

Lane County Legislative Committee

April 28, 2022

AGENDA

- 1.) Introductions
- 2.) Single Payer Resolution
 - a. Draft Resolution Requested
 - b. Staff memo
- 3.) UF Debrief
 - a. Staff memo
- 4.) Principals and Priorities Document review
 - a. DRAFT Principles and Priorities Document
 - b. Staff memo on Farm and Forest Land
- 5.) Oregon Biennial Budget Discussion

DATE: April 20, 2022
TO: Lane County Legislative Committee
FROM: Alex Cuyler, Lane County Intergovernmental Relations Manager
RE: DRAFT Recommendation Single Payer Health Care Resolution

Background

Lane County Commissioner Joe Berney has asked that the Legislative Committee review a request he's received from local advocates (Lane County Chapter, Health Care for All Oregon) to place a Resolution before the Board of Commissioners expressing support for a single payer model of health care delivery, and advocating this position in front of the Oregon Legislature and the US Congress.

Currently, in Oregon, there are a variety of payers for health care, including self-insured (employers like Lane County), commercial insurers, the Oregon Health Plan (Medicaid and CCO's), and Medicare (and SSI). According to recent Oregon Health Authority documents, 96% of the residents have insurance for health care.

The Health Care for All Resolution

The Resolution would:

- Require written communication, lobbying resources, social media and information disseminations, and testimony to the Joint Task Force on Universal Health Care in support of state-based, single payer health care system.
- Require the Board of Commissioners to inform the public about the upcoming statewide ballot initiative amending the Oregon Constitution by adding language declaring healthcare as a fundamental right for all Oregonians.
- Require the Board of Commissioners to support specific federal legislation (HR 1976 and HR 3775).
- Require the Board of Commissioners to investigate and facilitate the establishment of a Regional Health Equity Coalition.

Legislative Committee Purview

As the Legislative Committee examines this issue, it is important to recall that an underlying principle of the County's Legislative work is to ensure that community wide issues are kept separated from issues that are operational issues. The Principles and Priorities document characterizes this distinction with the following statement:

- Legislative Priorities shall address issues directly relevant to or impacting the provision of county services.

(note the use of the term "priority here...this likely should be updated to include the more accurate descriptor of "Legislative **Principles and** Priorities..."

What is Single Payer Health Care?

Single payer health care may be defined by two systems:

- Where the Government provides and pays for health care for all
- Where the Government contracts to a provider to provide care for all

It is expected that a single payer system would require an overall increase in state or federal tax.

What is the current status of Single Payer Health Care?

- SB 770 (2019) (extended by SB 421 (2021)), established a Task Force on Universal Health Care. Each of the four seated Legislative members are from Lane County (Sen Dick Anderson, Sen James Manning, Representative Cedric Hayden, and Representative Marty Wilde. Other seats are held by Cherryl Ramirez (AOCMHP) and Claire Hall (Commissioner, Lincoln County). The Task Force is to make recommendations to the 2023 Legislative Assembly, and its charge did not include examining every health care delivery model.
- In 2021, SJR 12 is a legislatively referred constitutional amendment, termed the Oregon Right to Healthcare Amendment, with language creating Health Care as a right for every Oregonian. It is on the ballot in November, 2022. There is controversy regarding this measure, as there is a Legislative Counsel opinion that does frame it as a mandate to implement a single payer model, which is counter to how advocates characterized the question; that is, as aspirational only. A question lingers as to whether the passage of this measure would create a right of action for individual Oregonians.

Which operations of Lane County be impacted by a single payer health care model?

The county is a direct provider of health care under the FQHC umbrella. Health care services are delivered by County staff. While most clients are covered by Medicaid (the Oregon Health Plan), there are other patients whose services are paid for by a private insurer (Community Care Organizations, or CCO's). Note that the FQHC structure is not specifically identified as a considered delivery model under the enabling language/charge of the Task Force on Universal Health Care, nor is the County's Medically Assisted Treatment Facility, or any Community Mental Health programming. There is concern that a single payer model would make it less lucrative to become a health care provider. Current workforce issues could be exacerbated.

The County provides health care to those individuals who are incarcerated in the County jail. These services are provided under contract, and are necessary because after an arrest, a person loses Medicaid services (even if they are eventually exonerated of the accusations against them). It is unclear how these services would be addressed under a single payer model.

