

TITLE 13: NATURE IN NEIGHBORHOODS

3.07.1310 Intent

The purposes of this program are to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

This program:

- A. Will achieve its purpose through conservation, protection, and appropriate restoration of riparian and upland fish and wildlife habitat through time, using a comprehensive approach that includes voluntary, incentive-based, educational, and regulatory elements;
- B. Balances and integrates goals of protecting and enhancing fish and wildlife habitat, building livable Region 2040 communities, supporting a strong economy, controlling and preventing water pollution for the protection of the public health and safety, and complying with federal laws including the Clean Water Act and the Endangered Species Act;
- C. Includes provisions to monitor and evaluate program performance over time to determine whether the program is achieving the program's objectives and targets, to determine whether cities and counties are in substantial compliance with this title, and to provide sufficient information to determine whether to amend or adjust the program in the future; and
- D. Establishes minimum requirements and is not intended to repeal or replace existing requirements of city and county comprehensive plans and implementing ordinances to the extent those requirements already meet the minimum requirements of this title, nor is it intended to prohibit cities and counties from adopting and enforcing fish and wildlife habitat protection and restoration programs that exceed the requirements of this title.

(Ordinance No. 05-1077C, Sec. 5.)

3.07.1320 Inventory and Habitat Conservation Areas

The purpose of this section is to describe the geographic information system (GIS) data and maps that form the basis of

Metro's fish and wildlife habitat protection and restoration program. This data and maps are referenced in various ways in this title, but may or may not be relevant within a city or county depending upon which implementation alternative the city or county chooses pursuant to Metro Code Section 3.07.1330(B). The maps referred to in this title are representations of data contained within Metro's GIS system, operated by the Metro Data Resource Center, and references to such maps shall be interpreted as references to the maps themselves and to the underlying GIS data that the maps represent.

- A. The Regionally Significant Fish and Wildlife Habitat Inventory Map (hereinafter the "Inventory Map"), attached hereto⁵, identifies the areas that have been determined to contain regionally significant fish and wildlife habitat. The Inventory Map divides habitat into two general categories, riparian and upland wildlife, and further differentiates each habitat category into low, medium, and high value habitats.

- B. The Habitat Conservation Areas Map, attached hereto⁶, identifies the areas that are subject to the performance standards and best management practices described in Metro Code Section 3.07.1340, to the extent that a city or county chooses to comply with Metro Code Section 3.07.1330 by using the Habitat Conservation Areas map, or a map that substantially complies with the Habitat Conservation Areas map. For such cities and counties, the Habitat Conservation Areas Map further identifies, subject to the map verification process described in Metro Code Sections 3.07.1330(G) and 3.07.1340(D), which areas will be subject to high, moderate, and low levels of habitat conservation based on Metro Council's consideration of the results of the economic, social, environmental, and energy (ESEE) consequences of protecting or not protecting the habitat, public input, and technical review, and the Metro Council's subsequent decision to balance conflicting uses in habitat areas.
 1. Table 3.07-13a describes how (1) Class I and II riparian habitat areas, and (2) Class A and B upland wildlife habitat areas within publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to

⁵ On file in the Metro Council office and copies available from the Metro Data Resource Center.

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develop it for active recreational uses, located within the Metro boundary on December 28, 2005, were designated as high, moderate, and low Habitat Conservation Areas.

2. Table 3.07-13b describes how Class I and II riparian habitat areas and Class A and B upland wildlife areas brought within the Metro UGB after December 28, 2005, will be designated as high, moderate, and low Habitat Conservation Areas. Metro Code Section 3.07.1360 describes the procedures for how Table 3.07-13b and Metro Code Section 3.07.1340 shall be applied in such areas.

C. Exempt International Marine Terminals

1. Marine dependent properties which would otherwise have been mapped as Habitat Conservation Areas do not appear on the Habitat Conservation Areas Map because the Metro Council concluded, based on its analysis of the economic, social, environmental, and energy implications of its decision, that the economic importance of such properties far outweighed the environmental importance of the properties as fish and wildlife habitat. The Metro Council applied the criteria described in subsection (C)(2) of this section to conclude that the following properties should not be considered Habitat Conservation Areas:
 - a. The International Terminal property, located at 12005 N. Burgard Way, Portland, Oregon, 97203;
 - b. Port of Portland Marine Terminal 4;
 - c. Port of Portland Marine Terminal 5; and
 - d. Port of Portland Marine Terminal 6.
2. The Metro Council may, at its discretion, consider and adopt ordinances to exempt from the provisions of this title any additional properties along the Willamette and Columbia Rivers, or portions of such properties, where it can be demonstrated that:
 - a. The property is currently developed for use as an international marine terminal capable

of mooring ocean-going tankers or cargo ships; and

- b. The property is substantially without vegetative cover.

(Ordinance No. 05-1077C, Sec. 5.)

3.07.1330 Implementation Alternatives for Cities and Counties

- A. Under Oregon law, upon acknowledgment of this program by the Oregon Land Conservation and Development Commission (LCDC), cities and counties wholly or partly within the Metro boundary shall apply the requirements of this title with respect to areas identified as riparian habitat on the Inventory Map and areas identified as upland wildlife habitat on the Inventory Map, according to the compliance deadlines established in Metro Code Section 3.07.810, rather than applying the requirements of division 23 of chapter 660 of the Oregon Administrative Rules ("OAR"), promulgated by LCDC, except that:
 - 1. A city or county shall apply the requirements of division 23 of OAR chapter 660 in order to adopt comprehensive plan amendments or land use regulations that (i) would otherwise require compliance with division 23 of OAR chapter 660 but for the adoption of this title (i.e. amendments or regulations adopted to protect Goal 5 resources), and (ii) will limit development in areas not identified as riparian habitat on the Inventory Map, unless such provisions (a) are part of a program intended to comply with Metro Code Section 3.07.1330(B)(3) and apply only to areas identified as upland wildlife habitat on the Inventory Map (i.e., they do not apply to areas not identified as habitat); or (b) apply to areas identified as Class A or B upland wildlife habitat on the Inventory Map that are brought within the UGB after December 28, 2005. Such a city or county shall seek acknowledgement of such provisions from LCDC or treat such provisions as post-acknowledgement plan amendments under ORS chapter 197;
 - 2. A city or county that, prior to December 28, 2005, adopted any comprehensive plan amendments or land use regulations that (a) apply to areas identified as upland wildlife habitat on the Inventory Map but not identified as riparian habitat on the Inventory Map, (b) limit development in order to protect fish or wildlife habitat, and (c) were adopted in compliance

with division 23 of OAR chapter 660, shall not repeal such amendments or regulations, nor shall it amend such provisions in a manner that would allow any more than a de minimis increase in the amount of development that could occur in areas identified as upland wildlife habitat; and

3. After a city or county has demonstrated that it is in substantial compliance with the requirements of this title, if the city or county wishes to adopt comprehensive plan amendments or land use regulations applicable to areas identified as riparian habitat on the Inventory Map that have the effect of imposing greater limits on development than those imposed by provisions that are in substantial compliance with the requirements of this title, such a city or county shall comply with the provisions of division 23 of OAR chapter 660, and shall seek acknowledgement of such provisions from LCDC or treat such provisions as post-acknowledgement plan amendments under ORS chapter 197.

