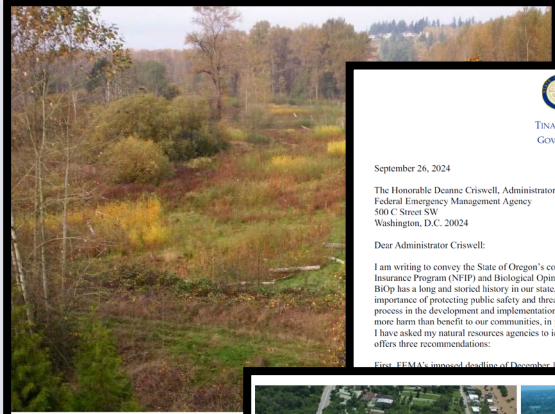



FEMA ESA PRE-COMPLIANCE MANDATE FOR CITIES WITH NFIP PROGRAM




TINA KOTER
 GOVERNOR

September 26, 2024

The Honorable Deane Criswell, Administrator
 Federal Emergency Management Agency
 500 C Street SW
 Washington, D.C. 20244

Dear Administrator Criswell:

I am writing to convey the State of Oregon's concerns related to FEMA's National Flood Insurance Program (NFIP) and Biological Opinion (BiOp) efforts in the State of Oregon. The BiOp has a long and storied history in our state, and we share FEMA's perspective on the importance of protecting public safety and threatened species. However, FEMA's lack of public process in the development and implementation of the current set of interim measures will cause more harm than benefit to our communities, in particular many coastal and rural communities. I have asked my natural resources agencies to identify possible pathways forward, and the State offers three recommendations:

First, FEMA's imposed deadline of December 1, 2024, for local decision-making is premature.


FEMA
 Federal Insurance and Mitigation Administration

National Flood Insurance Program Fact Sheet

The National Flood Insurance Program (NFIP) was established with the passage of the National Flood Insurance Act of 1968. The NFIP is a federal program enabling property owners in participating communities to purchase flood insurance as protection against flood losses, while requiring state and local governments to enforce floodplain management ordinances that aim to reduce future flood damage. More than 22,100 communities in the U.S. participating in the NFIP and more than 5.1 million NFIP policies in force, providing \$1.25 trillion of content and building coverage.



Andrea Booher/FEMA

Financial Protection Against Flood Loss

Floods are the most common and costly natural disaster in the United States. Fortunately, property owners who live in communities participating in the NFIP can purchase affordable protection to insure against flood losses. Since 1978, the NFIP has paid nearly \$5.2 billion dollars in flood insurance claims that have helped hundreds of thousands of families and businesses recover from flood events.

To participate in the NFIP, a community must adopt and enforce floodplain management ordinances that meet or exceed the minimum requirements of the program. These requirements include: loss of property, disaster relief, as well as mitigation hardships that result from requirements that a community type of flood hazard faces.

The NFIP has an arrangement with insurance companies to sell and service flood insurance. See a list of those companies [here](#).

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).

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

- 2016: National Marine Fisheries Service issues a Biological Opinion on the NFIP in Oregon, as required by the Endangered Species Act.
- 2021: FEMA develops the draft Oregon Implementation Plan for NFIP-ESA integration.
- 2022: Early 2025: FEMA is drafting an EIS to study the effects of the draft Implementation Plan.
- 2023: FEMA is conducting outreach, education, and direct technical assistance for the Pre-Implementation Compliance Measures.
- 2024: Finalize and issue Oregon NFIP-ESA Implementation Plan.
- 2025: FEMA will be fully implementing the final Plan.
- 2026: Finalize and issue Oregon NFIP-ESA Implementation Plan.
- 2027: FEMA will be fully implementing the final Plan.

July 2024 | 1

Floodplain Hazard and Mitigation Regional Guidance for Oregon


August 2024




NFIP Oregon Implementation Program Guidance

Model Floodplain Management Ordinance

For Participating Communities in the Implementation Plan Area


FEMA
 Federal Emergency Management Agency
 Region 10
 Department of Homeland Security
 150 - 2229 Street SW
 Bothell, WA 98021

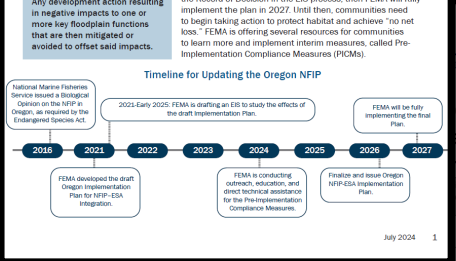
CITY OF MCMINNVILLE ZONING ORDINANCE

Chapter 17.48
F-F FLOOD AREA ZONE

"FEMA's mission is to support the ability to prepare for, protect against, and recover from disasters."

Sections:

- 17.48.005 Purpose
- 17.48.010 Established—Area included.
- 17.48.020 Boundaries indicated on map.
- 17.48.025 Definitions.
- 17.48.030 Permitted uses.
- 17.48.040 Conditional uses.
- 17.48.045 Conditional use factors.
- 17.48.050 Use limitations.
- 17.48.070 Use of other base flood data.
- 17.48.005 Purpose. The purpose of a floodplain is to establish and regulate land uses in those areas designated as hazardous due to periodic flooding in order to protect the community from financial burdens through flood damage losses. Further, this zone is intended to protect natural floodways and drainage ways from encroachment by uses and/or indiscriminate land filling or diking which may adversely affect the overall stream and downstream flood levels. Finally, the floodplain zone shall set aside an area which shall, for the most part, be preserved in its natural state or farmed to provide open spaces, natural habitats, and recreational places. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).
- 17.48.010 Established—Area included. In accordance with Section 17.09.010, all property within the corporate limits of the City lying within Special Flood Hazard Areas (100-year flood) identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas," (effective date March 2, 2010), and accompanying Flood Insurance Rate Maps (FIRM) is declared to be flood area zone property and subject to the requirements of this Chapter. (Ord. 4821 §4A, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).



