

TITLE 13 – NATURE IN NEIGHBORHOODS

Request for Metro Determination of Substantial Compliance



Portland City Council Draft
November 2012
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Introduction

Overview

The purpose of this report is to demonstrate that the City of Portland is in substantial compliance with Title 13, Nature in Neighborhoods. Portland's compliance package is comprised of a diverse mix of regulatory and non-regulatory tools including plans, codes, programs and projects that are implemented by multiple City bureaus. *No new regulations are proposed as part of this package.*

This compliance request applies to areas within City limits and urbanizing pockets of Multnomah County addressed through the Intergovernmental Agreement to Transfer Land Use Planning Responsibilities between the City of Portland and Multnomah County (West Hayden Island not included).

A determination of substantial compliance with Title 13 does not mean the City has finished its work to protect and restore Portland's valuable natural resources. Maintaining and improving the condition of Portland's watersheds is a long-term commitment. The City will continue these efforts through projects currently underway, future projects and ongoing programs. Metro's determination of substantial compliance will recognize the importance of City programs in helping to meet local and regional watershed health goals.



Balch Creek

Background

Metro adopted Title 13 of the Urban Growth Management Functional plan in September 2005. Title 13 establishes baseline requirements to protect, conserve and restore the region's significant riparian corridors and wildlife habitat resources which are collectively referred to as Habitat Conservation Areas. These Habitat Conservation Areas include rivers, streams, wetlands, and adjacent resource areas, as well as upland wildlife habitat patches and habitats of concern.

Title 13 was acknowledged by the Land Conservation and Development Commission as complying with specified portions of *Statewide Land Use Planning Goals 5, Natural Resources, Scenic and Historic*

Resources, Open Spaces (riparian corridors and wildlife habitat) and 6, Air, Water and Land Resources Quality (water quality protection).

Summarized from Metro Title 13, the general intent of the program is to:

- Protect, conserve and restore a continuously viable stream corridor system, in a manner that is integrated with upland wildlife habitat and the urban landscape; and,
- Control and prevent water pollution for the protection of public health and safety, and to maintain and improve water quality throughout the region.

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As stated in Title 13, the program is also intended to:

- Achieve its purpose through conservation, protection and restoration of fish and wildlife habitat using voluntary and incentive-based, educational and regulatory components;
- Balance and integrate goals of protecting and restoring habitat with regional goals for livable communities, a strong economy, preventing pollution, and compliance with federal laws including the Clean Water Act and Endangered Species Act;
- Include provisions to monitor and evaluate program performance over time, including meeting program objectives and targets, and local compliance; and,
- Establish minimum requirements and is not intended to repeal or replace existing local resource protections, nor is it intended to prohibit cities and counties from adopting or enforcing fish and wildlife habitat protection and restoration programs that exceed the requirements of this title.

The City of Portland was an active participant in the development of Title 13. City staff participated in Metro's Title 13 technical advisory committee, contributing input and updated natural resource data throughout the project. City managers and elected officials contributed to Title 13 through participation in the Metro Technical Advisory Committee (MTAC) and Metro Policy Advisory Committee (MPAC).

Approximately 12,845 acres of Title 13 Habitat Conservation Areas are located within the City of Portland (not including HCA in the Willamette and Columbia river channels), which is roughly one-third of the total HCAs in the region.

Metro-area cities and counties must demonstrate that their programs substantially comply with Title 13 requirements, including programs to prevent detrimental impacts on Habitat Conservation Areas and to mitigate for unavoidable impacts on these resource areas. Title 13 allows local jurisdictions to achieve substantial compliance through a combination of regulatory and non regulatory tools such as comprehensive plans and ordinances, willing-seller land acquisition, easements, and restoration programs.

Metro area cities and counties were required to demonstrate substantial compliance with Title 13 by January 2009. At that time the City of Portland had already established extensive regulatory and non-regulatory programs that protect, conserve and restore the majority of Title 13 Habitat Conservation Areas. The City could have pursued a determination of substantial compliance at that time based on existing programs, however, several key planning projects were underway—projects that were anticipated to further strengthen policies and protections for Title 13 Habitat Conservation Areas. The City was also continuing investments in non-regulatory programs that would protect and enhance Title 13 HCAs, including substantial willing-seller land acquisition activity.

Given the level of activity underway, the City did not pursue a determination of substantial compliance. On January 29, 2009 and May 9, 2011, the City of Portland requested that Metro approve extensions to the Title 13 compliance deadline. Metro approved the two extensions and is precluded from granting additional extensions. The City's most recent extension expired on June 30, 2012.

The City completed or made significant progress on key projects and tasks during the extension periods, which resulted in substantial improvements in protection and mitigation requirements for Title 13 Habitat Conservation Areas and other natural resources within city. These accomplishments are described in the next section of this report.

In July of 2012, the City published a draft of this report for public review and consideration by the Portland Planning and Sustainability Commission. The Bureau of Planning and Sustainability put together the report in collaboration with the Bureaus of Environmental Services, Parks and Recreation, and Development Services. The report presented the wide array of existing City regulatory and non-regulatory programs that comprise the request for Metro determination of substantial compliance with Title 13.

The City notified key stakeholders that the draft request was available for review and that the request would be subject to a public hearing before the Planning and Sustainability Commission.

On July 24, 2012, after holding a public hearing, the Planning and Sustainability Commission voted unanimously to recommend that the City Council approve the compliance report with minor refinements, and submit the request for determination of Title 13 compliance to Metro.

The Planning and Sustainability Commission also recommended that the City enter into a separate, voluntary intergovernmental agreement (IGA) with Metro as a statement of mutual intent to continue watershed-health related efforts and to collaborate on natural resource-related issues of regional concern. The IGA would go into effect after Metro finds the City in compliance with Title 13 and compliance with Title 13 is not contingent on the IGA.



Confluence of Saltzman Creek and the Willamette River provides critical habitat for fish and other aquatic species.

Portland Accomplishments since Adoption of Title 13

Portland's extension requests outlined activities the City would focus on during the extension period. These activities included:

1. Area-specific program updates for the Willamette Corridor, Portland International Airport, and Hayden Island
2. Tree Code update
3. Portland Plan
4. Natural Resource Inventory update and adoption, and other Periodic Review actions leading to Comprehensive Plan update
5. Baseline standards to protect streams and wetlands outside City overlay zones (mentioned in first extension request only)

The extension requests also listed future projects that would continue beyond the extension periods including completion of the Comprehensive Plan update, the River Plan, and an updated plan for the Columbia Corridor.

During the extension periods the City made substantial progress on activities listed in the requests. These accomplishments are outlined in Table 1 and are summarized below. More detailed descriptions of these projects are provided later in this report

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Table 1: Key Accomplishments during Portland Title 13 Compliance Extension Periods

Completed Projects	Impact	Status
Airport Futures (Title 13 District Plan)	<ul style="list-style-type: none"> Updated Natural Resources Inventory – increased significant natural resources (drainageways, wetlands, grasslands, sensitive species) New/updated plan districts - ~205 acres additional overlay zones Up to 300 acres of grassland mitigation on Government Island (triggered by development) Future Tree Planting - ~ \$730,000 over 25 years Watershed Enhancements ~ \$1 million over 25 years to Columbia Slough W.C. or MCDD PIC Wetland Conversion to native scrub/shrub ~\$150,000 (w/in 2 years) 	Adopted April 2011 Effective May 2011
Citywide Tree Project	<ul style="list-style-type: none"> New Tree Code Title Standardized Tree Removal/Replacement Permit System New Development Standards (Tree Preservation/Tree Density) – Ltd exemptions Improved tree replacement on 17,800 acres existing environmental overlay zones Improved riparian protection in existing environmental zones (10s of miles of streams) >100 acres of future tree canopy per year 	Adopted April 2011 Phase 1 effective July 2011 Phase 2 effective July 2013 (requires funding) Ramp up underway
Invasive Plant Project	<ul style="list-style-type: none"> Strengthened invasive plant removal requirements on development sites New removal/replacement requirements in Environmental Overlay Zones Updated, ranked Nuisance Plants List in Portland Plant List New Required Eradication Plant List and code provisions in Title 29, Property Maintenance 	Adopted Feb 2010 Effective March 2010
Portland Plan	<ul style="list-style-type: none"> 2035 Objectives for watershed health Guiding Policies – watershed health 5-year Actions - natural resource protection/program updates, investments in urban forest, access to nature, culvert replacement, addressing natural resources in development decisions) Tree Canopy established as Measure of Success 	Adopted April 2012
NRI/Periodic Review/	<ul style="list-style-type: none"> Buildable Lands Inventory City NRI builds on Metro Title 13 inventory – incorporates current data for streams, wetlands, flood area, topography; special status species and habitats of concern (Special Habitat Areas) ~2,580 acres additional significant resources 	PSC hearings nearly complete; to City Council summer 2012
Land Acquisition	~300 acres purchased from willing sellers	
Watershed Revegetation	<ul style="list-style-type: none"> ~435 new acres planted or inter-planted; 5,824 acres managed ~64,266 bank feet (12.2 miles) planted, 551,468 bank feet (104.4 miles) managed 	
Tree Planting	~37,000 trees	

Projects Underway	Impact	Status
River Plan/North Reach (Title 13 District Plan)	<ul style="list-style-type: none"> ▪ Updated Natural Resource Inventory and ESEE Analysis ▪ Updated Environmental Overlay Zones and New River Environmental Overlay Zone ▪ Net + 250 acres overlay zone coverage ▪ Strengthened/expanded overlay protections for Willamette bluff habitat ▪ Restoration sites 	<p>Adopted</p> <p>Appealed – pending decision at Oregon Supreme Court</p>
River Plan Central Reach (Title 13 District Plan)	<ul style="list-style-type: none"> ▪ Updated Draft Natural Resource Inventory 	North/NE Quadrant Plan under development
West Hayden Island (T 13 District Plan)	<ul style="list-style-type: none"> ▪ Updated draft Natural Resource Inventory and draft ESEE Analysis ▪ Public Benefit/Cost Analysis ▪ Potential land split – 300 acres deepwater marine terminal/500+ acres open space and passive recreation ▪ Draft Plan District w/environmental regulations and IGA ▪ Mitigation and enhancement on-island and off-island 	To PSC summer 2012; to City Council fall 2012
Comprehensive Plan	<ul style="list-style-type: none"> ▪ Will update City policies relating to watershed health and the environment ▪ Will direct specific actions including potential updates to City natural resource protection and enhancement programs 	Policy development phase underway

River Plan

The River Plan is an update of the City's existing Willamette Greenway regulations, and was intended to serve as a Title 13 District Plan. The City completed its initial work on the River Plan/North Reach Project during the first extension period. The City Council approved the River Plan/North Reach on April 15, 2010. The River Plan/North Reach would have updated and increased environmental overlay zoning in riparian corridors and upland habitat areas (e.g., Willamette Bluff), and added a new river environmental overlay zone along the Willamette mainstem in the greenway. The new river environmental overlay zone is intended to encourage development to avoid impacts on natural resources and require mitigation for unavoidable impacts while supporting the development goals within the Willamette Greenway along the Portland Harbor—an area characterized by heavy industrial, river-dependent development. The update and application of the overlays would have increased the net area of natural resource overlay zone protections by approximately 250 acres.



