



City of Independence

Agenda

Planning Commission Meeting
Monday, May 5, 2025 @ 7:00 PM
Civic Center - Council Chambers

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1. CALL TO ORDER	
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6. UNFINISHED BUSINESS	
7. NEW BUSINESS	
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8. OTHER DISCUSSION / INFORMATION ITEMS	
9. ADJOURNMENT	

Meeting Attendance Information:

The Planning Commission will hold this meeting in-person in City Hall Council Chambers, via video conference (Zoom) or by phone. Meetings are also live-streamed on the City's YouTube channel at: <https://www.youtube.com/c/CityofIndependenceOR>.

- The public may attend the meeting by coming to City Hall at 555 S. Main St.
- For **Zoom login** visit:
<https://us06web.zoom.us/j/89653601771?pwd=mSmlAJDFa0rgBKUa7p6Ipi5aSVIO5g.1>
- To participate in the meeting by **phone**, dial **1-253-215-8782** and enter **Webinar ID: 896 5360 1771** and **Passcode 419605** .

Written comments are also welcome and may be delivered to City Hall or emailed to: PlanningComments@ci.independence.or.us, no later than 3:00 pm the day of the meeting.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 72 hours in advance of the meeting to Myra Russell, City Recorder, 503-838-1212/TTY: 800-735-2900.



City of Independence

Minutes

Planning Commission Meeting

Monday, April 7, 2025

1. **CALL TO ORDER.** The meeting was called to order at 7:01 pm by Chair Corby Chappell

2. **ROLL CALL**

Planning Commissioners Present:

Sally Coen	Becky Jay
José Oliveros	Alex Paraskevas
Corby Chappell, Chair	Jordan Carpenter

Commissioners Absent:

Others Present: Fred Evander, Planning Manager; Myra Russell, City Recorder; Kathy Martin-Willis, Council Liaison

3. **MINUTES.** The minutes of the February 3, 2025, meeting were submitted in the agenda packet.

ACTION:

Commissioner Carpenter moved to approve the minutes as submitted;
Commissioner Coen seconded. Motion passed 6-0-0:

AYES: Coen, Jay, Oliveros, Paraskevas,
Chappell, Carpenter

NAYS: None

ABSTENTIONS: None

4. **VISITORS / PUBLIC COMMENTS.** None

5. **STAFF REPORTS / PRESENTATIONS – OTHER.** None

6. **UNFINISHED BUSINESS.** None

7. **NEW BUSINESS**

7.1. **Public Hearing: Rezone of 19.39 acres along Gun Club Road**

7.1. Public Hearing – LA 2025-02- Rezone of 19.39 acres along Gun Club Road.

- Hearing script read by Chair Corby Chappell. The hearing opened at 7:04 pm.
- Conflicts of Interest/Ex-Parte Contacts/Bias. None declared.

Staff Report.

- Evander went over the staff report as presented in the agenda packet. Housing Needs Analysis and Housing Productions Strategy recommended that the City identify additional zones for high density residential zone, 10-15 acres. It would rezone 15 acres that is currently Legacy Oaks Apartments already high density but not zoned as this. This would rezone to high density residential which is what it is. Neighboring parcel to the south 3.96 acres would rezone from medium residential to high density residential. This is implementation of some of the recommendations of the Housing Needs Analysis. Change will not overburden key traffic components. Meets criteria in the Independence Development Code. Staff recommends voting to approve change. Received one public comment letter from Fair Housing Council of Oregon in support of this change. Commissioner Jay asked about traffic on Gun Club Road, suggested widening or adding turn lane near Marigold St. Evander said transportation system plan did not identify need for left turn there. Evander explained trip calculation but said it will be looked at with any future development on site. Clarified for Commissioner Jay that Marigold Street goes through from Gun Club to 16th Street. Commissioner Paraskevas mentioned where driveway would be, and Evander clarified there are driveway standards that would be in effect for new development. Any future development of site will require public notice to residents within 250 feet of boundary. Commissioner Coen questioned what the 15 acres was currently zoned as and why. Asked how many other instances of this are around town. Evander said it was recognized that there are several low-density zones around town that have apartments. Potential for rezone of all these areas but this is the most obvious as the second biggest apartment complex in town. Chair Chappell wondered how the apartment complex was allowed to be built in wrong zoning but planning commission must have approved it. Evander looked at files and isn't sure either. It may have happened through the process of wetland mitigation. No further discussion.
- Testimony: None.
- Record/Hearing declared closed. 7:24 PM
- Discussion and deliberation. No further deliberation.

ACTION:

Commissioner Carpenter moved to forward a recommendation of approval on the LA 2025-02, to the Independence City Council; Commissioner Paraskevas seconded. Motion passed 6-0-0:

AYES: Coen, Jay, Oliveros, Paraskevas, Carpenter,
Chappell

NAYS: None

ABSTENTIONS: None

- 7.2. Discussion: Code Change to Require a Pre-Application for Most New Development.** Evander presented information from submitted staff report. For big development they go through pre application process to find out all the things that will go into the development. For small projects this is not

required, but these projects take much staff time. Perhaps they should be required. In long run will save staff time. City Staff, Fire Marshal in attendance. Explain any improvements and requirements for the project up front so people can make a decision with all knowledge. Circumstances happen where people get partway through a project without knowing everything required and then are surprised or unable to complete project when they find out. Currently the pre-application fee is \$300. Possibly make \$100 fee for smaller projects. This would be required for most projects. Even simple building permit projects could trigger infrastructure improvements. Commissioner Jay asked how the city will catch people before they start the project. Evander said he looks at every building permit and can let people know that they should go through a pre application conference. Commissioner Paraskevas thinks it's a little heavy handed and wants to workshop the idea. Commissioner Coen doesn't want to create an administrative burden. Evander said now the burden is at the end of the project and more reactive than proactive. It would be better to spend that time at the front of the project and make sure people know all parts of project before they start. Commissioner Carpenter wondered if the fee could go towards permits if they continue the project. Evander said it was done this way at a previous city where he worked. People may get fragmented information by going to each department separately. This is a chance to meet with all departments and Fire Marshal at once. Would probably schedule several pre application meetings for the same day to streamline process. Messaging and communication would be key. Commissioner Oliveros asked if there would be a finding component for the applicant. Evander said he prepares a sheet with items they will need to work on and costs associated. Commissioner Jay asked if there's a sign off sheet that the applicant notes they are aware. Evander said he could email the comment sheet at the end of the process, to point at to and say the applicant was informed. Evander will schedule public hearing in June.