B. Each city and county in the region shall either:

1. Amend its comprehensive plan and implementing ordinances to adopt the Title 13 Model Ordinance and the Metro Habitat Conservation Areas Map, and demonstrate compliance with the provisions of (a) Metro Code Section 3.07.1340(A)(5), related to enhanced fish and wildlife protection and management of publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development, and (b) Metro Code Section 3.07.1340(A)(8), related to the restoration of Habitat Conservation Areas when developed property is undergoing significant redevelopment;
2. Demonstrate that its existing or amended comprehensive plan and existing, amended, or new implementing ordinances substantially comply with the performance standards and best management practices described in Metro Code Section 3.07.1340, and that maps that it has adopted and uses substantially comply with the Metro Habitat Conservation Areas Map;
3. Demonstrate that it has implemented a program based on alternative approaches that will achieve protection and enhancement of Class I and II riparian habitat areas, and of Class A and B upland wildlife habitat areas in territory added to the Metro UGB after December 28, 2005, substantially comparable with the protection and

restoration that would result from the application of a program that complied with Metro Code Sections 3.07.1330(B)(1) or (B)(2). A city or county developing such a program:

- a. Shall demonstrate that its alternative program will provide a certainty of habitat protection and enhancement to achieve its intended results, such as by using proven programs and demonstrating stable and continuing funding sources sufficient to support elements of the program that require funding;
- b. May assert substantial compliance with this provision by relying on either or both the city's or county's comprehensive plan and implementing ordinances and on the use of incentive based, voluntary, education, acquisition, and restoration programs, such as:
 - i. An existing tree protection ordinance;
 - ii. A voluntary program for tree protection, tree replacement, and habitat restoration;
 - iii. Habitat preservation incentive programs, such as programs that provide reduced development or storm water management fees and property taxes in return for taking measures to protect and restore habitat (including, for example, the Wildlife Habitat Special Tax Assessment Program, ORS 308A.400 through 308A.430, and the Riparian Habitat Tax Exemption Program, ORS 308A.350 through 308A.383);
 - iv. Habitat-friendly development standards to reduce the detrimental impact of storm water run-off on riparian habitat;
 - v. A local habitat acquisition program; and
 - vi. Maintaining and enhancing publicly-owned habitat areas, such as by:
 - (A) Using habitat-friendly best management practices, such as integrated pest management programs, in all regionally significant habitat areas within publicly-owned parks and open spaces;

- (B) Ensuring that publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development are managed to maintain and enhance the quality of fish and wildlife habitat that they provide; and
- (C) Pursuing funding to support local park, open space, and habitat acquisition and restoration, such as with local bond measures, System Development Charge (SDC) programs, Federal Emergency Management Act (FEMA) grants, or other funding mechanisms;

4. District Plans.

- a. Adopt one or more district plans that apply over portions of the city or county, and demonstrate that, for the remainder of its jurisdiction, the city or county has a program that complies with either Metro Code Section 3.07.1330(B)(1) or Metro Code Section 3.07.1330(B)(2). If a city or county adopts one or more district plans pursuant to this paragraph, it shall demonstrate that, within each district plan area, the district plan complies with Metro Code Section 3.07.1330(B)(3). District plans shall be permitted under this subsection only for areas within a common watershed, or which are within areas in adjoining watersheds that share an interrelated economic infrastructure and development pattern. Cities and counties that choose to develop district plans are encouraged to coordinate such district plans with other entities whose activities impact the same watershed to which the district plan applies, including other cities and counties, special districts, state and federal agencies, watershed councils, and other governmental and non-governmental agencies.
- b. The City of Portland shall develop a District Plan that complies with Metro Code Section 3.07.1330(B)(4)(a), in cooperation with the Port of Portland, that applies to West Hayden Island; or

5. For a city or county that is a member of the Tualatin Basin Natural Resources Coordinating Committee (the

"TBNRCC," which includes Washington County and the cities of Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin), amend its comprehensive plan and implementing ordinances to comply with the maps and provisions of the TBNRCC Goal 5 Program, attached hereto⁷ and incorporated herein by reference, adopted by the TBNRCC on April 4, 2005 (the "Tualatin Basin Program"), subject to the intergovernmental agreement entered into between Metro and the TBNRCC. All other provisions of this Metro Code Section 3.07.1330, as well as Metro Code Section 3.07.1360, shall still apply to each city and county that is a member of the TBNRCC. In addition, in order for a city or county that is a member of the TBNRCC to be in compliance with this functional plan, the following conditions must be satisfied:

- a. Within the compliance timeline described in Paragraph 6 of the Intergovernmental Agreement entered into between Metro and the TBNRCC, the TBNRCC and its members comply with the six steps identified in section B of Chapter 7 of the Tualatin Basin Program;
- b. Clean Water Services approves and begins implementing its Healthy Streams Plan;
- c. The TBNRCC members agree to renew and extend their partnership to implement the projects on the Healthy Streams Project List and target projects that protect and restore Class I and II Riparian Habitat, including habitat that extends beyond the Clean Water Services "vegetated corridors," and the TBNRCC shall continue to coordinate its activities with Metro and cooperate with Metro on the development of regional public information about the Nature in Neighborhoods Initiative;
- d. The city or county has adopted provisions to facilitate and encourage the use of habitat-friendly development practices, where technically feasible and appropriate, in all areas identified as Class I and II riparian habitat areas on the Metro Regionally Significant Fish and Wildlife Habitat Inventory Map. Table 3.07-13c provides examples of the types of habitat-friendly

⁷ On file in the Metro Council office and copies available from the Metro Planning Department.

development practices that shall be encouraged and considered;

- e. The city or county has adopted provisions to allow for the reduction of the density and capacity requirements of Title 1 of the Urban Growth Management Functional Plan, Metro Code Sections 3.07.110 to 170, consistent with Metro Code Section 3.07.1330(H). Particularly, the provisions shall (1) apply only to properties that were within the Metro urban growth boundary on January 1, 2002; (2) require the protection of regionally significant habitat on the property, such as via a public dedication or restrictive covenant; and (3) allow only for a reduction in the minimum number of units required to be built based on the amount of area protected as provided in part (2) of this paragraph. In addition, cities and counties will be required to report to Metro as provided in Metro Code Section 3.07.1330(H)(3);
- f. The city or county complies with the provisions of Metro Code Section 3.07.1330(B)(1) to (B)(3) as those provisions apply to upland wildlife habitat in territory added to the Metro urban growth boundary after December 28, 2005. For example, (1) each city and county shall either adopt and apply Metro's Title 13 Model Ordinance to upland wildlife habitat in new urban areas, (2) substantially comply with the requirements of Metro Code Section 3.07.1340 as it applies to upland wildlife habitat in new urban areas, or (3) demonstrate that it has implemented an alternative program that will achieve protection and enhancement of upland wildlife habitat in new urban areas comparable with the protection and restoration that would result from one of the two previous approaches described in this sentence; and
- g. The TBNRCC and the city or county complies with the monitoring and reporting requirements of Metro Code Section 3.07.1360.