Questions about Pre-Implementation Compliance Measures

Information available to DCLD staff at this time. If you have any questions, please contact the staff listed below. Cities and counties should consult FEMA for more information.

What are "Pre-Implementation Compliance Measures"?	1
What led up to PICM?	2
What is the role of the Oregon Department of Land Conservation and Development in PICM?	2
What does a city or county need to do now?	3
Does Pathway 3 "Prohibit Floodplain Development" require a moratorium?	3
Is a "Measure 56 Notice" required for PICM short-term options?	5
Will the state waive legislative adoption requirements?	6
What if a city or county cannot complete the ordinance process by December 1, 2024?	7
Is the model ordinance clear & objective?	7
What is changing for cities and counties for letters of map revision based on fill?	7
Are there any Measure 49 implications to adopting the PICM model ordinance?	8
Where can I find additional information or ask questions about PICM?	9
What if a city or county received a PICM letter in error, or did not receive a PICM letter?	10
What area does the BiOp cover?	10

What are "Pre-Implementation Compliance Measures"?

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



WHY ARE WE TALKING ABOUT THIS?

This is a mandate from FEMA for all cities in Oregon that utilize the National Flood Insurance Program based on a lawsuit settlement related to the Endangered Species Act – requires better management of the floodplains to ensure that protected species in the riparian corridors are not negatively impacted by development.

Sense of Urgency, Pre-Compliance:

- ❖ **Current mandate for pre-compliance measures by December 1.**
- ❖ **Pre-compliance measures may necessitate action by City Council.**
- ❖ **This is strictly an informative session to set the state for that future potential action.**

Annual Reporting, Starting January 2025

FEMA ESA Settlement - Oregon

Litigation to Planning

2009: Audubon Society et al. vs FEMA

2016: Jeopardy opinion, ESA BiOp RPA

2018: DRRRA extension (3 yrs)

2019 to 2021: Implementation Planning

Moving toward Implementation

Spring 2021: Draft approach & stakeholder input

Fall 2021: Final draft Implementation Plan & feedback

2022-2024: NEPA Review Process

Est. 2025+: Community Implementation



FEMA

Federal Emergency Management Agency



FEMA ESA Settlement - Oregon

Litigation to Planning

2009: Audubon Society et al. vs FEMA

2016: Jeopardy opinion, ESA BiOp RPA

2018: DRRRA extension (3 yrs)

2019 to 2021: Implementation Planning

Moving toward Implementation

Spring 2021: Draft approach & stakeholder input

Fall 2021: Final draft Implementation Plan & feedback

2022-2024: NEPA Review Process

Est. 2025+: Community Implementation



September 2023, Environmental advocacy organization filed a lawsuit stating that FEMA was taking too long to implement.



July 2024, Pre-Implementation Compliance Measures (PICM)

Federal Emergency Management Agency

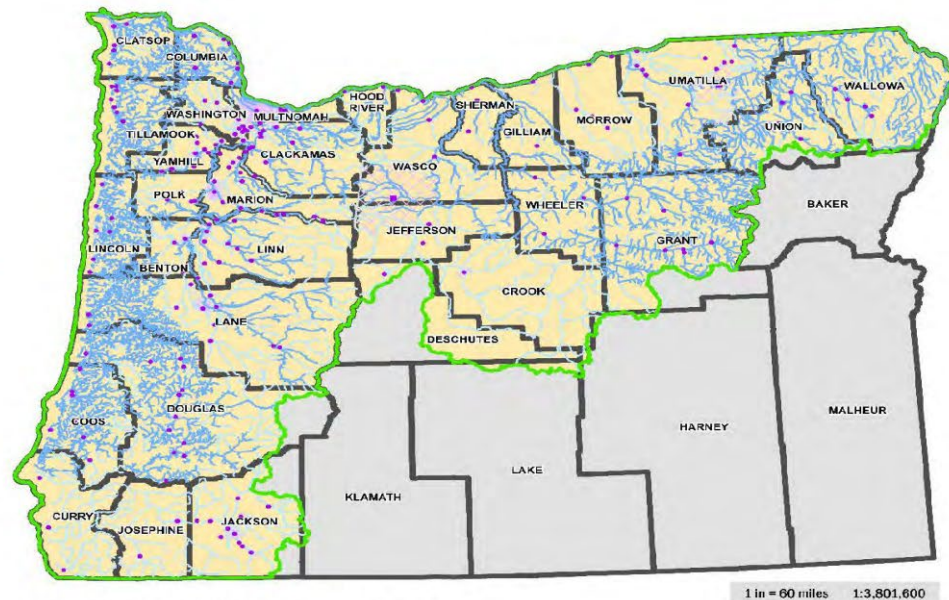


HOW DOES IT AFFECT US?

