



Agenda Item

September 3, 2025

TO: City Council

FROM: Frank Lonergan, Mayor

SUBJECT: **Committee Appointments**

The following appointments are made, subject to the approval of the Council. Please forward any adverse comments to me prior to the Council meeting on Monday, September 8, 2025. No reply is required if you approve of my decision.

Woodburn Recreation and Parks Board

- Marsha Merrifield – Position IV

Woodburn Library Board

- Isis Robles - Position VII (Student Member)

CITY OF WOODBURN
APPLICATION FOR COMMISSION/COMMITTEE/BOARD MEMBER



Name: <u>Marsha Merrifield</u>		Date: <u>6/4/25</u>
Present Address: <u>300 Charles St</u>		
City/State/Zip: <u>Woodburn, OR 97071</u>		
Phones:	Work:	Home:
Cell:		
Email:		
Years Lived In Woodburn: <u>2</u>		
Occupation: <u>horticulturist</u>		
Education: <u>BS horticulture, AAS horticulture</u>		
Address for Past 5 Years: <u>2 yrs Woodburn, 10 yrs Mt. Angel 880 N Pershing St #5</u>		
City/State/Zip: <u>Mt. Angel, OR 97362</u>		
Commission/Committee/Board Applying For (excluding City Council and Mayor position):		
<input type="checkbox"/> Woodburn Budget Committee <input type="checkbox"/> Woodburn Mural Committee <input type="checkbox"/> Woodburn Library Board <input checked="" type="checkbox"/> Woodburn Recreation and Parks Board <input type="checkbox"/> Woodburn Planning Commission <input type="checkbox"/> Other (Specify) _____		

Why you want to apply: Help my community. I and my family enjoy being in outdoor spaces wether at a park or at the soccer field. I can contribute my horticultural knowledge in building the future of Woodburn's outdoor spaces.

What experience/expertise/interest do you have for this group? For the past 10 years my boys and I have always played soccer in Woodburn. Beginning in REC and then becoming Woodburn FC players & volunteers. We visit and play in nearly all of the parks here in woodburn regularly. I am a horticulturist with knowledge in landscape design, maintenance and growing/farming plants & trees. Former Woodburn soccer coach. Current Woodburn FC team mgr.

When you apply, it is understood that you will be volunteering to attend all meetings and to actively participate. Commissions/Committees/Boards generally meet once monthly during the evening hours. Some groups may meet more often, if necessary. **THIS FORM IS NOT AN APPLICATION FOR A CITY COUNCIL OR MAYOR POSITION.**

A resume may be attached to this application but is not require.

For City Use Only

Dated Received:	Woodburn City Admin Office
Mayor's Decision:	<u>Yes - Parks Board</u>

4/3/25

CITY OF WOODBURN
APPLICATION FOR COMMISSION/COMMITTEE/BOARD MEMBER



Name: <u>Lis Robles</u>			Date: <u>8/19/25</u>
Present Address: <u>1789 Smith Dr</u>			
City/State/Zip: <u>97071</u>			
Phones:	Work: <u>N/A</u>	Home: <u>N/A</u>	Cell: _____
Email: _____		Years Lived in Woodburn: <u>6</u>	
Occupation: <u>Highschooler</u>			
Education: <u>Currently highschool junior</u>			
Address for Past 5 Years:			
City/State/Zip: <u>97071</u>			
Registered Voter: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Resident of Woodburn: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Commission/Committee/Board Applying For (excluding City Council and Mayor position):			
<input type="checkbox"/> Woodburn Budget Committee		<input type="checkbox"/> Woodburn Public Arts and Mural Committee	
<input checked="" type="checkbox"/> Woodburn Library Board		<input type="checkbox"/> Woodburn Recreation and Parks Board	
<input type="checkbox"/> Woodburn Planning Commission		<input type="checkbox"/> Other (Specify) _____	
Why you want to apply:			
<u>I want to apply to the Woodburn Library Board because I believe it would be a good opportunity to learn new skills and have it as experience for future situations that may be similar.</u>			
What experience/expertise/interest do you have for this group?			
<u>Last year I was part of the Teen Library Advisory. I have also attended a couple of the school Board meetings.</u>			

When you apply, it is understood that you will be volunteering to attend all meetings and to actively participate. Commissions/Committees/Boards generally meet once monthly during the evening hours. Some groups may meet more often, if necessary. A resume may be attached to this application but is not required.

Return completed applications to:
 City of Woodburn - Office of the Mayor
 270 Montgomery Street
 Woodburn, OR 97071

Received

SEP 02, 2025 B.B.

For City Use Only

Dated Received: _____
Mayor's Decision: <u>Yes - JJS</u>
<u>LIBRARY BOARD 9/31/25</u>

PROCLAMATION

Hispanic, Latino, and Indigenous Heritage Month September 15th - October 15th, 2025

WHEREAS, people who identify themselves as Hispanic, Latino, or Indigenous from Mexico, Spain, the Caribbean, South and Central America have contributed to Woodburn's history, culture, prosperity, and successes since the 1880s; and

WHEREAS, Woodburn honors the rich and diverse cultural heritages and historical legacies of those whose families have been here for generations and some of the newest members of our community; and

WHEREAS, Woodburn's Hispanic, Latino, and Indigenous communities now constitute sixty-two percent of our population, including leaders, policymakers, educators, students, health care professionals, agriculture, military, public safety, industrial, trades, business, and organization leaders and entrepreneurs, actively involved in our community and in mentoring our next generation; and

WHEREAS, Hispanic Heritage Month has been nationally recognized as September 15 through October 15, and

WHEREAS, the City of Woodburn acknowledges and honors the diverse cultures and histories of Hispanic, Latino, and Indigenous heritages in our community and throughout Oregon; and

WHEREAS, the City of Woodburn is dedicated to working together to address the ongoing challenges faced by Hispanic, Latino, and Indigenous Oregonians in achieving equity and access to opportunities for prosperity.

NOW, THEREFORE, I, Frank J. Lonergan, Mayor of the City of Woodburn, hereby proclaim September 15 through October 15, 2025, to be "HISPANIC, LATINO, AND INDIGENOUS HERITAGE MONTH" in the City of Woodburn and encourage all to join in this observance and participate in the events that celebrate the rich history and culture.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Woodburn to be affixed.

Frank Lonergan, Mayor
City of Woodburn

COUNCIL MEETING MINUTES

AUGUST 11, 2025

DATE **COUNCIL CHAMBERS, CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, AUGUST 11, 2025**

CONVENED The meeting convened at 7:04 p.m. with Mayor Lonergan presiding.

ROLL CALL

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

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

MOMENT OF REFLECTION

Mayor Lonergan stated that the last Council meeting was held at Library Park and was a successful event. He thanked the Council for their participation and expressed appreciation to the City for organizing the barbecue and recognition activities.

Mayor Lonergan stated that the Community Connection Day was a well-attended event. City Administrator Derickson noted that there was an estimated 3,500 attendees, 60 exhibitors, and 1,300 backpacks were distributed. He added that the band Billy and the Rockets performed, and despite the heat, the event was a success. The Mayor thanked Amazon for its sponsorship and noted that Chief Millican was recognized for his leadership and the departments service.

Mayor Lonergan noted that the Friday night Coronation was well-attended, featuring a car show, music, and performances by court members. The Mayor thanked the City for organizing the event and requested Yanira provide the names of the Queen and First Princess.

Community Relations Manager Herrera stated that Aleida Robles Rodriguez was crowned Queen and Andrea Vasquez Eugenio was named First Princess.

ANNOUNCEMENTS

Mayor Lonergan made the following announcements:

- Woodburn Fiesta Mexicana is taking place on August 15th-17th at Legion Park with Friday being free all day, Saturday and Sunday are Free until 5:00 p.m. with a \$5 entry fee after 5:00

COUNCIL MEETING MINUTES

AUGUST 11, 2025

p.m. for those 10 and older. He noted that the event will feature 60+ vendors, soccer tournament, parade, Lucha Libre, Loteria, live music & performances, and carnival.

- Aquatic Center Waves of Change event will take place on Saturday, August 23, 2025, from 10:00 a.m. – 2:00 p.m. and there will be games and food.
- Sunday, August 31, 2025, will be the last day of operations at the Aquatic Center; operating hours will be 12:00 p.m. – 5:00 p.m.

PROCLAMATIONS/PRESENTATION

City Council Traffic Safety Goal Update - Public Works Director Stultz provided a presentation with an update on street classifications, recent speed studies, and new state guidance. He noted that the purpose of collecting this data is to support a data-driven approach to prioritizing investments that help reduce traffic hazards.

Police Chief Millican passed out a packet to Council and presented traffic enforcement data and trends from the first two quarters of 2025, including radar trailer stats, crash data, and DUI enforcement.

City Administrator Derickson acknowledged that this is a complex safety issue, and solutions may be costly. Ongoing data collection will inform future recommendations to the Council. He noted that the Council can lower neighborhood speed limits (e.g., from 25 to 20 mph), which may help enforcement. An advisory community vote on this could be considered in the May election. He added that while this wouldn't necessarily change how people drive, it would give police additional tools to enforce speeding where needed.

Mayor Lonergan asked to receive a report on the following in November; cost of signs, report on the devices shown in presentation and how those might work, and how they work in other cities, how lowering of speeds has worked in other cities, cost to place the lowering of speed limit on the ballot, map of the city with potential streets that would benefit from this.

CONSENT AGENDA

- A. Woodburn City Council minutes of July 29, 2025,
- B. New Development Activity for July 2025,
- C. Appointment of Administrator Pro Tem.

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

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

PUBLIC HEARINGS

Updated Parks and Recreation System Development Charges Methodology

Mayor Lonergan opened the hearing at 8:07 p.m. for the purpose of hearing public input on the Updated Parks and Recreation System Development Charges Methodology. Community Services Director Cuomo provided a staff report. Steve Donovan, Donovan Enterprises Inc., provided a brief history of parks SDC's, policy issues concerning SDC's and details on the current and proposed fees. No members of the public wished to speak in either support or opposition. Mayor Lonergan closed the hearing at 8:31 p.m.

COUNCIL BILL NO. 3284 - AN ORDINANCE AMENDING AND REPEALING SECTIONS

COUNCIL MEETING MINUTES

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OF ORDINANCE 2250 (THE PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGES ORDINANCE) BASED UPON A NEW METHODOLOGY REPORT DATED MARCH 2025 AND SETTING AN EFFECTIVE DATE

Schaub introduced Council Bill No. 3284. City Recorder Pierson read the bill twice by title only since there were no objections. On roll call vote for final passage, the bill passed unanimously with Councilors Grijalva, Wilk, Bravo, Cornwell, and Schaub voting “aye” [5-0]. Mayor Lonergan declared Council Bill No. 3284 duly passed.

COUNCIL BILL NO. 3285 - A RESOLUTION SETTING AMOUNT OF THE PARKS AND RECREATION SYSTEM DEVELOPMENT CHARGES PURSUANT TO RECENTLY UPDATED METHODOLOGY; AND SETTING AN EFFECTIVE DATE FOR IMPOSITION OF THE FEES AND CHARGES

Schaub introduced Council Bill No. 3285. City Recorder Pierson read the bill by title only since there were no objections. On roll call vote for final passage, the bill passed unanimously with Councilors Grijalva, Wilk, Bravo, Cornwell, and Schaub voting “aye” [5-0]. Mayor Lonergan declared Council Bill No. 3285 duly passed.

COUNCIL BILL NO. 3286 - A RESOLUTION REFERRING TO THE ELECTORS OF THE CITY OF WOODBURN THE QUESTION OF AMENDING THE CITY OF WOODBURN CHARTER; ADOPTING A BALLOT TITLE AND EXPLANATORY STATEMENT; AND AUTHORIZING ALL STEPS NECESSARY TO EFFECTUATE THIS RESOLUTION

Schaub introduced Council Bill No. 3286. City Recorder Pierson read the bill by title only since there were no objections. City Administrator Derickson and City Attorney Granum provided a staff report. On roll call vote for final passage, the bill passed unanimously with Councilors Grijalva, Wilk, Bravo, Cornwell, and Schaub voting “aye” [5-0]. Mayor Lonergan declared Council Bill No. 3286 duly passed.

NATIONAL OPIOID LITIGATION - PARTICIPATION IN PURDUE PHARMA AND SACKLER FAMILY SETTLEMENT AND SECOND-TIER MANUFACTURER SETTLEMENT

City Attorney Granum provided a staff report.

Motion: Schaub/Cornwell... approve the City's participation in- and authorize the City Administrator to sign participation forms and associated releases for the Purdue Pharma and Sackler Family settlement and the Second-Tier Manufacturer Settlement as part of the National Opioid Litigation Settlement process.

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

AWARD A CONTRACT FOR PRELIMINARY DESIGN FOR THE EVERGREEN ROAD INTER-SECTION IMPROVEMENTS AT STACY ALLISON WAY, W HAYES STREET, AND HAR-VARD DRIVE PROJECT TO HARPER HOUF PETERSON RIGHELLIS INC (HHPR)

Public Works Director Stultz provided a staff report.

COUNCIL MEETING MINUTES

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Motion: Schaub/Cornwell... Award a contract for Preliminary design work for the Evergreen Road Intersection Improvements to Stacy Allison Way, W Hayes Street, and Harvard Drive project to Harper Houf Peterson Righellis Inc. (HHPR) in the amount of \$271,770.70 and authorize the City Administrator to sign the contract.

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

MODIFICATION OF AWARD AMOUNT OF CONSTRUCTION CONTRACT FOR THE 2025 PAVEMENT MAINTENANCE PROJECT

Public Works Director Stultz provided a staff report.

Motion: Schaub/Cornwell... modify the award amount for 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 and approve an additional \$60,000 for this project as a contingency for potential change orders that may arise during construction.

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

LEASING SPECIALISTS, LLC. CONTRACT AWARD

Police Chief Millican provided a staff report.

Motion: Schaub/Cornwell... award a police vehicle contract in the amount of \$179,476.00 (Total estimated contract price over the next four years) to Leasing Specialists, LLC., with an additional contingency of \$20,000 authorized to account for increases in the final outfitting costs and financing of the vehicles, and authorize the City Administrator or his designee to sign the lease agreement..

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

CITY ADMINISTRATOR’S REPORT

The City Administrator reported the following:

- Police Department responded to a suspicious package at the mall tonight with the bomb squad showing up and the devices were rendered safe and the scene is now clear.

MAYOR AND COUNCIL REPORTS

Councilor Grijalva noted that she was part of the team that helped choose the Fiesta Queen. She added that she participated in the Mid-Willamette Valley Area Commission on Transportation where a huge part of the conversation was regarding ODOTs budget.

Councilor Wilk stated that he attended the Oregon Human Development Corporation Farm Worker Summit in Salem, where keynote speaker Julie Chavez Rodriguez highlighted the dignity and vital role of farm workers in the state and nation. He added that he also attended a Greater Woodburn Opportunity Center event presenting plans for a new west-side community resource center offering social services,

COUNCIL MEETING MINUTES

AUGUST 11, 2025

education, childcare, housing, and worship.

Councilor Schaub stated that she looks forward to the Fiesta.

Councilor Bravo stated that he also attended the Greater Woodburn Opportunity Center event.