The County provides insurance to its employees and their dependents. The County is self-insured, and contracts with an insurance companies to provide related administrative services. The County provides a wellness clinic to its employees and their dependents. The County has a variety of levers it can pull to control these costs. With a single payer plan, the County would have less ability to control costs.

Staff Recommendation:

Staff finds that the proposed Resolution is very specific in nature as to actions requested of the organization, but those actions are difficult to endorse without a better sense of the County impacts from an operational perspective. Staff could endorse efforts to broaden the scope of the analysis of single payer systems as an amendment to the Principles and Priorities document, or this issue could return to the Legislative Committee when more specific legislation is under consideration.

For More Information:

https://www.urban.org/sites/default/files/publication/99918/pros_and_cons_of_a_single-payer_plan.pdf

RESOLUTION NO. XXXXXXX

Resolution in Support of State and Federal Legislative Action to Achieve Universal Healthcare Access under a Single Payer System.

The Lane County Board of Commissioners finds:

1. Whereas, it is impossible for an individual to live a productive, healthy life without access to quality health care.
2. Whereas, individual wellbeing and public health both benefit when all members of a community have real, meaningful access to health care: the risk of illness from contagious disease decreases; employee and student absenteeism decreases, which is positive for students, employees, and businesses alike; and individuals and families are less likely to experience financial vulnerability, bankruptcy, and homelessness.
3. Whereas, our current healthcare system requires complex, costly, and time-consuming billing and administrative systems which siphons profits to health insurance shareholders.
4. Whereas, investments to address social determinants of health and other preventive measures will produce better health outcomes than administrative spending.
5. Whereas, the current system of healthcare perpetuates historical oppression by reinforcing unequal health outcomes for historically marginalized communities through systemic inequalities in access to and quality of health care.
6. Whereas, Oregon law (ORS 414.018) states, "it is the intention of the Legislative Assembly to achieve the goals of universal access to an adequate level of high quality health care at an affordable cost."
7. Whereas, the State of Oregon has an established recent history of working to improve health care access, evidenced by expanding Medicaid eligibility in 2014, and several specific legislative actions. More recently in 2017, the Oregon Legislature passed Senate Bill 558 ("Cover All Kids") which extended Oregon Health Plan coverage to all children in Oregon regardless of immigration status. The Legislature also passed House Bill 3391, the Reproductive Health Equity Act, which extended coverage for the full range of reproductive health services to individuals who would otherwise be eligible for coverage if not for their immigration status.
8. Whereas, in 2016, the Oregon Health Authority contracted with RAND Corporation and Health Management Associates to complete a study which confirmed that a universal, publicly funded health care system in Oregon is achievable and financially viable.
9. Whereas, in both 2020 and 2021 the Oregon Legislature, there were multiple bills attempting to address the complexities and costs of the current insurance based system related to mental health, prescription drugs, barriers to care, transparency, universal access, and more.

10. Whereas, in 2019 the Oregon Legislature passed SB 770 which established the Joint Task Force on Universal Health Care to design a universal, publicly funded health care system and the Task Force has convened to develop its recommendations and continued that support in 2021 with the passage of SB 428.
11. Whereas, in the 2021 Oregon legislative session SJR 12 was passed as a referral to voters to declare healthcare access as a fundamental right in the Oregon Constitution and it will come before the voters in November, 2022, as IRR 401.
12. Whereas, in December of 2020, the Congressional Budget Office (CBO) released a report that examined the cost of universal healthcare proposals based on a Medicare fee-for-service program. The CBO found that implementing a single payer healthcare program would not only guarantee coverage for everyone but would also reduce spending nationwide.
13. Whereas, the Medicare for All Act, H.R. 1976, has been introduced in the U.S. House of Representatives in 2021, with our Congressional Representative Peter DeFazio as an original cosponsor.
14. Whereas, the State-Based Universal Health Care Act H.R.3775 has been introduced in the U.S. House of Representatives in 2021, also with Rep. DeFazio as a cosponsor.
15. Whereas, the Oregon Health Authority has established, funded through the Office of Equity and Inclusion, and Health Promotion Chronic Disease Prevention, Regional Health Equity Coalitions (RHECs). RHECs are collaborative, community-led, cross-sector groups organized regionally to identify and address health equity issues. The RHEC model works by building on the inherent strengths of local communities so they can lead by identifying sustainable, long-term, policy, system and environmental (PSE) solutions to increase health equity in Oregon. Coalitions prioritize communities of color as primary populations of focus. Many other counties in Oregon have already established RHECs.