McMinnville is within a salmon and steelhead recovery domain and is a NFIP community, thus we are part of the pre-compliance mandate.

Implementation (Action) area

- Overlap: Six Salmon and Steelhead Recovery Domains
- NFIP current or future participating communities
- Mapped or future mapped Special Flood Hazard Area



OREGON NFIP BIOP ACTION AREA

2021.09.28

LEGEND

- OREGON NFIP ACTION AREA
- CRITICAL HABITATS (SALMON/STEELHEAD)*
- MAJOR STREAMS
- COUNTIES
- NFIP PARTICIPATING TRIBES
- NFIP PARTICIPATING COMMUNITIES

ABOUT

This map displays the Oregon NFIP BIOP Action Area where critical habitats for salmon and steelhead (and areas upstream of those habitats) are displayed in relation to NFIP participating Tribes and jurisdictions. Most NFIP participating communities within Oregon have all or a portion of land within the BIOP Action Area, with the exception of Baker, Harney, Klamath, Lake, and Malheur Counties.

*Critical habitats are via NOAA Fisheries: <https://www.fisheries.ncaa.gov/resource/map/critical-habitat-salmon-and-steelhead-all-west-coast>



FEMA



NFIP – National Flood Insurance Program

NFIP from the National Flood Insurance Act (NFIA) of 1968

- Quid pro quo program
- FEMA makes flood insurance available if
 - Communities voluntarily agree to regulate development in the floodplains using the minimum floodplain management standards
- Over 22,500 communities participate (states, Tribes, cities, towns, counties)
- FEMA does not regulate local land use; the Constitution reserves that right for the states



FEMA

Federal Role

- Updated maps
- Establish development/ building standards
- Provide flood insurance coverage
- Oversee programmatic implementation of the NFIP including training, technical assistance, and enforcement

Community Role

- Establish higher regulatory standards (opt)
- Adopt/enforce local floodplain management ordinances
- Issue or deny development/building permits
- Development oversight



NFIP – National Flood Insurance Program

NFIP from the National Flood Insurance Act (NFIA) of 1968

- Quid pro quo program
- FEMA makes flood insurance available to communities that meet minimum floodplain development standards
 - Communities that meet minimum floodplain development standards
- Over 22,500 communities participate (states, Tribes, cities, towns, counties)
- FEMA does not regulate local land use; the Constitution reserves that right for the states

Federal Role

- Updated maps
- Establish development/ building standards

McMinnville has 21 properties that participate in the NFIP Program with \$6,000,000 of improvements.

Community Role

- Establish higher regulatory standards (opt)
- Adopt/enforce local floodplain management ordinances
- Issue or deny development/building permits
- Development oversight



FEMA



When do I need a permit under the NFIP?

1. Is the project happening in the Special Flood Hazard Area (SFHA) / i.e., Regulatory Floodplain?



FEMA

Special Flood Hazard Area = Floodplain

2. Does the project meet the definition of Development?

44 CFR 59.1 *Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.



Federal Definition of Development

McMinnville is Surrounded by Floodplains



McMinnville's Floodplain Management

- Flood Plain Area Comprehensive Plan Designation and Zone (FP)**

- Restricts development to the following permitted uses (17.48.030):**
 - A. **Farming;**
 - B. **Public park and recreation facility, not requiring the use of any structure;**
 - C. **Sewage pump station. (Ord. 4684 §1, 1998; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).**

