

CITY OF WOODBURN

42nd ANNUAL NATIONAL NIGHT OUT 2025

WHEREAS, the National Association of Town Watch is sponsoring a unique, nationwide crime, drug, and violence prevention program on Tuesday, August 5, 2025, called "**National Night Out**"; and

WHEREAS, the "**2025 42nd Annual National Night Out**" provides a unique opportunity for the City of Woodburn to join forces with thousands of other communities across the country in promoting cooperative police-community crime, drug, and violence prevention efforts; and

WHEREAS, all citizens of Woodburn play a vital role in assisting the Woodburn Police Department through joint crime, drug, and violence prevention efforts in Woodburn and are supporting the "**2025 42nd Annual National Night Out**" locally; and

WHEREAS, it is essential that all citizens of the City of Woodburn be aware of the importance of crime prevention programs and the impact that their participation can have on reducing crime, drug abuse, and violence in Woodburn; and

WHEREAS, police-community partnerships and neighborhood safety and awareness cooperation are important themes of the "**2025 42nd Annual National Night Out**" program;

NOW, THEREFORE, I, FRANK LONERGAN, do hereby call upon all citizens of Woodburn to join the Woodburn Police Department and the National Association of Town Watch in supporting the "**2025 42nd Annual National Night Out**" Tuesday, August 5, 2025.

FURTHER, LET IT BE RESOLVED THAT, I, MAYOR FRANK LONERGAN, do hereby proclaim Tuesday, August 5, 2025, as the "**2025 42nd Annual National Night Out**" in the City of Woodburn.

FRANK LONERGAN, MAYOR

DATE

COUNCIL MEETING MINUTES

JUNE 23, 2025

DATE **COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, JUNE 23, 2025**

CONVENED The meeting convened at 7:06 p.m. with Mayor Lonergan presiding.

ROLL CALL

Mayor Lonergan	Present
Councilor Cantu	Present
Councilor Cornwell	Present
Councilor Schaub	Present
Councilor Bravo	Absent
Councilor Grijalva	Present
Councilor Wilk	Present

Staff Present: City Administrator Derickson, City Attorney Granum, Assistant City Attorney Killmer, Assistant City Administrator Row, Special Projects Director Wakely, Community Development Director Kerr, Police Chief Millican, Public Works Director Stultz, Community Relations Manager Herrera, City Recorder Pierson

MOMENT OF REFLECTION

Mayor Lonergan congratulated the Woodburn Chamber of Commerce on the successful soccer tournament held over the weekend, which attracted 69 teams to the City of Woodburn. He added that these events provide a boost to the local economy.

ANNOUNCEMENTS

Mayor Lonergan made the following announcements:

- An in-house City BootCamp will take place on Friday for all city boards, commissions, and council and is scheduled to begin at 8:30 a.m. and will run until approximately 4:30 p.m.
- School is out for the summer, and a reminder was given to stay safe and be mindful of increased activity from children and families in the community during the summer months.
- Per the Fire District, backyard burning is no longer permitted. Residents are advised to exercise caution when using barbecues and fireworks, particularly with the likelihood of a very dry summer.
- Attended a recent Fire District board meeting where Council President Schaub, a board member, was present. Captain Koenig was honored for 25 years of service, and three new firefighters were recognized for completing the first phase of the academy.

COUNCIL MEETING MINUTES

JUNE 23, 2025

- In observance of Independence Day, City Hall offices, the Library, and Transit service will be closed Friday, July 4, 2025. The Aquatic Center will be open 6:00 a.m.-12:00 p.m.
- Celebrate Independence Day at Centennial Park in Woodburn! Enjoy food vendors, live music, games for the whole family and end the evening with a fantastic firework show to celebrate! Friday, July 4th 5:30-10:30pm - Centennial Park - 900 Parr Rd NE
- The City Council Meeting /Community BBQ is scheduled to take place on Tuesday, July 29, 2025, at 6:00 p.m. to coincide with Music in the Park.

COMMUNICATIONS

Mayor Lonergan stated that he received a letter from Mr. Burghardt that commended Woodburn police officers for their prompt and helpful assistance when his car stalled on the off-ramp from I-5.

BUSINESS FROM THE PUBLIC

Terri Berkey Gonzalez, Emmanuel Lutheran Church, stated that they are working on funding the Greater Woodburn Opportunity Center and shared concerns about the high costs associated with a lot line adjustment to their property. As a nonprofit, they requested the City consider reducing fees and expediting the process to help preserve funds for the Greater Woodburn Opportunity Center. She provided a letter to Council requesting accommodation.

CONSENT AGENDA

- A. Woodburn City Council minutes of June 9, 2025
- B. Liquor License Application for Micheladas Antojitos El Perico LLC.
- C. Monthly Financial Report (April and May 2025)
- D. Traffic Enforcement Report (March through May 2025).

Motion: Schaub/Cornwell... approve the consent agenda as presented.

The Motion passed with the following vote: Councilors Schaub, Cornwell, Wilk, Grijalva, and Cantu voting "aye." [5-0]

PUBLIC HEARINGS

Legislative public hearing: WDO modifications regarding Floodplain Management Regulations

Mayor Lonergan declared the hearing open at 7:19 p.m. for the purpose of hearing public input on the WDO modifications regarding Floodplain Management Regulations. Mayor Lonergan noted that this hearing will be continued to the July 14, meeting. Community Development Director Kerr provided a staff report.

Motion: Schaub/Wilk... continue the public hearing to the July 14, meeting.

The Motion passed with the following vote: Councilors Schaub, Cornwell, Wilk, Grijalva, and Cantu voting "aye." [5-0]

COUNCIL MEETING MINUTES

JUNE 23, 2025

COUNCIL BILL NO. 3282 - A RESOLUTION OF THE CITY OF WOODBURN, OREGON, AUTHORIZING THE CITY ADMINISTRATOR, MAYOR, AND THE CITY COUNCIL LEGISLATIVE COMMITTEE TO INITIATE IMMEDIATE ACTION TO ADDRESS THE CITY'S DIRE LACK OF SUPPLY OF LAND AVAILABLE FOR HOUSING, PARTICULARLY AFFORDABLE HOUSING, AND TO DETERMINE THE MOST ACCURATE POPULATION ESTIMATES FOR THE CITY.

Schaub introduced Council Bill No. 3282. City Recorder Pierson read the bill in full. City Administrator Derickson provided a staff report. On roll call vote for final passage, the bill passed unanimously with Councilors Grijalva, Wilk, Cornwell, Schaub, and Cantu voting "aye" [5-0]. Mayor Lonergan declared Council Bill No. 3282 duly passed.

COUNCIL BRIEFING OF STAFF APPROVAL OF A TYPE II PRELIMINARY PARTITION & STREET ADJUSTMENT APPLICATION FOR 1767 W HAYES STREET (PAR 25-01 & SA 25-01)

The City Council declined to call this item up.

CITY ADMINISTRATOR'S REPORT

The City Administrator reported the following:

- The Evergreen and Parr Rd. intersection will be open tomorrow at noon.
- Excited for Fiesta and we are looking forward to a safe and successful event.

MAYOR AND COUNCIL REPORTS

Councilor Schaub noted that the letter from Mr. Burghardt thanking the police department also mentioned M & M Towing and the great job they did in assisting him. She mentioned that the July 4th Chuck Wagon Breakfast takes place at Legion Park at 7:00 a.m.

Councilor Wilk stated that we live in a great community.

Councilor Cantu thanked all the volunteers who helped with the soccer tournament. She noted that she participated in the 50/50 sidewalk program, and that the process was fairly seamless.

Councilor Grijalva requested an update on the City Council goal of addressing speeding, signage, and related improvements. The council member suggested the update be presented at a July or August meeting. She added that she had her water tested and staff that came to her home were courteous.

Mayor Lonergan wished everyone a Happy 4th of July.

ADJOURNMENT

Motion: Schaub/Cantu ... move to adjourn.

The Motion passed with the following vote: Councilors Schaub, Cornwell, Wilk, Grijalva, and Cantu

COUNCIL MEETING MINUTES
JUNE 23, 2025

voting “aye.” [5-0]

Mayor Loneragan adjourned the meeting at 7:53 p.m.

APPROVED _____
FRANK LONERGAN, MAYOR

ATTEST _____
Heather Pierson, City Recorder
City of Woodburn, Oregon



Agenda Item

July 14, 2025

TO: Honorable Mayor and City Council through City Administrator
THRU: Jason Millican, Chief of Police
FROM: Keith Kimberlin, Lieutenant
SUBJECT: **Liquor License Application K-Bron Brewing Company**

RECOMMENDATION:

Recommend that the OLCC approve the **Liquor License Application** for K-Bron Brewing Company Woodburn, Oregon.

BACKGROUND:

Applicant: K-Bron Brewing Company LLC
237 Front Street
Woodburn, OR 97071
503-984-0913

Point of
Contact: Salvador Gasca-Hernandez
865 Stark Street
Woodburn, OR 97071
503-984-0913

Business: K-Bron Brewing Company
237 Front Street
Woodburn, OR 97071
503-984-0913

Owner(s): Salvador Gasca-Hernandez
503-984-0913

Agenda Item Review: City Administrator ___x___ City Attorney ___x___ Finance ___x___

License Type(s):

Full On-Premises, Commercial - May sell and serve distilled spirits, malt beverages, wine, and cider for consumption at the business location. May sell malt beverages for off-site consumption in securely covered containers provided by the customer. May sell cocktails and wine to-go in sealed containers as of June 11, 2021. Food service required. Must purchase distilled liquor only from an Oregon Liquor store, or from another full On-Premises Sales licensee who has purchased the distilled liquor from an Oregon Liquor store.

Brewery Manufacturer/Wholesaler – (a) May Manufacture on the licensed premises, store, transport, sell to wholesale malt beverage and wine licensees of the Oregon Liquor and Cannabis Commission and export malt beverages. (b) May sell malt beverages manufactured on or off the licensed premises at retail for consumption on or off the premises. (c) May sell malt beverages in brewery-sealed packages at retail directly to the consumer for consumption off the premises. (d) May sell on the licensed premises at retail malt beverages manufactured on or off the licensed premises in unpasteurized or pasteurized form directly to the consumer for consumption off the premises, delivery of which may be made in a securely covered container supplied by the consumer. (e) May sell wine and cider at retail for consumption on or off the premises. (f) May sell for consumption off the premises wines and cider in securely covered containers supplied by the consumer and having capacities of not more than two gallons each. (g) May conduct the activities, except manufacturing, described in paragraphs (a) to (f) of this subsection at two locations other than the premises where the manufacturing occurs. (h) May obtain a special events brewery-public house license entitling the holder to conduct the activities allowed under paragraphs (b) to (f) of this subsection at a designated location other than the location set forth in the brewery-public house license for a period not exceeding five days. May Distribute malt beverages manufactured at the licensed premises to any other premises licensed to the same licensee, whether a manufacturer, wholesaler or retail premises; and may distribute for export, in any amount, malt beverages manufactured at the licensed premises.

On June 20, 2025, the Woodburn Police Department received an application for Full On-Premises commercial sales for K-Bron Brewing Company. The business will be operating as a Restaurant and Bar with an outside seating area and is applying for a new license. The seating capacity is 48 for the inside area and 20 for the outdoor for a total of 68.

The hours of operation are 7AM to 9PM on Sunday, 7AM to 10PM Monday through Thursday, and 7AM to 1AM on Friday and Saturday. There is noted entertainment planned at the business to include Karaoke, Live, Recorded, or DJ Music, Live Entertainment, Minor Entertainers, Coin Operated Games, and Social Gaming. The Woodburn Police Department has not received any communication from the public or surrounding businesses in support of or against the proposed change.

DISCUSSION:

The Police Department has completed a background investigation of K-BRON Brewing Co., and the listed owner, Salvador Gasca-Hernandez, through various police databases and business-related databases. Salvador has a valid driver license in Oregon. Salvador shows a DUI in 2004, and a Giving False information to Police in 2005 along with Criminal Driving while Suspended. Nothing else of concern was found.

It should be noted that the application was not filled out completely, however, reviewing the application as a whole we were able to answer the questions not completely filled out in the application by reviewing other sections of the entire application.

FINANCIAL IMPACT:

None

July 14, 2025
(Prepared July 7, 2025)

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director *CK*

Subject: **Public Hearing for a Legislative Amendment to the Woodburn Development Ordinance related to interim floodplain requirements directed from FEMA (LA 25-01)**

RECOMMENDATION:

After conducting the public hearing, staff recommends that the Council close the record and continue the item until such time as the active litigation (described below) is resolved upon which time staff will bring the item back to the Council for final consideration if necessary.

Update on litigation status as of July 7th

On January 6, 2025, Oregonians for Floodplain Protection (a 501c4 organization of local governments) and the National Association of Home Builders of the United States commenced a legal action in the D.C. District Court challenging the Oregon Biological Opinion and Pre-Implementation Compliance Measures (PICMs) that FEMA has ordered Oregon cities and counties to implement as a condition of continued participation in the National Flood Insurance Program (NFIP). The Plaintiffs also filed a motion for a preliminary injunction to halt the mandated implementation of the PICM options. No ruling has yet been made on that motion. However, following the filing of the preliminary injunction, the case was transferred back to the Oregon District Court and the parties to the lawsuit have since filed a joint motion to stay the proceedings until July 29, 2025, in order to "discuss options for resolving the matter without further litigation." See attached Motion for Stay.

Because the outcome of the litigating parties' discussion and the possible remedies resulting from the litigation may affect whether and to what extent the City is mandated to adopt PICM measures, staff recommends

Agenda Item Review: City Administrator ___x___ City Attorney ___x___

that the Council continue its deliberation and final decision on this matter pending an update and future direction from City staff.

BACKGROUND

On April 15, 2025; the City Council passed Resolution No. 2249 initiating legislative amendments necessary to maintain conformance with FEMA's floodplain requirements. The modifications are necessary to address direction from FEMA that Oregon cities must adopt new "Pre-implementation Compliance Measures" (PICM) for all development in floodplains. FEMA was required to take these steps as a result of a lawsuit it settled in 2010 which was brought by environmental groups from Oregon. It was determined that FEMA's regulations failed to address the listed species under the Endangered Species Act.

DISCUSSION

FEMA has directed NFIP communities to select (and adopt) one of the following three measures:

- 1) Incorporate the PICM directly into their local floodplain ordinances (based on a complex model ordinance developed by FEMA). This option would require the city to hire a Habitat Specialist to review all applications for compliance. (*model code approach*)
- 2) Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve "no net loss." All conditions and Findings of this report would be included as a permit condition of approval. (*permit by permit approach*)
- 3) Prohibit all new development in the floodplain and be removed from the NFIP program.

Detailed discussions of each of these as well as the background behind FEMA's actions are found in the Planning Commission Staff Report and its Attachments.

On May 22nd, the Planning Commission held a public hearing on this item and unanimously recommended that the Council adopt Option #2 shown above. At the hearing, public testimony was received from 12 people. The vast majority of the testimony related to the negative impacts these provisions would have on property owners. Concerns were raised regarding loss of property values, inability to develop private property, inaccurate FEMA maps and the complexity of the regulations.

During questions and deliberations, both Staff and the Planning Commission generally concurred with the comments raised by the public, but determined that compliance with the FEMA's regulation was critical for the community. Recommending that the Council adopt Option #2 ("permit/permit") was considered the best of three bad choices.

FINANCIAL IMPACT:

Adoption of Options 1 and 2 will increase development costs for applicants due to the new habitat assessment that must be completed and reviewed. Option 1 will be significantly more costly than Option 2 due to the fact the application fees will be higher and the process will be longer.

Importantly, Option 3 (not implementing anything and being removed from the NFIP program) would be extremely costly not just to individual property owners that would be forced to go on the private market for insurance, but the city as a whole. Over the long term, the city would likely lose out on FEMA and State supported grants and be at risk of not receiving FEMA re-imbursements for property damage should a severe flood event occur.

Attachments:

- Planning Commission Staff Report
- Attachment 101: Analyses & Findings
- Attachment 102: WDO Amendments



Staff Report

Project Name: Legislative Amendment (LA) 25-01: FEMA NFIP

File Number: LA 25-01

Initial Hearing Date: May 22, 2025

Date of Report: May 15, 2025

Staff Reviewer: Chris Kerr, Community Development Director

Staff Recommendation: Approval of “Permit-by-Permit” Approach (Option 2)

Issue before the Planning Commission

Legislative Amendment (LA) 25-01 to consider the options available to the City to maintain NFIP (National Flood Insurance Program) eligibility and make a recommendation to City Council on which option to pursue. Option 1 is hereby known as the “Model Code” and consists of both a new ordinance based on model code provided by the Federal Emergency Management Agency and an ordinance to amend the Woodburn Development Ordinance. Option 2 would amend the Woodburn Development Ordinance to introduce requirements for applicants to meet new standards.

Executive Summary & Background

The Federal Emergency Management Agency (FEMA) manages disaster recovery and resources. The National Flood Insurance Program (NFIP) was created by the U.S. Congress to minimize the costs of disaster relief and reduce the loss of life and property caused by flooding. NFIP-participating communities (which includes Woodburn) are then required to maintain state and local floodplain management regulations that reduce future flood damage. The regulations include construction methods and details that must be followed when constructing within flood

management areas, and they control the alteration of the flood plain so as not to increase flood damage risk. As a result of the City participating in the NFIP, property owners within the City limits are eligible to purchase federally backed flood insurance policies.

In 2009, several environmental groups in Oregon filed a lawsuit against FEMA for failing to adequately consider the effects of the NFIP on Endangered Species Act (ESA) listed species and their habitat in Oregon. FEMA settled the lawsuit in 2010 and agreed to consult regarding the effects of the NFIP in Oregon on threatened and endangered species and designated critical habitat.

In April 2016, the National Marine Fisheries Service issued the Oregon NFIP Biological Opinion (BiOp). The BiOp concluded FEMA's implementation of the NFIP in Oregon jeopardizes the continued existence of threatened and endangered species and adversely modifies designated critical habitat. Subsequently, FEMA has been evaluating proposed changes to the NFIP through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).

The Final Implementation Plan for the proposed changes is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities have been directed by FEMA to begin taking action to protect habitat and achieve what is called "no net loss."

Since last fall, FEMA has offered certain workshops and assistance for local communities to learn more in order to implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

NFIP Communities have been directed to select one of the following three PICMs and begin reporting in July 2025:

- 1) Prohibit all new development in the floodplain.
- 2) Incorporate the ESA into local floodplain ordinances (based on a model ordinance developed by FEMA). (Presented as Option 1)
- 3) Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve "no net loss." (Presented as Option 2)

Communities must report to FEMA on their implementation of interim measures. Based on FEMA's timeframe for election of the PICMs (Dec 1, 2024), the City has been "defaulted" to the permit-by-permit option described above, but it may still choose to adopt the FEMA model ordinance.

While participation in the NFIP is voluntary, nonparticipating flood-prone communities and communities who have withdrawn or are suspended from the program face the following sanctions:

1. No resident will be able to purchase a flood insurance policy.
2. Existing flood insurance policies will not be renewed.
3. No Federal grants or loans for development may be made in identified flood hazard areas under programs administered by Federal agencies such as HUD, EPA, and SBA;
4. No Federal disaster assistance may be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
5. No Federal mortgage insurance or loan guarantees may be provided in identified flood hazard areas. This includes policies written by FHA, VA, and others.
6. Federally insured or regulated lending institutions such as banks and credit unions must notify applicants seeking loans for insurable buildings in flood hazard areas that there is a flood hazard and that the property is not eligible for Federal disaster relief.

Rather than risk suspension or removal from the NFIP, City staff strongly recommend that the City should initiate an ordinance adoption process to meet the implementation deadlines currently set by FEMA (July 31, 2025).

Purpose

The City's current ordinances do not meet or exceed the standards set forth by the new requirements from FEMA. These code amendments are written to allow the City to maintain NFIP (National Flood Insurance Program) eligibility and to enforce new federal-level regulations on the State of Oregon.

As part of LA 25-01, amendments being considered can be summarized as:

EITHER

Option 1 ("Model Code"):

- Addition of a new Ordinance based on the FEMA/DLCD Model Code to apply principles of "no net loss" and maintain compliance with the National Flood Insurance Program (NFIP).
- The ordinance would add requirements to conduct wetland delineation, impact study(s), or additional environmental reports as necessary for project site encumbered by FEMA-designated floodways and City-designated Riparian Corridor and Wetlands Overlay District (RCWOD)

- Amendments to the Woodburn Development Ordinance (WDO) to specify the need to reference to, and comply with, the new ordinance.
- Amendments to the Woodburn Development Ordinance (WDO) references to Variance to allow for and describe the variance procedures needed for the floodplain management process.
- Amendments to the Flood Plain Management Ordinance to reflect the additions of the “No Net Loss” principles.

OR

Option 2 (“Permit-by-Permit”):

- Amendments to the Woodburn Development Ordinance (WDO) to specify additional requirement for applicants to obtain a “Flood Habitat Assessment Report”, findings of which to be included as a permit condition of approval.

WDO Amendments

Proposed amendments apply only to a fraction of the hundreds of pages of the WDO. Proposed amendments are included in a ~~striketrough~~-and-underline format (Attachments 102 & 104). If the Commission notices any remaining scrivener’s errors regarding grammar, spelling, and/or typos, please draw staff attention to them.

As a legislative amendment, commissioners may contact staff directly with questions any time before the hearing at (503) 980-2431 or chris.kerr@ci.woodburn.or.us.

Recommendation

Approval: Staff recommends that the Planning Commission consider the staff report and attachments and recommend City Council adoption of the WDO amendment regarding a permit-by-permit approach (“Option 2”, Attachment 104) based on the Analyses and Findings (Attachment 101) in the staff report.

Actions

Recommend approval of the WDO amendment, or the Planning Commission may instead recommend:

- Approval with revisions; or
- That staff revise and return to a later hearing for further deliberation by the Planning Commission.

- Approval of the Model Code/Ordinance Approach (Option 1)

If the Planning Commission were to act upon the recommendation, staff would proceed to a City Council public hearing, which has not yet been scheduled.

Attachment List

- 101. Analyses & Findings
- 102. OPTION 1: WDO Amendments "Model Code"
- 103. OPTION 1: Ordinance "Model Code"
- 104. OPTION 2: WDO Amendments "Permit-by-Permit"
- 105. Council Agenda Item

Analyses & Findings

Conformance with the Woodburn Development Ordinance

4.01 Decision-Making Procedures

4.01.02 Assignment of Decision-Makers:

The following City entity or official shall decide the following types of decisions:

E. Type V Decisions (Legislative): Type V decisions involve legislative actions where the City Council enacts or amends the City's land use regulations, comprehensive plan, Official Zoning Map or some component of these documents. Type V decisions may only be initiated by the City Council. The Planning Commission holds an initial public hearing on the proposal before making a recommendation to the City Council. The City Council then holds a final public hearing and renders a decision. Public notice is provided for all public hearings (Section 4.01.14). The City Council's decision is the City's final decision and is appealable to LUBA within 21 days after it becomes final.

