

Exhibit A:

Findings of Fact Report (as amended)

July 2022

Text amendments to the Zoning Code, which is an implementation tool of the Comprehensive Plan, must comply with the Comprehensive Plan. The 2035 Comprehensive Plan defines “comply” to mean that amendments must be evaluated against the Comprehensive Plan’s applicable goals and policies and on balance be equally or more supportive of the Comprehensive Plan as a whole than the existing language or designation. (Policy 1.10)

Text amendments to the zoning code also must be found to be consistent with Metro’s Urban Growth Management Functional Plan and the Statewide Planning Goals. The 2035 Comprehensive Plan defines “consistent with” as meaning that the subject meets the requirements of, satisfies, or adheres to the regulations, mandate, or plan listed in the goal or policy. In addition, the amendments must be consistent with the intent or purpose statement for the base zone, overlay zone, and plan district where the amendment is proposed, and any plan associated with the regulations. (33.835.040)

1. **Finding:** As detailed below, the City Council has identified and addressed all relevant and applicable goals and policies in this document.
2. **Finding:** Additionally, the Council has considered whether the amendments are consistent with the intent or purpose statement of the Employment and Industrial Zones (33.140) and the Description of Use Categories (33.920) that are directly amended by this ordinance.
3. **Finding:** These findings rely on, in part, the testimony, record, and findings of the two previous ordinances, except in responding to issues identified in the LUBA remand of *Columbia Pacific Building Trades Council et al v. City of Portland II* (LUBA Case No. 2020-009, October 20, 2020); considering new evidence and testimony.
4. **Finding:** The City Council has considered the public testimony on this matter and has weighed all applicable goals and policies has found that the Fossil Fuel Terminal Zoning amendments (the FFTZ amendments) on balance are equally or more supportive of the Comprehensive Plan as a whole and are consistent with Metro’s Urban Growth Management Functional Plan, the Statewide Planning Goals, and the applicable purpose statements of the Zoning Code.

Part I. Statewide Planning Goals

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the Statewide Planning Goals.

The Statewide Planning Goals that apply to Portland are:

- Goal 1 Citizen Involvement
- Goal 2 Land Use Planning
- Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces
- Goal 6 Air, Water and Land Resource Quality
- Goal 7 Areas Subject to Natural Hazards
- Goal 8 Recreational Needs
- Goal 9 Economic Development

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- Goal 10 Housing
- Goal 11 Public Facilities and Services
- Goal 12 Transportation
- Goal 13 Energy Conservation
- Goal 14 Urbanization
- Goal 15 Willamette River Greenway

There are approximately 560 acres of land both within Portland’s municipal boundaries and beyond the regional urban service boundary that can be classified as rural land. In 1991, as part of Ordinance 164517, the City Council took an exception to Goal 3 and 4, the agriculture and forestry goals. Because of the acknowledged exception, the following goals do not apply:

- Goal 3 Agricultural Lands
- Goal 4 Forest Lands

Other Statewide Planning Goals apply only within Oregon’s coastal zone. Since Portland is not within Oregon’s coastal zone, the following goals do not apply to this decision:

- Goal 16 Estuarine Resources
- Goal 17 Coastal Shorelands
- Goal 18 Beaches and Dunes
- Goal 19 Ocean Resources

Goal 1. Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

5. **Finding:** This re-adoption of the amendments is a continuation of the original legislative process that started in 2016. For the initial adoption, the City followed procedures for legislative amendments to the Zoning Code, which are found in 33.740 (Legislative Procedure). The preparation of these amendments provided numerous opportunities for public involvement, including:

Concept Phase. In 2016, prior to the initiation of the legislative project, BPS conducted four stakeholder focus groups meetings. These meetings included participants with a range of perspectives and experience, including community group representatives, fuel terminal representatives, environmental organizations, and business organizations. These meetings served as a forum for discussing issues and potential approaches, and to help inform project staff develop concepts. In addition to the stakeholder focus groups, BPS staff met with several fuel terminals to explain the proposal, answer questions, and discuss their individual concerns. These meetings were needed because antitrust regulations constrained discussion about certain topics, for example supply chains, in the presence of representatives from other fuel terminals.

Discussion Draft. On June 29, 2016, the Fossil Fuel Terminal Zoning Amendments Discussion Draft was published and posted on the Bureau website.

Proposed Draft. On August 12, 2016, the Fossil Fuel Terminal Zoning *Proposed Draft* was published in preparation for the Planning and Sustainability Commission (PSC) review and recommendation. In support of this process, the BPS website had a project page dedicated to this project, an email address for submitting testimony. As part of the Proposed Draft publication and legislative process requirements, the following legal notices were also sent:

- Form 1 35-day Notice
Sent to the Department of Land Conservation and Development (DLCD)

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- Legislative Notice
Sent to interested parties, recognized organizations, affected bureaus, TriMet, Metro and ODOT and published in the Daily Journal of Commerce
- Measure 56 Notice
Required by Ballot Measure 56, this mailed notice was sent to property owners with industrial or employment base zoning.

The PSC held a public hearing on September 13, 2016. On October 11, 2016, the Planning and Sustainability Commission voted to recommend the Fossil Fuel Terminal Zoning Amendments to City Council, including PSC-recommended modifications to the Proposed Draft. All PSC meetings were streamed live and available for viewing on the Bureau website.

Recommended Draft. On October 24, 2016 the Fossil Fuel Terminal Zoning Amendments *Recommended Draft* was published to present the PSC recommendations to City Council. On October 25, 2016, notice of the City Council hearing on the Fossil Fuel Terminal Zoning Amendments was mailed. The City Council held public hearings on November 10 and 16, 2016, to receive testimony on the *Recommended Draft*. On December 8, 2016, the City Council voted to adopt the Fossil Fuel Terminal Zoning Amendments.

Ordinance No. 188142 was appealed to the Oregon Land Use Board of Appeals (LUBA). LUBA reversed the City's decision with a number of assignments of error in *Columbia Pacific Building Trades Council et al v. City of Portland*, LUBA Case No. 2017-001, July 19, 2017. LUBA's decision was appealed to the Oregon Court of Appeals, LUBA's decision was affirmed in part and reversed in part in *Columbia Pacific Building Trades Council v. City of Portland*, 289 Or App 739 (2018). The Oregon Court of Appeals decision was appealed to the Oregon Supreme Court, which denied review, 363 Or 390 (2018). On October 5, 2018, LUBA remanded *Columbia Pacific Building Trades Council et al v. City of Portland*, LUBA Case No. 2017-001.

On December 18, 2019, the City adopted Ordinance No. 189807 to readopt the Fossil Fuel Terminal Zoning Amendments to address issues raised in LUBA's remand order. The Zoning Code amendments were similar to the changes adopted in 2016, except for a few minor adjustments to reconcile the Fossil Fuel Terminal Zoning Amendments with subsequent changes to the Zoning Code that were adopted since 2016. Ordinance No. 189807 was appealed to LUBA. LUBA issued a decision remanding the ordinance for additional findings in *Columbia Pacific Building Trades Council et al v. City of Portland II*, (LUBA Case No. 2020-009, October 20, 2020).

The City of Portland does not have adopted code or policies to establish a decision-making process for a remand decision. The Council found that the re-adoption of the proposed amendments was a continuation of the initial legislative proceeding. Accordingly, the City Council determined that it was appropriate to bring the ordinance directly back to City Council, given the extensive public process that happened as part of the initial adoption of the ordinance in 2016, the City Council hearing that took place in 2019, and that no substantive changes to the Zoning Code are required to address the remand issues.

The Council continues to find that this re-adoption of the proposed amendments is a continuation of the initial legislative proceeding. Accordingly, the City Council determined that it was appropriate to bring the ordinance directly back to City Council, given the extensive public process that happened as part of the initial adoption of the ordinance in 2016 and the re-adoption in 2019 and that no substantive changes to the Zoning Code are required to address the remand issues.

Prior to filing the remand ordinance, the Bureau of Planning and Sustainability held a meeting with

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the fossil fuel terminal property owners and the parties to the previous appeals to discuss the proposed amendments. The engagement meeting was held on May 20, 2022. Subsequently, City staff held discussions with their representatives prior to the City filing the ordinance on June 9. During these discussions, the representatives provided potential revisions to the code amendments, which were attached to the Portland Business Alliance written testimony on June 30. The testimony did not include any justification or explanation as to why the changes are needed or what specific issues it addresses. Three of the proposed changes were included in proposed Amendment #1, which was published on June 9 as part of the ordinance exhibits. Council does not consider Amendment #1 to be a substantive change that would require a return to the Planning Commission. Rather, it is a clarifying amendment that does not materially change the purpose of the ordinance – to establish a Bulk Fossil Fuel Terminal use category; prohibit new terminals; and limit the expansion of fossil fuel storage tank capacity at existing terminals—and responds to testimony received.

Notification of the June 30, 2022, City Council public hearing on the remand of Ordinance No. 188142 was sent to the City’s legislative notice list, the fossil fuel terminal property owners, and the parties to the appeal.

On June 30, 2022, the Portland City Council held a public hearing and received testimony on the re-adoption of the fossil fuel terminal zoning restrictions. The written record was left open for additional testimony until July 7, 2022. The evidentiary record was compiled and available to the public at <https://efiles.portlandoregon.gov/record/15184300>. As this is a continuation of the initial and the second legislative proceedings, the evidentiary record from the prior hearings are incorporated by reference and supplemented by additional evidence provided by BPS staff, the testimony Council received at the June 30 hearing and the written testimony received by July 7.

Fourteen people provided oral testimony, both in-person and virtually, at the June 30 public hearing. An additional 117 pieces of written testimony were submitted by July 7. In general, most of the testimony was in support of re-adopting the ordinance. Specific issues raised in the testimony are addressed under the relevant, applicable 2035 Comprehensive Plan goals and polices below.

As noted below in these findings, the FFTZ amendments are consistent with the goals and policies of Chapter 2 (Community Involvement) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. The events and outreach strategies summarized here demonstrate consistency with the requirements of Statewide Planning Goal 1.

Goal 2. Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

6. **Finding:** The amendments support Goal 2 because, as demonstrated by these findings and detailed in this ordinance, the FFTZ amendments were developed consistent with the Statewide Planning Goals, the Metro Urban Growth Management Functional Plan, and 2035 Comprehensive Plan.
7. **Finding:** On May 26, 2022, BPS filed a 35-day DLCD notice and on June 10, 2022, the City sent a legislative notice, to notify other government agencies and interested parties that the City would be reconsidering the remanded ordinance. No Oregon government agencies submitted testimony. In the initial adoption of the ordinance, the City received testimony from the Port of Portland. The City responded to the issues raised by the Port by amending the code to include an exception for the storage of fossil fuels for exclusive use at an airport, surface passenger terminal, marine, truck or air

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freight terminal, drydock, ship or barge servicing facility, rail yard, or as part of a fleet vehicle servicing facility.

- 8. Finding:** The Idaho Governor's Office of Energy and Mineral Resources, along with others from Idaho, submitted testimony that claims the proposed ordinance would seriously harm consumers in Oregon, Idaho and Washington by decreasing the availability of fuel in the future. The testimony urges the City to consider the entire Pacific Northwest region, and the states and communities that rely on the existing fuel terminal infrastructure. The testimony claims that Idaho is growing fast, expects increased fuel demand, and as a result will need increased fuel infrastructure in Portland.

Eastern Oregon is included in the original BPS analysis of liquid petroleum demand, which utilized State of Oregon data. In response to the testimony, BPS prepared a memo to analyze Idaho (and Washington) petroleum demand. BPS documented that the Idaho Office of Energy Resources' Idaho Energy Primer stated that Idaho has a relatively small transportation fuel market, and only a small portion of Idaho's petroleum transportation fuels is transported through Portland. Idaho is served by two pipelines in addition to barges on the Columbia River/Snake River ports. Petroleum products that are barged are supplied via the Olympic Pipeline and tankers/barges to Portland and Vancouver, where they are transferred to inland barges that bring the products upriver. US EIA SEDS data shows that Idaho's petroleum consumption grew at a compound annual growth rate of 0.7 percent from 2000-2019, whereas Oregon's consumption rate declined by -0.4 percent and Washington's rate declined by -0.05 percent.

Council finds there are multiple options available to meet future demand in Idaho, including other Lower Columbia River ports, pipeline terminals in Pasco and Spokane, in addition to the pipeline terminals in Boise and Pocatello that connect to refineries in Salt Lake City, Utah. BPS analyzed a speculative future scenario where all of the future growth in fuel demand for Idaho needs to be supplied by Portland terminals. The 2022 BPS Regional Demand for Liquid Fossil Fuels memo documented an expected surplus capacity in Oregon based on future total petroleum consumption being less than the historic peak consumption in addition to exceptions for additional storage tank capacity for jet fuel and renewable fuels.