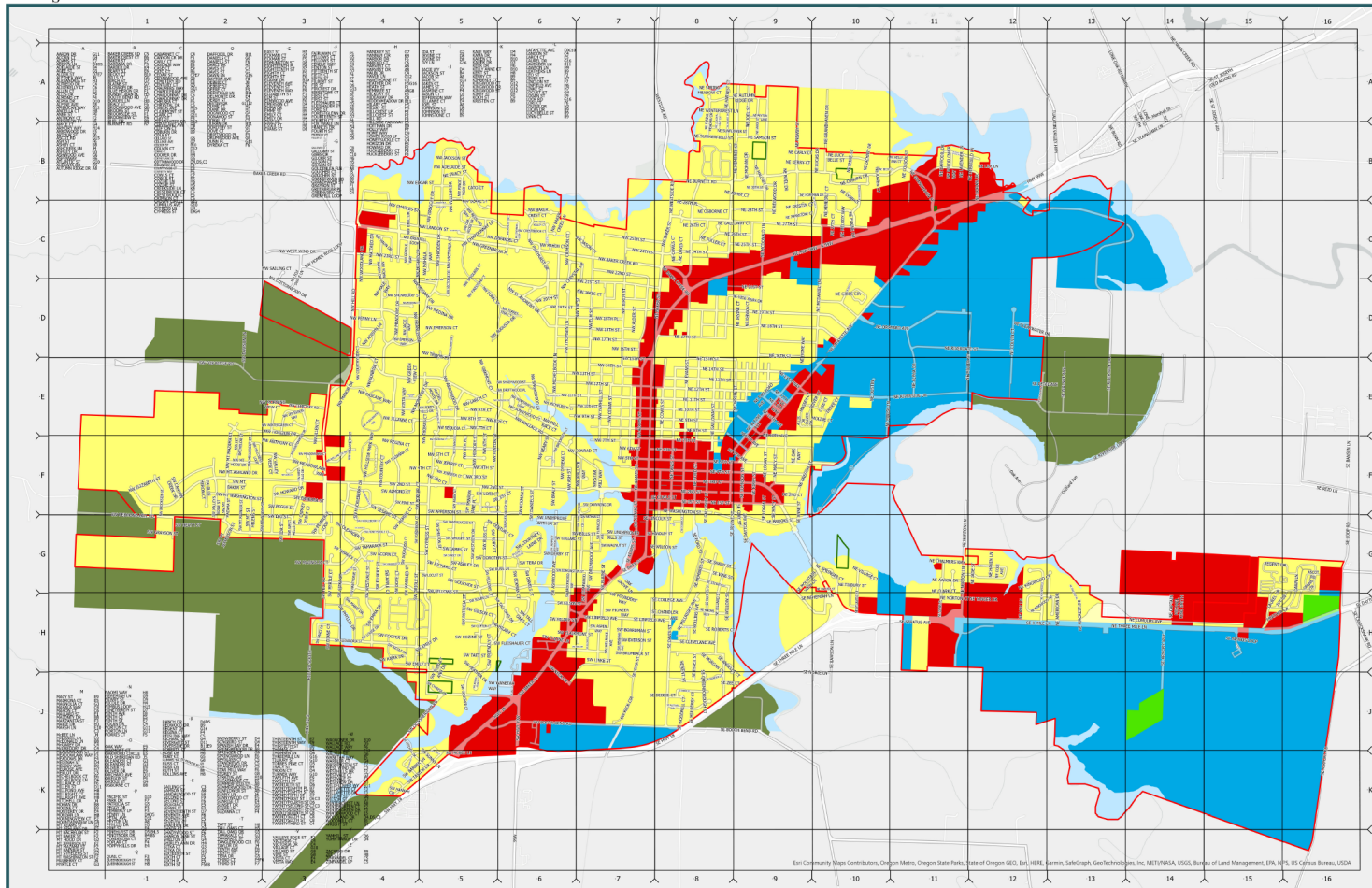
- Conditional Uses allowed with a “No-Rise” analysis:**
 - A. **Boat landing and launching facility;**
 - B. **Open land recreation facility requiring the use of any structure;**
 - C. **Removal of sand, gravel, topsoil or rock**
 - D. **Landfill or diked land (including culverts and bridge installations)**
 - E. **Weapons training facility**
 - F. **Wireless Communication Facilities. (Ord. 4921 §4C, 2010; Ord. 4732, 2000; Ord. 4684 §2, 1998; Ord. 4559 §1, 1994; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968)**

McMinnville's Floodplain Management

- ❑ Flood Plain Area Comprehensive Plan Designation and Zone (FP)
- ❑ Restricts development to the following permitted uses (17.48.030):
 - A. Farming;
 - B. Public park and recreation facility not requiring the use of any structure;
 - C. **Initially, we thought that this restriction on development would work for the “no development” pathway. Recently, (two weeks ago,, we learned that it doesn’t go far enough . . .**
 - D. Boat landing and launching facility;
 - E. Open land recreation facility requiring the use of any structure;
 - F. Removal of sand, gravel, topsoil or rock
 - G. Landfill or diked land (including culverts and bridge installations)
 - H. Weapons training facility
 - I. Wireless Communication Facilities. (Ord. 4921 §4C, 2010; Ord. 4732, 2000; Ord. 4684 §2, 1998; Ord. 4559 §1, 1994; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968)



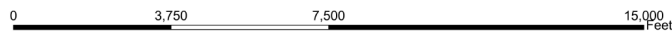
City of McMinnville Comprehensive Plan



Legend

- City Limits
- City
- County
- Comprehensive Plan
- Residential
- Urban Holding
- Commercial
- Industrial
- Mixed Use
- Urban
- Floodplain

Last Amendment
June 1, 2023
ORD. 4856



1 Inch = 1,250 Feet

Note:

This map is for pre-planning purposes only. For more detailed information, please call the planning department at (503) 434 - 7311