NOW THEREFORE BE IT RESOLVED, that the Lane County Board of Commissioners expresses its enthusiastic support for a state-based universal healthcare system and strongly urges the Oregon Legislature and Governor to work to establish a universal healthcare, single payer system accessible to all residing in Oregon by written communication to the above, use of lobbying resources, social media and online information dissemination, and through support of and testimony to the Joint Task Force on Universal Health Care .

BE IT FURTHER RESOLVED, that the Lane County Board of Commissioners inform the public of the upcoming ballot initiative IRR 401 which will allow voters in 2022 to vote on an amendment to Oregon Constitution declaring healthcare a fundamental right.

BE IT FURTHER RESOLVED, that the Lane County Board of Commissioners enthusiastically supports improved Medicare for All such as found in H.R. 1976 of 2021. Lane County Board of Commissioners calls on our federal legislators to work toward its immediate enactment, assuring appropriate and efficient health care for all residents of the United States.

BE IT FURTHER RESOLVED, that the Lane County Board of Commissioners strongly urges our federal delegation to create pathways for states to establish state-based systems under federal waivers that remove all impediments related to receiving existing federal financial support and other federal restrictions such as found in H.R.3775 of 2021.

BE IT FURTHER RESOLVED, that the Lane County Board of Commissioners investigate facilitating the establishment of a Lane County RHEC to solicit community input on addressing health equity issues.

ADOPTED this XXX day of XXXXXXXX, 20XX.

REVIEWED:

By:

(NAME OF GOVT ENTITY/ENTITY/ORGANIZATION)

Authorized Signer

XXXXXXX

Revised April 12th, 2021.

Lane County
Legislative Principles and Priorities
UPDATED by Board of Commissioners January 4, 2022

The Lane County Legislative Principles and Priorities provide a framework for the Board of Commissioners and the Lane County staff to work within. These documents serve as a reference for legislative positions and objectives while providing direction for the Board of Commissioners and staff throughout the year. The County's Legislative Principles and Priorities are the foundation of a focused advocacy strategy.

Objective

The primary objective is for the Lane County Board of Commissioners to adopt official positions on clearly stated legislative issues at the start of the legislative session and in advance of the annual United Front trip. The legislative approval process is streamlined by receiving clear direction from the Board on pertinent legislative issues at the beginning of the legislative and Congressional sessions and this is accomplished by adoption of the Principles contained in this document.

The Principles are designed to provide guidance to Intergovernmental Relations staff on policy issues that arise during the Legislature and Congress and for which insufficient time exists to fully vet the issue through a formal convening of the Legislative Committee.

The Legislative Priorities are developed and maintained using the goals and objectives of the Board of Commissioners, the priorities of the Strategic Plan adopted by the Board, a review of legislative priorities from the Association of Oregon Counties, input from the Legislative Committee which includes Board members, department directors and staff, research of current law and pending legislation, as well as discussions with local legislative and Congressional staff and the County's legislative advocates.

Federal and state legislative proposals and policies consistent with the Legislative Principles may be supported by the County. Those policies or proposals inconsistent with this agenda may be opposed by the County.

For proposed legislation consistent with the County's Legislative Principles and Priorities, the County Administrator or designee shall be authorized to prepare position letters on behalf of the Board or an individual commissioner, and affix the Board Chair's or the individual commissioner's signature to those letters as appropriate. In both instances, the County Administrator or designee will provide the Board with a copy of the signed letter. Items not addressed in the County's Legislative Priorities may require further Board direction. Legislative ~~principles~~ **Principals and Priorities** shall address issues directly relevant to or impacting the provision of county services.