4.01.09 Initiation of a Legislative Proposal

- A.** The City Council may initiate the consideration of a legislative decision by resolution.
- B.** Actions initiated by the Council shall be referred to the Planning Commission for a public hearing and recommendation to the Council.
- C.** The City Council shall hold the final public hearing on a proposed legislative decision.

The Planning Commission hearing is scheduled for May 22, 2025, and the City Council hearing is tentatively scheduled for June 9, 2025, pending a recommendation to the Council by the Planning Commission.

On April 16, 2024, staff sent a Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conversation and Development (DLCD) in compliance with OAR 660-018-0020. The City notified affected government agencies in conformance with WDO 4.01.14.D. on May 1, 2025, and published notice of both the Planning Commission and City Council hearings in the *Woodburn Independent* newspaper on May 9, 2025. The City notified affected property owners through a Measure 56 Notice on April 21, 2025.

✓ The provisions are met.

Conformance with ORS 227.186

Notice to property owners of hearing on certain zone change; form of notice; ...

(2) All legislative acts relating to comprehensive plans, land use planning or zoning adopted by a city shall be by ordinance.

Pending a decision from the City Council following its public hearing, the Council would be able to direct staff to return with an ordinance for adoption at a subsequent Council meeting.

- (3) ... at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause a written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.**
- (4) At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, a city shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone. ...**
- (5) An additional individual notice of land use change required by subsection (3) or (4) of this section shall be approved by the city and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall: . . .**
- (6) At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to a requirement of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the city shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. ...**
- (7) Notice provided under this section may be included with the tax statement required under ORS 311.250.**
- (8) Notwithstanding subsection (7) of this section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under subsections (3) and (4) of this section.**
- (9) For purposes of this section, property is rezoned when the city...**
- (10) The provisions of this section do not apply to legislative acts of the governing body of the city resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under ORS 197.047 or resulting from an order of a court of competent jurisdiction.**

This legislative amendment does not propose any changes to the Woodburn Comprehensive Plan nor any rezoning of property.

Because the City is not changing the base zoning classification of property, in other words neither rezoning nor making a zone change, Sections (3), (4) and (5) above are not applicable. Because the proposed amendment is not pursuant to a requirement of periodic review, Sections (6) & (7) & (8) are not applicable.

The proposed legislative amendment does not result from actions of the Legislative Assembly or the Land Conservation and Development Commission (LCDC). ORS 197.047 is not applicable. As a result, the City of Woodburn is not required for LA 24-02 to do a "Measure 56" notice, the phrase referring to Ballot Measure 56 (1998) that the legislature codified in ORS 227.186, which the legislature later revised via Senate Bill 516 (2003). However, the proposed legislative amendment does result from actions of the Federal Emergency Management Agency. As a result, the City has elected to provide a Measure 56 Notice, which was mailed on April 21, 2025.

✓ The provisions are met.

I. INTRODUCTION

In 2009, the Portland Audubon Society sued FEMA regarding the Endangered Species Act, which requires federal agencies to ensure that any action they authorize, fund, or conduct does not jeopardize the continued existence of any endangered or threatened species or result in the destruction of or harm to their habitat.

A settlement was reached resulting in FEMA consulting with the National Marine Fishery Service, which in 2016 issued a "biological opinion " (BiOp) that the current implementation is likely to jeopardize the continued existence of 16 listed threatened or endangered fish species. FEMA was then tasked to modify the NFIP implementation so that development actions in floodplains would result in 'no net loss' to key habitats. "No net loss" means that mitigation of all negative impacts is provided on site, within the same reach, or in the same watershed.

In 2024, FEMA issued a requirement to jurisdictions within the state of Oregon to implement the new Model Code and/or to meet requirements set forth in the study including, but not limited to, reporting and additional permit requirements.

Per the Woodburn Comprehensive Plan, "The City has already adopted a Flood Plain Management Ordinance, which meets the requirements of the Federal Flood Insurance Program. This ordinance should be monitored for its effectiveness and kept up to date".

In 2025, the City of Woodburn Planning Department analyzed the Woodburn Development Ordinance and found that it no longer meets or exceeds requirements set forth by FEMA or the Federal Flood Insurance Management Program (now the National Flood Insurance Management Program, NFIP). In April 2025, draft proposals were developed under two approaches, a "Model Code" and "Permit-by-Permit" approach, both as supplements to the Woodburn Development Ordinance and Flood Plain Management Ordinance.

II. "Model Code" Ordinance Adaptation

a. Model Ordinance

This Ordinance is based on the 2024 FEMA "PICM Oregon NFIP-ESA Model Ordinance" and has been adapted to fit the needs and language of the City of Woodburn.

It is a standalone Ordinance, designed to meet both the standards set forth by FEMA and the standards set forth by state requirements of "Clear and Objective" language, reporting, and statements.

The proposed Ordinance establishes guidelines for new reporting, analysis, and permitting requirements.

b. WDO Amendments

Minor Amendments to the Woodburn Development Ordinance (WDO) would be necessary to codify requirements to meet or exceed the standards set forth in the proposed standalone ordinance.

The proposed amendments include the addition of a section titled “2.01.07 Federal Emergency Management Agency Overlays” that lays out a requirement to follow all standards and rules in the proposed Ordinance if a property is encumbered, partially or completely, by a FEMA-Designated flood plain.

In addition, a minor amendment is proposed to Section 2.05.05, referencing the above change.

c. Staff Recommendation

It is Staff’s opinion that this ordinance would necessitate a requirement for separate permit review fees, and that, prior to the adoption of the ordinance, a consultant would be needed to complete thorough review of the various requirements, permits, and documentation necessary for the successful implementation of the ordinance.

It is Staff’s recommendation to the Commission that the changes defined as “Model Code” not be approved, in large part due to the cost of implementing and operating the changes described, and in part due to the additional burden placed on applicants and staff.

III. “Permit-By-Permit” Approach WDO Amendment(s)

a. WDO Amendments

Minor amendments to the Woodburn Development Ordinance (WDO) are proposed, making an addition to Section 2.01.05 “Riparian Corridor and Wetland Overlay District” to implement a requirement for applicants to include a Flood Habitat Assessment Report, conducted by a qualified professional, with any RCWOD application. The amendment will also codify a requirement that

recommendations of this report be included as conditions of approval for the permit.

b. Staff Recommendation

It is Staff's opinion that this proposal will bring into FEMA compliance the Woodburn Development Ordinance while placing minimal additional burden on both staff and applicants. Therefore, it is Staff's recommendation to the Commission that the changes defined as "Permit-by-Permit" be approved.

OPTION 1 PROPOSED ORDINANCE “Model Code, WDO Changes” EXHIBIT 102

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. For purposes of this ordinance amendment, all new text is shown as underlined and red (i.e. new text) and all deleted text is shown as stricken (i.e. deleted text). After this ordinance amendment is adopted, the Community Development Director shall update the WDO and the Comprehensive Plan to incorporate all revisions contained herein.

Section 2. The WDO is amended as specified in Exhibit A that is attached hereto.

Woodburn Development Ordinance

WDO

Adopted by Ordinance 2313 on April 9, 2002

Acknowledged December 22, 2006

Amendments:

Ordinance 2423 on July 28, 2007

Ordinance 2446 on Sept. 8, 2008

Ordinance 2465 on Mar. 24, 2010

Ordinance 2473 on Dec. 13, 2010

Ordinance 2480 on Sept. 26, 2011

Ordinance 2492 on Sept. 10, 2012

Ordinance 2509 on Aug. 12, 2013

Ordinance 2510 on Sept. 23, 2013

Ordinance 2520 on July 28, 2014

Ordinance 2526 on Feb. 9, 2015

Ordinance 2538 on Sept. 26, 2016

Ordinance 2541 on Nov. 14, 2016

Ordinance 2544 on Jan. 9, 2017

Ordinance 2561 on July 9, 2018

Ordinance 2562 on Sept. 10, 2018

Ordinance 2573 on June 24, 2019

Ordinance 2579 on Apr. 13, 2020

Ordinance 2602 on May 9, 2022 (LA 21-01)

Ordinance 2603 on June 13, 2022 (LA 21-02)

Ordinance 2621 on Feb. 26, 2024 (LA 21-03)

Ordinance 2629 on July 22, 2024 (LA 24-02)

[Ordinance 2752 on May 22, 2025 \(LA 25-01\)](#)

2.01 Overlay Districts

There are six land use Overlay Districts within the City. Overlay districts include development standards for historic preservation, natural resource conservation, traffic generation, etc, which are in addition to the land use regulations of the underlying zones.

- 2.01.01 Gateway Commercial General Overlay District
- 2.01.02 Interchange Management Area Overlay District
- 2.01.03 Neighborhood Conservation Overlay District
- 2.01.04 Nodal Overlay Districts
- 2.01.05 Riparian Corridor and Wetlands Overlay District
- 2.01.06 Southwest Industrial Reserve
- 2.01.07 Federal Emergency Management Agency Overlays

2.05.01 Gateway Commercial General Overlay District

A. Purpose

The Gateway Commercial General Overlay District is the Commercial General (CG) area immediately adjacent to the downtown. Special use provisions within the Gateway Overlay District allow multi-family residential development, either as a stand-alone use, or as part of a vertical mixed-use project. Specific uses are prohibited, while other uses are limited, allowed only within enclosed buildings or behind masonry walls. Additionally, specific height limitations apply within this Overlay District. The district allows multi-family residential to provide more consumers living within an area of commercial development and to provide 24-hour a day life in the eastern entrance to the downtown.

B. Applicable Provisions

The Gateway Commercial General Overlay District includes special-use provisions limiting outside storage and land-intensive uses, while allowing multi-family residential development, either as a stand-alone use or as part of a vertical mixed use project. The land use and development standards are contained in this ordinance. The Overlay District is noted on the Official Zoning Map.

2.05.02 Riparian Corridor and Wetlands Overlay District

A. Purpose

The Riparian Corridor and Wetlands Overlay District (RCWOD) is intended to conserve, protect and enhance significant riparian corridors, wetlands, and undeveloped floodplains in keeping with the goals and policies of the Comprehensive Plan. The RCWOD is further intended to protect and enhance water quality, prevent property damage during floods and storms, limit development activity in designated areas, protect native plant species, maintain and enhance fish and wildlife habitats, and conserve scenic and recreational values.

B. Boundaries of the RCWOD

1. The RCWOD includes:
 - a. Riparian corridors extending upland 50 feet from the top of the bank of the main stem of Senecal Creek and Mill Creek and those reaches of their tributaries identified as fish-bearing perennial streams on the Woodburn Wetlands Inventory Map; and
 - b. Significant wetlands identified on the Woodburn Wetlands Inventory Map. Where significant wetlands are located fully or partially within a riparian corridor, the RCWOD shall extend 50 feet from the edge of the wetland; and
 - c. The 100-year floodplain on properties identified as vacant or partly vacant on the 2005 Woodburn Buildable Lands Inventory.
2. The approximate boundaries of the RCWOD are shown on the Zoning Map. The precise boundaries for any particular lot should be verified by the property owner when making a land use application. Map errors may be corrected as provided in this Ordinance (Section 1.02.04).

C. Permitted Uses and activities

The following uses and activities are allowed, provided they are designed and constructed to minimize intrusion into the RCWOD:

1. Erosion or flood control measures that have been approved by the Oregon Department of State Lands, the U.S. Army Corps of engineers, or another state or federal regulatory agency
2. Maintenance of existing structures, lawns and gardens
3. Passive recreation uses and activities
4. Removal of non-native plant species and replacement with native plant species
5. Public streets and off-street public bicycle/pedestrian facilities that other WDO sections require.
6. Utilities
7. Water-related and water-dependent uses, including drainage facilities, water and sewer facilities, flood control projects, drainage pumps, public paths, vehicular means of access to such uses, trails, picnic areas or interpretive and educational displays and overlooks, including benches and outdoor furniture

D. Prohibited Uses and Activities

1. New buildings or structures or impervious surfaces, except for replacement of existing structures within the original building footprint
2. Expansion of existing buildings or structures or impervious surfaces
3. Expansion of areas of pre-existing non-native landscaping such as lawn, gardens, etc.
4. Dumping, piling, or disposal of refuse, yard debris, or other material
5. Removal of vegetation except for:
 - a. Uses permitted by this Section
 - b. Perimeter mowing of a wetland for fire protection purposes;
 - c. Water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the existing riparian vegetation;
 - d. Removal of emergent in-channel vegetation that has the potential to cause flooding;
 - e. Hazardous tree removal.
6. Grading, excavation and the placement of fill except for uses permitted by this Section.

E. Variances

The restrictions of this Section may be reduced or removed if they render an existing lot or parcel unbuildable or work an excessive hardship on the property owner. The reduction or removal shall be decided through the Variance process.

F. Site Maintenance

1. Any use, sign or structure, and the maintenance thereof, lawfully existing on the date of adoption of this ordinance, is permitted within the RCWOD. Such use, sign or structure may continue at a similar level and manner as existed on the date of the adoption of this ordinance.
2. The maintenance and alteration of pre-existing ornamental landscaping is permitted as long as no native vegetation is disturbed. Maintenance of lawns, planted vegetation and landscaping shall be kept to a minimum and not include the spraying of pesticides or herbicides. Vegetation that is removed shall be replanted with native species. Maintenance trimming of existing trees shall be kept at a minimum and under no circumstances can the trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions. Vegetation within utility easements shall be kept in a natural state and replanted when necessary with native plant species.

G. Site Plan

When a use or activity that requires the issuance of a building permit or approval of a land use application is proposed on a parcel within, or partially within the RCWOD, the property owner shall submit a site plan to scale showing the location of the top-of-bank, 100-year flood elevation, jurisdictional delineation of the wetland boundary approved by the Oregon Department of State Lands (if applicable), riparian setback, existing vegetation, existing and proposed site improvements, topography, and other relevant features.

H. Coordination with the Department of State Lands

The Oregon Department of State Lands shall be notified in writing of all applications to the City for development activities, including applications for plan and/or zone amendments, development or building permits, as well as any development proposals by the City that may affect any wetlands, creeks or waterways.

I. Coordination with FEMA

[See Section 2.05.07 Federal Emergency Management Agency Overlays and Ordinance 2752]

2.05.03 Southwest Industrial Reserve

A. Purpose

The Southwest Industrial Reserve (SWIR) is intended to protect suitable industrial sites in Southwest Woodburn, near Interstate 5, for the exclusive use of targeted industries identified in the Comprehensive Plan. This broad objective is accomplished by master planning, retention of large industrial parcels, and restricting non-industrial land uses.

B. Application of the SWIR Zone

Land designated on the Comprehensive Land Use Plan Map as Southwest Industrial Reserve shall only be zoned SWIR.

C. Dimensional Standards:

The following dimensional standards shall be the minimum requirements for all development within the SWIR zone:

1. Land divisions may only be approved following approval of a master plan, as required in this ordinance.
2. Lots in a SWIR zone shall comply with the standards of Table 2.04F. For a land division, at least one lot shall be sized to meet each of the required lot size ranges listed in Table 2.04F for each site, except that smaller required lots may be combined to create larger required lots.

D. Master Planning Requirement

1. A master development plan shall be approved by the City Council for the entire area designated SWIR on the Comprehensive Land Use Plan Map, prior to annexation of any property within the SWIR Comprehensive Plan Map designation. The master plan shall be conceptual and non-binding in nature, but may be used as a general guide for development within the SWIR.
2. The required master plan shall show:
 - a. The location and rights-of-way for existing and planned streets, which shall provide access to all existing and proposed parcels, consistent with the Transportation System Plan;
 - b. The location and size of existing and planned sanitary sewer, storm water and water

facilities, at adequate levels to serve existing and proposed industrial development;

- c. The location and area of the Riparian Corridor and Wetlands Overlay District (RCWOD) as it affects existing and proposed industrial parcels. Planned streets and public facilities that cannot reasonably avoid the RCWOD shall be indicated;
- d. Parcels consistent with the lot sizes indicated in Table 2.05B;
- e. Pedestrian and bicycle connections consistent with the TSP.

E. Removal of the SWIR Zone

Removal of the SWIR zone from any area or parcel shall require the following:

- 1. A revised Economic Opportunities Analysis and Industrial Site Suitability Analysis, consistent with the Goal 9 Rule (OAR Chapter 660, Division 9);
- 2. A new Statewide Planning Goal 2 Exception that explains why other land within or adjacent to the UGB, that does not require an exception, cannot meet the purported need;
- 3. A Comprehensive Plan Amendment that demonstrates compliance with all applicable Statewide Planning Goals, applicable goals and policies of the Marion County Framework Plan, and applicable goals and policies of the Comprehensive Plan;
- 4. A Zoning Map amendment that demonstrates consistency with the Comprehensive Plan.

2.05.04 Federal Emergency Management Agency Overlay

- A. All development on lots that are encumbered, partially encumbered, or otherwise in contact with, any FEMA-designated Special Flood Hazard Area are hereby subject to the regulations and requirements set forth in the Woodburn FEMA NFIP-ESA Ordinance, Ordinance XXXX or any subsequent ordinance that may replace, repeal, or further it.
- B. Any decision requiring permits through this Section are hereby designated as a Type III Decision per 5.03.13.

5.03 Type III (Quasi-Judicial) Decisions

5.03 General Requirements

- A. The purpose of this Section is to identify what types of actions are considered Type III decisions. Type III decisions involve significant discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Council, except upon appeal. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the Planning Commission or Design Review Board hearing is published and mailed to the applicant, recognized neighborhood associations and property owners. The decision of the Planning Commission or Design Review Board is appealable to the City Council. The City Council's decision is the City's final decision and is appealable to the Land Use Board of Appeals.
- B. To initiate consideration of a Type III decision, a complete City application, accompanying information, and filing fee must be submitted to the Director. The Director will evaluate the application as outlined in this Section.

5.03.01 Conditional Use

5.03.02 Design Review, Type III

5.03.03 Adjustment to Street Improvement Requirements ("Street Adjustment")

5.03.04 Manufactured Dwelling Park, Preliminary Approval

5.03.05 Phasing Plan for a Subdivision, PUD, Manufactured Dwelling Park or any other Land Use Permit

5.03.06 Planned Unit Development (PUD), Preliminary Plan Approval

5.03.07 Planned Unit Development (PUD), Design Plan Final Approval

5.03.08 Special Conditional Use - Historically or Architecturally Significant Building

5.03.09 Special Use as a Conditional Use

5.03.10 Subdivision Preliminary Approval

5.03.11 Telecommunications Facility, Specific Conditional Use

5.03.12 Variance

5.03.01 Conditional Use

- A. Purpose: A conditional use is an activity which is permitted in a zone but which, because of some characteristics, is not entirely compatible with other uses allowed in the zone, and cannot be permitted outright. A public hearing is held by the Planning Commission and conditions may be imposed to offset impacts and make the use as compatible as practical with surrounding uses. Conditions can also be imposed to make the use conform to the requirements of this Ordinance and with other applicable criteria and standards. Conditions that decrease the minimum standards of a development standard require variance approval.

- 1) Aesthetics; and
- 2) Vehicular traffic.
2. The conformance of the proposed use with applicable Comprehensive Plan policies; and
3. The suitability of proposed conditions of approval to ensure adequate public facilities are available to serve the site and compatibility with other uses in the vicinity.
4. The specific standards and criteria this ordinance (Section 2.08.03) shall be met.

5.03.02 Variance

- A. Purpose: The purpose of this Type III Variance is to allow use of a property in a way that would otherwise be prohibited by this Ordinance. Uses not allowed in a particular zone are not subject to the variance process. Standards set by statute relating to siting of manufactured homes on individual lots; siding and roof of manufactured homes; and manufactured home and dwelling park improvements are non-variable.
- B. Criteria: A variance may be granted to allow a deviation from development standard of this ordinance where the following criteria are met:
 1. Strict adherence to the standards of this ordinance is not possible or imposes an excessive burden on the property owner, and
 2. Variance to the standards will not unreasonably impact existing or potential uses or development on the subject property or adjacent properties.
- C. Factors to Consider: A determination of whether the criteria are satisfied involves balancing competing and conflicting interests. The factors that are listed below are not criteria and are not intended to be an exclusive list and are used as a guide in determining whether the criteria are met.
 1. The variance is necessary to prevent unnecessary hardship relating to the land or structure, which would cause the property to be unbuildable by application of this Ordinance. Factors to consider in determining whether hardship exists, include:
 - a. Physical circumstances over which the applicant has no control related to the piece of property involved that distinguish it from other land in the zone, including but not limited to, lot size, shape, and topography.
 - b. Whether reasonable use similar to other properties can be made of the property without the variance.
 - c. Whether the hardship was created by the person requesting the variance.
 2. Development consistent with the request will not be materially injurious to adjacent properties. Factors to be considered in determining whether development consistent with the variance materially injurious include, but are not limited to:
 - a. Physical impacts such development will have because of the variance, such

as visual, noise, traffic and drainage, erosion and landslide hazards.

- b. Incremental impacts occurring as a result of the proposed variance.
- 3. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected because of the variance.
- 4. Whether the variance is the minimum deviation necessary to make reasonable economic use of the property;
- 5. Whether the variance conflicts with the Woodburn Comprehensive Plan.
- 6. If and where a variance includes a request to vary from minimum public improvements per Section 3.01, from Section 5.02.04E about Street Adjustment factors, those factors are applicable as Variance additional factors.

5.03.03 FEMA Special Flood Hazard Area Permit

- A. Purpose: The purpose of this Type III Decision is to verify, and make a determination on, the information and decisions presented in a Special Flood Hazard Area permit. All permitting required under Ordinance XXXX are subject to this decision process.
- B. Factors to Consider: Applicants are required to obtain a report, written by a qualified professional, stating the impacts of their proposal and mitigation efforts needed to meet “no net loss” standards, alongside a wetland delineation report if required, stormwater management plans, and other documents as required.
 - a. The term “qualified professional” is not clearly defined, determining the level of qualification needed for the information provided requires analysis.
 - b. Determine if the mitigation efforts suggested meet the standards set forth by FEMA.
 - c. Determine if the applicants proposal and the conditions imposed by the Planning Department are in line with City requirements.

OPTION 1 PROPOSED ORDINANCE "Model Code" EXHIBIT 103

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. Definitions.