In addition to the environmental overlay zones, the River Plan/North Reach would have increased the setback from the river to 50 feet from top of bank (the setback is currently 25 feet from top of bank) on properties that are not targeted for river-dependent and river-related uses, and the plan identified key sites along the river for restoration. The River Plan/North Reach would have continued to require that vegetation be planted on properties in the greenway, and the proposal would have streamlined the review process for development.

However, the adopted River Plan/North Reach was appealed to LUBA and the case remains pending with the Oregon Supreme Court. A key basis for the appeal was that the City did not have a current Economic Opportunities Analysis (EOA) on which to base its findings related to Statewide Planning Goal 9, Economic Development. The City is currently producing an updated EOA, however

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the question remains as to whether it is feasible to increase environmental regulations on industrial and employment lands given anticipated projections of an industrial land supply shortfall. Once the appeals process is over, the City intends to revise/update the River Plan/North Reach and bring it back to City Council for adoption and implementation.

The River Plan/Central Reach is currently being worked on in tandem with the update of the Central City Plan. As of this date, a concept plan has been drafted for the entire Central City including the land along the river, and issues with the existing greenway code have been identified. In addition, the natural resource inventory for the Central Reach has been drafted and will be reviewed and finalized as more detailed planning work proceeds. The City anticipates that it will take up to two years to complete the Central City Plan update and the River Plan/Central Reach.

Airport Futures

The City Council approved the Airport Futures project in April 2011 (Ordinance No. 184521). The Portland International Airport Plan District and updated Cascade Station/Portland International Center Plan Districts are intended to serve as Title 13 District Plans.



Through the Airport Futures project the City expanded the environmental overlay zones by 205 acres to protect riparian resources and wildlife habitat. In addition, the project resulted in the designation of more than several hundred acres of additional special habitat areas and requirements for substantial off-site mitigation to offset the impacts of future development on airport land that supports grassland associated wildlife species.



West Hayden Island

During the extension periods the City completed an initial phase of planning to inform the City Council's decision regarding annexation of West Hayden Island. The City developed a new draft natural resource inventory for all of Hayden Island as well as a host of other studies pertaining to future development of West Hayden Island as a deepwater marine terminal. On July 2010 the City Council adopted a resolution directing the City to complete a second phase of planning for West Hayden Island. The second planning phase focuses on evaluating a potential future use scenario that includes developing 300 acres of the island as a deep-water marine terminal and preserving more than 500 acres of the island for open space and passive recreation. This plan is being designed to substantially comply with Title 13 requirements, including a specific Title 13 provision requiring Portland to produce a District Plan in cooperation with the Port of Portland.

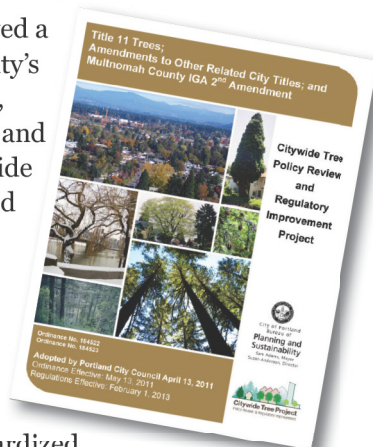
West Hayden Island is not included in this request. The City Council is expected make a decision regarding annexation of West Hayden Island in late 2012. If West Hayden Island is annexed into the City of Portland, then it is anticipated that the City would submit a separate request for determination of substantial compliance with Title 13.

Citywide Tree Policy Review and Regulatory Improvement Project (Citywide Tree Project)

The City Council approved a major overhaul of the City's tree codes in April 2011, (Ordinance No. 184522 and No. 184523). The Citywide Tree Project consolidated most of Portland's tree rules into a new code title, strengthened tree preservation and planting requirements on development sites, and established a standardized tree removal permit and replacement system. The codes also include provisions intended to balance the City's urban forest goals and development and economic goals.

The first phase of code amendments went into effect in July 2011. The second phase of code amendments, including the new Title 11, Trees, will become effective in July 2013.

The Citywide Tree Project code amendments will improve protection for the riparian corridors that comprise Title 13 HCAs. The project clarified that stream and wetland setbacks are to be applied consistently in the environmental overlay zones which will improve protection of trees and vegetation adjacent to streams and wetlands. The code amendments will also improve tree replacement substantially throughout the City's existing environmental overlay zones, much of which coincides with Title 13 HCAs.



Portland Plan

The Portland Plan is a strategic plan with an eye toward the year 2035 and was adopted by City Council in April 2012. The Portland Plan sets short- and long-range goals for the city. To articulate the goals, the Portland Plan focuses on three integrated strategies: Thriving educated youth; Economic prosperity and affordability; and Healthy connected city.

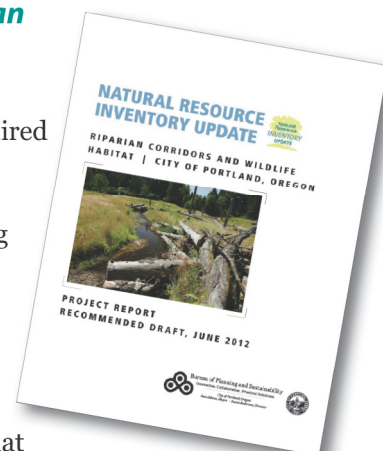


The goals for the healthy connected city strategy are to:

- Improve human and environmental health by creating safe and complete neighborhood centers linked by a network of city greenways that connect Portlanders with each other.
- Encourage active transportation, integrate nature into neighborhoods, enhance watershed health and provide access to services and destinations locally and citywide.

Natural Resource Inventory Update and Periodic Review Actions to Update the Comprehensive Plan

During the extension periods the City was completing tasks required as part of its Periodic Review work order. This included bringing the City's updated natural resources inventory forward for public review along with a number of other documents that will inform the Comprehensive Plan update. The updated inventory builds on Metro's Title 13 inventory, incorporating new stream, wetland, flood area, topography, and vegetation data and model refinements based on additional scientific literature. The natural resource inventory serves, along with other data, as an input to the new draft Buildable Lands Inventory. The natural resource inventory and



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Buildable Lands Inventory have been reviewed through hearings before the Planning and Sustainability Commission, and will be presented to the Portland City Council for adoption later this summer.

The City is now embarking on an update of the Portland Comprehensive Plan. The updated Portland Comprehensive Plan will build off the Portland Plan strategies and will guide land use and transportation planning decisions as the city grows over the next 20-25 years. Specifically, the goals and policies related to watershed health and the environment will be updated to focus on land, water and wildlife resources, encouraging habitat-friendly and low-impact development practices, access to nature; a healthy urban forest, and resiliency related to natural hazards and climate change.

Baseline setbacks for streams located outside existing City overlay zones

The first extension request stated that the City intended to pursue baseline protections in the form of setbacks for unprotected streams. Given the extensive workload associated with the array of planning projects summarized above, the City suspended efforts to pursue additional stream setbacks, relying for the time being on the Willamette greenway setback and existing Drainage Reserve Rule which restricts development within a 30 foot corridor along streams located outside the existing overlay zones.

Invasive Plant Project

In addition to projects listed in the City's extension requests, the City also updated its regulations addressing invasive plants. In February 2010, the City Council adopted an ordinance amending the zoning code and the City's property maintenance code to strengthen invasive plant removal requirements (Ordinance No. 183534). The amended regulations would apply in development situations and also when certain invasive plant species are found anywhere in the city. This project also updated the Portland Plant List with a focus on updating invasive plant information and the City's Nuisance Plants List.



Non-Regulatory Program Reporting and Accomplishments

During the extension periods the City submitted the requisite reports documenting non-regulatory program activities as specified in Title 13. Key accomplishments include:

- Approximately 300 acres of natural resource land purchased from willing sellers since 2009 (BES and/or Parks and Recreation)
- Roughly 435 new acres planted or inter-planted; 5,824 acres managed in FY 09 – 10 and FY 10-11 (Watershed Revegetation Program)
- 64,266 bank feet (12.2 miles) planted, 551,468 bank feet (104.4 miles) managed in FY 09 – 10 and FY 10-11 (Watershed Revegetation Program)



Natural resource land acquired from a willing seller.

Direct Application of Title 13 requirements to Specified Land Use Decisions

In February 2009 Metro notified the City of Portland that since it was not yet in substantial compliance with Title 13, Metro Code 03.07.810 requires the City to apply the Title 13 requirements directly during specified land use decisions whether or not the City had adopted Comprehensive Plan or code amendments to implement Title 13.

In June 2009 the Portland City Council adopted Ordinance No. 182960 (as amended) directing the Bureau of Development Services to apply existing City natural resource overlay zone regulations to development sites in areas mapped as a Title 13 Habitat Conservation Area. The appropriate overlay zone regulations are applied to HCAs during land use reviews for proposals involving uses not otherwise allowed by right by the underlying zoning, and include:

- Comprehensive Plan Map Amendment;
- Zoning Map Amendment;

- Central City Parking Review;
- Impact Mitigation Plan;
- Conditional Use Master Plan;
- Conditional Use Review;
- Nonconforming Situation Review; and
- Planned Development (for uses otherwise not allowed by the underlying zoning)

The ordinance specifies which of the City's overlay zone regulations are to be applied, based on location of the site. This ordinance will be repealed when Metro determines that the City is in substantial compliance with Title 13.

The City's compliance package is presented in the next chapter.