8. **OTHER DISCUSSION / INFORMATION ITEMS**

8.1. Field Trip ideas Evander said summer field trip would be good idea and gave 3 ideas. Gun Club rezone area, Industrial area at the air park, or Edwards Addition in Monmouth. Asked for ideas. Chair Chappel asked about when it would happen. Evander said maybe after public hearing at June meeting. Consensus to go to air park industrial area. Evander will try to find someone to show them around and knows the history of the area.

8.2. Video Evander let the Commission decide on whether to watch a video on Pavers or modular housing. The Commission chose "Why Is It So Hard to Mass-Produce Housing?". The commission watched for 7.5 minutes. Discussion about modular housing, old building practices versus new building practices. Commissioner Paraskevas recommended Peter

8.3. Commissioner Coen asked about new legislation. Evander talked about middle housing regulation and new rule making process for middle housing. Also there has been talk about superseding city design standards. Our design standards have purpose to community.

9. **ADJOURNMENT** Commissioner Paraskevas moved to adjourn at 8:06 PM. Unanimous



INDEPENDENCE

Oregon's Story Begins Here

SUBDIVISION APPROVAL EXTENSION REQUEST (FILE NO. SUB | 2021-01) STAFF REPORT

MEETING DATE:	May 5 th , 2025
RECOMMENDATION:	APPROVE
FILE NUMBER:	SUB 2021-01 (Extension)
APPLICANT:	Darrel Smith
REQUEST:	Extend Approval of Southwest Crossing Subdivision
PROPERTY:	5995 S. 13th Street (Taxmap: 8.4.29, Lot: 1201)
ZONING:	Mixed-Density Residential (MX)
CRITERIA:	Independence Development Code (IDC) Subchapter 90: Subdivision Regulations
ATTACHMENT:	Attachment A: Applicant Time Extension Request (1 Page) Attachment B: Southwest Crossing Subdivision – Site Plan (1 Page)

I. BACKGROUND

On April 14, 2025, Darrel Smith submitted a request to extend the subdivision approval for Southwest Crossing. The subdivision is located off 16th Street (near Madrona Street in Monmouth) and is approximately 18.85 acres in size. The subdivision would be built out with 67 lots and include a large wetland dedicated to the City of Independence.

The Independence Planning Commission approved the subdivision on May 3, 2021, with 27 conditions of approval.

Since that time:

- The originally approved development was sold to another party.
- The approval of the engineering plans took longer than anticipated. The plans were eventually completed and approved, but with a lapse in the progress of the project, the engineering approval expired. The engineering plans have now been approved again.
- Polk County asked for additional information about the development's impact to Stapleton Road at OR-99W. The applicant prepared a second Traffic Impact Analysis for the project.
- The lender for the project asked for a receiver to assume control of the property.

- The receiver sold the property to a new potential developer.
- The new developer awaits one final permit to start the project

Due to the unforeseen circumstances that have accompanied the development, the proposed extension seeks to allow the developer another year to complete the project. The current approval is valid till May 5, 2025, and a one-year extension would extend the approval to May 5, 2026.

II. PROCESS

Per the requirements in IDC 11.080, the Independence Planning Commission may extend the subdivision approval for one year, subject to the following criteria:

1. The extension request shall be filed no later than 45 days before the expiration of the previous approval.

Staff Report: The applicant submitted the application on April 14, 2025. While the submittal was within the 45-day timeframe specified IDC 11.080(B), that timeframe is meant to give staff and the Planning Commission enough time to process the application. In this instance, sufficient time was available to process the application at the May 5, 2025, Planning Commission meeting. This standard is achieved.

2. The proposed extension shall be in substantial conformance with the originally approved plan.

Staff Report: The applicant does not propose any change to the originally approved plan. The proposed development continues to include 67-lots, a trail and a large wetland that would be dedicated to the City of Independence. This standard is achieved.

3. The applicant shall submit a reason for the need to extend the approval and satisfactorily demonstrate that they plan to complete the work articulated in IDC 11.070(B) within the one-year extension period.

Staff Report: Several circumstances have caused the delay of the project. However, the applicant's engineering plans are complete, and the project is close to starting. The applicant awaits one final permit. Assuming that the permit can be acquired, the applicant will likely be ready for the development of the property this summer.

4. No substantive changes shall have occurred to the applicable Code provisions on which the approval was based. If there have been substantive changes to the applicable Code provisions and the subject plan does not comply with the changes, an extension shall not be granted, and a new application shall be required.

Staff Report: No substantive changes have occurred to the codes that apply to the project. The Central Talmadge Plan changed some zoning provisions near the area, however the plan assumed that the 67 lots associated with Phase 1 of Southwest Crossing would be built as approved. This standard is achieved.

III. ANALYSIS AND FINDINGS

Given the analysis of the code criteria offered above, staff believes that the application meets the criteria in IDC 11.080(D). The extension was submitted with an appropriate amount of time to process the request, the proposal has not changed from the original submittal, and the code under which the

proposal was submitted has not been amended in a manner that affects the lot. Additionally, the applicant has effectively communicated the remaining work, and the plans to move forward with the project. Given these considerations, the approval can be extended.

IV. RECOMMENDATION

Given the findings noted above, staff recommends that the Planning Commission approve of the request for the subdivision extension based on the requirements in IDC 11.080.

The Commission may elect to:

1. Approve the extension of the subdivision till May 5, 2026, or
2. Deny the extension, if the Commission feels that a legislative amendment or other applicable change has warranted a reconsideration of the tentative plan.

Potential motion:

I move to approve the extension of the land use approval granted under SUB 2021-01 with the conditions and findings articulated within the Notice of Decision for the project.