(A) "Area of Special Flood Hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FIRM. Zone A is usually refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH or AR/A. (Amended by Ordinance 2253, January 10, 2000)

(B) "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." (Amended by Ordinance 2253, January 10, 2000)

(C) "Base Flood Elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.

(D) "Development" means any man-made changes to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

(E) "FIRM". An acronym for Flood Insurance Rate Map. This is the official map of the community, on which has been delineated both the special hazard areas and the risk premium zones applicable to the City of Woodburn. (Amended by Ordinance 2253, January 10, 2000)

(F) "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas.

(G) "Oregon Implementation Plan" refers to the 2024 FEMA Draft Implementation Plan for NFIP-ESA Integration in Oregon.

(H) "Floodway" means the channel of a stream or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing water surface elevations more than one (1) foot.

(I) "Fill" is the placement of any materials such as soil, gravel, crushed stone or other materials that change the elevation of the floodplain.

(J) “Fish Accessible Space” is the volumetric space available for fish to access.

(K) “Fish Egress-able Space” is the volumetric space available for fish to exit or leave “fish accessible space”.

(L) “Flood Elevation Study, Flood Insurance Study” means an examination, evaluation, and determination of flood hazards or flood-related erosion standards.

(M) “Habitat Restoration Activities” are activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include any ancillary structures and must demonstrate that no rise in the BFE would occur as a result of the project.

(N) “Highest adjacent grade” The highest natural elevation of the ground surface prior to construction.

(O) “Impervious Surface” a surface that cannot be significantly penetrated by water and thereby prevents infiltration and increases the amount of, and rate of, surface water runoff.

(P) “Low Impact Development” Is an approach to development that utilizes designing and implementing practices that can be employed to control stormwater and replicate the predevelopment hydrology of the site.

(Q) “Mean Higher-High Water” is the average of higher-high water height of each tidal day.

(R) “No Net Loss” a standard where adverse impacts must be avoided or offset through adherence to certain requirements so that there is no net change in the function from the existing condition when a development application is submitted to the City. The core floodplain functions of storage, water quality, and vegetation must be maintained or mitigated.

(S) “Ordinary High Water Mark (OHWM)” means the line on the shore or bank established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on a bank, changes in soil characteristics, changes in terrestrial vegetation, the presence of debris, or other appropriate means that consider the characteristics of the surrounding area.

(T) “Qualified Professional” means an appropriate subject matter as defined by the community, state, or federal guidelines.

(U) “Riparian Buffer Zone (RBZ)” is a boundary of which that is measured from the Ordinary High Water Mark of a fresh water body to ~~170~~ 50 feet horizontally on each

side of a stream or wetland. If/when the RBZ is larger than the SFHA, then “no net loss” standards shall only apply to the SFHA.

Section 2. Purpose. It is the purpose of this ordinance to comply with the requirements outlined in the 2024 FEMA Draft Implementation Plan for NFIP-ESA integration in Oregon (“Oregon Implementation Plan”) and to supplement the City of Woodburn Flood Plain Management Ordinance to better integrate Endangered Species protections in special flood hazard areas as defined in this ordinance.

Section 3. General Provisions.

a. LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all special flood hazard areas, including but not limited to FEMA Special Flood Hazard Areas.

b. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS

(SEE ORDINANCE 2253: “DESIGNATION OF A FLOODPLAIN MANAGER”)

c. COORDINATION WITH STATE OF OREGON SPECIALTY CODES

Pursuant to the requirement established in ORS 455 that the City of Woodburn administers and enforces the State of Oregon Specialty Codes, the City of Woodburn does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this ordinance is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

Section 4. Compliance and Penalties.

a. COMPLIANCE

All development within special flood hazard areas is subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations.

b. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and

safeguards established in connection with conditions) shall constitute a [SPECIFY LEGAL] Nothing contained herein shall prevent the City of Woodburn from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 5. Abrogation and Severability

a. ABROGATION

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

b. SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 6. Liability

a. WARNING

The degree of Flood Protection required by this ordinance is considered reasonable for regulatory purposes and is based on federal scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes The Special Flood Hazard Area boundaries are an estimate based on survey data and may be inaccurate. This ordinance does not imply that any land outside of the areas of SFHAs or uses permitted in such areas will be free from flooding or damages.

b. DISCLAIMER OF LIABILITY

This ordinance shall not create liability on the part of the City of Woodburn, any officer or employee thereof, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 7. Variances

- a. Superseding prior ordinances, a variance shall not be issued unless it is demonstrated that the development will not result in any net loss of pervious surface, critical habitat, or Significant Trees as defined in the Woodburn Development Ordinance.

- b. Through a Variance, the City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that conditional approval has been obtained by the Federal Insurance Administrator through the Conditional Letter of Map Revision (CLOMR) application process, all requirements established under 44 CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in section 8.

Section 8. Standards for Protection of Floodplain Functions

Adherent to the NMFS 2016 Biological Opinion, mitigation is likely necessary to ensure a no net loss in floodplain functions during development. FEMA's 2024 Draft Oregon Implementation Plan identifies proxies that provide measurable actions that can prevent the no net loss of the parent floodplain functions. These proxies include undeveloped space, pervious surfaces, and trees to account for a no net loss in respective floodplain functions of floodplain storage, water quality, and vegetation.

Mitigation of these proxies must be completed to ensure compliance with no net loss standards. No net loss applies to the net change in floodplain functions as compared to existing conditions at the time of proposed development and mitigation must be addressed to the floodplain function that is receiving the detrimental impact. The standards described below apply to all special flood hazard areas as defined in Section 1. Other methods and measures of mitigation may be accepted under the discretion of the Director and/or Floodplain Manager.

- A. No net loss of the proxies for the floodplain functions mentioned in Section 8 is required for development in the special flood hazard area that would reduce undeveloped critical habitat, increase impervious surface, or result in a loss of trees that are 24-inches diameter-at-breast-height (dbh) or greater. No net loss can be achieved by first avoiding negative effects to floodplain functions to the degree possible, then minimizing remaining effects, then replacing and/or otherwise compensating for, offsetting, or rectifying the residual adverse effects to the defined functions and attributes.
- B. Compliance with no net loss for undeveloped space or impervious surface is preferred to occur prior to the loss of habitat function but, at a minimum, shall occur concurrent with the loss.
- C. Development proposals shall not reduce the fish-accessible and egress-able habitat and flood storage volume created by undeveloped space within the special flood hazard area. A development proposal with an activity that would impact undeveloped space shall achieve no net loss of fish accessible and egress-able space and flood storage volume.
- D. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratios set forth in WDO SECTION XXXXX and

be hydrologically connected to the waterbody that is the flooding source & be designed so that there is no significant increase in flow velocity.

- E. Impervious surface mitigation shall be mitigated through any of the following options:
 - a. Development proposals shall not result in a net increase in impervious surface area within the SFHA through the use of ratios prescribed in TABLE X, [INCLUDE?]
 - b. Use low impact development or green infrastructure to infiltrate and treat stormwater produced by the new impervious surface, as documented by a qualified professional, or
 - c. If prior methods are not feasible and documented by a qualified professional stormwater retention is required to ensure no increase in peak volume or flow and to maximize infiltration, and treatment is required to minimize pollutant loading.
- F. Development proposals shall result in no net loss of trees 24-inches dbh or greater within the special flood hazard area.
- G. Trees of or exceeding 24-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in WDO Section XXXX and planted within the special flood hazard area.
- H. Replacement trees must be native species that would occur naturally in the ecoregion of the impact area.

Section 9. Stormwater Management

A. Water Treatment and Detention

- a. Water quality/pollution management treatment for post-construction stormwater runoff is required for any net increase in impervious area.
- b. Stormwater retention or detention facilities may be required at Director and/or Floodplain Manager or City Engineer discretion.
- c. Any treatment facility or installation must limit discharge to match pre-development discharge rates for the 10-year peak flow.
- d. Any treatment facility or installation must remove sediment and pollutants from impervious surfaces such that at least 80 percent of suspended solids are removed from stormwater prior to discharge.

B. Stormwater treatment practices for multi-parcel facilities, including subdivisions, shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include:

- a. Access to stormwater treatment facilities at the site by the City for the purpose of inspection and repair.

- b. A legally binding document specifying the parties responsible for the proper maintenance of the stormwater treatment facilities.
- c. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.
- d. For stormwater controls that include vegetation and/or soil permeability, the operation and maintenance manual must include maintenance of these elements to maintain the functionality of the feature.
- e. The responsible party for the operation and maintenance of the stormwater facility shall have the operation and maintenance manual on site and available at all times.
- f. Records of the 1293 maintenance and repairs shall be retained and made available for inspection by the City or Marion County as applicable for five years.

Section 10. Activities Exempt From No Net Loss Standards

The following activities are not subject to the no net loss standards in Section 8; however, they may not be exempt from floodplain development permit requirements.

A. Normal maintenance of structures, such as re-roofing and replacing siding, provided there is no change in the footprint or expansion of the roof of the structure;

B. Normal street, sidewalk, and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, that does not alter contours, use, or alter culverts and is less than six inches above grade. Activities exempt do not include expansion of paved areas;

C. Routine maintenance of landscaping that does not involve grading, excavation, or filling;

D. Routine agricultural practices such as tilling, plowing, harvesting, soil amendments, and ditch cleaning that does not alter the ditch configuration provided the spoils are removed from special flood hazard area or tilled into fields as a soil amendment;

E. Routine silviculture practices (harvesting of trees), including hazardous fuels reduction and hazard tree removal as long as root balls are left in place;

F. Removal of noxious weeds and hazard trees, and replacement of non-native vegetation with native vegetation;

G. Normal maintenance of above ground utilities and facilities, such as replacing downed power lines and utility poles provided there is no net change in footprint;

H. Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility. Normal maintenance does not include repair from flood damage, expansion of the prism, expansion of the face or toe or addition of protection on the face or toe with rock armor.

I. Habitat restoration activities.

J. Pre-emptive removal of documented susceptible trees to manage the spread of invasive species.

K. Projects that are covered under separate consultations under Section 4(d), 7, or 10 of the Endangered Species Act (ESA).

Section 11. Riparian Buffer Zone

A. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) or mean higher-high water of a marine shoreline or tidally influenced river reach to 50 feet horizontally on each side of the stream or inland of the MHHW. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.

B. Functionally dependent uses are only subject to the no net loss standards in Section 8 for development in the RBZ. Ancillary features that are associated with but do not directly impact the functionally dependent use in the RBZ (including manufacturing support facilities and restrooms) are subject to the beneficial gain standard in addition to no net loss standards.

C. Any other use of the RBZ requires a greater offset to achieve no net loss of floodplain functions, on top of the no net loss standards described above, through the beneficial gain standard.

D. Under FEMA's beneficial gain standard, an area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous, shrub and tree vegetation.

OPTION 2 PROPOSED ORDINANCE "Permit-by-Permit" EXHIBIT 104

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. For purposes of this ordinance amendment, all new text is shown as underlined and red (i.e. new text) and all deleted text is shown as stricken (i.e. deleted text). After this ordinance amendment is adopted, the Community Development Director shall update the WDO and the Comprehensive Plan to incorporate all revisions contained herein.

Section 2. The WDO is amended as specified in Exhibit A that is attached hereto.

Woodburn Development Ordinance

WDO

Adopted by Ordinance 2313 on April 9, 2002

Acknowledged December 22, 2006

Amendments:

Ordinance 2423 on July 28, 2007

Ordinance 2446 on Sept. 8, 2008

Ordinance 2465 on Mar. 24, 2010

Ordinance 2473 on Dec. 13, 2010

Ordinance 2480 on Sept. 26, 2011

Ordinance 2492 on Sept. 10, 2012

Ordinance 2509 on Aug. 12, 2013

Ordinance 2510 on Sept. 23, 2013

Ordinance 2520 on July 28, 2014

Ordinance 2526 on Feb. 9, 2015

Ordinance 2538 on Sept. 26, 2016

Ordinance 2541 on Nov. 14, 2016

Ordinance 2544 on Jan. 9, 2017

Ordinance 2561 on July 9, 2018

Ordinance 2562 on Sept. 10, 2018

Ordinance 2573 on June 24, 2019

Ordinance 2579 on Apr. 13, 2020

Ordinance 2602 on May 9, 2022 (LA 21-01)

Ordinance 2603 on June 13, 2022 (LA 21-02)

Ordinance 2621 on Feb. 26, 2024 (LA 21-03)

Ordinance 2629 on July 22, 2024 (LA 24-02)

[Ordinance 2757 on May 22, 2025 \(LA 25-01\)](#)

2.05.01 Riparian Corridor and Wetlands Overlay District

A. Purpose

The Riparian Corridor and Wetlands Overlay District (RCWOD) is intended to conserve, protect and enhance significant riparian corridors, wetlands, and undeveloped floodplains in keeping with the goals and policies of the Comprehensive Plan. The RCWOD is further intended to protect and enhance water quality, prevent property damage during floods and storms, limit development activity in designated areas, protect native plant species, maintain and enhance fish and wildlife habitats, and conserve scenic and recreational values.

B. Boundaries of the RCWOD

1. The RCWOD includes:
 - a. Riparian corridors extending upland 50 feet from the top of the bank of the main stem of Senecal Creek and Mill Creek and those reaches of their tributaries identified as fish-bearing perennial streams on the Woodburn Wetlands Inventory Map; and
 - b. Significant wetlands identified on the Woodburn Wetlands Inventory Map. Where significant wetlands are located fully or partially within a riparian corridor, the RCWOD shall extend 50 feet from the edge of the wetland; and
 - c. The 100-year floodplain on properties identified as vacant or partly vacant on the 2005 Woodburn Buildable Lands Inventory.
2. The approximate boundaries of the RCWOD are shown on the Zoning Map. The precise boundaries for any particular lot should be verified by the property owner when making a land use application. Map errors may be corrected as provided in this Ordinance (Section 1.02.04).

C. Permitted Uses and activities

The following uses and activities are allowed, provided they are designed and constructed to minimize intrusion into the RCWOD and that the uses and activities do not occur on a lot or parcel that is fully or partially encumbered by the FEMA Special Flood Hazard Area.

1. Erosion or flood control measures that have been approved by the Oregon Department of State Lands, the U.S. Army Corps of engineers, or another state or federal regulatory agency
2. Maintenance of existing structures, lawns and gardens
3. Passive recreation uses and activities
4. Removal of non-native plant species and replacement with native plant species
5. Public streets and off-street public bicycle/pedestrian facilities that other WDO sections require.
6. Utilities
7. Water-related and water-dependent uses, including drainage facilities, water and sewer facilities, flood control projects, drainage pumps, public paths, vehicular means of access to such uses, trails, picnic areas or interpretive and educational displays and

overlooks, including benches and outdoor furniture.

D. Prohibited Uses and Activities

1. New buildings or structures or impervious surfaces, except for replacement of existing structures within the original building footprint
2. Expansion of existing buildings or structures or impervious surfaces
3. Expansion of areas of pre-existing non-native landscaping such as lawn, gardens, etc.
4. Dumping, piling, or disposal of refuse, yard debris, or other material
5. Removal of vegetation except for:
 - a. Uses permitted by this Section
 - b. Perimeter mowing of a wetland for fire protection purposes;
 - c. Water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the existing riparian vegetation;
 - d. Removal of emergent in-channel vegetation that has the potential to cause flooding;
 - e. Hazardous tree removal.
6. Grading, excavation and the placement of fill except for uses permitted by this Section.

E. Variances

The restrictions of this Section may be reduced or removed if they render an existing lot or parcel unbuildable or work an excessive hardship on the property owner. The reduction or removal shall be decided through the Variance process. If the proposed activity falls within or occurs on a lot that is encumbered or partially encumbered by the FEMA Special Flood Hazard Area, the restrictions of this section may not be reduced or removed.

F. Site Maintenance

1. Any use, sign or structure, and the maintenance thereof, lawfully existing on the date of adoption of this ordinance, is permitted within the RCWOD. Such use, sign or structure may continue at a similar level and manner as existed on the date of the adoption of this ordinance.
2. The maintenance and alteration of pre-existing ornamental landscaping is permitted as long as no native vegetation is disturbed. Maintenance of lawns, planted vegetation and landscaping shall be kept to a minimum and not include the spraying of pesticides or herbicides. Vegetation that is removed shall be replanted with native species. Maintenance trimming of existing trees shall be kept at a minimum and under no circumstances can the trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions. Vegetation within utility easements shall be kept in a natural state and replanted when necessary with native plant species.

G. Site Plan

When a use or activity that requires the issuance of a building permit or approval of a land use application is proposed on a parcel within, or partially within the RCWOD, the property owner shall submit a site plan to scale showing the location of the top-of-bank, 100-year flood elevation, jurisdictional delineation of the wetland boundary approved by the Oregon

Department of State Lands (if applicable), riparian setback, existing vegetation, existing and proposed site improvements, topography, and other relevant features.

H. Special Flood Hazard Area Requirements

In addition to any information necessary to satisfy this section, a permit application must include a Flood Habitat Assessment Report conducted by a qualified professional evaluating any negative impact to floodplain functions and identifying appropriate mitigation measures necessary to ensure that any proposed development will be in compliance with the 2016 National Marine Fisheries Services (NMFS) Biological Opinion (BiOp) “no net loss” standards. All mitigation recommendations contained within the submitted report shall be included as conditions of approval for permit issuance.

I. Coordination with the Department of State Lands

The Oregon Department of State Lands shall be notified in writing of all applications to the City for development activities, including applications for plan and/or zone amendments, development or building permits, as well as any development proposals by the City that may affect any wetlands, creeks or waterways.



Agenda Item

April 14, 2025

TO: Honorable Mayor and City Council through City Administrator

FROM: Chris Kerr, Community Development Director
Dago Garcia, City Engineer

SUBJECT: **Initiate Amendments of the Woodburn Development Ordinance (WDO) and the City's Floodplain Management Ordinance necessary for conformance with the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon (LA 2025-01)**

RECOMMENDATION:

Adopt the attached Resolution initiating the legislative amendment process for amending the Woodburn Development Ordinance and the Woodburn Flood Plain Management Ordinance.

BACKGROUND:

The Federal Emergency Management Agency's (FEMA's) mission is to help people before, during, and after disasters. The National Floor Insurance Program (NFIP) was created by the U.S. Congress in 1968 to help minimize the costs of disaster relief and reduce the loss of life and property caused by flooding. NFIP-participating communities (which includes Woodburn) are then required to maintain state and local floodplain management regulations that reduce future flood damage. The regulations include construction methods and details that must be followed when constructing within flood management areas, and they control the alteration of the floodplain so as not to increase flood damage risk. As a result of the City participating in the NFIP, property owners within the City limits are eligible to purchase federally backed flood insurance policies.

As a federal agency, FEMA must also consider whether NFIP activities affect threatened and endangered species protected by the Endangered Species Act (ESA).

In 2009, FEMA was sued by several environmental groups in Oregon for failing to adequately consider the effects of the NFIP on ESA listed species and their habitat

Agenda Item Review: City Administrator ___x___ City Attorney ___x___ Finance ___x___

in Oregon. In 2010, FEMA settled; agreed to consult regarding the effects of the NFIP in Oregon on threatened and endangered species and designated critical habitat.

In April 2016, the National Marine Fisheries Service issued the Oregon NFIP Biological Opinion (BiOp). The BiOp concluded FEMA's implementation of the NFIP in Oregon jeopardizes the continued existence of threatened and endangered species and adversely modifies designated critical habitat. Subsequently, FEMA has been evaluating proposed changes to the NFIP through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).

The Final Implementation Plan for the proposed changes is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities have been directed by FEMA to begin taking action to protect habitat and achieve what is called "no net loss."

Since last fall, FEMA has offered certain workshops and assistance for local communities to learn more in order to implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

NFIP Communities have been directed to select one of the following three PICMs:

- 1) Prohibit all new development in the floodplain.
- 2) Incorporate the ESA into local floodplain ordinances (based on a model ordinance developed by FEMA).
- 3) Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve "no net loss."

Option #1 is draconian and unrealistic due the severe impacts on property owners in the city. Option #2 (adoption of the PICM model floodplain ordinance) by a community is intended to ensure that development meets ESA compliance as performance standards are built into the code. Option #3, a/k/a "Permit-by-Permit" approach would require each individual development application to analyze potential loss to floodplain functions and propose mitigation that abides by the mitigation requirements outlined in the habitat assessment guide and ensures no net loss of the impacted functions.

Communities must report to FEMA on their implementation of interim measures. Based on FEMA's timeframe for election of the PICMs (Dec 1, 2024), the City has been "defaulted" to the permit-by-permit option described above, but it may still choose to adopt the FEMA model ordinance by incorporating their model code into the applicable sections of our WDO and related floodplain management regulations.

While participation in the NFIP is voluntary, nonparticipating flood-prone communities and communities who have withdrawn or are suspended from the program face the following sanctions:

1. No resident will be able to purchase a flood insurance policy.
2. Existing flood insurance policies will not be renewed.
3. No Federal grants or loans for development may be made in identified flood hazard areas under programs administered by Federal agencies such as HUD, EPA, and SBA;
4. No Federal disaster assistance may be provided to repair insurable buildings located in identified flood hazard areas for damage caused by a flood.
5. No Federal mortgage insurance or loan guarantees may be provided in identified flood hazard areas. This includes policies written by FHA, VA, and others.
6. Federally insured or regulated lending institutions such as banks and credit unions must notify applicants seeking loans for insurable buildings in flood hazard areas that there is a flood hazard and that the property is not eligible for Federal disaster relief.

Rather than risk suspension or removal from the NFIP, City staff feel strongly that the City should initiate an ordinance adoption process to meet the implementation deadlines currently set by FEMA (July 31, 2025).

While a group of local governments in the State are seeking a preliminary injunction against the new NFIP directives, and the City is closely monitoring that litigation for any decision that may halt or delay implementation of the PICMs, staff want to be prepared with an adoption option regardless of such outcome.

DISCUSSION:

The City is proposing amendments to the Woodburn Development Ordinance and Woodburn Floodplain Ordinance to comply with the PICM. In the coming weeks, staff will complete its detailed technical and legal analysis of Options #2 and #3 of the three PICM options (adoption of the model code or establish an individual permit-by-permit site habitat assessment) to determine which option to carry forward for recommended adoption. In general, the code amendments will be directed by FEMA to protect habitat and achieve “no net loss” measures that will avoid, minimize, and mitigate impacts to Upper Willamette salmonoid species in the floodplain areas. The goal is for floodplain development in Woodburn to achieve

“no net loss” to beneficial floodplain functions which would look like no net increase in fill, no net increase in impervious surfaces, and no net loss of trees.

