notice, for the purpose
2 of discussing the amendments;

3 (b) Given adequate consideration to the preservation of any important or unique histor-
4 ical artifacts or natural resources within the Stevens Road tract;

5 (c) Given adequate consideration to planning for wildfire risk within the Stevens Road
6 tract;

7 (d) Included within the Stevens Road tract areas designated for recreational and open
8 space amenities;

9 (e) Given adequate consideration to the economic needs of the region, including adequate
10 lands designated for commercial and industrial uses;

11 (f) Given adequate consideration to the full mix of needed housing types, sizes and den-
12 sity, including opportunities for middle housing as defined in ORS 197.758;

13 (g) Provided standards with respect to lands zoned for residential uses that exceed the
14 City of Bend's goals for single-family attached and multifamily housing in the city's most
15 recently adopted housing needs analysis under ORS 197.296 (3);

16 (h) Given adequate consideration to integrating mixed use development within the
17 Stevens Road tract;

18 (i) Given adequate consideration to the financing, scheduling and development of urban
19 services, as defined in ORS 195.065, servicing the Stevens Road tract;

20 (j) Ensured the development of adequate transportation infrastructure to support walk-
21 ing, bicycling, public transit and motor vehicles within the Stevens Road tract;

22 (k) Given adequate consideration to transportation networks that connect the Stevens
23 Road tract to other areas within the City of Bend; and

24 (L) Given adequate consideration of coordination with other local government or special
25 districts with jurisdiction over the Stevens Road tract or whose service is likely to be im-
26 pacted by development of the tract.

27 (2) Neither the City of Bend nor the department is obligated to adopt any specific findings
28 or evaluate any specific criteria in exercising its discretion to approve or deny Stevens Road
29 planning amendments under this section. The department and city may receive or solicit
30 information from any source in making determinations under this section. The department
31 may, but is not obligated to, accept public comments and testimony before making its deci-
32 sion.

33 **SECTION 9. Repeal of small-scale recreation community authorization.** (1) Section 2,
34 chapter 636, Oregon Laws 2009, is repealed on July 1, 2020.

35 (2) Section 3, chapter 636, Oregon Laws 2009, as amended by section 1, chapter 888,
36 Oregon Laws 2009, section 1, chapter 404, Oregon Laws 2011, section 1, chapter 748, Oregon
37 Laws 2015, section 1, chapter 494, Oregon Laws 2017, and section 8, chapter 15, Oregon Laws
38 2018, is repealed on July 1, 2020.

39 (3) Section 4, chapter 636, Oregon Laws 2009, as amended by section 2, chapter 888,
40 Oregon Laws 2009, is repealed on July 1, 2020.

41 (4) Section 5, chapter 636, Oregon Laws 2009, as amended by section 3, chapter 888,
42 Oregon Laws 2009, and section 9, chapter 15, Oregon Laws 2018, is repealed on July 1, 2020.

43 **SECTION 10. Sunset.** Sections 2 to 8 of this 2020 Act are repealed on January 2, 2027.

44 **SECTION 11. Section captions.** The section captions used in this 2020 Act are provided
45 only for the convenience of the reader and do not become part of the statutory law of this

1 state or express any legislative intent in the enactment of this 2020 Act.

2 **SECTION 12. Emergency clause.** This 2020 Act being necessary for the immediate pres-
3 ervation of the public peace, health and safety, an emergency is declared to exist, and this
4 2020 Act takes effect on its passage.

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