April 14, 2025

City of Independence
555 S Main St.
Independence, OR 97351

Attn: Fred Evander, City Planner

Subject: Request for One-Year Extension of Land Use Approval – Southwest Crossing Subdivision
(File No. SUB 2021-01)

Dear Mr. Evander,

I am writing to formally request a one-year extension of the land use approval for the Southwest Crossing Subdivision, File No. SUB 2021-01. The current approval is set to expire on May 5, 2025. We respectfully request that the City grant an extension through May 5, 2026.

We are actively working towards meeting all requirements and preparing for development in the coming months. However, due to ongoing annexation efforts and coordination with Polk County, additional time is needed to ensure all elements of the project move forward in compliance with the conditions of approval.

We appreciate the City’s support on this project and look forward to continuing to work collaboratively to bring Southwest Crossing to fruition. Please let us know if any additional information is required to process this request.

Thank you for your consideration.

Sincerely,

Darrel Smith

Darrel Smith
Director of Land Development
Chad E Davis Construction, LLC

Please feel free to contact me via email: darrels@chadedavisconstruction.com
Or on my Cell (503) 516-7628

LARGER SOUTHWEST CROSSING PROJECT

FIGURE 1: OVERVIEW

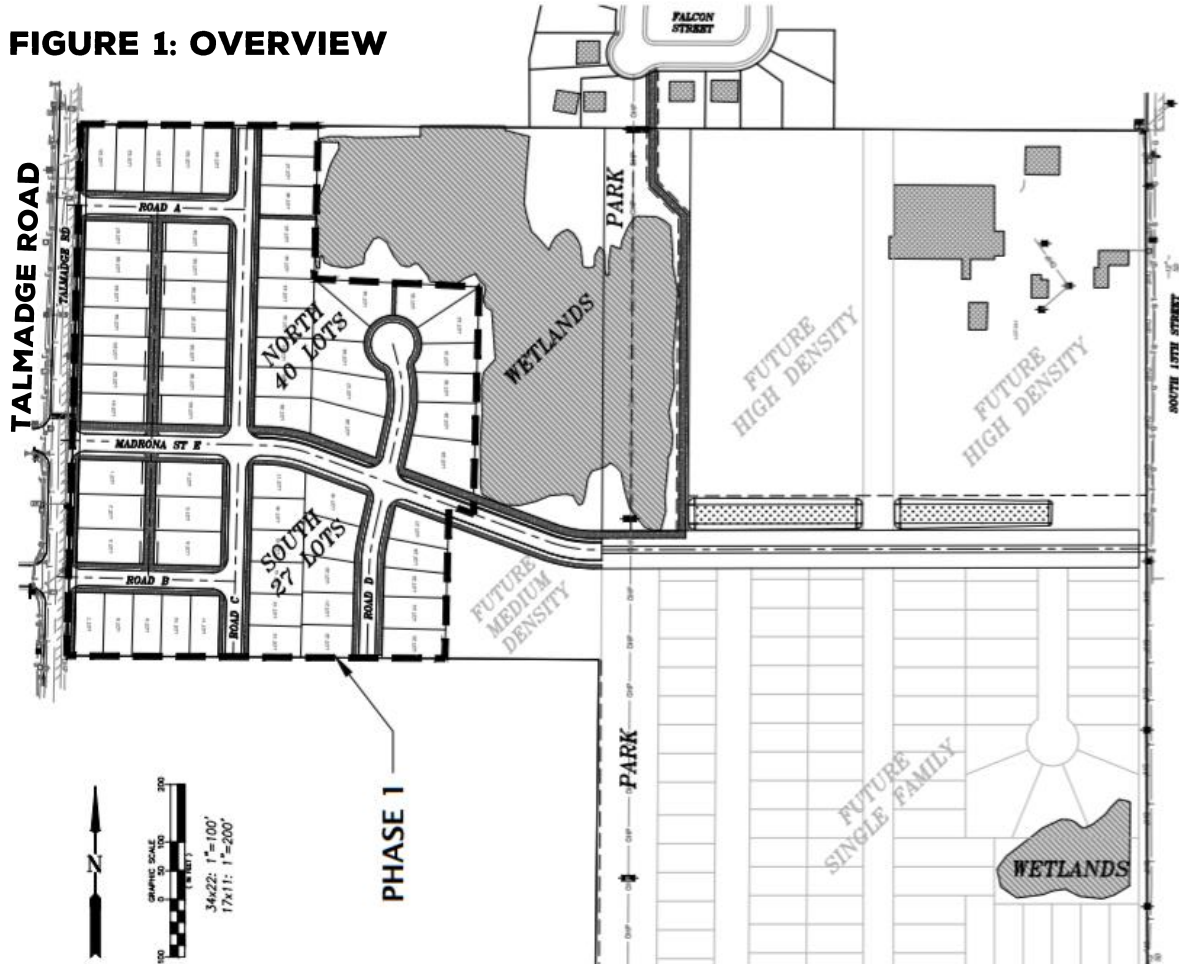
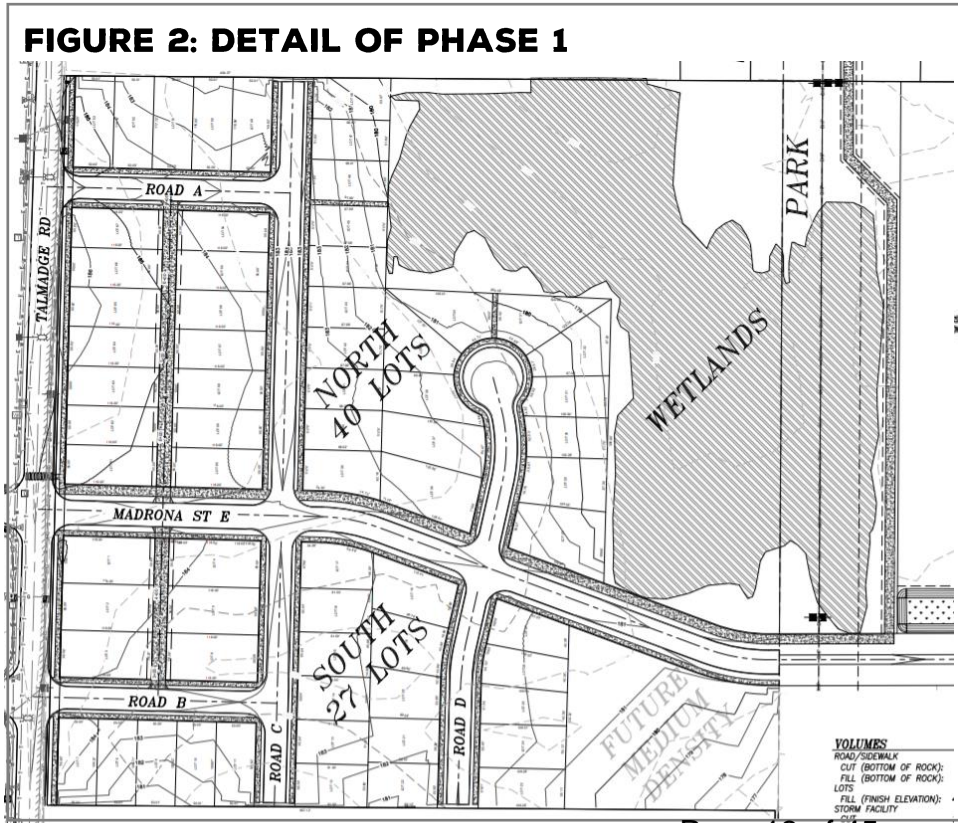