Portland's Compliance Package

This chapter presents Portland's Title 13 compliance strategy. Specifically cities and counties may achieve substantial compliance using one or more of the following implementation options:

1. Amend their comprehensive plan and implementing ordinances to adopt the model ordinance and HCA map, and demonstrate compliances with specified subsections of the title related to fish and wildlife protection, management of publicly owned parks and open spaces, and restoration of IICAs when developed property is undergoing significant redevelopment (3.07.1330.B.1); or
2. Demonstrate that their existing or amended comprehensive plan and implementing ordinances substantially comply with the performance standards/best management practices of the title, and demonstrate that its maps substantially comply with the Metro HCA map (3.07.1330.B.); or
3. Demonstrate that they are implementing alternative approaches that protect and enhance of Class I and II riparian habitat areas, and of Class A and B upland wildlife habitat in land added to UGB after December 28, 2005. Cities and counties must show that such alternative approaches provide protection and restoration that is substantially comparable to the protection and enhancement resulting from application of programs described in 1 and 2, above. Cities and counties must demonstrate that alternative programs provide certainty in terms of achieving intended results, taking into consideration proven effectiveness and funding stability. Cities and counties may rely on existing Comprehensive Plans and implementing ordinances, and on the use of incentive-based, voluntary, education, acquisition, and restoration programs. Title 13 makes specific reference to existing tree protection ordinances, voluntary programs for tree protection, tree replacement, and habitat restoration, fee reduction and tax abatement programs, local habitat acquisition programs, and programs to maintain and enhance publicly owned habitat areas (3.07.1330.B.3); or

4. Adopt one or more district plans that apply over portions of the city or county, and that comply with the alternative approaches described in 3 above. Cities and counties must show that the remainder of the city has programs that comply with 1 or 2 above. Title 13 specifically directs the City of Portland to work in cooperation with the Port of Portland to develop a district plan for West Hayden Island (3.07.1330.B.4); or
5. Comply with the Tualatin Basin program – This option applies to only specified counties and cities in the Tualatin Basin. As such this option is not available to the City of Portland (3.07.1330.B.5).

The strategy incorporates three of the implementation options described in the previous chapter, specifically:

- Reliance on existing Comprehensive Plan and Implementing Ordinances
- Alternative approaches; and
- District Plans (presented with Existing Comprehensive Plan and Implementing Ordinances)

The City's compliance strategy is a multi-faceted, synergistic package of tools, including an updated natural resources inventory, zoning and other types of regulations, and non-regulatory programs. Some of the tools focus on preserving important natural resources while other tools focus on enhancing and restoring natural resources. **No new regulations are proposed with this compliance package.**

The City requests that Metro view these programs as synergistic and complementary, such that the whole is greater than the sum of the parts. And each of these programs should be integral to Metro's determination of substantial compliance.

Existing Comprehensive Plan and Implementing Ordinances

Portland's existing Comprehensive Plan and zoning regulations Portland apply protections to the majority of Title 13 Habitat Conservation Areas (HCAs) in the city and Class A and B upland areas in publicly owned parks and open spaces. The following key components are presented below:

1. The City's Comprehensive Plan and Natural Resource Inventory update;
2. The City's natural resource overlay zones (Environmental Overlay Zones, Pleasant Valley Natural Resources Overlay Zone, Willamette Greenway Overlay Zones, and Scenic Resource Zone); and
3. Other zoning tools (plan districts, land division regulations, and Natural Resource Management)

Comprehensive Plan and Natural Resource Inventory Update

The Portland Comprehensive Plan was adopted in October 1980. It has been amended multiple times, most recently in July 2004.

Goal 8, Environment, calls for maintaining and improving the quality of Portland's air, water, and land resources. Under Goal 8 are policies and objectives directing protection of water quality, open space, drainageways, wetlands, riparian area and water bodies, and uplands, including wildlife corridors.

The environment goal also includes a specific policy and objectives for particular areas in the City, including the Balch Creek Watershed, East Buttes, Terraces and Wetlands, Fanno Creek Watershed, Johnson Creek Basin, Northwest Hills, Skyline West, Southwest Hills, and Willamette River Greenway.

The City is currently in periodic review with the State and is updating the Portland Comprehensive Plan. The Comprehensive Plan update will incorporate policy direction from numerous City plans including the Portland Watershed Management Plan (2006), Urban Forestry Management Plan (2004), Climate Action Plan (2009), and the Portland Plan (2012).

The updated Comprehensive Plan goals and policies are anticipated to speak more directly to protecting,

enhancing and restoring watershed functions relating to water quality, hydrology, fish and wildlife habitat, and biological communities. The updated Comprehensive Plan is also expected to address new policy areas, providing support for habitat friendly development and green infrastructure, environmental justice, requiring consideration of ecosystem services in decision making, and equitable access to nature for all Portlanders.

The City is required to prepare a new citywide *Natural Resource Inventory* as a component of the factual basis the City must adopt to inform the Comprehensive Plan update. In addition, the Bureau of Planning and Sustainability has included the adoption of an updated Natural Resource Inventory as a line item in its Title 13 compliance extension requests.

The City has spent several years developing the new Natural Resource Inventory, basing it on the science and methodology Metro used to develop the Title 13 Inventory of Regionally Significant Fish and Wildlife Habitat.

The City's Natural Resource Inventory, like the Title 13 inventory, focuses on riparian corridors and wildlife habitat. The City has incorporated more current, higher resolution natural resource feature data as input to the Natural Resource Inventory GIS models. Specifically the City updated the mapping data for streams, wetlands, topography, flood areas and vegetation using recent aerial photographs, LiDAR data and/or local and state permit information as available and applicable. This evolution in resource mapping is shown in Figures 1, 2 and 3.

The City also refined several GIS model criteria based on information from additional scientific studies to more accurately reflect local conditions in Portland. The City also updated the information relating to Title 13 Habitats of Concern, refining and clarifying the eligibility criteria, providing additional documentation and adjusting area boundaries. The updated Habitats of Concern are called Special Habitat Areas in the City's inventory.

The City worked closely with Metro and a group of technical experts to ensure that the refinements were scientifically sound and remained consistent with Metro's general approach and intent for the Title 13

Figure 1: Columbia Slough



Figure 2: Columbia Slough with Title 13 Resource Ranks



Figure 3: Columbia Slough with City Resource Ranks



regional inventory. In summary the City inventory identifies 26,365 acres of natural resources. The inventory also identifies the area within the Willamette and Columbia river channels as significant natural resource. Similar to Metro, the resources are assigned scores for individual riparian functions and wildlife habitat attributes. The scores are aggregated into riparian, wildlife habitat and combined relative ranks.

The City's inventory contains about 2,582 acres more resource area than Metro's inventory, or about 11 percent. The increased acreage and shifts proportion of High, Medium and Low ranked resources primarily reflects the City's addition of Special Habitat Areas, addition of streams through incorporation of LiDAR data, mapping of smaller vegetation units (many of which received medium or low ranks), and downgrading of certain areas to a lower rank (e.g., hardened non-vegetated river banks and managed floodplain).

A summary comparison of the City's and Metro's inventories is shown in Tables 2 and 3 below.

Table 2: City NRI Combined Riparian/Wildlife Habitat Ranks

High Relative Riparian/Wildlife Habitat Value	18,190 acres	69%
Medium Relative Riparian/Wildlife Habitat Value	3,905 acres	15%
Low Relative Riparian/Wildlife Habitat Value	4,270 acres	16%
Total	26,365 acres	100%

Note: Excludes Willamette and Columbia rivers

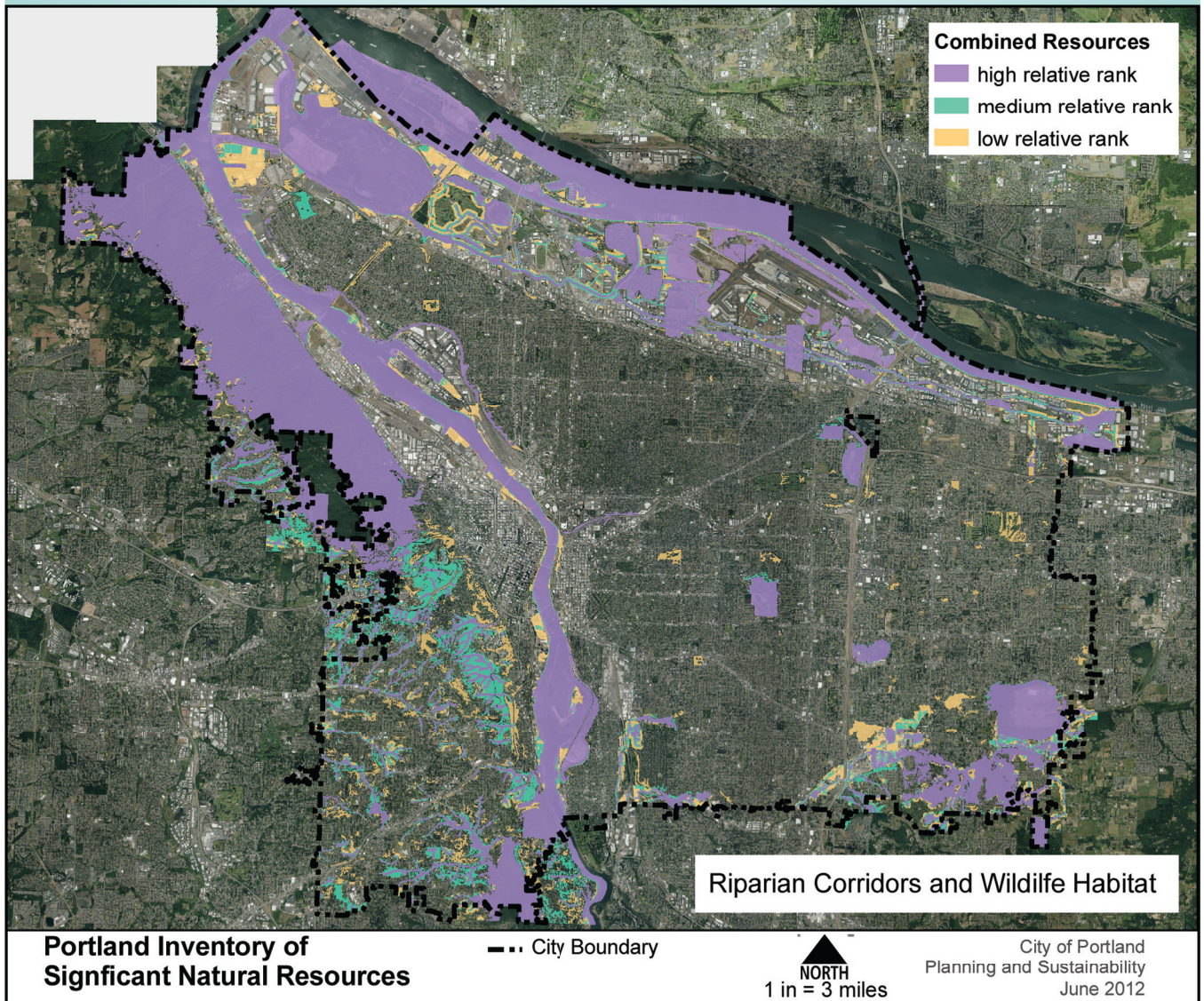
Table 3: Metro NRI Combined Riparian/Wildlife Habitat Ranks

Class I Riparian/Class A Upland Wildlife Habitat	18,220 acres	77%
Class II Riparian/Class B Upland Wildlife Habitat	3,117 acres	13%
Class III Riparian/Class C Upland Wildlife Habitat	2,447 acres	10%
Total	23,783 acres	100%

Note: Excludes Willamette and Columbia Rivers

The City Natural Resource Inventory Combined Relative Ranks are presented in Figure 4.