In Washington, total petroleum consumption is forecasted to exceed historic peak consumption. However, the US EIA data is at a statewide level and it is not possible to calculate the portion of the future growth to southwest or eastern Washington that might be dependent on FFTs in Portland. Also, 87 percent of the forecasted growth in petroleum demand is jet fuel, for which additional storage tank capacity is allowed under an exception. Also, as explained above, renewable fuels are a component of the US EIA future forecast and therefore are part of the growth in the petroleum consumption, for which additional storage tank capacity is allowed under an exception. Finally, there are other Lower Columbia River ports and pipeline terminals in Spokane and Pasco that could serve as an alternative source to Portland to meet any remaining unmet demand in Washington.

The BPS analysis shows that the forecasted decrease in gasoline consumption in Oregon and Washington (-0.118 quadrillion Btu per year) could provide the needed capacity to meet the growing demand for gasoline in Idaho (0.027 quadrillion Btu per year). Further, the forecasted flat demand in distillate fuel oil in Oregon and Washington and marginal growth in Idaho (0.002 quadrillion Btu per year) does not account for the increasing renewable content in distillate fuel oil (see Oregon Clean Fuels program) that also could free up additional fossil fuel capacity. The forecasted growth in Idaho (0.002 quadrillion Btu per year) is only two percent of the total distillate fuel oil consumption in Oregon – which again, the US EIA data includes a portion that is renewable distillate fuel oil, which is expected to increase under recent trends and policies in Oregon and, for

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which there is an exception to add additional storage tank capacity to meet the increased demand for renewables.

The Idaho Governor's Office of Energy and Mineral Resources claims that the ordinance would prevent the Pacific Northwest region from looking to Portland for fuel in times of emergency. This argument is undeveloped and does not explain how limits on expansion of fossil fuel storage tanks in Portland would hinder emergency response. The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, nor destination of the fuel. In times of emergency, there is nothing the regulations that would prevent Portland terminals from serving the region. In terms of additional capacity to prepare for an emergency, the 2013 Oregon Resilience Plan included a recommendation to form a public-private partnership with the objective of reducing the state's vulnerability to seismic events by evaluating the diversification of locations for the storage of liquid fuels and identification of new liquid fuel energy corridors, which indicates a need to not become further dependent on the high-risk location that is the Portland Critical Energy Infrastructure (CEI) Hub.

The City Council acknowledges that petroleum consumptions in Idaho is expected to increase. However, the increased demand is not solely dependent on supplies from Portland. There are multiple options available to meet future demand in the region, including other Lower Columbia River ports and pipeline terminals in Pasco and Spokane. The Fossil Fuel Terminal Zoning amendments limit new fossil fuel storage tank capacity in Portland. The zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination/consumer of those products.

Vancouver, which has an Olympic Pipeline distribution facility and marine terminal, could supply additional petroleum products to the Columbia River/Snake River ports. The City Council notes the testimony submitted by Will Rasmussen, Miller Nash LLP, that appears to be presentation slides and draft zoning code amendments for a July 12, 2022, City of Vancouver, WA, Planning Commission Workshop in which the City of Vancouver is considering limits on fossil fuel terminals. The Vancouver proposal is different from the Portland ordinance – different definitions, different permitting processes, different limits on new or expanded facilities. It is also at the beginning of the legislative process, so it is not possible to determine the potential impact of any final ordinance that the City of Vancouver might, or might not, adopt.

Accordingly, based on the totality of the record, Council finds that this combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho's fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

9. **Finding:** The City Council's decision is based on the findings in this document, which are based on the factual evidence presented to the Planning and Sustainability Commission and City Council as part of the initial adoption in 2016 as well as the evidence presented as part of the reconsideration of this ordinance in 2019 and the additional evidence presented as part of the 2022 reconsideration that is incorporated into the record that provides the adequate factual base for this decision.
10. **Finding:** In *Columbia Pacific Building Trades Council v. City of Portland II*, LUBA Case No. 2020-009, LUBA remanded the City's decision to provide findings and evidence addressing future natural gas

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needs in responding to Comprehensive Plan Policy 6.48; provide findings responding to Comprehensive Plan Policy 6.7 which states the city will maintain and strengthen its comparative economic advantages; provide evidence that future fuel demand will not result in a change in transportation mode in a way that would impact the multimodal system (Goal 9G, Policy 9.30, 9.31 and 9.32); and provide findings addressing GLISP Policy 2, Objective 1. The Council has considered all of the evidence in the record and determines there is an adequate factual base for the decision.

Goal 5. Open Space, Scenic and Historic Areas, and Natural Resources. To protect natural resources and conserve scenic and historic areas and open spaces.

11. Finding:

1. **Open Spaces.** The FFTZ amendments do not include Comprehensive Plan map or Zoning Map changes. There are no designated open spaces (OS map designations) on any of the existing fossil fuel terminals (FFT's).
2. **Scenic Resources.** In 1991, the City adopted the Scenic Resources Protection Plan and applied a scenic (s) overlay zone to protect significant scenic resources. Two of the FFT's (BP West Coast and NuStar/Shore Terminals) are in a (s) overlay zone. The scenic resource protections (Chapter 33.480) are not amended by this ordinance and the height limits associated with the (s) overlay zone will continue to apply to the two FFT sites.
3. **Historic Resources.** Historic resources are located throughout the City, but very few are in the industrial zones. There are no designated Historic Landmarks or Districts in or immediately adjacent to any of the existing FFT's. Existing historic resource protections are not being amended (Chapter 33.445).
4. **Natural Resources.** There are significant natural resources in industrial zones, especially along on the Willamette and Columbia Rivers. Six of the existing FFT's have frontage on the Willamette River with designated natural resources that are protected by the Greenway Overlay Zone (Chapters 33.440), which is not amended by this ordinance.
5. **Generally.** As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 4 (Design and Development, including Historic and Cultural Resources) and Chapter 7 (Environment and Watershed Health) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, FFTZ amendments are consistent with the requirements of Statewide Planning Goal 5.

Goal 6. Air, Water, and Land Resource Quality. To maintain and improve the quality of the air, water and land resources of the state.

12. **Finding:** Goal 6 requires the maintenance and improvement of the quality of air, water, and land resources. The State has not adopted administrative rules for complying with Statewide Planning Goal 6. The City complies with federal and state environmental standards and statutes, including the federal Clean Water Act and Clean Air Act. Existing City regulations including Title 10 (Erosion Control) and the Stormwater Management Manual will remain in effect and are applicable to future development. As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 7 (Environment and Watershed Health) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, FFTZ amendments are consistent with the requirements of Statewide Planning Goal 6.

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Goal 7. Areas Subject to Natural Disasters and Hazards. To protect people and property from natural hazards.

13. Finding: The State has not adopted administrative rules for complying with Statewide Planning Goal 7. Most of Portland's employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake. According to the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report, a magnitude 8 or 9 Cascadia Subduction Zone earthquake would impact the CEI Hub with: ground shaking; liquefaction (soil behavior phenomenon in which a saturated sand softens and loses strength during strong earthquake ground shaking); lateral spreading (where surficial soil permanently moves laterally due to earthquake shaking); landslides; co-seismic settlement (where the ground surface is permanently lowered due to seismic shaking); and bearing capacity failures (when the foundation soil cannot support the structure it is intended to support).

According to the 2012 DOGAMI report, liquefaction and lateral spreading hazards are of primary concern to the fossil fuel terminals. As described in the 2012 Oregon State Energy Assurance Plan, this Critical Energy Infrastructure Hub (CEI Hub) sits on top of very poor soils that are highly susceptible to earthquake-induced permanent ground deformation. The CEI Hub is adjacent to the Willamette River and has extensive deposits of highly liquefiable soils. These soils (made of sands, silts, gravels and clays) have been naturally deposited by river activity as well as been created from man-made activities, such as hydraulically placed material from river dredging or debris placed as landfill.

In 2016, the City Council adopt Resolution #37242 to adopt the 2016 Natural Hazard Mitigation Plan, which identified the Critical Energy Infrastructure Hub as one of two of the City's most serious vulnerabilities to natural hazards. The 2016 Natural Hazard Mitigation Plan includes Appendix D. Critical Energy Infrastructure Hub Study that is included in the record for this decision.

The FFTs have significant seismic risks because most of the tanks have been constructed without any or only limited seismic design criteria on soils with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub . Continuing to allow the increase in fossil fuel storage in a high-risk area increases the risk to the surrounding industrial district and the Willamette River. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can make Portland more resilient.

The Idaho Governor's Office of Energy and Mineral Resources testimony claims that the ordinance would prevent the Pacific Northwest region from looking to Portland for fuel in times of emergency. This argument is undeveloped and does not explain how limits on expansion of fossil fuel storage tanks in Portland would hinder emergency response. Further, the 2013 Oregon Resilience Plan included a recommendation to form a public-private partnership with the objective of reducing the state's vulnerability to seismic events by evaluating the diversification of locations for the storage of liquid fuels and identification of new liquid fuel energy corridors, which indicates

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a need to not become further dependent on the high-risk location that is the Portland Critical Energy Infrastructure (CEI) Hub.

Joint testimony by Portland Business Alliance, Working Waterfront Coalition, Oregon Business and Industry, and Columbia Pacific Building Trades Council (herein after referred to as the PBA coalition) claims, without supporting evidence, that the ordinance will “hinder” the City’s safety goals. The City Council interprets the word “hinder” to mean to create difficulties, resulting in delay or obstruction. The testimony does not elaborate or provide evidence as to how the FFTZ amendments will hinder the City’s safety goals. The purpose of the ordinance is to begin to proactively address the safety risks due to earthquakes by not making the problem worse by continuing to allow the unlimited expansion of fossil fuel storage tank capacity. As explained above, the FFTZ amendments designate the existing FFTs as a limited use and allow for the replacement and reconfiguration of existing fossil fuel storage tank capacity in order to facilitate seismic and safety upgrades. Finally, the ordinance does not restrict improvements to other types of facilities at the existing FFTs, which can make seismic and safety improvements to the transloading and other multimodal facilities.

Testimony by the Western State Petroleum Association (WSPA) claims the ordinance will discourage seismic and safety improvements that typically occur with new infrastructure improvements. Council finds that the existing terminals are designated as a limited use to allow them to continue to operate to allow for safety and seismic upgrades. Specifically, terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks as a way to facilitate replacement and seismic upgrades. Also, since the adoption of the 2016 ordinance and at various times during the subsequent appeals process, there have been opportunities, including since October 30, 2020, for the existing terminals to undertake fossil fuel storage tank improvements and expansions to improve safety. To date, none of the terminals have applied to build new, safer fossil fuel tanks.

As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 4 (Design and Development) and Chapter 7 (Environment and Watershed Health) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, FFTZ amendments are consistent with the requirements of Statewide Planning Goal 7.

Goal 8. Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

14. Finding: Goal 8 focuses on the provision of destination resorts. However, it does impose a general obligation on the City to plan for meeting its residents’ recreational needs: “(1) in coordination with private enterprise; (2) in appropriate proportions; and (3) in such quantity, quality and locations as is consistent with the availability of the resources to meet such requirements.”

Goal 8 provides that “Recreation Needs -- refers to existing and future demand by citizens and visitors for recreations areas, facilities and opportunities.” Goal 8 also provides that “Recreation Areas, Facilities and Opportunities -- provide for human development and enrichment, and include but are not limited to: open space and scenic landscapes; recreational lands; history, archaeology and natural science resources; scenic roads and travelers; sports and cultural events; camping, picnicking and recreational lodging; tourist facilities and accommodations; trails; waterway use facilities; hunting; angling; winter sports; mineral resources; active and passive games and activities.”

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The City of Portland has robust and diverse system of parks, recreation areas and open spaces. However, there are no parks adjacent to the existing FFTs. Further, the ordinance limits development for a single type of use, which will reduce negative impacts to parks that are near industrial areas, especially Forest Park, which is located across Highway 30 from the Northwest Industrial District where the existing FFTs are located.

As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 8 (Public Facilities and Services) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, FFTZ amendments are consistent with the requirements of Statewide Planning Goal 8.

Goal 9. Economic Development. To provide adequate opportunities throughout the state for a variety of economic activities vital to health, welfare, and prosperity of Oregon’s citizens.

15. Finding: Goal 9 requires cities to consider economic activities vital to the health, welfare, and prosperity of Oregon's citizens. Comprehensive plans for urban areas are required to include, among other things: an analysis of economic patterns, potentialities, strengths, and deficiencies; policies concerning economic development; and land use maps that provide for at least an adequate supply of sites for a variety of industrial and commercial uses.

The 2035 Comprehensive Plan demonstrates compliance with Goal 9. Land needs for a variety of industrial and commercial uses are identified in the Economic Opportunities Analysis (EOA), which was adopted (Ordinance 187831) and acknowledged by LCDC on April 25, 2017.