Councilor Cornwell stated that last Tuesday was National Night Out and thanked the police and fire department for sharing a meal with them and Dagmar for hosting. She added that the coronation was very nice and well attended and she looks forward to the Fiesta.

Mayor Lonergan noted that tomorrow is going to be a very hot day and reminded people to stay hydrated and check on neighbors.

EXECUTIVE SESSION

Mayor Lonergan entertained a motion to adjourn into executive session under the authority of ORS 192.660 (2)(e).

Motion: Schaub/Grijalva... move into executive session under the authority of ORS 192.660 (2)(e).

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

The Council adjourned into executive session at 9:05 p.m. and reconvened at 9:36 p.m. Mayor Lonergan stated that no action was taken by the Council while in executive session.

ADJOURNMENT

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

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

Mayor Lonergan adjourned the meeting at 9:37 p.m.

APPROVED _____
FRANK LONERGAN, MAYOR

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

**EXECUTIVE SESSION MINUTES
AUGUST 11, 2025**

DATE CITY HALL, CITY OF WOODBURN, COUNTY OF MARION, STATE OF OREGON, AUGUST 11, 2025

CONVENED The meeting convened at 9:06 p.m. with Mayor Lonergan presiding.

ROLL CALL

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

Mayor Lonergan reminded Councilors and staff that information discussed in executive session is not to be discussed with the public.

Staff Present: City Administrator Derickson, City Attorney Granum, Assistant City Administrator Row, City Recorder Pierson

Others in attendance: None.

The executive session was called:

- A. To conduct deliberations with persons designated by the governing body to negotiate real property transactions pursuant to ORS 192.660(2)(e).

ADJOURNMENT

The executive session adjourned at 9:36 p.m.

APPROVED _____

Frank Lonergan, Mayor

ATTEST _____

Heather Pierson, City Recorder
City of Woodburn, Oregon

September 8, 2025

TO: Honorable Mayor and City Council through City Administrator
THRU: Jason Millican, Chief of Police
FROM: Keith Kimberlin, Lieutenant
SUBJECT: **Liquor License Application Flores Mini Market LLC.**

RECOMMENDATION:

Recommend that the OLCC approve the Liquor License Application for Flores Mini Market LLC.

BACKGROUND:

Applicant: Maria A. Flores Amador
4490 Murdock Ct. NE
Salem, OR 97305
503-200-8009

Point of
Contact: Maria A. Flores Amador
4490 Murdock Ct. NE
Salem, OR 97305
503-200-8009

Business: Flores Mini Market LLC
311 N. Front Street
Woodburn, OR 97071
503-200-8009

Owner(s): Maria A. Flores Amador

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

License Type(s):

Off Premises- May sell and serve beer, wine, and cider for consumption off the licensed premises. May sell beer, wine, and cider in a securely covered "growler" for consumption off the licensed premises, but capacity not more than two gallons.

On July 30, 2025, the Woodburn Police Department received an application for an Off-Premises liquor license for Flores Mini Market. The business will be opening as a New Outlet located at 311 N. Front Street in Woodburn, OR 97071, and is currently being operated under the name Woodburn Plaza Market at that same location by a Marco Sanchez.

The hours of operation are 9 AM to 9 PM Sunday to Saturday. There is no entertainment listed for the location. 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 on Flores Mini Market, and the listed owner, Maria A. Flores Amador. They were ran through various police databases and business-related databases. Maria holds a valid Oregon driver's license, and no other items of concern were located during the check.

FINANCIAL IMPACT:

None

Traffic Photo Enforcement Report - N. Pacific Highway at Mt. Hood Avenue

Red Light Enforcement

	May 2025	June 2025	July 2025	May - July 2025 (Monthly Average)
Total Events Captured	473	321	488	427
Non-Event	267	171	273	237
Controllable	21	15	24	20
Not Controllable	81	78	89	83
Unprocessed/Misc	0	0	1	0
Total Rejections	369	264	387	340
Citations Issued	104	57	101	87

Speed Enforcement (46 mph+)

	May 2025	June 2025	July 2025	May - July 2025 (Monthly Average)
Total Events Captured	250	251	190	230
Non-Event	34	44	33	37
Controllable	9	6	6	7
Not Controllable	57	65	38	53
Unprocessed/Misc	0	1	0	0
Total Rejections	100	116	77	98
Citations Issued	150	135	113	133

EVENT REJECTION [NON-CITATION] KEY

Non-Event: No citation issued due to no violation - event triggered due to cross traffic or slow roll; public safety response, etc.

Controllable: No citation issued due to poor or malfunctioning camera/video quality [these are typically rejected prior to being sent to City/PD for review].

Not Controllable: No citation issued due to driver and/or vehicle registration issues; driver does not match reg owner; driver face obstructions; poor weather conditions.

Unprocessed/Misc: The program was unable to provide info on rejections for events and/or event was not within enforceable time period.

September 8, 2025

TO: Honorable Mayor and City Council through City Administrator

FROM: Jesse Cuomo, Community Services Director

SUBJECT: **Utility Assistance Program –Funding**

RECOMMENDATION:

Approve a renewal of the Utility Assistance Program Grant Agreement with a funding distribution of \$45,000 to Love INC of North Marion County (Love INC) for the continued administration of the City's utility assistance program.

BACKGROUND:

In FY 15/16, the City Council approved the execution of a contract for the administration of a utility assistance program with Mid-Willamette Valley Community Action Agency (MWVCAA). That agreement was terminated approximately 12 months later, after it was determined that MWVCAA did not provide assistance to any Woodburn residents.

In November 2016, the City entered into a similar agreement with the Society of St. Vincent DePaul (SVDP). Through April 2018, SVDP issued assistance totaling \$1,675 to 23 Woodburn residents. Through the agreement close-out process, SVDP provided the City with all of the remaining funds that hadn't been disbursed on behalf of utility customers.

Under a new arrangement, Love INC began providing assistance to utility customers in May of 2018 with an initial distribution from the City of \$5,000. A second disbursement of \$5,000 was provided in August 2018. It was clear that Love INC had successfully provided assistance to significantly more utility customers than at any point during the program's early history. The third disbursement provided Love Inc. with \$15,000 worth of funding for FY 19/20.

The program expanded in FY 22/23 with the allocation of \$25,000 of ARPA (American Rescue Plan Act Funds) for each FY 22/23 and FY 23/24 and an additional amendment for \$15,000, bringing the total allocation of ARPA distributed funds to \$65,000. This drastic increase in funding needs was seen due to the significant impacts of the COVID-19 pandemic.

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

UTILITY ASSISTANCE DISTRIBUTION DATA (Calendar Year):

Year	2022	2023	2024	2025 YTD (1/1/25 - 8/31/25)
Total Distribution	\$23,931.41	\$29,815.90	\$33,465.89	\$29,594.02
Clients Served	120	127	152	134
Average Distribution Per Household	\$199.43	\$234.77	\$220.17	\$220.85

DISCUSSION:

The City typically issues 70-80 shut-off notices for water utilities each week. After notices are issued, most accounts are brought current, resulting in approximately 10-15 actual weekly shut-offs.

The City's utility assistance program is intended to provide aid to residents who are experiencing difficulty in paying their water/ sewer bills. Qualifying applicants will be eligible for a maximum of \$300.00 per account per 12-month period. Financial assistance will be paid directly to the City and will be applied to the customer's outstanding balance. The eligibility criteria established for the utility assistance program is as follows:

- Applicant resides in the City of Woodburn and demonstrates an emergency need
- Applicant is the City of Woodburn utility account holder for which assistance is requested or an individual who has demonstrated financial responsibility for the delinquent account (residential customers only)
- Applicant has received and can show a past due notice and/or shut-off notice due to utility-related fees
- Applicant has not received more than \$300.00 in utility assistance from this Program during the previous 12 months
- Applicant can show that there is a demonstrated financial need meets Love INC's established criteria

FINANCIAL IMPACT:

Through the agreement, \$45,000 will be allocated and approved as budgeted in the fiscal year 25-26. Love INC may retain up to a 10% fee from the allocated funds for administration of the program; the remaining 90% of funds are directly for utility assistance.

September 8, 2025

TO: Honorable Mayor and City Council through City Administrator
THRU: Jason Millican, Chief of Police
FROM: Shawn Hershberger, Police Support Services Sergeant
SUBJECT: **IGA with the City of Mt. Angel**

RECOMMENDATION:

Authorize the City Administrator to sign into an Intergovernmental agreement with the City of Mt. Angel.

BACKGROUND:

Since 2017, the City of Woodburn has held an Intergovernmental agreement (IGA) with the City of Mt. Angel in order to provide them with access to various police software and services in exchange for compensation. The following are some of the services provided: Computer Aided Dispatching software, LEDS message switching capabilities, records management software and technical support to maintain the various systems.

On June 30, 2020, the IGA with the City of Mt. Angel expired and necessitates a renewal. The enclosed IGA has been modified to remove the renewal clause and add new services including, but not limited to, Enforcement Mobile.

DISCUSSION:

This IGA would be effective until the cancelation clause is initiated by either party.

This IGA has allowed the City of Mt. Angel and the City of Woodburn's Police Departments to share police record information to the benefit of both the agencies. Renewing this agreement would ensure that both parties continue to have access to the necessary systems required for policing.

FINANCIAL IMPACT:

None. The City of Mt. Angel has agreed to pay for all services and software provided to them by the City of Woodburn.

**INTERGOVERNMENTAL AGREEMENT
FOR
POLICE RECORDS MANAGEMENT SYSTEM & MOBILE DATA SYSTEM SERVICES**

THIS Intergovernmental Agreement for Police Records Management System Services ("IGA"), entered into between the City of Woodburn, an Oregon municipal corporation (the "City"), and the City of Mt. Angel Police Department, a unit of the City of Mt. Angel (the "Department"), is made pursuant to ORS 190.010 (Cooperative Agreements).

WHEREAS, the purpose of this IGA is to establish the terms and conditions under which the City will provide a police Records Management System ("RMS") and Mobile Data System ("MDS") (the "Systems") for use by the Department;

NOW THEREFORE, the Parties agree as follows:

1. Services.

1. 1. Systems. The City shall maintain the Systems and make them available for use by the Department. The Systems will provide a user generated law enforcement records database, and mobile data system, with message switching to the Oregon Law Enforcement Data System (LEDS).

1. 2. Data Processing Services. In addition to any standard data processing services agreed to in any other agreement between the Parties, the following standard data processing services shall also be provided by the City under the terms of this IGA:

1.2.1. Full time (24 hour, 7 days a week) operation and support for servers and software, and maintenance of backup and archival data storage media according to Woodburn Police Department standard procedures, and access to CAD and LEDS message switching facilities; all of which is subject to reasonable downtime for routine maintenance, support, and emergency repairs.

1.2.2. Record information entered into the RMS shall be retained online for a minimum of five years unless altered or deleted by the Department or ordered to be altered, sealed, or deleted by a court of competent jurisdiction.

1.2.3. Current manuals and other necessary documentation, protocols, and procedures will be provided.

1.2.4. Upon request, but no more than once a quarter, a meeting with the Department to participate in a records management user group.

2. Conditions of Services.

2.1. Department Equipment Requirements. The Department shall provide and maintain desktop computers, printers, controllers, mobile data computers, all required desktop and mobile software, all telecommunication lines and related equipment, and any other equipment for access to the Systems. All ownership rights to said equipment shall remain with the Department.

2.2. Records Ownership. Ownership of all records information entered into the system by the Department remains with the Department.

2.3. Security Standards.

2.3.1. The City shall provide adequate system and data security for the Systems in accordance with requirements of the FBI Criminal Justice Information Services Security Policy.

2.3.2. The City shall have no responsibility or obligation with respect to access by individual members of the Department except to allow access to the Systems upon use of passwords and procedures adopted in accordance with provisions herein.

2.3.3. The City shall have no responsibility or obligation to verify the identity or authority of any individual member of the Department using the Systems who has used appropriate passwords and procedures to gain access to the Systems.

2.3.4. The Department shall be exclusively responsible for the protection and security of terminal equipment located in their facility or vehicles.

2.4. Updated/New System Modules.

2.4.1. The Department may be offered new software or system modules as they become available and agreed to be purchased by the City. The City shall have no responsibility or obligation with respect to the purchasing of new module(s).

3. Compensation.

3.1. Fees & Charges. The Department shall pay the City certain fees and charges for usage of the Systems and services provided. (rates for fees and charges reflected in Exhibit A).

3.2. Fees & Charges for New System Modules. Fees and charges for any new modules will also be based on an actual cost pricing model.

3.3. Billing. The fees and annual charges shall be due from the Department to the City in equal quarterly installments commencing on September 8, 2025. Any additional fees and charges for new modules shall be due thirty (30) days after their installation is completed.

4. Term & Termination.

4.1. Term. The term of this IGA begins on September 8, 2025, and shall remain in effect indefinitely until terminated as described below.

4.2. Termination. This IGA may be terminated as follows:

4.2.1. Mutual Consent of Both Parties. This IGA may be terminated upon the mutual consent of both parties.

4.2.2. Department's Right to Terminate Upon Proper Notice. The Department may terminate this IGA, upon written notice being given to the City not later than March 1st of each year, with the effective date of termination then falling on June 30th of that same year. Notwithstanding the giving of notice of termination, the Department shall remain obligated with respect to any unfulfilled financial obligation which accrued hereunder prior to the effective date of such termination.

4.2.3. City's Right to Terminate. The City may terminate this IGA, effective upon delivery of written notice to the Department or at such later date as may be established under any of the following conditions:

(a) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this IGA.

(b) If any license or certificate required by law or regulation to be held by the City to provide the services required by this IGA is for any reason denied, revoked, or not renewed.

(c) If the Department fails to perform certain covenants or obligations required by this IGA, and where such failure is not cured within ten (10) business days after delivery of notice of breach by the City, or such longer period as the City may specify.

5. Compliance with Applicable Laws. The Parties agree that both shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this IGA.

6. Nondiscrimination. The Parties agree to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, regulations in the performance of this IGA.

7. Limitations on Liability.

7.1. The City assumes no liability for the accuracy of any data entered by the Department in the Systems, nor errors in data transmission over an internet system or telephone lines. The City represents and warrants only that it will use its best efforts to maintain a database of information exactly as entered, modified, or deleted by those data entry signals which reach its modem.

7.2. The Department agrees, to the extent it may under the Constitution and laws of Oregon, to indemnify, defend, and hold the City, its officers, employees, and agents harmless from any and all claims arising out of the intentional, reckless, or negligent acts, errors, or omissions of the Department or those for whose acts it may be held liable under ORS 30.265, or out of connection with the Department's use of the Systems and caused by any condition or circumstance for which liability is expressly disclaimed or limited by the City under any provision of this IGA.

7.3. The City agrees, to the extent it may under the Constitution and laws of Oregon, to indemnify, defend, and hold the Department, its officers, employees, and agents harmless from any and all claims arising out of the intentional, reckless, or negligent acts, errors or omissions of the City or those for whose acts it may be held liable under ORS 30.265, save and except any claim for which the City has expressly disclaimed or limited its liability hereunder, to the extent of such disclaimer or limitation; and further provided that with respect to any single claim or occurrence, the City's liability arising out of contribution or indemnity shall not exceed the limits provided by ORS 30.269, if applicable to the asserted claim.