Figure 4: Portland NRI – Significant Riparian Corridors and Wildlife Habitat



The City's updated Natural Resource Inventory was reviewed through a series of public hearings before the Planning and Sustainability Commission. The Planning and Sustainability Commission is recommending that the City Council adopt the Natural Resource Inventory when they adopt the factual basis for the Comprehensive Plan. The Bureau of Planning and Sustainability will submit the factual basis to the City Council for adoption in the summer of 2012.

The updated Natural Resource Inventory also provided the basis for area-specific inventory updates for the River Plan/North Reach, Airport Futures, and West Hayden Island planning efforts described later in this report. Through these projects the City further honed the natural resource inventory information and model criteria based on more detailed and up-to-date information and analysis for each particular planning area. These area-specific inventories resulted in additional refinements of the resource maps. It is anticipated that the City will continue to maintain and update both the citywide and area-specific natural resource inventory information to inform future planning efforts, City programs (e.g., restoration, land acquisition), and review of proposed development projects.

Detailed documentation of City's Natural Resource Inventory is provided in Appendix A, Natural Resource Inventory Update: Riparian Corridors and Wildlife Habitat Portland, Oregon – Project Report Recommended Draft, June 2012.

Natural Resource Overlay Zones

Portland's Overlay Zones

Within the Portland Zoning Code, overlay zones consist of regulations that address a specific subject such as environmental protection and conservation. An overlay zone applies in conjunction with a base zoning (e.g. residential base zoning, commercial base zoning, etc.), and the overlay zone regulations modify the base zone regulations. The overlay zoning regulations are maintained by the bureau of Planning and Sustainability and are administered by the Bureau of Development Services.

The following section describes those overlay zones in Portland that contribute most directly, and form the foundation for compliance with Title 13. A detailed description of how these overlay zones meet the specific provisions of Title 13 is presented in Appendix B.

Environmental Protection and Environmental Conservation Overlay Zones (33.430)

Background

The City of Portland has established environmental overlay zones to protect and conserve significant natural resources within the city limits and the portions of Multnomah County for which the City has planning authority and administers land use regulations. The regulations that govern activities in the environmental overlay zones are found in Chapter 33.430 of the Portland Zoning Code

The environmental zoning program is the City's major tool for implementing Statewide Planning Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources) and Comprehensive Plan Goal 8 (Environment). The environmental overlay zones are also a cornerstone of the City's program to comply with the water quality related requirements of Metro Title 3, Water Quality, Flood Management, and Fish and Wildlife Conservation.

The City has established two types of environmental overlay zones—the environmental protection overlay zone (p-zone) and the environmental conservation overlay zone (c-zone). The environmental protection overlay zone strictly limits development, thereby preventing adverse impacts on the most significant and sensitive natural resources. In the p-zone development

is allowed only in very limited circumstances (e.g., public need or benefit outweighs the impact; allow access across properties).

Figure 5: Environmental Overlay Zones – West Hills



The conservation zone is intended to prevent harm to natural resources while allowing environmentally sensitive development. New development in the c-zone must meet standards or review criteria designed to avoid, minimize or mitigate adverse impacts on identified natural resource values and functions.

The two environmental overlay zones currently apply to roughly 17,680 acres of land within the City of Portland's jurisdiction (not including the Willamette and Columbia river channels). There are 10,310 acres of p-zone and 7,371 acres of c-zone.

Environmental protection and environmental conservation overlay zones contain a *resource area*, which encompasses the protected resource, and a *transition area*, which is intended to buffer the protected resource. The transition area is the outermost 25 feet of the zone, except in a few specific areas, where the transition zone is not present. Development in general may encroach into transition areas; however certain types of development and lighting are restricted.

The City developed the environmental zoning program in stages. In 1986 the City established the Significant Environmental Concern overlay zone as a temporary measure until new environmental zone regulations could be adopted. Between 1989 and 1994 the City produced natural resource protection plans for eight distinct areas of the city. Development of these plans followed the required Goal 5 planning steps—inventory natural resources, analyze economic, social, environmental and energy consequences of resource protection, and establish protection programs for significant natural resources through City Council adoption of area-specific protection plans. Additional protection plans and plan updates, including a plan for urbanizing pockets of Multnomah County, were adopted between 1994 and 2001. The City completed an environmental code improvement project in 2001.

Environmental Overlay Zone Provisions and Procedures

This section highlights key elements of Chapter 33.430.

Since 1995, the City of Portland has implemented a two-track system for development review in environmental overlay zones—track one (environmental plan check) applies clear and objective development standards, and track two (environmental review) is a discretionary track for evaluating proposals that cannot meet the development standards. The development standards reduce the time required for review and provide more certainty for property owners. The development standards include disturbance area limits, setbacks from water bodies and the environmental protection zone, flexible front yard setbacks, tree replacement requirements, nuisance plant removal and native plant installation requirements. The code also includes standards for specific types of development including utilities and outfalls, roads and rights of way, land divisions and planned unit developments, public recreational facilities and resource enhancement projects. The standards are intended to encourage applicants to avoid the resource areas without requiring a lengthy review process. The site standards are intended to result in incremental improvement of site conditions and functions on already disturbed sites.

Typically, only development within the c-zone can meet the clear and objective development standards. Modifications to the standards may be approved if the

adjustment is found to meet the intent of the standard. Most proposals for development in the p-zone must go through environmental review and may be approved only under narrow circumstances.

The purpose of the review is to:

- Prevent harm to identified resources and functional values;
- Compensate for unavoidable harm;
- Ensure the success of mitigation and enhancement activities;
- Provide a mechanism to modify the development standards if the proposal meets the purpose of the Environmental Zone regulations;
- Provide flexibility for unusual situations;
- Allow consideration of more accurate maps and modification of the environmental zone boundary under limited circumstances; and
- Provide for the replacement of resources and functional values that are lost through violation of Environmental Zone regulations.

Applicants for an environmental review must provide supplemental information including detailed site plans showing topography, floodplain; environmental overlay zone resource area boundaries, drainages, existing trees, and existing structures and improvements. For areas proposed to be disturbed, the site plan must show existing and proposed vegetation and trees, all proposed development, and proposed grading contours. The application must also include a construction management site plan and a mitigation or remediation site plan.

An impact evaluation based upon the identified resources located on the site is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular site. In practice, the City of Portland requires environmental review applicants to submit at least one project alternative located on the same site but outside of the resource area, if such an alternative is practicable. The evaluation is to consider impacts on the site, the watershed, and cumulative impacts on the system. The City then considers the alternatives in accordance with approval criteria provisions of the code. The

alternatives must be evaluated on the basis of their impact on the resources and functional values of the site. Unavoidable impacts must be confined to the area approved, through the Environmental Review, for disturbance.

The code contains general and specific approval criteria. An environmental review application can be approved only if all applicable approval criteria are met. Approval criteria are applied only to the portion of the project that does not meet a development standard or standards. In general the City must find that the proposal is less detrimental to identified resources and functional values than other practicable significantly different alternatives.

Mitigation is required in order to compensate for unavoidable adverse impacts on natural resource values and functions. Mitigation must occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere. The applicant must own the mitigation site; possesses a legal instrument (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program, or demonstrate they have the legal authority to acquire property through eminent domain.

Enforcement

Enforcement of the environmental overlay zone regulations is an important element of the City of Portland's environmental zone program. The City's environmental regulations provide a method to evaluate and remediate environmental violations.

Violations may take several forms: disturbance within the environmental zone without a zoning or building permit; disturbance with a zoning or building permit but in violation of the allowed disturbance area; or disturbance with an approved environmental review but in violation of the approved plan.

When the City is notified of a violation in one of the environmental overlay zones several actions take place. First, the City issues a citation and the property owner/developer must stop all work on-site, including grading, landscaping, and building construction. Second, the property owner/developer must perform immediate remediation in the disturbed area to prevent soil erosion or further damage to any resource.

To correct a violation, the property owner follows the same steps as required to apply for an environmental plan check or review (as described above). In addition, approval criteria for violations require remediation on-site, as opposed to allowing mitigation in the same watershed (as is allowed in non-violation situations). The developer must show that:

- remediation is done in the area of the violation;
- that after remediation is implemented there will be a significant improvement of at least one functional value; and
- there will be minimal loss of resources and functional values during remediation until the full remediation program is established.

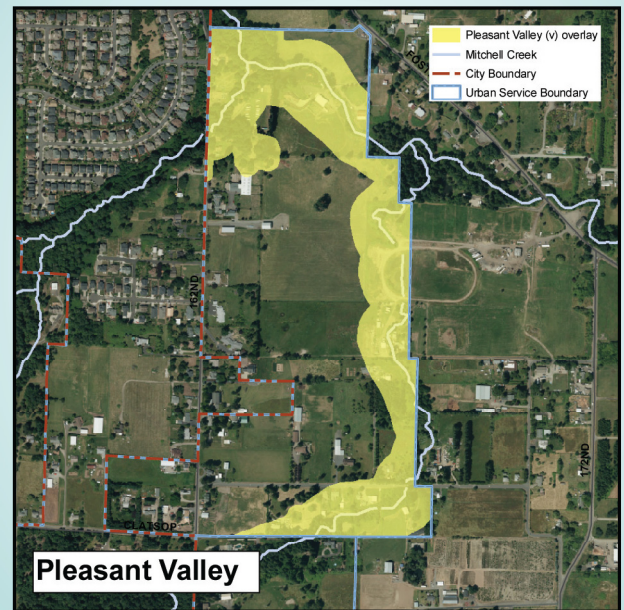
Pleasant Valley Natural Resource Overlay Zone (33.465)

The Pleasant Valley area in Portland is currently rural in nature, characterized by farms, nurseries, and large lot development. Existing infrastructure is not adequate to support urban development. The Comprehensive Plan (and the Zoning Code) envisions Pleasant Valley developing into a community comprised of neighborhoods, a town center, neighborhood centers, employment districts, parks and schools, open spaces and trails, with a range of transportation choices and extensive protection, restoration and enhancement of the natural resources. The portion of the Pleasant Valley neighborhood in Portland is, and will continue to be, residential.

The Pleasant Valley area in Portland contains approximately 38 acres of HCA. The area is relatively flat and contains several streams—a segment of Johnson Creek near SE 174th and SE Jenne Rd., and several tributaries to Johnson Creek including Kelly Creek, which runs through the area to its confluence with Johnson Creek near SE 162nd and SE Foster Road. The area also contains substantial closed canopy forests adjacent to the streams and several wetlands.

