

ORDINANCE No.

\*Direct the Bureau of Development Services to apply existing City environmental zoning regulations to certain land use reviews until the City achieves full compliance with Title 13 (Nature in Neighborhoods) of the Metro Urban Growth Management Function Plan.

The City of Portland Ordains:

Section 1. The Council finds:

**General Findings**

Section 1.

1. Metro adopted Title 13 (Nature in Neighborhoods) of the Urban Growth Management Functional Plan in 2005 (Ordinance No.05-1077C; See Exhibit A) to establish regional minimum requirements to protect, conserve and restore regionally significant riparian corridors and wildlife habitat.
2. Title 13 establishes requirements to protect, conserve, and restore approximately 39,000 acres of mapped Habitat Conservation Areas within the Metro region, approximately 12,000 acres of which are located within the City of Portland as shown on the map in Exhibit B.
3. The Oregon Department of Land Conservation and Development acknowledged Title 13 as complying with Oregon Land Use Planning Goals 5 and 6 on January 5, 2007 (LCDC Order 06-ACK-001713), triggering a requirement that local jurisdictions demonstrate that their programs substantially compliance with Title 13 by January 2009.
4. The director of the Bureau of Planning and Sustainability, on January 21, 2009, submitted a request that Metro to grant a two-year extension of the Title 13 compliance deadline based on partial compliance, and has proposed a phased strategy to achieve full compliance as outlined in Exhibit C.
5. The City's proposed Title 13 compliance strategy relies on:
  - Strong existing regulatory programs (overlay zoning) that already apply to approximately 80 percent of the Title 13 Habitat Conservation Areas (shown on the map in Exhibit D), and about 90 percent of the high-ranked Title 13 Habitat Conservation Areas);
  - Additional city programs that contribute to Title 13 compliance including willing-seller land acquisition, restoration, and education;
  - Adoption in fall 2009 of an updated natural resource inventory and baseline setback standards to protect streams and wetlands currently without protections;
  - Updating the City's existing environmental zoning program through projects that are currently underway for the Willamette River corridor, Portland International Airport, and Hayden Island; and,
  - A series of future projects to update the program in tributary watersheds

6. Metro code section 3.07.810 (Compliance with Functional Plan) states: “cities and counties whose comprehensive plan and land use regulations do not yet comply with the requirements of Title 13...shall make land use decisions consistent with those requirements after two years following their acknowledgement.”
7. The land use reviews identified in Metro code section 3.07.080 are only those review processes that apply to proposed uses not allowed by right in the underlying zone (e.g., comprehensive plan amendments, zone map modifications; conditional uses), and would not apply to adjustments, land divisions, environmental reviews, building permits and other types of reviews for uses allowed by right.
8. Metro notified the City of its obligation to either fully comply with Title 13 within 120 days or apply Title 13 to individual land use reviews under Metro code section 3.07.080 in a letter from Michael Jordan to Mayor Sam Adams dated January 22, 2009 (provided in Exhibit E).
9. The City regulations applicable to property within environmental, greenway, and Pleasant Valley resource overlay zones generally meet the intent and requirements of Title 13 (outlined in Exhibit F), including but not limited to:
  - Specified exemptions from program requirements
  - Application of discretionary criteria through a review process to ensure that impacts of development on identified natural resources are avoided, minimized and mitigated;
  - Provision of a streamlined review option for proposed development that meets clear and objective standards;
  - Mechanisms to consider proposed variance or adjustment to standards; and
  - Mechanisms for correcting and updating adopted maps; and
10. Given this fundamental consistency between these City regulations and Title 13, applying the existing regulations is an appropriate way to ensure that the City’s land use decisions comply with Title 13 on an interim basis until full compliance is achieved.

NOW, THEREFORE, the Council directs:

- a. The Bureau of Development Services shall apply existing City regulations and make findings to meet Metro requirements as outlined in Exhibit G until Metro deems the City in substantial compliance with Title 13; and
- b. The Bureau of Planning and Sustainability shall return to Council before December 31, 2009 to report on the City’s progress toward compliance with Title 13. The report shall include progress on the following at a minimum:
  - Consideration of an updated citywide Natural Resource Inventory;
  - Consideration of baseline standards for unprotected streams and wetlands;
  - Area-specific projects underway including the River Plan, Airport -Futures, and Hayden Island plans and a list of priority future projects; and
  - Update of the City’s Comprehensive Plan.

## Section 2.

The Council declares that an emergency exists because the City is required to meet Metro “direct application” requirements for Title 13 beginning May 22, 2009; therefore this ordinance will be effective on June 24, 2009.