C. The comprehensive plan and implementing ordinances relied upon by a city or county to comply with this title shall contain clear and objective standards. A standard shall be considered clear and objective if it meets any one of the following criteria:

1. It is a fixed numerical standard, such as fixed distance (e.g. "50 feet") or land area (e.g. "1 acre");
 2. It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or
 3. It is a performance standard that describes the outcome to be achieved, specifies the objective criteria to be used in evaluating outcome or performance, and provides a process for application of the performance standard, such as a conditional use or design review process.
- D. In addition to complying with subsection (C) of this section, the comprehensive plan and implementing ordinances that a city or county relies upon to satisfy the requirements of this title may include an alternative, discretionary approval process that is not clear and objective provided that the comprehensive plan and implementing ordinance provisions of such a process:
1. Specify that property owners have the choice of proceeding under either the clear and objective approval process, which each city or county must have pursuant to subsection (C) of this section, or under the alternative, discretionary approval process; and
 2. Require a level of protection for, or enhancement of, the fish and wildlife habitat that meets or exceeds the level of protection or enhancement that would be achieved by following the clear and objective standards described in subsection (C) of this section.
- E. Use of Habitat-Friendly Development Practices In Regionally Significant Fish And Wildlife Habitat.
1. Each city and county in the region shall:
 - a. Identify provisions in the city's or county's comprehensive plan and implementing ordinances that prohibit or limit the use of the habitat-friendly development practices such as those described in Table 3.07-13c; and
 - b. Adopt amendments to the city's or county's comprehensive plan and implementing ordinances to remove the barriers identified pursuant to subsection (E)(1)(a) of this section, and shall

remove such barriers so that such practices may be used, where practicable, in all regionally significant fish and wildlife habitat; provided, however that such practices shall not be permitted if their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Clean Water Act, 33 U.S.C. §§1251 et seq., or the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit.

2. Metro shall provide technical assistance to cities and counties to comply with the provisions of this subsection E of this section.
- F. Cities and counties shall hold at least one public hearing prior to adopting comprehensive plan amendments, implementing ordinances, and maps implementing this title or demonstrating that existing city or county comprehensive plans, implementing ordinances, and maps substantially comply with this title. The proposed comprehensive plan amendments, implementing ordinances, and maps shall be available for public review at least 45 days prior to the public hearing.
- G. The comprehensive plan provisions and implementing ordinances that each city or county amends, adopts, or relies on to comply with this title shall provide property owners with a reasonable, timely, and equitable process to verify the specific location of habitat areas subject to the provisions of the city's or county's comprehensive plan and implementing ordinances. It is the intent of this requirement that, in the majority of cases, the process be as simple and straightforward as possible and not result in a change that would require an amendment to the city's or county's comprehensive plan. Such process shall:
1. Allow a property owner, or another person with the property owner's consent, to confirm the location of habitat on a lot or parcel at any time, whether or not the property owner has submitted a specific request for a development permit, provided, however, that a city or county may impose a fee to cover the actual staff, equipment and other administrative costs of providing such a service;
 2. As often as reasonably possible, provide a simple, default approach that allows a property owner to verify

the location of habitat on a lot or parcel without having to hire an environmental consultant and without having to pay a significant processing or application fee;

3. Allow a property owner to present detailed documentation to verify the location of habitat on a lot or parcel, such as information collected and analyzed by an environmental consultant; and
4. Ensure that the process provides adequate opportunities for appeals and a fair and equitable dispute resolution process, consistent with state law.

H. Reducing Regional Density and Capacity Requirements to Allow Habitat Protection.

1. Notwithstanding the provisions of Metro Code Section 3.07.140(A)(2), cities and counties may approve a subdivision or development application that will result in a density below the minimum density for the zoning district if:
 - a. The property lot or parcel was within the Metro UGB on January 1, 2002;
 - b. An area of the property lot or parcel to be developed has been identified as regionally significant fish and wildlife habitat on the Metro Inventory Map or as a significant resource on a local Goal 5 riparian, wetlands, or wildlife resource inventory map that had been acknowledged by the LCDC prior to December 28, 2005; and
 - c. Such a decision will directly result in the protection of the remaining undeveloped regionally significant fish and wildlife habitat or significant resource located on the property lot or parcel, such as via a public dedication or a restrictive covenant.
2. The amount of reduction in the minimum density requirement that may be approved under this subsection (H) of this section shall be calculated by subtracting the number of square feet of regionally significant fish and wildlife habitat or significant resource that is permanently protected under subsection (H)(1)(c) of this section from the total number of square feet that the city or county otherwise would use to calculate the minimum density requirement for the property.

3. If a city or county approves a subdivision or development application that will result in a density below the minimum density for the zoning district pursuant to subsection (H)(1) of this section, then such city or county shall:
 - a. Be permitted an offset against the capacity specified for that city or county in Table 3.07-1 of the Metro Code. The amount of such offset shall be calculated by subtracting the difference between the number of dwelling units that the city or county approved to be built pursuant to subsection (H)(1) of this section and the minimum number of dwelling units that would have otherwise been required to be built on the property pursuant to the applicable minimum density requirements for the zoning district where the property is located; and
 - b. Report to Metro by April 15 of every year the number of approvals made pursuant to this subsection H of this section, including documentation that the factors in subsection (H)(1) had been satisfied for each such approval, and the capacity offsets that the city or county shall be afforded as a result of such approvals.

(Ordinance No. 05-1077C, Sec. 5.)

3.07.1340 Performance Standards and Best Management Practices for Habitat Conservation Areas

The following performance standards and best management practices apply to all cities and counties that choose to adopt or rely upon their comprehensive plans and implementing ordinances to comply, in whole or in part, with Metro Code Section 3.07.1330(B)(2):

- A. City and county comprehensive plans and implementing ordinances shall conform to the following performance standards and best management practices:
 1. Habitat Conservation Areas shall be protected, maintained, enhanced, and restored as specified in this Metro Code Section 3.07.1340, and city and county development codes shall include provisions for enforcement of these performance standards and best management practices.

2. In addition to requirements imposed by this title, the requirements of Title 3 of the Urban Growth Management Functional Plan, Metro Code Sections 3.07.310 to 3.07.360 shall continue to apply.
3. The performance standards and best management practices of this Metro Code Section 3.07.1340 shall not apply:
 - a. When the application of such standards and practices would restrict or regulate farm structures or farming practices in violation of ORS 215.253 or ORS 561.191; or
 - b. In areas outside of the Metro UGB but within the Metro boundary at the effective date of this title:
 - i. When such standards and practices violate ORS 527.722 by prohibiting, limiting, regulating, subjecting to approval, or in any other way affecting forest practices on forestlands located outside of an acknowledged urban growth boundary, except as provided in ORS 527.722(2), (3) and (4); or
 - ii. Pursuant to ORS 196.107, in areas within Multnomah County and the Columbia River Gorge National Scenic Area, provided that Multnomah County has adopted and implements ordinances that are approved pursuant to sections 7(b) and 8(h) through 8(k) of the Columbia River Gorge National Scenic Area Act, 16 U.S.C. §§ 544e(b) and 544f(h) through 544f(k).
4. The performance standards and best management practices of this Metro Code Section 3.07.1340 shall not apply to any use of residential properties if, as of the local program effective date:
 - a. Construction of the residence was completed in compliance with all applicable local and state laws and rules for occupancy as a residence or the residence had been occupied as a residence for the preceding ten years; and
 - b. Such uses would not have required the property owner to obtain a land use approval or a building, grading, or tree removal permit from their city or county.