Both PICM options—the model code and the habitat assessment—present administrative challenges, however:

- Adoption of specific code provisions will provide a clearer road map for staff and applicants, but the current model has not been reviewed by the state (DLCD) and may fail to meet Oregon housing requirements of being “clear and objective.”
- Applicants likely will need to retain consultant services for both options, but the site-by-site habitat assessment approach likely would require these to a greater degree.
- Under the site-by-site habitat assessment approach, it would be advisable for the County to retain a third-party reviewer with the necessary professional expertise to review the habitat assessments submitted by applicants. There are additional administrative costs associated with executing and managing this type of contract.

The proposed amendments will be reviewed and processed as Type 4 Legislative Amendments to the WDO. Currently, staff is aiming for the Woodburn Planning Commission to hold a public hearing on May 22, 2025, to consider the amendments. The Commission is expected to close the public hearing and deliberate on the proposed amendments that night. The Commission will then make a recommendation to the City Council. It is expected that a City Council public hearing on the amendments will occur in June.

Woodburn properties that may be affected by the code amendments (e.g. those located within the Special Flood Hazard Area) will be mailed notice 20-40 days prior to the first public hearing on this matter.

FINANCIAL IMPACT:

None.

Attachments:

- FEMA Letter to NFIP-Participating Communities – July 15, 2024
- FEMA – Pre-Implementation Compliance Measures Fact Sheets
- Oregon Department of Land Conservation & Development (DLCD) PICM FAQ
- Map of Woodburn Special Flood Hazard Areas



FEMA

July 15, 2024

Frank Lonergan
270 Montgomery Street
Woodburn, Oregon 97071

Dear Frank Lonergan:

The purpose of this letter is to announce the start of the United States Department of Homeland Security's Federal Emergency Management Agency's (FEMA) Pre-Implementation Compliance Measures (PICM) for National Flood Insurance Program (NFIP) participating communities in Oregon. The intent of PICM is to ensure the continued existence of threatened or endangered species in compliance with the Endangered Species Act (ESA). These measures include coordination with communities to provide appropriate technical assistance, help identify available resources, deliver trainings, and facilitate workshops to ensure on-going community participation in the NFIP. These pre-implementation compliance measures will assist communities in preparing for the Final NFIP-ESA Implementation Plan by helping them develop short and long-term solutions to ensure their on-going participation in the NFIP.

FEMA is currently conducting a National Environmental Policy Act (NEPA) evaluation of impacts associated with the Oregon NFIP-ESA Implementation Plan. FEMA developed this plan, in part, due to a Biological Opinion in 2016 from National Marine Fisheries Services. The Biological Opinion recommended specific measures for FEMA to take to avoid jeopardizing endangered species, including interim compliance measures. The release of the Final Implementation Plan (Plan) is anticipated by 2026, following the Record of Decision in the Environmental Impact Statement (EIS) process, then FEMA will fully implement the Plan in 2027.

FEMA has heard concerns from several communities regarding challenges they are facing to meet the expectations of this Plan. To provide communities with the support needed to incorporate ESA considerations to their permitting of development in the floodplain, FEMA will inform, educate, and support our Oregon NFIP participating communities through the PICM before the Final Implementation Plan is released.

NFIP participating communities in Oregon must select one of the PICM pathways which include the following: (1) adopt a model ordinance that considers impacts to species and their habitat and requires mitigation to a no net loss standard; (2) choose to require a habitat assessment and mitigation plan for development on a permit-by-permit basis; or (3) putting in place a prohibition on floodplain development in the Special Flood Hazard Area (SFHA). Communities must pick a PICM pathway by December 1, 2024. If a community fails to inform FEMA of its selection, they will default to the permit-by-permit PICM pathway. Communities will be required to report their floodplain development activities to FEMA beginning in January of 2025. Failure to report may result in a compliance visit.

As a part of the PICM, FEMA will implement a delay in the processing of two types of Letters of Map Changes in the Oregon NFIP-ESA Implementation Plan area, specifically Letters of Map Changes associated with the placement of fill in the floodplain: Conditional Letter of Map Revision Based on Fill (CLOMR-F) and Letter of Map Revision Based on Fill (LOMR-F) requests. This action was specifically requested by NMFS in their 2016 Biological Opinion and serves to remove any perceived programmatic incentive of using fill in the floodplain. This delay in processing will begin on August 1, 2024, and will be in place until the Final Implementation Plan is released.

Your community's ongoing participation in the NFIP is critical, as it provides access to flood insurance for property owners, renters, and businesses. In City Of Woodburn there are currently 30 of NFIP policies in force representing \$8207000 in coverage for your community.

FEMA will be conducting informational virtual webinars this summer to provide an overview and status update for the Oregon NFIP-ESA integration, introduce the Pre-Implementation Compliance Measures, and provide an opportunity for Oregon NFIP floodplain managers to ask questions of FEMA staff. In the fall, FEMA will hold workshops to provide in-depth opportunities for local technical staff to work with FEMA technical staff, to understand and discuss issues relating to the PICM.

The webinars will be held virtually over Zoom. The information at each webinar is the same so your jurisdiction only needs to attend one. You can register for a webinar using the links below.

- Wednesday, July 31 at 3-5pm PT: <https://kearnswest.zoom.us/meeting/register/tZEkc-murjstGdPJiFioethjRk-id8N-k0hj>
- Tuesday, August 13 at 9:30-11:30am PT: <https://kearnswest.zoom.us/meeting/register/tZAod-isrTsqGN0KqckRLPPeaZuu4rv96lcR>
- Thursday, August 15 at 2-4pm PT: https://kearnswest.zoom.us/meeting/register/tZIqcOGpqDojHtTXaa946aI9dMpCTcJlH_zt
- Wednesday, August 21 at 12:30-2:30pm PT: <https://kearnswest.zoom.us/meeting/register/tZYqcuGsrD8rH9DZO22vG0v9KrNzVeUZA9gY>

FEMA will also develop a questionnaire to allow communities to identify how they currently incorporate or plan to incorporate ESA considerations, both in the short-term and long-term. To assist communities in making this determination, FEMA will be offering guidance on the potential pathways that help ensure current compliance. Communities will also be asked to help identify what technical assistance and training would be most beneficial. Feedback from this questionnaire will drive FEMA's engagement and outreach.

Upon completion of the Environmental Impact Statement review and determination, the Final Implementation Plan will be distributed along with several guidance documents and a series of Frequently Asked Questions. FEMA will also be starting NFIP Compliance Audits, in which we will be reviewing permits issued by communities for development in the floodplain and will expect the community to be able to demonstrate what actions are being taken to address ESA considerations.

If you have any questions, please contact us through our project email address fema-r10-mit-PICM@fema.dhs.gov. Thank you for your community's on-going efforts to reduce flood risk in your

Loneragan
July 15 2024
Page 3

community and for your support as we worked toward these milestones.

Sincerely,



Willie G. Nunn
Regional Administrator
FEMA Region 10

cc: ChrisKerr, City Of Woodburn
John Graves, Floodplain Management and Insurance Branch Chief
Deanna Wright, Oregon State National Flood Insurance Program Coordinator

Enclosure: Pre-Implementation Compliance Measures Fact Sheet

Oregon National Flood Insurance Program Endangered Species Act Integration

Pre-Implementation Compliance Measures Overview

Beginning this summer, FEMA will assist communities with coming changes to the National Flood Insurance Program (NFIP) in Oregon.

Why are the changes needed?

As the result of a Biological Opinion issued by the National Marine Fisheries Service, communities are required to demonstrate how floodplain development is compliant with the Endangered Species Act in Special Flood Hazard Areas. Changes are needed to protect the habitat of several species of fish and the Southern Resident killer whales to comply with the Endangered Species Act (ESA). FEMA outlined these changes in the [draft Oregon NFIP-ESA Implementation Plan](#).

Current status

FEMA is evaluating proposed changes to the NFIP outlined in the Implementation Plan through an environmental impact statement (EIS), in compliance with the National Environmental Policy Act (NEPA).

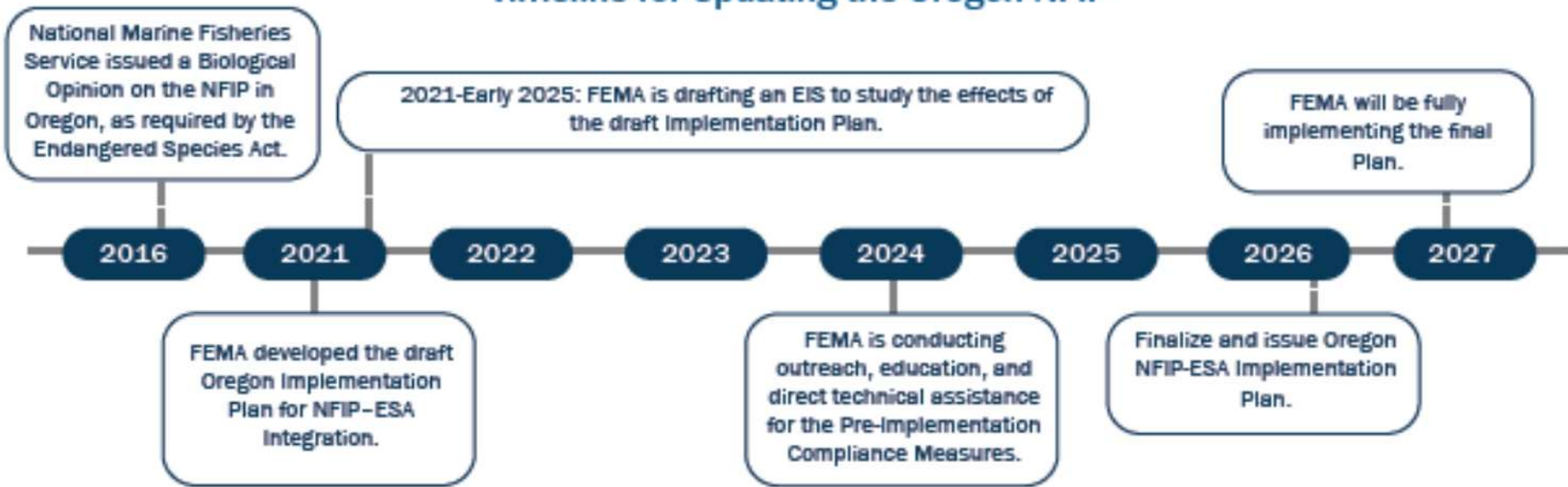


The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.

What is “no net loss”?
Any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

The Final Implementation Plan is anticipated by 2026 following the Record of Decision in the EIS process, then FEMA will fully implement the plan in 2027. Until then, communities need to begin taking action to protect habitat and achieve “no net loss.” FEMA is offering several resources for communities to learn more and implement interim measures, called Pre-Implementation Compliance Measures (PICMs).

Timeline for Updating the Oregon NFIP



What can communities do to comply with these changes?

Oregon communities participating in the NFIP can take short-term measures to comply with ESA requirements, known as PICMs. FEMA developed these measures in response to concerns from communities about the time and resources needed to meet requirements and ensure their future good standing in the NFIP. By implementing these measures now, communities will be better prepared for compliance audits, which will begin when the Final Implementation Plan is in place.

Communities can select one of the following three PICMs:

- Prohibit all new development in the floodplain.
- Incorporate the ESA into local floodplain ordinances.
- Require permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve “no net loss.”

Communities must report to FEMA on their implementation of interim measures.

In addition to the above measures, as of August 1, 2024, FEMA is temporarily suspending processing applications for Letters of Map Revision based on Fill (LOMR-Fs) and Conditional Letters of Map Revision based on Fill (CLOMR-Fs) in NFIP communities to avoid potentially negative effects on ESA-listed species.

FEMA is here to support your community.

FEMA is offering several resources to assist communities in preparing for the Oregon NFIP-ESA Implementation Plan.

- **Informational Webinars (Summer 2024):** Learn about what FEMA is doing to revise the Implementation Plan and receive an introduction to the PICMs.
- **Questionnaire (Summer 2024):** Share what floodplain management measures your community is currently implementing to comply with the ESA, which PICMs you’re most interested in, and what support you need. Your feedback will help us plan the fall workshops and identify needs for technical assistance.
- **Workshops (Fall 2024):** Get an in-depth look at PICMs and talk through questions and concerns with FEMA staff.
- **Technical Assistance (Begins in Fall 2024):** Get support from FEMA to begin implementing PICMs.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov

Pre-Implementation Compliance Measures Basics

What are PICMs?

Pre-Implementation Compliance Measures, also known as PICMS, are short-term measures that communities must adopt to comply with Endangered Species Act (ESA) requirements under the NFIP. FEMA has developed these measures to address Reasonable and Prudent Alternative (RPA) Element 2 (Interim Measures) in the 2016 National Fisheries and Marine Services (NMFS) Biological Opinion (BiOp). These interim measures are intended to occur as the agency undertakes a National Environmental Policy Act (NEPA) review to assess the effects of FEMA’s proposed NFIP-ESA integration efforts.

Under PICM, communities may select one of three compliance measures:

1. Prohibit all new development in the floodplain;
2. Incorporate the ESA performance standards into local floodplain ordinances through a model ordinance; or
3. Require permit applications to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area (SFHA) will achieve no net loss.

Which communities in Oregon are subject to PICM?

PICM, and future Oregon NFIP-ESA integration performance standards, apply to communities that are:

1. Located in the Oregon implementation area, as specified by the 2016 NMFS BiOp;
2. Participating in the NFIP; and
3. Have a mapped SFHA

PICM standards and requirements only apply to areas located within the SFHA.



What is no net loss?

Any development action resulting in negative impacts to one or more key floodplain functions that are then mitigated or avoided to offset said impacts.

In other words: when developing in the SFHA, all development actions must be adequately avoided or mitigated to ensure that floodplain functions can operate at the same capacity as before the development action occurred.

No Net Loss focuses on the floodplain functions of:

- Floodplain Storage
- Water Quality
- Vegetation

The NFIP is a national program, why is only Oregon subject to PICM?

NFIP-ESA integration is occurring in areas where FEMA has consulted with the US Fish and Wildlife Service (USFWS) and NMFS. FEMA consulted with NMFS to address changes needed to the NFIP program within Oregon’s Columbia River drainage basin and Coast to better protect ESA-listed species of salmonoids and southern resident killer whales within the area.

Other areas where consultations have occurred are in the Puget Sound of Washington, California, New Mexico, and Florida. Other ESA-listed species may have their needs addressed in the future in other parts of the country.

What authority allows FEMA to apply additional performance standards for No Net Loss?

Under 44 CFR 60.3(a)(2) a community must ensure that all other Federal, State and Local permits have been obtained when they are permitting a project in the SFHA. As such a local community must ensure that a “take permit” under section 10 of the ESA is not required. The NMFS Biological Opinion on the implementation of the NFIP in Oregon has determined that developing a floodplain may affect the three key floodplain functions and potentially cause take.

Therefore, a community must ensure that any project that has an adverse effect on those three functions mitigates for the effect to a no net loss standard. FEMA has been authorized take under the RPAs in the NMFS BiOp on the implementation of the NFIP in Oregon. A community participating in the NFIP can use the NFIP take authorization for coverage as long as they are abiding by the NFIP-ESA performance standards.

A community also has the option of seeking their own take coverage for a project through another federal nexus. They may also choose to develop a Habitat Conservation Plan for their floodplain development program under section 10 of the ESA and obtain their own take permit.

How long is PICM supposed to last?

PICM is intended to address ESA compliance as interim measures while the agency undertakes a NEPA review of FEMA’s proposed NFIP-ESA integration efforts. PICM will be required for communities through the remainder of the Environmental Impact Statement (EIS) process. Once the Record of Decision (ROD) for the EIS is issued, and thus marking the end of the EIS process, PICM will no longer be required. The ROD is expected to be issued in 2026.

When will PICM go into effect?

Communities must adopt and implement a PICM by **December 1st, 2024**. If communities do not select a PICM by this deadline, they will be defaulted to the Permit-by-Permit approach. Communities adopting the model ordinance, must ensure the ordinance is adopted by their community by July 31st, 2025. As communities work to adopt the ordinance, they will still be required to implement another PICM option between December 1st, 2024 and July 31st, 2025.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to access the model ordinance, habitat assessment guide, and read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov

Pre-Implementation Compliance Measure Selection

Understanding your community’s needs is essential to selecting a Pre-Implementation Compliance Measure (PICM) suited to you.

Under PICM, communities may select one of three measures to ensure Endangered Species Act (ESA) compliance:

- Prohibit all new development in the floodplain;
- Incorporate the ESA performance standards into local floodplain ordinances through the PICM Model Ordinance; or
- Require permit applications to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area (SFHA) will achieve no net loss.

PICM, and future Oregon NFIP-ESA integration performance standards apply to the following communities:

- Located within the NFIP-ESA implementation area;
- Participating in the NFIP; and
- Have a mapped Special Flood Hazard Area (SFHA)

Furthermore, portions of the community that do not fit the above criteria are not subject to PICM. **PICM standards and requirements do not extend beyond the SFHA.**

Understanding the PICM Options

The 2016 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp) identifies that FEMA’s interim compliance with the ESA must require communities to:

- Prohibit all NFIP-related actions in the SFHA; **or**
- Determine the presence of fish or critical habitat, assess permit applications for potential impacts to species and habitat, and require that any action with potential adverse effects be fully mitigated with no net loss of floodplain functions.

The PICM Model Ordinance and Permit-by-Permit approaches attempt to mitigate impacts of development and ensure no net loss of floodplain functions.

Adoption of the PICM model floodplain ordinance by a community would ensure that development meets ESA compliance as performance standards are built into the code.

A Permit-by-Permit approach would require development applications to analyze potential loss to floodplain functions and propose mitigation that abides by the mitigation requirements outlined in the habitat assessment guide and ensures no net loss of the impacted functions.

What is the main difference between the PICM Model Ordinance and Permit-by-Permit approaches?

Both the PICM Model Ordinance and Permit-by-Permit approaches require a community to analyze and determine the potential loss to three key floodplain functions (floodplain storage, water quality, and vegetation) and required mitigation for any loss to those functions by using pre-determined ratios. Mitigation ratios are provided to ensure that permitted development meets the No Net Loss standards without having to do further analysis of mitigation options to comply with the ESA. For instance, the intrinsic habitat value of a single tree at 6” diameter breast height (dbh) in the Riparian Buffer Zone (RBZ) has already been factored into the ratios and requires a minimum of 3 trees to be planted to make up for the loss of habitat value at the development site.

Under the PICM Model Ordinance approach, compliance with NFIP-ESA integration standards for PICM are built into the code and therefore, no separate process is needed to ensure compliance. The Permit-by-Permit approach requires all new floodplain development analyze any negative impact to the floodplain functions and identify and implement appropriate mitigation measures to ensure NFIP-ESA compliance.

Is it possible to adopt the PICM Model Ordinance but also allow for a Permit-by-Permit approach for more complicated projects that do not necessarily fit into typical site development type of processes?

Both approaches require new development to analyze and determine the potential loss to the floodplain functions and mitigate for any loss to those functions at the required ratios specified in the PICM Model Ordinance and Habitat Assessment Guide. As development would require the same mitigation, a Permit-by-Permit approach and habitat assessment for a project would not be needed if a community has already adopted the Model Ordinance.

Would prohibiting all new development in the SFHA prevent habitat or floodplain restoration projects from being implemented?

The 2016 NMFS BiOp did not carve out exceptions under Element 2 of the RPA when proposing to prohibit all NFIP-related actions in the SFHA. However, FEMA would agree that restoration projects and a few other activities could be exempt from this PICM option if the community is careful in how they word the prohibition and exceptions.

How are communities expected to adopt a PICM?

Communities must use their locally adopted and required processes to ensure that they are able to legally implement the chosen PICM option.

What is the Habitat Assessment Guide and when is it used?

The Habitat Assessment Guide is used under the Permit-by-Permit approach. The guide provides a methodology to review and analyze potential loss to floodplain functions that a development might incur as well as guidance surrounding mitigation required to ensure NFIP-ESA requirements under PICM. A community may use this guide to review a submitted assessment for new development to ensure that the methodology for evaluating impacts and proper mitigation to achieve no net loss is being met.

Can a community change PICMs during this process?

Communities can change PICMs throughout the process but are required to implement their current PICM until their new measure is ready to be fully implemented.

How do communities make their selection known to FEMA?

Communities can notify FEMA of their PICM selection through an email to the FEMA-R10-MIT-PICM inbox.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to access the model ordinance, habitat assessment guide, and read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov

Oregon National Flood Insurance Program Endangered Species Act Integration

Pre-Implementation Compliance Measure Timeline

What is the timeline for implementing PICM?

Under PICM, communities may select one of three measures to ensure ESA compliance:

1. Prohibit all new development in the floodplain;
2. Incorporate the ESA performance standards into local floodplain ordinances through the PICM Model Ordinance; or
3. Require permit applications to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area (SFHA) will achieve no net loss.

Communities must adopt and implement a PICM by December 1st, 2024, ensuring any changes needed to implement this option have already been made.

Communities that do not select a PICM by December 1st, 2024, will be defaulted to the Permit-by-Permit approach.

Communities seeking to adopt performance standards into local floodplain ordinances through the PICM Model Ordinance will have until July 31st, 2025, to adopt ordinances and make necessary changes. However, the community must still implement another PICM between December 1st and July 31st to ensure ESA compliance in the interim.

Can communities request extensions?

No, communities must meet the established December 1st, 2024 deadline or default to a Permit-by-Permit approach. FEMA will work with communities to assess the status of the adoption and implementation of PICMs leading up to the deadline.

Are projects that obtained a development permit before December 1st required to meet PICM?

Existing projects with permits obtained before December 1st will not be subject to PICM.



PICM Reporting Requirements

Beginning January 31st, 2025, communities will be required to collect data elements related to the Reasonable and Prudent Alternative (RPA) 5 in the National Marine Fisheries Service (NMFS) 2016 Biological Opinion (BiOp). Collection of these data elements is required on all new floodplain development permits.

Required data elements for reporting include, but are not limited to:

- Applicant, project title, project description;
- Project location and size of project in SFHA, Riparian Buffer Zone (RBZ), and Floodway;
- Amount of fill added and compensatory storage created;
- Area of clearing and grading that occurred;
- Acres disconnected and reconnected to/from the floodplain;
- Amount of new impervious surface added;
- Type and amount of water quality mitigation provided;
- Number of trees removed and their size;
- Number of trees planted.

Communities will report this data back to FEMA via reporting toolkit on an annual basis, beginning January 31, 2026.

The reporting toolkit, when available, will be downloadable from FEMA's website.

Are projects permitted before PICM implementation, but where construction occurs after PICM begins, subject to PICM?