County departments are encouraged to monitor and be knowledgeable of any legislative issues related to their discipline. However, any requests for the County to take positions on a legislative matter must be directed to the Intergovernmental Relations Manager. County departments may not take positions on legislative issues without the Legislative Committee's review and approval, **or a clear Principal or Priority to support their work.**

Attachment A – Legislative Principles Updated Draft

Goals and Strategies

Goals:

- Advocate the County’s legislative interests at the Federal, State and County levels.
- Inform and provide information to our Legislators, Board of Commissioners, and Staff on the legislative process and key issues and legislation that could have a potential impact on the County
- Serve as an active participant with other local governments, the Association of Oregon Counties, regional agencies, and local professional organizations on legislative/regulatory issues that are important to the County and our Region
- Seek grant and funding assistance for County projects, services, and programs to enhance services for our community

Strategies:

- Communicate legislative positions on proposed Federal, State, and County legislation, measures, initiatives and governmental regulations
- Seek Federal, State, and County funding through allocations, grants and other discretionary funding for County projects, services and programs
- Work closely with the Association of Oregon Counties, our legislative advocates and other counties in advocating for the County’s Federal, State and County legislative interests
- Share information with the Board of Commissioners, County staff, and the community on legislative issues
- Where appropriate, integrate key staff into workgroups, task forces, or other bodies that are developing legislative proposals.

Lane County 2020 Legislative Principles

General

1. Identify and oppose unfunded mandates
2. Identify and oppose local pre-emptions, particularly those that inhibit opportunities for locally derived revenues
3. Work to maintain or increase existing revenue streams to counties
4. Work to ensure revenues exist to local governments to fund any new services
5. Advocate maintenance of existing local authority
6. Support issues which provide greater authority to govern more effectively, efficiently and flexibly at the local level
7. Advocate for county representation on all state boards, commissions and study committees which affect county government and have non-legislative members
8. Work cooperatively with other groups and associations to support efforts to improve the delivery of services at the local level
9. Support county efforts toward effective regional cooperation and delivery of county services
10. Support efforts to develop increased communication and greater compatibility among levels of government and within and between agencies in all levels of government
11. Support legislation that encourages economic growth
12. Support legislative efforts to address the root causes of inequities
13. Protect local control of land use decision-making and oppose legislation that would hinder or threaten local control
14. Monitor state policies to ensure new obligations are funded and contain adequate provisions to address embedded liabilities
15. Advocate to ensure fiscal health for Assessment and Taxation offices, to maximize revenue for all local taxing districts
16. Support efforts to mitigate exposure to future PERS liabilities
17. Protect the quality, accuracy, and completeness of the County's index of property transfer transactions.
18. Ensure all Lane County residents have access to fast, affordable, and reliable broadband in order to maximize their economic, educational, health, and public safety needs.

COVID-19

- Focus on increasing the volume and turnaround time for COVID-19 test kits and test results.
- Focus on increasing the supply of personal protective equipment for first responders and medical professionals.
- Focus on securing the necessary hospital beds and capacity as this pandemic continues to evolve.
- Ensuring Lane County employees have sufficient resources and flexibility to perform and maintain their professional duties.
- Ensuring Lane County businesses impacted by the COVID-19 pandemic are provided the necessary resources to recover.
- Ensure public safety resources are sufficient to maintain public order.
- Ensure public health resources are sufficient to provide adequate disease response.
- Ensure mental health resources are sufficient to mitigate disruptions associated with the pandemic.
- Ensure housing resources are sufficient to protect existing property owners, minimize impacts to renters, and are expanded for those who are now, or become, un-sheltered.
- Increasing federal share of cost reimbursement under Stafford Act.
- Ensuring county liability is minimized across all facets of response

Attachment A – Legislative Principles Updated Draft

- Ensure employers and employees have sufficient and flexible family and child care resources such that businesses and organizations maintain resiliency throughout the duration of the pandemic.
- Ensure that state revenue decreases to local government are minimized and spread equitably across the state.
- Ensure public policy and budgetary decisions do not exacerbate the disproportionate effect of COVID-19 on already marginalized groups.

HOLIDAY FARM FIRE

- Ensure robust funding exists for the human resources associated with emergency management personnel at all levels of government
- Support funding for emergency property acquisition
- Support efforts to “build back better” infrastructure, economic development, and housing
- Seek funding for the continued build out and development of the McKenzie River Discovery Center
- Seek funding for emergency communications and additional wildfire alert cameras
- Engage with education lobby on special school funding formula for fire impacted districts
- Seek special land use treatment for the “Seneca donation” such that increased density and shared septic systems may be deployed on that property
- Support efforts to increase the local add on fee to support the Public Land Corner Preservation Fund (ORS 203.148) at least for fire impacted counties
- Seek funding for a transportation funding package to repair post-fire related damages to state and local roadways and bridges