FIGURE 2: DETAIL OF PHASE 1





REVISIONS TO FLOODPLAIN STANDARDS BASED ON FEMA PRE-IMPLEMENTATION COMPLIANCE MEASURES STAFF REPORT

FROM: Fred Evander, Community Planner

TO: Planning Commission

MEETING DATE: May 5, 2025

FILE NUMBER: LA 2025-04

RE: **REVISIONS TO FLOODPLAIN STANDARDS**

ATTACHMENTS: A. Draft Revisions to Floodplain Standards

At the Independence Planning Commission meeting of May 5, 2025, the Commission will discuss draft code changes to modify Independence Development Code Subchapter 51 – Flood Damage Prevention. These revisions would integrate a new FEMA model ordinance into the existing standards, incorporate no-net loss requirements into the code and ensure that floodplain development is compliant with the Endangered Species Act.

What is the Problem?

In 2009, the Federal Emergency Management Agency was sued by environmental advocacy organizations for failing to consult with the National Marine Fisheries Service on the impacts to endangered species from the National Flood Insurance Program. Following a settlement on the suit, FEMA agreed to consult with the National Marine Fisheries Service on key aspects of the program.

After several years of consultation and analysis about the program, the National Marine Fisheries Service issued a Biological Opinion for the National Flood Insurance Program in 2016. This opinion considered several items that would ensure the continued protection of the endangered or threatened species in Oregon, and assumed in part that cities would implement mitigation strategies at the local level to help protect the species. Based on this opinion, FEMA is now requiring local governments to modify their flood hazard ordinances to be consistent with the Biological Opinion.

Communities have one of three options to proceed to meet these standards:

- Prohibiting all development activities within floodplains.
- Adopting the model ordinance to codify new no net loss requirements.
- Using a permit-by-permit approach to analyze the effects of development activities and implement mitigation that would achieve no net loss.

What is the Proposal?

To address the situation, the City of Independence has elected to pursue the adoption of the proposed model ordinance.

The proposed draft (see Attachment A) would integrate the model code into the existing standards and help ensure that no net loss is achieved. Three “proxies” would be used to help ensure the protection of the floodplain functions:

1. The Amount of Developed Space (see IDC 51.060(B)).
2. The Total Impervious Surfaces (see IDC 51.060(C)).
3. The Number of Trees Lost (see IDC 51.060(D)).

Standards related to things such as stormwater management would also be included within the draft.

Key Concepts

Key concepts within the code include:

No Net Loss – To help protect endangered species, the draft seeks to ensure “that there is no net change in the (floodplain) function from the existing condition when a development application is submitted to the City of Independence” (see IDC 51.020). Based on FEMA guidance and the model ordinance, “the floodplain functions of floodplain storage, water quality, and vegetation must be maintained.”

Riparian Buffer Zone – One geography within which to implement mitigation is the Riparian Buffer Zone (RBZ). The zone represents an area that “is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) to 170 feet horizontally on each side of the stream.” However, “where the RBZ is larger than the special flood hazard area (i.e. the floodplain), the no net loss standards only apply to the area within the special flood hazard area.”

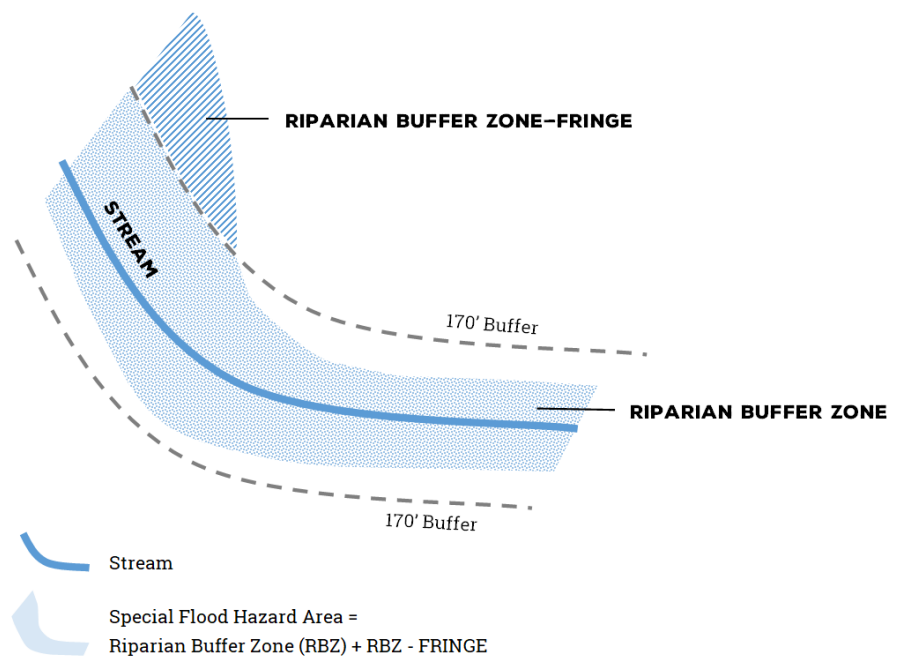
Where a floodplain exceeds the width of the riparian buffer zone, the special flood hazard area continues in an area called the Riparian Buffer Zone – Fringe. To see the difference between the Riparian Buffer Zone and the Riparian Buffer Zone – Fringe, please see Figure 1.