FEMA encourages communities to follow local vesting laws. The agency’s focus is on new permits and applications after December 1st. Construction of projects that were permitted before this deadline can continue as normal.

What if a community’s adoption process timeline does not allow us to meet the December 1st deadline of implementing a PICM?

While FEMA recognizes that the time it takes to implement a PICM varies by community, there is still an obligation to abide by ESA requirements. If a community cannot implement a PICM by the December 1st deadline, FEMA will work with the community to consider alternative options to remain compliant with ESA requirements in the interim.

How do communities make their selection known to FEMA?

Communities can notify FEMA of their PICM selection through an email to the FEMA-R10-MIT-PICM inbox. (FEMA-r10-mit-picm@fema.dhs.gov).

What penalties are communities looking at if they cannot meet the December deadline?

Communities will default to the permit-by-permit option if no selection was given to FEMA by December 1st. If FEMA does not hear from a community, the agency will contact them to identify what technical assistance is needed to implement PICM. If a community has no PICM implemented by July 31st, 2025, FEMA will prioritize an audit of floodplain development activities that occurred in the community, specifically focused on the PICM time-period to assess what has occurred and any mitigation that would have been required for development that occurred.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to access the reporting tool, model ordinance, habitat assessment guide, and read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov

Pre-Implementation Compliance Measure Mitigation

Why is mitigation required?

Unlike ESA implementation in the Puget Sound of Washington, the 2016 National Marine Fisheries Service (NMFS) Biological Opinion (BiOp) for Oregon allows for adverse effects to occur in the Special Flood Hazard Area (SFHA), as long as they result in a no net loss of floodplain functions. No Net Loss allows for mitigation and minimization of development and development-related impacts to occur in the SFHA, instead of just avoidance.

Under No Net Loss, development actions can occur as long as adverse actions are mitigated so floodplain functions can still operate at the same capacity as before the development action happened. Compliance of No Net Loss standards is most commonly achieved through the use of mitigation ratios.

What are the floodplain functions?

NMFS, in the 2016 BiOp, has identified three floodplain functions that must be mitigated when developing in the SFHA to ensure ESA compliance:

- Floodplain Storage
- Water Quality
- Vegetation

To make mitigating for these three functions measurable, FEMA has identified proxies for each of the functions that translate to potential development actions occurring in the floodplain. These proxies include:

- Undeveloped Space (Floodplain Storage)
- Pervious Surface (Water Quality)
- Trees (Vegetation)

PICM mitigation requirements include compensation for the loss of undeveloped space, pervious surface, and the removal of trees on a development site.

Floodplain Function	Proxy (No Net loss of)	Mitigates Against
Floodplain Storage	Undeveloped Space	Developed Space
Water Quality	Pervious Surfaces	Impervious Surface
Vegetation	Trees	Trees Removed

Floodplain functions, proxies, and actions mitigated against

Undeveloped Space

Undeveloped space is defined as the volume of flood capacity and fish-accessible (the ability of a fish to access a space) and fish-egress-able (the ability of a fish to exit a space) habitat from the existing ground to the Base Flood Elevation (BFE) that is undeveloped.

Any form of development that reduces this flood storage volume and fish accessible/egress-able habitat must be mitigated to achieve no net loss. Examples of this development include, but are not limited to:

- Addition of fill
- Structures
- Concrete structures (vaults or tanks)
- Pilings

Mitigation is required for the volumetric space that occupies the area between the existing ground and BFE. Proper mitigation includes creating an acceptable amount of undeveloped space between the existing ground and BFE as determined by the mitigation ratios.

Fish accessibility and egress-ability is a key component of floodplain storage, as it ensures we are maintaining habitat dynamics for ESA-listed species. Mitigating with ratios for undeveloped space will ensure you are also accounting for fish accessibility and egress-ability.

Pervious and Impervious Surfaces

Pervious surfaces are surfaces that can be penetrated by water and help regulate the rate of surface water runoff. Impervious surfaces are the opposite. They are surfaces that cannot be penetrated by water and thereby increase surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Impervious surfaces also heat up water as it travels to the waterbody and increase the overall temperature of the waterway. Additionally, impervious surfaces carry pollutants into the waterbody that would have otherwise been filtered out by pervious surfaces.

In PICM, there are three options to mitigate against the addition of impervious surfaces:

- A replacement of the equivalent amount of area where impervious surfaces were added with pervious surfaces;
- Development actions use documented low impact development or green infrastructure practices to infiltrate and treat stormwater produced by the new impervious surface; or
- When the above two methods are not feasible, require professional stormwater retention to ensure no increase in peak volume or flow and proper treatment to minimize pollutant loading.

Trees

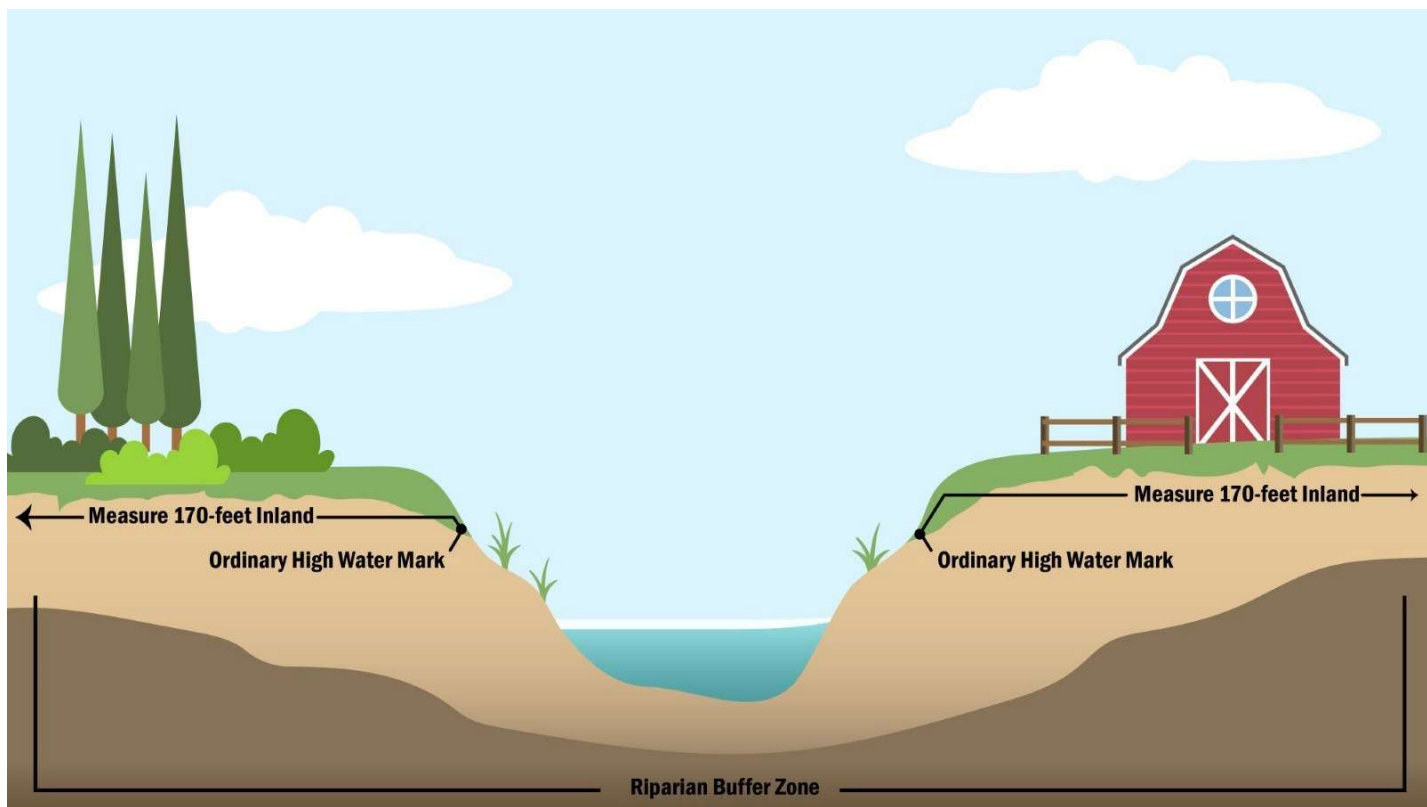
Trees play a vital role in the ecosystem and habitat of salmon. They stabilize banks against erosion, provide shade which regulates temperature for the waterbody, and creates habitat that attracts insects and other vital food sources. Under PICM, each tree over 6” diameter breast height (dbh) that is removed in the SFHA, must be replaced as identified by ratios. As larger trees provide a greater role in ecosystem services, more trees are required to replace them.

Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area. Replacement trees are assumed to be saplings and younger trees.

The RBZ and Me

The Riparian Buffer Zone (RBZ) is an area of land bordering rivers, streams, and other water bodies that provides an outsized role in supporting floodplain functions that affect ESA-listed species and essential fish habitat (EFH). The RBZ serves as important habitat to fish during flooding events, providing refuge from high velocity flows in the floodway. Vegetation attracts insects and other vital food sources, filters sediment and pollutants from runoff, and moderates water temperature through the shade it provides, and stabilizes eroding banks.

Under PICM, FEMA has established a 170-foot RBZ for use in the NFIP-ESA integration area. This 170-foot standard is measured from the ordinary high-water mark of a fresh waterbody, or from the mean higher-high water line of a marine shoreline or tidally influenced river reach. This distance generally equates to 80% of the maximum potential tree height of common tree species in the implementation area. The RBZ does not extend beyond the SFHA, meaning that the RBZ ends where the SFHA ends, if it is less than 170 feet. Communities, otherwise, cannot reduce the 170-foot RBZ boundary during PICM.



Measuring the Riparian Buffer Zone

The RBZ has additional requirements on top of achieving No Net Loss standards due to its outsized role in the floodplain functions. **The RBZ does not ban development.** When developing, the RBZ requires a beneficial gain standard in addition to No Net Loss to provide additional benefits with no negative components to ESA-listed species and essential fish habitats. The beneficial gain standard is as follows:

- An area within the same reach of the project and equivalent to 5% of the total project area within the RBZ shall be planted with native herbaceous and shrub vegetation.

Beneficial gain is required for development in the RBZ, with the following exceptions:

- Habitat restoration activities,
- Activities considered exempt from No Net Loss,
- Functionally dependent uses: A use which cannot perform its intended purpose unless it is located or carried out in proximity to water. The term includes:
 - Docking and port facilities that are necessary for the loading and unloading of cargo or passengers; and
 - Ship building and ship repair facilities.
 - Functionally dependent uses do not include long-term storage, related manufacturing facilities, or ancillary facilities such as restrooms.

Understanding the Mitigation Ratio Table

Mitigation ratios are provided in PICM to ensure that permitted development meets the No Net Loss standards without having to do further analysis of mitigation options to comply with the ESA. For instance, the intrinsic habitat value of a single tree at 6" diameter breast height (dbh) in the Riparian Buffer Zone (RBZ) has already been factored into the ratios and requires a minimum of 3 trees to be planted to make up for the loss of habitat value at the development site.

Mitigation ratios to ensure ESA compliance vary based off location in the SFHA. The RBZ and Floodway play an outsized role in supporting floodplain functions, therefore higher ratios for mitigation are required to negate the impact of development. Development actions in the RBZ-fringe (the area outside of the RBZ but within the rest of the SFHA) have a lesser impact on floodplain functions and therefore lower ratios can negate any adverse impact.

Learn more at [fema.gov](https://www.fema.gov)

September 2024

2

Mitigation is preferred to occur within the same site as where the development impacts occur, but offsite mitigation is possible at the same ratios if mitigation is happening in the same reach (the section of waterway where similar hydrologic conditions exist). If mitigation needs to occur outside of the reach where development is happening, ratio requirements are essentially doubled.

Mitigation ratio requirements are only necessary when development impacts are occurring in the SFHA. If development is happening partially inside the SFHA, ratios and mitigation is only required for impacts within the area.

Proposed Mitigation Ratios to Achieve No Net Loss Standards

Basic Mitigate Ratios	Undeveloped Space (ft³)	Pervious Surface (ft²)	Trees (6”<dbh≤20”)	Trees (20”<dbh≤39”)	Trees (39”<dbh)
RBZ and Floodway	2:1	1:1	3:1	5:1	6:1
RBZ-Fringe	1.5:1	1:1	2:1	4:1	5:1
Mitigation multipliers					
Mitigation onsite to Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to Mitigation offsite, different reach, same watershed (5th)	200%	200%	200%	200%	200%

Do communities have to mitigate for each floodplain function, or do they choose only one of the functions to mitigate?

Communities must mitigate for each impact to the floodplain function.

Can a community use one action to mitigate for multiple functions?

Communities would need to ensure that each floodplain function is properly mitigated. In some instances, one mitigation action can count towards mitigation of more than one floodplain function. For example, removing a 200 ft² structure could count towards both flood storage and water quality mitigation if the action is creating both undeveloped space and pervious surface.

Who is responsible for measuring the RBZ?

Communities are responsible for identifying the RBZ. FEMA will not identify them on Flood Insurance Rate Maps (FIRM).

Why do communities have to ensure ESA compliance in SFHAs that provide no fish-accessibility?

Even though there may not be essential fish habitat in an SFHA, development can still create indirect or cumulative impacts that have an adverse effect on ESA-listed species and habitat downstream.

Learn more and participate

Visit www.fema.gov/about/organization/region-10/oregon/nfip-esa-integration to access the model ordinance, habitat assessment guide, and read the latest information about NFIP-ESA Integration in Oregon.

You can also contact us at FEMA-R10-MIT-PICM@fema.dhs.gov



Frequently Asked Questions about Pre-Implementation Compliance Measures

October 4, 2024

Disclaimer: This FAQ is general guidance based on the information available to DLCD staff at this time. It is not a DLCD decision. It is not legal advice for any specific situation. Cities and counties should consult their legal counsel for advice on specific decisions.

Table of Contents

What are “Pre-Implementation Compliance Measures”? 1

What led up to PICM?..... 2

What is the role of the Oregon Department of Land Conservation and Development in PICM? 2

What does a city or county need to do now?..... 3

Does Pathway 3 “Prohibit floodplain development” require a moratorium? 3

Is a “Measure 56 Notice” required for PICM short-term options? 5

Will the state waive legislative adoption requirements? 6

What if a city or county cannot complete the ordinance process by December 1, 2024? 7

Is the model ordinance clear & objective? 7

What is changing for cities and counties for letters of map revision based on fill? 7

Are there any Measure 49 implications to adopting the PICM model ordinance? 8

Where can I find additional information or ask questions about PICM? 9

What if a city or county received a PICM letter in error, or did not receive a PICM letter? 10

What area does the BiOp cover? 10

What are “Pre-Implementation Compliance Measures”?

In July 2024, the Federal Emergency Management Agency (FEMA) sent a letter to cities and counties in Oregon instructing them to make short term changes to how the city or county regulates development

in flood hazard areas. FEMA describes these short-term actions as “pre-implementation” because they are occurring before FEMA fully implements long-term changes to the National Flood Insurance Program (NFIP) to comply with the Endangered Species Act.

What led up to PICM?

In 2009, environmental advocacy organizations sued the Federal Emergency Management Agency (FEMA) alleging that FEMA violated the Endangered Species Act by not consulting with National Marine Fisheries Services (NMFS) about how the National Flood Insurance Program (NFIP) could jeopardize threatened species. FEMA resolved the lawsuit by formally consulting with NMFS to review the impact of the NFIP. In April 2016, NMFS issued its [Biological Opinion](#) (BiOp) that concludes that the NFIP in Oregon jeopardizes the survival of several threatened species, including salmon, sturgeon, eulachon, and orcas. The BiOp contained a reasonable and prudent alternative (RPA) with recommendations from NMFS to FEMA on how to avoid jeopardizing the threatened species. In October 2021, FEMA issued a draft implementation plan on how to reduce the negative impacts of the NFIP on threatened species.

In 2023, FEMA started reviewing the draft implementation plan using a National Environmental Policy Act (NEPA) process, which is still underway. Under the NEPA process FEMA will analyze whether there are additional alternatives or changes to the 2021 draft implementation plan to consider.

In September 2023, environmental advocacy organizations filed a lawsuit alleging that FEMA has been too slow to implement the BiOp. Plaintiffs included the [Center for Biological Diversity](#), the [Northwest Environmental Defense Center](#), [Willamette Riverkeeper](#), and [The Conservation Angler](#). See also coverage in the [Oregonian](#).

In July 2024, FEMA announced a new program of pre-implementation compliance measures (PICM or short-term measures) for the BiOp, separate from the NEPA full implementation (long-term measures) process. FEMA hosted four [PICM webinars](#) in July and August, and is planning additional outreach to assist NFIP communities in the fall of 2024. Some of the PICM pathways are included in the 2016 BiOp under RPA, element 2.

FEMA now has two separate, but similar processes: NEPA evaluation of the full implementation plan, and interim action through PICM. FEMA’s webpage [“Endangered Species Act Integration in Oregon”](#) contains information about both processes, but does not clearly distinguish between the two processes.

What is the role of the Oregon Department of Land Conservation and Development in PICM?

FEMA and the state provide funds to the Oregon Department of Land Conservation and Development (DLCD) for staff to help cities and counties participate in the NFIP. DLCD floodplain staff do not set program policies and cannot make decisions on behalf of FEMA. As FEMA provides more information about what they are requiring through PICM, DLCD floodplain staff will try to explain the program to cities and counties.

Frequently Asked Questions about Pre-Implementation Compliance Measures

October 4, 2024

2 | Page

While the floodplain staff at DLCD have a coordinating role communicating with FEMA, cities and counties are always free to communicate directly with FEMA staff. In this role, DLCD staff provided feedback on the full implementation plan (long-term measures) through the NEPA process. DLCD staff provided information about how the land use planning system in Oregon would affect the full implementation plan. DLCD did not have an opportunity to play a similar role while FEMA developed PICM.

On September 26, 2024, Governor Tina Kotek sent a [letter to FEMA](#) expressing concerns about PICM, similar to concerns raised in a [letter from members of congress](#) in August. DLCD will work with FEMA to address the governor's concerns.

What does a city or county need to do now?

FEMA is requiring cities and counties to select one of three PICM short-term paths by December 1, 2024:

- Pathway 1: Adopt the [PICM model floodplain management ordinance](#) that considers impacts to fish habitat and requires mitigation to a no net loss standard.
- Pathway 2: Review individual development proposals and require permit-by-permit habitat mitigation to achieve no net loss using "Floodplain Habitat Assessment and Mitigation" guidance from FEMA.
- Pathway 3: Prohibit all new development in the floodplain.

FEMA is also requiring cities and counties to gather additional data on local floodplain permitting starting January 31, 2025, and submit an annual report to FEMA starting January 2026.

If a city or county does not choose a PICM path by December 1, 2024, then FEMA expects the city or county to use Pathway 2 for permit-by-permit habitat assessment and mitigation.

Once local planning staff review the FEMA documents ([PICM model ordinance](#) and [habitat assessment guidance](#)), planning staff may want to discuss the PICM paths with other internal local staff, and their local legal counsel. A starting point could be to determine how much developable land is within the Special Floodplain Hazard Area (SFHA). With that data to inform local decision making, staff might want to report to decision makers and the public explaining the situation and may find this FAQ useful as background. An informational work-session could be helpful to explore options for what may or may not work at the local level. DLCD staff ([regional representatives](#) and [flood hazards staff](#)) are available for technical assistance; however, many questions will need to go to FEMA. Use the dedicated email address: FEMA-R10-MIT-PICM@fema.dhs.gov.

Does Pathway 3 "Prohibit floodplain development" require a moratorium?

No. A city or county has at least two options for prohibiting development in the special flood hazard area: temporary moratorium or permanent rezoning.

Option A: Temporary Moratorium

[ORS 197.520 to 197.540](#) defines a process for a city or county to declare a moratorium to temporarily prevent all development in a specific area. Typically, a city or county would declare a moratorium where there are insufficient public facilities, which would not apply in this case. ORS 197.520(3) allows a different type of moratorium if a city or county demonstrates there is a compelling need based on the findings below:

For urban or urbanizable land:

- That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
- That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city or county are not unreasonably restricted by the adoption of the moratorium;
- Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- That the city or county has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and
- That the city or county proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

For rural land:

- That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
- Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and
- That the city or county proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

Moratoriums are legally complicated. This description is only a summary of the law. A city or county should consult carefully with their legal counsel to determine whether and how a moratorium would work in their specific situation, and to review the applicable timelines for which a moratorium may be in place and circumstances for extending a moratorium.

Option B: Permanent Rezoning

A city or county could permanently rezone the land within the special flood hazard area to a zone that would not permit development. This would not be appropriate for all cities and counties, but could be appropriate if the area in the SFHA is relatively small, unlikely to develop, or publicly owned.

Is a “Measure 56 Notice” required for PICM short-term options?

Most likely yes, but cities and counties should consult with their legal counsel on how the notification requirements apply in the specific local circumstances.

Background on Measure 56 Notices

Cities and counties in Oregon are required to send a notice to landowners before “rezoning” property. This requirement was originally enacted through Ballot Measure 56 in 1998, and is codified in [Oregon Revised Statutes \(ORS\) 227.186](#) for cities and [ORS 215.503](#) for counties. The requirement uses a broad definition of rezoning that includes any change that “limits or prohibits land uses previously allowed.” DLCD maintains a [webpage on the landowner notification requirement](#).

Pathway 1 – Model ordinance

Cities and counties staff should carefully review current zoning and development regulations for property within the SFHA. If properties are zoned for open space or conservation, then the [PICM model ordinance](#) might not further limit uses.

If properties are zoned for residential, commercial or industrial use, the [PICM model ordinance](#) would likely limit those uses, and the Measure 56 notification requirement could apply. Most local floodplain codes require owners to obtain a permit for development in the floodplain. Permit processing varies for each city or county. Oregon’s model floodplain Ordinance (version 2020) meets minimum NFIP standards. However, the updated [PICM model ordinance](#) contains new standards in section 6.0 (highlighted in yellow) which could limit currently allowed uses, in which case the Measure 56 notification requirement would apply.

Pathway 2 – Permit-by-permit habitat assessment and mitigation

Cities and counties should carefully review any existing requirements for habitat mitigation. Most cities and counties do not require mitigation for habitat impacts, so the city or county would be adopting a new ordinance to require assessment and mitigation for development in flood hazard areas. These new development regulations would most likely limit currently allowed uses, and thus the Measure 56 notification requirement would apply.

Frequently Asked Questions about Pre-Implementation Compliance Measures

October 4, 2024

5 | Page

Pathway 3 – Prohibit floodplain development

If a city or county declares a temporary moratorium under ORS 197.520 to 197.540, then the Measure 56 notification requirements would likely apply because a moratorium would limit or prohibit uses that would otherwise be allowed.