7.4. Each party shall insure or self-insure and be independently responsible for the risk of its own liability for claims within the scope of the Oregon tort claims act (ORS 30.260 to 30.300).

8. Notices. Any Notice provided for or concerning this IGA must be in writing and will be deemed sufficiently given when personally delivered or mailed by Certified mail, to the respective address of each party as follows:

8.1. For City. City of Woodburn Police Department, Attn: Chief of Police, 1060 Mt. Hood Ave, Woodburn, Oregon 97071.

8.2. For Department. City of Mt. Angel Police Department, Attn: Chief of Police, 5 N Garfield St, Mt Angel, Oregon 97362.

9. Assignments: Successors and Assigns. Neither Party shall assign or transfer any of its interest in this IGA without the written consent of the other Party, such consent not to be unreasonably withheld. The provisions of this IGA shall be binding upon and shall inure to the benefit of the Parties hereto, and their respective successors and permitted assigns, if any.
10. No Third-Party Beneficiaries. No provision of this IGA is intended or will be construed to confer upon or give to any person or entity other than the signatories to this IGA any rights, remedies or other benefits under or by reason of this IGA.
11. Records. Each Party shall retain all its records relating to this IGA and projects/activities carried out under this IGA for a period of six (6) years following expiration or termination of this IGA.
12. Governing Law. This IGA is governed by and will be construed in accordance with the laws of the State of Oregon.
13. Severability. The Parties agree that if any term or provision of this IGA is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the IGA did not contain the particular term or provision held to be invalid.
14. Merger Clause; Waiver. This IGA constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this IGA. No waiver, consent, modification or change of terms of this IGA shall bind either Party unless in writing and signed by both Parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of the City to enforce any provision of this IGA shall not constitute a waiver by the City of that or any other provision.

The Parties execute this IGA effective as of the last date of signature specified below.

CITY OF WOODBURN
an Oregon municipal corporation

MT. ANGEL POLICE DEPARTMENT
an Oregon municipal corporation

Scott Derickson, City Administrator

Mark Daniel, City Manager/Chief of Police

Date

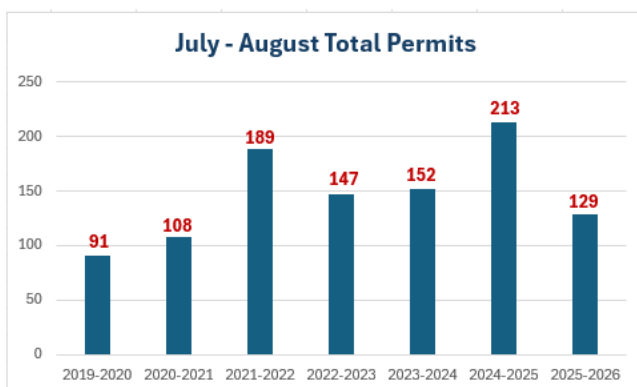
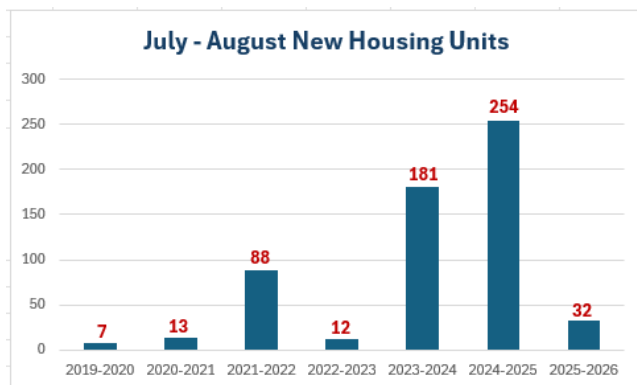
Date

EXHIBIT A

Agency				2025-26	2026-27	2027-28	2028-29
	Population	% Share					
Mt. Angel	3,594	7.60%		\$ 14,196	\$ 14,472	\$ 14,751	\$ 15,039

The costs for future fiscal years are projections only; the actual costs will be determined by the City of Woodburn annually.

City of Woodburn New Development Activity						
August- '25						
Month	Total Permits	New Single Family Home Permits	Residential Building Permit Valuation	Commercial Building Permit Valuation	Total Permit Valuation	New Housing Units
August '19	38	1	\$ 273,625	\$ 162,097	\$ 1,223,827	1
August '20	56	7	\$ 1,615,516	\$ 637,165	\$ 2,997,995	7
August '21	80	32	\$ 8,153,490	\$ 108,000	\$ 9,474,822	32
August '22	71	12	\$ 4,030,699	\$ 352,390	\$ 4,565,831	12
August '23	77	6	\$ 2,388,340	\$ 11,782,357	\$ 14,347,901	90
August '24	95	27	\$ 9,290,343	\$ 22,217,390	\$ 31,849,478	183
August '25	79	20	\$ 6,427,705	\$ 7,969,471	\$ 15,524,489	20
Fiscal Year Totals (July-August)						
2019-2020	91	7	\$ 1,769,263	\$ 818,379	\$ 3,925,188	7
2020-2021	108	13	\$ 2,862,235	\$ 2,958,165	\$ 7,795,092	13
2021-2022	189	64	\$17,797,749	\$ 4,466,664	\$ 23,768,277	88
2022-2023	147	12	\$ 4,797,471	\$ 896,990	\$ 7,552,592	12
2023-2024	152	13	\$ 4,711,242	\$ 25,712,252	\$ 32,080,845	181
2024-2025	213	74	\$24,404,259	\$ 25,409,790	\$ 50,631,629	254
2025-2026	129	32	\$10,983,922	\$ 11,655,381	\$ 24,011,169	32



September 8, 2025

To: Honorable Mayor and City Council through City Administrator

From: Chris Kerr, Community Development Director *CK*

Subject: **Ordinance Implementing Legislative Amendment 25-01 to the Woodburn Development Ordinance Regarding Interim Floodplain Requirements Directed by FEMA**

RECOMMENDATION:

Consider the Woodburn Development Ordinance amendment and adopt the attached Ordinance to implement Legislative Amendment LA 25-01.

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.

On May 22nd, the Planning Commission held a public hearing on this item and unanimously recommended that the Council adopt a permit-by-permit review process to meet the new FEMA requirements. This would 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.

The City Council held a public hearing on July 14, 2025, to consider the proposed amendments. At that time, the City Attorney's office was advising that the Council hold the public hearing and take testimony, but then continue the item until such time as certain active litigation was resolved.

DISCUSSION:

Agenda Item Review: City Administrator ___x___ City Attorney ___x___

Unfortunately, the *Oregonians for Floodplain Protection* litigation surrounding implementation of the PICM has yet to settle or be brought to a resolution. However, FEMA has since sent updated notices to local jurisdictions indicating that we must still move ahead with adopting one of the PICM options in order to comply with new floodplain regulations. A new adoption deadline was then set for August 29, 2025.

Since July, more cities have now moved ahead with some version of implementation of a PICM option/amendment. It seems that failure to take action now, may bring additional scrutiny from FEMA that could put the City in a more difficult position in the future.

Based on the Planning Commission's recommendation, the proposed WDO amendment includes requiring permit applicants to develop a Floodplain Habitat Assessment documenting that their proposed development in the Special Flood Hazard Area will achieve "no net loss." 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.

PICM is intended to address ESA compliance as an interim measure while FEMA undertakes a NEPA review of FEMA's proposed long-term integration measures. PICM will be required through the remainder of the Environmental Impact Statement process, which is expected to end in 2026. At that time, long term implementation measures will need to be considered and adopted in a majority of developed Oregon communities. This will likely include a new model ordinance to be adopted by local communities.

FINANCIAL IMPACT:

Adoption of the permit-by-permit option will bring added development costs for applicants due to the nature and complexity of preparing the necessary habitat assessments, however 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.

COUNCIL BILL NO. 3287

ORDINANCE NO. 2639

AN ORDINANCE ADOPTING AMENDMENTS TO THE WOODBURN DEVELOPMENT ORDINANCE RELATED TO FLOODPLAIN PROTECTIONS (LA 25-01)

WHEREAS, the Woodburn Development Ordinance (WDO) establishes the standards that development is required to meet and that clarity of those standards is critical as the community continues to grow and prosper; and

WHEREAS, periodic revisions and updates to the Woodburn Development Ordinance are necessary and expected to comply with statutes and administrative rules, administer new and revised long-range plans, and address current issues; 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; and

WHEREAS, on April 15, 2025, the Council, in conformance with WDO 4.01.09A, initiated Legislative Amendment 25-01 via Resolution, directing staff to review and revise the WDO regulations for floodplain protections; and

WHEREAS, the Woodburn Planning Commission held a public hearing on May 22, 2025, and unanimously recommended approval of the Option 2 amendment to the City Council; and

WHEREAS, the Woodburn City Council held a public hearing on July 14, 2025, and directed staff to return at a future date with a legislative amendment when it became timely; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. For purposes of this ordinance amendment, all new text is shown as red underlined (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 correct the WDO to incorporate all revisions contained herein.

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

Section 3. The legislative action taken by the Ordinance is explained and justified by the Analyses & Findings and Staff Report documents attached hereto and incorporated herein as Exhibits B and C, respectively.

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

EXHIBIT A

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 (TBD) on (TBD) (LA 25-01)

1.02 Definitions

...

Plant Unit: A quantity of specified plant materials (See Table 3.06B).

PUE: The acronym refers to public utility easement.

Qualified Professional: For the purposes of completing a Flood Habitat Assessment Report in accordance with the requirements of this Ordinance, a “Qualified Professional” shall have a minimum of a Bachelor’s degree in wildlife or fisheries habitat biology, or a Bachelor’s degree in a related biological field from an accredited college of university with experience as a practicing fish or wildlife habitat biologist.

Recreational Vehicle or RV: A vehicle with or without motive power that is designed for

....

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
- D. 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.
- E. 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.
- F. 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.

G. 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.

H. 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.

I. Special Flood Hazard Area Requirements

In addition to any information necessary to satisfy this section, if the activity occurs on a lot that is encumbered or partially encumbered by the FEMA Special Flood Hazard Area, the 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.

J. 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.

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.

Exhibit B

- (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.

Exhibit B

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.

Exhibit B

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

Exhibit B

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.



Agenda Item

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:	<u>Approval of “Permit-by-Permit” Approach (Option 2)</u>

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

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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.

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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

Honorable Mayor and City Council
April 14, 2025
Page 4

“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

U.S. Department of Homeland Security
 FEMA Region 10
 130 228th Street, SW
 Bothell, WA 98021-8627



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.

Lonergan
 July 15 2024
 Page 2

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
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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).

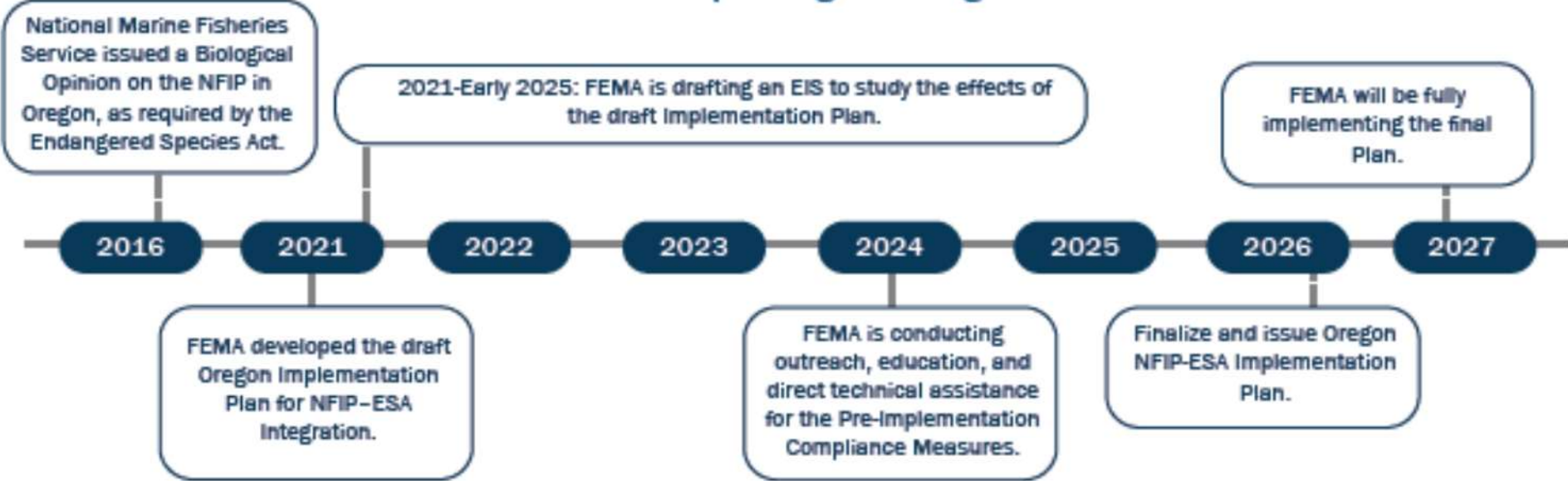


The National Flood Insurance Program serves to protect lives and property, while reducing costs to taxpayers due to flooding loss.