Different mitigation standards apply in the Riparian Buffer Zone and the Riparian Buffer Zone – Fringe.

Next Steps

The Planning Commission will discuss the integration of the model code into the city flood standards at the meeting of May 5, 2025. If the draft looks appropriate, staff will work toward having a Public Hearing on the proposal at the Planning Commission meeting on July 7, 2025.

FIGURE 1 – ENVISIONING THE RIPARIAN BUFFER ZONE (RBZ) AND THE RBZ - FRINGE



SUBCHAPTER 51: FLOOD DAMAGE PREVENTION

51.010 Statutory Authority, Finds of Fact, Purpose, and Methods

A. Findings of Fact

1. The flood hazard areas of the City of Independence preserve the natural and beneficial values served by floodplains but are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
2. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

B. Statement of Purpose

It is the purpose of this Subchapter to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Preserve natural and beneficial floodplain functions;
- 3.4. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4.5. Minimize prolonged business interruptions;
- 5.6. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
- 6.7. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;

~~7.8.~~ Notify potential buyers that the property is in a special flood hazard area

~~8.9.~~ Notify those who occupy special flood hazard areas that they assume responsibility for their actions

~~9.10.~~ Participate in and maintain eligibility for flood insurance and disaster relief.

C. Methods of Reducing Flood Losses

In order to accomplish its purposes, this Subchapter includes methods and provisions for:

1. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
2. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
4. Controlling filling, grading, dredging, and other development which may increase flood damage;
- ~~5.~~ Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

~~5.6.~~ Employing a standard of “no net loss” of natural and beneficial floodplain functions.

51.020 Definitions

For purposes of this Subchapter, words or phrases used in this Subchapter shall be interpreted so as to give them the meaning they have in common usage, unless specifically defined below.

Ancillary Features: Features of a development that are not directly related to the primary purpose of the development.

Appeal: A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

Area of special flood hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. “Special flood hazard area” is synonymous in meaning and definition with the phrase “area of special flood hazard”.

Base flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Development: 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.

Fill: Placement of any materials such as soil, gravel, crushed stone, or other materials that change the elevation of the floodplain. The placement of fill is considered “development.”

Fish Accessible Space: The volumetric space available to an adult or juvenile individual of the identified 16 ESA-listed fish to access.

Fish Egress-able Space: The volumetric space available to an adult or juvenile individual of the identified 16 ESA-fish to exit or leave from.

Flood or Flooding:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

Flood elevation study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM): The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): See "Flood elevation study".

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

Floodplain Storage Capacity: The volume of floodwater that an area of floodplain can hold during the 1-percent annual chance flood.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Footprint: The existing measurements of the structure related to the three proxies for floodplain functions. The footprint related to floodplain storage refers to the volumetric amount of developed space measured from the existing ground level to the BFE, and the footprint related to water quality refers to the area of impervious surface that the structure creates.

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Green Infrastructure: Use of natural or human-made hydrologic features to manage

water and provide environmental and community benefits. Green infrastructure utilizes management approaches and technologies that use, enhance, and/or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration, and reuse. At a large scale, it is an interconnected network of green space that conserves natural systems and provides assorted benefits to human populations. At a local scale, it manages stormwater by infiltrating it into the ground where it is generated using vegetation or porous surfaces, or by capturing it for later reuse. Green infrastructure practices can be used to achieve no net loss of pervious surface by creating infiltration of stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface.

Habitat Restoration Activities: Activities with the sole purpose of restoring habitats that have only temporary impacts and long-term benefits to habitat. Such projects cannot include ancillary structures such as a storage shed for maintenance equipment, must demonstrate that no rise in the BFE would occur as a result of the project and obtain a CLOMR and LOMR, and have obtained any other required permits (e.g., CWA Section 404 permit).

Hazard Trees: Standing dead, dying, or diseased trees or ones with a structural defect that makes it likely to fail in whole or in part and that present a potential hazard to a structure or as defined by the community.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or

- b. Directly by the Secretary of the Interior in states without approved programs.

Hydraulically Equivalent Elevation: A location (e.g., a site where no net loss standards are implemented) that is approximately equivalent to another (e.g., the impacted site) relative to the same 100-year water surface elevation contour or base flood elevation. This may be estimated based on a point that is along the same approximate line perpendicular to the direction of flow.

Hydrologically Connected: The interconnection of groundwater and surface water such that they constitute one water supply and use of either results in an impact to both.

Impervious Surface: A surface that cannot be penetrated by water and thereby prevents infiltration and increases the amount and rate of surface water runoff, leading to erosion of stream banks, degradation of habitat, and increased sediment loads in streams. Such surfaces can accumulate large amounts of pollutants that are then “flushed” into local water bodies during storms and can also interfere with recharge of groundwater and the base flows to water bodies.

Low Impact Development: An approach to land development (or redevelopment) that works with nature to manage stormwater as close to its source as possible. It employs principles such as preserving and recreating natural landscape features and minimizing effective imperviousness to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Low Impact Development refers to designing and implementing practices that can be employed at the site level to control stormwater and help replicate the predevelopment hydrology of the site. Low impact development helps achieve no net loss of pervious surface by infiltrating stormwater in an amount equal to or greater than the infiltration lost by the placement of new impervious surface. LID is a subset of green infrastructure.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Subchapter.

Manufactured dwelling: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with “manufactured home”.

Manufactured dwelling park or subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction: For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Independence and includes any subsequent improvements to such structures.

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 of Independence. The floodplain functions of floodplain storage, water quality, and vegetation must be maintained.

Offsite: Mitigation occurring outside of the project area.

Onsite: Mitigation occurring within the project area.

Ordinary High Water Mark: The line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

Pervious Surface: Surfaces that allow rain and snowmelt to seep into the soil and gravel below. Pervious surface may also be referred to as permeable surface.

