

# Memo



Metro

600 NE Grand Ave.  
Portland, OR 97232-2736

Date: Wednesday, May 6 2020  
To: Mindy Brooks, City Planner, Bureau of Planning & Sustainability  
From: Tim O'Brien, Principal Regional Planner  
Subject: Ezone Map Correction Project

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This memo is intended to clarify some discussion points regarding substantial compliance with Title 13 that resulted from our meeting on April 23, 2020 with staff from the Department of Land Conservation and Development and the Department of State Lands.

As you know the city was determined to be in substantial compliance with Urban Growth Management Functional Plan Title 13: Nature in Neighborhoods on January 16, 2013. This determination of substantial compliance was based upon the city's broad natural resource protection package that includes a wide range of actions and programs from overlay zones, to plan districts, development regulations, restoration, acquisition, green streets and education/stewardship programs. The number of diverse programs and projects the city implements is by far the most comprehensive of any of the jurisdictions in the region.

Because the city is in compliance with Title 13 any changes to the overall natural resource protection program as a result of the current Ezone Map Correction Project will be evaluated based on the protection measures/programs the city originally adopted to meet the requirements of Title 13. As we have discussed and agreed upon, the city will group or package major changes to the maps together in an effort to facilitate the review of the proposed map changes.

Metro staff has always understood that the original Inventory and Habitat Conservation Area (HCA) Maps were completed at the regional (50,000 foot) level and local jurisdiction refinements of the mapped HCA areas based upon updated information and improvements in mapping technology is, not only expected but encouraged, as jurisdictions update their natural resource protection programs over time. This refinement process, using an updated natural resource inventory is consistent with the intention of the implementation alternatives for cities and counties under Metro Code section 3.07.1330(b)(2). In 2012 Metro staff utilized the city's 2012 request for compliance report as a basis for determining substantial compliance. Similarly, Metro staff will utilize the city's 2020 request for compliance report to evaluate whether the proposed changes substantially meet compliance with Title 13. Metro staff's review of this report along with on-going discussions with city staff is the method for documenting the determination of substantial compliance. Once again Metro will consider the city's wide range of actions and programs as outlined in the request for compliance report in determining substantial compliance.

It is my understanding that as a result of the updated natural resource inventory new wetland and riparian areas were identified. The city's proposed methodology for addressing these areas is to utilize the methodology for identifying habitat areas consistent with code section 3.07.1340(d)(4) and determining urban development value of the land consistent with code section 3.07.1340(e). Finally the confirmation of the HCA will be determined utilizing Title 13 Table 13.07-13a. The location of the city's conservation and protection overlay zones will then be updated to apply to the confirmed HCAs – Class I Riparian Areas, Class II Riparian Areas and Habitats of Concern. This is the same process the city used in meeting substantial compliance with Title 13 in 2013 and is appropriate for use in the Ezone Map Correction Project. Lastly, for Class III Riparian Areas and Upland Habitat which are not HCAs the city will demonstrate Compliance with Goal 5 OAR 660-023.

As I noted above, Metro expects and encourages local jurisdictions to refine their local natural resource inventories and protection programs with new data and mapping technologies and we believe this is consistent with the implementation component of Title 13 as outlined in 3.07.1330. Not allowing Portland or any other jurisdiction in the region to utilize better local data and only rely on Metro mapping that occurred almost 20 years ago would be inconsistent with the intent of Title 13 to conserve, protect and restore a continuous ecologically viable streamside corridor system. Portland as well as other cities in the region utilized local inventories to comply with Title 13 in the first place and we believe this approach is still valid for determining substantial compliance with Title 13.