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

Oregon National Flood Insurance Program Endangered Species Act Integration

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

Oregon National Flood Insurance Program Endangered Species Act Integration

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

Oregon National Flood Insurance Program Endangered Species Act Integration

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

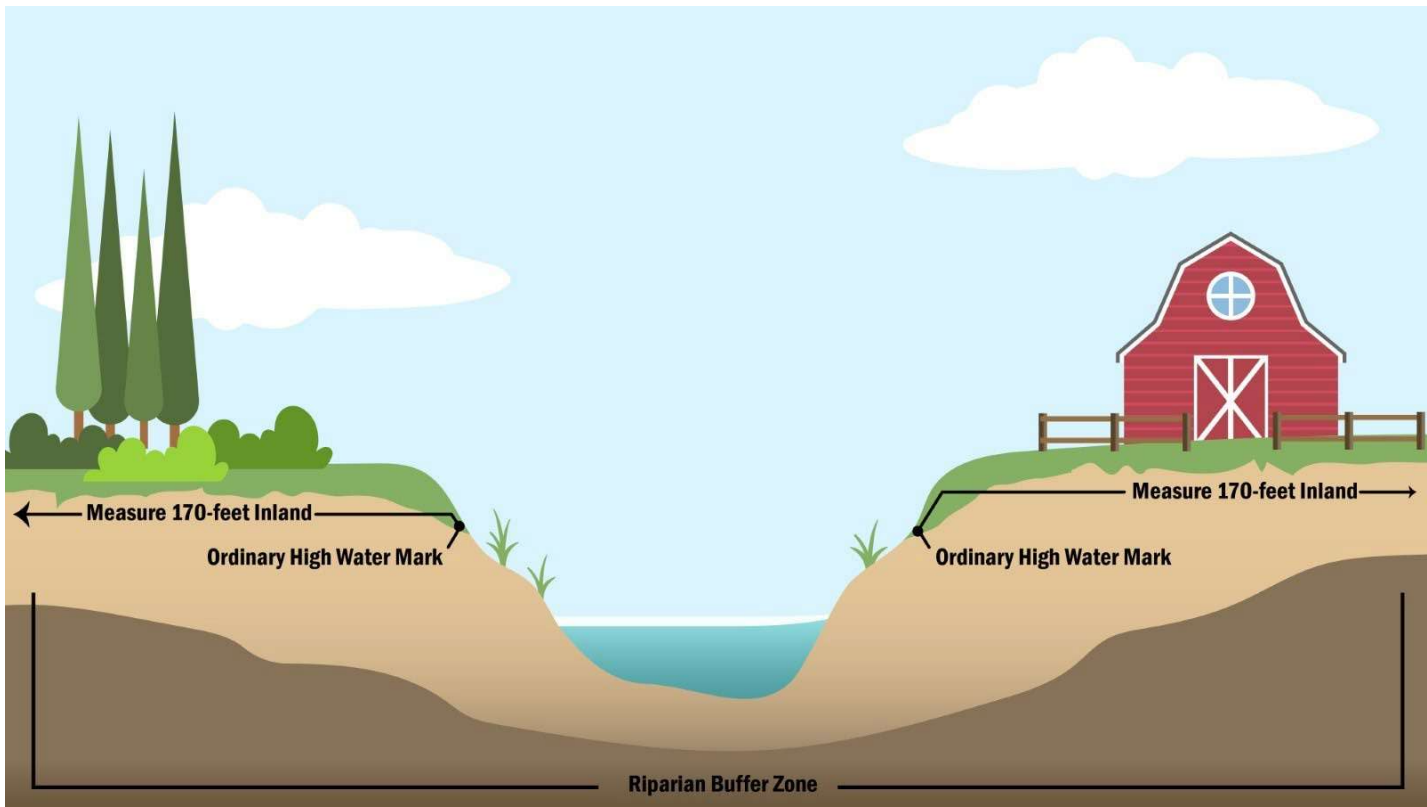
Trees play a vital role in the ecosystem and habitat of salmon. They stabilize banks against erosion, provide shade which regulates temperature for the waterbody, and creates habitat that attracts insects and other vital food sources. Under PICM, each tree over 6” diameter breast height (dbh) that is 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)

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 (ft ³)	Pervious Surface (ft ²)	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 (5 th)	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



OREGON
Department of Land Conservation & Development

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.

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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

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

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

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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

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.

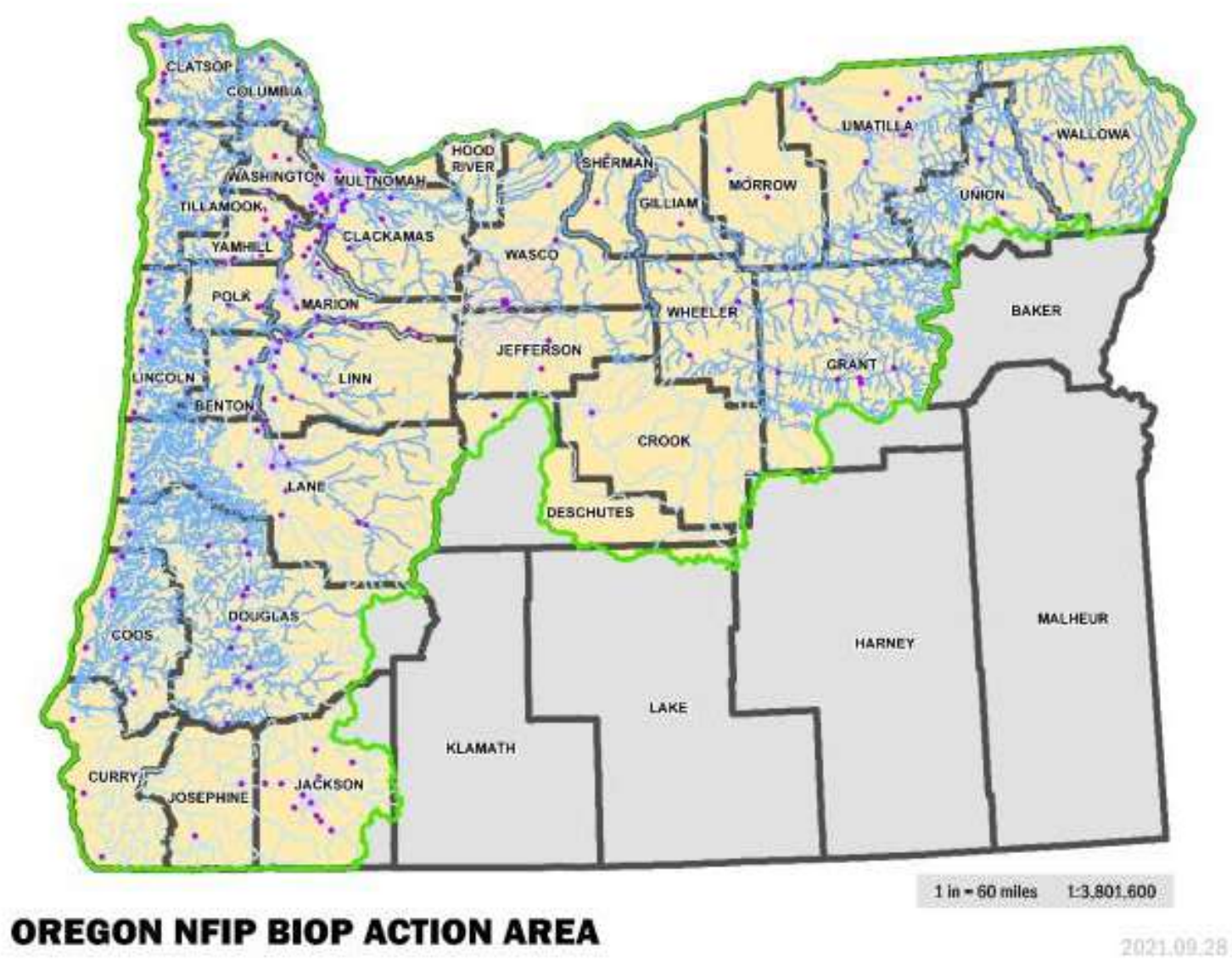
While DLCD staff are not responsible for PICM implementation, we are available to offer technical assistance. Email or call Oregon’s NFIP Coordinator at DLCD, Deanna Wright, deanna.wright@dlcd.oregon.gov, 971-718-7473.

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:

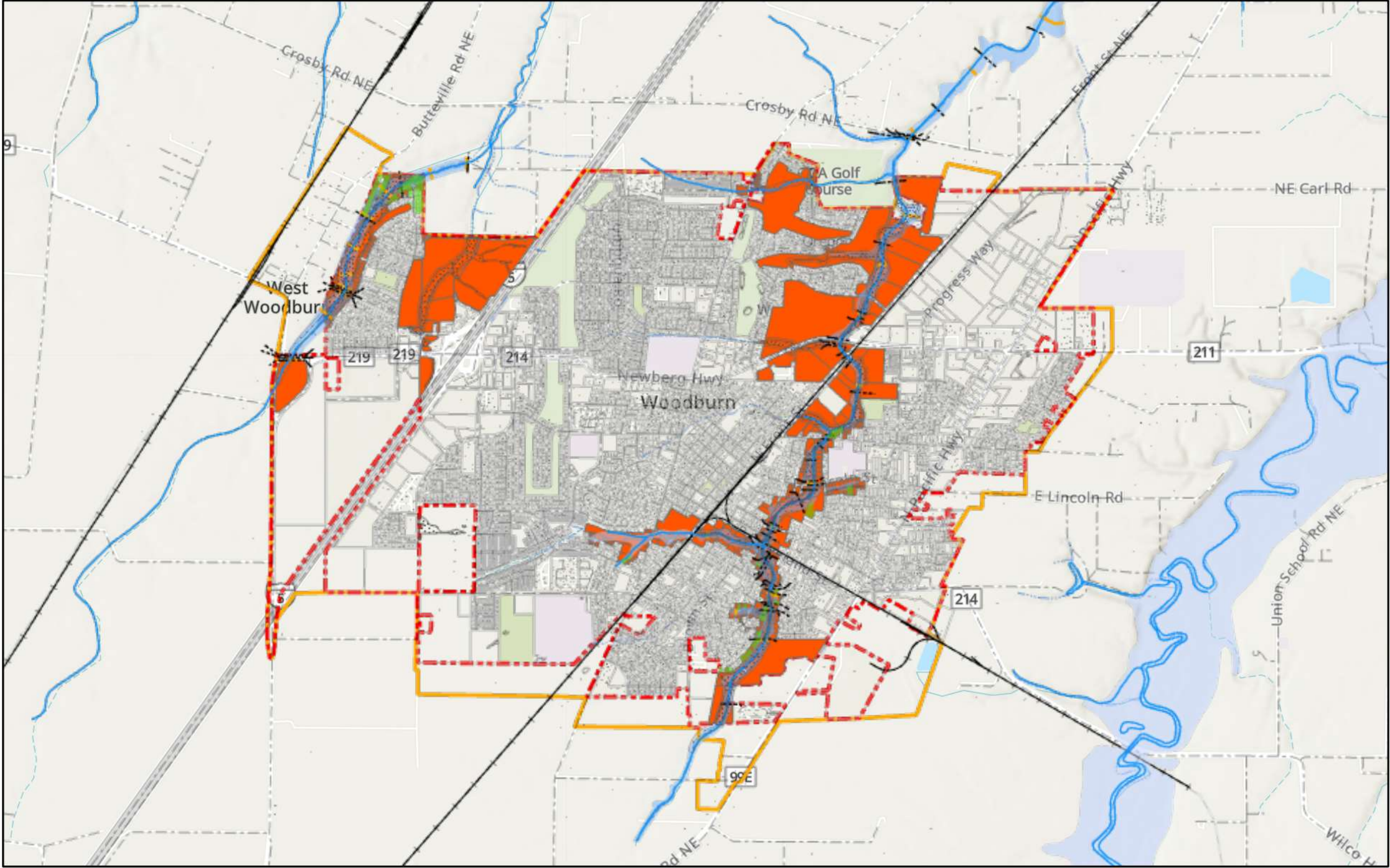


The BiOp is applicable in Special Flood Hazard Areas (SFHA) within the mapped salmon recovery domains for Oregon communities that participate in the NFIP. The BiOp covers approximately 90 percent of participating Oregon NFIP communities but does not apply to five counties.

[NOAA Fisheries GIS mapping application tool](#)

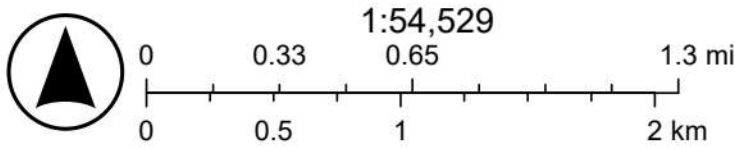
FEMA has published [directions](#) on how to determine if a proposed development or project area is within the BiOp area.

Floodplain Taxlot Map



4/8/2025

- | | | | |
|--|--|--|--|
| <ul style="list-style-type: none">Elevation LocationsSignificant WetlandsRiparian Corridor & Wetlands Overlay District (RCWOD)FEMA Water LineFEMA Cross Sections | <ul style="list-style-type: none">FEMA Base Flood Elevations2000 FEMA 100 Yr Flood PlainZone AZone AEZone AE FloodwayFloodplain Taxlots | <ul style="list-style-type: none">WB_Taxlot_CLWetlandsSignificant WetlandsOther WetlandsAddress LabelsCenterlines | <ul style="list-style-type: none">StreamsRailroadCity LimitsCurrent Urban Growth BoundaryWorld_Hillshade |
|--|--|--|--|



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

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

September 8, 2025

To: Honorable Mayor and City Council through City Administrator

From: Heather Pierson, City Recorder
McKenzie Granum, City Attorney
Chris Kerr, Community Development Director
Curtis Stultz, PW Director

Subject: **Ordinance Updating the Master Fee Schedule**

RECOMMENDATION:

Enact an Ordinance amending and updating the City's Master Fee Schedule for:

1. The Community Development Department, Planning Division fees for land use applications and planning services;
2. The Public Works Department, Water Service Installation Charges and Right-of-Way Construction Permitting;
3. Adding a new Public Records Request Fee Schedule.

BACKGROUND:

In September 1998, the City Council adopted the first master fee schedule (Ord. No. 2226), which provided for a set schedule of fees and charges for certain City services. Since 1998, the fee schedule has been periodically updated through various ordinance amendments to ensure the City continues to recover its full costs in providing services of a voluntary and limited nature. The most recent amendments to the Master Fee Schedule were in 2023, with modifications to (1) planning fees for land use applications and planning services; (2) community services department fees for park and facility rentals and aquatic fees; and (3) the finance department fees for lien searches, check fees, and liquor licenses; changes were also made in 2024 to the Planning Fees to add new tree removal fees.

DISCUSSION:

Community Development Department, Planning Division Fees:

Proposed fee increase includes an inflationary increase to all planning fees of 3.6%.

The following new Planning Division fees are also proposed to include:

- (1) An application fee for preliminary approval of a middle-housing land division (\$3,854, which is the same fee amount as a partition application);
- (2) An application fee for the final plat approval for middle-housing land division (\$1,927, which is the same fee amount as a partition application);
- (3) Consolidating the Comprehensive Plan Map Amendment Fees into a single fee, regardless of the acreage size of the amendment (\$4,869);
- (4) Adding a lower application fee for Property Line Adjustments and Lot Consolidations for parcels of less than or equal to 1.00 acre (\$710, reduced from \$2,025);
- (5) An application fee for residential mandatory adjustments now required to be reviewed and accepted under SB 1537 (\$710, which is the same fee for Design Review Type I applications);
- (6) Adding a new fee for applications that include multiple variance requests (\$710 for each additional request); and
- (7) Increasing the fee for Land Use Compatibility Statements and other Jurisdictional Permit Sign-offs to better account for time spent on such sign-offs (\$355, increased from \$100 previously).

Public Works Water Service Installation Charges and Right-of-Way Construction Permitting:

Public Works proposed to increase the following ROW construction permitting charges and water service installation charges so that fees capture actual costs being incurred by the City in providing certain equipment and services:

- (1) Construction Permit for work in the public right of way:
 - Added a "minimum fee \$100.00"
 - Weep holes: Increased charge for first from \$67 to \$300 (each additional weep hole \$50.00)
 - Removed curb cuts fee

- Removed approach saw cutting fee
2. Water Service Installation Charges:
- 1 Inch line 5/8" meter: Increased charge to \$368.00
 - 1 Inch line and Meter: Increased charge to \$547.00
 - 3 to 8" Inch line and meter: Specified that cost is base on actual labor and material cost + 15% administration

Adjusted fees are based on current materials and labor cost.

Public Records Fee Schedule:

Pursuant to State Law and City Policy, the City charges a fee for responding to public records requests that is reasonably calculated to reimburse the City for its actual costs in making records available to the public.

Generally, records requests are managed and processed by either the City Recorder or Police Department's Support Services Sergeant, but many different employees may be utilized to actually search for records and fulfill requests. Each department in the City has a records management coordinator that helps fulfill requests.

Under the City's current fee schedule, the Finance Department fee schedule includes a \$41/hour research fee that the City has been charging for fulfilling most non-police related records requests. There is also an old copy and tape fee listed that are outdated.