Qualified Professional: Appropriate subject matter expert that is defined by the community.

Reach: A section of a stream or river along which similar hydrologic conditions exist, such as discharge, depth, area, and slope. It can also be the length of a stream or river (with varying conditions) between major tributaries or two stream gages, or a length of river for which the characteristics are well described by readings at a single stream gage.

Recreational vehicle: A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Riparian: Of, adjacent to, or living on, the bank of a river, lake, pond, or other water body.

Riparian Buffer Zone (RBZ): The outer boundary of the riparian buffer zone is measured from the ordinary high water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) to 170 feet horizontally on each side of the stream. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel. Where the RBZ is larger than the special flood hazard area, the no net loss standards shall only apply to the area within the special flood hazard area.

Riparian Buffer Zone Fringe: The area outside of the RBZ and floodway but still within the SFHA.

Silviculture: The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands.

Special flood hazard area: See “Area of special flood hazard” for this definition.

Start of construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

Substantial damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Undeveloped Space: The volume of flood capacity and fish-accessible/egress-able habitat from the existing ground to the Base Flood Elevation that has not been reduced due to activity that meets FEMA's definition of development. Examples of development that impede undeveloped space include, but are not limited to, the addition of fill, structures, concrete structures (vaults or tanks), pilings, levees and dikes, or any other development that reduces flood storage volume and fish accessible/egress-able habitat.

Variance: A grant of relief by the City of Independence from the terms of a flood plain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Subchapter is presumed to be in violation until such time as that documentation is provided.

51.030 General Provisions

A. Lands to Which this Subchapter Applies

This Subchapter shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Independence.

B. Basis for Establishing the Special Flood Hazard Areas

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study for the City of Independence", with accompanying Flood Insurance Maps effective December 19, 2006, with accompanying Flood Insurance Rate Maps (FIRMs) 41053C0402F, 41053C0404F, and 41053C0410F, are hereby adopted by reference and declared to be

a part of this Subchapter. The FIS and FIRM panels are on file at the Independence Community Development Department in the Independence Civic Center, 555 Main Street, Independence, OR 97351.

C. Coordination with State of Oregon Specialty Codes

Pursuant to the requirement established in ORS 455 that the City of Independence administer and enforce the State of Oregon Specialty Codes, the City of Independence 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 Subchapter is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

D. Compliance and Penalties for Noncompliance

1. Compliance

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

2. Penalties for Noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Subchapter and other applicable regulations. Violations of the provisions of this Subchapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a violation. Any person who violates this Subchapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$2,500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing contained herein shall prevent the City of Independence from taking such other lawful action as is necessary to prevent or remedy any violation.

E. Abrogation and Severability

1. Abrogation

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

2. Severability

This Subchapter and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Subchapter 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 Subchapter.

F. Interpretation

In the interpretation and application of this Subchapter, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and Disclaimer of Liability

1. Warning

The degree of flood protection required by this Subchapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Subchapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

2. Disclaimer of Liability

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

51.040 Administration

A. Designation of the Floodplain Administrator

The City of Independence ~~City Manager~~Floodplain Administrator is hereby appointed to administer, implement, and enforce this Subchapter by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

B. Duties and Responsibilities of the Floodplain Administrator

Duties of the floodplain administrator, or their designee, shall include, but not be limited

to:

1. Permit Review

Review all development permits to determine ~~that~~:

- a. ~~That T~~ the permit requirements of this Subchapter have been satisfied.
- b. ~~That A~~ all other required local, state, and federal permits have been obtained and approved.
- c. ~~Review all development permits to determine if~~ Whether the proposed development is located in a floodway. If located in the floodway, assure that the floodway provisions of this Subchapter in Section 51.050(B)(4) are met.
- d. ~~Review all development permits to determine if~~ Whether the proposed development is ~~located~~ in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available, then ensure compliance with the provisions of Section 51.050(A)(7).
- ~~e.a. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.~~
- ~~f.e.~~ Review all development permit applications to determine if Whether the proposed development qualifies as a substantial improvement as defined in Section 59.020.
- ~~g.f.~~ Review all development permits to determine if Whether the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in Section 51.050(A)(1).
- ~~g.~~ Review all development permits to determine if Whether the proposed development activity includes the placement of fill or excavation.
- ~~h.~~ Whether the proposed development activity complies with the no net loss standards in Section 51.060.

~~Any applicant for a building requiring a development permit, shall provide~~ Provide to building officials the Base Flood Elevation (BFE) to the building official. applicable to any building requiring a development permit.

~~h.~~

2. Information to be Obtained and Maintained

The following information shall be obtained and maintained and shall be made available for public inspection as needed:

- a. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or substantially improved structures where Base Flood Elevation (BFE) data is

provided through the Flood Insurance Study (FIS), Flood Insurance Rate Map (FIRM), or obtained in accordance with Section 51.050(A)(7).

- b. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of sections 51.050(B)(4) and 51.040(B)(1)(b) are adhered to.
- c. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
- d. Where base flood elevation data are utilized, obtain Asas-built certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
- e. Maintain all Elevation Certificates (EC) submitted to the City of Independence.
- f. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this Subchapter and where Base Flood Elevation (BFE) data is provided through the FIS, FIRM, or obtained in accordance with Section 51.050(A)(7).
- g. Maintain all floodproofing certificates required under this Subchapter.
- h. Record and maintain all variance actions, including justification for their issuance.
- i. Obtain and maintain all hydrologic and hydraulic analyses performed as required under Section 51.050(B)(4).
- j. Record and maintain all Substantial Improvement and Substantial Damage calculations and determinations as required under Section 51.040(B)(4).
- j-k. Obtain and maintain documentation about how no net loss standards have been met (see Section 51.060).
- k-l. Maintain for public inspection all records pertaining to the provisions of this Subchapter.

3. Requirement to Notify Other Entities and Submit New Technical Data

- a. City Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the City have been modified by annexation or the City has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the City's boundaries. Include within such notification a copy of a map of the City suitable for reproduction, clearly delineating the new corporate limits or new area for which

the City has assumed or relinquished floodplain management regulatory authority.

- b. Watercourse Alterations. Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
 - i. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
 - ii. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under Section 51.040(B)(3)(c), and the City shall ensure compliance with all applicable requirements in sections 51.040(B)(3)(c) and 51.050(A)(1).