Virtually all of the Title 13 HCA within the Pleasant Valley area in Portland is within the Pleasant Valley Natural Resources overlay zone (v-overlay). The v-overlay has also been applied to 93 acres in the plan district, primarily forested upland areas that are not in an HCA.

Figure 6: Pleasant Valley Natural Resource Overlay Zone



The regulations that govern activities in the environmental overlay zones are found in Chapter 33.465 of the Portland Zoning Code.

The Pleasant Valley Natural Resource overlay zone is intended to:

- protect and conserve significant natural resources;
- facilitate restoration and enhancement of stream corridors, wetlands, and forests;
- maintain streams and riparian areas as a natural area amenity for the community;
- protect existing floodplains and wetlands, and restore these areas for improved hydrology, flood protection, aquifer recharge, and habitat functions,
- protect upland habitats and enhance connections between upland and riparian habitats within Pleasant Valley and between nearby habitats; and
- maintain and enhance water quality.

The Pleasant Valley Natural Resource overlay zone regulations limits the amount of development that can occur within significant natural resource areas. The v-zone more strictly limits development than environmental conservation overlay zone, and allows

more development within the resource area than the environmental protection overlay zone. Generally, development other than trails, rights-of-way, utilities, and resource enhancement is not allowed in the v-overlay. There are two exceptions to this general rule:

- existing development within the v-overlay can remain and be maintained, but the amount of disturbance allowed within the v-overlay is limited; and
- new development may occur on existing vacant lots in the v-overlay (there are a few vacant lots within the v-overlay). The creation of new lots is prohibited in the v-overlay unless there is sufficient area outside the v-overlay where all of the development will occur, and the area within the v-overlay is places in an environmental resource tract.

In the few instances when development will occur within the v-overlay, development standards must be met or the proposal must go through a Pleasant Valley Resource Review. The general development standards limit disturbance, require a setback from water bodies, limit tree cutting and require tree replacement, require the removal of nuisance plants from the site, limit the placement of fences and wattage of exterior lights, and require mitigation at a 2:1 ratio of mitigation area to disturbance area. The Pleasant Valley Natural Resources overlay zone also contains development standards specific to rights-of-way, utilities, trails, land divisions and planned developments and resource enhancement projects.

When development can not meet a standard, approval through an environmental review is required. Applicants must provide supplemental information including detailed site plans showing topography, floodplain, resource area boundaries, drainages, trees and existing structures and improvements. For areas proposed to be disturbed the site plan must show existing and proposed vegetation and tree canopy, and proposed grading contours. The application must also include a construction management site plan and a mitigation or remediation site plan.

An impact evaluation is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular site. In practice, the City of Portland requires applicants for an environmental review to submit at least one project

alternative located outside of the resource area, if such an alternative can be accomplished on-site and is practicable. These alternatives are then considered and evaluated in accordance with approval criteria provisions of the code.

The alternatives must be evaluated on the basis of their impact on the resources and functional values of the site. To the extent that the site resources and functional values are part of a larger natural system such as a watershed, the evaluation must also consider the cumulative impacts on that system.

The code contains general and specific approval criteria. An environmental review application can be approved only if all applicable approval criteria are met. Approval criteria are applied only to the portion of the project that does not meet a development standard. In general the City must find that the proposal is less detrimental to identified resources and functional values than other practicable significantly different alternatives. Mitigation is required in order to compensate for unavoidable adverse impacts on natural resource values and functions.

Greenway Overlay Zones (33.440)

Existing Greenway Overlay Zones

The City of Portland established the Greenway Overlay Zones in 1987 to protect, conserve, enhance, and maintain the natural, scenic, historical, economic, and recreational qualities of lands along the Willamette River. The regulations that govern activities in the greenway overlay zones are found in Chapter 33.440 of the Portland Zoning Code, with the exception that the regulations that govern the greenway overlay zones within the South Waterfront area of the Central City Plan District are found in Chapter 33.510.253.

The Greenway Overlay Zones are the City's primary tool for implementing Statewide Planning Goal 15, Willamette River Greenway. Goal 15 is different than Statewide Planning Goal 5. Goal 5 focuses on protecting open space, scenic and historic areas, and natural resources from conflicting uses. Goal 15 focuses on protecting, enhancing and maintaining a variety of land types along the Willamette River as the Willamette River Greenway. The types of lands that Goal 15 protects include natural and scenic resource areas, and also economic and recreational lands. Goal 15 also focuses on public access to the river. Goal 15 supersedes Goal 5 for natural resources that are subject

to Goal 15. The Greenway Overlay Zones also support the City's compliance with the water-quality-related requirements of Metro's Title 3 along the Willamette River.

There are five Greenway Overlay Zones—river general, river industrial, river natural, river recreational, and river water quality. The overlay zones contain regulations that address development in and near the Willamette River. There are two development standards that work together to protect and enhance the land directly adjacent to the Willamette River—a setback from the Willamette River, and a standard that requires landscaping within the setback area:

- Development that is not river-dependent or river-related must setback 25 feet from top of bank of the Willamette River, except in the South Waterfront area where development that are not river-dependent or river-related must setback 45 feet from the top of bank; and
- Landscaping is required to conserve or re-establish vegetative cover within or riverward of the greenway setback, or in the case of South Waterfront, landscaping is required within the greenway area (the area between ordinary low water and a point 100 feet landward of the top of bank). All landscaping must comply with the native plant requirements of the City's Willamette Greenway Plan, or the South Waterfront plant list.

In addition to meeting the development standards listed above, most development or alteration on the land or in the water, including the removal of trees and shrubs, must be approved through greenway review. The approval criteria for greenway review address enhancing the Greenway setback, providing public access along and to the river, preserving and enhancing natural riverbanks, stabilizing riverbanks, landscaping the Greenway setback, protecting view points and view corridors to the river, avoiding, impacts to Rank I and II wildlife habitat areas, preventing the loss of biological productivity in the river, maintenance of riparian vegetation, and enhancement. The existing Greenway Overlay Zone regulations do not

include a two-track system for development like the Environmental Overlay Zones.

Beyond the general regulations described above, the river natural (n-zone) and river water quality zones (q-zone) have additional regulations that are specifically designed to address the natural qualities of lands along the Willamette River:

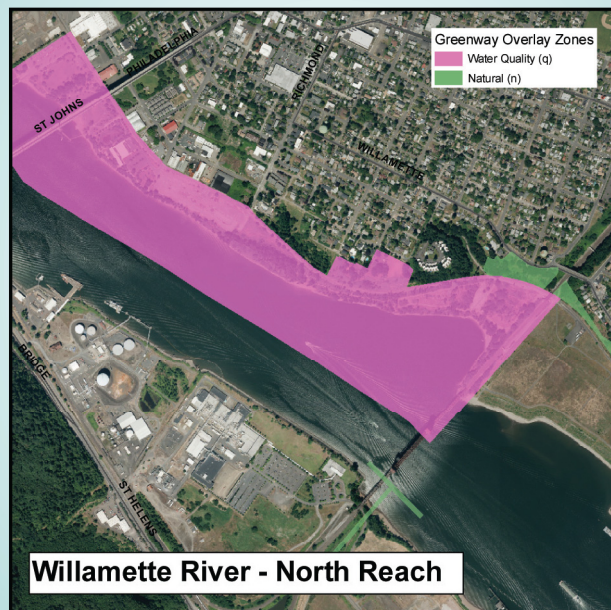
River Natural overlay zone

The purpose of the n-zone is to protect, conserve and enhance land of scenic quality or of significant importance as wildlife habitat. For example, the n-zone applies to the Oaks Bottom Wildlife Refuge, the area around Ross Island, and the steep slopes of Waud Bluff. A 1986 wildlife habitat inventory adopted with the Willamette Greenway Plan identifies land with significant importance as wildlife habitat.

The following additional approval criteria apply during a greenway review in the n-zone:

- The project must not have a significant detrimental environmental impact on the wildlife, wildlife habitat and scenic qualities of the land;
- Excavation and fills are prohibited except in conjunction with approved development or for the purpose of wildlife habitat enhancement, riverbank enhancement, or mitigating significant riverbank erosion;
- The natural riverbank should be conserved and enhanced to the maximum extent practicable;
- Rank I riparian areas (as identified in the 1986 wildlife habitat inventory) must be conserved and enhanced, while other riparian habitat should be conserved and enhanced to the maximum extent practicable;
- In addition to the approval criteria above, development, excavation and fills that occur outside the n-zone but within 50 feet of the n-zone must show that there will be no significant detrimental environmental impact on the land within the n-zone.

Figure 7: Greenway Natural Resource Overlay Zones – Willamette North Reach



River Water Quality overlay zone

The purpose of the q-zone is to protect the functional values of water quality resources along the Willamette River by limiting or mitigating the impact of development in the setback. The q-zone implements the water quality element of Metro Title 3, Water Quality, Flood Management, and Fish and Wildlife Conservation, for lands along the Willamette River. The q-zone applies to all land along the Willamette River except land with the highest employment value (e.g. the harbor and the Central City).

The following additional approval criteria apply during a greenway review in the q-zone:

- Proposed development locations, designs and construction methods must be less detrimental to the functional values of the q-zone than other practicable and significantly different alternatives;
- All significant detrimental impacts must be offset through mitigation.

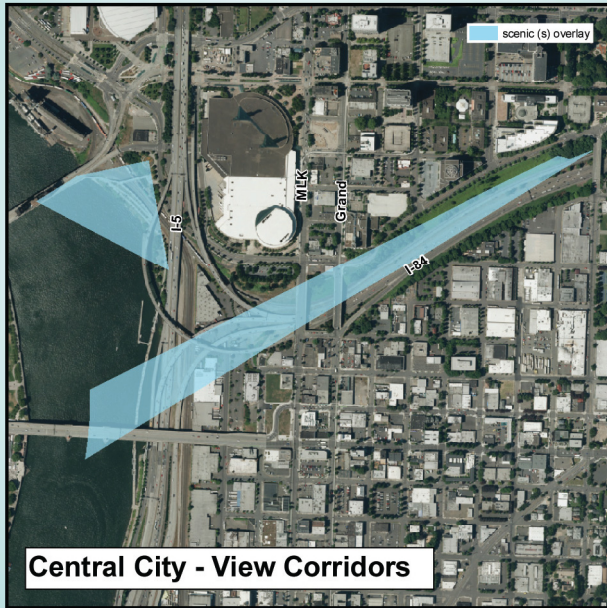
Applicants for greenway review in the q-zone must provide supplemental information including an alternatives analysis, a construction management site plan, a mitigation or remediation site plan, and an impact evaluation in order to determine compliance with the approval criteria and to evaluate development alternatives for a particular site. In practice, the City of Portland requires applicants to submit at least one project alternative located outside of the q-zone setback. The alternatives are then considered and evaluated in accordance with approval criteria provisions of the code.