As part of this fee schedule update, it is proposed that Records Request Fees be under their own distinct Section of the fee schedule and be updated to reflect current day costs associated with fulfilling requests. Updated fees include:

Regulation, Product or Service	Fee	Notes (Add'l Fees, Equipment, Etc.)
Public Records Requests – Fees & Charges		
Records Production – General Fulfillment	<ul style="list-style-type: none"> • \$40 for Clerical Fulfillment Time • \$75 for Managerial Fulfillment Time (e.g. Senior Analysts, IT, HR) 	Charged to the nearest 1/4 hour
Records Production – Legal Review and/or Redaction Time	Fee equivalent to the salary (hourly wage plus	Charged to the nearest 1/4 hour

	benefits) of each employee involved for processing the request	
Records Production – Police Department Fulfillment	Fee equivalent to the salary (hourly wage plus benefits) of each employee involved for processing the request	Charged to the nearest 1/4 hour
Photocopies	\$0.25 per page	General Service Documents 8.5 x 11, 8.5 x 14, 11 x 17; Oversized Documents charged at actual cost
Media	Actual cost of media item(s) provided	Includes providing CDs, USB drives, or other electronic media as part of fulfilling the request
Postage	Actual cost based on current postage rates	

Other document-related fees still listed in the Master Fee Schedule will remain unchanged (e.g. police traffic accident report fee, lien search fees, etc.).

FINANCIAL IMPACT:

The proposed fee modifications will provide better cost recovery by the Community Development and Public Works Departments and by the City Recorder's Office. These fee updates are intended to keep up with inflating costs and/or reflect actual amounts charged, they are not anticipated to have a significant impact on the City's net revenues over expenditures.

Attachments:

- Planning Division Fees Comparison Chart
- PW Master Fee Schedule 2024
- PW Master Fee Schedule 2025 (proposed)

City of Woodburn, Oregon: Planning Division Fee Schedule			
	Land Use Applications	Current fee	Updated fee
Annexation	More than 1.00 acre	\$5,130	\$5,315
	Less than or equal to 1.00 acre	\$2,565	\$2,657
Appeal, Land Use		\$135 + 1/2 of original application fee, but maximum total	\$140 + 1/2 of original application fee, but maximum total
	Appeal to City Council (Type III)	\$2,700.	\$2,797.
	Appeal to City Council (Type II)	\$250	\$259
Comprehensive Plan Map Amendment (CMPA)	More than 1.00 acre	\$4,700	\$4,869
	Less than or equal to 1.00 acre	\$4,670	-
Conditional Use Permit (CU)	Non-Specific	\$5,390	\$5,584
	Specific: Historically or Architecturally Significant Building	\$1,725	\$1,787
	Specific: Telecommunications Facility	\$3,285	\$3,403
	Type I	\$685	\$710
Design Review (DR)	Type II or higher: Up to 3,000 total square feet (sq ft)	\$6,115	\$6,335
	Type II or higher: More than 3,000 and fewer than 30,000 total sq ft	\$9,490	\$9,832
	Type II or higher: 30,000 or more total sq ft	\$19,440	\$20,140
Fence Permit (FNC)		Free	Free
Final Plat Approval	Partition	\$1,860	\$1,927
	Subdivision	\$3,880	\$4,020
	Middle Housing Land Division	N/A	\$1,927
	Planned Unit Development (PUD)	\$3,880	\$4,020

Grading Permit (GRAD)		\$685	\$710
Home occupation review		Free	Free
Manufactured Dwelling Park (MDP)	<i>Preliminary Approval</i>	\$4,710	\$4,880
	<i>Final Approval</i>	\$1,625	\$1,684
Middle Housing Land Division (MHL D)	<i>Preliminary Approval</i>	N/A	\$3,854
Modification of Conditions (MOC)		\$135 + 1/2 of original application fee.	\$140 + 1/2 of original application fee.
Partition (PAR)	<i>Preliminary Approval</i>	\$3,720	\$3,854
Phasing Plan (PP)		\$2,145	\$2,222
Planned Unit Development (PUD)	<i>Conceptual Development Plan</i>	\$4,480 + \$55/lot	\$4,641 + \$57/lot
	<i>Detailed Development Plan</i>	\$1,375	\$1,425
Pre-Application Conference (PRE)		\$685	\$710
Property Line Adjustment;	<i>More than 1.00 acre</i>	\$2,025	\$2,098
Lot Consolidation (PLA)	<i>Less than or equal to 1.00 acre</i>	N/A	\$710
Residential Architectural Standards Substitution (RSS)		\$540	\$559
Residential Mandatory Adjustment request		\$685	\$710
Riparian Corridor & Wetland Overlay District Permit (RCWOD)		\$670	\$694
	<i>Permanent: Freestanding</i>	\$520	\$539

Sign Permit (SIGN)	<i>Permanent: Other than freestanding</i>	\$115	\$119
	<i>Temporary</i>	Free	Free
Special Event Permit (SPEV)		\$165	\$171
Street Adjustment (SA)	<i>Type II</i>	\$4,040	\$4,185
	<i>Type III or higher</i>	\$4,560	\$4,724
Subdivision (SUB)	<i>Preliminary Approval</i>	\$5,665 + \$55/lot	\$5,869 + \$57/lot
Significant Tree Removal Permit (TREE)	<i>Tier 1</i>	\$220 + \$150 mitigation deposit	\$228 application fee + \$155 mitigation deposit
	<i>Tier 2</i>	\$420 or \$520, + \$150 mitigation deposit	\$435 (S) or \$539 (T) application fee + \$155 mitigation deposit
	<i>Tier 3</i>	\$620 or \$820, + \$250 or \$500 mitigation deposit	\$642 (S) or \$850 (T) application fee + \$259 (S) or \$518 (T) mitigation deposit
	<i>Tier 4</i>	\$820, \$1,420, or \$150/inch of DBH, + \$500 or \$950 mitigation fee	\$850, \$1,471, or \$155/inch of DBH application fee + \$518 (S) or \$984 (T) mitigation deposit
Variance	<i>1st request</i>	\$4,695	\$4,864
	<i>Each additional request</i>	N/A	\$710
Zoning Map Amendment		\$4,615	\$4,781
Zoning Adjustment		\$3,520	\$3,647
Planning Division Services		Current fee	Updated fee
Addressing Assignment, Street	<i>Base fee</i>	\$220	\$228
	<i>For a residential, commercial, or industrial complex of buildings</i>	Base fee + \$4 per building	Base fee + \$4 per building
		Base fee + \$4 per lot and tract	Base fee + \$4 per lot and tract
	<i>For multiple lots and/or tracts</i>		

Bond or performance guarantee release or status letter		\$50	\$52
Civil engineering plan review	<i>1st submittal</i>	\$350	\$363
	<i>2nd and successive submittals</i>	\$250	\$259
Drafting of development agreement, intergovernmental agreement (IGA), or memorandum of understanding (MOU)		\$2,500	\$2,590
Expedited Land Use Review	<i>Middle Housing Land Division Partition (other than middle housing)</i>	\$9,060	\$9,386
	<i>Subdivision (other than middle housing)</i>	\$6,320	\$6,548
		\$9,060	\$9,386
Expedited review	\$90/hour	\$93/hour	
Interpretation of the WDO, formal		\$2,640	\$2,735
Land Use Compatability Statement (LUCS) or other jurisdictional permit sign-off		\$100	\$355
Extension of a development decision		\$685	\$710
Planning front counter, email, and phone inquiry service		free	free

Planning service 1.5 hours or more (by appointment)		\$90/hour	\$93/hour
Printing and copying		Mimics the PW fee schedule for printing and copying	
Site inspection	<i>1st & 2nd inspections</i>	free	free
	<i>3rd and successive inspections</i>	\$250	\$259
Transportation impact analysis (TIA) review		\$900	\$932
Zoning verification letter		\$100	\$104



08/09 Public Works Master Fee Schedule Per Ordinance 2433

Product/Service	Fee	Account	Notes
Printing	\$0.05	001-000-3699	Per Page
Color Printing	\$0.75	001-000-3699	Per Page
Construction Permit for Work in the Public Right of Way per Ordinance 1795			
· under \$5000	5% of imp. Cost	001-000-3224	
· \$5000 to \$25,000	\$250 + 4% over 5K	001-000-3224	
· \$25,000 to \$100,000	\$1,000 + 3% over 25K	001-000-3224	
· Over \$100,000	\$3,000 + 2% over 100K	001-000-3224	
Weep Holes – First	\$67.00 ea.	140-000-3223	First Weep Hole
Weep Holes – ea. Additional	\$34.00 ea.	140-000-3223	Ea. Additional
Curb Cuts	\$134.00 ea.	140-000-3223	Includes Two Cuts
Approach Saw Cutting	\$2.00/lf	140-000-3223	Per Lineal Foot
Sewer Tap			Storm or Sanitary
B & W 24"x36" Copy	\$12.00 ea.	001-000-3415.001	
B & W 18"x24" Copy	\$12.00 ea.	001-000-3415.001	
Plotted Map 24"x36"	\$25.00	001-000-3415.001	Other \$4.17/SqFt
Water Service Installation Charges			
1 Inch Line 5/8" Meter	\$284/00 ea.	Fees Paid at Building Department	
· Meter Deposit	\$75.00		
1 Inch Line and Meter	\$284.00 ea.		
· Meter Deposit	\$90.00		
1½ Inch Line and Meter	\$1,134.00		
· Meter Deposit	\$125.00		
2 Inch Line and Meter	\$1,134.00		
· Meter Deposit	\$150.00		
3 Inch Line and Meter	"*"		
· Meter Deposit	\$170.00		
4 Inch Line and Meter	"*"		
· Meter Deposit	\$275.00		
6 Inch Line and Meter	"*"		
· Meter Deposit	\$540.00		
8 Inch Line and Meter	"*"		
· Meter Deposit	\$600.00		
Bid Documents	\$50.00 ea.	001-000-3415.001	Non Refundable

"*" Cost based on actual labor and material cost + 15%



08/09 Public Works Master Fee Schedule Per Ordinance 2433

Product/Service	Fee	Account	Notes
Printing	\$0.05	001-000-3699	Per Page
Color Printing	\$0.75	001-000-3699	Per Page
Construction Permit for Work in the Public Right of Way per Ordinance 1795			
· under \$5000	5% of imp. Cost	001-000-3224	Minimum fee \$100.00
· \$5000 to \$25,000	\$250 + 4% over 5K	001-000-3224	
· \$25,000 to \$100,000	\$1,000 + 3% over 25K	001-000-3224	
· Over \$100,000	\$3,000 + 2% over 100K	001-000-3224	
Weep Holes – First	\$300.00 ea.	140-000-3223	First Weep Hole
Weep Holes – ea. Additional	\$50.00 ea.	140-000-3223	Ea. Additional
Curb Cuts		140-000-3223	
Approach Saw Cutting		140-000-3223	Per Lineal Foot
Sewer Tap			Storm or Sanitary
B & W 24"x36" Copy	\$12.00 ea.	001-000-3415.001	
B & W 18"x24" Copy	\$12.00 ea.	001-000-3415.001	
Plotted Map 24"x36"	\$25.00	001-000-3415.001	Other \$4.17/SqFt
Water Service Installation Charges			
1 Inch Line 5/8" Meter	\$368/00 ea.	Fees Paid at Building Department	
· Meter Deposit	\$75.00		
1 Inch Line and Meter	\$547.00 ea.		
· Meter Deposit	\$90.00		
1½ Inch Line and Meter	\$1,134.00		
· Meter Deposit	\$125.00		
2 Inch Line and Meter	\$1,134.00		
· Meter Deposit	\$150.00		
3 Inch Line and Meter	"*"		
· Meter Deposit	\$170.00		
4 Inch Line and Meter	"*"		
· Meter Deposit	\$275.00		
6 Inch Line and Meter	"*"		
· Meter Deposit	\$540.00		
8 Inch Line and Meter	"*"		
· Meter Deposit	\$600.00		
Bid Documents	\$50.00 ea.	001-000-3415.001	Non Refundable

"*" Cost based on actual labor and material cost + 15%

COUNCIL BILL NO. 3288

ORDINANCE NO. 2640

AN ORDINANCE AMENDING ORDINANCE 2433 (MASTER FEE SCHEDULE) TO MODIFY AND UPDATE COMMUNITY DEVELOPMENT - PLANNING DIVISION FEES, PUBLIC WORKS FEES, AND PUBLIC RECORDS FEES; AND REPEALING ALL FEES AND CHARGES THAT ARE INCONSISTENT WITH THIS ORDINANCE; AND SETTING AN EFFECTIVE DATE

WHEREAS, in September 1998, the City Council adopted the first Master Fee Schedule to account for the City's reasonable costs in providing special services; and

WHEREAS, in Ordinance 2433 the City stated it desired to establish a policy of recovering the full costs reasonably borne of providing services of a voluntary and limited nature, such that general taxes are not diverted from general services of a broad nature and thereby utilized to subsidize unfairly and inequitably such special services; and

WHEREAS, an update to the schedules of identified fees and charges to be paid by those requesting services of a voluntary and limited nature needs to occur so that the City may carry into effect its identified fiscal policy; and

WHEREAS, pursuant to ORS 294.160, at its meeting on September 8, 2025, the City Council provided an opportunity for interested persons to comment on the enactment of this Ordinance and its proposed fee increases; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:

Section 1. The schedule of Community Development, Planning Division fees and charges affixed and incorporated as Attachment "A" is hereby adopted by the City and shall be included in the City's Master Fee Schedule.

Section 2. The schedule of Public Works fees and charges affixed and incorporated as Attachment "B" is hereby adopted by the City and shall be included in the City's Master Fee Schedule.

Section 3. The schedule of Public Records Request fees and charges affixed and incorporated as Attachment "C" is hereby adopted by the City and shall be included in the City's Master Fee Schedule.

Section 4. All fees and charges that are inconsistent with those contained in the attached schedules are hereby repealed.

Section 5. This Ordinance and all fees and charges hereby adopted by and through this Ordinance shall take effect on October 15, 2025.