5. Habitat Conservation Areas within publicly-owned parks and open spaces that have been designated as natural areas and are not intended for future urban development shall be protected and managed so that the quality of fish and wildlife habitat that they provide is maintained and enhanced, and that habitat-friendly best management practices, such as integrated pest management programs, are used in such areas.
6. Invasive non-native or noxious vegetation shall not be planted in any Habitat Conservation Area. The removal of invasive non-native or noxious vegetation from Habitat Conservation Areas shall be allowed. The planting of native vegetation shall be encouraged in Habitat Conservation Areas.
7. Except as provided in subsection (A)(8) of this section, routine repair, maintenance, alteration, rehabilitation, or replacement of existing structures, roadways, driveways, utilities, accessory uses, or other development within Habitat Conservation Areas may be allowed provided that:
 - a. The project is consistent with all other applicable local, state, and federal laws and regulations;
 - b. The project will not permanently or irreparably result in more developed area within a Habitat Conservation Area than the area of the existing development; and
 - c. Native vegetation is maintained, enhanced and restored, if disturbed; other vegetation is replaced, if disturbed, with vegetation other than invasive non-native or noxious vegetation; and the planting of native vegetation and removal of invasive non- native or noxious vegetation is encouraged.
8. Notwithstanding subsection (A)(7) of this section, when a city or county exercises its discretion to approve zoning changes to allow a developed property that contains a Habitat Conservation Area to (1) change from an industrial or heavy commercial zoning designation to a residential or mixed-use/residential designation, or (2) increase the type or density and intensity of development in any area, then the city or county shall apply the provisions of this Metro Code Section 3.07.1340, or provisions that will achieve

substantially comparable habitat protection and restoration as do the provisions of this section. This provision will help to insure that, when developed areas are redeveloped in new ways to further local and regional urban and economic development goals, property owners should restore regionally significant fish and wildlife habitat as part of such redevelopment.

9. Any activity within Habitat Conservation Areas that is required to implement a Federal Aviation Administration (FAA) - compliant Wildlife Hazard Management Plan (WHMP) on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be allowed provided that mitigation for any such projects is completed in compliance with mitigation requirements adopted pursuant to subsections (B)(1), (B)(2)(c), and (B)(3) of this section. In addition, habitat mitigation for any development within Habitat Conservation Areas on property owned by the Port of Portland within 10,000 feet of an Aircraft Operating Area, as defined by the FAA, shall be permitted at any property located within the same 6th Field Hydrologic Unit Code subwatershed as delineated by the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) without having to demonstrate that on-site mitigation is not practicable, feasible, or appropriate.

10. Within Habitat Conservation Areas located in Multnomah County Drainage District No. 1, Peninsula Drainage District No. 1, Peninsula Drainage District No. 2, and the area managed by the Sandy Drainage Improvement Company, routine operations, repair, maintenance, reconfiguration, rehabilitation, or replacement of existing drainage and flood control facilities, and existing related facilities, including any structures, pump stations, water control structures, culverts, irrigation systems, roadways, utilities, accessory uses (such as off-load facilities that facilitate water-based maintenance), erosion control projects, levees, soil and bank stabilization projects, dredging and ditch clearing within the hydraulic cross-section in existing storm water conveyance drainageways, or other water quality and flood storage projects applicable to existing facilities and required to be undertaken pursuant to ORS chapters 547 or 554 or Titles 33 or 44 of the Code of Federal Regulations, shall be allowed provided that:

- a. The project is consistent with all other applicable local, state, and federal laws and regulations;
 - b. The project does not encroach closer to a surface stream or river, wetland, or other body of open water than existing operations and development;
 - c. Disturbed areas are replanted with vegetation and no bare soils remain after project completion; the planting of native vegetation and removal of invasive non- native or noxious vegetation is encouraged; and invasive non-native or noxious vegetation shall not be planted; and
 - d. Each district submits an annual report, to all local permitting agencies in which the district operates, describing the projects the district completed in the previous year and how those projects complied with all applicable federal and state laws and requirements.
- B. City and county comprehensive plans and implementing ordinances shall contain review standards applicable to development in all Habitat Conservation Areas that include:
1. Clear and objective development approval standards consistent with Metro Code Section 3.07.1330(C) that protect Habitat Conservation Areas but which allow limited development within High Habitat Conservation Areas, slightly more development in Moderate Habitat Conservation Areas, and even more development in Low Habitat Conservation Areas. Such standards shall allow (a) property owners to consider reduced building footprints and the use of minimal excavation foundation systems (e.g., pier, post or piling foundation), and (b) the flexible application of local code requirements that may limit a property owner's ability to avoid development in Habitat Conservation Areas, such as setback and landscaping requirements or limits on clustering and the transfer of development rights on-site. The habitat-friendly development practices described in Table 3.07-13c, which are intended to minimize the magnitude of the impact of development in Habitat Conservation Areas, shall be allowed, encouraged, or required to the extent that cities and counties can develop clear and objective standards for their use, unless their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in

the area, such as a permit required under the Clean Water Act, 33 U.S.C. §§1251 et seq., or the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit. The clear and objective development standards required by this paragraph also shall require that all development in Habitat Conservation Areas be mitigated to restore the ecological functions that are lost or damaged as a result of the development. Standards that meet the requirements of this subsection and Metro Code Section 3.07.1330(C) are provided in Section 7 of the Metro Title 13 Model Ordinance⁸; and

2. Discretionary development approval standards consistent with Metro Code Section 3.07.1330(D) that comply with subsections (B)(2)(a), (B)(2)(b), and B(2)(c) of this section. Standards that meet the requirements of this subsection (B)(2) and Metro Code Section 3.07.1330(D) are provided in Section 8 of the Metro Title 13 Model Ordinance.

- a. Avoid Habitat Conservation Areas.

- i. Development may occur within a Habitat Conservation Area only if a property owner demonstrates that no practicable alternatives to the requested development exist which will not disturb the Habitat Conservation Area;
- ii. When implementing this requirement to determine whether a practicable alternative exists, cities and counties shall include consideration of the type of Habitat Conservation Area that will be affected by the proposed development. For example, High Habitat Conservation Areas have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, while Low Habitat Conservation Areas have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat; and
- iii. Cities and counties shall allow flexibility in the application of local code requirements

⁸ On file in the Metro Council office and copies available from the Metro Planning Department.

that may limit a property owner's ability to avoid development in Habitat Conservation Areas, such as setback and landscaping requirements or limits on clustering and the transfer of development rights on-site. Property owners shall also consider reduced building footprints and use of minimal excavation foundation systems (e.g., pier, post or piling foundation). The use of the techniques described in this paragraph shall be part of the alternatives analysis to determine whether any alternative to development within the Habitat Conservation Area is practicable; and

b. Minimize Impacts on Habitat Conservation Areas and Water Quality.

- i. If there is no practicable alternative, limit the development to minimize, to the extent practicable, the detrimental impacts on Habitat Conservation Areas associated with the proposed development;
- ii. When implementing this requirement to determine whether development has been minimized to the extent practicable, cities and counties shall include consideration of the type of Habitat Conservation Area that will be affected by the proposed development. For example, High Habitat Conservation Areas have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, while Low Habitat Conservation Areas have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat; and
- iii. The techniques described in subsection (B)(2)(a)(iii) of this section shall be used to demonstrate that development within a Habitat Conservation Area has been minimized. In addition, the magnitude of the impact of development within Habitat Conservation Areas also shall be minimized, such as by use of the habitat-friendly development practices described in Table 3.07-13c, unless the use of such practices is prohibited by an

applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Clean Water Act, 33 U.S.C. §§1251 et seq., or the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., and including conditions or plans required by such permit; and

- c. Mitigate Impacts on Habitat Conservation Areas and Water Quality.

When development occurs, require mitigation to restore the ecological functions that were lost or damaged as a result of the development, after taking into consideration the property owner's efforts to minimize the magnitude of the detrimental impacts through the use of the techniques described in Table 3.07-13c and through any additional or innovative techniques.