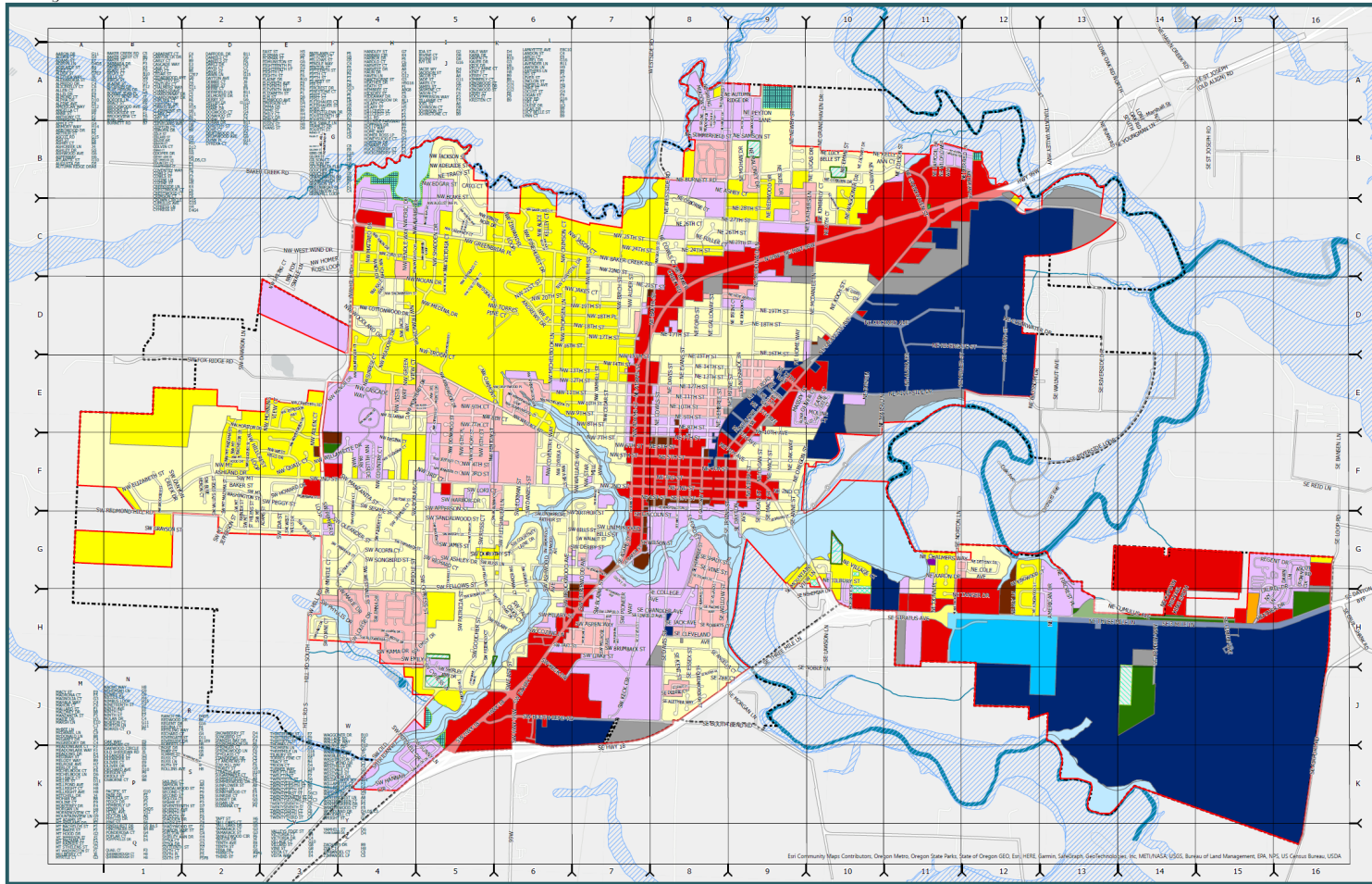
Planned Development boundaries not identified

Planning Department
City of McMinnville
231 NE 5th St.
McMinnville, OR 97128
(503) 434 - 7311



City of McMinnville Zoning

Legend



City Zoning

- R-1
- R-2
- R-3
- R-4
- O-R
- C-1
- C-2
- C-3
- M-L
- M-1
- M-2
- A-H
- F-P
- Flood Plain - Outside City Limits
- Streams

County Zoning

- LDR9000
- VLDR-1
- AF-20
- EF-80
- City Limits
- County
- UGB

Last Amendment
June 1, 2023
ORD. 4856



1 Inch = 1,250 Feet

Note:

This map is for pre-planning purposes only. For more detailed information, please call the planning department at (503) 434 - 7311

Planned Development boundaries not identified

Planning Department
City of McMinnville
231 NE 5th St.
McMinnville, OR 97128
(503) 434 - 7311

LEGAL TESTS

Development in special hazard flood area must result in no net loss of undeveloped space, pervious surface and trees equal to or greater than 6" dbh.

LEGAL TESTS

Development in special hazard flood area must result in no net loss of undeveloped space, pervious surface and trees equal to or greater than 6" dbh.

Federal definition of development, “any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.” (44 C.F.R. 59.1)


What does compliance look like?

PICM #1: Adopt the FEMA Model Ordinance

PICM #2: Permit-by-permit habitat assessment and mitigation

PICM #3: Prohibit floodplain development


PICM #1: Adopt the Model Ordinance



NFIP Oregon Implementation Program Guidance

Model Floodplain Management Ordinance

For Participating Communities in the Implementation Plan Area



FEMA

Federal Emergency Management Agency
Region 10
Department of Homeland Security
130 - 228th Street SW
Bothell, WA 98021

- ❖ **Would not be able to adopt within timeframe with DLCDC noticing, public hearing and adoption process.**
- ❖ **Very resource intensive to administer and manage.**
- ❖ **Very few cities are choosing this pathway.**

PICM #2: Permit-by-Permit Habitat Assessment and Mitigation



Floodplain Habitat Assessment and Mitigation

Regional Guidance for Oregon

August 2024



FEMA Region 10

❖ **Habitat Assessment is resource intensive.**

\$ to produce
\$ to review

❖ **However very few permits issued in the floodplain.**

❖ **Many cities appear to be leaning in this direction.**



Floodplain Habitat Assessment and Mitigation

Regional Guidance for Oregon

August 2024



FEMA Region 10

No floodplain permit required and no HA required:

- **Routine maintenance of existing vegetation that does not involve grading, excavation or filling.**
- **Removal of noxious weeds, hazard trees and replacement of non-native vegetation with native vegetation.**
- **Normal maintenance of above and below ground utilities and facilities, such as replacing power lines and utility poles.**
- **Normal road maintenance, such as filling potholes, repaving, installing signs, but no expansion of existing roads.**
- **Normal maintenance of a levee or other flood control facility.**
- **Plowing and other normal farm practices on legally existing agricultural areas.**