The City’s acknowledged EOA analyzed and demonstrated adequate growth capacity for a diverse range of employment uses, which are organized into different geographies that represent business district types with a distinct mix of business sectors and building types. In each of the geographies, the City analyzed the future land demand for employment growth and the developable land supply to accommodate that growth. The EOA analyzed future demand for industrial land in four different broad geographies: Harbor Access Lands (which includes all or a portion of nine of the existing FFTs); Harbor and Airport Districts (which includes all or a portion of five of the existing FFTs); Columbia East (no existing FFTs) and Dispersed Employment (no existing FFTs). The future demand for industrial land is primarily based on generalized employment growth for the mix of businesses in these geographies without specific demand for FFT capacity. The EOA future land demand also includes an estimate for marine terminals based on future cargo/commodity flow forecasts. FFTs handle “liquid bulks”, which are primarily petroleum products. Estimates of existing cargo capacity are difficult to obtain, particularly for privately owned marine terminals, like the fossil fuel terminals. ECONorthwest (2012) prepared an estimate based on historical data for total cargo volumes for the years 2000 and 2010. For private marine terminals, the assumption was that recent historical peaks are a reasonable estimate of maximum existing capacity. Based on that capacity estimate, ECONorthwest found that no additional land is needed for new liquid bulk terminals in Portland through the year 2040. The EOA demand analysis did not distinguish between types of liquid bulks, such as specific land needs associated with expanding jet fuels or non-fossil mixing fuels. Instead, the EOA analysis addressed overall liquid bulk demand and capacity, aggregating the increase of some bulk types and reduction in others.

The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not reduce the employment land base and continue to support a strong and diverse economy.

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In *Columbia Pacific Building Trades Council v. City of Portland II*, LUBA Case No. 2020-009, LUBA remanded the City's decision to provide findings and evidence to consider the impact of the amendments on the future supply and demand for natural gas under 2035 Comprehensive Plan Policy 6.48. In addition, LUBA remanded the decision to provide additional findings for 2035 Comprehensive Plan Policy 6.7, which provides direction to maintain and strengthen the city's comparative economic advantages. These issues are address under the 2035 Comprehensive Plan findings for policies 6.7 and 6.48, respectively.

As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 6 (Economic Development) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, FFTZ amendments are consistent with the requirements of Statewide Planning Goal 9.

Goal 10. Housing. To provide for the housing needs of citizens of the state.

- 16. Finding:** Goal 10 specifies that each city must plan for and accommodate needed housing types. As used in ORS 197.307 "needed housing" means all housing on land zoned for residential use or mixed residential and commercial use that is determined to meet the need shown for housing within an urban growth boundary at price ranges and rent levels that are affordable to households within the county with a variety of incomes, including but not limited to households with low incomes, very low incomes and extremely low incomes, and includes attached and detached single-family housing and multiple family housing for both owner and renter occupancy.

Goal 10 requires each city to inventory its buildable residential lands, forecast future needs, and zone enough buildable land to meet those needs. The FFTZ amendments do not include comprehensive plan map amendments, and, therefore, do not affect the residential development capacity of Portland.

As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 5 (Housing) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, FFTZ amendments are consistent with the requirements of Statewide Planning Goal 10.

Goal 11. Public Facilities and Services. To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

- 17. Finding:** Statewide Planning Goal 11, Public Facilities, requires cities to adopt and update public facilities plans. Public facilities plans ensure that urban development is guided and supported by types and levels of water, sewer and transportation facilities appropriate for the needs and requirements of the urban areas to be serviced, and that those facilities and services are provided in a timely, orderly and efficient arrangement.

The adopted 2035 Comprehensive Plan includes the Citywide Systems Plan (CSP), which was adopted (Ordinance 185657) and acknowledged by LCDC on April 25, 2017. The CSP includes the Public Facilities Plan with information on current and future transportation, water, sanitary sewer, and stormwater infrastructure needs and projects, consistent with the requirements of Statewide Planning Goal 11.

The FFTZ amendments do not include comprehensive plan map amendments and do not amend the CSP. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland's industrial districts. The remaining industrial uses continue to be regulated under

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the current development regulations and do not intensify the development capacity. Therefore, these changes will not adversely impact the City's public facilities.

As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 8 (Public Facilities and Services) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, FFTZ amendments are consistent with the requirements of Statewide Planning Goal 11.

Goal 12. Transportation. To provide and encourage a safe, convenient and economic transportation system.

18. Finding: Goal 12 is "to provide and encourage a safe, convenient and economic transportation system."

The FFTZ amendments maintains Portland's role as a multimodal freight hub with enhanced freight access because it does not amend the City's adopted Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the industrial areas where the FFTs are located. Also, the ordinance only restricts new fossil fuel storage tank capacity and does not restrict transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system.

Goal 12 requires local governments to adopt transportation plans. The adopted 2035 Comprehensive Plan includes the Transportation System Plan (TSP), which was adopted in three phases (Ordinance 187832, 188177, and 188957). Phase 1 and 2 was submitted as part Task Four of Periodic Review; and both were approved by LCDC Order 18 – WKTSK – 001897 on August 8, 2018. Phase 3 of the Transportation System Plan was adopted as a post-acknowledgement plan amendment by Ordinance No. 188957, became effective on June 23, 2018. The FFTZ amendments do not amend the TSP.

OR 660-012-0060 (1) requires: If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.
 - (A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

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- (C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

The FFTZ amendments do not change the functional classification of any existing or proposed transportation facility, nor do they change the standards implementing a functional classification system. Therefore, the amendments do not have a significant effect under (a) or (b).

The FFTZ amendments limit one type of use allowed in industrial areas. The remaining industrial uses continue to be regulated under the current development regulations and do not intensify the development capacity. Therefore, the amendments do not have a significant effect under (c).

Portland's Air, Rail, Water Pipeline Plan (ARWP) is adopted into the acknowledged TSP in compliance with OAR 660-012-0020(2)(e). The ARWP includes information on the location and extent of existing or planned facilities, as specified by the rule. The ARWP does not have functional classification or performance standards, and the rule does not require them.

In *Columbia Pacific Building Trades Council v. City of Portland II*, LUBA Case No. 2020-009, LUBA remanded the City's decision to provide findings and evidence that future fuel demand will not result in a change in transportation mode in a way that would impact the multimodal system. This issue is address under the 2035 Comprehensive Plan findings for policies 9.30, 9.31 and 9.32.

WSPA testimony claims the ordinance will prohibit new terminals, new intermodal links and new fuel tanks in Portland, and will likely result in increased fuel transport by truck, which will clog roads. The City Council understands the term "clog" to mean an increase in congestion in the transportation system, specifically the roads. First, this statement is inaccurate with respect to the limits in the FFTZ amendments. The amendments only prohibit new bulk fossil fuel terminals with more than 2 million gallons of liquid fossil fuel storage capacity. New fuel terminals with less than 2 million gallons of fossil fuel storage (and unrestricted amounts of jet fuel and renewable fuel) are considered a Warehouse and Freight Movement use and continue to be allowed in Portland's employment and industrial zones (PCC 33.140, Table 140-1). The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. The claim that the limits will result in increased transport of fuel via truck that will impact the multimodal transportation system with increased congestion are the same as the arguments made in the 2019 legislative process and is one of issues identified in the LUBA remand, which is addressed in more detail under the 2035 Comprehensive Plan findings for policies 9.30, 9.31 and 9.32. Council notes that the WSPA testimony does not address those findings or provide conflicting evidence that would cause Council to reject that analysis.

Furthermore, as noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 9 (Transportation) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, the FFTZ amendments are consistent with the requirements of Statewide Planning Goal 12.

Goal 13. Energy Conservation. To conserve energy.

- 19. Finding:** The State has not adopted specific rules for complying with Statewide Planning Goal 13. Goal 13 generally requires that land use plans contribute to energy conservation.

The guidelines refer to land use planning to minimize the depletion of non-renewable sources of energy; to re-use land; and increase density along high-capacity transportation corridors. The FFTZ

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amendments do not include map changes, nor do they allow for new incompatible land uses that would change the City's development pattern that will have a material impact on energy efficiency. The City has a few provisions in the Zoning Code to support energy conservation, including energy efficiency or renewable energy improvements do not trigger nonconforming upgrade improvements (PCC 33.258); development standards for small, urban-wind turbines (PCC 33.299); and a requirement that new development in the Central City Plan District must register for green building certification (PCC 33.510). The FFTZ amendments do not amend any of these implementing provisions. Therefore, the FFTZ amendments are consistent with the requirements of Statewide Planning Goal 13.

Goal 14. Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

20. Finding: Metro is responsible for Goal 14 compliance on behalf of Portland and other cities within the metropolitan region. Metro has adopted an Urban Growth Management Functional Plan and compliance with this plan by constituent cities assures compliance with Goal 14, which is discussed in Part II of this document and those findings are incorporated by reference.

As discussed above under Goal 9, the FFTZ amendments will not change the employment development capacity inside the urban growth boundary and the City will continue to have adequate capacity to accommodate its allocated forecasted growth. Therefore, FFTZ amendments are consistent with the requirements of Statewide Land Use Goal 14.

Goal 15. Willamette River Greenway. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

21. Finding: Six of the 11 existing FFTs have frontage on the Willamette River. However, these parcels will continue to be subject to development regulations for flood plains or natural resources. Furthermore, no changes to existing protections afforded through the greenway overlay zones are proposed.

6. Therefore, FFTZ amendments are consistent with the requirements of Statewide Land Use Goal 15 because they do not change the protections to affected lands within the Willamette River Greenway Overlay Zone.

Part II. Metro

Under ORS 268.380 and its Charter, Metro has the authority to adopt regional plans and require city and county comprehensive plans to comply with regional plan. Metro adopted the Urban Growth Management Functional Plan and the Regional Transportation Functional Plan under this authority.

Urban Growth Management Functional Plan

In its June 2011 update to its 2010 compliance report Metro found, "The City of Portland is in compliance with all Urban Growth Management Functional Plan requirements in effect on December 15, 2010, except for Title 13, Nature in Neighborhoods." On January 16, 2013 the City received a letter from Metro stating that Portland had achieved compliance with Title 13.

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Title 1. Housing Capacity. The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. Title 1 requires each city and county to maintain or increase its housing capacity, especially in centers, corridors, main streets, and station communities, except as provided in section 3.07.120.

22. Finding: The FFTZ amendments do not reduce housing potential in any part of the City because the amendments affect a use of industrial land and do not change the designation of residential lands.

Therefore, the FFTZ amendments are consistent with the requirements of Title 1.

Title 2. Regional Parking Policy. (repealed in 1997)

Title 3. Water Quality and Flood Management. To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

23. Finding: Title 3 calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. Title 3 establishes performance standards for 1) flood management; 2) erosion and sediment control; and 3) water quality. The City has adopted overlay zones and land use regulations, including Title 10 Erosion Control and the balanced cut-and-fill standards in Title 24 Building Regulations, that, in the June 2011 update to its 2010 compliance report, Metro found sufficient to comply with Title 3. This ordinance does not change any of these overlays or regulations.

FFTZs are located in the 100-year floodplain. In the Zoning Code, the City of Portland’s Title 3 program is implemented primarily through the greenway overlay zones, which are unchanged by these amendments and will ensure any new development will be done in a way to protect people and property and the functions and values of the floodplain.

Title 4. Industrial and Other Employment Areas. The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of “clustering” to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region’s transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

24. Finding: The purpose of Title 4 is to maintain a regional supply of existing industrial and employment land by limiting competing uses for this land. Metro has not adopted a Statewide Planning Goal 9 economic opportunities analysis for the region, so Title 4 is not based on an assessment of the land needed for various employment types, nor do the Title 4 maps necessarily depict lands most suitable to accommodate future job growth. Rather, Title 4 seeks to protect the manufacturing, warehousing, and distribution of goods within three types of mapped areas by limiting competing uses. These three areas are Regionally Significant Industrial Areas (RSIAs), Industrial Areas, and Employment Areas.

The existing FFTZs are located in the northwest industrial district, which is a designated RSIA. The RSIA regulations do not include special provisions for FFTZs. The other RSIAs in Portland do not have

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existing FFTs and new FFTs are prohibited. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, the FFTZ amendments are consistent with the requirements of Metro Title 4.

Title 5. Neighboring Cities (repealed 1997)

Title 6. Centers, Corridors, Station Communities and Main Streets. The Regional Framework Plan identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

25. Finding: Title 6 establishes eligibility criteria for certain regional investments, and the use of more flexible trip generation assumptions when evaluating transportation impacts. Title 6 also contains aspirational activity level targets for different Metro 2040 place types. This title is incentive-based, so these findings simply serve to document intent. There are no specific mandatory compliance standards in Title 6 that apply to this ordinance.

The existing FFTs are not located in designated Title 6 areas, therefore this title does not apply.

Title 7. Housing Choice. The Regional Framework Plan calls for establishment of voluntary affordable housing production goals to be adopted by local governments and assistance from local governments on reports on progress towards increasing the supply of affordable housing. It is the intent of Title 7 to implement these policies of the Regional Framework Plan.

26. Finding: Title 7 addresses housing choice. Metro adopted voluntary affordable housing goals for each city and county in the region for the years 2001 to 2006, but never updated them. Title 7 does not apply. The FFTZ amendments change the City's industrial zones and do not impact the City of Portland's residential development capacity or affordable housing programs.

Title 8. Compliance Procedures. Title 8 addresses compliance procedures and establishes a process for ensuring city or county compliance with requirements of the Urban Growth Management Functional Plan. A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to METRO at least 35 days prior to the first evidentiary hearing on the amendment.

