


FEMA Bi-Op Pre-Implementation Compliance Measures (PICM)



Planning Commission Meeting
December 18th, 2024
Megan Winner

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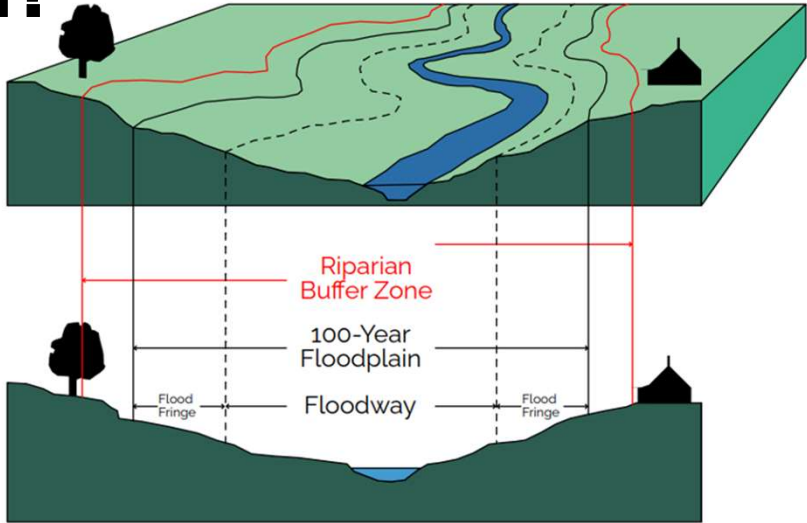


Outline

- Background
- Three PICM pathways
- Possible recommendation to Council

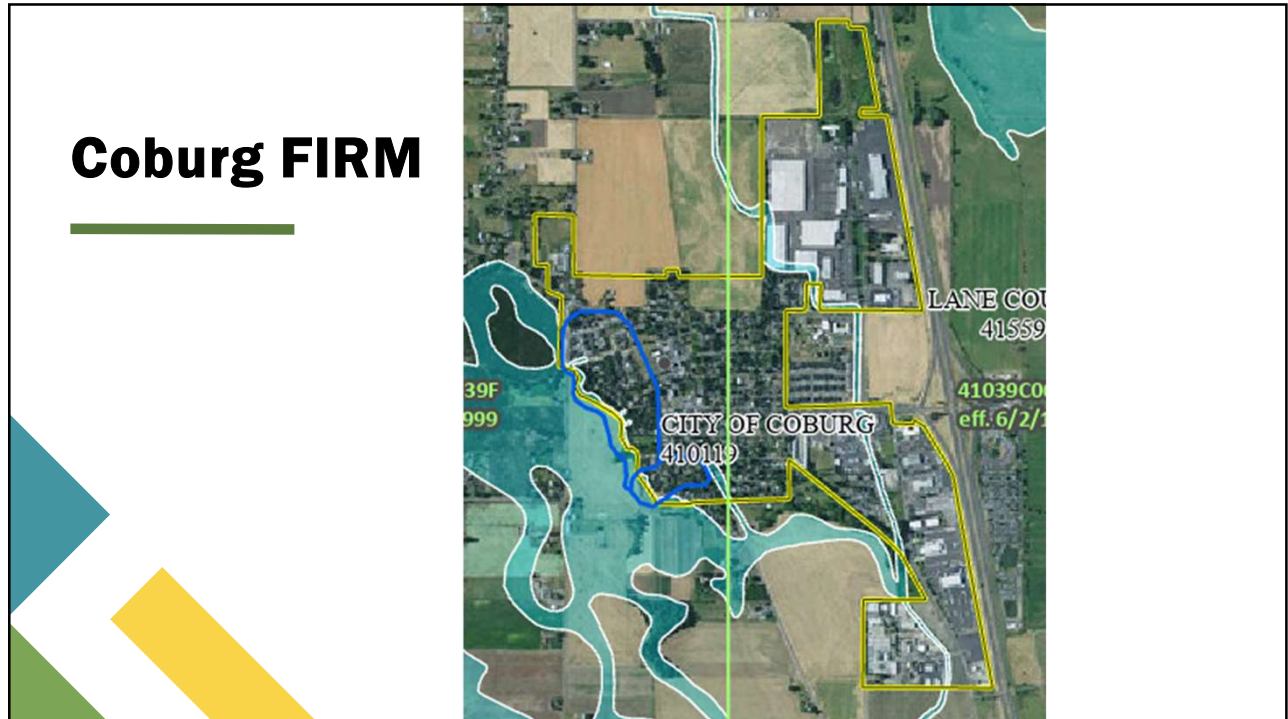
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What is a floodplain?