- 3. When development occurs within delineated wetlands, then the mitigation required under subsections (B)(1) and (B)(2) of this title shall not require any additional mitigation than the mitigation required by state and federal law for the fill or removal of such wetlands.

C. City and county comprehensive plans and implementing ordinances shall include procedures to consider claims of hardship and to grant hardship variances for any property demonstrated to be converted to an unbuildable lot by application of any provisions implemented to comply with the requirements of this title.

D. Administering the Habitat Conservation Areas Map and Site-Level Verification of Habitat Location.

- 1. Each city and county shall be responsible for administering the Habitat Conservation Areas Map, or the city's or county's map that has been deemed by Metro to be in substantial compliance with the Habitat Conservation Areas Map, within its jurisdiction, as provided in this subsection (D) of this section.
- 2. The comprehensive plan and implementing ordinances amended, adopted or relied upon to comply with this subsection (D) of this section shall comply with Metro Code Section 3.07.1330(G).

3. Verification of the Location of Habitat Conservation Areas. Each city and county shall establish a verification process consistent with subsections (D)(4) through (D)(6) of this section. The site-level verification of Habitat Conservation Areas is a three-step process. The first step is determining the boundaries of the habitat areas on the property, as provided in subsection (D)(4) of this section. The second step is determining the urban development value of the property, as provided in subsection (D)(5) of this section. The third step is cross-referencing the habitat classes with the urban development value of the property to determine whether the property contains High, Moderate, or Low Habitat Conservation Areas, or none at all, as provided in subsection (D)(6) of this section.
4. Habitat Boundaries.
 - a. Locating riparian habitat and determining its habitat class is a five-step process.
 - i. Step 1. Locate the water feature that is the basis for identifying riparian habitat:
 - (A) Locate the top of bank of all streams, rivers, and open water within 200 feet of the property;
 - (B) Locate all flood areas within 100 feet of the property (areas that were mapped as flood areas but were filled to a level above the base flood level prior to the local program effective date, consistent with all applicable local, state, and federal laws and regulations shall no longer be considered habitat based on their status as flood areas); and
 - (C) Locate all wetlands within 150 feet of the property based on the Local Wetland Inventory map (if completed) and on the Metro 2004 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232; 503-797-1742). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State

Lands and the U.S. Army Corps of Engineers.

ii. Step 2. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas:

(A) Vegetative cover status shall be as identified on the Metro Vegetative Cover Map, attached hereto⁹ and incorporated herein by reference. The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as "forest canopy" the forested area had to be part of a larger patch of forest of at least one acre in size; and

(B) In terms of mapping the location of habitat, the only allowed corrections to the vegetative cover status of a property are those based on an area being developed prior to the local program effective date and those based on errors made at the time the vegetative cover status was determined based on analysis of the aerial photographs used to create the Metro Vegetative Cover Map (for the original map, the aerial photos used were Metro's summer 2002 photos) and application of the vegetative cover definitions provided in the footnotes to Table 3.07-13d.

iii. Step 3. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25%

⁹ On file in the Metro Council office and copies available from the Metro Data Resource Center.

(using the methodology described in the Appendix to Exhibit A to Ordinance No. 00-839 re-adopting Title 3 of the Urban Growth Management Functional Plan).

- iv. Step 4. Identify the habitat class (Class I, Class II, or none) of the areas within up to 200 feet of the identified water feature, consistent with Table 3.07-13d. Note that areas that have been identified as habitats of concern, as depicted on the Metro Habitats of Concern Map, attached hereto¹⁰ and incorporated herein by reference, are all classified as Class I riparian habitat.
 - v. Step 5. Confirm that the development and vegetative cover status of areas within up to 200 feet of the identified water feature has not been altered without the required approval of the city or county since the local program effective date and, if it has, then verify the original habitat location using the best available evidence of its location on the local program effective date.
- b. For territory brought within the Metro UGB after December 28, 2005, the location of upland wildlife habitat and its habitat class shall be as identified in Metro's habitat inventory of such territory performed pursuant to Metro Code Section 3.07.1370. The only factors that may be reviewed to verify the location of upland wildlife habitat shall be:
- i. For territory that was within the Metro boundary on December 28, 2005, whether regionally significant fish and wildlife habitat was removed, consistent with all other applicable local, state, and federal laws and regulations, prior to the date that the property was brought within the Metro UGB and, if so, then areas where habitat was removed shall not be identified as Habitat Conservation Areas;
 - ii. Whether errors were made at the time the vegetative cover status was determined based

¹⁰ On file in the Metro Council office and copies available from the Metro Data Resource Center.

on (1) analysis of the aerial photographs used to determine the vegetative cover status, and (2) application of the vegetative cover definitions provided in the footnotes to Table 3.07-13d; and

iii. Whether there are discrepancies between the locations of property lot lines and the location of Habitat Conservation Areas, as shown on the Habitat Conservation Areas Map.

5. Urban Development Value of the Property. The urban development value of property designated as regionally significant habitat is depicted on the Metro Habitat Urban Development Value Map, attached hereto¹¹ and incorporated herein by reference. The Metro Habitat Urban Development Value Map is based on an assessment of three variables, the land value of property, the employment value of property, and the Metro 2040 Design Type designation of property. Cities and counties shall make an upward adjustment of a property's urban development value designation (i.e. from low to medium or high, or from medium to high) if:
- a. The Metro 2040 Design Type designation has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. Properties in areas designated as the Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas are considered to be of high urban development value; properties in areas designated as Main Streets, Station Communities, Other Industrial Areas, and Employment Centers are of medium urban development value; and properties in areas designated as Inner and Outer Neighborhoods and Corridors are of low urban development value; or
 - b. The property, or adjacent lots or parcels, is owned by a regionally significant educational or medical facility and, for that reason, should be designated as of high urban development value because of the economic contributions the facility provides to the citizens of the region.

¹¹ On file in the Metro Council office and copies available from the Metro Data Resource Center.

- i. The following facilities are regionally significant educational or medical facilities, as further identified on the Regionally Significant Educational or Medical Facilities Map, attached hereto¹²:
- (A) Clackamas Community College, 19600 S. Molalla Ave., Oregon City;
 - (B) Lewis & Clark College, 0615 S.W. Palatine Hill Rd, Portland;
 - (C) Marylhurst University, 17600 Hwy 43, in Lake Oswego;
 - (D) Mt. Hood Community College, 26000 S.E. Stark St., Gresham;
 - (E) Oregon Health Sciences University, 3181 SW Sam Jackson Park Rd., Portland;
 - (F) Oregon Health Sciences University, Portland South Waterfront, Portland;
 - (G) Oregon Health Sciences University/Oregon Graduate Institute, 20000 N.W. Walker, Hillsboro;
 - (H) Pacific University, 2043 College Way, Forest Grove;
 - (I) Portland Community College, Rock Creek Campus, 17865 N.W. Springdale Rd., Portland;
 - (J) Portland Community College, Sylvania Campus, 12000 S.W. 49th Ave, Portland;
 - (K) Providence St. Vincent Medical Center, 9115 SW Barnes Rd., Portland;
 - (L) Reed College, 3203 S.E. Woodstock Blvd., Portland; and
 - (M) University of Portland, 5000 N. Willamette Blvd., Portland

¹² On file in the Metro Council office.