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 City Recorder _____

ATTEST: _____
City Recorder
City of Woodburn, Oregon

ATTACHMENT “A”

COMMUNITY DEVELOPMENT – PLANNING DIVISION FEE SCHEDULE

Regulation, Product or Service		Fee	Notes (Add'l Fees, Equipment, Etc.)
Community Development – Planning Division Fees			
Land Use Applications		Fee	Notes
Annexation	<i>More than 1.00 acre</i>	\$5,315	
	<i>Less than or equal to 1.00 acre</i>	\$2,657	
Appeal, Land Use	<i>Appeal to City Council (Type III)</i>	\$140 + 1/2 of original application fee	But maximum total \$2,797
	<i>Appeal to City Council (Type II)</i>	\$250	
Comprehensive Plan Map Amendment (CMPA)		\$4,869	
Conditional Use Permit (CU)	<i>Non-Specific</i>	\$5,584	
	<i>Specific: Historically or Architecturally Significant Building</i>	\$1,787	
	<i>Specific: Telecommunications Facility</i>	\$3,403	
Design Review (DR)	<i>Type I</i>	\$710	
	<i>Type II or higher: Up to 3,000 total square feet (sq ft)</i>	\$6,335	
	<i>Type II or higher: More than 3,000 and fewer than 30,000 total sq ft</i>	\$9,832	
	<i>Type II or higher: 30,000 or more total sq ft</i>	\$20,140	
Fence Permit (FNC)		Free	
Final Plat Approval	<i>Partition</i>	\$1,927	
	<i>Subdivision</i>	\$4,020	

	<i>Middle Housing Land Division</i>	\$1,927	
	<i>Planned Unit Development (PUD)</i>	\$4,020	
Grading Permit (GRAD)		\$710	
Home occupation review		Free	
Manufactured Dwelling Park (MDP)	<i>Preliminary Approval</i>	\$4,880	
	<i>Final Approval</i>	\$1,684	
Middle Housing Land Division (MHLD)	<i>Preliminary Approval</i>	\$3,854	
Modification of Conditions (MOC)		\$140 + 1/2 of original application fee	
Partition (PAR)	<i>Preliminary Approval</i>	\$3,854	
Phasing Plan (PP)		\$2,222	
Planned Unit Development (PUD)	<i>Conceptual Development Plan</i>	\$4,641 + \$57/lot	
	<i>Detailed Development Plan</i>	\$1,425	
Pre-Application Conference (PRE)		\$710	
Property Line Adjustment; Lot Consolidation (PLA)	<i>More than 1.00 acre</i>	\$2,098	
	<i>Less than or equal to 1.00 acre</i>	\$710	
Residential Architectural Standards Substitution (RSS)		\$559	
Residential Mandatory Adjustment request		\$710	
Riparian Corridor & Wetland Overlay District Permit (RCWOD)		\$694	
Sign Permit (SIGN)	<i>Permanent: Freestanding</i>	\$539	

	<i>Permanent: Other than freestanding</i>	\$119	Each sign for which a sign permit is required requires fee payment
	<i>Temporary</i>	Free	
Special Event Permit (SPEV)		\$171	
Street Adjustment (SA)	<i>Type II</i>	\$4,185	
	<i>Type III or higher</i>	\$4,724	
Subdivision (SUB)	<i>Preliminary Approval</i>	\$5,869 + \$57/lot	
Significant Tree Removal Permit (TREE)	<i>Tier 1</i>	\$228 application fee + \$155 mitigation deposit	
	<i>Tier 2</i>	\$435 (S) or \$539 (T) application fee + \$155 mitigation deposit	
	<i>Tier 3</i>	\$642 (S) or \$850 (T) application fee + \$259 (S) or \$518 (T) mitigation deposit	
	<i>Tier 4</i>	\$850, \$1,471, or \$155/inch of DBH application fee + \$518 (S) or \$984 (T) mitigation deposit	Diameter at breast height (DBH)
Variance	<i>1st request</i>	\$4,864	
	<i>Each additional request</i>	\$710	
Zoning Map Amendment		\$4,781	
Zoning Adjustment		\$3,647	
Planning Division Services		Updated fee	Note
Addressing Assignment, Street	<i>Base fee</i>	\$228	
	<i>For a residential, commercial, or industrial complex of buildings</i>	Base fee + \$4 per building	
	<i>For multiple lots and/or tracts</i>	Base fee + \$4 per lot and tract	

Bond or performance guarantee release or status letter		\$52	
Civil engineering plan review	<i>1st submittal</i>	\$363	Due upon CEP application to the Public Works Dept. Does not abrogate any fees that the Public Works Department requires through its fee schedule.
	<i>2nd and successive submittals</i>	\$259	
Drafting of development agreement, intergovernmental agreement (IGA), or memorandum of understanding (MOU)		\$2,590	
Expedited Land Use Review	<i>Middle Housing Land Division</i>	\$9,386	
	<i>Partition (other than middle housing)</i>	\$6,548	
	<i>Subdivision (other than middle housing)</i>	\$9,386	
Expedited review		\$93/hour	
Interpretation of the WDO, formal		\$2,735	
Land Use Compatibility Statement (LUCS) or other jurisdictional permit sign-off		\$355	
Extension of a development decision		\$710	
Planning front counter, email, and phone inquiry service		free	
Planning service 1.5 hours or more (by appointment)		\$93/hour	Applied per Director discretion

Printing and copying		Mimics the Public Works fee schedule printing and copying items	
Site inspection	<i>1st & 2nd inspections</i>	free	
	<i>3rd and successive inspections</i>	\$259	
Transportation impact analysis (TIA) review		\$932	
Zoning verification letter		\$104	

ATTACHMENT “B”

PUBLIC WORKS

Regulation, Product or Service	Fee	Notes (Add'l Fees, Equipment, Etc.)
PUBLIC WORKS		
Construction Permit for Work in the ROW – Per Ordinance No. 1795		
Under \$5000	5% of Imp. Cost	But not less than \$100
\$5000 to \$25,000	\$250	+ 4% over 5K
\$25,000 to \$100,000	\$1,000	+ 3% over 25K
Over \$100,000	\$3,000	+ 2% over 100K
Weep Holes - First	\$300.00 ea.	For First Weep Hole
Weep Holes – Each Additional	\$50.00 ea.	Ea. Additional
Sewer Tap	\$202	
Water Service Installation Charges & Meter Deposits		
1 Inch Line 5/8” Meter	\$368/00 ea.	
- Meter Deposit	\$75.00	
1 Inch Line and Meter	\$547.00 ea.	
- Meter Deposit	\$90.00	
1½ Inch Line and Meter	\$1,134.00	
- Meter Deposit	\$125.00	
2 Inch Line and Meter	\$1,134.00	
- Meter Deposit	\$150.00	
3 Inch Line and Meter	Cost based on actual labor and material cost + 15%	
- Meter Deposit	\$170.00	
4 Inch Line and Meter	Cost based on actual labor and material cost + 15%	
- Meter Deposit	\$275.00	
6 Inch Line and Meter	Cost based on actual labor and material cost + 15%	
- Meter Deposit	\$540.00	
8 Inch Line and Meter	Cost based on actual labor and material cost + 15%	

- Meter Deposit	\$600	
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ATTACHMENT “C”

PUBLIC RECORDS REQUEST FEE SCHEDULE

Regulation, Product or Service	Fee	Notes (Add'l Fees, Equipment, Etc.)
Public Records Requests		
Records Production – General Fulfillment	<ul style="list-style-type: none"> • \$40 for Clerical Fulfillment Time • \$75 for Managerial Fulfillment Time (e.g. Senior Analysts, IT, HR) 	Charged to the nearest 1/4 hour
Records Production – Legal Review and/or Redaction Time	Fee equivalent to the salary (hourly wage plus benefits) of each employee involved for processing the request	Charged to the nearest 1/4 hour
Records Production – Police Department Fulfillment	Fee equivalent to the salary (hourly wage plus benefits) of each employee involved for processing the request	Charged to the nearest 1/4 hour
Photocopies	\$0.25 per page	General Service Documents 8.5 x 11, 8.5 x 14, 11 x 17; Oversized Documents charged at actual cost
Media	Actual cost of media item(s) provided	Includes providing CDs, USB drives, or other electronic media as part of fulfilling the request
Postage	Actual cost based on current postage rates	

September 8, 2025

TO: Honorable Mayor and City Council through City Administrator

FROM: Jim Row, Assistant City Administrator

SUBJECT: **Sale of Surplus Property Located on Gatch 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 on Gatch St (tax lot 051W18AA04400) to Ana Iris Ruiz (50%), and Esmerelda Rios and Fernando Rios (50% as tenants in common) by means of a Statutory Warranty Deed.

BACKGROUND:

In alignment with the City Council's adopted FY 14/15 Goals, the City Council conducted a public hearing in October 2015 and declared seven City owned parcels as surplus. This action was the first step required by the City prior to marketing and selling properties deemed to have no further public purpose. To date, four of the original seven parcels have been sold or authorized for sale:

- 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
- 11842 Chateau Dr. sold to Severo Trapala in October 2022
- A remnant parcel located between Settlemier Ave and Front St was authorized to be sold by the City Council in July 2025 to Ivo Toran (closing pending).

Recently, Ana Iris Ruiz (owner of 670 Gatch Street) and her neighbors Esmerelda and Fernando Rios (owners of 656 Gatch Street) submitted a joint offer to purchase the subject parcel for \$50,000. The Marion County Assessor's Office has assigned the parcel a Real Market Value (RMV) of \$159,000; however, this valuation likely does not reflect challenges that exist on the site, such as

substandard fill material, adverse environmental conditions, or the fact that much of the parcel lies within the floodplain.

In September 2022, the City received a separate offer of \$45,000 from a prospective buyer intending to construct a residence on the parcel, which is a flag lot located directly behind 670 Gatch Street. At that time, the Council expressed concern about the impact such development would have on Ana Ruiz and declined the offer. However, the Council indicated a willingness to sell the parcel to Ana Ruiz for \$50,000, a price she and her neighbors have now formally offered.

DISCUSSION:

In 2004, Habitat for Humanity expressed interest in constructing a home in Woodburn and ultimately chose to purchase the City-owned property now identified as 670 Gatch Street, which was originally part of a larger parcel that included the subject site. Prior to the sale, the City completed a property line adjustment to carve out the portion Habitat would acquire.

Before finalizing the sale, the City provided Habitat with a copy of the 2002 Phase II Environmental Site Assessment, which documented adverse environmental conditions on the original parcel. Habitat purchased the adjusted parcel in 2006 and constructed the home now occupied by Ana Iris Ruiz. Although Habitat considered acquiring the remaining parcel for a second home site, they ultimately declined due to environmental constraints, floodplain issues, and substandard fill conditions.

During current negotiations, City staff provided the prospective purchasers with:

- The 2002 Phase II Environmental Site Assessment
- The April 24, 2006 Staff Report related to the sale of 670 Gatch Street
- The relevant minutes from the April 24, 2006 City Council meeting, which summarize the discussion and rationale for the original sale

FINANCIAL IMPACT:

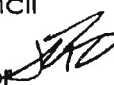
The \$50,000 in proceeds from the sale will be receipted to the General Fund, which supports essential City services, such as police, parks and the Library.

Attachments:

- April 24, 2006, Staff Report for the Public Hearing Related to the Sale of Property at 670 Gatch St
- Relevant Portion of the Minutes from the April 24, 2006, City Council Meeting
- Purchase and Sale Agreement



April 24, 2006

TO: Honorable Mayor and City Council
FROM: John C. Brown, City Administrator 
SUBJECT: **Public Hearing Related to Sale of Property at 670 Gatch Street**

RECOMMENDATION:

It is recommended the City Council:

1. Conduct the public hearing required by ORS 221.725 on the proposed sale of City-owned property at 670 Gatch Street for a purchase price of \$15,000; and
2. After completing the public hearing, approve selling the property to Habitat for Humanity for \$15,000 and direct staff to prepare a resolution documenting the sale of the property.

BACKGROUND:


ORS 221.725 controls the manner in which City property may be sold. The section requires a city council, when it considers it necessary or convenient to sell real property, to publish a notice of the proposed sale in a newspaper of general circulation in the city and hold a public hearing prior to selling the property. The notice must be published at least once in the week prior to the public hearing and must state the time and place of the public hearing, a description of the property to be sold, the proposed uses for the property and the reasons why the city council considers it necessary or convenient to sell the property. The nature and general terms of the proposed sale, including an appraisal or other evidence of the market value of the property, must be fully disclosed at the public hearing, and residents must be given an opportunity to present written or oral testimony.

Notice of this hearing was published in the Woodburn Independent on April 19, 2006 (Attachment 1).

Agenda Item Review:

City Administrator 

City Attorney 

Finance 

DISCUSSION:

The effort to sell this property is based on the Council's direction to sell property no longer needed by the City, and dedicate resulting revenues to a new community center. The subject property was used to dispose of soil from excavations at city projects. The proximity of the property to the flood plain, fill soil on the site, and evidence of adverse environmental conditions all impact its suitability for development.

The property was appraised as two lots totaling approximately 32,600 square feet. The property was appraised in January 2002. Lots are zoned for low-density residential development. Tax lot 4500 was 18,900 square feet; Tax lot 4400 was 13,700 square feet. The westerly lot (4500) has Gatch Street frontage, and is level at its south and west ends. The easterly lot (4400) drops in elevation and is mainly in the 100-year flood plain. The properties are bounded on the south and east by residential lots, on the north by Mill Creek, and on the west by Gatch Street.

The appraiser valued the lots as undeveloped land, on the basis of the Sales Comparison valuation approach. The appraiser assigned an "as is" market value of \$45,000 to the property, assuming the two lots were consolidated into one and further assuming no adverse environmental conditions. The latter assumption was termed "extraordinary" by the appraiser given the results of a level one environmental analysis conducted by the City prior to the appraisal. It suggested a potential for environmental impairment based on soils sampling and the discovery of burn pits and discarded 55-gallon drums. Given the unknown quantity of environmental impairment and wishing to avoid more assessment costs at the time, staff directed the appraiser to value the property as if no environmental issues existed. That resulted in a "best case" valuation.

In 2004 Habitat for Humanity (Habitat) indicated an interest in building in Woodburn and requested discounted development fees. Staff advised the request was contrary to Council policy, which requires full payment of those fees for all projects, including City initiated projects. Habitat asked if City held property existed that might be sold at a discounted rate. Staff discussed the Gatch Street property, including flood plain, environmental, and soils issues, and suggested Habitat conduct due diligence to determine if that [property might meet its needs. Habitat was provided a copy of the City's environmental assessment. Habitat then evaluated engineering and environmental conditions, and concluded it could build on the lot. It also evaluated the potential for building more than one unit on the lot but found, in consultation with its

engineer and with City staff, that was not practical given flood plain and soil considerations. Staff suggested, to avoid complications related to flood plain requirements, and to retain access for the City to the Mill Creek Greenway, that only the most level portion of the westerly lot be sold to Habitat with the City retaining the remainder.

In discussing a proposed sale price staff took into account conveyance of less than 32,600 square feet to Habitat. Staff also took into account potential for environmental impairment rather than the "best case" valuation, and the cost implications of an engineered foundation to compensate for fill soils on the property. Finally, staff considered the affordable housing benefit of a lower-than-market sale price to Habitat, the accountability of the organization as a developer, and the potential for quality construction consistent with the group's plans and the City's design guidelines. A sales price of \$15,000 was proposed, with Habitat paying all transaction costs.

Staff discussed this information with the City Council in November 2004 before proceeding further with the proposed sale. The Council agreed at that time that staff should move forward with the transaction.

A sales agreement was then drafted, and provided to Habitat for consideration. Among the provisions is a clause returning the property to the City for the \$15,000 sale price if Habitat fails to build on the lot within the next two years (Attachment 2). Upon Habitat's return of the agreement some months later, the City began the process of a lot line adjustment to segregate for sale an approximately 6700 square foot lot from Tax lot 4500. The lot line adjustment received planning approval, has been surveyed at Habitat's expense, and was recently recorded at Marion County.

It is Habitat's intention to build a single family home on the new lot, which was designated as 670 Gatch Street. Habitat has already selected the family that will build and occupy the house, and hopes to conduct a groundbreaking ceremony on Saturday April 29, 2006.

