

COUNCIL MEMO



MEETING DATE: November 12th, 2024

STAFF: Megan Winner, Planning Director

Federal Emergency Management Agency (FEMA) Pre-Implementation Compliance Measure (PICM) Update and Next Steps

BACKGROUND

After multiple lawsuits from environmental advocacy groups dating back to 2009, in July 2024 FEMA announced that all National Flood Insurance Program (NFIP) participating communities must select a pre-implementation compliance measure (PICM) by December 1, 2024 to address floodplain development to protect habitats for a variety of species or lose eligibility to participate in NFIP. There are three PICM pathway options that communities can choose from:

1. Adopt the FEMA model floodplain ordinance or
2. Review each application for development in the floodplain on a permit-by-permit basis.
3. Prohibit all development in the floodplain

If no option is selected, communities will default to the permit-by-permit review basis which requires a habitat assessment and mitigation plan documenting that the proposed development in the Special Flood Hazard Area will achieve "no net loss" of habitat. FEMA is expected to provide final implementation measures in the future but is requiring PICM compliance in the interim.

Due to the time constraints imposed by the required deadline and the importance of upholding Oregon land use law, Governor Kotek has requested a delay in the PICM proceedings. However, as of yet, FEMA has not provided an extension or pause. Therefore, NFIP participating communities in Oregon (approximately 89% of Oregon, 239 communities) must inform FEMA of which PICM pathway it will pursue by the December 1 deadline. If pursuing the model ordinance, communities have until July 2025 to adopt the ordinance to provide time for the adoption process. Staff recommend reporting the model ordinance pathway to compliance (pathway #1) to FEMA now to provide time to allow for information and discussion on amending the existing floodplain regulations in the Coburg Zoning Code Ordinance A-200-L. Council will then be in a position to determine whether moving forward with the model ordinance is in the best interest of the community or if remaining with the permit by permit basis (pathway #2) is preferred as the final, long term compliance pathway.

BUDGET / FINANCIAL IMPACT

Planning Director and City Administrator time has been the only costs incurred to date on this matter. Additional staff time by both positions will be required to prepare materials for a future meeting, likely a joint session with Council and Planning Commission to review the model ordinance, compare it with existing floodplain related regulations in the City's current development code and move forward a

recommendation for final Council review and decision at a future Council meeting. Additionally, staff time will be required to gather materials as part of the new FEMA annual reporting requirements being imposed as part of the PICM regulations.

PUBLIC COMMUNICATION/ENGAGEMENT

Future discussions, recommendations and final decisions on this matter will all occur within public meetings and follow all required state and local land use requirements as well as Council rules and Oregon Revised Statutes regarding consideration of land use ordinance adoption.

NEXT STEPS

Planning and Administration staff will continue to monitor how jurisdictions are moving forward on this matter and will assemble materials in preparation for a joint Council and Planning Commission meeting in February or March of 2025 unless alterations to the regulatory framework or process are identified prior to that time. In any event, Council will continue to receive updates as the process moves forward.

ATTACHMENTS

1. DLCD – PICM FAQ