The alternatives must be evaluated on the basis of their impact on the resources and functional values of the Title 3 water quality resource area. In general the City must find the development in the q-zone setback causes the least significant adverse effect on the water quality resources of the practicable alternatives, including alternatives located outside the q-zone setback. Construction impacts must be limited to areas approved to be disturbed through the greenway review. Mitigation is required in order to compensate for all significant detrimental impacts. Mitigation must occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere. The applicant must own the mitigation site; possesses a legal instrument (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or demonstrate that they have the legal authority to acquire property through eminent domain.

Scenic Resource Zone (33.480)

The scenic resource zone protects Portland's significant scenic resources as identified in the Scenic Resources Protection Plan. The resources include specific scenic view points and scenic corridors. The regulations that govern activities in the scenic overlay zones are found in Chapter 33.480 of the Portland Zoning Code.

Figure 8: Scenic Overlay Zone – Central City View Corridors



The scenic corridor designation is intended to preserve and enhance the scenic character along important corridors, and where possible, scenic vistas from those corridors. This is accomplished by, among other things, preserving existing trees and encouraging additional landscaping and trees to be planted as follows:

- All trees six inches or more in diameter must be preserved within the street setback along a scenic corridor, and if they can not be preserved they must be replaced;
- Property owners and others are encouraged to make every effort to locate buildings, easements, parking strips, sidewalks and vehicle areas to preserve the maximum number of trees; and
- Two rows of trees (one deciduous and one evergreen) can be planted between a building and the street along a scenic corridor as a way to mitigate long, blank facades.

Comparing Portland Natural Resource Overlay Zones with Title 13 Requirements and Habitat Conservation Areas

This previous section generally describes Portland's natural resource overlay zones which are the cornerstone of the city's compliance package. These descriptions generally explain how Portland's overlay zones address key Title 13 requirements including:

- Clear and objective standards track for review of proposed development
- Discretionary review process to avoid or minimize adverse impacts on natural resources functions and values
- Flexible standards and best management practices that encourage avoidance of significant natural resources
- Requirements to mitigate for adverse impacts on significant natural resources
- Opportunities to update natural resource information and boundaries

As noted above, a detailed comparison between the provisions of Title 13 and City natural resource overlay zones is provided in Appendix B, Comparison of Portland Natural Resource Overlay Zone Regulations and Title 13 Provisions.

Tables 4 and 5 below illustrate how the City of Portland overlay zones apply to the mapped Title 13 Habitat Conservation Areas. These tables allow evaluation of the overall relationship between the overlay zones and the HCAs, along with the ability to consider the extent to which the overlay zones apply to the High, Moderate, and Low HCAs.

Table 4: Percent of T13 HCAs Covered by City Natural Resource Overlay Zones*

HCAs (class I and II riparian corridors using Metro NRI):	77.6%
High HCAs	91.6%
Medium HCAs	54.5%
Low HCAs	35.7%

*Excludes major rivers. Includes additional HCA covered by Drainage Reserves (described in the next section); additional area <1%

Table 4 illustrates how Portland's overlay zones apply to all of the Title 13 HCAs in Portland. However, the City proposes that Metro focus primarily on Table 5, which shows how Portland's natural resource overlay zones apply to the HCAs located within the High and Medium ranked riparian corridors identified in the City's Natural Resource Inventory.

As described in earlier, the City has updated and refined Metro's Title 13 inventory, incorporating more current, more accurate, and higher resolution natural resource data. The City believes that the updated High and Medium ranked riparian corridors are a more accurate and current representation of the Class I and 2 riparian corridors identified in the Title 13 inventory.

Therefore, the City proposes that Metro: 1) accept the High and Medium ranked riparian corridors as appropriate proxies for Metro's Title 13 Class I and II riparian corridors, and 2) assess substantial compliance based on how City programs address HCAs within these corridors only.

As shown in Table 5, City resource overlay zones apply to a higher percentage of the HCAs located solely within the City ranked High and Medium riparian corridors.

Table 5: Percent of T13 HCAs in City-ranked High and Medium Riparian Corridors Covered by City Natural Resource Overlay Zones*

HCAs within City NRI High and Medium Riparian Corridors	83.6%
High HCAs	94.1%
Moderate HCAs	59.1%
Low HCAs	52.1%

*Excludes major rivers. Includes additional HCA covered by Drainage Reserves (described in the next section); additional area <1%

It is important to note that more than 70 percent of the Title 13 HCAs in Portland are High HCAs, and that nearly all the High HCAs are within existing City overlay zones. Almost 60 percent of the Moderate HCAs are within existing City overlay zones, while slightly more than half of the Low HCAs are within these overlay zones.

Table 6, on the next page shows the breakdown of different City overlay zones that apply to the HCAs located within City High and Medium riparian corridors. It is notable that nearly two-thirds of the High HCAs are within existing environmental

protection or Pleasant Valley natural resource overlay zones, which strictly limit development. Slightly more than one-quarter of the High HCAs are within environmental conservation or river water quality overlay zones, which moderately limit development.

In contrast, only one-fourth of the Moderate HCAs are within the environmental protection or pleasant valley natural resources overlay zones, while about one-third of these HCAs are within the environmental conservation or river water quality zones. Only about 13 percent of the Low HCAs are within the environmental protection or pleasant valley natural resource overlay zones, while more than 35 percent are within the environmental conservation or river water quality overlay zones.

This breakdown of the different overlay zones, as they apply to the High, Moderate, and Low HCAs, is consistent with Title 13 provisions calling for stricter limitations on development and a stronger emphasis on avoiding impacts in High HCAs than in Moderate and Low HCAs.

Note: The numbers presented in Tables 5 and 6 do not address the portions of the Willamette and Columbia River channels in Portland (approximately 6,350 acres). These rivers are also designated Title 13 HCAs (a mix of High and Moderate), and are either within the specified City natural resource overlay zones, or are otherwise subject to greenway review. As a result, *more than 90 percent of the HCA area in Portland is within natural resource overlay zones or is subject to greenway review.*

In addition, Title 13 specifically calls for protection, maintenance and enhancement of fish and wildlife habitat in publicly owned parks and open spaces. Approximately 96 percent of the HCAs in City-owned parks and natural areas are within an existing overlay zone. And more than two-thirds of these HCAs are within the stringent environmental protection zone.

It is also important to note that existing City overlay zones extend beyond Title 13 HCAs, providing protection for additional high value riparian corridors and wildlife habitat in the city. Specifically, City overlay zones apply to approximately 2,890 acres of High and Medium Riparian Corridors that are not Title 13 HCA.

Table 6: Resource Overlays and Drainage Reserves on Title 13 HCAs in High and Medium Ranked Riparian Corridors (City NRI)

Resource Overlays and Drainage Reserves on Title 13 HCAs in High and Medium Ranked Riparian Corridors (City NRI)												
Overlays	High HCA		Moderate HCA		Low HCA		All HCA		No HCA		Total HCA+No HCA	
	acres	%	acres	%	acres	%	acres	%	acres	%	acres	%
pzone	5,154.6	65.5%	683.2	24.4%	57.5	12.7%	5,895.3	53.0%	1,881.7	52.1%	7,777.0	52.7%
czone	1,775.7	22.6%	890.7	31.8%	155.4	34.3%	2,821.8	25.4%	937.1	25.9%	3,758.9	25.5%
vzone	18.4	0.2%	12.8	0.5%	2.0	0.4%	33.2	0.3%	32.9	0.9%	66.1	0.4%
nzone	3.8	0.0%	2.7	0.1%	1.0	0.2%	7.5	0.1%	4.9	0.1%	12.4	0.1%
qzone	212.5	2.7%	40.5	1.4%	8.9	2.0%	261.8	2.4%	19.6	0.5%	281.4	1.9%
q & n	217.0	2.8%	5.3	0.2%	0.1	0.0%	222.4	2.0%	13.7	0.4%	236.2	1.6%
Area with Overlay	7,382.0	93.8%	1,635.1	58.3%	225.0	49.6%	9,242.1	83.0%	2,889.9	79.9%	12,132.0	82.3%
Drainage reserve	28.0	0.4%	21.9	0.8%	11.4	2.5%	61.3	0.6%	9.6	0.3%	70.8	0.5%
Area with Overlay & Drainage Reserve	7,410.0	94.1%	1,657.0	59.1%	236.4	52.1%	9,303.3	83.6%	2,899.5	80.2%	12,202.8	82.8%
No overlay or drainage reserve	461.2	5.9%	1,148.0	40.9%	216.9	47.9%	1,826.1	16.4%	715.4	19.8%	2,541.5	17.2%
Total	7,871.2	100.0%	2,804.9	100.0%	453.3	100.0%	11,129.5	100.0%	3,614.8	100.0%	14,744.3	100.0%

In general, HCAs located outside the existing overlay zones fall into several categories:

- **Tributary streams, drainageways and wetlands** – Some HCAs located outside existing overlay zones include headwater streams (primarily in the west hills) and some secondary drainageways and in the Columbia Corridor. Although the overlays zones do not apply to these waterways, the City's Drainage Reserve Rules do restrict development along these streams. The drainage reserve rule generally applies within 15 feet on either side of the stream centerline. The Drainage Reserve Rule are discussed later in

Figure 9: Streams Within and Outside Title 13 HCAs or City Overlay Zones



this report.

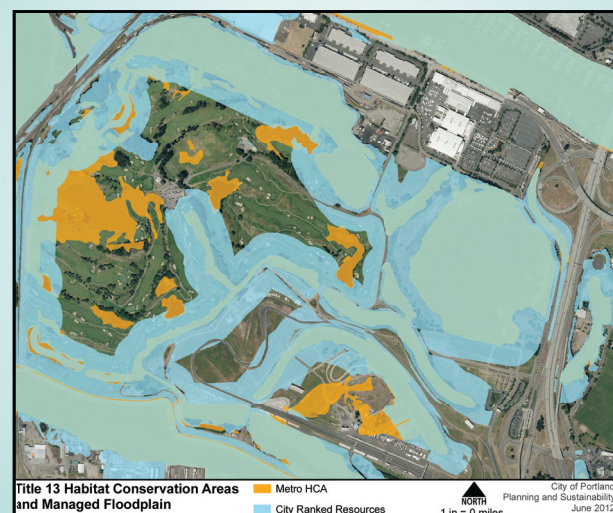
Wetlands that are located outside the City's existing overlay zones include several in the Columbia Corridor, and others dispersed throughout the City's watersheds. Over time the City may undertake program updates that would evaluate potential additional protections for these wetlands. For example, in 2011 the City updated the environmental program for the Portland International Airport and Cascade Station/Portland International Center plan districts. The City's ESEE decision included both the addition and omission of identified riparian and

wetland areas.