Acceptance of Habitat's offer is conditioned on your approval, which you may give, or withhold given the outcome of the public hearing. The Council has that prerogative throughout the public hearing process, with respect to a more attractive offer that might be made by another party as part of their testimony at the hearing. It is staff's recommendation, however, that you accept the offer submitted by Habitat for Humanity. It is also recommended that you condition

your acceptance of the offer to include the following provisions of the sales agreement, so that these may be recorded on the deed:

- The property may only be used for a Single Family, owner-occupied, self-help home site.
- Habitat for Humanity may not sell the property in an undeveloped state, or to make a profit.
- Ownership shall revert to the City if Habitat fails to build a single-family, owner-occupied, self-help home on the site within two years of purchase date. If Habitat fails to build during that period, the City shall return to Habitat only \$15,000, and Habitat will pay all costs associated with re-conveying title of the property to the City.
- A Waiver of Remonstrance to the creation of any LID or similar mechanism employed by the City to finance Gatch Street improvements, including curb, gutter, sidewalk or street improvements, and water and sewer line improvements must be executed by Habitat for Humanity and recorded as part of the sales transaction.

These provisions are intended to insure that the property is used to create affordable housing in Woodburn, and protect the City's future interests with respect to any street paving projects that may needed on Gatch Street.

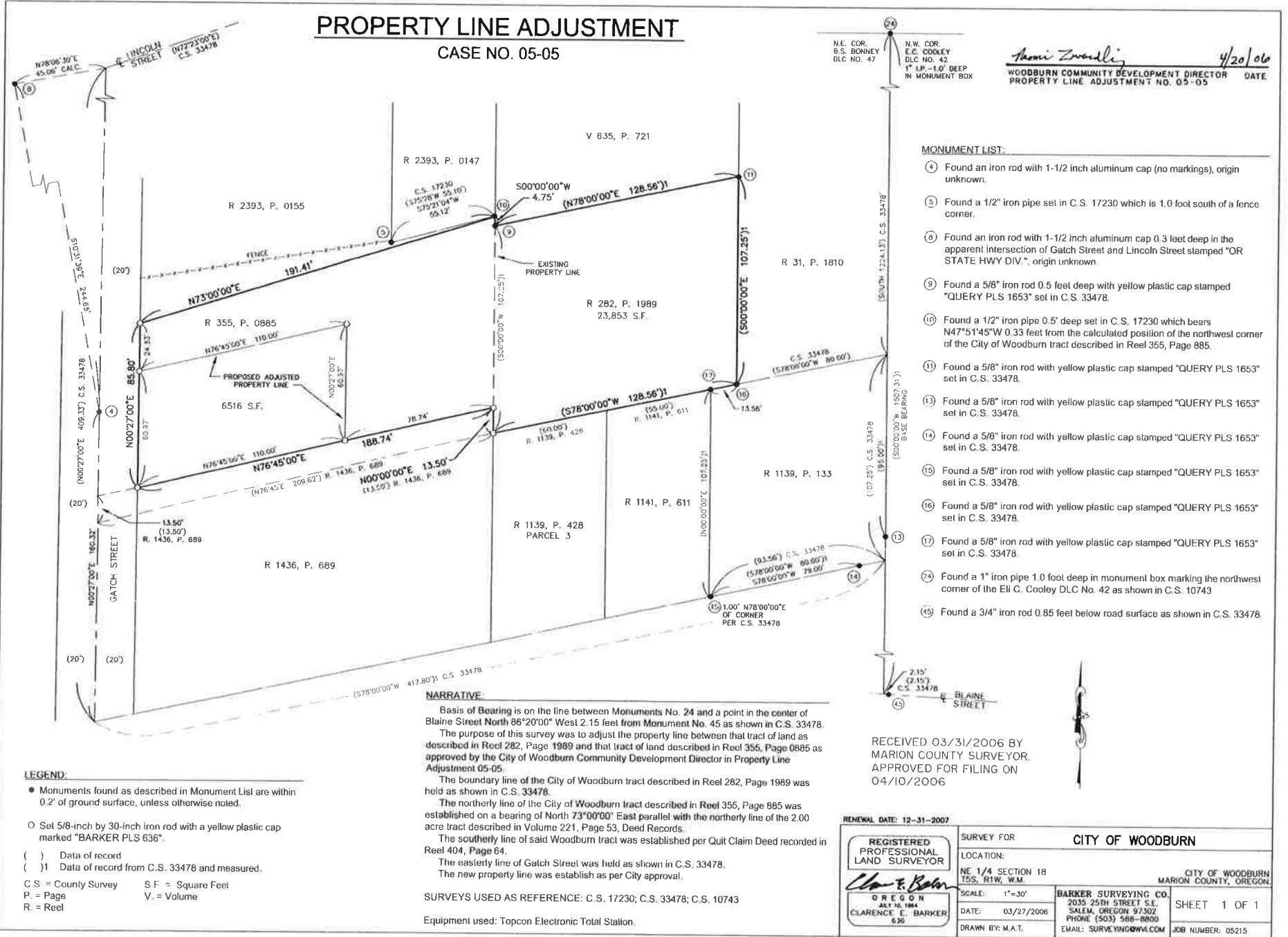
FINANCIAL IMPACT:

The recommended action will net the City \$15,000. Closing costs associated with the transaction will be paid by Habitat for Humanity. Proceeds of this sale will be placed in reserve, to be used to construct a new community center.

JCB
Attachment 1
Attachment 2

PROPERTY LINE ADJUSTMENT

CASE NO. 05-05



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and she did not feel that this plan would provide that level of protection. Interim Director Zwerdling stated that the Woodburn Development Ordinance does have a significant wetland overlay district and any development in a protected wetland area does give referrals to the Department of State Lands and they review proposals. Any restroom facility or play equipment would also be looked at through the Planning Department. Further planning will be required before actual construction projects are allowed along the greenway.

Mayor Figley declared the public hearing closed at 8:14 p.m..

Councilor Bjelland reminded the public that is an approval of a master plan and it will still need to go through design considerations. Issues pertaining to the width and location of the pathway will be addressed and, in those cases where the pathway would be going through areas where it could be sensitive to nature and wetland issues, he hoped that the design would allow for less obtrusive or narrower paths in those areas. He stated that Ms. Christensen expressed valid concerns and hoped that they would be addressed in the final design of the actual pathway.

Councilor McCallum stated that he was pleased with the number of people who participated in this project and in the number of opportunities given to the public to respond to this process.

COX/NICHOLS... approve the Mill Creek Greenway Master Plan Legislative Amendment 06-01 and instruct staff to prepare an ordinance with findings to substantiate the decision. The motion passed unanimously.

5497 PUBLIC HEARING: SALE OF SURPLUS PROPERTY AT 670 GATCH STREET.

Mayor Figley declared the public hearing open at 8:18 p.m..

Administrator Brown stated that the Council had given staff the direction to begin selling City property that the City had no further use for and the revenues from the sale of these lands would generate some revenue towards a new Community Center. The forms of sale utilized have included a real estate sale, a competitive bid process, and, in this case, a negotiated sale with a non-profit agency. Under State law, the City is required to notice, and hold a hearing in order to give the public an opportunity to comment on the proposed sale. He stated that an appraisal was done in January 2002 and it was based on the assumption that it would be two of lots of undeveloped land. The appraised value at that time was \$45,000 and it assumed that the quality of property was good buildable land. However, the City has been using this property for many years for disposal of soil from City projects with questionable material in some of the soil. Additionally, there were some 55-gallon drums at the site that suggested that there might be some type of pollution at the site. In 2001, the City did a Level I environmental analysis and there was enough concern generated out of that assessment that additional environmental work be need to done before this property was sold. In regards to development impact fees, it has been over 10 years since the Council has granted any adjustments to these fees. Approximately 3 years ago he was contacted by Habitat for Humanity seeking for City owned property in

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which they could purchase at a reasonable amount so that they could make the difference up on the fees that they would otherwise be paying. Discussion was held with the organization regarding this 6,700 sq.foot lot and a sales price was arrived at for \$15,000.00. Based on previous Council direction regarding this potential agreement, the sales agreement includes a number of conditions including a provision in that the property would revert back to the City if the property is not developed as planned and a non-remonstrance agreement in case the City ever decides to propose a local improvement district for Gatch Street improvements. It was also noted that a significant amount of work has been done by Habitat for Humanity at their cost which includes additional valuation of the site, engineers have evaluated site to determine the structure that can be built on the site, cost of the survey work to partition the lot, and pay for all title transfer costs. He stated that the advantage of this sale is that it gives the City an opportunity to sell a parcel of land that is marginal, it gives Habitat for Humanity an opportunity to build another home in Woodburn that will be owner-occupied by a family who will help in the construction of the home, and the property will be placed on the tax rolls.

Councilor Cox questioned if the reverter conditions would be a part of the deed of conveyance when the transaction is closed, therefore, the owner would not be able to sell the property in future years without being subject to these conditions.

Administrator Brown stated that at the time the agreement was prepared the intention was that Habitat for Humanity would do what they said they were going to do with the property within a reasonable time frame. These provisions are not really necessary at this time but are reflective of the document that has been signed. Habitat for Humanity is very excited about this project and have scheduled a groundbreaking for Saturday, May 1, 2006, and they have a person identified to build the home immediately.

Councilor Cox stated that there should not be a condition on the property that would limit its use many years into the future.

Administrator Brown stated that the resolution within the agenda packet could be amended prior to adoption to keep those provisions that the Council feels should be retained.

Mayor Figley stated that she did not feel that they should be included in the deed since it is apparent that Habitat for Humanity will move forward with the building of an owner-occupied home.

Councilor Sifuentez questioned if Habitat for Humanity is concerned with building on a fill site.

Administrator Brown reiterated that they have done their own engineering inspection work and they do not see it as a problem, however, they do proceed at that risk.

Councilor Cox also stated that this is always the possibility that if something really bad is discovered on the lot, the City could have a contingent liability for the cost by being in the chain of title even though we may not have caused the problem.

Attorney Shields stated that warranties are fairly basic in this type of sale and it does state that the City, to our knowledge, has used the property in compliance with environmental

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regulations. There will always be the prospect that the City might be included in a legal action if an environmental issue is brought forth. In this case, the property is being sold "as is".

- 0178 Jodee Fischer, President of the North Willamette Valley Habitat for Humanity, expressed her appreciation to the Council for working with their organization and urged the Council to adopt the Resolution.

Richard Jennings, 575 Filbert Street, stated that the area has been filled over the years and questioned what might happen if the fill does have some environmental issues in the future. He stated that he is in favor of the property sale but he wanted to be sure that Habitat for Humanity knows that this lot does have underground fill.

Councilor McCallum stated that he has seen a lot of fill go into this large parcel over the years but he had also seen a lot of good earth being used as fill.

Councilor Bjelland stated that the full parcel size is approximately 32,600 square feet which has been subdivided into two parcels one of which is the lot being sold at only 6,700 square feet. He felt that the majority of the land fill is in the large parcel being retained by the City and this part of the lot has the least amount of fill and the best location for placement of a structure. Based on the information received, Habitat for Humanity has done some due diligence from their standpoint to make sure that the site will meet state standards.

- 0412 Jerry Blem, 759 Blaine Street, stated that he lives 2 lots away from the property being considered for sale. He stated that he was unaware that this parcel was going to sold by the City and he had been looking for a parcel in the area to build a home on for himself and would have liked to have had the opportunity to make an offer on the land. He stated that he is a life-long resident of Woodburn and has been looking in that area for a vacant lot for a building site.

- 0485 Councilor Sifuentes questioned Mr. Blem if he would have been interested in the lot if it had been up for sale 5 years ago.

Mr. Blem stated that he was unaware of the City's intention to put that lot up for sale. He had been under the assumption that when City property was put up for sale it was either posted or listed for sale so that the public had an opportunity to purchase.

City Attorney Shields reviewed the process the City must follow when it sells property. It was noted that it is possible to have a competitive sale if the City thinks it serves the public's interest. It is also possible, like in this situation, to have a negotiated sale. There is some legislation and litigation that upheld negotiated sales since it is not a land use decision and that under the state statute the City merely has to determine that it is surplus property and that it is in the City's interest to sell the property. Within State Statute Chapter 221, cities are required to publish a notice of sale, outline the terms of the sale, property value and how it is determined, and declare it as being surplus property. He reiterated that the public has a right to discuss the sale of surplus property with the Council.

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- 0768 Mayor Figley declared the public hearing closed at 8:42 p.m..
- Councilor Cox stated that there are two conflicting policies to discuss and the Council needs to make a judgment call on which policy to follow. One policy is for the City to obtain maximum dollar for public property and everybody should be treated equally. Another policy is that there are certain programs and organizations in which the Council favors their policies and they be given the opportunity to negotiate with the City without opening up the process to anyone else who would offer a dollar more. He stated that this is surplus property that needs to be sold and he has no problem with the proposed transaction except for some details about the terms.
- Councilor McCallum felt that the Council has not provided subsidies over the past several years and felt that a fair transaction will be made with Habitat for Humanity since the property could have been difficult to sell under the circumstances.
- Councilor Bjelland stated that many cities do land banking for projects like this in order to provide it to developers of affordable housing as low market prices. Additionally, Habitat for Humanity has invested a lot of their time and money into making sure that this sale goes through and it would be unfair to them to put this out into an open competitive bid.
- Mayor Figley agreed that Habitat for Humanity has acted in good faith and the City has tried to act in good faith with them. At this point, she felt that the City would be breaching that faith and trust if the negotiated sale did not go through. There is a family counting on having their home being constructed and she is supportive of this sale.
- Councilor Sifuentez also expressed her support of the negotiated sale but encouraged residents interested in purchasing surplus City property to contact City Hall to see what other property might be available.
- COX/MCCALLUM...** declare this property as surplus property and approve the sale to Habitat for Humanity after the staff has drafted an appropriate resolution documenting the Council's decision, and the sale price be \$15,000.00. On roll call vote, the motion passed unanimously.

**1198 COUNCIL BILL 2621 - RESOLUTION DECLARING CERTAIN CITY
PROPERTY LOCATED AT 670 GATCH STREET TO BE SURPLUS
PROPERTY AND AUTHORIZING THE CITY ADMINISTRATOR TO SELL
SAID PROPERTY TO HABITAT FOR HUMANITY.**

Councilor Sifuentez introduced Council Bill 2621. Recorder Tennant read the bill by title only since there were no objections from the Council.

COX/LONERGAN... amend to delete sub-paragraph A of Section 4 concerning single family owner-occupied self-help homesite, and secondly, to further amend Section 4 by adding a provision that the buyer will agree to indemnify to the extent permitted by law the City against future liability for environmental clean-up on the site.

Habitat for Humanity representatives did not object to the language as proposed in the motion.

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On roll call vote, the motion to amend passed unanimously.

On roll call vote for final passage, the bill passed unanimously as amended. Mayor Figley declared Council Bill No. 2621 duly passed.

1488 COUNCIL BILL NO. 2622 - RESOLUTION ENTERING INTO GRANT AGREEMENT NO. 22829 WITH THE STATE OF OREGON.

Council Bill No. 2622 was introduced by Councilor Sifuentez. The bill was read by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2622 duly passed.