27. Finding: On May 26, 2022, BPS filed a 35-day DLCD notice and on June 10, 2022, the City sent a legislative notice, to notify other government agencies, including Metro, that the City would be reconsidering the remanded ordinance. Metro was provided with the 35-day DLCD notice and the City's standard legislative notice. Title 8 also requires the City to provide findings of compliance with the *Urban Growth Management Functional Plan*, as described here. All applicable requirements of Title 8 have been met.

Title 9. Performance Measures. (repealed in 2010)

Title 10. Functional Plan Definitions. Title 10 contains definitions. When 2035 Comprehensive Plan uses a term found in Title 10 either the term has the same meaning found in Title 10, or the difference is explained.

28. Finding: The FFTZ amendments do not change any definitions in the 2035 Comprehensive Plan that are also found in Title 10. All applicable requirements of Title 10 have been met.

Title 11. Planning for New Urban Areas. (not directly applicable)

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Title 12. Protection of Residential Neighborhoods. Existing neighborhoods are essential to the success of the 2040 Growth Concept. The intent of Title 12 of the Urban Growth Management Functional Plan is to protect the region’s residential neighborhoods. The purpose of Title 12 is to help implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise, and crime and to provide adequate levels of public services.

29. **Finding:** Title 12 addresses protection of residential neighborhoods. This title largely restricts Metro’s authority to plan and regulate density in single-family neighborhoods. Further, the 2035 Comprehensive Plan does not employ any of the optional provisions of Title 12. The FFTZ amendments were originated by the City’s legislative process and do not affect residential neighborhoods. Therefore, this title does not apply to this ordinance.

Title 13. Nature in Neighborhoods. 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.

30. **Finding:** Title 13 is expressly intended to provide a minimum baseline level of protection for identified Habitat Conservation Areas. Local jurisdictions may achieve substantial compliance with Title 13 using regulatory and/or non-regulatory tools. The City of Portland implements Title 13 through its adopted Natural Resources Inventory (NRI) and subsequent protection measures through the environmental overlay zones, which Metro has found to be in substantial compliance with Title 13.

7.No changes to the environmental or greenway overlay zones are proposed as part of this project. Therefore, FFTZ amendments are consistent with the requirements of Title 13.

Title 14. Urban Growth Management Plan. Title 14 addresses the regional urban growth boundary. Since this ordinance does not require, nor initiate, a boundary change, Title 14 does not apply.

Summary, Urban Growth Management Functional Plan Findings

31. **Finding:** The Metro Title 10 definition of comply or compliance means “substantial” rather than absolute compliance. "Substantial compliance" means city comprehensive plans and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.

8.For the facts and reasons stated above this ordinance substantially complies with all Urban Growth Management Functional Plan requirements applicable to the FFTZ amendments.

Regional Transportation Functional Plan

The Regional Transportation Functional Plan (RTFP) implements the goals, objectives and policies of the Regional Transportation Plan (RTP). Local implementation of the RTP by cities and counties are carried out in their comprehensive plans, transportation system plans (TSPs), other land use regulations and transportation project development.

32. **Finding:** The City Council finds that there is no statutory or code requirement that the Council consider and demonstrate whether the proposed amendments are consistent with the RTFP. However, to the extent the demonstrating compliance is necessary, the Council finds that the proposed amendments are compliant with the RTFP as discussed below.

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33. **Finding:** Titles 1-4 address transportation system design, development of transportation system plans, transportation project development and parking management. These titles concern public transportation projects design and system plans and do not address development on private land. These titles do not apply.

Title 5. Amendment of Comprehensive Plans. Title 5 addresses factors that a city or county needs to consider when amending their comprehensive plan or transportation system plan. Cities are required to consider the transportation strategies, such as transit, bicycle and pedestrian system improvements, as part of the analysis to determine if the change will result in a significant effect on the transportation system.

34. **Finding:** The FFTZ amendments do not change the functional classification of any existing or proposed transportation facility, nor do they change the standards implementing a functional classification system.

The FFTZ amendments limit one type of use allowed in industrial areas. The remaining industrial uses continue to be regulated under the current development regulations and do not intensify the development capacity. Therefore, the amendments do not have a significant effect on the transportation system.

In *Columbia Pacific Building Trades Council v. City of Portland II*, LUBA Case No. 2020-009, LUBA remanded the City's decision to provide findings and evidence that future fuel demand will not result in a change in transportation mode in a way that would impact the multimodal system. This issue is addressed under the 2035 Comprehensive Plan findings for policies 9.30, 9.31 and 9.32.

Furthermore, as noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 9 (Transportation) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference. Therefore, the FFTZ amendments are consistent with the requirements of Title 5.

Part III. Portland's Comprehensive Plan

Portland's 2035 Comprehensive Plan was adopted as part of Task Four of Periodic Review. Task Four was adopted by Ordinance No. 187832 on June 15, 2016. The 2035 Comprehensive Plan was amended as part of Task Five of Periodic Review, which was adopted by Ordinance No. 188177 on December 21, 2016. Both ordinances were made effective on May 24, 2018 by Ordinance No. 188695, and both Tasks Four and Five were approved by LCDC Order 18 – WKTSK – 001897 on August 8, 2018.

35. **Finding:** The City Council has identified the following guiding principles, goals and policies to be applicable to the FFTZ amendments.

Guiding Principles

The 2035 Comprehensive Plan adopted five "guiding principles" in addition to the goals and policies in a comprehensive plan. These principles recognize that implementation of the plan needs to be balanced, integrated and multi-disciplinary, and the influence of each principle helps to shape the overall all policy framework of the plan.

36. **Finding:** The City Council interprets the requirement in Policy 1.10.a to demonstrate how the FFTZ amendments comply with the Guiding Principles as one that requires a general overview discussion that does not require addressing specific language in specific policies.

The FFTZ amendments further these guiding principles as described below.

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Economic Prosperity. Support a low-carbon economy and foster employment growth, competitiveness and equitably distributed household prosperity.

37. Finding: The City Council interprets this guiding principle to support a robust and resilient regional economy, thriving local businesses and growth in living-wage jobs and household prosperity. The FFTZ amendments support a low-carbon economy by providing an exception for additional storage capacity for non-fossil, renewable fuels. It fosters employment growth, competitiveness, and contributes to more equitably distributed household prosperity because the regulations are narrowly crafted to apply to one type of use and maintains the development capacity of Portland’s industrial areas. Further, the FFTZ amendments preserve existing industrial sites because the ordinance does not include comprehensive plan or zoning map changes. Finally, the ordinance does allow FFTs to grow and intensify their level of use by only regulating fossil fuel storage tank capacity and allowing exceptions for jet and renewable fuels.

In *Columbia Pacific Building Trades Council v. City of Portland II*, LUBA Case No. 2020-009, LUBA remanded the City’s decision to provide findings and evidence to consider the impact of the amendments on the future supply and demand for natural gas under 2035 Comprehensive Plan Policy 6.48. In addition, LUBA remanded the decision to provide additional findings for 2035 Comprehensive Plan Policy 6.7, which provides direction to maintain and strengthen the city’s comparative economic advantages. These issues are address under the 2035 Comprehensive Plan findings for policies 6.7 and 6.48, respectively.

The PBA coalition testimony repeats previous claims, without supporting evidence, that the ordinance will “hurt the local economy”. The City Council finds that, as in 2016 and 2019, these claims are not sufficiently explained, nor do they contradict or refute any of the supporting evidence or findings that Council has relied upon for adopting this ordinance. The ordinance has been crafted to provide the fossil fuel storage tank capacity, with the allowed exceptions, necessary to serve the future regional market as part of a growing economy (Policy 6.48). Accordingly, Council finds that there is no evidence that the ordinance will harm the local economy.

WPSA claims the code amendments would be a public policy failure because they create significant adverse impacts on the local energy supply and subsequent damage to the economy. Council finds that this claim is repeated in various forms in their testimony without supporting evidence. WSPA correctly states that the amendments will not limit the regional demand for fuel. It is not the purpose of the zoning code amendments. Council finds the purpose of this ordinance is to limit the risk from a catastrophic Cascadia Subduction Zone earthquake by limiting the expansion of fossil fuel storage tank capacity in an area at high-risk of liquefaction, while at the same time providing enough capacity to serve future regional needs and facilitate a transition to cleaner fuels. WSPA claims the current infrastructure is insufficient for future fuel demand, by both quantity and type of fuel, without providing supporting evidence or contradicting the evidence in the record. The City has carefully considered the impacts to the regional fossil fuel supply as a means to ensure the region’s growing economy has the energy it needs. The existing terminals are designated as a limited use specifically to allow them to continue to operate to supply fossil fuels to region. The updated supporting memos on liquid fossil fuel and natural gas demand show that the amendments would not have any significant impact, adverse or otherwise, on the “local” (or broader regional) energy supply. The liquid fossil fuel demand memo shows that the forecasted increase in demand for fossil fuels is less than the historic peak consumption, without accounting for the renewable fuel component in those forecasts and the exception that allows additional storage tank capacity for jet fuel – the fossil fuel product that accounts for most of the increased consumption out to 2050.

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The Idaho Governor's Office of Energy and Mineral Resources, along with others from Idaho, submitted testimony that claims the proposed ordinance would seriously harm consumers in Oregon, Idaho, and Washington by decreasing the availability of fuel in the future. The testimony urges the City to consider the entire Pacific Northwest region, and the states and communities that rely on the existing fuel terminal infrastructure. The City Council has considered the future fuel needs of Oregon and Washington and, in response to this testimony, considered the needs of Idaho as well. The testimony claims that Idaho is growing fast, expects increased fuel demand, and as a result will need increased fuel infrastructure in Portland.

Eastern Oregon is included in the original BPS analysis of liquid petroleum demand, which utilized State of Oregon data. In response to the testimony, BPS prepared a memo to analyze Idaho (and Washington) petroleum demand. The BPS memo documented that only a small portion of Idaho's petroleum fuels are transported through Portland via barges on the Columbia/Snake River system, and there are multiple options available to meet future demand in Idaho, including other Lower Columbia River ports, pipeline terminals in Pasco and Spokane, in addition to the pipeline terminals in Boise and Pocatello that connect to refineries in Salt Lake City, Utah.

The 2022 BPS Regional Demand for Liquid Fossil Fuels memo documented an expected surplus capacity in Oregon based on future total petroleum consumption being less than the historic peak consumption in addition to exceptions for additional storage tank capacity for jet fuel and renewable fuels.

In Washington, total petroleum consumption is forecasted to exceed historic peak consumption. However, the US EIA data is at a statewide level and it is not possible to calculate the portion of the future growth to southwest or eastern Washington that might be dependent on FFTs in Portland. Also, 87 percent of the forecasted growth in petroleum demand is jet fuel, for which additional storage tank capacity is allowed under an exception. Also, as explained above, renewable fuels are a component of the US EIA future forecast and therefore are part of the growth in the petroleum consumption, for which additional storage tank capacity is allowed under an exception. Finally, there are other Lower Columbia River ports and pipeline terminals in Spokane and Pasco that could serve as an alternative source to Portland to meet any remaining unmet demand.

The BPS analysis shows that the forecasted decrease in gasoline consumption in Oregon and Washington (-0.118 quadrillion Btu per year) could provide the needed capacity to meet the growing demand for gasoline in Idaho (0.027 quadrillion Btu per year). Further, the forecasted flat demand in distillate fuel oil in Oregon and Washington and marginal growth in Idaho (0.002 quadrillion Btu per year) does not account for the increasing renewable content in distillate fuel oil (see Oregon Clean Fuels program) that also could free up additional fossil fuel capacity. The forecasted growth in Idaho (0.002 quadrillion Btu per year) is only two percent of the total distillate fuel oil consumption in Oregon – which again, the US EIA data includes a portion that is renewable distillate fuel oil, which is expected to increase under recent trends and policies in Oregon and, for which there is an exception to add additional storage tank capacity to meet the increased demand for renewables.

Further, the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that this combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho's fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that the amendments properly limit

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storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

As noted elsewhere in the findings, the FFTZ amendments are consistent with Statewide Planning Goal 9 (Economic Development) and the goals and policies of Chapter 6 (Economic Development) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference.

Human Health. Avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy, active lives.

38. Finding: The City Council interprets this guiding principle as direction to consider the human health impacts as part of a land use decision. The FFTZ amendments further the objectives to avoid or minimize negative health impacts associated with FFTs by reducing the risks associated with a major earthquake. Continuing to allow the increase in FFTs in a high-risk area increases the risk to the surrounding industrial district, the Willamette River and Portland as a whole. The first step in making the current situation better is to ensure that the situation does not get worse by continuing to allow the unlimited increase in fossil fuel storage tank capacity in an area with a moderate to high-risk of liquefaction in the event of a major earthquake. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and restrict the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize health impacts in the event of a major earthquake.

In terms of improving opportunities for Portlanders to lead, healthy, active lives, the guiding principle identifies three areas of opportunity: 1) increase access to complete neighborhoods; 2) strengthen consideration of environmental justice; and 3) build city greenways. The 2035 Comprehensive Plan defines complete neighborhoods as places where people of all ages and abilities have safe and convenient access to more of the goods and services needed in daily life. The existing FFTs are not located in residential neighborhoods and the amendments do not affect the access to goods and services in those neighborhoods. As noted elsewhere in the findings, the FFTZ amendments are consistent with the goals and policies of Chapter 3 (Urban Form) and Chapter 4 (Design and Development) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference.