Public Safety

- Support efforts to ensure federal Secure Rural Schools payments
- Support funding for rural patrol
- Support funding for law enforcement training to provide law enforcement leaders with cutting-edge training on emergency response, crime reduction strategies, and professional standards
- Maximize grant and contract funding/partnerships
- Support funding for prosecution services and services for crime victims
- Ensure that local resources for the Office of the District Attorney are not further eroded through Legislative policies that enable cost shifting from the state to counties
- Support efforts which seek to provide policing agencies with options for in jail mental health treatment, as well as jail diversion strategies aimed at people with mental illness.
- Support efforts to maintain Community Corrections Act, Juvenile Crime Prevention, Specialty Courts, Justice Reinvestment, and IMPACTS funding
- Support funding for Evidence Based Decision Making Initiatives to reduce recidivism
- Support adequate funding for specialty courts in both the adult and juvenile systems
- Support funding the early build out for Shake Alert and Fire Alert systems
- Support legislation, appropriations, and policy direction that stabilizes County operation of the Law Library
- Support Medicaid reform such that benefits may accrue to inmates
- Support efforts which serve to advance diversity and access to services by non-English language speakers
- Ensure that the Oregon Department of Revenue’s Other Agency Collection Unit remains able to efficiently assist with local collections
- Ensure public safety assets obtained via the US Defense Logistics Agency remain in Lane County ownership

Attachment A – Legislative Principles Updated Draft

- Seek funding for the build out and continued development of the “Four Corners” site to allow for re-entry housing.
- Work to ensure that Lane County’s emergency communications and preparations systems are supported by sustainable funding frameworks.

Health and Human Services

- Support implementation and full funding of Public Health Modernization, and support for strong local public health authority for the provision of essential public health services
- Support stable Medicaid funding and work with Oregon CCOs to enhance local initiatives and strong partnerships with Counties
- Support strong local mental health authority and enhanced funding for behavioral health services targeted to local initiatives to improve access to health care and to promote improved health outcomes
- Support funding for community health centers operations, development, and real property acquisition and improvements
- Support stable funding (100% of workload) to maintain community-based services for individuals with intellectual and developmental disabilities
- Support multi-agency partnership and goals established to reduce veteran homelessness and increase veterans services
- Support programs and policies with the goal of preventing and ending homelessness among veterans, persons with disabilities, people with behavioral health diagnosis, families with children, and youth, such as Housing First, supportive housing, and emergency housing
- Support funding for evidence-based prevention programs that target behaviors to improve health and reduce health disparities
- Support prevention and education programs aimed at the decreasing use of tobacco and nicotine products (such as local tobacco tax authority, preservation of Oregon Indoor Clean Air Act, and retail licensing)
- Support efforts to eliminate non-medical exemptions for otherwise mandated preventable disease vaccinations.
- Support strategies to reduce the negative effects of problem/disorder gambling in Lane County
- Support funding for mental health services, detox services, and prevention services
- Support funding that would allow counties to individualize services based on need and keep youth offenders in their home communities
- Support funding for long term care and treatment facilities, address needed health regulations for assisted living facilities
- Support dedicated funding for medium and high risk juvenile offenders allowing individualized programming at the county level
- Support funding for additional acute and sub-acute treatment beds for youth with complex needs in Lane County
- Support local and state efforts to promote availability and purchase of local fruits and vegetables (Farm to School, Farm to Institution, School Gardens Nutrition Programs)
- Support funding for workforce development and career technical education
- Support strategies to increase the pipeline of qualified nurses, mental health specialists, physicians, and psychiatrists to work in Oregon
- Support multi-system efforts to address opiate overprescribing and addiction, including unifying data to more effectively track overdoses in Oregon
- Support efforts to combat opiate overdoses by increasing the availability and access to Naloxone

Attachment A – Legislative Principles Updated Draft

- Increase the Medicaid reimbursement rate for individuals working in the field of treating substance use disorder
- Support stable and enhanced funding for Family Mediation services
- Support policies and funding which address the prevention of suicide
- Oppose exceptions to the Oregon Clean Air Act for recreational marijuana
- Oppose efforts to legalize the consumption of recreational marijuana outside of the privacy of one's home, for example at special events or within a publicly licensed establishment
- Ensure that marijuana tax revenues are allocated for drug treatment and prevention
- Support efforts to mitigate wildfire smoke
- Support efforts to address the impact of localized blue green algal bloom outbreaks
- Support efforts to increase Oregon's beer and wine tax
- Support efforts to develop state funding and a framework for universal legal representation for immigrants located in Oregon
- Protect existing pharmaceutical pricing structures unique to FQHC's (the 340-B structure)
- Support permanent Emergency Rental Assistance Programs for low income households facing unexpected economic shocks