1543 COUNCIL BILL NO. 2623 - RESOLUTION AUTHORIZING THE TRANSFER OF OPERATING CONTINGENCY APPROPRIATIONS DURING FISCAL YEAR 2005-06.

Council Bill No. 2623 was introduced by Councilor Sifuentez. Recorder Tennant read the bill by title only since there were no objections from the Council. On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2623 duly passed.

1606 COUNCIL BILL NO. 2624 - RESOLUTION ENTERING INTO AN INMATE WORK PROGRAM AGREEMENT WITH THE STATE OF OREGON FOR USE OF INMATE WORK CREWS AND AUTHORIZING THE CITY ADMINISTRATOR TO SIGN SUCH AGREEMENT AND FUTURE STATE OF OREGON INMATE WORK PROGRAM AGREEMENTS FOR USE OF INMATE WORK CREWS THAT MAY BE RECEIVED BY THE CITY.

Councilor Sifuentez introduced Council Bill No. 2624. The bill was read by title only since there were no objections from the City.

Mayor Figley stated that utilization of the work crews have enhanced the condition of the parks and has freed our staff to do the skilled work necessary to keep up park maintenance for public use.

Councilor McCallum questioned if the City has had any problems in the past with this program.

Administrator Brown stated that the City has not had any problems as of this date.

Public Works Manager Rohman stated that he had not heard of any problems and that the State does a thorough screening of inmates to determine who will be allowed to work as part of one of these crews.

On roll call vote for final passage, the bill passed unanimously. Mayor Figley declared Council Bill No. 2624 duly passed.

1773 CONTRACT AWARD: STREET RESURFACING IMPROVEMENTS.

Bids were received from the following contractors for resurfacing Rainier Road, Thompson Road, Vanderbeck Lane, Cahill Way, Broughton Way, Dellmoor Way,

PURCHASE & SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement") is entered into this ____ day of _____, _____ ("Effective Date"), by and between the City of Woodburn, an Oregon municipal corporation ("Seller") and Ana Ruiz (50%) and Esmerelda Rios and Fernando Rios (50% as tenants in common), individuals ("Buyer") (collectively the "Parties").

RECITALS

- A. Seller owns fee-simple title to 0.55 acres of real property with no address generally located north-easterly adjacent to 670 Gatch Street, Woodburn, Oregon, more particularly described in Exhibit A (the "Property").
- B. On October 26, 2015, the City of Woodburn ("Seller") declared via Resolution No. 2068, the Property as surplus.
- C. Both Parties have agreed to execute this Purchase and Sale Agreement in the form and including the terms and conditions set out in this Agreement.

The Parties agrees as follows:

AGREEMENT

1. Purchase and Sale, Price, and Payment.

1.1. Purchase and Sale. For and in consideration of the Purchase Price (as defined in Section 1.2) and the mutual promises, covenants, representations, and warranties contained in this Agreement, Seller shall sell and convey, and the Buyer shall purchase the real property in Woodburn, Marion County, Oregon, commonly known as Tax Lot No. 051W18AA04400, as more particularly described in Exhibit A (the "Property").

Upon receipt of the Purchase Price and at the time of Closing, Seller shall execute and deliver to Purchaser a Statutory Warranty Deed for the Property.

1.2. Purchase Price. Buyer shall pay the Seller the amount of fifty thousand and 0/100 dollars (\$50,000.00) as consideration for purchase of the Property (the "Purchase Price").

1.3. Payment. The Purchase Price shall be payable by the Buyer to the Seller on or before the Closing Date (as defined in Section 2.2.1). Payment may be made through escrow opened with First American Title Company, or other title company agreed upon by the Parties ("Escrow Agent").

2. Escrow and Closing.

2.1. Opening of Escrow. Seller will open an escrow account at the offices of First American Title Company at 681 Glatt Circle, Woodburn, Oregon. Upon mutual execution

of this Agreement, Buyer and Seller shall deliver a fully executed copy of this Agreement to Escrow Agent.

2.2. Closing.

2.2.1 Closing Date. The consummation of the purchase and sale of the Property (the “Closing”) will occur within ten (10) days after satisfaction or waiver of the Buyer’s conditions to Closing set forth in Section 4.1 below, and no later than November 30, 2025. The term “Closing Date” means the date of Closing. The Closing will be conducted through escrow with the Escrow Agent (it being the intention of the Parties that all closing documentation and funds will be delivered to the Escrow Agent).

2.2.2 Seller’s Closing Obligations. At the Closing, Seller shall:

- (a) Execute, acknowledge and deliver a Statutory Warranty 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;
- (b) 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
- (c) 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.

2.2.3. Buyer’s Closing Obligations. At the Closing, Buyer shall:

- (a) Deliver to Seller cash or immediately available funds for the Purchase Price; and
- (b) 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.

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

- (a) Seller shall pay: (i) the Premium for the ALTA owner’s coverage Title Policy required by subsection 3.2; and (ii) one-half of the escrow fees of the Title Company.

- (b) Buyer shall pay: (i) one-half of the escrow fees of the Title Company; (ii) the cost of additional or extended title insurance beyond standard coverage; and (iii) the cost of recording the statutory warranty deed and any other documents that Buyer may choose to record.
- (c) 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.

2.3 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.

3. Title.

3.1. Title Review.

3.1.1. Preliminary Commitment. Within ten (10) days following the Effective Date, Seller will cause the Title Company to issue to Buyer, at Seller's cost and expense a Preliminary Commitment for the Title Policy referred to in Section 3.2 showing the status of title of the Property, showing all exceptions and conditions, if any, affecting the Property which would appear in the Title Policy, and committing the Title Company to issue such a Title Policy to Buyer. The Seller will also cause Title Company to concurrently deliver to Buyer complete and legible copies of all instruments referred to in the Preliminary Commitment as conditions or exceptions to the title. Seller hereby authorizes and directs the Title Company to furnish to Buyer the foregoing items.

3.1.2. Buyer's Review. Buyer shall have ten (10) days after receipt of the Preliminary Commitment and exception documents to notify Seller, in writing, of its approval and disapproval of each exception shown in the Preliminary Commitment. Buyer's failure to notify Seller that it has disapproved a particular exception shall constitute Buyer's approval of that exception. Any exception that Buyer has approved shall become a Permitted Exception. Notwithstanding the foregoing, Permitted Exceptions shall not include and Seller shall be required to remove all Monetary Encumbrances, which shall be defined to mean (i) any monetary liens, including without limitation, the liens of any deeds of trust or other

loan documents secured by the Property; or (ii) any mechanic's liens arising out of actions of Seller.

3.1.3. Seller's Response. Seller shall have ten (10) days after receipt of Buyer's notice to notify Buyer, in writing, of its agreement to cure or remove any of the disapproved exceptions. Seller's failure to notify Buyer that it will cure or remove a particular exception shall constitute Seller's refusal to cure or remove that exception. Seller shall remove or cure by Closing the exceptions it has agreed to remove or cure and the Monetary Encumbrances.

3.1.4. Buyer's Rights. If Seller does not agree to cure or remove all exceptions disapproved by Buyer, Buyer shall have ten (10) days from Buyer's receipt of Seller's notice of the same or, if Seller has not provided such notice, then within ten (10) days of the deadline to provide it under Section 3.1.3 to notify Seller, in writing, whether it will in its sole discretion, waive such objections and close the transaction or terminate this Agreement. Buyer's failure to give such notice shall constitute Buyer's election to waive its objections and close the transaction. In that event, the disapproved exceptions shall become Permitted Exceptions. If Buyer elects to terminate this Agreement, Seller shall pay any cancellation fee or other cost to the Title Company, and this Agreement shall terminate and all rights and obligations of the parties shall terminate.

3.1.5. Updated Title Matters. The foregoing notice and response procedure shall be repeated for any title exceptions first appearing after Buyer's receipt of the initial Preliminary Commitment, except that if the time period for delivery of any notice extends beyond the Closing Date, such notice and all subsequent notices shall be delivered on or before the Closing Date.

3.2. Title Policy. At Closing, Seller will, at its sole cost and expense, cause the Title Company to issue to Buyer a standard American Land Title Association ("ALTA") form of owner's policy of title insurance, in the amount of the Purchase Price of the Property, insuring Buyer against loss or damage arising from defects in title to the Property other than the Permitted Exceptions (the "Title Policy"). The policy shall contain such endorsements as shall be reasonably requested by Buyer.

If at Closing, the Title Company will not insure the title as provided above, Buyer may either proceed to close despite the lack of required insurance or terminate this Agreement. If Buyer terminates this Agreement, Seller shall pay any cancellation fee of the Title Company, and this Agreement shall terminate all rights and obligations of the parties will terminate.

4. Conditions to 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. Title. By the Closing Date, Seller shall provide Buyer with marketable title to Property free and clear of liens and encumbrances 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.

4.1.2. Title Insurance. By the Closing Date, Buyer should be able to attain from the Escrow Agent the Title Policy as required by subsection 3.2.

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

4.1.4. Inspection Contingency. Buyer has thirty (30) days following the Effective Date (the "Review 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 a Environmental Site Assessment without the prior written consent of Seller in each instance. 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 Review Period, Buyer has not notified Seller in writing that Buyer accepts the Property and all aspects thereof in its then-current condition, this Agreement will automatically terminate. This Agreement thereafter will be void and neither party will have any obligation to the other, except as otherwise provided herein. If Buyer elects, Buyer may 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 Review 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 affect 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. Within ten (10) days after Seller gives a Notice of Intent to Correct (or after the last day of the period within which the notice is to be given if it is not), Buyer may elect to (i) cancel this Agreement, or (ii) agree to waive its inspection contingencies as provided in this section, whereupon Seller must promptly commence and proceed with diligence to completion prior to the Closing Date with the correction of the items that Seller

agreed to undertake in its Notice of Intent to Correct. The failure of Buyer to give notice of its waiver to Seller will be deemed an election to cancel.

4.1.5. Right to Possession. At the Closing and as a condition thereto, Buyer shall have full and unrestricted right to possession of the Property subject only to the Permitted Exceptions.

4.1.6. 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.

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 cancel the Escrow, terminate this Agreement, and recover any amounts, including the Purchase Price if deposited and any interest earned thereon, paid by Buyer to the Escrow Agent toward the purchase. Escrow Agent shall immediately release the funds 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, Buyer's obligation to deliver cash for the Purchase Price on or before the Closing Date. 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 cancel the Escrow, terminate this Agreement, and recover any documents delivered to the Escrow Agent pursuant to this Agreement.

5. Representations and Warranties.

5.1. Title Covenant. Seller represents and warrants that Seller is the sole owner of fee title to the Property, free of all liens and encumbrances, and will defend such title from the lawful claims of persons claiming superior title.

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. Environmental Condition of the Property. Except as disclosed in that certain 2002 Phase II Environmental Site Assessment, Seller makes no representation or warranty as to the compliance with environmental laws, existence of hazardous conditions or substances on the Property, any limitations or restrictions affecting the continued use of the Property, nor any outstanding environmental investigations or charges related to the Property. Seller has delivered to Purchaser copies of the environmental reports previously obtained by

Seller regarding the Property. The environmental condition of the Property and the conformance thereof with applicable laws, statutes, ordinances, codes, orders, decrees, and regulations shall be acceptable to Purchaser, in Purchaser's sole discretion.

5.5. 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. Except for those exceptions of record listed on the Title Report, Seller owns the Property in fee, free and clear of all liens, conditions, reservations, mortgages, leases, licenses, easements, prescriptive rights, permits, or other similar encumbrances. 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.

5.6. 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.

5.7. Bankruptcy or Foreclosure Affecting Property. To Seller's knowledge, none of the following has occurred with respect to the Property or Seller: (i) appointment of a receiver, liquidator, or trustee for the real estate; (ii) institution of any proceeding for dissolution or liquidation; (iii) filing or any petition for bankruptcy, or action toward reorganization; or (iv) pending foreclosure or forfeiture action.

5.8. Brokers. Seller and Buyer represent and warrant that each shall be responsible for any fee or commission due to any broker employed by either party in connection with this transaction and shall not be responsible for any portion of the other parties' broker fees or commission.

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

6. 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. Pursuant to Subsection 4.1.4. and 5.4, 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.

7. SELLER PROPERTY DISCLOSURE LAW. Buyer and Seller acknowledge that, subject to certain exclusions, Oregon's Seller Property Disclosure Law (ORS 105.462 – 105.490) applies only to real property transactions improved with 1-to-4 family dwellings, and does not apply to transactions involving vacant land.

8. 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.

9. 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.

10. 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.

11. 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:

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

11.2. For Buyer:

11.2.1. Ana Ruiz, _____

11.2.2. Esmerelda Rios and Fernando Rios, _____

12. 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.

13. 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.

14. Remedies. TIME IS OF THE ESSENCE REGARDING THIS AGREEMENT. If either Party fails to deliver necessary funds or documents, or fails to consummate the transaction by November 30, 2025, the Purchase Price, if deposited with the Escrow Agent, will be refunded to Buyer, this Agreement shall be null and void, and the parties shall have no further liability to the other arising out of this transaction.

[SIGNATURES FOLLOW ON NEXT PAGES]

The Parties have entered into this Purchase & Sale Agreement, effective as of the date first written above.

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: _____

BUYERS:

ANA RUIZ,
Individual to own 50% undivided interest in the entire Property.

Ana Ruiz

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: _____

ESMERELDA RIOS,
FERNANDO RIOS,
Tenants in common, together to own a 50% undivided interest in the Property.

Esmerelda Rios

Fernando Rios

Date

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:_____

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 OF PROPERTY

Beginning at the Southeast corner of that tract of land described in Reel 282, Page 1989, Deed Records for Marion County, Oregon which point bears South 00° 00' 00" West 1224.13 feet and South 78° 00' 00" West 80.00 feet from the Northwest corner of the Eli C. Cooley Donation Land Claim and being situated in the Northeast Quarter of Section 18, Township 5 South, Range 1 West of the Willamette Meridian in the City of Woodburn, Marion County, Oregon;

thence South 78° 00' 00" West along the Southerly line of said tract, a distance of 128.56 feet to the Southwest corner thereof;

thence North 00° 00' 00" East along the West line of said tract, a distance of 13.50 feet to the Northeast corner of that parcel of land described in Reel 404, Page 64, Deed Records for Marion County, Oregon;

thence South 76° 45' 00" West along the Northerly line of said parcel, a distance 78.74 feet;

thence North 00° 27' 00" East 60.97 feet;

thence South 76° 45' 00" West 11.0.00 feet to a point on the Easterly line of Gatch Street;

thence North 00° 27' 00" East along said Easterly line, a distance of 24.83 feet to a point on the Northerly line of that tract of land described in Reel 355, Page 0885, Deed Records for Marion County, Oregon;

thence North 73° 00' 00" East along the Northerly line of said tract, a distance of 191.41 feet to the Northeast corner thereof;

thence South 00° 00' 00" West along the East line of said tract, a distance of 4.75 feet to the Northwest corner of said tract described in Reel 282, Page 1989, Deed Records for Marion County, Oregon;

thence North 78° 00' 00" East along the Northerly line of said tract, a distance of 128.56 feet to the Northeast corner thereof;

thence South 00° 00' 00" West along the East line of said tract a distance of 107.25 feet to the Point of Beginning.