The City Council interprets the verb “strengthen”, which is not defined in the 2035 Comprehensive Plan, to mean to make stronger, improve. The 2035 Comprehensive Plan defines environmental justice as the equitable treatment and meaningful involvement of all people in public decision-making as it applies to who benefits and who bears the cost of development and growth. As referenced in the principle, there are policies throughout the 2035 Comprehensive Plan that support the meaningful involvement of Portlanders in public decisions. The findings in response to those goals and policies are incorporated by reference.

The 2035 Comprehensive Plan defines city greenways as a network of safe, accessible and attractive streets, trails, parks and open spaces. City greenways are identified on Figure 3-5 of the 2035 Comprehensive Plan. Highway 30, which runs by the existing FFTs, is identified as a city greenway. The FFTZ amendments do not change the city greenway designations on the Urban

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Design Framework. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and restrict the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. The amendments do not change the design or function of the greenway on Highway 30. As noted elsewhere in the findings, the FFTZ amendments are consistent with the goals and policies of Chapter 3 (Urban Form) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference.

Environmental Health. Weave nature into the city and foster a healthy environment that sustains people, neighborhoods, and fish and wildlife. Recognize the intrinsic value of nature and sustain the ecosystem services of Portland’s air, water and land.

39. Finding: The City Council interprets this guiding principle as direction to consider the environmental health impacts as part of a land use decision. The FFTZ amendments foster a healthy environment and sustain the ecosystem services of Portland’s air, water and land by reducing the risk associated with a major earthquake. The first step in making the current situation better is to ensure that the situation does not get worse by continuing to allow the unlimited increase in fossil fuel storage tank capacity in a high-risk area. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and restrict the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize environmental impacts in the event of a major earthquake. No changes to the environmental or greenway overlay zones are proposed as part of this project, therefore the natural resource values and functions will be sustained.

As noted elsewhere in the findings, the FFTZ amendments are consistent with Statewide Planning Goal 5 (Natural Resources) and the goals and policies of Chapter 4 (Design and Development, including Historic and Cultural Resources) and Chapter 7 (Environment and Watershed Health) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference.

Equity. Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and under-represented populations in decisions that affect them. Specifically recognize, address and prevent repetition of the injustices suffered by communities of color throughout Portland’s history.

40. Finding: The City Council interprets this guiding principle as direction to ensure Portlanders more equitably share in the benefits and burdens of growth and development. A fundamental purpose of the FFTZ amendments is to reduce the risks associated with a major earthquake. Continuing to allow the increase in FFTs in a high-risk area increases the risk to Portland’s environment, especially the Willamette River. The first step in making the current situation better is to ensure that the situation does not get worse by continuing to allow the unlimited increase in fossil fuel storage tank capacity in a high-risk area. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to

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operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize environmental impacts in the event of a major earthquake.

The amendments also maintain socio-economic opportunities for under-served and under-represented populations because the regulations are narrowly crafted to apply to one type of use and maintains the development capacity of Portland's industrial areas, which is a good source of middle-wage jobs for people without college degrees.

Resilience. Reduce risk and improve the ability of individuals, communities, economic systems, and the natural and built environments to withstand, recover from, and adapt to changes from natural hazards, human-made disasters, climate change, and economic shifts.

41. Finding: The 2035 Comprehensive Plan describes resilience as “reducing the vulnerability of our neighborhoods, businesses, and built and natural infrastructure to withstand challenges – environmental, economic and social – that may result from major hazardous events.” Most of Portland’s employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake. The FFTZ amendments support this principle by taking the first step in making Portland more resilient, which is to stop increasing the risk. The FFTs have significant seismic risks because most of the tanks have been constructed without any or only limited seismic design criteria on soils with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management’s 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon’s Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub . Continuing to allow the increase in fossil fuel storage in a high-risk area increases the risk to the surrounding industrial district, the Willamette River and Portland as a whole. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing bulk fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can make Portland more resilient.

The PBA coalition testimony claims, without supporting evidence, that the ordinance will “hinder” the City’s safety goals. The City Council understands the word “hinder” to mean to create difficulties, resulting in delay or obstruction. The testimony does not elaborate or provide evidence as to how the FFTZ amendments will hinder the City’s safety goals. The purpose of the ordinance is to begin to proactively address the safety risks due to earthquakes by not making the problem worse by continuing to allow the unlimited expansion of fossil fuel storage tank capacity. As explained above, the FFTZ amendments designate the existing FFTs as a limited use and allow for the replacement and reconfiguration of existing fossil fuel storage tank capacity in order to facilitate seismic and safety upgrades. Finally, the ordinance does not restrict improvements to other types of facilities at the existing FFTs, which can make seismic and safety improvements to the transloading and other multimodal facilities.

The WSPA testimony claims that the ordinance will discourage seismic and safety improvements that typically occur with new infrastructure improvements – the types of infrastructure improvements are not defined. WSPA testimony claims the ordinance will prohibit new terminals, new intermodal links and new fuel tanks in Portland. Council finds this statement is inaccurate with

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respect to the limits in the FFTZ amendments. The amendments prohibit new bulk fossil fuel terminals with more than 2 million gallons of liquid fossil fuel storage capacity. New fuel terminals with less than 2 million gallons of fossil fuel storage (and unrestricted amounts of jet fuel and renewable fuel) are considered a Warehouse and Freight Movement use and continue to be allowed in Portland's employment and industrial zones (PCC 33.140, Table 140-1). The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

Council finds that the existing terminals are designated as a limited use to allow them to continue to operate to allow for a wide range of new infrastructure improvements, including safety and seismic upgrades. The FFTZ amendments limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing bulk fossil fuel terminals, with limited exceptions for jet and renewable fuels. Specifically, terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as a way to facilitate replacement and seismic upgrades. Also, since the adoption of the 2016 ordinance and at various times during the subsequent appeals process, there have been opportunities, including since October 30, 2020, for the existing terminals to undertake fossil fuel storage tank improvements and expansions to improve safety. To date, none of the terminals have applied to build new, safer fossil fuel tanks.

The Idaho Governor's Office of Energy and Mineral Resources testimony claims that the ordinance would prevent the Pacific Northwest region from looking to Portland for fuel in times of emergency. This argument is undeveloped and does not explain how limits on expansion of fossil fuel storage tanks in Portland would hinder emergency response. The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, or destination of the fuel. In times of emergency there is nothing the regulations that would prevent Portland terminals from serving the region. In terms of additional capacity to prepare for an emergency, the 2013 Oregon Resilience Plan included a recommendation to form a public-private partnership with the objective of reducing the state's vulnerability to seismic events by evaluating the diversification of locations for the storage of liquid fuels and identification of new liquid fuel energy corridors, which indicates a need to not become further dependent on the high-risk location that is the Portland Critical Energy Infrastructure (CEI) Hub.

As noted elsewhere in these findings, the FFTZ amendments are consistent with Statewide Planning Goal 7 (Natural Hazards) and the goals and policies of Chapter 7 (Environment and Watershed Health) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference.

Chapter 1: The Plan

Goal 1.A: Multiple goals

Portland's Comprehensive Plan provides a framework to guide land use, development, and public facility investments. It is based on a set of Guiding Principles that call for integrated approaches, actions, and outcomes that meet multiple goals to ensure Portland is prosperous, healthy, equitable, and resilient.

42. **Finding:** The FFTZ amendments are an amendment to the Zoning Code and do not amend the 2035 Comprehensive Plan. As noted above, FFTZ amendments are consistent with the guiding principles of the 2035 Comprehensive Plan. As part of an integrated approach to meet multiple goals, the City Council has considered, weighed and balanced applicable policies, as described on page HTU-5 of

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the 2035 Comprehensive Plan, to determine that this ordinance on the whole complies with the 2035 Comprehensive Plan. As described below, the City Council’s decision to adopt the FFTZ amendments has considered the multiple goals of the comprehensive plan, including the guiding principles, to determine that the adoption of this ordinance will ensure that Portland is prosperous, healthy, equitable, and resilient by minimizing the risk posed by fossil fuel terminals.

Goal 1.B: Regional partnership. Portland’s Comprehensive Plan acknowledges Portland’s role within the region, and it is coordinated with the policies of governmental partners.

43. Finding: The findings show how the amendments are consistent with Metro’s Urban Growth Management Functional Plan and the Statewide Planning Goals, including Goal 2 which requires coordination. In 2016, as part of the original adoption process, Metro, TriMet, and other state agencies received notice of the proposed FFTZ amendments from the 35-day DLCD notice and the City’s legislative notice. In 2019, as part of the re-adoption of the remanded ordinance, the City posted a new 35-day DLCD notice and sent a legislative notice to government partners. In 2022, as part of the re-adoption of the remanded ordinance, the City posted a new 35-day DLCD notice and sent a legislative notice to government partners for the June 30 City Council hearing.

Goal 1.C: A well-functioning plan. Portland’s Comprehensive Plan is effective, its elements are aligned, and it is updated periodically to be current and to address mandates, community needs, and identified problems.

44. Finding: The City Council defines “effective” as being successful in producing a desired or intended result. The desired or intended result is embodied in the Guiding Principles and goals and policies of the 2035 Comprehensive Plan. These findings demonstrate how the FFTZ amendments are consistent with the 2035 Comprehensive Plan, including advancing multiple goals. These changes represent updating regulatory implementation tools that respond to community needs and identified problems, especially in addressing the considerable risks fossil fuel terminals pose in the event of a major earthquake, as documented by the Portland Bureau of Emergency Management’s 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon’s Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub.

Goal 1.D: Implementation tools. Portland’s Comprehensive Plan is executed through a variety of implementation tools, both regulatory and non-regulatory. Implementation tools comply with the Comprehensive Plan and are carried out in a coordinated and efficient manner. They protect the public’s current and future interests and balance the need for providing certainty for future development with the need for flexibility and the opportunity to promote innovation.

45. Finding: The City Council interprets this goal to provide direction to utilize the Zoning Code, a regulatory tool, to implement the goals and policies of the Comprehensive Plan. These findings demonstrate how the FFTZ amendments comply with the applicable goals and policies. The City Council interprets the phrase “are carried out in a coordinated and efficient manner” to mean that the implementation tool has considered the potential impacts to other goals and policies to be equally or more supportive of the Comprehensive Plan as a whole, which is demonstrated through these findings. For the FFTZ amendments, the City Council finds that continuing to allow the increase in fossil fuel storage tank capacity in FFTs in a high-risk area increases the risk to the surrounding industrial district and the Willamette River. The FFTZ amendments are changes to the Zoning Code, which is a primary implementation tool. The City Council finds that the public’s current and future interests are embodied in the Vision and Guiding Principles that address

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prosperity, human and environmental health, equity and resilience. In the event of a major earthquake, fossil fuel terminals pose considerable risks to all of those interests, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. Continuing to allow the unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area does not protect the public's current or future interests. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in FFTs.

The FFTZ amendments add clear and objective regulations to the Zoning Code that can be administered by the City in an efficient and effective way that minimizes future risk and allows FFTs to invest in safety upgrades to decrease risk over time. The Zoning Code amendments change development standards and limit future expansion of fossil fuel storage tank capacity at FFTs, which may create uncertainty for the existing terminals. However, the uncertainty is mitigated by designating the existing FFTs as a limited use, as opposed to a prohibited or non-conforming use, that allows the terminals to continue to operate and invest in upgrades, as well as supporting opportunities for enhancement through exceptions, such as jet or renewable fuels, to the storage capacity restrictions. If the existing FFTs had been designated as a prohibited use, as in the Proposed Draft of the amendments, then the existing FFTs would be nonconforming uses, which in some cases has been a barrier to obtaining financing for improvements and upgrades.

The City Council defines "flexibility" as a capability to adapt to new, different, or changing requirements and "innovation" as the introduction of something new. The amendments incorporate flexibility and innovation by designating the existing FFTs as a limited use that allows the terminals to continue to operate and invest in upgrades, as well as supporting opportunities for enhancement for jet or renewable fuels among other exceptions.

Goal 1.E: Administration. Portland's Comprehensive Plan is administered efficiently and effectively and in ways that forward the intent of the Plan. It is administered in accordance with regional plans and state and federal law.

46. Finding: The 2035 Comprehensive Plan complies with state and federal law and is not amended by this ordinance. The FFTZ amendments add clear and objective regulations to the Zoning Code that can be administered by the City in an efficient and effective way that minimizes future risk and allows FFTs to invest in safety upgrades to decrease risk over time. These findings demonstrate how the FFTZ amendments are consistent with the intent of the 2035 Comprehensive Plan. As noted above, the findings show how the amendments are consistent with Metro's Urban Growth Management Functional Plan and the Statewide Planning Goals. The regulations are focused on what the City has jurisdiction over – land use regulation for public health and safety – and does not exceed its authority into areas covered by state and federal law, such as railroads and interstate commerce.