If a city or county rezones land or amends development regulations to permanently prohibit development within the SFHA, then the city or county should carefully review the previous zoning and allowed uses for each parcel. If some properties were previously zoned for open space or conservation, then the prohibition on development is not likely to be a limitation on future use. If some properties are zoned for residential, commercial or industrial use, then the prohibition on development would limit those uses, and thus the Measure 56 notification requirement would apply.

A city or county may not want to completely prohibit all development in the floodplain and may want to think about explicitly adding in activities exempt from the no net loss standards as listed in section 6.3 of the [PICM Model Ordinance](#). Some of the exempt activities include normal maintenance of structures, street repairs, habitat restoration activities, routine agricultural practices, and normal maintenance of above ground utilities and would still require a local floodplain development permit. However, if a city or county wishes to include activities beyond those listed in section 6.3, then the city or county will likely need to adopt the model ordinance or require permit-by-permit habitat mitigation for the uses that are still allowed. It may be simpler to choose pathway 1 (model ordinance) or pathway 2 (permit-by-permit) instead. Cities and counties should communicate with FEMA about any exemptions.

Will the state waive legislative adoption requirements?

Each city or county has its own requirements for adopting an ordinance. The state has no authority to waive those requirements.

[ORS 197.610 through 197.625](#) requires cities and counties to submit notice to DLCD 35 days before the first hearing to adopt a change to a comprehensive plan or a land use regulation. The statute does not authorize DLCD to waive this requirement. If it is not possible to send the notice 35 days prior to the hearing, cities and counties should send the notice as soon as possible. The notice can include a draft ordinance that will be revised before adoption. If a city or county does not provide notice 35 days prior to the hearing, this does not invalidate the ordinance. A party that did not appear before the local government in the proceedings would be allowed to appeal the ordinance.

DLCD has no authority to waive the required Measure 56 notification to landowners that is described above.

What if a city or county cannot complete the ordinance process by December 1, 2024?

Start the process of evaluating the PICM pathways as soon as possible. Keep FEMA informed via their PICM inbox FEMA-R10-MIT-PICM@fema.dhs.gov regarding your PICM path and progress.

Send questions to FEMA early in the process to give them time to respond, and document when replies are received.

Communicate often to FEMA to update them on your status and expected adoption date.

Is the model ordinance clear & objective?

Background on Clear and Objective Standards

Oregon Revised Statutes [197A.400](#) requires cities and counties to:

“adopt and apply only clear and objective standards, conditions and procedures *regulating the development of housing*, including needed housing, on land within an urban growth boundary.”
[emphasis added.]

The legislature amended this statute to include areas within unincorporated communities and rural residential zones. The amendment takes effect on July 1, 2025.

Reviewing Model Ordinances

DLCD plans to review the existing [Oregon Model Flood Hazard Ordinance](#) to identify standards for residential development that may not be clear and objective. Over the past year, DLCD also reviewed an early draft of the model ordinance in the NEPA process for the full implementation of the BiOp. DLCD identified several aspects of that early draft model ordinance that may not be clear and objective and suggested that FEMA revise those aspects. DLCD has not yet determined whether the [PICM Model Ordinance](#) has only clear and objective standards.

What is changing for cities and counties for letters of map revision based on fill?

FEMA has temporarily suspended processing of applications for letters of map revision based on fill (LOMR-F) and conditional letters of map revision based on fill (CLOMR-F) as of **August 1, 2024**. FEMA is doing this to remove any perceived incentive to using fill and to avoid potentially negative effects on habitat for threatened species.

FEMA is not prohibiting fill in the SFHA, rather they are suspending the opportunity for owners or developers to revise floodplain maps to be released from mandatory flood insurance. Therefore, if fill is used for structure elevation and there is a federally backed mortgage on the property, flood insurance will still be required. Cities and counties should continue to enforce their existing floodplain ordinance on regulations regarding placement of fill in flood hazard areas.

Frequently Asked Questions about Pre-Implementation Compliance Measures

October 4, 2024

7 | Page

If an applicant asks for a community acknowledgement form (CAF) for a CLOMR-F or LOMR-F for a project not covered in the exceptions below, it would be wise to [contact FEMA](#) before signing.

Exceptions for L/CLOMR-F processing:

- Projects that are undergoing Section 7 consultation via an alternative federal nexus
- LOMR-Fs for already processed CLOMR-Fs
- CLOMRs required for habitat restoration projects

What are the Measure 49 implications to the PICM pathways?

Measure 49 could apply in some situations, but it is unlikely that a city or county would have to pay compensation to a landowner. Cities and counties should consult with their legal counsel to analyze their specific situation.

Background:

[Ballot Measure 49](#) was approved by Oregon voters in 2007. Its initial impact was on property owners who acquired their property before land use regulations were established in the 1970's and 1980's. In many cases, those owners were permitted to build up to three houses, even though the current zoning would not allow new houses.

Measure 49 also applies to future changes in land use regulations. Those provisions are codified in [ORS 195.300 to 195.336](#). If a state or local government enacts a land use regulation that restricts a residential use and reduces the fair market value of a property, then the owner can apply for just compensation. The compensation can be monetary, or a waiver to allow the owner to use the property without applying the new land use regulation. This requirement does not apply if the new regulation is for the protection of public health and safety.

Pathway 1 – Model ordinance

If a property owner applied for just compensation as a result of a city or county adopting the PICM model ordinance, the city or county would process the claim as provided in ORS 195.300 through 314. This includes evaluating the claim to determine whether it is valid, and then deciding whether to waive the regulation or pay monetary compensation.

First, determine whether the claimant owned the property before the city or county adopted the new regulations in the model ordinance.

Next determine whether the new regulations restrict the use of the property for single-family dwellings. The statute does not include a specific definition of “restrict” in this context. If the new ordinance has the effect of completely prohibiting residential use, then it clearly restricts the use. If the new ordinance allows single-family dwellings, but places design standards or conditions of development, these likely do not restrict the use.

[Frequently Asked Questions about Pre-Implementation Compliance Measures](#)

October 4, 2024

8 | Page

Next, determine whether the regulations “restrict or prohibit activities for the protection of public health and safety” as provided in ORS 195.305(3)(b). Many aspects of regulating floodplains are based on safety; however, some of the regulations in the [PICM model ordinance](#) are based on improving fish habitat. This could result in complicated analysis to determine whether the habitat requirements restrict development beyond the restriction already created by regulations based on safety.

Next, review the property appraisals submitted by the claimant to determine whether the property value was actually reduced. Property in a flood hazard area may already have a low value. The property may still have value for agricultural use which would offset the loss due to the regulation.

If a property owner has a valid claim, then the city or county would decide to pay monetary compensation or to waive some regulations. The city or county is not required to waive all regulations, only “to the extent necessary to offset the reduction in the fair market value of the property” ORS 195.310(6)(b). The city or county could still apply regulations based on safety, and could still apply regulations that existed prior to adopting the [PICM model ordinance](#).

Pathway 2 – Permit-by-permit habitat assessment and mitigation

The results would be similar to pathway 1. In most cases the habitat mitigation requirement would not prevent development, and the owner would likely not be entitled to just compensation. If the habitat mitigation requirements did prevent development, then the owner could apply for just compensation. The city or county would use the steps described above to determine whether it is a valid claim, and decide to waive some of the requirements, or pay monetary compensation.

Pathway 3 – Prohibit floodplain development

A temporary moratorium would likely not lead to a claim for just compensation because it is not a new land use regulation. Also, a temporary moratorium is unlikely to significantly affect fair market value because potential buyers know that the moratorium will end.

Rezoning to prohibit all development within the SFHA would likely be a basis for a claim for just compensation, especially for a property entirely within the SFHA. If a property includes area inside and outside the SFHA, and the owner could still develop the same number of dwellings in a different location, then the owner would likely not be able to make a claim for just compensation.

The city or county would use the steps described above to determine whether it is a valid claim, and decide to waive some of the requirements, or pay monetary compensation.

Where can I find additional information or ask questions about PICM?

FEMA has a webpage for [Endangered Species Act Integration in Oregon](#). Email questions to the PICM email address: FEMA-R10-MIT-PICM@fema.dhs.gov.

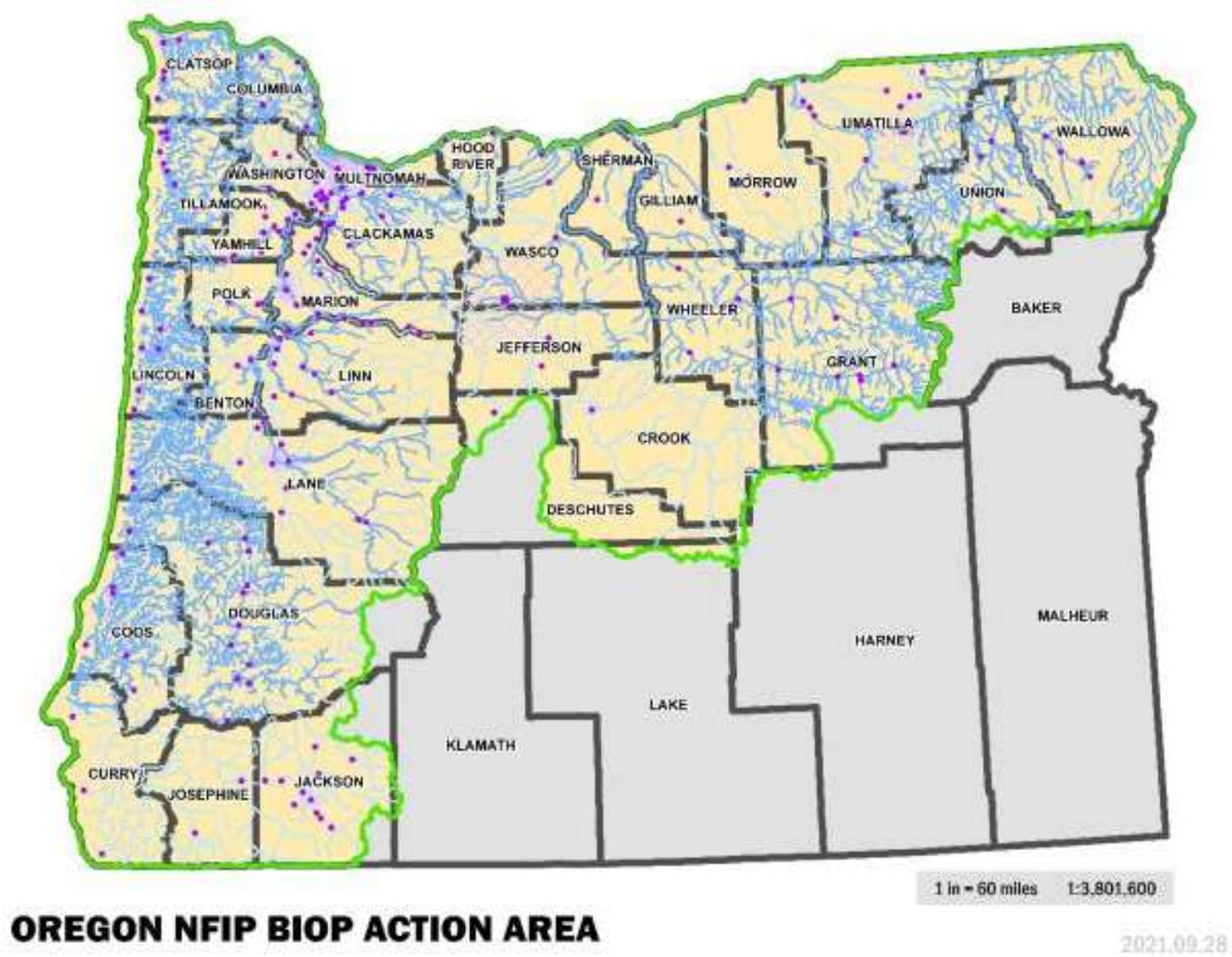
While DLCD staff are not responsible for PICM implementation, we are available to offer technical assistance. Email or call Oregon’s NFIP Coordinator at DLCD, Deanna Wright, deanna.wright@dlcd.oregon.gov, 971-718-7473.

What if a city or county received a PICM letter in error, or did not receive a PICM letter?

Staff may contact FEMA’s PICM inbox at: FEMA-R10-MIT-PICM@fema.dhs.gov to receive the letter, or you may contact DLCD staff. FEMA staff sent the email announcements to the city or county floodplain staff and the letter was mailed to each individual city or county chief elected officer. If you believe your community is outside of the BiOp action area (map instructions below), but you received a PICM letter, please contact FEMA PICM inbox for verification.

What area does the BiOp cover?

Below is a snapshot image of the Oregon NFIP BiOp Action Area:

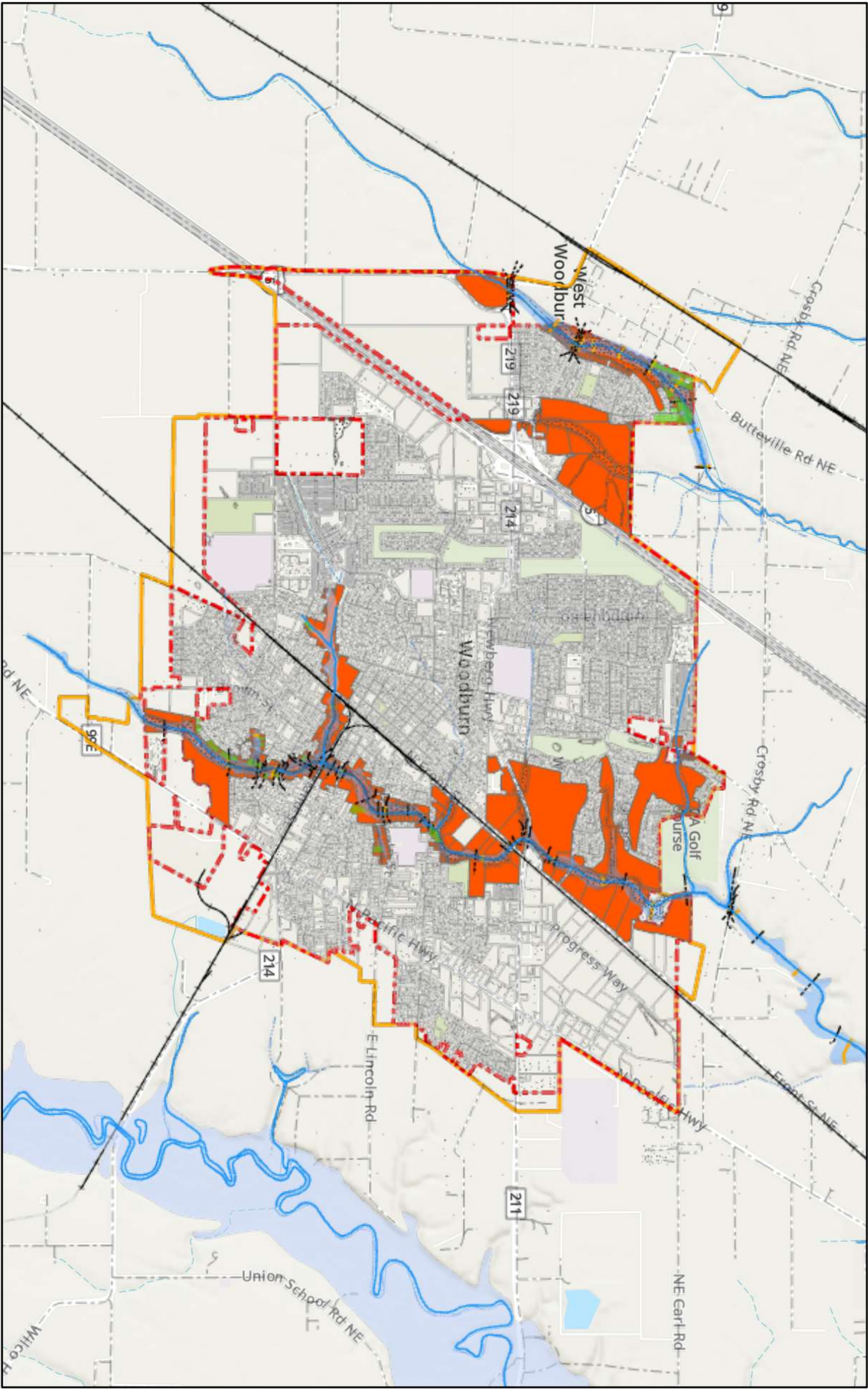


The BiOp is applicable in Special Flood Hazard Areas (SFHA) within the mapped salmon recovery domains for Oregon communities that participate in the NFIP. The BiOp covers approximately 90 percent of participating Oregon NFIP communities but does not apply to five counties.

[NOAA Fisheries GIS mapping application tool](#)

FEMA has published [directions](#) on how to determine if a proposed development or project area is within the BiOp area.

Floodplain Taxlot Map



4/8/2025

- Elevation Locations

Significant Wetlands

Riparian Corridor & Wetlands Overlay District (RCWOD)

FEMA Water Line

FEMA Cross Sections

FEMA Base Flood Elevations

2000 FEMA 100 Yr Flood Plain

Zone A

Zone AE

Zone AE Floodway

Floodplain Taxlots

WB_Taxlot_CL

Wetlands

Significant Wetlands

Other Wetlands

Address Labels

Centerlines

Streams

Railroad

City Limits

Current Urban Growth Boundary

World_Hillshade

0

0.33

0.65

1

1.3 mi

0

0.5

1

2 km

1:54,529

City of Woodburn, Oregon Metro, Oregon State Parks, State of Oregon GEO, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc., MET/NASA,

79

39

COUNCIL BILL NO. 3277

RESOLUTION NO. 2249

A RESOLUTION INITIATING CONSIDERATION OF PROPOSED LEGISLATIVE AMENDMENTS TO THE WOODBURN FLOOD PLAIN MANAGEMENT ORDINANCE AND WOODBURN DEVELOPMENT ORDINANCE (WDO)

WHEREAS, the Woodburn Development Ordinance (WDO) establishes the standards that development is required to meet; and

WHEREAS, the City also maintains a separate ordinance regulating and constraining development and construction within the flood plain areas of Woodburn; and

WHEREAS, periodic revisions and updates to the WDO are necessary and expected to address current issues, revisions to statutes, and to remain consistent with revised plans; and

WHEREAS, the Community Development Director has identified needed modifications to the WDO and Flood Plain Management Ordinance necessary for conformance with the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon; and

WHEREAS, Section 4.10.09 of the WDO requires the City Council to initiate the consideration of any potential legislative amendments to the WDO by resolution;
NOW, THEREFORE,

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. Pursuant to Section 4.01.09A. of the WDO, the City Council initiates consideration of legislative amendments to the WDO and Woodburn Flood Plain Management Ordinance necessary for conformance with the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program (NFIP) – Endangered Species Act (ESA) Integration in Oregon.

Approved as to form: _____
City Attorney Date

Approved: _____
Frank Lonergan, Mayor

Passed by the Council
Submitted to the Mayor
Approved by the Mayor

Filed in the Office of the Recorder

ATTEST:

Heather Pierson, City Recorder
City of Woodburn, Oregon

July 14, 2025

TO: Honorable Mayor and City Council through City Administrator
FROM: Jesse Cuomo, Community Services Director
SUBJECT: **Park and Community Center Naming Committee Appointments**

RECOMMENDATIONS:

1. Adopt a resolution establishing the Ad Hoc Park and Community Center Naming Committee.
2. Appoint the committee members identified in this staff report and those City Councilors named during discussion on this item to the Park and Community Center Naming Committee.

BACKGROUND:

In light of the significant growth experienced by the City in recent years, the construction of new dedicated park spaces has progressed in tandem with the advancement of the Community Center Project. With these sites either under construction or recently completed, staff recommends initiating the Park Naming Process by engaging an Ad Hoc Committee to assist in naming to these locations, with recommendations ultimately provided for the City Council's consideration and possible adoption. The following sites are proposed for naming consideration:

- **Woodburn Memorial Aquatic Center** – With the substantial improvements and expansion of the Woodburn Aquatic Center into a more comprehensive community center, staff recommends considering a name change that more accurately reflects the enhanced community space. The improvements include:
 - o Aquatic Center Renovations: Structural repairs, equipment upgrades and enhanced safety and accessibility features.
 - o Event Space: A dividable venue with a commercial kitchen for community events, cultural celebrations, and large gatherings.

- Fitness Facilities: Cardio and weight training spaces, plus group fitness areas.
 - Locker Rooms: Improved accessibility and increased capacity.
 - Reception and Lobby: A redesigned entryway for better functionality and access.
 - Expanded Parking: Additional spaces with electric vehicle chargers and accessibility improvements.
 - Future Expansion: The facility will be designed to accommodate a gymnasium if funding becomes available.
- **Dove Landing Park** - Is an expansive 8-acre park dedicated to the City as part of the Dove Landing Planned Unit Development (PUD) located off North Boones Ferry Road. Currently, the housing development is underway, with plans to construct 171 single-family homes. The park features a variety of amenities, including restrooms, walking paths, picnic shelters, playgrounds, open green spaces, and various comfort facilities.
 - **Boones Crossing Park** – This 3-acre park, dedicated to the City as part of the Boone Crossing Planned Unit Development (PUD), is located off South Boones Ferry Road on Iris Street. The final phase of construction, Phase 6, marks the culmination of a development that began in 2000 and will ultimately yield an estimated total 340 units of housing, for Phases 1-6. Currently under construction, the park will feature a playground, basketball court, picnic shelter, landscaping, irrigation, and walking trails.
 - **Senior Estate Park** – Recent enhancements to this established community park, including the addition of an asphalt path, a picnic shelter, and an off-leash dog area, have significantly improved its appeal. To eliminate any confusion regarding ownership and maintenance by Senior Estates and its Homeowners Association, it is recommended that the park be renamed.
 - **Centennial Park Dog Park** – Following the completion of the dog park improvement project, which includes enhancements such as irrigation, walking paths, solar lighting, a picnic shelter, dog play amenities, and a drinking fountain, it is recommended that this location be considered for an official name adoption following the final phase of the improvement process.