- c. Requirement to Submit New Technical Data. The City's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the City shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The City may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.

The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

- i. Proposed floodway encroachments that increase the base flood elevation; and
- ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall notify FEMA within six (6) months of project completion when an applicant has obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision

(LOMR).

4. Substantial Improvement and Substantial Damage Assessments and Determinations

Conduct Substantial Improvement (SI) (as defined in Section 51.020) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with Section 51.040(B)(2). Conduct Substantial Damage (SD) (as defined in Section 51.020) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in Section 51.030(B)) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

C. Establishment of Development Permit

1. Floodplain Development Permit Required

A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in Section 51.030(B). The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in Section 51.020, including fill and other development activities.

2. Application for Development Permit

Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of Section 51.040(B)(2).
- b. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
- c. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any non-residential structure meet the floodproofing criteria for non-residential structures in Section 51.050(B)(3)(c).
- d. Description of the extent to which any watercourse will be altered or relocated.

- e. Base Flood Elevation data for subdivision proposals or other development when required per sections 51.040(B)(1) and 51.050(A)(6).
- f. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
- g. The amount and location of any fill or excavation activities proposed.

D. Floodplain Development Variance Procedure

The issuance of a variance under this Subchapter is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

1. Conditions for Variances

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of sections 51.040(D)(1)(c) and (e), and 51.040(D)(2). As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
- b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- c. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or Subchapters.
- e. Variances may be issued by the City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of sections 51.040(D)(1)(b) - (d) are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

e.f. Variances shall not be issued unless it is demonstrated that the development will not result in net loss of the following proxies of floodplain functions in the SFHA: undeveloped space; pervious surface; or trees 6 inches dbh or greater (see Section 51.060 and the associated options in Table 1).

2. Variance Notification

Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with Section 51.040(B)(2).

51.050 Provisions for Flood Hazard Reduction

A. General Standards

In all special flood hazard areas, the no net loss standards (see Section 51.060) and the following standards shall be adhered to:

1. Alteration of Watercourses

Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 51.040(B)(3)(b) and 51.040(B)(3)(c).

2. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- b. All manufactured dwellings shall be anchored per Section 51.050(B)(3)(d).

3. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

4. Utilities and Equipment

a. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems

- i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

b. Electrical, Mechanical, Plumbing and Other Equipment

Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at least one foot above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall:

- i. If replaced as part of a substantial improvement shall meet all the requirements of this section.

5. Tanks

- a. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
- b. Above-ground tanks shall be installed at least a foot above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

6. Subdivision Proposals and Other Proposed Developments

- a. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
- b. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:

- i. Be consistent with the need to minimize flood damage.
- ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
- iii. Have adequate drainage provided to reduce exposure to flood hazards.
- iii-iv. Comply with no net loss standards in Section 51.060.

7. Use of Other Flood Data

- a. When Base Flood Elevation data has not been provided in accordance with Section 51.030(B) the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer Section 51.050. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of Section 51.050(A)(6).
- b. Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

8. Structures Located in Multiple or Partial Flood Zones

In coordination with the State of Oregon Specialty Codes:

- a. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
- b. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

B. Specific Standards for Flood Zones

These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in Section 51.050(A) of this Subchapter and the no net loss standards in Section 51.060.

1. Flood Openings

All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

Enclosed areas below the Base Flood Elevation, including crawl spaces shall:

- a. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters.
- b. Be used solely for parking, storage, building access or a crawl space.
- c. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - i. A minimum of two openings.
 - ii. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls.
 - iii. The bottom of all openings shall be no higher than one foot above grade.
 - iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
 - v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.

2. Garages

- a. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
 - i. If located within a floodway the proposed garage must comply with the requirements of Section 51.050(B)(4).
 - ii. The floors are at or above grade on not less than one side.
 - iii. The garage is used solely for parking, building access, and/or storage.
 - iv. The garage is constructed with flood openings in compliance with Section 51.050(B)(1) to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage.
 - vi. The garage is constructed in compliance with the standards in Section 51.050(A).

vii. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.

b. Detached garages must be constructed in compliance with the standards for appurtenant structures in Section 51.050(B)(3)(f) or non-residential structures in Section 51.050(B)(3)(c) depending on the square footage of the garage.

3. For Special Flood Hazard Areas with Base Flood Elevations

In addition to the general standards listed in Section 51.050(A) the following specific standards shall apply in Riverine (non-coastal) special flood hazard areas with Base Flood Elevations (BFE): Zones A1-A30, AH, and AE.

a. Before Regulatory Floodway

In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community and will not result in the net loss of flood storage volume. When determined that structural elevation is not possible and where the placement of fill cannot meet the above standard, impacts to undeveloped space must adhere to the no net loss standards in Section 51.060.

b. Residential Construction

- i. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the Base Flood Elevation (BFE).
- ii. Enclosed areas below the lowest floor shall comply with the flood opening requirements in Section 51.050(B)(1).

c. Non-Residential Construction

- i. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall:

~~(A)~~ Have the lowest floor, including basement elevated at least one foot above the Base Flood Elevation (BFE); ~~or~~,

~~(A)~~~~(B)~~ Together with attendant utility and sanitary facilities;

~~(B)~~ 1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

~~(C)~~ 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

~~(D)~~ 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 51.040(B)(2).