The Comprehensive Plan

Policy 1.1. Comprehensive Plan elements. Maintain a Comprehensive Plan that includes these elements:

- **Vision and Guiding Principles.** The Vision is a statement of where the City aspires to be in

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2035. The Guiding Principles call for decisions that meet multiple goals to ensure Portland is prosperous, healthy, equitable, and resilient.

- **Goals and policies.** The goals and policies of the Comprehensive Plan, including the Urban Design Framework, provide the long-range planning direction for the development and redevelopment of the city.
- **Comprehensive Plan Map.** The Comprehensive Plan Map is the official long-range planning guide for spatially defining the desired land uses and development in Portland. The Comprehensive Plan Map is a series of maps, which together show the boundaries of municipal incorporation, the Urban Service Boundary, land use designations, and the recognized boundaries of the Central City, Gateway regional center, town centers, and neighborhood centers.
- **List of Significant Projects.** The List of Significant Projects identifies the public facility projects needed to serve designated land uses through 2035. including expected new housing and jobs. It is based on the framework provided by a supporting Public Facilities Plan (PFP). The Citywide Systems Plan (CSP) is the City’s public facilities plan. The Transportation System Plan (TSP) includes the transportation-related list of significant projects. The list element of the TSP is also an element of the Comprehensive Plan.
- **Transportation policies, street classifications, and street plans.** The policies, street classifications, and street plan maps contained in the Transportation System Plan (TSP) are an element of the Comprehensive Plan. Other parts of the TSP function as a supporting document, as described in Policy 1.2.

47. **Finding:** The 2035 Comprehensive Plan complies with state and federal law and is not amended by this ordinance. The FFTZ amendments add clear and objective regulations to the Zoning Code that can be administered by the City in an efficient and effective way that minimizes future risk and allows FFTs to invest in safety upgrades to decrease risk over time. These findings demonstrate how the FFTZ amendments are consistent with the intent of the 2035 Comprehensive Plan. As noted above, the findings show how the amendments are consistent with Metro’s Urban Growth Management Functional Plan and the Statewide Planning Goals. The regulations are focused on what the City has jurisdiction over – land use regulation for public health and safety – and does not exceed its authority into areas covered by state and federal law, such railroads and interstate commerce.

Supporting Documents

Policy 1.2. Comprehensive Plan supporting documents. Maintain and periodically update the following Comprehensive Plan supporting documents.

1. **Inventories and analyses.** The following inventories and analyses are supporting documents to the Comprehensive Plan:
 - Economic Opportunities Analysis (EOA)
 - Buildable Lands Inventory (BLI)
 - Natural Resource Inventory (NRI)
 - Housing Needs Analysis (HNA)

48. **Finding:** The FFTZ amendments were developed consistent with the supporting documents of the adopted 2035 Comprehensive Plan. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not impact the industrial

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land designated in Portland and do not impact the employment development capacity identified in the EOA and the BLI.

The FFTZ amendments do not change the NRI or the implementing environmental or greenway overlay zones.

The FFTZ amendments do not impact residential land and do not change the Housing Needs Analysis.

2. Public Facilities Plan. The Public Facilities Plan (PFP) is a coordinated plan for the provision of urban public facilities and services within Portland’s Urban Services Boundary. The Citywide Systems Plan (CSP) is the City’s public facilities plan.

49. Finding: As demonstrated in the findings for Statewide Planning Goal 11, the FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not impact the provision of public services and are consistent with the adopted Citywide Systems Plan (CSP). The CSP, which was adopted (Ordinance 185657) and acknowledged by LCDC on April 25, 2017, includes the Public Facilities Plan with information on current and future transportation, water, sanitary sewer, and stormwater infrastructure needs and projects, consistent with the requirements of Statewide Planning Goal 11.

The FFTZ amendments do not amend the Citywide System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the infrastructure in the northwest industrial area where the FFTs are located. As noted below in the findings for goals and policies of Chapter 8 (Public Facilities and Services), which are incorporated by reference, the FFTZ amendments are consistent with the CSP.

3. Transportation System Plan (TSP). The TSP is the detailed long-range plan to guide transportation system functions and investments. The TSP ensures that new development and allowed land uses are consistent with the identified function and capacity of, and adopted performance measures for, affected transportation facilities. The TSP includes a financial plan to identify revenue sources for planned transportation facilities included on the List of Significant Projects. The TSP is the transportation element of the Public Facilities Plan. Certain components of the TSP are elements of the Comprehensive Plan. *See Policy 1.1.*

50. Finding: As demonstrated in the findings for Statewide Planning Goal 12 (Transportation) and the goals and policies of Chapter 9 (Transportation), the FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not impact the transportation system. The FFTZ amendments do not amend the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area where the FFTs are located.

In Columbia Pacific Building Trades Council v. City of Portland II, LUBA Case No. 2020-009, LUBA remanded the City’s decision to provide findings and evidence that future fuel demand will not result in a change in transportation mode in a way that would impact the multimodal system. This issue is address under the 2035 Comprehensive Plan findings for policies 9.30, 9.31 and 9.32.

4. School Facility Plans. School facility plans that were developed in consultation with the City, adopted by school districts serving the City, and that meet the requirements of ORS 195 are considered supporting documents to the Comprehensive Plan.

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51. **Finding:** The FFTZ amendments apply to only one type of industrial use that makes up a small part of the businesses found in Portland's industrial districts; therefore, these changes will not impact school facility plans.

Implementation tools

Policy 1.3. Implementation tools subject to the Comprehensive Plan. Maintain Comprehensive Plan implementation tools that are derived from, and comply with, the Comprehensive Plan.
Implementation tools include those identified in policies 1.4 through 1.9.

Policy 1.4. Zoning Code. Maintain a Zoning Code that establishes the regulations that apply to various zones, districts, uses, and development types.

52. **Finding:** The FFTZ amendments include Zoning Code amendments that create a new use category (bulk fossil fuel terminals) and applies it to the base zones. The definition of the use limits the size of new fossil fuel terminals and prohibits the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. The FFTZ regulations designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety.

Policy 1.5 Zoning Map. Maintain a Zoning Map that identifies the boundaries of various zones, districts, and other special features.

53. **Finding:** The FFTZ amendments do not include Zoning Map amendments. This policy does not apply.

Policy 1.6 Service coordination agreements. Maintain coordination agreements with local governments of adjoining jurisdictions concerning mutual recognition of urban service boundaries; special service districts concerning public facilities and services within Portland's Urban Services Boundary; and public school districts concerning educational facilities within Portland's Urban Services Boundary.

Policy 1.7 Annexations. Provide a process incorporating urban and urbanizable land within the City's Urban Services Boundary through annexation. See policies 8.11-8.19 for service extension requirements for annexations.

Policy 1.8 Urban renewal plans. Coordinate Comprehensive Plan implementation with urban renewal plans and implementation activities. A decision to adopt a new urban renewal district, adopt or amend goals and objectives that will guide investment priorities within a district, or amend the boundaries of an existing district, must comply with the Comprehensive Plan.

Policy 1.9 Development agreements. Consider development agreements entered into by the City of Portland and pursuant to Oregon Revised Statute 94 a Comprehensive Plan implementation tool.

54. **Finding:** For policies 1.6 through 1.9, the FFTZ amendments do not include changes or amendments to service coordination agreements, annexation processes, urban renewal plans, or development agreements. Therefore, these policies are not applicable to the FFTZ amendments.

Administration

Policy 1.10. Compliance with the Comprehensive Plan. Ensure that amendments to the

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Comprehensive Plan’s elements, supporting documents, and implementation tools comply with the Comprehensive Plan. “Comply” means that amendments must be evaluated against the Comprehensive Plan’s applicable goals and policies and on balance be equally or more supportive of the Comprehensive Plan as a whole than the existing language or designation.

1.10.a Legislative amendments to the Comprehensive Plan’s elements and implementation tools must also comply with the Guiding Principles.

1.10.b Legislative amendments to the Comprehensive Plan’s elements should be based on the factual basis established in the supporting documents as updated and amended over time.

1.10.c Amendments to the Zoning Map are in compliance with the Comprehensive Plan if they are consistent with the Comprehensive Plan Map.

55. Finding: The City Council finds that this is a fundamental policy of the Comprehensive Plan that guides the manner in which the City Council considers amendments to the Plan itself or any implementing regulations, such as the Zoning Code. The City Council interprets the policy to require the Council to consider whether, after considering all relevant facts, an amendment is equally or more supportive of the Comprehensive Plan. The City Council finds that an amendment is equally supportive when it is on its face directly supported by goals and policies in the Plan. The City Council finds that an amendment is more supportive of the Comprehensive Plan when the amendment will further advance goals and policies, particularly those that are aspirational in nature. The City Council finds that this policy requires consideration as to whether amendments are equally or more supportive of the Plan *as a whole*. The City Council finds that amendments do not need to be equally or more supportive with individual goals and policies, but rather amendments must be equally or more supportive of the entire Comprehensive Plan. Therefore, the City Council finds that there may be instances where specific goals and policies may not be supported by the amendments, but still the amendments are equally or more supportive of the entire Comprehensive Plan when considered cumulatively. The City Council finds that there is no precise mathematical equation for determining when the Plan as a whole is supported but rather such consideration requires City Council discretion in evaluating the competing interests and objectives of the plan.

The Council notes that the Comprehensive Plan introduction explains that “[t]he Comprehensive Plan contains a broad range of policies Council to consider. Each policy describes a desirable outcome. But it is unlikely that all policies are relevant to a particular decision and that a particular decision could be expected to advance all of the policies in the plan equally well. . . [E]ven the strongest policies do not automatically trump other policies. Every decision is different, with different facts. The particular policies that matter will change from one decision to another. There is no set formula – no particular number of “heavier” policies equals a larger set of “lighter” policies. In cases where there are competing directions embodied by different policies, City Council may choose the direction they believe best embodies the plan as a whole.”

The FFTZ amendments are a legislative amendment to the Zoning Code, an implementation tool of the 2035 Comprehensive Plan. These findings identify how the FFTZ amendments comply with the 2035 Comprehensive Plan. That is, the amendments are evaluated against the 2035 Comprehensive Plan’s Guiding Principles, goals, and policies, as detailed throughout this set of findings. As described in the finding for Policy 1.2, the factual basis of the supporting documents is not changed by this ordinance. Specifically, the employment capacity, as defined in the EOA, is not impacted by these changes – there are no map amendments, all industrial land use designations

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remain the same. The other supporting documents have been considered but are not impacted by these changes.

The City Council finds that the evaluation to determine if the FFTZ amendments are on balance equally or more supportive than the existing language or designation must consider all of the goals and policies, as demonstrated by these findings. However, these amendments embody a situation where there are competing directions embodied by different policies. There are some policies where the amendments are equally supportive—not more or less so—but there are other policies where the amendments are more supportive and the code changes better embody the direction in the Comprehensive Plan as a whole.

For the reasons stated in these findings, the City Council concludes that the FFTZ amendments are on balance more supportive of the goals and policies of the 2035 Comprehensive Plan than the current regulations. The City Council has considered all applicable goals and policies to achieve an optimum outcome. Goals and policies are considered as factors which must be weighed, balanced and met on the whole, not as criteria that must be individually met. The purposes of the FFTZ amendments are to enhance public safety and protect the environment. The City Council has weighed and balanced the applicable goals and policies and concludes that, on the whole, continuing to allow an unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area would be less supportive of the 2035 Comprehensive Plan than adopting the FFTZ amendments.

The City Council finds that these amendments are equally or more supportive of the Comprehensive Plan than the existing Zoning Code regulations because they limit the considerable risks fossil fuel terminals pose in the event of a major earthquake, while allowing the existing terminals to continue to operate with limited opportunities for expansion, such as jet fuel or renewable fuels. As demonstrated by these findings, the FFTZ amendments effectively and efficiently implement the Comprehensive Plan. Specifically:

The City Council has considered applicable policies to determine that this ordinance on the whole complies with the 2035 Comprehensive Plan and on balance is equally or more supportive of the goals and policies of the 2035 Comprehensive Plan than the current regulations. In reaching this conclusion, City Council has weighed and balanced competing policy directions.