PARK NAMING PROCESS:

The City Council shall create the Ad Hoc Park Naming Committee and appoint members to solicit suggested park names from the community, review potential park names, and forward recommendations to the Council for final approval. The committee's membership should include:

- ✓ Between one (1) and two (2) City Councilors, including the Mayor
- ✓ Between one (1) and three (3) members of the Recreation and Park Board
- ✓ Between Four (4) and Eight (8) members of the general public
- ✓ The City Administrator or designee(s)

PARK NAMING CRITERIA:

The Ad Hoc Park Naming Committee will consider the following guiding principles:

- Names should serve the greater interest of the community, recognize events, people, organizations or places with cultural or social significance, and create an enduring legacy
- Names should engender a strong positive image and have symbolic value that enhances the character and identity of the park and/or facility.
- Names should reflect the wholesome nature of a park or facility and in keeping with the City's values.
- If relevant, consideration should be given to a property's association with historic events, people, or other items of cultural/ social significance.
- Names will be considered under a lens of inclusion to align with the values of the City.
- Parks may be named in honor of a person if they made a significant contribution to the community and/or were instrumental in acquiring or developing the park. The name of a person for a park should generally not be considered until 12 months after their death, unless the individual made a significant and sustained contribution to the community and/or the City over the course of many years.

- Evidence should exist to substantiate the qualifications for naming.

COMMITTEE MEMBERS:

The following individuals have expressed a willingness to serve on the Park and Community Center Naming Committee and are presented for the Council's consideration. In addition, the Council may appoint between one (1) and two (2) City Councilors, including the Mayor, to the committee.

- Juan Bravo (Community Member)
- John Zobrist (Community Member)
- Peggy Misner (Community Member)
- Brianna Spencer (Community Member)
- Judy Marquez (Community Member)
- Michael Nelson (Community Member)
- Michael Robertson (Community Member)
- Kasi Pankey (Recreation & Parks Board Member)
- Ricardo Rodriguez (Recreation & Parks Board Member)
- Natalie Tomaszewski (Recreation & Parks Board Member)

FINANCIAL IMPACT:

None.

COUNCIL BILL NO. 3283

RESOLUTION NO. 2253

A RESOLUTION ESTABLISHING A PARK AND COMMUNITY CENTER NAMING AD HOC COMMITTEE THAT WILL PROVIDE NEW AND UPDATED NAMES TO BE CONSIDERED BY THE CITY COUNCIL FOR ADOPTION. LOCATIONS INCLUDE SITES REFERRED TO AS WOODBURN MEMORIAL AQUATIC CENTER, DOVE LANDING PARK, BOONES CROSSING PARK, SENIOR ESTATES PARK, AND CENTENNIAL PARK DOG PARK

WHEREAS, in recent years, the City has experienced significant growth, which has resulted in the acquisition of new parks and open spaces dedicated to the City; and

WHEREAS, the City received \$15 million dollars of Oregon Lottery Bond funds via the Oregon State legislature to aid in the renovation and expansion of the Woodburn Memorial Aquatic Center into a more comprehensive community center facility; and

WHEREAS, the City dedicated \$5 million dollars of restricted City funds (Park SDC's) to restore and expand the existing Woodburn Memorial Aquatic Center into a community center; and

WHEREAS, the Woodburn City Council has determined that the establishment of the Park and Community Center Naming Committee ("the PNC") will benefit the community park and facility naming process by providing for transparency and continued public input; and

WHEREAS, the PNC will make recommendations to the City Council regarding park and facility names for new and existing park spaces as well as a potential new name for the soon to be completed community center facility; and

WHEREAS, the Woodburn City Charter provides the Mayor with the ability to appoint volunteer committee and commissioner positions with the consent of the City Council; and

WHEREAS, the Woodburn City Charter further provides that the City Administrator is the administrative head of the City responsible for overseeing the day to day operations of the City departments, services, programs and community outreach efforts and takes advice from various committees and groups; **NOW, THEREFORE,**

THE CITY OF WOODBURN RESOLVES AS FOLLOWS:

Section 1. Establishment. The PNC is hereby established to assist the City in completing the Parks and Community Center Naming process.

Section 2. Objectives. In its efforts to assist the City with the Parks and Community Center Naming Process the PNC will review and provide feedback and recommendations to the City Council regarding potential names for parks currently referred to as Dove Landing Park, Boones Crossing Park, Senior Estates Park, the Centennial Dog Park and the soon to be completed community center facility.

The PNC will use the following guiding principles when formulating names for recommendation:

- A. Names should serve the greater interest of the community, recognize events, people, organizations or places with cultural or social significance, and create an enduring legacy
- B. Names should engender a strong positive image and have symbolic value that enhances the character and identity of the park and/or facility.
- C. Names should reflect the wholesome nature of a park or facility and in keeping with the City's values.
- D. If relevant, consideration should be given to a property's association with historic events, people, or other items of cultural/ social significance.
- E. Names will be considered under a lens of inclusion to align with the values of the City.
- F. Parks may be named in honor of a person if they made a significant contribution to the community and/or were instrumental in acquiring or developing the park. The name of a person for a park should generally not be considered until 12 months after their death, unless the individual made a significant and sustained contribution to the community and/or the City over the course of many years.
- G. Evidence should exist to substantiate the qualifications for naming.

Section 3. Termination. The PNC will be dissolved effectively following the official adoption of the park and facility names by the City Council.

Section 4. Authority. The PNC is an advisory committee and shall have no authority over the City's final decisions related to the parks and facility names. Recommendations, suggestions or ideas of the PNC shall be strictly advisory and non-binding.

Section 5. Representation. Neither the PNC, nor individual appointed members of the PNC, are authorized to represent the City of Woodburn in any official capacity without obtaining the written permission of the City Council or the City Administrator.

Section 6. Appointments. Members of the PNC shall be appointed by the Mayor, with the consent of the City Council, for a term that expires upon the City Council's adoption of the parks and facility names. Members interested in serving on the PNC will be contacted by City staff via email, phone, or by submitting an application.

Section 7. Membership. The PNC will consist of up to thirteen (13) community members, including the following:

- A. Between one (1) and two (2) members of the Woodburn City Councilor, including the Mayor
- B. Between one (1) and three (3) members of the Recreation and Park Board,
- C. Between Four (4) and Eight (8) members of the general public

Section 8. Meeting Schedule. Meetings may be scheduled monthly, or as otherwise deemed appropriate by the PNC and City Administrator at a time and date deemed appropriate by the PNC. Meeting locations will be determined by the City Administrator's Office.

Section 9. Quorum. Because the PNC is advisory in nature, no quorum shall be required for the PNC to meet, discuss or provide advice or recommendations to the City Council or the City Administrator.

The PNC is hereby established to assist the City in completing the naming recommendations for the Parks and Community Center.

Approved as to form: _____
City Attorney Date

Approved: _____
Frank Lonergan, Mayor

Passed by the Council _____

Submitted to the Mayor _____

Approved by the Mayor _____

Filed in the Office of the Recorder _____

ATTEST: _____
Heather Pierson, City Recorder
City of Woodburn, Oregon

July 14, 2025

TO: Honorable Mayor and City Council through City Administrator

FROM: Jim Row, Assistant City Administrator

SUBJECT: **Sale of Surplus Property Located Between S. Settlemier Ave and S. Front Street**

RECOMMENDATION:

Authorize the City Administrator to enter into a purchase and sale agreement and execute all documents necessary to transfer the title of City owned property located between S. Settlemier Ave and S. Front St, Woodburn, OR 97071 (tax lot 051W18BC09000) to Ivo Toran by means of a Property Line Adjustment Deed.

BACKGROUND:

Consistent with their adopted FY 14/15 Goals, in October 2015, the City Conducted a public hearing and declared seven City owned parcels as surplus, which was the first step required by the City in order to market and sell properties for which it had no further public purpose in owning. To date, three of the original seven parcels have been sold – 347 N. Front St (now the Metropolis Building) was sold to Novera LLC in 2016, 1750 Park Ave (now Colonio Unidad) was sold to Farmworker Housing Development Corporation in 2018, and 11842 Chateau Dr. was sold to Severo Trapala in October 2022.

Recently, Ivo Toran (Buyer) contacted the City and subsequently made an offer to purchase the subject property for \$10,000, which equates to approximately \$11 per sq. ft. The Marion County Assessor's Office has assigned the parcel a Real Market Value (RMV) of \$4,000. Mr. Toran also recently purchased two adjacent parcels at prices in the \$16-17.50 per sq. ft. range. Because those two parcels included auxiliary structures such as storage sheds, staff believe the \$10,000 offered price for the subject parcel is reasonable. Given the small value of the parcel, staff also do not believe it would be cost-effective or necessary to conduct an appraisal.

DISCUSSION:

Staff conducted a little research on this parcel and determined that it used to be Street Right of Way, because the City originally intended to extend Ben Brown Ln from S. Settlemier Ave to S. Front St. At some point, the City decided not to extend Ben Brown Ln and vacated the Right-of-Way, which resulted in the properties that made up the Right-of-Way being transferred to the adjacent/originating property owners. Through this action, the subject parcel was transferred back to the owner of the property immediately to its north.

Eventually, Marion County took ownership of the parcel, likely through a property tax foreclosure. Marion County then transferred the parcel to the City in 1982 via quitclaim deed. Because it was separated from its originating parcel, this property exists only as a tax lot and is not a legal lot of record, which creates restrictions on its use. The implication is that, if the parcel is to be transferred out of City ownership, it must be transferred back to the owner of the property it was originally assigned to (tax lot 051W18BC08900). When combined with the parcel it originated from, it would become a legal lot of record.

Mr. Toran recently purchased the parcel immediately to the north and intends to consolidate the two lots, which will re-establish the subject parcel's legal lot of record status. Through the conditions of the Purchase and Sale Agreement, Mr. Toran will assume all costs associated with the lot consolidation process, any needed surveying work, and desired title insurance coverage for the resulting property. The City and Mr. Toran will split 50/50 administrative escrow costs and recording fees at Closing.

FINANCIAL IMPACT:

The \$10,000 in proceeds from the sale will be receipted to the General Fund, which supports general City services, such as police, parks and the Library.

Attachment:
Purchase and Sale Agreement

CONTRACT FOR THE PURCHASE & SALE OF REAL PROPERTY

THIS CONTRACT FOR THE PURCHASE AND SALE OF REAL PROPERTY ("Agreement"), made and entered into as of the ____ day of _____, 2025, is entered into by and between the CITY OF WOODBURN, an Oregon municipal corporation ("Seller"), and IVO TORAN, individual ("Buyer") (collectively the "Parties").

BACKGROUND

- A. Seller is the owner of 0.02 acres (+/- 900 sq. ft.) of real property commonly known as Tax Lot No. 051W18BC09000 ("Property"); the Property is a remnant parcel (non-legal lot of record) located southernly adjacent to the property commonly known as 682 S. Settlemier Avenue, Woodburn, Oregon ("Buyer's Property").
- B. Seller acquired its interest in the Property via Quitclaim Deed from Marion County on June 14, 1982 (See Reel 290, Page 1322).
- C. On May 10, 2021, the City of Woodburn ("Seller") declared via Resolution No. 2169, the Property as surplus.
- D. Seller now desires to sell to Buyer and Buyer desires to purchase from Seller on the terms and conditions set forth herein, and for good and valuable consideration, the Property hereafter described.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. Purchase and Sale of Property.

1.1. Conveyance of Property. For and in consideration of the Purchase Price (as defined hereafter in Section 2) and the mutual promises, covenants, representations, and warranties contained in this Agreement, Seller hereby agrees to sell, transfer, assign and convey to Buyer, and Buyer hereby agrees to purchase, accept and receive from Seller at Closing, approximately 0.02 acres (+/- 900 sq. ft.) of real property commonly known as Tax Lot No. 051W18BC09000, in Woodburn, Marion County, Oregon, as more particularly described in Exhibit A (the "Real Property"), together with all of Seller's rights, privileges and easements, if any, and to any and all improvements, appurtenances, benefiting, belonging or pertaining to the Real Property, (the Real Property and the improvements and interests described above being hereinafter referred to collectively as the "Property").

1.2. Tax Lot Consolidation with Buyer's Property. Buyer acknowledges that the Property being sold is not a platted parcel or legal lot of record, but is instead a remnant tax lot parcel that must be consolidated with Buyer's adjacent parcel(s) located generally at 682 S. Settlemier Ave., Woodburn, Oregon, commonly known as Tax Lot Nos. 051W18BC08900 and 051W18BC08800. As part of this Agreement, the Parties covenant

and agree to cooperate with one another to finalize a lot line adjustment application process through the City of Woodburn Planning Department and Marion County at or prior to the Closing for purposes of transferring the Property to Buyer.

Any legal or other third-party fees and expenses, including surveying costs, incurred in connection with the lot line adjustment process described herein will be borne by the Buyer.

1.3. Deed. Upon receipt of the Purchase Price and at the time of Closing, Seller shall execute and deliver to Purchaser a Property Line Adjustment Deed for the Property in the form shown in Exhibit B.

2. Purchase Price and Payment.

2.1. Purchase Price. The Purchase Price for the Property will be Ten Thousand and 00/100 dollars (\$10,000) ("Purchase Price"). The Purchase Price, after deductions and set offs, if any, will be payable to Seller in cash at Closing by wire transfer or other immediately available funds.

2.2. Payment. The Purchase Price shall be payable by the Buyer to the Seller on or before the Closing Date. Buyer shall deliver available funds to Escrow with First American Title Company ("Title Company") for purposes of carrying out the purchase.

3. Title Commitment and Objections; Inspection.

3.1. Title. Within five (5) Business Days following the date of this Contract, Buyer will order a preliminary title commitment for the Real Property and copies of all title exceptions listed therein.

No later than the end of the Inspection Period, Buyer shall deliver to Seller, in writing, any of Buyer's objections to any easements, liens, encumbrances or other exceptions or requirements in the Title Commitment (except for real property taxes and assessments not due and payable which may constitute a lien on the Property) ("Buyer's Objections"). If Buyer fails to object timely, then the Title Commitment shall be deemed approved by Buyer. If Buyer's Objections are timely made, Seller will use commercially reasonable efforts to cure the matters covered by Buyer's Objections on or before the date which is thirty (30) days from the expiration of the Inspection Period or will advise Buyer, in writing, of Seller's election not to so cure. If Seller is unable or unwilling to cure the matters covered by Buyer's Objections on or before such date upon terms acceptable to Buyer in Buyer's sole and absolute discretion, then Seller, in writing prior to the expiration of the date which is thirty (30) days from the expiration of the Inspection Period shall so notify Buyer and Buyer, within five (5) Business Days from receipt of Seller's notice, time being of the essence, shall, in writing, either (a) waive such of Buyer's Objections as Seller shall have been unable or unwilling to cure (without a reduction in the Purchase Price) or (b) cancel this Agreement, whereupon all rights and liabilities arising hereunder shall automatically terminate, with the exception of the obligations which expressly survive termination of this Agreement. If Buyer does not provide its election notice timely, then

Buyer shall be deemed to have waived such uncured Buyer's Objections and to have elected to proceed with the Transaction on the terms and conditions of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, Seller shall pay all monetary liens and encumbrances (up to the amount of the Purchase Price) prior to or at Closing and Buyer shall have no obligation to object thereto.

Buyer's obligations under this Contract are conditioned upon Buyer being able to obtain for the Property (i) a Commitment for Title Insurance (the "Title Commitment") issued by First American Title, for the most recent standard form of owner's policy of title insurance in the state in which the Property is located, covering the Property, setting forth the current status of the title to the Real Property, showing all liens, claims, encumbrances, easements, rights of way, encroachments, reservations, restrictions and any other matters affecting the Property and pursuant to which the Title Company agrees to issue to Buyer at Closing an Owner's Policy of Title Insurance on the most recent form of ALTA (where available) owner's policy available in the state in which the Land is located, with extended coverage and, to the extent applicable and available in such state, comprehensive, access, single tax parcel, survey, contiguity, and such other endorsements as may be required by Buyer (collectively, the "Title Policy"); and (ii) true, complete, legible and, where applicable, recorded copies of all documents and instruments (the "Exception Documents") referred to or identified in the Title Commitment, including, but not limited to, all deeds, lien instruments, leases, plats, surveys, reservations, restrictions, and easements affecting the Real Property.

3.2. Inspection Contingency. Buyer has thirty (30) days following the Effective Date (the "Inspection Period") to satisfy itself concerning all aspects of the Property, including, without limitation, the physical condition thereof; the availability of any governmental permits and approvals; and the feasibility of using the Property for Buyer's intended use. Buyer has the right to perform any tests, inspections, and feasibility studies on the Property as Buyer may deem necessary; provided, however, that Buyer will not conduct any environmental assessment that would require soils analysis, groundwater testing, or other studies commonly associated with an environmental site assessment without the prior written consent of Seller in each instance, which consent may be withheld or conditioned in Seller's sole discretion. All costs and expenses of all of Buyer's tests, inspections, and studies will be paid by Buyer when due, regardless of whether this transaction closes.

If, by the end of the Inspection Period, Buyer has determined that the Property is not suitable, then Buyer may (a) terminate this Agreement by giving Seller written notice of its election to terminate; or (b) waive the inspection contingency and proceed to Closing. Failure of Buyer to notify Seller that the Property is not suitable for its intended use shall constitute Buyer's election to proceed with the purchase of the Property.

If Buyer elects, Buyer may also offer Seller the opportunity to correct any items Buyer determines to be unacceptable by providing Seller with written notice prior to the end of the Inspection Period of what must be corrected, by what dates, and in what manner (the "Correction Notice"). Within ten (10) days after Seller is given the Correction Notice, Seller may notify Buyer in writing of whether and to the extent Seller will effect and pay

for any corrections (the “Notice of Intent to Correct”), all of which will be completed prior to the Closing Date. If Seller fails to give a Notice of Intent to Correct within said ten (10) days, Seller will be deemed to have refused to agree to such corrections.

4. Closing.

4.1. Buyer’s Conditions to Closing. Close of Escrow and Buyer’s obligation to purchase the Property pursuant to this Agreement are subject to the satisfaction of the following conditions at or prior to the Closing:

4.1.1. Property Line Adjustment (“PLA”) & County Approval of Resulting Lot. By the Closing Date, the Parties shall have caused the PLA of the affected parcels to be finalized and received all necessary approvals from the City of Woodburn and Marion County, permitting the resulting property to be transferred under this Agreement.

4.1.2. Title. By the Closing Date, Seller shall provide Buyer with insurable title to the Property free and clear of liens except for non-delinquent bonds and taxes, zoning ordinances, building and use restrictions, easements of record which affect the Property, covenants, and conditions and restrictions of record.

4.1.3. Title Insurance. By the Closing Date, Buyer should be able to attain from the Title Agent a policy of title insurance in the full amount of the Purchase Price, showing title vested in the Buyer, subject only to such exceptions to title as have been approved by Buyer prior to the Closing Date.

4.1.4. Condition of the Property. The Property has not been affected by any development, building, construction, fire, flood, or moratoria prior the Closing Date.

If any of the conditions to Buyer’s obligations set forth above fail to occur at or before the Closing Date through no fault of Buyer, then Buyer may terminate this Agreement, and recover any amounts paid by Buyer to the Title Company toward the Purchase Price. Title Company shall immediately release the deposit to Buyer without further instruction from Seller.

4.2. Seller’s Conditions to Closing. Close of Escrow and Seller’s obligation to sell the Property pursuant to this Agreement, are subject to the satisfaction by Seller of Buyer’s obligations under this Agreement, including, but not limited to, (i) Buyer’s obligation to deliver cash for the Purchase Price on or before the Closing Date; (ii) Buyer’s obligation to complete all surveying and city/county planning applications necessary to effectuate the PLA pursuant to Section 1.2. If Buyer has failed to fulfill its obligations under this Agreement, at or before the Closing Date, through no fault of Seller, then Seller may terminate this Agreement, recover any documents delivered to the Escrow Agent pursuant to this Agreement, and pursue such remedies as described under Section 18 below.

4.3. Closing Procedure.

4.3.1. Closing Date. The consummation of the purchase and sale of the Property (the "Closing") will occur within 10 days after satisfaction or waiver of the Buyer's conditions to Closing set forth in Section 4.1, and no later than October 30, 2025. The term "Closing Date" means the date of Closing. The Closing will be conducted through escrow with the Title Company (it being the intention of the Parties that all closing documentation and funds will be delivered to the Title Company).

4.3.2. Seller's Closing Deliveries. At the Closing, Seller shall:

- (i) Execute, acknowledge and deliver a Property Line Adjustment Deed for the Property subject only to the Permitted Exceptions and such other agreements, documents and instruments as may be necessary to transfer, convey and assign the Property to Buyer;
- (ii) Deliver to Buyer, pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, a non-foreign affidavit, stating that Seller is not a foreign person and providing Seller's United States taxpayer identification number; and
- (iii) Deliver to Buyer such other instruments or documents as may be required pursuant to the provisions hereof or as mutually agreed by counsel for Seller and Buyer to be necessary to fully consummate the transaction contemplated hereby.

4.3.3. Buyer's Closing Obligations. At the Closing, Buyer shall:

- (i) Deliver to Seller cash or immediately available funds for the Purchase Price; and
- (ii) Deliver to Seller such other instruments or documents as may be required pursuant to the terms hereof or mutually agreed by counsel for Seller and Buyer to be necessary to fully consummate the transaction contemplated hereby.

4.3.4. Allocation of Closing Costs. The cost of closing the transaction shall be allocated between Seller and Buyer as follows:

- (i) Seller shall pay: (i) one-half of the escrow fees of the Title Company and the cost of recording the deed and any other documents that Buyer may choose to record.
- (ii) Buyer shall pay: (i) the Premium for the ALTA owner's coverage Title Policy; (ii) the cost of additional or extended title insurance beyond standard coverage; (iii) the PLA Cost, including surveying costs; and

(iv) one-half of the escrow fees of the Title Company and the cost of recording the deed and any other documents that Buyer may choose to record.

Notwithstanding the allocation of costs described hereunder, all other expenses incurred by Seller or Buyer with respect to Closing, including but not limited to attorneys' fees, shall be borne and paid exclusively by the party incurring the same unless the Parties hereto expressly agree in writing to the allocation of part or all of such expenses to one of the Parties.

5. Representations and Warranties.

5.1. Title. Seller represents and warrants that Seller holds interest to the Property pursuant to a Quitclaim Deed executed by Marion County, dated June 14, 1982 (See Reel 290, Page 1322). Seller's conveyance of the Property to Buyer via Property Line Adjustment Deed shall not operate to provide any covenants of title in the Buyer and the successors of the Buyer.

5.2. Authority. Seller and Buyer represent and warrant that each has obtained all requisite authorizations for the execution and delivery of this Agreement and the performance of the transactions contemplated by this Agreement, and that the execution and delivery of this Agreement are made pursuant to such authorizations. Buyer is a validly existing municipal corporation pursuant to Oregon law and the City of Woodburn Charter.

5.3. Litigation. There are no pending claims or litigation or threats of claims or litigation or other matters of which Seller is aware that could adversely affect Buyer's title, use, or enjoyment of the Property.