(N) Veterans Hospital, 3710 SW U.S. Veterans Hospital Rd., Portland.

ii. The Metro Council may add a property to the list of facilities identified in subsection (D)(5)(b)(i) of this section in the future by adopting an ordinance amending that section if the Council finds that the use of the property:

(A) Supports the 2040 Growth Concept by providing a mixed-use environment that may include employment, housing, retail, cultural and recreational activities, and a mix of transportation options such as bus, bicycling, walking, and auto;

(B) Provides, as a primary objective, a service that satisfies a public need rather than just the consumer economy (i.e., producing, distributing, selling or servicing goods);

(C) Draws service recipients (e.g., students, patients) from all reaches of the region and beyond;

(D) Relies on capital infrastructure that is so large or specialized as to render its relocation infeasible; and

(E) Has a long-term campus master plan that has been approved by the city or county in which it is located.

6. Cross-Referencing Habitat Class With Urban Development Value. City and county verification of the locations of High, Moderate, and Low Habitat Conservation Areas shall be consistent with Tables 3.07-13a and 3.07-13b.

(Ordinance No. 05-1077C, Section 5.)

3.07.1350 Claims Pursuant to ORS 197.352 (Ballot Measure 37)

A. The purpose of this section is to provide for Metro to accept potential liability for claims filed against cities and counties pursuant to ORS 197.352 (Ballot Measure 37) as a result of the cities' and counties' good faith implementation of Metro Code Sections 3.07.1310 through 3.07.1370. As a corollary of accepting financial and

administrative responsibility for these claims, Metro seeks the authority and cooperation of cities and counties in the evaluation and settlement of claims.

B. Provided that cities and counties meet the requirements set out below, Metro shall indemnify a city or county for any claim made against a city or county based on its implementation of the requirements of Metro Code Sections 3.07.1310 through 3.07.1370. In order to receive the benefits of this provision, a city or county must:

1. Upon receipt of a written demand for compensation pursuant to ORS 197.352, from an owner of private real property located within its jurisdiction alleging that a comprehensive plan amendment or land use regulation adopted or relied upon to comply with the requirements of this title reduces the fair market value of the property, a city or county shall forward a copy of the demand to Metro no later than seven (7) days following receipt of the demand;
2. Reasonably cooperate with Metro throughout Metro's consideration and disposition of the claim, including promptly providing Metro with any information related to the property in question, to an assessment of its fair market value, or to the city's or county's adoption of the comprehensive plan amendment or land use regulation that is the basis of the demand made pursuant to ORS 197.352; and
3. Substantially concur with Metro's recommendation regarding disposition of the claim, which disposition may include, but not be limited to, a cash payment or other compensation, a decision to modify, remove, or not apply the regulation, dismissal of the claim, and the imposition of appropriate conditions. Metro shall forward to the city or county Metro's recommended disposition of the claim within 120 days of Metro's receipt of notice of the claim from the city or county; provided, however, that if Metro does not provide such recommendation within the 120 day deadline then the city or county may dispose of the claim as it determines appropriate and Metro will neither indemnify the city or county for the claim nor use the city's or county's decision on the claim as a basis for finding that the city or county is not in compliance with this title. A city or county may also satisfy this requirement by entering into an intergovernmental agreement with Metro in order to grant Metro sufficient authority to implement, on the city or county's behalf,

Metro's recommendation regarding the disposition of the claim.

(Ordinance No. 05-1077C, Section 5.)

3.07.1360 Program Objectives, Monitoring and Reporting

This section describes the program performance objectives, the roles and responsibilities of Metro, cities, counties, and special districts in regional data coordination and inventory maintenance, monitoring and reporting, and program evaluation.

A. The following program objectives are established:

1. Performance objectives:

- a. Preserve and improve streamside, wetland, and floodplain habitat and connectivity;
- b. Preserve large areas of contiguous habitat and avoid habitat fragmentation;
- c. Preserve and improve connectivity for wildlife between riparian corridors and upland wildlife habitat; and
- d. Preserve and improve special habitats of concern such as native oak habitats, native grasslands, wetlands, bottomland hardwood forests, and riverine islands.

2. Implementation objectives:

- a. Increase the use of habitat-friendly development throughout the region; and
- b. Increase restoration and mitigation actions to compensate for adverse effects of new and existing development on ecological function.

B. Program Monitoring and Evaluation.

1. Metro will monitor the region's progress toward meeting the vision of conserving, protecting, and restoring the region's fish and wildlife habitat and the intent of this title by:

- a. Developing and monitoring regional indicators and targets as set forth in Table 3.07-13e to evaluate progress in achieving the four

performance objectives described in subsection (A)(1) of this section;

- b. Developing and monitoring regional indicators as set forth in Table 3.07-13e to evaluate progress in achieving the two implementation objectives described in subsection (A)(2) of this section;
- c. Collaborating with local, state, and federal agencies and non-governmental organizations in carrying out field studies and data sharing to increase understanding of the health of the region's watersheds and to identify restoration opportunities and priorities; and
- d. Preparing and presenting monitoring and program evaluation reports to Metro Council no later than December 31, 2006, and by December 31 of each even-numbered year thereafter.

- 2. Metro will practice adaptive management by using the results of monitoring studies and the availability of new information to assess whether the goals, objectives, and targets of this title are being achieved.

C. Reporting Requirements for Cities and Counties.

- 1. Cities and counties shall report to Metro no later than December 31, 2007, and by December 31 of each odd-numbered year thereafter on their progress in using voluntary and incentive-based education, acquisition, and restoration habitat protection efforts; and
- 2. At least 45 days prior to a city's or county's final public hearing on a proposed new or amended ordinance or regulation relating to protection of, or mitigation of damage to, habitat, trees or other vegetation, cities and counties shall mail written notice of the proposed ordinance or regulation to Metro. Cities and counties that require applications for land use approvals or building, grading, or tree removal permits to include documentation that the development meets habitat, tree, or vegetation protection and mitigation requirements adopted by a special district, including any county service district established pursuant to ORS chapter 451, shall mail written notice to Metro of any proposed new or amended ordinance or regulation relating to protection of, or mitigation of damage to, trees or other vegetation that is proposed by such a

special district at least 45 days prior to the special district's final public hearing on the proposed new or amended ordinance or regulation.

D. Regional data coordination and maintenance.

1. Metro will act as the regional coordinator for Geographic Information System (GIS) data used to create and maintain the Regionally Significant Fish and Wildlife Habitat Inventory Map and other data relevant to program implementation, monitoring, and evaluation. To carry out this role cities and counties shall provide Metro with local data in a timely fashion and in a form compatible with Metro's GIS program. To the extent that such data is collected by county service districts established pursuant to ORS chapter 451, then the county in which the county service district operates shall comply with this section. Such data shall include:
 - a. Adopted and revised Local Wetland Inventories approved by the Division of State Lands and those determined to be locally significant under ORS 197.279(3)(b);
 - b. Wetland mitigation sites approved by the Division of State Lands or U.S. Army Corps of Engineers;
 - c. For cities and counties that have not carried out Local Wetland Inventories, wetland boundaries delineated using accepted protocols by Division of State Lands or U.S. Army Corps of Engineers;
 - d. Revised or updated local surface stream inventories;
 - e. Revised or updated 100-year Federal Emergency Management Act (FEMA) flood area maps or revisions to the 1996 area of inundation maps to incorporate FEMA-approved floodplain map revisions or floodplain fills approved by the U.S. Army Corps of Engineers;
 - f. Completed restoration and enhancement projects; and
 - g. Revised or updated Metro Habitats of Concern data layer.