In particular, the Council finds that Goal 4.D with Policies 4.79 and 4.80, requires evaluating and reducing risk to people and property from natural hazards. The FFTZ amendments further these goals and policies by limiting the risks of storing large volumes of hazardous materials in an area with high susceptibility to an earthquake. Large fossil fuel terminals represent a risk to people, property and the natural environments that the City Council finds as a compelling reason to limit future risk by limiting the size of new facilities and prohibiting the expansion of fossil fuel storage tank capacity at existing facilities. Continuing to allow an unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area would be less supportive of the 2035 Comprehensive Plan than adopting the FFTZ amendments

The City Council further finds that Policy 6.48 provides direction to limit fossil fuel terminals to what is necessary to serve the region. The City Council recognizes that Portland's fossil fuel terminals handle 90 percent of the fossil fuel for the State of Oregon, along with some portion of the fuel needs of Southwest and Eastern Washington, and Idaho. The City Council has considered the role that FFTs play in supporting the regional economy and how Portland's (and the region's) economy will continue to be dependent on fossil fuels as we transition to a zero-carbon future. The City Council considered the future demand for petroleum in Oregon out to the year 2050. As

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documented in the 2022 BPS Regional Demand for Liquid Fossil Fuels memo, the BPS forecast for Oregon, based on the US EIA regional forecast, calculates an approximate 11 percent increase in total petroleum consumption to 390,000 billion BTU in 2050. However, petroleum consumption in Oregon peaked in 1999 at 395,000 billion BTU, which is less than the 2050 consumption forecast. Also, the US EIA forecasts for petroleum includes the volumes of renewable fuel (ethanol and biodiesel) that is blended with motor gasoline and distillate fuel oil, respectively. New storage tank capacity can be built to accommodate the increased consumption of renewable fuels under an exception in the code amendments. In addition, most (66%) of the increased consumption of petroleum in 2050 can be attributed to the 25,000 billion BTU increase in jet fuel consumption. New storage tank capacity can be built to accommodate the increased consumption of jet fuel under an exception in the code amendments. The City Council finds that there is a surplus of system capacity (approximately 5 billion BTU or 1.3%) between future demand and past historic peaks, and that surplus may be larger than 1.3 percent because the future demand forecast includes volumes of jet and renewable fuels for which the code includes specific exceptions to the storage tank capacity limits. These exceptions are included in the code amendments because jet and renewable fuel are expected to be the faster growing segments of fuel consumption.

Testimony raised concern that the ordinance would unnecessarily burden eastern Oregon and Washington and Idaho. As explained under Policy 6.48, Council finds the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that a combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho’s fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

In addition, ODOT is forecasting a decline in motor fuel consumption over the medium term to 2029. The most recent and most Portland specific marine cargo forecast documents a 2040 reference case with a declining annual growth rate that results in a total volume of petroleum products that is less than what flowed through the Portland terminals in 2010, which is the historic peak volume in the marine cargo forecasts.

LUBA found that the City did not have sufficient evidence on future natural gas needs to support the finding that existing natural gas terminals and storage facilities are adequate to serve future demand in Oregon and Southwest Washington. The City of Portland commissioned Lighthouse Energy Consulting to describe the natural gas infrastructure system, the future demand for natural gas, and the impact that the FFTZ amendments could have on the ability to meet the future demand for natural gas. The City Council considered the Lighthouse Energy Consulting memo on the natural gas infrastructure that found that NW Natural’s 2018 Integrated Resource Plan (IRP) identified natural gas resources that could meet the forecasted peak day demands over that 20-year period covered by the IRP. The additional peak day capacity does not rely on new or expanded natural gas infrastructure in the City of Portland. Further, the memo confirmed that NW Natural is the only natural gas utility in Portland and that other industrial consumers that buy natural gas on the wholesale market from suppliers outside of Portland utilize the NW Natural’s distribution pipes and are considered transportation customers that are included in the IRP. The memo also explains

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that it would be extremely difficult and cost-prohibitive for another utility or purveyor to construct an equivalent system of delivery infrastructure in Portland. Therefore, the City Council finds the natural gas storage tank capacity that exists today in Portland is adequate to serve the future regional market.

Therefore, the City Council finds that the fossil fuel storage tank capacity at the existing FFTs is sufficient to serve the regional market. These amendments support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing fossil fuel storage tank capacity to increase safety. In addition, limiting fossil fuel storage tank capacity to the existing facilities reduces risk from a major earthquake, which outweighs an alternative policy interpretation to provide unlimited capacity to accommodate any potential future increase in fossil fuel consumption.

At the same time, the City Council finds that Goal 6.C with Policies 6.20 and 6.36, among others, provide for the retention and growth of businesses, especially those in the traded sector. However, the City Council interprets these policies apply to the economy in general, rather than specific types of business. These changes and restrictions only apply to a narrowly defined new land use category, Bulk Fossil Fuel Terminals, and do not have a significant effect on the other allowed uses in industrial and employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial and employment areas of Portland. These amendments are narrowly constructed to apply to one class of businesses that make up a small portion of the city, regional and state economy. Further, these regulations only limit future expansion of these fossil fuel terminals, with some key exceptions, and designate these businesses as a limited use that allows their continued operation to serve future regional needs and facilitate a transition to cleaner fuels.

Guilds Lake Industrial Sanctuary (GLIS) Plan policies provide direction to maintain, protect and enhance businesses in the sanctuary. This plan was adopted in 2001 and does not address the need for resiliency in a high-risk liquefaction susceptibility area. The City Council interprets these policies to apply to the GLIS as a whole and not individual businesses. The City Council interprets the legislative intent of the GLISP is to maintain the area as an industrial sanctuary and to prohibit incompatible land uses. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses that could undermine the viability of the industrial sanctuary. These regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. The remaining industrial uses to continue to operate under current zoning regulations. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served. The impact of the limits on fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to continue to operate; make upgrades and invest in multimodal infrastructure; and supports limited enhancement through exceptions to the fossil fuel storage tank capacity restrictions.

Policy 1.11. Consistency with Metro Urban Growth Management Functional Plan and Urban Growth Boundary. Ensure that the Comprehensive Plan remains consistent with the Metro Urban Growth Management Functional Plan and supports a tight urban growth boundary for the Portland metropolitan area.

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Policy 1.12. Consistency with Statewide Planning Goals. Ensure that the Comprehensive Plan, supporting documents, and implementation tools remain consistent with the Oregon Statewide Planning Goals.

56. **Finding:** As noted earlier in these findings, the FFTZ amendments are consistent with and designed to further the applicable elements of the Metro Urban Growth Management Functional Plan and Statewide Planning Goals, consistent with the directives of policies 1.11 and 1.12.

Policy 1.13. Consistency with state and federal regulations. Ensure that the Comprehensive Plan remains consistent with all applicable state and federal regulations, and that implementation measures for the Comprehensive Plan are well coordinated with other City activities that respond to state and federal regulations.

57. **Finding:** The FFTZ amendments were developed to be consistent with applicable state and federal regulations and do not amend any Zoning Code sections that are required by state or federal regulations, including FEMA flood regulations and state building code requirements.

Policy 1.14. Public facility adequacy. Consider impacts on the existing and future availability and capacity of urban public facilities and services when amending Comprehensive Plan elements and implementation tools. Urban public facilities and services include those provided by the City, neighboring jurisdictions, and partners within Portland’s urban services boundaries, as established by Policies 8.2 and 8.6.

58. **Finding:** As demonstrated in the findings for Statewide Planning Goal 11 and Chapter 8 (Public Facilities and Services) of the 2035 Comprehensive Plan, the FFTZ amendments do not significantly impact the provision of public services.

Policy 1.15. Intergovernmental coordination. Strive to administer the Comprehensive Plan elements and implementation tools in a manner that supports the efforts and fiscal health of the City, county and regional governments, and partner agencies such as school districts and transit agencies.

59. **Finding:** As demonstrated in the findings for Statewide Planning Goal 2, the City filed the required 35-day notice with Oregon Department of Land Conservation and Development to notify other government agencies of the proposed FFTZ amendments. In addition, the City sent a separate legislative notice to Multnomah County, adjacent cities, Metro and TriMet. The Port of Portland was the only government agency that raised issues or concerns with the original ordinance. The Port of Portland appreciated that the ordinance was amended to address their concerns about the supply of jet fuel to Portland International Airport (PDX) and marine fuel suppliers. At the June 30 public hearing, Multnomah County Commissioner Jayapal testified in support of adopting the ordinance.

In written testimony, the Idaho Governor’s Office of Energy and Mineral Resources submitted testimony that claims the proposed ordinance would seriously harm consumers in Oregon, Idaho and Washington by decreasing the availability of fuel in the future. Council interprets this policy to apply to government agencies that operate and provide services within the City of Portland. Regardless, the City Council acknowledges this testimony and addresses those concerns elsewhere in the findings.

Policy 1.16. Planning and Sustainability Commission review. Ensure the Planning and Sustainability Commission (PSC) reviews and makes recommendations to the City Council on all proposed legislative amendments to Comprehensive Plan elements, supporting documents, and implementation tools. The PSC advises City Council on the City’s long-range goals, policies, and programs for land use, planning, and sustainability. The membership and powers and duties of the PSC are described in the Zoning

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Code.

60. Finding: The City Council interprets this policy as requiring the PSC to hold at least one public hearing before making a recommendation on a legislative matter as required by PCC 33.740. The PSC reviewed and recommended the original FFTZ amendments in 2016. The City Council finds that this ordinance is a continuation of the initial legislative action that began in 2016 and was remanded to the Council to take additional action. The City Council does not interpret this policy to require the remand go back to PSC because it is a continuation of the same legislative proposal. The City Council did not refer this ordinance back to the PSC for another recommendation because no substantive changes are required by the legal decisions. The purpose of this ordinance is to provide additional findings, including findings that address the goals and policies in the 2035 Comprehensive Plan, to support the decision and confirm that the decision is supported by an adequate factual base.

Policy 1.17. Community Involvement Committee. Establish a Community Involvement Committee to oversee the Community Involvement Program as recognized by Oregon Statewide Planning Goal 1 – Community Involvement and policies 2.15-2.18 of this Comprehensive Plan.

61. Finding: The City Council interprets this policy as requiring the establishment of a Citizen Involvement Committee, which was appointed in June 2018 and reviews and advises the way City staff engage with the public in land use and transportation planning. The City Council finds that this ordinance is a continuation of the initial legislative action that began in 2016, prior to the establishment of the Citizen Involvement Committee, and was remanded to the Council to take additional action. This policy does not apply.

Policy 1.18. Quasi-judicial amendments to the Comprehensive Plan Map. Applicants for quasi-judicial amendments to the Comprehensive Plan Map must show that the requested change adheres to Policies 1.10 through 1.15 and:

- Is compatible with the land use pattern established by the Comprehensive Plan Map.
- Is not in conflict with applicable adopted area-specific plans as described in Policy 1.19, or the applicable hearings body determines that the identified conflict represents a circumstance where the area specific plan is in conflict with the Comprehensive Plan and the proposed amendment is consistent with the Comprehensive Plan.

The Hearings Officer must review and make recommendations to the City Council on all quasi-judicial amendments to the Comprehensive Plan Map using procedures outlined in the Zoning Code.

62. Finding: This policy concerns quasi-judicial amendments to the Comprehensive Plan Map and is not applicable to this project, which is a legislative project.

Policy 1.19. Area-specific plans. Use area-specific plans to provide additional detail or refinements applicable at a smaller geographic scale, such as for centers and corridors, within the policy framework provided by the overall Comprehensive Plan.

1.19.a Area-specific plans that are adopted after May 24, 2018, should clearly identify which components amend Comprehensive Plan elements, supporting documents, or implementation tools. Such amendments should be appropriate to the scope of the Comprehensive Plan; be intended to guide land use decisions; and provide geographically-specific detail. Such amendments could include policies specific to the plan area, land use designation changes, zoning map changes, zoning code changes, and public facility projects necessary to serve designated land uses.

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1.19.b Area-specific plan components intended as context, general guidance, or directives for future community-driven efforts should not amend the Comprehensive Plan elements or implementation tools but be adopted by resolution as intent. These components include vision statements, historical context, existing conditions, action plans, design preferences, and other background information.

1.19.c Community, area, neighborhood, and other area-specific plans that were adopted by ordinance prior to January 1, 2018 are still in effect. However, the elements of this Comprehensive Plan supersede any goals or policies of a community, area, or neighborhood plan that are inconsistent with this Plan.

63. Finding: Council interprets the policy to require the Council “use” or “consider” area-specific plans as additional detail or refinement of policies as applied to a smaller geographic area. The only area-specific plan that applies to the FFTZ amendments is the Guilds Lake Industrial Sanctuary Plan (GLISP). The additional detail provided in that plan are addressed below. Council finds that the GLISP policies and objectives for preserving and enhancing industrial businesses and employment opportunities are consistent with the goals and policies in Chapter 6 (Economic Development) of the 2035 Comprehensive Plan. However, the GLISP does not address other relevant policies identified in the 2035 Comprehensive Plan, especially Goal 4.D with Policies 4.79 and 4.80, which require reducing risk to people and property from natural hazards. Therefore, the City Council considers GLISP and the Comprehensive Plan together and finds that on balance, the FFTZ amendments are consistent with the Comprehensive Plan and GLISP.

Chapter 2: Community Involvement

Goal 2.A: Community involvement as a partnership. The City of Portland works together as a genuine partner with all Portland communities and interests. The City promotes, builds, and maintains relationships, and communicates with individuals, communities, neighborhoods, businesses, organizations, institutions, and other governments to ensure meaningful community involvement in planning and investment decisions.

Goal 2.B: Social justice and equity. The City of Portland seeks social justice by expanding choice and opportunity for all community members, recognizing a special responsibility to identify and engage, as genuine partners, under-served and under-represented communities in planning, investment, implementation, and enforcement processes, particularly those with potential to be adversely affected by the results of decisions. The City actively works to improve its planning and investment-related decisions to achieve equitable distribution of burdens and benefits and address past injustices.

Goal 2.C: Value community wisdom and participation. Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.