In the meantime, state and federal regulations offer some protection and require mitigation for impacts to many of these wetlands.

- **Flood area; including managed floodplain within Multnomah County Drainage District jurisdiction** – A number of flood areas are designated Title 13 HCAs but are outside existing City environmental overlay zones. These flood areas are located primarily in the Columbia

Figure 10: Title 13 Habitat Conservation Areas in the Managed Floodplain



Corridor and the Johnson Creek watersheds.

Since Metro adopted Title 13 the Federal Emergency Management Agency (FEMA) has updated the 100-year flood plan maps. This has reduced the floodplain area in the Columbia Corridor and the Johnson Creek watersheds.

In addition, the City's updated natural resource inventory recognizes that within the jurisdiction of the Multnomah County Drainage District, management activities preclude natural flooding and associated resource functions. These flood areas were removed from the City's updated inventory if they received no scores for any additional riparian or wildlife habitat functions. As a result, at least 60 acres of Title 13 HCA are no longer included in City's inventory of significant

natural resources.

- **Land along the banks of the mainstem Willamette River** – Some Title 13 HCAs along the Willamette River mainstem are protected by the river natural zone (n-zone) and the river water quality zone (q-zone), as described above. However, Metro established Title 13 HCAs along the entire Willamette mainstem much of which is outside these overlay zones.

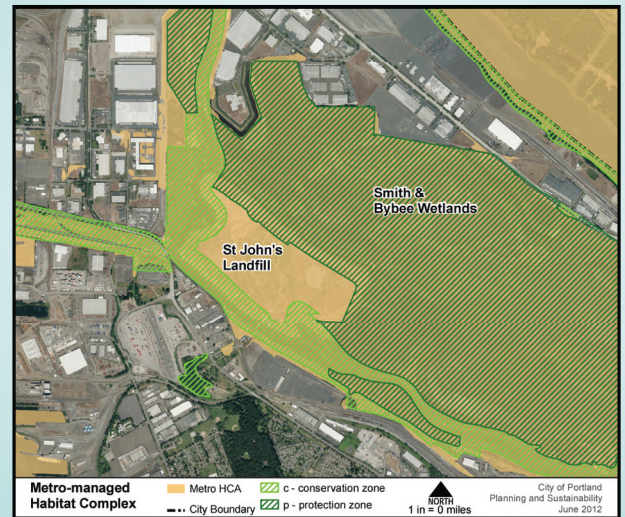
Figure 11: Portion of Willamette River South Reach



Also noted above, the City's greenway program establishes a 25-foot setback and landscape standards along the entire Willamette mainstem. The setback and landscape standards apply to all development projects, except river dependant and river related development. The setback and landscape standards help protect and enhance riparian corridor and wildlife habitat functions for a portion of the Title 13 HCAs along the river.

- **Land that is within public ownership and not at risk of development** – Some of the Metro HCAs located outside existing overlay zones are in public ownership and are not at risk of development. The primary example is the St. Johns Landfill which is owned by Metro and managed as a wildlife habitat area. Here, approximately 140 acres of Title 13 HCA are outside existing resource overlay zones but are not at risk of development. In addition the City has purchased roughly 160 acres in the floodplain of Johnson Creek, more than one-third of which is not within existing environmental overlay zones.

Figure 12: Metro-managed Habitat Complex



In addition, some of the HCA is located outside environmental zones due to differences in mapping convention and resulting resource area boundaries. As noted above, Metro's inventory maps and Habitat Conservation Area Maps were produced at a somewhat coarser scale than the City's inventory mapping. The City's overlay zones were also, in some instances, addressed at a smaller scale than the Metro Title 13 mapping. As a result, the City's resource area boundaries differ from Metro's and some Title 13 HCAs are not included in City resource inventories or overlay zoning.

Figures 13 and 14 show where and how City natural resource overlay zones apply to the HCAs, as well as where HCAs are not covered by existing overlay zones.

Figure 13: Comparison of City of Portland Resource Overlay Zones and Metro Title 13 Habitat Conservation Areas

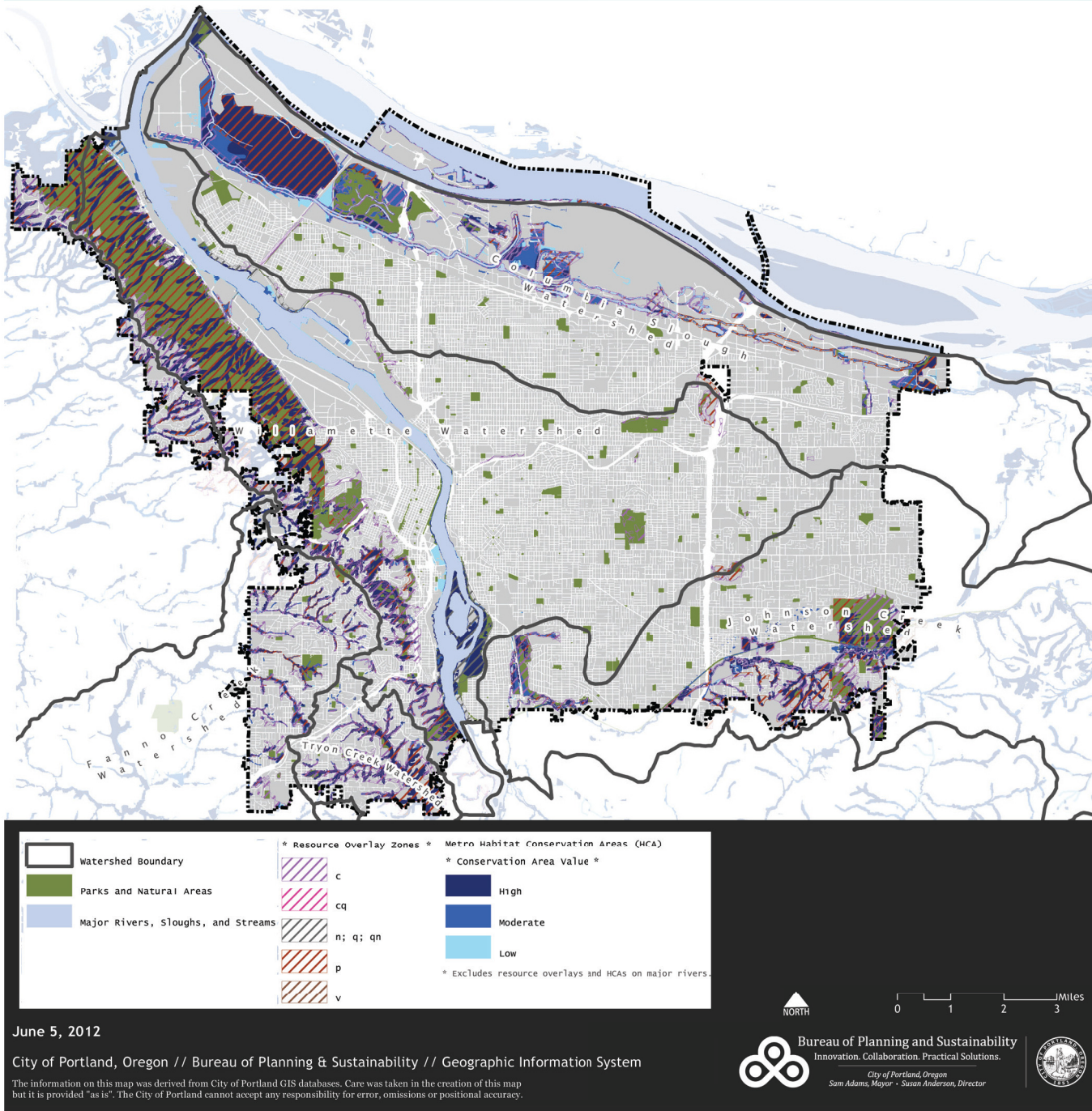
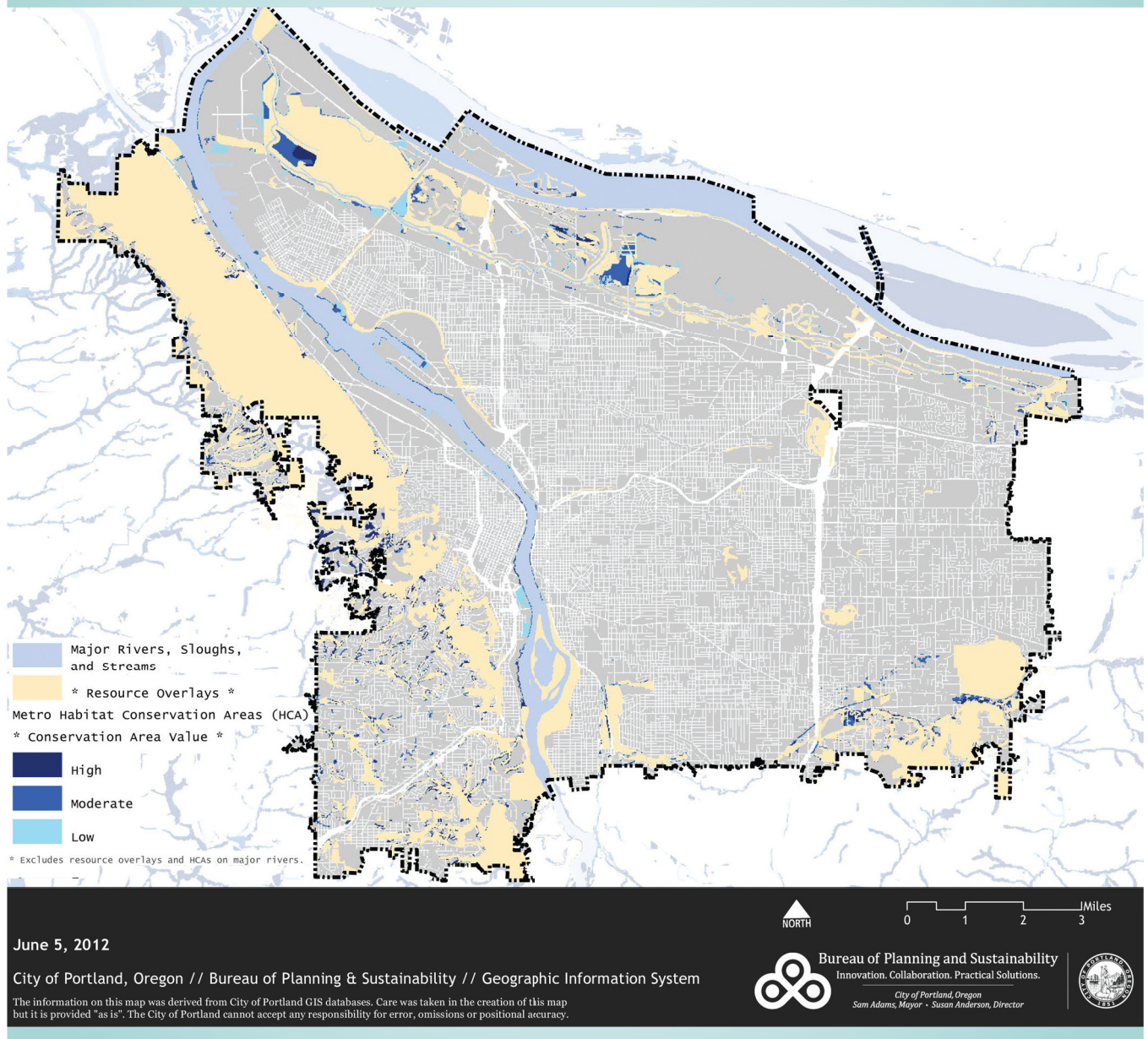


Figure 14: Title 13 Habitat Conservation Areas Located Outside the City of Portland Resource Overlay Zones



Based on the above discussion it becomes clear that many of the HCAs located outside overlay zones have at least some level of protection through other city, state or federal regulations, or are in public ownership and are not at risk of development. In addition, some of these do not provide the level of function that Metro originally assigned in Title 13 inventory.