2. Metro will periodically update its Regionally Significant Fish and Wildlife Habitat Inventory for use in program monitoring and evaluation. Metro will maintain a study area boundary one mile beyond the perimeter of the Metro boundary and Metro Urban Growth Boundary.

(Ordinance No. 05-1077C, Sec. 5.)

3.07.1370 Future Metro Urban Growth Boundary Expansion Areas

The Metro Inventory Map identifies regionally significant fish and wildlife habitat within the entire Metro boundary, including areas outside of the Metro UGB at the time this title was adopted. As described in Metro Code Section 3.07.1320, the Metro Council has designated as Habitat Conservation Areas the regionally significant fish and wildlife habitat that has been identified as riparian Class I and II habitat within the Metro boundary. In addition, the Metro Council has also determined that the regionally significant fish and wildlife habitat identified as upland wildlife Class A and B habitat that is currently outside of the Metro UGB shall be designated as Habitat Conservation Areas at such time that those areas are brought within the Metro UGB. Territory where the Metro UGB may expand includes both areas within the current Metro boundary and areas outside of the current Metro boundary.

- A. New Urban Territory That Was Previously Within the Metro Boundary.

The Metro Inventory Map already identifies the regionally significant upland wildlife Class A and B habitat in territory within the current Metro boundary but outside the current Metro UGB. At the time such territory is brought within the Metro UGB, consistent with Title 11 of this functional plan, Metro Code Sections 3.07.1110 et seq., Metro shall update its inventory of regionally significant fish and wildlife habitat for such territory using the same methodology used by Metro to establish the Metro Inventory Map. Based on the updated Metro Inventory Map, Metro shall prepare a Habitat Conservation Areas Map for such new territory, as described in Metro Code Section 3.07.1320(B), using the 2040 Design Types that are assigned to such territory to determine the area's urban development value.

- B. New Urban Territory That Was Previously Outside of the Metro Boundary.

At the time such territory is brought within the Metro UGB, consistent with Title 11 of this functional plan, Metro Code Sections 3.07.1110 et seq., Metro shall prepare an inventory of regionally significant fish and wildlife habitat for such territory using the same methodology used by Metro to establish the Metro Inventory Map. Upon adoption of such inventory, Metro shall update its Metro Inventory Map to include such information. Based on the updated Metro Inventory Map, Metro shall prepare a Habitat Conservation Areas Map for such new territory, as described in Metro Code Section 3.07.1320(B), using the 2040 Design Types that are assigned to such territory to determine the area's urban development value.

- C. Metro recognizes that the assigned 2040 Design Types may change as planning for territory added to the Metro UGB progresses, and that the relevant Habitat Conservation Area designations will also change as a result of the 2040 Design Type changes during such planning.

(Ordinance No. 05-1077C, Sec. 5.)

Table 3.07-13a: Method for Identifying Habitat Conservation Areas ("HCA")

Fish & wildlife habitat classification	High Urban development value¹	Medium Urban development value²	Low Urban development value³	Other areas: Parks and Open Spaces, no design types outside UGB
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA / High HCA+ ⁴
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA / High HCA+ ⁴
Class A Upland Wildlife	No HCA	No HCA	No HCA	No HCA / High HCA ⁵ / High HCA+ ⁴
Class A Upland Wildlife	No HCA	No HCA	No HCA	No HCA / High HCA ⁵ / High HCA+ ⁴

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a city or county is determining whether to make an adjustment pursuant to Metro Code Section 3.07.1340(E)(5).

¹ Primary 2040 design types: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas

² Secondary 2040 design types: Main Streets, Station Communities, Other Industrial Areas, and Employment Centers

³ Tertiary 2040 design types: Inner and Outer Neighborhoods, Corridors

⁴ Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas even greater protection than that afforded to High Habitat Conservation Areas, as provided in Metro Code Section 3.07.1340(A)(5).

⁵ All Class A and B upland wildlife habitat in publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, shall be considered High HCAs.

**Table 3.07-13b: Method for Identifying Habitat Conservation Areas ("HCA")
in Future Metro Urban Growth Boundary Expansion Areas**

Fish & wildlife habitat classification	High Urban development value¹	Medium Urban development value²	Low Urban development value³	Other areas: Parks and Open Spaces, no design types outside UGB
Class I Riparian	Moderate HCA	High HCA	High HCA	High HCA / High HCA+ ⁴
Class II Riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA / High HCA+ ⁴
Class A Upland Wildlife	Low HCA	Moderate HCA	Moderate HCA	High HCA / High HCA ⁵ / High HCA+ ⁴
Class B Upland Wildlife	Low HCA	Low HCA	Moderate HCA	Moderate HCA / High HCA ⁵ / High HCA+ ⁴

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a city or county is determining whether to make an adjustment pursuant to Metro Code Section 3.07.1340(E)(5).

¹ Primary 2040 design types: Regional Centers, Central City, Town Centers, and Regionally Significant Industrial Areas

² Secondary 2040 design types: Main Streets, Station Communities, Other Industrial Areas, and Employment Centers

³ Tertiary 2040 design types: Inner and Outer Neighborhoods, Corridors

⁴ Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas even greater protection than that afforded to High Habitat Conservation Areas, as provided in Metro Code Section 3.07.1340(A)(5).

⁵ All Class A and B upland wildlife habitat in publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, shall be considered High HCAs.

Table 3.07-13c. Habitat-friendly Development Practices.

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts

1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.
2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.
3. Incorporate stormwater management in road right-of-ways.
4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.
5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.
6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.
7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.
8. Use multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems.
9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.
10. Apply a treatment train approach to provide multiple opportunities for storm water treatment and reduce the possibility of system failure.
11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.
12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.
13. Use shared driveways.
14. Reduce width of residential streets, depending on traffic and parking needs.
15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.
16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.
17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).
18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.
19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.
20. Allow narrow street right-of-ways through stream corridors whenever possible to reduce adverse impacts of transportation corridors.

Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage

1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.
2. Use bridge crossings rather than culverts wherever possible.
3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.
4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.
5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.

Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices

1. Use native plants throughout the development (not just in HCA).
2. Locate landscaping (required by other sections of the code) adjacent to HCA.
3. Reduce light-spill off into HCAs from development.
4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.

Table 3.07-13d: Locating Boundaries of Class I and II Riparian Areas

Distance from Water Feature	Development/Vegetation Status ¹			
	Developed areas not providing vegetative cover ²	Low structure vegetation or open soils ³	Woody vegetation (shrub and scattered forest canopy) ⁴	Forest Canopy (closed to open forest canopy) ⁵
Surface Streams				
0-50'	Class II ⁶	Class I ⁷	Class I	Class I
50'-100'		Class II ⁶	Class I	Class I
100'-150'		Class II if slope>25% ⁶	Class II if slope>25% ⁶	Class II ⁶
150'-200'		Class II if slope>25% ⁶	Class II if slope>25% ⁶	Class II if slope>25% ⁶
Wetlands (Wetland feature itself is a Class I Riparian Area)				
0-100'		Class II ⁶	Class I	Class I
100'-150'				Class II ⁶
Flood Areas				
Within 300' of river or surface stream		Class I	Class I	Class I
More than 300' from river or surface stream	⁸	Class II ⁶	Class II ⁶	Class I
0-100' from edge of flood area			Class II ^{6,9}	Class II ⁶

¹ Development/vegetative cover status is identified on the Metro Vegetative Cover Map (on file in the Metro Council office). The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged.

