

HB 4012-7
(LC 269)
2/12/20 (RLM/ps)

Requested by HOUSE COMMITTEE ON AGRICULTURE AND LAND USE (at the request of Representative Brian Clem)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4012**

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

3 Delete lines 4 through 10 and insert:

4 **“SECTION 1. Sections 2 to 8 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 8 of this 2020 Act:**

7 **“(1) ‘Stevens Road planning amendments’ means amendments en-
8 acted by the governing body of the City of Bend:**

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

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

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

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

18 **“(b) As of the effective date of this 2020 Act, is owned by the State
19 of Oregon as ‘school lands’ as described in ORS 273.251;**

20 **“(c) Is not located within an urban growth boundary for the City
21 of Bend; and**

1 “(d) Includes 260 acres, more or less.

2 **“SECTION 3. Approval of Stevens Road planning amendments. (1)**

3 **The Department of Land Conservation and Development may approve**
4 **Stevens Road planning amendments, submitted to the department by**
5 **the City of Bend on or before January 1, 2026, whether submitted to-**
6 **gether or separately, as provided in sections 2 to 8 of this 2020 Act.**

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

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

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

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

18 **“(a) ‘Development opportunity’ means the unused active right to**
19 **apply to a county for approval of the establishment a small-scale re-**
20 **creation community under section 3 (2), chapter 636, Oregon Laws**
21 **2009.**

22 **“(b) ‘Holder of a development opportunity’ means either the owner**
23 **of a development opportunity or the person granted the exclusive right**
24 **to use a development opportunity conveyed by written contract from**
25 **a holder of a development opportunity.**

26 **“(2) The holder of a development opportunity may convey the de-**
27 **velopment opportunity rights to any other person only by a written**
28 **contract. If the holder of a development opportunity or owner of a**
29 **Metolius resort site applies to a county for the approval of the estab-**
30 **lishment of a small-scale recreation community on or before June 29,**

1 2020, under sections 2 to 5, chapter 636, Oregon Laws 2009, the devel-
2 opment opportunity is void and without further effect under this sec-
3 tion.

4 “(3) The Department of State Lands may use moneys in the Com-
5 mon School Fund to purchase a development opportunity.

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

9 “(a) On or before June 29, 2020, a holder of a development opportu-
10 nity has submitted a letter to the owner of the Stevens Road tract and
11 the City of Bend expressing its nonbinding interest in selling or con-
12 veying the holder’s development opportunity to the owner of the
13 Stevens Road tract;

14 “(b) On or before July 31, 2020, the owner of the Stevens Road tract
15 has submitted a letter to any interested holder of a development op-
16 portunity and the City of Bend expressing the owner’s nonbinding in-
17 terest in purchasing or acquiring the holder’s development
18 opportunity; and

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

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

24 “(a) Explains in general terms the Stevens Road planning amend-
25 ments, including intended uses and zoning of the Stevens Road tract;
26 and

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

29 “(2) The Department of Land Conservation and Development may
30 not approve Stevens Road planning amendments under sections 2 to 8

1 of this 2020 Act unless the department has first approved the City of
2 Bend’s conceptual plan under this section.

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

5 “(4) The department may approve the conceptual plan, provided the
6 department determines:

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

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

12 “(5) No later than 90 days after receiving a conceptual plan, the
13 department shall approve or reject the conceptual plan by written no-
14 tice delivered to the City of Bend.

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

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

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

26 “(b) The owner of the Stevens Road tract is the holder of the de-
27 velopment opportunity under section 4 (4)(c) of this 2020 Act; and

28 “(c) The proposed boundary amendment adds all of the Stevens
29 Road tract and no other lands to the area within the city’s urban
30 growth boundary.

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

5 “SECTION 7. Approval of Stevens Road planning amendments. Ex-
6 cept for amendments to the City of Bend’s urban growth boundary
7 approved under section 6 of this 2020 Act, the Department of Land
8 Conservation and Development shall approve Stevens Road planning
9 amendments if:

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

12 “(2) The owner of the Stevens Road tract is the owner of the de-
13 velopment opportunity under section 4 (4)(c) of this 2020 Act;

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

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

19 “SECTION 8. Standards in lieu of goals. (1) The Department of Land
20 Conservation and Development may approve or remand in part or in
21 whole any Stevens Road planning amendment based upon a determi-
22 nation by the department, in its discretion, and notwithstanding ORS
23 197.250 or 197.612 or any statewide land use planing goal, that the City
24 of Bend has, in adopting the Stevens Road planning amendments:

25 “(a) Held at least one public meeting, after at least 14 days’ public
26 notice, for the purpose of discussing the amendments;

27 “(b) Given adequate consideration to the preservation of any im-
28 portant or unique historical artifacts or natural resources within the
29 Stevens Road tract;

30 “(c) Given adequate consideration to planning for wildfire risk

1 **within the Stevens Road tract;**

2 **“(d) Included within the Stevens Road tract areas designated for**
3 **recreational and open space amenities;**

4 **“(e) Given adequate consideration to the economic needs of the re-**
5 **gion, including adequate lands designated for commercial and indus-**
6 **trial uses;**

7 **“(f) Given adequate consideration to the full mix of needed housing**
8 **types, sizes and density, including opportunities for middle housing as**
9 **defined in ORS 197.758;**

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

14 **“(h) Given adequate consideration to integrating mixed use devel-**
15 **opment within the Stevens Road tract;**

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

19 **“(j) Ensured the development of adequate transportation**
20 **infrastructure to support walking, bicycling, public transit and motor**
21 **vehicles within the Stevens Road tract;**

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

25 **“(L) Given adequate consideration of coordination with other local**
26 **government or special districts with jurisdiction over the Stevens Road**
27 **tract or whose service is likely to be impacted by development of the**
28 **tract.**

29 **“(2) Neither the City of Bend nor the department is obligated to**
30 **adopt any specific findings or evaluate any specific criteria in exer-**

1 cising its discretion to approve or deny Stevens Road planning
2 amendments under this section. The department and city may receive
3 or solicit information from any source in making determinations un-
4 der this section. The department may, but is not obligated to, accept
5 public comments and testimony before making its decision.

6 **“SECTION 9. Repeal of small-scale recreation community authori-**
7 **zation.** (1) Section 2, chapter 636, Oregon Laws 2009, is repealed on July
8 1, 2020.

9 **“(2) Section 3, chapter 636, Oregon Laws 2009, as amended by section**
10 **1, chapter 888, Oregon Laws 2009, section 1, chapter 404, Oregon Laws**
11 **2011, section 1, chapter 748, Oregon Laws 2015, section 1, chapter 494,**
12 **Oregon Laws 2017, and section 8, chapter 15, Oregon Laws 2018, is re-**
13 **pealed on July 1, 2020.**

14 **“(3) Section 4, chapter 636, Oregon Laws 2009, as amended by section**
15 **2, chapter 888, Oregon Laws 2009, is repealed on July 1, 2020.**

16 **“(4) Section 5, chapter 636, Oregon Laws 2009, as amended by section**
17 **3, chapter 888, Oregon Laws 2009, and section 9, chapter 15, Oregon**
18 **Laws 2018, is repealed on July 1, 2020.**

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

21 **“SECTION 11. Section captions.** The section captions used in this
22 2020 Act are provided only for the convenience of the reader and do
23 not become part of the statutory law of this state or express any leg-
24 islative intent in the enactment of this 2020 Act.

25 **“SECTION 12. Emergency clause.** This 2020 Act being necessary for
26 the immediate preservation of the public peace, health and safety, an
27 emergency is declared to exist, and this 2020 Act takes effect on its
28 passage.”.