Willamette and Columbia Rivers

As noted the natural resources discussed above do not include the city's two major rivers—the Willamette and Columbia. However, both rivers are regionally significant natural resources and have been designated as high or moderate HCA's in Title 13. The rivers are high-ranked resources in the City's natural resource inventory based on their riparian function, and as Special Habitat Areas because they are federally designated critical habitat for salmonids.

The City has applied overlay zoning to the area in the rivers and regulated development that occurs in the rivers. The City's environmental conservation overlay zone applies to the Columbia River, and the City's greenway overlay zones (i, g, n, r, q) apply to the Willamette River. Development in the river must meet the development standards associated with these overlay zones (where applicable), and/or must go through discretionary review.

In summary, Portland's existing overlay zones apply to the vast majority of Title 13 HCAs and provide the foundation for the City's Request for Determination of Substantial Compliance. The overlay zones vary in stringency, but each advances the intent of Title 13 to avoid, minimize, and mitigate adverse impacts on significant riparian and wildlife habitat resources.

The next section describes additional zoning tools that further advance Portland's compliance with Title 13.

Other Zoning Tools

In addition to the overlay zones described in the previous section, several other elements of the Portland Zoning Code contribute substantially toward compliance with Title 13. Plan district regulations, the City's land division code, and Natural Resource Management Plans establish additional protection and mitigation requirements for Title 13 Habitat Conservation Areas and other significant natural resources in the city.

Like the overlay zone regulations, these zoning tools regulations are maintained by the bureau of Planning and Sustainability and are administered by the Bureau of Development Services. These zoning tools are presented below.

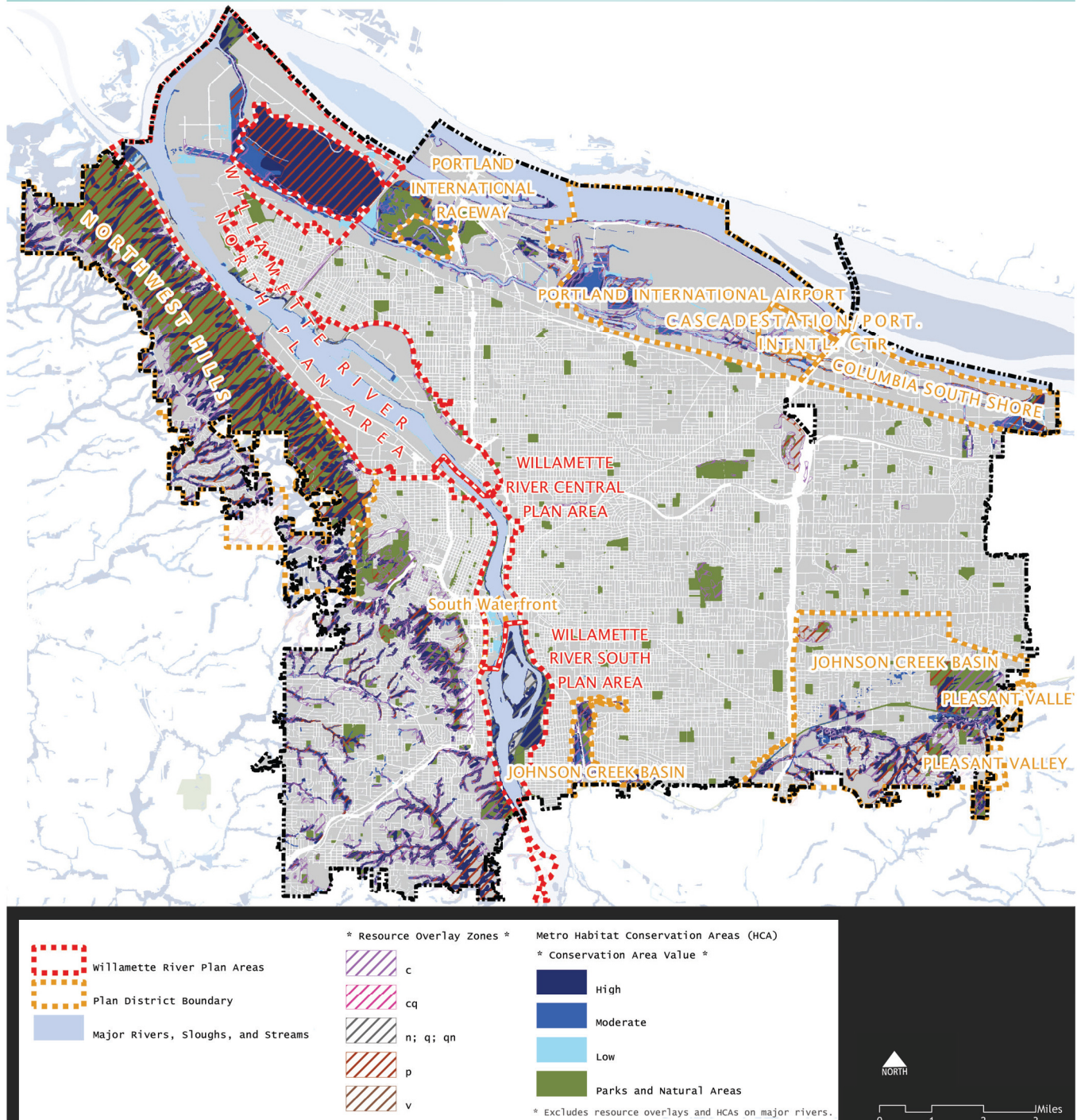
Plan Districts

Plan districts address concerns unique to a specific area when other zoning mechanisms cannot achieve the desired results. The plan district regulations apply in conjunction with, and provide a means to modify, base zone regulations for specific areas of the city. This contrasts with base zones or overlay zones (e.g. environmental overlay zones) which are intended to be applicable in large areas or in more than one area.

Plan district regulations apply in conjunction with other regulations in the Zoning Code. Plan district regulations may augment or supersede other regulations, including those in an overlay zone. The following plan districts contain regulations that augment the environmental regulations of Chapter 33.430:

- 33.508, Cascade Station/Portland International Center Plan District
- 33.537, Johnson Creek Basin Plan District
- 33.563, Northwest Hills Plan District
- 33.564, Pleasant Valley Plan District
- 33.565, Portland International Airport
- 33.566, Portland International Raceway Plan District

Figure 15: City Plan Districts that Augment Overlay Zone Protections for Title 13 HCAs



June 27, 2012

City of Portland, Oregon // Bureau of Planning & Sustainability // Geographic Information System

The information on this map was derived from City of Portland GIS databases. Care was taken in the creation of this map but it is provided "as is". The City of Portland cannot accept any responsibility for error, omissions or positional accuracy.



Bureau of Planning and Sustainability
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Sam Adams, Mayor • Susan Anderson, Director



The following plan district regulations completely replace the environmental regulations in 33.440 or 33.430:

- 33.510.253, Central City Plan District Greenway Overlay Zone in the South Waterfront Subdistrict
- 33.515, Columbia South Shore Plan District

Figure 15 shows the location and extent of coverage provided by these plan districts, and the manner in which these plan districts provide additional protection, conservation and restoration of natural resources including Title 13 HCAs is described below.

Johnson Creek Basin Plan District (33.537)

The Johnson Creek Basin in Portland is characterized by a number of physical constraints, including significant natural resources, steep slopes, flood plains, wetlands, and the lack of streets, sewers, and water services. Johnson Creek is the primary stream running through the basin. Many tributaries feed Johnson Creek. The land uses in the Johnson Creek Basin include residential (both single-family and multi-family), commercial and employment/industrial.

There are approximately 1,275 acres of HCA within the boundaries of the Johnson Creek Basin plan district. About 84 percent of this area is within an existing environmental overlay zone and are subject to the regulations described above.

The Johnson Creek Basin plan district regulations are intended to be used in conjunction with the environmental zoning (c and p zones) that applies to significant resources and functional values in the basin. The plan district regulations provide additional protection of natural resources and watershed health, while allowing the safe and efficient development of the unconstrained lands in the basin. The regulations also require mitigation of negative impacts that may result from development in areas prone to flooding and landslides.

Density of development is limited in portions of the plan district by applying special regulations to new land division proposals. Additional restrictions are placed on all new land uses and activities to reduce stormwater runoff, provide groundwater recharge, reduce erosion, enhance water quality, and retain and enhance native vegetation. At other locations,

development is encouraged and mechanisms are included to provide relief from environmental restrictions.

The following regulations limit the density of development in order to protect the most sensitive and constrained areas in the basin from the impacts of further development:

- Within the mapped Johnson Creek Flood Risk Area land divisions and planned unit developments are prohibited or strictly limited.
- Within the South Subdistrict the maximum density of development is reduced based on the steepness of the slopes on the site. The South Subdistrict is characterized by steep slopes and fast moving runoff. All land in the South Subdistrict is divided into three land classifications, Classes I through III. Class I lands are generally the steepest sites having the greatest amount of natural hazards, while Class III lands are generally flat without natural hazards. Class I lands are allowed one-quarter of maximum density allowed by the base zone; Class II lands are allowed one-half of maximum density; and Class III lands are not restricted.



Large wood helps maintain channel and habitat functions in Johnson Creek.