- ii. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in Section 51.050(B)(1).
- iii. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below).

d. Manufactured Dwellings

- i. New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 51.050(B)(1);
- ii. The bottom of the longitudinal chassis frame beam shall be at least one foot above Base Flood Elevation;
- iii. New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
- iv. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

e. Recreational Vehicles

Recreational vehicles placed on sites are required to:

- i. Be on the site for fewer than 180 consecutive days;
- ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- iii. Meet the requirements of Section 51.050(B)(3)(d), including the anchoring and elevation requirements for manufactured dwellings.

f. Appurtenant (Accessory) Structures and Fences

Relief from elevation or floodproofing requirements for residential and non-residential structures in Riverine (Non-Coastal) flood zones may be granted for appurtenant structures and fences that meet the following requirements:

- i. Appurtenant structures and fences located partially or entirely within the floodway must comply with requirements for development within a floodway found in Section 51.050(B)(4).
- ii. Appurtenant structures must only be used for parking, access, and/or storage and shall not be used for human habitation.
- iii. In compliance with State of Oregon Specialty Codes, appurtenant structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed appurtenant structure will be located a minimum of 20 feet from all property lines. Appurtenant structures on properties that are zoned as non-residential are limited in size to 120 square feet.
- iv. The portions of the appurtenant structure located below the Base Flood Elevation must be built using flood resistant materials.
- v. Appurtenant structures and fences must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
- vi. Appurtenant structures and fences must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in Section 51.050(B)(1).
- vii. Appurtenant structures and fences shall be located and constructed to have low damage potential.
- viii. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with Section 51.050(A)(5).
- ix. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from

entering or accumulating within the components during conditions of the base flood.

4. Floodways

Located within the special flood hazard areas established in Section 51.030(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
 - i. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge; or,
 - ii. The City may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, ~~and the all~~ requirements established under for such revision as established under Volume 44 of the Code of Federal Regulations, section CFR 65.12 are fulfilled, and the encroachment(s) comply with the no net loss standards in Section 51.060.
- b. If the requirements of Section 51.050(B)(4)(a) are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Section 51.050.

51.060 Standards for Protection of SFHA Floodplain Functions

Adherent to the NMFS 2016 Biological Opinion, mitigation is necessary to ensure a no net loss in floodplain functions. FEMA's 2024 Draft Oregon Implementation Plan identifies proxies that provide measurable actions that can ensure 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 impacts to 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 address the floodplain function

that is experiencing the detrimental impact. The standards described below apply to all special flood hazard areas as defined in Section 51.020.

A. No Net Loss Standards

1. Development in the special flood hazard area that would reduce undeveloped space, increase impervious surface, or result in a loss of trees that are 6-inches dbh or greater is required to ensure no net loss. 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 three floodplain functions.

2. 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.

3. Mitigation to ensure no net loss of functions must be provided within, in order of preference: 1) on the lot or parcel that floodplain functions were removed from, 2) on the same reach of the waterbody where the development is proposed, or 3) in the special flood hazard area within the same hydrologically connected area as the proposed development. Table 1 presents the no net loss ratios, which vary based on the preferences listed above.

B. Undeveloped Space

1. 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.

a. Lost undeveloped space must be replaced with fish-accessible and egress-able compensatory volume based on the ratio in Table 1.

b. The mitigation area must be:

i. Hydrologically connected to the waterbody that is the flooding source;

ii. Designed so that there is no increase in velocity.

C. Impervious Surfaces

Impacts associated with impervious surfaces shall be mitigated through any of the following options:

1. Development proposals shall not result in a net increase in impervious surface area within the SFHA through the use of ratios prescribed in Table 1, or
2. 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
3. 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. See section 51.060(E)(3) for stormwater retention specifications.

D. Trees

1. Development proposals shall result in no net loss of trees 6-inches dbh or greater within the special flood hazard area.
 - a. Trees of or exceeding 6-inches dbh that are removed from the RBZ, Floodway, or RBZ-fringe must be replaced at the ratios in Table 1 and planted within the special flood hazard area.
 - b. Replacement trees must be native species that would occur naturally in the Level III ecoregion of the impact area.

E. Stormwater Management

Any development proposal that cannot be mitigated as specified in 51.060(C) must include the following:

1. Water quality (pollution reduction) treatment for post-construction stormwater runoff from any net increase in impervious area; and
2. Water quantity treatment (retention or detention facilities).
3. Retention and detention facilities must:
 - a. Limit discharge to match the pre-development peak discharge rate (i.e., the discharge rate of the site based on its natural groundcover and grade before any development occurred) for the 10-year peak flow using a continuous simulation for flows between 50 percent of the 2-year event and the 10-year flow event (annual series).
 - b. Treat stormwater to remove sediment and pollutants from impervious surfaces such that at least 80 percent of the suspended solids are removed from the stormwater prior to discharging to the receiving water body.

c. Be designed to not entrap fish.

d. Be certified by a qualified professional.

4. Detention facilities must:

a. Drain to the source of flooding.

b. Be designed by a qualified professional.

5. 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 of Independence (e.g., city, county) 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. The agreement will be recorded and bind subsequent purchasers and sellers even if they were not party to the original agreement.

c. 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.

d. 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. Records of the maintenance and repairs shall be retained and made available for inspection by the City of Independence (e.g., city, county) for five years.

F. Activities Exempt from No Net Loss Standards

The following activities are not subject to the no net loss standards in Section 51.060(A); however, they may not be exempt from floodplain development permit requirements.

1. 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;

2. 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;

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

4. 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;

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

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

7. 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;

8. 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.

9. Habitat restoration activities.

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

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

G. Riparian Buffer Zone (RBZ)

1. The Riparian Buffer Zone is measured from the ordinary high-water line of a fresh waterbody (lake; pond; ephemeral, intermittent, or perennial stream) to 170 feet horizontally on each side of the stream. The riparian buffer zone includes the area between these outer boundaries on each side of the stream, including the stream channel.

2. Functionally dependent uses are only subject to the no net loss standards in Section 51.060(A) 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.

3. 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.

4. 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.

OR (PROPOSED REVISION)

G. Beneficial Gain Standard

1. In addition to the no net loss standards, the applicant shall plant an area equivalent of 5% of the total project area within the RBZ, within the same reach of the project, with native herbaceous, shrub and tree vegetation.

2. This 5% beneficial gain standard shall not apply to functionally dependent uses, but shall apply to any ancillary features that are associated with but do not directly impact a functionally dependent use in the RBZ (including manufacturing support facilities and restrooms).

Table 1 No Net Loss Standards

Basic Mitigation Ratios	Undeveloped Space (ft ³)	Impervious Surface (ft ²)	Trees		
			6"-20" DBH	20-39" DBH	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 Ratios Above Must be Multiplied by Factors Below)

Mitigation Onsite	1	1	1	1	1
Mitigation Offsite (Same Reach)	1	1	1	1	1
Mitigation Offsite (Different Reach, Same Watershed)	2	2	2	2	2