Public Works

- Support funding solutions to support safe roads and bridges
- Support prescription drug take back
- Support efforts which transfer the cost of recycling and disposal functions onto product producers
- Support efforts which incentivize public and commercial fleets to transition towards cleaner burning or renewable fuels
- Support commercial development in unincorporated communities
- Support the Willamette confluence project, Phase II (or III) funding, and efforts to transition to public access
- Provide opportunities for healthy activities through parks, open spaces, alternative travel choices and event center activities
- Maintain regional partnerships to plan and develop a healthy, integrated transportation system
- Work with non-profits to identify tax foreclosed properties that can be added to available affordable housing
- Support our regional partners to provide sustainable animal services to the community
- Support improvement efforts in Land Management to facilitate economic development and community growth
- Continue to foster a local, livable community through Transportation, Parks and Lane Event Center functions
- Support the continued State of Oregon Department of Agriculture payments to County Fairs that qualify to support and promote agriculture.
- Maintain the Firewise Communities Wildfire protection project
- Reduce Lane County's environmental footprint through efficient solid waste management practices to increase resource recovery
- Continue to re-invest in existing Public Works infrastructure, including parks, to avoid higher future deferred maintenance costs
- Support efforts to address the increased workload effects of medicinal and recreational marijuana growing and processing
- Oppose efforts to implement expedited replacements of diesel engines unless fully funded and evidence of increased public health impacts are documented

Attachment A – Legislative Principles Updated Draft

- Support reforms to Oregon’s land use laws which:
 - Allow for Farm to Table operations on agricultural lands
 - Eliminate the 2 acre minimum lot size for a county to allow for rural accessory dwelling units.
- Support policies and funding streams which help address the nuisance outcomes derived from growing and processing medical and recreational marijuana.
- Seek additional funding and policies which address Lane County’s high rate of roadway fatalities
- Support efforts to minimize the generation of methane from the solid waste stream during collection and landfilling
-

Infrastructure

- Support safe infrastructure, roads, bridges, parks and buildings
- Support efforts to ensure greatest possible flexibility for use of funds to meet local needs
- Support state funding for improvements and replacement projects for courthouses throughout Oregon
- Support policies which clarify county development and ownership authority over fiber networks
- Seek funding for the Lane County Courthouse Replacement Project

Economic Development

- Support existing traded sector business recruitment, retention and expansion that complement Lane County’s unique natural environment and intellectual capital
- Support agri-business industries such as food and beverage, and advanced wood products manufacturing
- Support workforce development efforts including career technical education
- Support the development of brownfields
- Support development of critical infrastructure such as high speed fiber in rural Lane County
- Support the existing allocation of county video lottery dollars for economic development and oppose efforts to base that allocation on projected revenue.
- Support efforts to secure State bond authorizations for the Knight Campus in collaboration with the University of Oregon.
- Support efforts which enable public agencies to expand the local impact of their investment in construction projects by establishing minimum standards for worker pay, benefits, equity, and participation by persons and businesses traditionally under-represented in the construction industry.

LANE COUNTY PRIORITY BILLS (Oregon Legislature)

- Amend the Oregon Tort Claims Act to ensure Community Mental Health Programs are indemnified for the procedures related to ORS 161.365 and ORS 161.370.
- ~~Seek operational funding for emergency shelters~~
- Seek \$15M for a Lane County owned multi-use facility built in partnership with the Eugene Emeralds on the site of the Lane County Fairgrounds
- Seek operational funding for Behavioral Health Stabilization Centers
- Ensure the Improving People’s Access to Community-based Treatment, Supports, and Services (IMPACTS) program becomes a regularly (permanent) funded program within the biennial budget of the Criminal Justice Commission, and receives no less than \$10M in biennial funding

Attachment A – Legislative Principles Updated Draft

- Ensure the Improving People’s Access to Community-based Treatment, Supports, and Services (IMPACTS) program becomes a regularly (permanent) funded program within the biennial budget of the Criminal Justice Commission, and receives no less than \$10M in biennial funding
- Seek alignment in forest and farm zones to ensure dwellings replacement statutes (ORS Chapter 215) may be replaced if any habitability elements are or were destroyed by acts of God or human caused damage

DATE: April 20, 2022
TO: Lane County Legislative Committee
FROM: Alex Cuyler, Lane County Intergovernmental Relations Manager
RE: Land Use Legislative Issue

Background

Senator Beyer's office recently reached out to me regarding a constituent's communication with his office. The individual lives in an "F2" zone (Impacted Forest Lands) and is planning on putting his home up for sale. He contacted Lane County in order to gain additional information regarding his potential sale and learned that is uncertain whether would be able to replace the home if it were to be destroyed.