² "Developed areas not providing vegetative cover" are areas that lack sufficient vegetative cover to meet the one-acre minimum mapping unit for any type of vegetative cover.

³ "Low structure vegetation or open soils" means areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).

⁴ "Woody vegetation" means areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.

⁵ "Forest canopy" means areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.

⁶ Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office and copies available from the Metro Data Resource

Center), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

⁷ Except that areas within 50 feet of surface streams shall be Class II riparian areas if their vegetation status is "Low structure vegetation or open soils," and if they are high gradient streams. High gradient streams are identified on the Metro Vegetative Cover Map. If a property owner believes the gradient of a stream was incorrectly identified, then the property owner may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro's Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to this ordinance.

⁸ If development prior to the effective date of this title within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area shall also be considered a developed flood area and shall not be identified as habitat.

⁹ Only if within 300 feet of a river or surface stream.

Table 3.07-13e: Performance and Implementation Objectives and Indicators

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
<p>Performance Objective 1:</p> <p>Preserve and improve <u>streamside, wetland, and flood area habitat and connectivity.</u></p>	<p>1a. <u>10% increase in forest and other vegetated acres within 50 feet</u> of streams (on each side) and wetlands in each subwatershed over the next 10 years (2015).</p>	<p>1a. 2004 Baseline Condition (regional data):</p> <ul style="list-style-type: none"> • 64% vegetated • 14,000 vegetated acres 	<ul style="list-style-type: none"> • Percentage of acres within 50 feet of streams (on each side) and wetlands with any vegetation • Percentage of acres within 50 feet of streams (on each side) and wetlands with forest canopy • Percentage of acres between 50 and 150 feet of streams (on each side) and wetlands with any vegetation • Percentage of acres between 50 and 150 feet of streams (on each side) and wetlands with forest canopy • Number of acres of Class I and II Riparian Habitat • Percentage of flood area acres that are developed* <p>* "Developed" for purposes of this indicator means the methodology used in Metro's Fish and Wildlife Inventory to identify developed flood areas.</p>
	<p>10% increase:</p> <ul style="list-style-type: none"> • 70% vegetated • 1,400 acre increase in vegetation over 10 years 		
	<p>1b. <u>5% increase in forest and other vegetated acres within 50 to 150 feet of streams</u> (on each side) and wetlands in each subwatershed over the next 10 years (2015).</p>	<p>1b. 2004 Baseline Condition (regional data):</p> <ul style="list-style-type: none"> • 59% vegetated • 15,250 vegetated acres 	
	<p>5% increase:</p> <ul style="list-style-type: none"> • 62% vegetated • 760 acre increase in vegetation over 10 years 		
	<p>1c. No more than <u>10% increase in developed flood area acreage</u> in each subwatershed over the next 10 years (2015).</p>	<p>1c. 2004 Baseline Condition (regional data):</p> <ul style="list-style-type: none"> • 10% of all flood area acres are developed • 3,450 total acres of developed flood areas 	
	<p>10% increase:</p> <ul style="list-style-type: none"> • 3,800 total acres of developed flood areas 		

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
<p>Performance Objective 2:</p> <p>Preserve <u>large areas of contiguous habitat</u> and avoid fragmentation.</p>	<p>2a. <i>Preserve 75% of vacant Class A and B upland wildlife habitat in each subwatershed over the next 10 years (2015).</i></p>	<p>2a. 2004 Baseline Condition:</p> <ul style="list-style-type: none"> • 15,500 acres of vacant Class A and B upland wildlife habitat 	<ul style="list-style-type: none"> • Number of acres of Class A habitat • Number of acres of Class B habitat • Number of wildlife habitat patches that contain 30 acres or more of upland wildlife habitat
	<p>2b. Of the upland habitat preserved, <i>retain 80% of the number of patches 30 acres or larger</i> in each subwatershed over the next 10 years (2015).</p>	<p>75% retention:</p> <ul style="list-style-type: none"> • 11,600 acres of vacant Class A and B upland wildlife habitat remaining 	
		<p>2b. 2004 Baseline Condition:</p> <ul style="list-style-type: none"> • 23,400 acres of upland habitat in 133 patches that contain 30 acres or more of upland wildlife habitat 	
<p>Performance Objective 3:</p> <p>Preserve and improve <u>connectivity for wildlife</u> between riparian corridors and upland wildlife habitat.</p>	<p>3a. <i>Preserve 90% of forested wildlife habitat acres located within 300 feet of surface streams</i> in each subwatershed over the next 10 years (2015).</p>	<p>3a. 2004 Baseline Condition:</p> <ul style="list-style-type: none"> • 28,300 acres within 1,453 patches of forested wildlife habitat located within 300 feet of surface streams 	<ul style="list-style-type: none"> • Number and miles of all wildlife corridors • Corridor quality: % of habitat acres within corridors with a vegetative width of 200 ft • Acres of wildlife patches with a connectivity score of 3 or greater • Acres and number of forested wildlife habitat patches (forest canopy or wetland with a total combined size greater than 2 acres) within 300 feet of surface streams compared to acres of the patches located outside of 300 feet of surface streams.
		<p>90% retention:</p> <ul style="list-style-type: none"> • 25,500 acres of forested wildlife habitat located within 300 feet of surface streams 	

Performance Objectives	Targets	Targeted Condition Based on 2004 Metro Inventory	Example Indicators
Performance Objective 3 (continued):	3b. <i>Preserve 80% of non-forested wildlife habitat acres located within 300 feet of surface streams</i> in each subwatershed over the next 10 years (2015).	3b. 2004 Baseline Condition: 14,400 acres within 1,633 patches of non-forested wildlife habitat located within 300 feet of surface streams 80% retention: 11,500 acres of non-forested wildlife habitat located within 300 feet of surface streams	<ul style="list-style-type: none"> • Acres and number of non-forested wildlife patches (shrub or low structure/open soils with a total combined size greater than 2 acres) located within 300 feet of a surface streams.
Performance Objective 4: Preserve and improve <u>special habitats of concern</u> .	4a. <i>Preserve 95% of habitats of concern acres</i> in each subwatershed over the next 10 years (2015).	4a. 2004 Baseline Condition: <ul style="list-style-type: none"> • 33% of all habitat designated as HOCs • 26,700 total acres of HOCs 95% retention: <ul style="list-style-type: none"> • 25,400 total acres of HOCs 	<ul style="list-style-type: none"> • Number of acres of wetland • Number of acres of white oak woodland • Number of acres of bottomland hardwood forest • Number of acres of vegetated riverine islands • Number of acres of key connector habitat (list out HOC connectors)

Implementation Objectives	Example Indicators
<p>Implementation Objective A:</p> <p>Increase the use of <u>habitat-friendly development</u> throughout the region</p>	<ul style="list-style-type: none"> • Number of jurisdictions that allow or require LID • Number of jurisdictions providing LID incentives • Percentage of region in forest canopy • Percentage of impervious area • B-IBI (benthic index of biological integrity) scores
<p>Implementation Objective B:</p> <p>Increase <u>restoration and mitigation actions</u> to compensate of adverse effects of new and existing development on ecological function</p>	<ul style="list-style-type: none"> • Number of restoration projects in one year • Number of mitigation projects in one year • Acres and distribution by resource class of habitat inventory • Number of culverts that need improvement • Number of watersheds in region with adopted action plans

(Ordinance No. 05-1077C, Sec. 5.)