Floodplain Habitat Assessment and Mitigation

Regional Guidance for Oregon

August 2024



FEMA Region 10

No floodplain permit required and no HA required:

- **Routine maintenance of existing vegetation that does not involve grading, excavation or filling.**
- **Removal of noxious weeds, hazard trees and replacement of non-native vegetation with native vegetation.**
- **Normal maintenance of above and below ground utilities and facilities, such as replacing power lines and utility poles.**
- **Normal road maintenance, such as filling potholes, repaving, installing signs, but no expansion of existing roads.**
- **Normal maintenance of a levee or other flood control facility.**
- **Plowing and other normal farm practices on legally existing agricultural areas.**



Floodplain Habitat Assessment and Mitigation

Regional Guidance for Oregon

August 2024



FEMA Region 10

Floodplain permit required but no HA required:

- **Normal maintenance and repair of existing structures. Cost of such work must be less than 50 percent of the market value of the structure.**
- **Riparian restoration activities that meet federal and state standards.**
- **Development of open space and recreational facilities, such as parks and trails that do not include structures, fill, impervious surfaces or removal of more than 5% of native vegetation.**
- **Septic system repairs.**
- **Repair of existing, functional bulkhead in the same location and footprint with the same materials.**



Floodplain Habitat Assessment and Mitigation

Regional Guidance for Oregon

August 2024

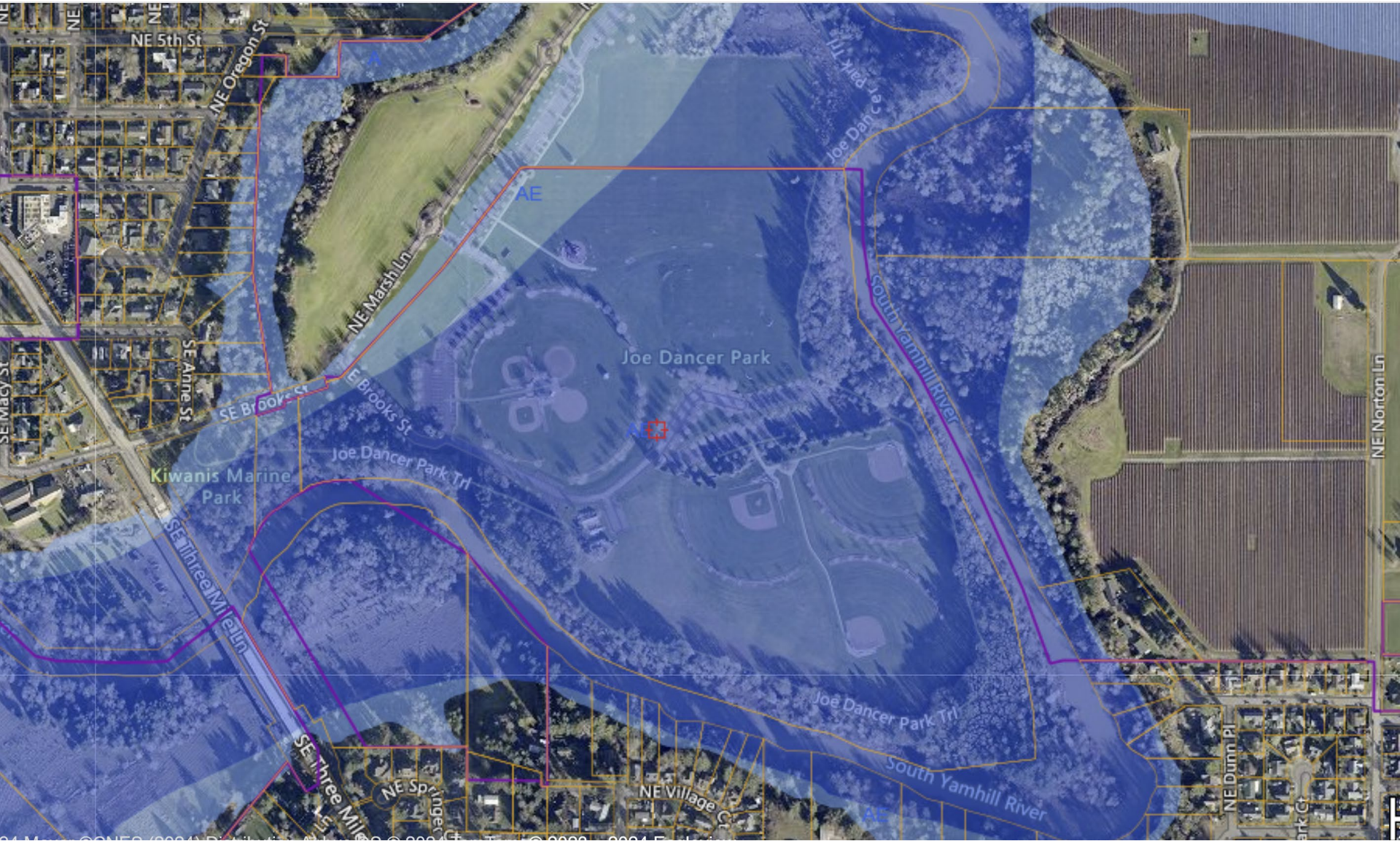


FEMA Region 10

Floodplain permit required but no HA required:

- **Normal maintenance and repair of existing structures. Cost of such work must be less than 50 percent of the market value of the structure.**
- **Riparian restoration activities that meet federal and state standards.**
- **Development of open space and recreational facilities, such as parks and trails that do not include structures, fill, impervious surfaces or removal of more than 5% of native vegetation.**
- **Septic system repairs.**
- **Repair of existing, functional bulkhead in the same location and footprint with the same materials.**

Joe Dancer Park – Floodplain Location



PICM #3: Allow No “Development”

ORS 197.520 – Moratorium

CC Public Hearing

Adopt an Ordinance with Findings

No moratorium can be for more than 120 days.