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Coburg FIRM



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Why PICM?

- 2009 lawsuit to FEMA from environmental advocacy agencies.
- 2016 RPA issued to avoid jeopardy of species, namely salmon and Resident killer whale in Oregon.
- 2021 FEMA issued draft implementation plan post stakeholder involvement
- 2023 FEMA begun NEPA process focusing on long-term measures.
- Sept. 2023 environmental advocacy groups sue FEMA alleging FEMA is taking too long to implement.
- July 2024 FEMA announces PICM or short-term measures.

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PICM Pathway Options

- 1: Model Ordinance
- 2: Permit by Permit
- 3: Moratorium

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PICM #1. Model Ordinance

Model Ordinance: This is a pre-made "ready to go" option created by FEMA. Final versions are yet to be finalized and this model ordinance has some considerations that are rather aggressive in terms of administration.

- "No Net Loss" Standard: meaning for every cubic yard or square foot of development in the floodplain, 1 cu. yd. or sq. ft. must be mitigated for in a ratio described by the model ordinance.
- Riparian Buffer Zone: 170 feet horizontally from each side of the ordinary high water mark OR the mean higher high water mark of a tidally influenced body of water. Where the RBZ is larger than the SFHA then the RBZ shall only apply to that area within the SFHA.
- Adds mitigation measures REQUIRED for ANY development within SFHA if it affects the functions of the floodplain (pervious surface, water quality, or trees over 6" d.b.h.)
- Has potential takings implications.

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PICM #1. Model Ordinance

Basic Mitigate Ratios	Undeveloped Space (ft ²)	Impervious 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	Undeveloped Space (ft ²)	Impervious Surface (ft ²)	Trees (6" < dbh ≤ 20")	Trees (20" < dbh ≤ 39")	Trees (39" < dbh)
Mitigation onsite to 100% Mitigation offsite, same reach	100%	100%	100%	100%	100%
Mitigation onsite to 200%* Mitigation offsite, different reach, same watershed (5 th field)	200%*	200%*	200%*	200%	200%

Notes:

1. Ratios with asterisks are indicated in the BiOp
2. Mitigation multipliers of 100% result in the required mitigation occurring at the same value described by the ratios above, while multipliers of 200% result in the required mitigation being doubled.
 - a. For example, if only 500 ft² of the total 1000 ft² of required pervious surface mitigation can be conducted onsite and in the same reach, the remaining 500 ft² of required pervious surface mitigation occurring offsite at a different reach would double because of the 200% multiplier.
3. RBZ impacts must be offset in the RBZ, on-site or off-site.
4. Additional standards may apply in the RBZ (See 6.4 Riparian Buffer Zone)

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PICM #2. Permit by Permit

This option allows for concessions to be made on a case-by-case basis under the pretense that the applicant receives a compliant habitat assessment for their project and project area

- "No Net Loss" and RBZ still come into play, however are delineated at the time of the assessment rather than assumed by the SFHA.
- Removes takings liability as we are not removing allowable uses but creating a performance standard based on federal rule making.
- Removes much staff cost for administration and tracking of development permits.
- Can be checklist based on criteria set forth in FEMA guidance. Hypothetically could be conducted by anyone qualified to identify plant species and habitat types.

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PICM #3. Moratorium on Development

This option is the most extreme of options out of the three provided by FEMA. A total moratorium on development creates potential takings issues and would require Measure 56 compliance.

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#4. Do nothing

This option is the most extreme option available as it has the potential to impact mortgages of private citizens and businesses alike.



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Staff review

Model Ordinance	Permit by Permit
More strict	More flexible
Clear and objective?	Site by site
Greater burden to City	Greater burden to applicant
Takings implications	Less takings liability

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Questions?

Thank you



The logo for the City of Coburg, Oregon, is circular with a blue border. Inside the circle, the text "City of" is written in a script font above "COBURG" in a bold, sans-serif font. Below "COBURG" is the word "OREGON" in a smaller, sans-serif font. At the bottom of the circle, it says "est. 1865".

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