5.4. Rights and Contracts Affecting Property. Except for this Agreement, Seller has not entered into any other contracts for the sale of the Property, nor are there any existing rights of first refusal or options to purchase the Property. Seller has not sold, transferred, conveyed, or entered into any agreement regarding timber rights, mineral rights, water rights, "air rights," or any other development or other rights or restrictions relating to the Property, and to Seller's knowledge no such rights encumber the Property. There are no service contracts or other agreements pertaining to the Property that Buyer will be required to assume at Closing.

5.5. Public Improvements or Governmental Notices. To Seller's knowledge, there are no intended public improvements which will result in the creation of any liens upon the Property, nor have any notices or other information been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule or regulation which would affect the Property.

5.6. Survival. The representations and warranties in this section shall survive Closing for a period of twelve (12) months.

6. Risk of Loss. Risk of loss or damage to the Property by condemnation, eminent domain, or similar proceedings (or deed in lieu thereof), or by fire or any other casualty, from the Effective Date through Closing will be on Seller and thereafter will be on Buyer. Seller will immediately notify Buyer in writing of any such loss. Buyer shall notify Seller, in writing, within fifteen (15) days of Buyer's receipt of Seller's notice whether Buyer shall proceed to Closing. Buyer's failure to notify Seller that it will proceed to Closing shall constitute notice of disapproval of the loss. If Buyer disapproves of the loss, Seller shall pay any cancellation fee or other cost of the Title Company and this Agreement shall terminate and all rights and obligations of the Parties shall terminate.

7. Taxes and Liens. Seller shall not be responsible for the payment of any taxes and assessments that are levied against the Property after the Closing Date.

8. Possession. Buyer will be entitled to possession of the Property from and after the Closing Date.

9. Seller's Transfer of Property. During the term of this Agreement, Seller shall not transfer, assign, convey or otherwise encumber the Property or any interest therein without the prior written consent of Buyer, which may be given, withheld or conditioned in Buyer's sole and absolute discretion ("Transfer"). This Agreement will survive any Transfer and be binding upon Seller's transferees, successors, and assigns.

10. Condition of Property. Excepting only the specific representations and warranties of Seller contained in Section 5 of this Agreement, all of which shall survive Closing and shall not merge with the deed, Buyer accepts the land, buildings, improvements, any personal property sold under this Agreement, and all other aspects of the Property in their present condition, AS IS, WHERE IS, including latent defects, without any representations or warranties from Seller or any agent or representative of Seller, expressed or implied, except for such warranties that may arise by law under the Deed and except as otherwise specifically set forth in this Agreement. Buyer agrees that Buyer has ascertained, from sources other than Seller or any agent or representative of Seller, the condition of the Property, its suitability for Buyer's purposes, and the applicable zoning, building, housing, and other regulatory ordinances and laws affecting the Property. Buyer accepts the Property with full awareness of these ordinances and laws as they may affect the present use or any intended future use of the Property. Except for such warranties that may arise by law under the Deed and except as otherwise specifically stated in this Agreement Seller has made no representations with respect to such condition or suitability of the Property or such laws or ordinances.

11. Waiver. The failure of either party at any time to require performance of any provision of this Agreement will not limit the party's right to enforce the provision except to the extent expressly set forth in a writing signed by that party, nor will any waiver of any breach of any provision constitute a waiver of any succeeding breach of that provision or a waiver of that provision itself.

12. Modifications and Integration. No modification, amendment, discharge or change of this Agreement, except as otherwise provided, shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, amendment, discharge or change

is sought. This document is the entire, final, and complete agreement of the parties pertaining to the sale and purchase of the Property, and supersedes and replaces all prior or existing written and oral agreements between the parties or their representatives relating to the Property.

13. Successor Interests. This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns, but no interest of Buyer may be assigned, subcontracted, or otherwise transferred, voluntarily or involuntarily, without the prior written consent of Seller, which Seller may withhold in its sole discretion. Seller's consent to one transfer will not constitute consent to other transfers or waiver of this section. Any attempted assignment in violation of this provision will be void and of no effect with respect to Seller.

14. Notice. Any notice under this Agreement must be in writing and will be effective when actually delivered in person or three (3) days after being deposited in the U.S. mail, registered or certified, postage prepaid and addressed to the party at the address stated in this Agreement or such other address as either party may designate by written notice to the other. Mailing addresses for the parties are as follows:

14.1. For Seller: City Administrator, City of Woodburn, 270 Montgomery Street, Woodburn, Oregon 97071.

14.2. For Buyer: _____

15. Oregon Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between the Buyer and Seller that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon. Seller hereby agrees to the in personam jurisdiction of such court and waives any claims of an inconvenient forum.

16. Calculation of Time. In the event that the date upon which any time period ends or any duty or obligation hereunder is to be performed will occur upon a Saturday, Sunday, national banking holiday or State of Oregon holiday, then, in such event, the time period or the due date for such performance will be automatically extended to the next succeeding day that is not a Saturday, Sunday, national banking holiday or State of Oregon holiday. Except for express reference to "business" days, all time periods will be deemed to be calendar days.

17. Captions and Related Matters. All captions used in this Agreement are intended solely for convenience of reference and in no way limit any of the provisions of this Agreement. As used in this Agreement, the singular includes the plural, and the plural the singular. The masculine and neuter each include the masculine, feminine, and neuter, as the context requires. This Agreement will not be construed against the party who drafted it.

[SIGNATURES FOLLOW ON NEXT PAGE]

SELLER:

CITY OF WOODBURN,
an Oregon municipal corporation

Scott Derickson
City Administrator

Date

STATE OF OREGON)
) ss.
COUNTY OF MARION)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2025,
by _____ as the _____
of _____.

(Print Name)
Notary Public
My appointment expires:_____

BUYER:

IVO TORAN

Date

STATE OF OREGON)
) ss.
COUNTY OF MARION)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2025,
by _____.

(Print Name)
Notary Public
My appointment expires:_____

EXHIBIT A

Legal Description:

Beginning at a point which is the most Southerly corner of Lot 5 of Tout's Addition to the City of Woodburn, Marion County, Oregon, thence South $41^{\circ} 15'$ West 17.66 feet more or less to the most Westerly corner of a parcel of land as described in Volume 566, Page 846, Marion County deed records, thence North $74^{\circ} 0'$ West 55.60 feet more or less to the most Southerly corner of a parcel of land described in Volume 526, Page 53, Marion County deed records, thence North $41^{\circ} 15'$ West along the Southeasterly line of said parcel to the Southerly line of Lot 5 of Said Tout's Addition, thence South $74^{\circ} 0'$ East along said Lot to the point of beginning.

NOTE: This legal description was created prior to January 1, 2008.

Property Address:

None

Tax Lot No.:

051W18BC09000

Site:

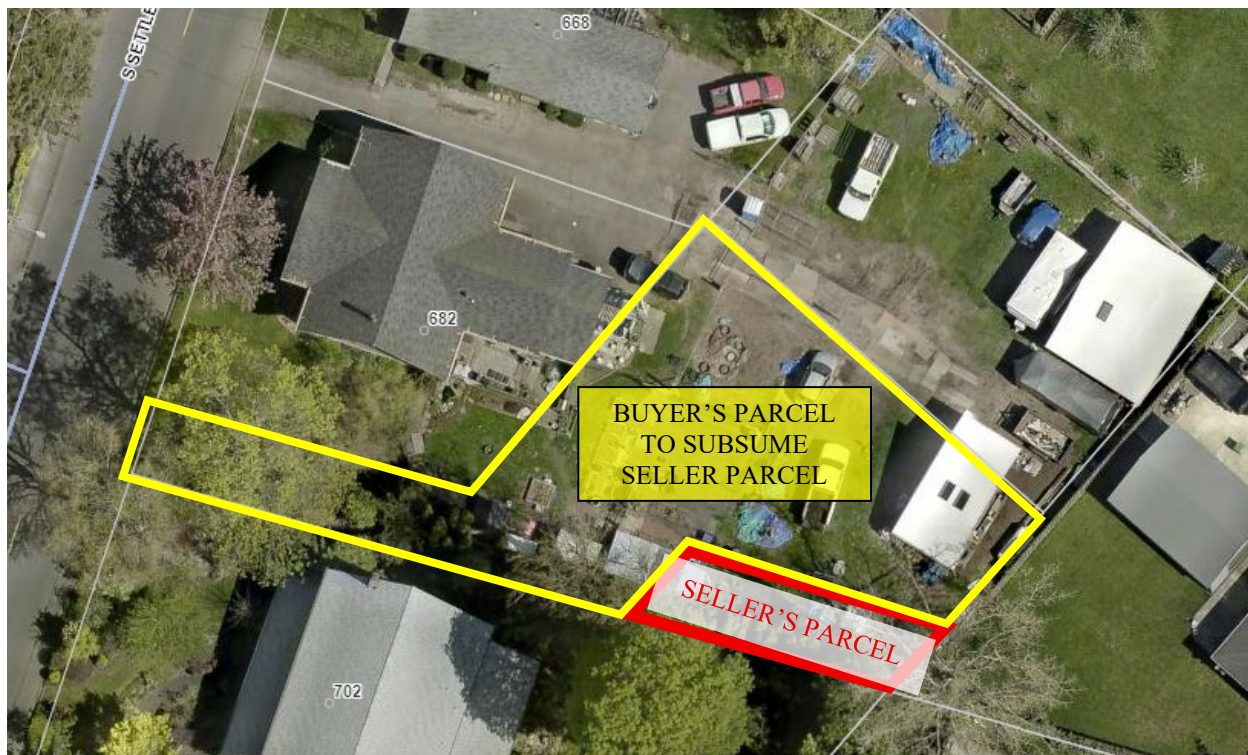


EXHIBIT B
PROPERTY LINE ADJUSTMENT DEED

AFTER RECORDING RETURN TO:

City of Woodburn
Woodburn City Recorder
270 Montgomery Street
Woodburn, OR 97071

CITY OF WOODBURN, an Oregon municipal corporation, "Grantor," is the owner of real property located in the City of Woodburn, Marion County, Oregon, referred to herein as Property A, and more particularly described in Exhibit A, attached hereto and incorporated herein by reference.

IVO TORAN, an individual, "Grantee," is the owner of real property located in the City of Woodburn, Marion County, Oregon, referred to herein as Property B, and more particularly described in Exhibit B, attached hereto and incorporated herein by reference.

The purpose of this Property Line Adjustment Deed (Deed) is to effect a property line adjustment between Property A and Property B such that Property A will be reduced in size by approximately 900 square feet and will hereafter be eliminated, and Property B will be increased in size by approximately 900 square feet and will hereafter consist of the land more particularly described in Exhibit C, which is attached hereto and incorporated herein by this reference.

NOW THEREFORE, in order to effect the property line adjustment and to create the reconfigured property described on Exhibit C, Grantor does hereby grant, transfer, and convey unto Grantee all of that certain real property situated in Marion County, Oregon, described on Exhibit A, which is attached hereto and by this reference incorporated herein.

The true consideration for this conveyance is ten thousand dollars (\$10,000).

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR

PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

THIS Property Line Adjustment Deed is executed this ____ day of _____, 2025.

GRANTOR

CITY OF WOODBURN,
an Oregon municipal corporation

Scott Derickson
City Administrator

Date

STATE OF OREGON)
) ss.
COUNTY OF MARION)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2025,
by _____ as the _____
of _____.

(Print Name)
Notary Public
My appointment expires: _____

EXHIBIT A

Property A Legal Description:

Beginning at a point which is the most Southerly corner of Lot 5 of Tout's Addition to the City of Woodburn, Marion County, Oregon, thence South 41° 15' West 17.66 feet more or less to the most Westerly corner of a parcel of land as described in Volume 566, Page 846, Marion County deed records, thence North 74° 0' West 55.60 feet more or less to the most Southerly corner of a parcel of land described in Volume 526, Page 53, Marion County deed records, thence North 41° 15' West along the Southeasterly line of said parcel to the Southerly line of Lot 5 of Said Tout's Addition, thence South 74° 0' East along said Lot to the point of beginning.

EXHIBIT B

Property B Legal Description:

[to be filled in with surveyed legal description of Property B]

EXHIBIT C

Resulting Parcel - Property C Legal Description:

[to be filled in with legal description of resulting Property C]

July 14, 2025

TO: Honorable Mayor and City Council (acting in its capacity as the Local Contract Review Board) through City Administrator

FROM: Curtis Stultz, Public Works Director

SUBJECT: **Award of Construction Contract for the 2025 Pavement Maintenance Project**

RECOMMENDATION:

Award the construction contract for the 2025 Pavement Maintenance Project to the lowest responsible bidder, Knife River Corporation Northwest, in the amount of \$449,052.00. Staff recommends approving an additional \$60,000 for this project as a contingency for potential change orders that may arise during construction.

BACKGROUND:

The subject Project is identified in the approved budget for fiscal year 2025-2026. This project enhances pedestrian safety within the Washington Elementary School Zone and performs maintenance of existing pavement at various locations within the City.

Bids for the Project were publicly opened June 25, 2025. Twenty (20) bids were received, and the results are as follows:

Knife River Corporation Northwest	\$449,052.00
Jesse Rodriguez Construction LLC	\$489,086.00
K & E Paving Inc., DBA H & H Paving	\$497,695.69
Roy Houck Construction LLC	\$508,246.10
North Santiam Paving Co.	\$517,572.50

The Engineer's Estimate for the project was: \$534,938.10

DISCUSSION:

The scope of work for the 2025 Pavement Maintenance Project includes performing a “mill and fill” operation on Gatch Street, from Lincoln Street to Hardcastle Avenue; performing a “mill and fill” operation on Park Avenue, from James Street to OR-214; constructing twenty (20) ADA-compliant curb ramps adjacent to the “mill and fill” areas; constructing curb extensions at the intersection of Lincoln Street and Gatch Street near Washington Elementary School, and constructing a 12ft wide, and about 1,535 lineal feet, asphaltic pedestrian path south of Evergreen Road.

The addition of curb extensions at intersections provides several safety benefits. First, the crossing distance pedestrians must travel is shortened, thus less time is spent in the roadway. The current crossing distance of Lincoln Street is 36-feet and at Gatch Street it is 34-feet. After the improvements are made the crossing distance will be shortened to 22-feet. Another benefit of curb extensions is that they physically block cars from parking immediately adjacent to an intersection, which provides all users more visibility. The FHWA estimates that curb extensions reduce pedestrian involved crashes by 30 percent.

A “mill and fill” is a structural pavement treatment that involves removing the existing surface layer with a milling machine and then placing a new asphalt layer over the milled surface. This treatment is typically selected for pavements in poor condition, with good underlying structure, and where existing lines and grades must be maintained. “Mill and fill” operations commonly provide an additional 12-15 years of life expectancy to a roadway.

The contract award is in conformance with public contracting laws of the State of Oregon as outlined in ORS Chapter 279C, and the laws and regulations of the City of Woodburn.

FINANCIAL IMPACT:

The subject project is identified in the adopted fiscal year 2025/26 Budget and funded by the Street Fund (Fund 140) and DOT Fund Exchange (Fund 140).

July 14, 2025

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director *ck*,
Dan Handel, Senior Planner

Subject: **Council Briefing of Planning Commission approval of a Design Review, Preliminary Partition, and Variance application package for "MCHA Farmdale Apartments" at 1219 & 1233 W Lincoln Street (Tax Lot 051W07CB09300)**

RECOMMENDATION:

Staff recommends that the City Council take no action on this item and provides this summary pursuant to Woodburn Development Ordinance (WDO) Section 4.02.02. The Council may call up this item if desired and, by majority vote, initiate a review of the Planning Commission decision.

Proposed Development:

The subject property is 1219 & 1233 W Lincoln Street, a 3.88-acre site in the Medium Density Residential (RM) zoning district. The property is developed with the Farmdale Apartments, a multi-family residential apartment complex that includes 44 dwelling units across 11 buildings. It is owned and operated by the Marion County Housing Authority. In fact, it was the agency's first development, built back in 1975.

The proposal before the Planning Commission was a Design Review, Preliminary Partition, and Variance application package to divide the property into two parcels, demolish the buildings within the west parcel, and redevelop it with a new 45-unit multi-family residential apartment building and associated parking lot, common area, and landscaping improvements.

The applicant included four Variance requests:

1. A request to not construct garages or carports for any parking stalls (3.05.03F.2.).
2. A request to not install electric vehicle charging equipment (3.05.03I & Table 3.05E).
3. A request to not provide an architectural wall as perimeter screening abutting the RS zone (3.06.05A & Table 3.06D).
4. A request to remove all significant trees on Parcel 1 (3.06.07H.2.).

As justification for the requests, the applicant shared that they held an open house with current residents to determine their needs and wants for the new apartment building and site amenities. The variance requests were a result of considering these preferences and seeking to maximize a limited redevelopment budget.

Public Hearing Summary:

On June 26, 2025, the Planning Commission held a public hearing for this Type III application package. No testimony was received from the public.

During the hearing, several Commissioners expressed concerns with the Variance requests. In particular, Commissioners were concerned that the lack of garages or carports would lead to a lesser or substandard environment for the tenants of this affordable housing development when compared with market-rate apartment complexes that meet this requirement. Commissioners were also skeptical of the request to not install EV charging equipment. After the applicant's presentation and closure of the record, the Commission deliberated, discussed the Variance requests, and ultimately voted unanimously to approve the application with the conditions recommended by staff in the staff report.





SOUTHWEST PERSPECTIVE

Artistic rendering of the new building (view from W Lincoln Street)

July 14, 2025

To: Honorable Mayor and City Council through City Administrator

From: Jamie Johnk, Economic Development Director
Chris Killmer, Assistant City Attorney

Subject: **Call-Up Briefing: Public Arts and Mural Committee Approval of PAMC 2025-02, a public art installation on Woodburn School District Property at Washington Elementary School.**

RECOMMENDATION:

Staff recommends no action and briefs the Council on this item pursuant to Public Arts and Mural Ordinance 2555 Section 9.C. The Council may call up this item for review if desired and, by majority vote, initiate a review of this decision.

BACKGROUND:

The Public Arts and Mural Committee held a public hearing on July 8, 2025, and unanimously approved Application PAMC 2025-02 for a mural on Woodburn School District Property at Washington Elementary School as presented by staff.

The Public Arts and Mural Committee has identified opportunities to install public art in locations that would support the committee's mission of facilitating *the creation, placement and funding of public art projects that inspire and delight the visitors and community members of Woodburn.*

Aside from the Applicant's presentation, there was no testimony made at the hearing and the mural was approved by the committee unanimously. Attached is the final order from the Public Hearing and images of the approved mural.

FINANCIAL IMPACT:

No funds were requested for the mural and no funds have been budgeted or allocated for its completion.

Woodburn Public Arts and Mural Committee

Application No. PAMC 2025-02)
)
) FINAL ORDER
)
_____)
)

WHEREAS, an application was submitted by the Woodburn School District to install an art piece at Washington Elementary School, specifically on the retaining wall on the property located at 777 E. Lincoln Street; and

WHEREAS, the Public Arts and Mural Committee reviewed the matter at a public hearing on July 9, 2025; and

WHEREAS, the Public Arts and Mural Committee considered the written and oral testimony presented by staff, the applicant, and other interested persons; and

WHEREAS, the Public Arts and Mural Committee closed the hearing and deliberated on the matter; and

WHEREAS, the Public Arts and Mural Committee moved to approve PAMC 2025-02 and instructed staff to prepare findings and authorized the Committee Chair to sign this Final Order;

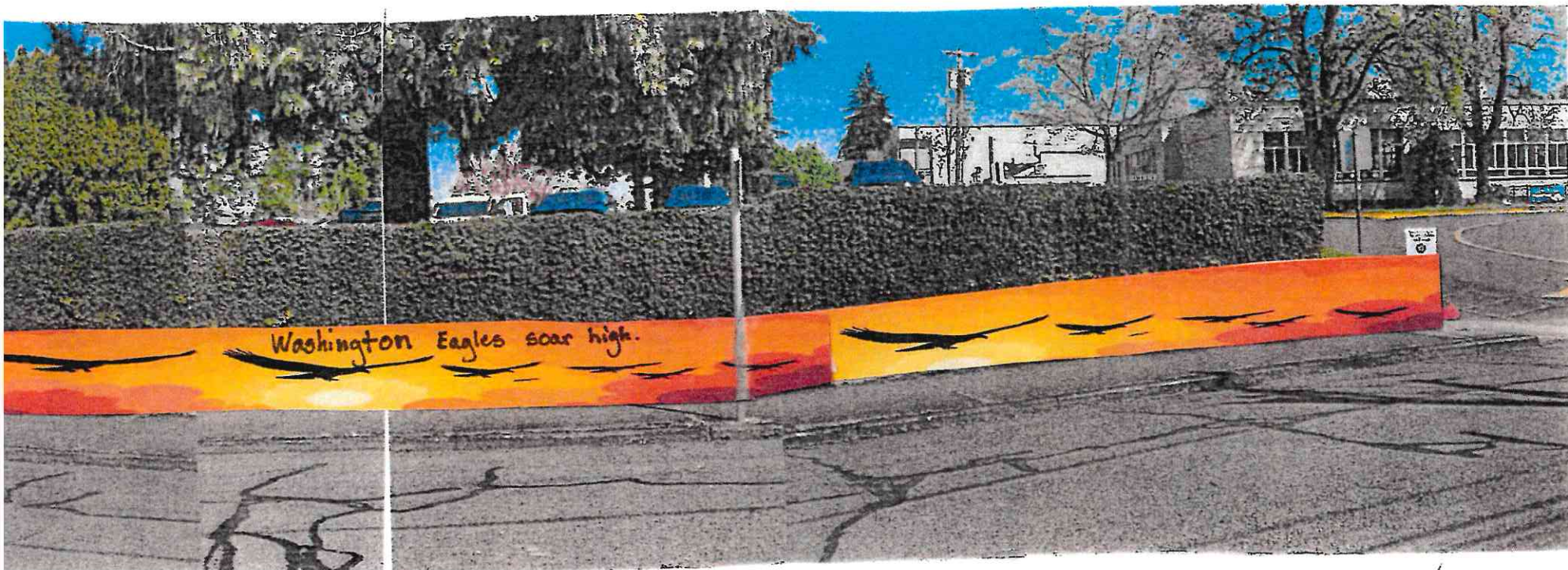
NOW, THEREFORE, it is hereby Ordered by the Committee:

Section 1. That Application No. PAMC 2025-02 is hereby approved, based on the findings and conclusions contained in Exhibit 1, which are attached hereto and incorporated herein by reference.

Date this 8 day of July, 2025



Sharon Schaub, Committee Chair



100 ft.