Would need to issue a Measure 56 notice.

- ❖ **Amend ordinance allowing no development per the federal definition.**
- ❖ **Would not be able to amend the ordinance in time with the DLCDC notice requirements.**
- ❖ **Declare a moratorium on development in the FP Zone per ORS 197.520**



TINA KOTEK
GOVERNOR

September 26, 2024

The Honorable Deanne Criswell, Administrator
Federal Emergency Management Agency
500 C Street SW
Washington, D.C. 20024

Dear Administrator Criswell:

I am writing to convey the State of Oregon’s concerns related to FEMA’s National Flood Insurance Program (NFIP) and Biological Opinion (BiOp) efforts in the State of Oregon. The BiOp has a long and storied history in our state, and we share FEMA’s perspective on the importance of protecting public safety and threatened species. However, FEMA’s lack of public process in the development and implementation of the current set of interim measures will cause more harm than benefit to our communities, in particular many coastal and rural communities. I have asked my natural resources agencies to identify possible pathways forward, and the State offers three recommendations:

First, FEMA’s imposed deadline of December 1, 2024, for local decision-making is impractical because Oregon cities and counties engage their elected officials and constituents in transparent and fact-based decision-making processes. Those processes are impossible to align with a deadline of just a few months. **I respectfully request that FEMA pause its work on pre-implementation compliance measures (PICM) that it abruptly announced on July 15, 2024, and return to the work of crafting long-term measures to modernize the National Flood Insurance Program.**

Second, the State stands ready to assist our local partners in their compliance work and reiterates its May 5, 2023, offer to deploy already-existing state programs such as land use planning, stormwater permits, habitat restoration, wetlands mitigation programs, and technical assistance grants for these purposes. I recognize that federal partners, including FEMA, the National Marine Fisheries Service (NMFS), and the National Oceanic and Atmospheric Administration (NOAA) may view these State programs as helpful but not yet complete in their depth or coverage for purposes of the BiOp. **I invite FEMA to join our agencies for a discussion on how best to continue efforts that started in the implementation planning process to identify gaps in existing State programs and pathways for moving forward to address how the State of Oregon can effectively address those within a collaborative framework.**

254 STATE CAPITOL, SALEM OR 97301-4047 (503) 378-3111 FAX (503) 378-8970

WWW.GOVERNOR.OREGON.GOV

September 26, Governor Kotek Letter to FEMA

City Council Work Session, 10.08.24



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.

Table of Contents

What are “Pre-Implementation Compliance Measures”?	1
What led up to PICM?	2
What is the role of the Oregon Department of Land Conservation and Development in PICM?	2
What does a city or county need to do now?	3
Does Pathway 3 “Prohibit floodplain development” require a moratorium?	3
Is a “Measure 56 Notice” required for PICM short-term options?	5
Will the state waive legislative adoption requirements?	6
What if a city or county cannot complete the ordinance process by December 1, 2024?	7
Is the model ordinance clear & objective?	7
What is changing for cities and counties for letters of map revision based on fill?	7
Are there any Measure 49 implications to adopting the PICM model ordinance?	8
Where can I find additional information or ask questions about PICM?	9
What if a city or county received a PICM letter in error, or did not receive a PICM letter?	10
What area does the BiOp cover?	10

What are “Pre-Implementation Compliance Measures”?

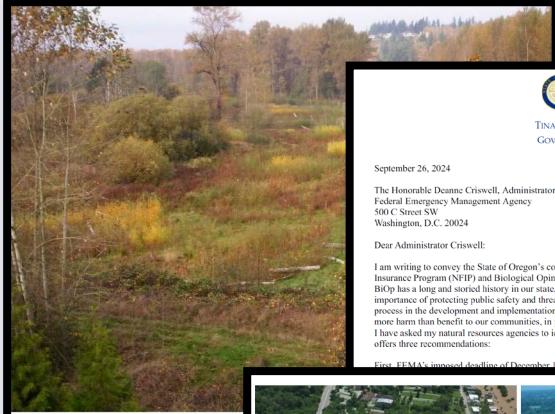
In July 2024, the Federal Emergency Management Agency (FEMA) sent a letter to cities and counties in Oregon instructing them to make short term changes to how the city or county regulates development


October 4, DLCD FAQ Sheet

NEXT STEPS

- ❖ **City is working with legal counsel to understand the different nuances of the three PICMs available to the city for compliance.**
- ❖ **We will start having internal staff meetings with key team members and discuss recommendation for City Council.**
- ❖ **Bring a future action item to City Council prior to December 1.**
- ❖ **More than likely it will involve a public hearing process and action by the City Council (DLCD Notice / Measure 56 Notice)**
 - **Adopt a moratorium on development in the Floodplain Zone.**
 - **Amend the zoning ordinance and require a Habitat Assessment for all development in the Floodplain Zone that is not considered exempt.**
 - **Amend the zoning ordinance and do not allow any development except for exempt activities in the Floodplain Zone.**

