

ORDINANCE No.

Direct the Bureau of Planning and Sustainability Director to submit Request for Metro Determination of Substantial Compliance with Title 13, Nature in Neighborhoods, and establish a voluntary Intergovernmental Agreement between the City and Metro as a statement of intent to continue watershed health related efforts and collaboration.

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. The City of Portland has demonstrated a long standing commitment to watershed health by establishing local environmental regulations and non-regulatory programs to protect and enhance natural resources.
2. The City of Portland participated with Metro, other local jurisdictions, independent scientists, and community stakeholders, in the development of Title 13 of the Regional Urban Growth Management Functional Plan (titled "Nature in Neighborhoods"). Title 13 establishes minimum requirements to protect, conserve, and restore regionally significant riparian corridors and wildlife habitat. Title 13 was adopted by Metro in 2005. In 2007 the Oregon Land Conservation Development Commission acknowledged Title 13 as in compliance with specified portions of Statewide Land Use Planning Goal 5, Open Spaces, Scenic and Historic Resources and Natural Resources, and Goal 6, Air, Water and Land Resources.
3. Metro granted the City two extensions to the 2009 Title 13 compliance deadline. The extensions provided time for the City to progress on key projects that would update policies and protections for Title 13 Habitat Conservation Areas in Portland. Such projects included the River Plan/North Reach, Airport Futures, Citywide Tree Project, Central City/Central Reach plans, Portland Plan, West Hayden Island Plan, and adoption of an updated Natural Resource Inventory as part of the Comprehensive Plan Factual Basis. The last extension ended on June 30, 2012. The City completed or made substantial progress on most tasks outlined in the extension requests. The City will continue efforts on some of these items, including resolution of issues raised in the River Plan/North Reach appeal, an annexation decision for West Hayden Island, and Citywide Tree Project funding and implementation.
4. The City is now prepared to submit a request for Metro determination of substantial compliance with Title 13 based on existing City programs as described in a report entitled *Title 13, Nature in Neighborhoods - Request for Metro Determination of Substantial Compliance (October 2012)* to Metro (Exhibit A). The request was developed by the Bureau of Planning and Sustainability in collaboration with the Bureaus of Environmental Services, Parks and Recreation, and Development Services. Programs featured in the request include zoning regulations (e.g., environmental and greenway overlay zones, plan districts), non-zoning regulations (e.g.,

stormwater management manual, drainage reserve rule, floodplain regulations, tree codes), and non-regulatory programs (e.g., willing-seller land acquisition, tree planting, watershed investment fund projects, ecoroof incentives). No new regulations are proposed as part of this request.

5. The City's Request for Metro Determination of Substantial Compliance applies to land within Portland City Limits and identified urbanizing pockets of Multnomah County. The request does not apply to West Hayden Island (WHI) because the City is currently conducting a planning effort for WHI and an annexation decision is pending. If the City decides to annex West Hayden Island it will submit a separate Title 13 compliance request.
6. Compliance with Title 13 is an important milestone for the City of Portland, affirming the City's commitment as a regional partner and the importance of existing City programs to protect and enhance significant natural resources. However the City has additional work to do to achieve watershed health goals as established in the Portland Watershed Management Plan (2005) and as re-affirmed in the Portland Plan (2012), and to meet ongoing compliance obligations (e.g., Clean Water Act, Endangered Species Act). Achieving these goals and sustaining healthy watersheds will require ongoing commitment and investment to preserve existing natural resource assets and improve watershed conditions over time.
7. To confirm this commitment, the City is proposing to enter into an Intergovernmental Agreement (IGA) with Metro (Exhibit B). The IGA serves as a statement of intent to continue investing watershed health related projects and programs after the Metro finds the City in compliance with Title 13. The IGA also establishes the City's and Metro's joint intent to continue collaborating on issues of regional concern such as how the Comprehensive Plan Update will address competing goals for natural resource protection and providing industrial land to meet forecasted job demands and economic goals.
8. The IGA will go into effect after Metro finds the City in substantial compliance with Title 13. The IGA is intended to be a voluntary gesture, and is not required by Metro as a condition of the City's compliance with Title 13.
- 8.9. On June 27, 2012, the Bureau of Planning and Sustainability (BPS) mailed a notice to 490 people on the BPS Legislative Mailing List, letting them know that the Title 13 compliance request was available for review and that the Planning and Sustainability Commission (PSC) would hold a public hearing on July 24, 2012. BPS also emailed key stakeholders directly about the draft request and IGA outline, and the upcoming PSC hearing. Email(s) were sent on June 28, and again on July 17 to more than 20 individuals, including representatives from Metro, Multnomah County, Citywide Land Use Group, the Port of Portland, Columbia Corridor Association, the Working Waterfront Coalition, Audubon Society of Portland, Friends of Trees, the Johnson Creek, Tryon Creek, and Columbia Slough Watershed Councils, and the East and West Multnomah County Soil and Water Conservation Districts. Information about the compliance request was posted on the Bureau of Planning and Sustainability website. A blog spot was posted and sent to representatives of the media and others on July 9, 2012.

9.10 At the July 24, 2012 PSC hearing, representatives from the Metro Council and Metro staff expressed appreciation for City's commitment natural resource protection and enhancement, noting that Portland's programs are strong relative to other jurisdictions in the region. Metro representatives indicated that they believe that the City's compliance request is acceptable, and stated their willingness to enter into the IGA. Five members of the public testified and the PSC received written testimony from one additional party. Most testifiers did not question the City's request for a determination of substantial compliance, while one person suggested that the City had not yet achieved substantial compliance with Title 13. Most of the testifiers supported the proposal for the City to enter into an IGA with as a statement of intent to watershed health related efforts and collaboration on issues of regional concern. The PSC unanimously agreed to recommend that the City Council approve the request for determination of substantial compliance and provided feedback on the IGA outline. The PSC provided additional feedback on the IGA outlined and asked for the opportunity to review the actual IGA draft at a subsequent meeting.

11. On October 9, 2012 the PSC reviewed the draft IGA and a draft of this ordinance at a briefing/work session. **Complete this finding after the PSC October 9th meeting.**

NOW, THEREFORE, the Council directs:

- a. The Bureau of Planning and Sustainability Director to submit the *Title 13, Nature in Neighborhoods - Request for Metro Determination of Substantial Compliance (October 2012)* to Metro (Exhibit A).
- b. The directors of the Bureaus of Planning and Sustainability, Environmental Services, and Parks and Recreation are authorized to sign the Intergovernmental Agreement between Metro and the City of Portland (Exhibit B). These bureaus lead the projects and programs identified in the IGA, and it is this Council's intent to continue supporting these efforts.