He additionally reached out to Oregon Property Owners Association, a statewide association that represents property owners' rights to own and use land within this state. Its President, Dave Hunnicutt (a lawyer and registered lobbyist in Oregon) provided additional background on this issue to the constituent, and subsequently penned a 4/12/2022 email to Lane County Commissioner Jay Bozievich (and others) outlining this issue.

State Land Use Laws and Administrative Rules

Lane uses in Oregon are regulated by state statute (ORS) and administrative rules (OAR), and county code. ORS Chapters 197 and 215 and OAR Chapter 660. Lane Code, Chapter 16 is where Lane County's land use ordinances are codified.

Land Use laws do change frequently in Oregon. A non-conforming use is the term used to describe instances where an existing, lawful use may not be in compliance with a newly promulgated law. ORS 215.130(5) provides that such existing uses may be continued, unless the use is interrupted or abandoned. ORS 215.130(6) allows the restoration and replacement of such a use in the event of fire, other casualty or natural disaster, provided that restoration or replacement is commenced within one year.

Note that as a result of the 2020 Labor Day fires, the Oregon Legislature passed a law that extended the window for commencement of restoration or replacement of a non-conforming use until September 30, 2025 for 2020 wildfire impacts only (HB 2289). Additionally, the Land Conservation and Development Commission amended OAR 660-006-0025(3) to allow replacement of lawful dwellings destroyed by wildfire within 60 months if certain criteria are met based on substantial evidence.

ORS Chapter 215 also regulates, among other things, conforming farm and forest uses, but does not treat residential uses on these lands the same way when it comes to replacement of removed or destroyed dwellings. Specifically:

- Within an Exclusive Farm Use (EFU) zone, ORS 215.291 provides that a county may allow a lawfully established dwelling to be altered, restored, or replaced if it determines that the dwelling "has, or formerly had" walls and a roof, plumbing, wiring, and heat.

- Within Forestland Zones, ORS 215.755 provides that a county may allow for a lawfully established dwelling to be altered, restored, or replaced if it determines that the dwelling “has” walls and a roof, plumbing, wiring, and heat.
 - Oregon Administrative Rule 066-006-0025(3)(p) does allow a building destroyed by “wildfire” to be replaced within 60 months.

Note that on January 1, 2024, amendments to ORS 215.291 will sunset and the statute will revert back to its previous language, at which point in time it will be identical to ORS 215.755. Thus, after January 1, 2024, legal, conforming dwellings may not be replaceable in the event they are totally destroyed. It is not clear if the Administrative Rule 066-006-0025(3)(p) will continue after the sunset, but in any case that rule is specific to replacement only from wildfire.

Plausible Future Scenarios:

- Dwellings in farm zone (after January 1, 2024) or forest zone may not be replaceable in the event they are totally destroyed.
- A homeowner could seek to build a new dwelling (rather than replacement), but in the case of a farm or forest dwelling located in an inventoried big game habitat the new dwelling standards include demonstrating that Goad 5 Big Game Habitat residential density standard will be met. This could totally preclude new construction depending on the size of the property and the relevant Big Game Habitat policies.

Staff Recommendation:

This issue is concerning and timely. It has added significance in Lane County due to the amount of forest and farmland, and big game habitat in the County. Dwellings on resource lands (farm and forest) are closely scrutinized by various advocate groups in the County and land use approvals are often appealed. Resolving these challenges is the responsibility of the property owner and can be very expensive and time consuming. Accordingly, clear and consistent standards for dwelling replacement rights are needed.

We seek the following Legislative Priority:

- Seek to clarify replacement rights for homes in farm or forest zones within ORS Chapter 215 to confirm that legal, conforming dwellings may be replaced with a specified period of time following removal or destruction.

Staff suggest a statutory change in this case, and believe that a statutory change will drive subsequent administrative rule changes.