FEMA ESA PRE-COMPLIANCE MANDATE FOR CITIES WITH NFIP PROGRAM




TINA KOTER
 GOVERNOR

September 26, 2024

The Honorable Deane Criswell, Administrator
 Federal Emergency Management Agency
 500 C Street SW
 Washington, D.C. 20244

Dear Administrator Criswell:

I am writing to convey the State of Oregon's concerns related to FEMA's National Flood Insurance Program (NFIP) and Biological Opinion (BiOp) efforts in the State of Oregon. The BiOp has a long and storied history in our state, and we share FEMA's perspective on the importance of protecting public safety and threatened species. However, FEMA's lack of public process in the development and implementation of the current set of interim measures will cause more harm than benefit to our communities, in particular many coastal and rural communities. I have asked my natural resources agencies to identify possible pathways forward, and the State offers three recommendations:

First, FEMA's imposed deadline of December 1, 2024, for local decision-making is premature.


FEMA
 Federal Insurance and Mitigation Administration

National Flood Insurance Program Fact Sheet

The National Flood Insurance Program (NFIP) was established with the passage of the National Flood Insurance Act of 1968. The NFIP is a federal program enabling property owners in participating communities to purchase flood insurance as protection against flood losses, while requiring state and local governments to enforce floodplain management ordinances that aim to reduce future flood damage. More than 22,100 communities in the U.S. participating in the NFIP and more than 5.1 million NFIP policies in force, providing \$1.25 trillion of content and building coverage.



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).

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).


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

Floodplain Hazard and Mitigation Regional Guidance for Oregon

August 2024


FEMA Region 10



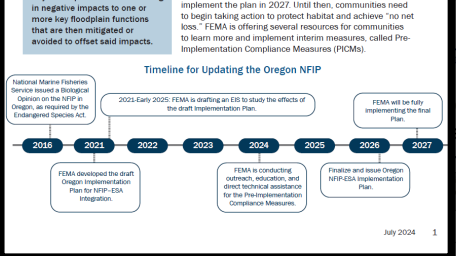

Financial Protection Against Flood Loss

Floods are the most common and costly natural disaster in the United States. Fortunately, property owners who live in communities participating in the NFIP can purchase affordable protection to insure against flood losses. Since 1978, the NFIP has paid nearly \$5.2 billion dollars in flood insurance claims that have helped hundreds of thousands of families and businesses recover from flood events.

To participate in the NFIP, a community must adopt and enforce floodplain management ordinances that meet or exceed the minimum requirements of the program. These requirements include:

- Flood damage prevention
- Flood hazard mapping
- Flood hazard identification
- Flood hazard avoidance
- Flood hazard reduction
- Flood hazard mitigation

The NFIP has an arrangement with private insurance companies to sell and service flood insurance. For a list of those companies, visit www.fema.gov.




Questions about Pre-Implementation Compliance Measures

Information available to DCLD staff at this time. If you have any questions, please contact the staff listed below. Cities and counties should consult FEMA for more information.

NFIP Oregon Implementation Program Guidance

Model Floodplain Management Ordinance

For Participating Communities in the Implementation Plan Area


FEMA
 Federal Emergency Management Agency
 Region 10
 Department of Homeland Security
 120 - 2229 Street SW
 Bothell, WA 98021

CITY OF MCMINNVILLE ZONING ORDINANCE

Chapter 17.48
F-F FLOOD AREA ZONE

Sections:

17.48.005 Purpose
 17.48.010 Established—Area included.
 17.48.020 Boundaries indicated on map.
 17.48.025 Definitions.
 17.48.030 Permitted uses.
 17.48.040 Conditional uses.
 17.48.045 Conditional use factors.
 17.48.050 Use limitations.
 17.48.070 Use of other base flood data.

17.48.005 Purpose: The purpose of a floodplain is to establish and regulate land uses in those areas designated as hazardous due to periodic flooding in order to protect the community from financial burdens through flood damage losses. Further, this zone is intended to protect natural floodways and drainage ways from encroachment by uses and/or indiscriminate land filling or diking which may adversely affect the overall stream and downstream flood levels. Finally, the floodplain zone shall set aside an area which shall, for the most part, be preserved in its natural state or farmed to provide open spaces, natural habitats, and recreational places. (Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).

17.48.010 Established—Area included. In accordance with Section 17.09.010, all property within the corporate limits of the City lying within Special Flood Hazard Areas (100-year flood) identified by the Federal Insurance Administration in the report entitled "The Flood Insurance Study for Yamhill County, Oregon and Incorporated Areas," (effective date March 2, 2010), and accompanying Flood Insurance Rate Maps (FIRM) is declared to be flood area zone property and subject to the requirements of this Chapter. (Ord. 4821 §4A, 2010; Ord. 4128 (part), 1981; Ord. 3380 (part), 1968).



What are "Pre-Implementation Compliance Measures"? 1

What led up to PICM? 2

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

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

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

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

Will the state waive legislative adoption requirements? 6

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

Is the model ordinance clear & objective? 7

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

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

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

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

What area does the BiOp cover? 10

What are "Pre-Implementation Compliance Measures"?

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