Goal 2.D: Transparency and accountability. City planning and investment decision-making processes are clear, open, and documented. Through these processes a diverse range of community interests are heard and balanced. The City makes it clear to the community who is responsible for making decisions and how community input is considered. Accountability includes monitoring and reporting outcomes.

Goal 2.E: Meaningful participation. Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under-served and under-represented

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individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.

Goal 2.F: Accessible and effective participation. City planning and investment decision-making processes are designed to be culturally accessible and effective. The City draws from acknowledged best practices and uses a wide variety of tools, including those developed and recommended by under-served and under-represented communities, to promote inclusive, collaborative, culturally-specific, and robust community involvement.

Goal 2.G: Strong civic infrastructure. Civic institutions, organizations, and processes encourage active and meaningful community involvement and strengthen the capacity of individuals and communities to participate in planning processes and civic life.

64. Finding: The City Council interprets these goals and policies as together requiring a robust public process when making a land use decision. This public process is implemented through the Legislative procedure requirements in PCC 33.740. Neither the Code nor the policies provide explicit direction for responding to a LUBA remand. The Council finds that the re-adoption of the proposed amendments is a continuation of the initial legislative proceeding. Accordingly, the City Council determined that it was appropriate to bring the ordinance directly back to City Council, given the extensive public process that happened as part of the initial adoption of the ordinance in 2016, the City Council hearing that took place in 2019, and that no substantive changes to the Zoning Code are required to address the remand issues. Therefore, it is appropriate and consistent with these goals to bring the ordinance before Council with a notice and a hearing.

65. Finding: The 2016 adoption of the ordinance provided opportunities for all interested parties to comment on and influence the Fossil Fuel Terminal Zoning proposal. The preparation of these amendments provided numerous opportunities for public involvement, including:

Concept Phase. In 2016, prior to the initiation of the legislative project, BPS conducted four stakeholder focus groups meetings. These meetings included participants with a range of perspectives and experience, including community group representatives, fuel terminal representatives, environmental organizations, and business organizations. These meetings served as a forum for discussing issues and potential approaches, and to help inform project staff develop concepts. In addition to the stakeholder focus groups, BPS staff met with several fuel terminals to explain the proposal, answer questions, and discuss their individual concerns. These meetings were needed because antitrust regulations constrained discussion about certain topics, for example supply chains, in the presence of representatives from other fuel terminals.

Discussion Draft. On June 29, 2016, the Fossil Fuel Terminal Zoning Amendments Discussion Draft was published and posted on the Bureau website.

Proposed Draft. On August 12, 2016, the Fossil Fuel Terminal Zoning Proposed Draft was published in preparation for the Planning and Sustainability Commission (PSC) review and recommendation. In support of this process, the BPS website had a project page dedicated to this project, an email address for submitting testimony. As part of the Proposed Draft publication and legislative process requirements, the following legal notices were also sent:

Form 1 35-day Notice. Sent to the Department of Land Conservation and Development (DLCD)

Legislative Notice. Sent to interested parties, recognized organizations, affected bureaus, TriMet, Metro and ODOT and published in the Daily Journal of Commerce

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Measure 56 Notice. Required by Ballot Measure 56, this mailed notice was sent to property owners with industrial or employment base zoning.

The PSC held a public hearing on September 13, 2016. On October 11, 2016, the Planning and Sustainability Commission voted to recommend the Fossil Fuel Terminal Zoning Amendments to City Council, including PSC-recommended modifications to the Proposed Draft. All PSC meetings were streamed live and available for viewing on the Bureau website.

Recommended Draft. On October 24, 2016, the Fossil Fuel Terminal Zoning Amendments Recommended Draft was published to present the PSC recommendations to City Council. On October 25, 2016, notice of the City Council hearing on the Fossil Fuel Terminal Zoning Amendments was mailed. The City Council held public hearings on November 10 and 16, 2016, to receive testimony on the Recommended Draft. On December 8, 2016, the City Council voted to adopt the Fossil Fuel Terminal Zoning Amendments.

Ordinance No. 188142 was appealed to the Oregon Land Use Board of Appeals (LUBA). LUBA reversed the City's decision with a number of assignments of error in *Columbia Pacific Building Trades Council et al v. City of Portland*, LUBA Case No. 2017-001, July 19, 2017. LUBA's decision was appealed to the Oregon Court of Appeals, which overturned LUBA's decision which was affirmed in part and reversed in part in *Columbia Pacific Building Trades Council v. City of Portland*, 289 Or App 739 (2018). The Oregon Court of Appeals decision was appealed to the Oregon Supreme Court, which denied review, 363 Or 390 (2018). On October 5, 2018, LUBA remanded *Columbia Pacific Building Trades Council et al v. City of Portland*, LUBA Case No. 2017-001. The assignments of error that LUBA sustained and were either affirmed or not challenged on appeal to the Court of Appeals concern insufficient findings or evidence or misconstruction of law that do not support a conclusion that the decision is prohibited as a matter of law.

The City of Portland does not have adopted code or policies to establish a decision-making process for a remand decision. The City Council determined that it was appropriate to bring the ordinance directly back to City Council, given the extensive public process that happened as part of the initial adoption of the ordinance in 2016 and that no substantive changes to the Zoning Code are required to address the remand issues. Notification of the November 20, 2019, City Council public hearing on the remand of Ordinance No. 188142 was sent to the City's legislative notice list, the fossil fuel terminal property owners, and the parties to the appeal.

On November 20, 2019, the Portland City Council held a public hearing and received testimony on the re-adoption of the fossil fuel terminal zoning restrictions. The written record was left open for additional testimony until December 2, 2019. The evidentiary record from the initial decision is incorporated by reference and supplemented by additional evidence provided by BPS staff, the testimony Council received at the November 20 hearing and the written testimony received by December 2.

Prior to filing the remand ordinance, the Bureau of Planning and Sustainability provided a draft copy of the code amendments with an invitation to meet with the fossil fuel terminal property owners and the parties to the previous appeals to discuss the proposed amendments. The engagement meeting was held on May 20, 2022. Subsequently, City staff held discussions with their representatives prior to the City filing the ordinance on June 9. During these discussions, the representatives provided potential revisions to the code amendments, which were attached to the Portland Business Alliance written testimony on June 30. The testimony did not include any justification or explanation as to why the changes are needed or what specific issues it addresses. Three of the proposed changes were included in proposed Amendment #1, which was published on

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June 9 as part of the ordinance exhibits. Council does not consider Amendment #1 to be a substantive change. It is a clarifying amendment that responds to testimony and does not materially change the purpose of the ordinance – to establish a Bulk Fossil Fuel Terminal use category; prohibit new terminals; and limit the expansion of fossil fuel storage tank capacity at existing terminals.

On May 26, 2022, BPS filed a 35-day DLCD notice and on June 9, 2022, notification of the June 30, 2022, City Council public hearing on the remand of Ordinance No. 188142 was sent to the City’s legislative notice list, the fossil fuel terminal property owners, and the parties to the appeal.

On June 30, 2022, the Portland City Council held a public hearing and received testimony on the re-adoption of the fossil fuel terminal zoning restrictions. Due to the ongoing COVID-19 pandemic, this hearing was held both in-person and electronically. The hearings could be viewed live in City Hall and on the City of Portland YouTube channel, and members of the public were able to testify in-person, by phone or via Zoom video conference. The written record was left open for additional testimony until July 7, 2022. The evidentiary record from the previous decisions are incorporated by reference and supplemented by additional evidence provided by BPS staff, the testimony Council received at the June 30 hearing and the written testimony received by July 7.

Partners in decision making

Policy 2.1. Partnerships and coordination. Maintain partnerships and coordinate land use engagement with:

2.1.a Individual community members.

2.1.b Communities of color, low-income populations, Limited English Proficient (LEP) communities, Native American communities, and other under-served and under-represented communities.

2.1.c District coalitions, neighborhood associations, and business district associations as local experts and communication channels for place-based projects.

2.1.d Businesses, unions, employees, and related organizations that reflect Portland’s diversity as the center of regional economic and cultural activity.

2.1.e Community-based, faith-based, artistic and cultural, and interest-based non-profits, organizations, and groups.

2.1.f Institutions, governments, and Sovereign tribes.

66. Finding: The 2035 Comprehensive Plan defines the verb “maintain” to mean keep what you have; conserve; preserve; continue. The City Council interprets these policies as requiring diverse community engagement with distinct interests represented, however, the policies do not require Council to only accept the opinion/ argument/ evidence of any one group. The City Council ultimately will evaluate the information and make a policy determination that is consistent with the goals and policies.

As described in the Statewide Planning Goal 1 findings, the initial adoption of the FFTZ amendments were informed by a broad range of individuals and groups. Prior to the initiation of the legislative project, BPS conducted four stakeholder focus groups meetings. These meetings included participants with a range of perspectives and experience, including community group representatives, fuel terminal representatives, environmental organizations, and business organizations. These meetings served as a forum for discussing issues and potential approaches,

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and to help inform project staff develop concepts. In addition to the stakeholder focus groups, BPS staff met with several fuel terminals to explain the proposal, answer questions, and discuss their individual concerns.

Prior to filing this second remand ordinance, the Bureau of Planning and Sustainability held a meeting with the fossil fuel terminal property owners and the parties to the previous appeals to discuss the proposed amendments. The engagement meeting was held on May 20, 2022. Subsequently, City staff held discussions with their representatives prior to the City filing the ordinance on June 9. During these discussions, the representatives provided potential revisions to the code amendments, which were attached to the Portland Business Alliance written testimony on June 30. The testimony did not include any justification or explanation as to why the changes are needed or what specific issues it addresses. Three of the proposed changes were included in proposed Amendment #1, which was published on June 9 as part of the ordinance exhibits. Council does not consider Amendment #1 to be a substantive change. It is a clarifying amendment that does not materially change the purpose of the ordinance – to establish a Bulk Fossil Fuel Terminal use category; prohibit new terminals; and limit the expansion of fossil fuel storage tank capacity at existing terminals.

Policy 2.2. Broaden partnerships. Work with district coalitions, neighborhood associations, and business district associations to increase participation and to help them reflect the diversity of the people and institutions they serve. Facilitate greater communication and collaboration among district coalitions, neighborhood associations, business district associations, culturally-specific organizations, and community-based organizations.

67. **Finding:** The City Council interprets this policy to guide how the City works with a broad range of partners over time, beyond the context of a specific land use decision. This policy does not apply.

Environmental justice

Policy 2.3. Extend benefits. Ensure plans and investments promote environmental justice by extending the community benefits associated with environmental assets, land use, and public investments to communities of color, low-income populations, and other under-served or under-represented groups impacted by the decision. Maximize economic, cultural, political, and environmental benefits through ongoing partnerships.

Policy 2.4. Eliminate burdens. Ensure plans and investments eliminate associated disproportionate burdens (e.g. adverse environmental, economic, or community impacts) for communities of color, low-income populations, and other under-served or under-represented groups impacted by the decision.

2.4.a, Minimize or mitigate disproportionate burdens in cases where they cannot be eliminated.

2.4.b, Use plans and investments to address disproportionate burdens of previous decisions.

68. **Finding:** The City Council finds that Policies 2.3 and 2.4 work together to address the benefits and burdens of planning and investment decisions have on under-served and under-represented groups. The verb “ensure”, which is defined in the 2035 Comprehensive Plan, means to make sure that something will happen or be available. Council interprets these policies as requiring that plans, including zoning code amendments, promote environmental justice to all communities, including under-served and under-represented communities extending benefits and eliminating burdens. The City Council finds that the FFT amendments eliminate burdens by providing greater public health and safety outcomes by reducing the risk of adverse environmental impacts associated with a major earthquake, which will be an improvement compared to the current regulations that allow

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for unlimited growth in FFTs. The potential adverse risks in the event of a major earthquake have been documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. In terms of burdens, the City Council finds that one of the important factors to consider is the impact on job opportunities across a wide range of wage scales, especially middle wage jobs, which can provide for economic prosperity for under-served or under-represented groups, especially for those people without college degrees. Specifically, those middle-wage opportunities are found in Portland's industrial districts. The City Council finds that the ordinance has been narrowly written to minimize impacts to the existing FFTs, thereby maintaining those existing job opportunities. Further, the FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not reduce the employment land base and continue to support employment opportunities in a strong and diverse economy.

Testimony raised concerns that the FFT amendments may constrain the supply of fossil fuels to serve anticipated population and employment growth, which in turn could increase fuel costs that could disproportionately affect lower-income households. This concern is based on an unsupported premise that the long-term future demand for fossil fuels will exceed the fossil fuel storage tank capacity of the existing terminals. As shown in the 2022 BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 are not projected to exceed the historic peak consumption, especially when exceptions that allow for additional storage tank capacity for jet and renewable fuels are accounted for. Therefore, the City Council finds the FFT amendments extend benefits and address disproportionate burdens.

Invest in education and training

Policy 2.5. Community capacity building. Enhance the ability of community members, particularly those in under-served and/or under-represented groups, to develop the relationships, knowledge, and skills to effectively participate in plan and investment processes.

Policy 2.6. Land use literacy. Provide training and educational opportunities to build the public's understanding of land use, transportation, housing, and related topics, and increase capacity for meaningful participation in planning and investment processes.

Policy 2.7. Agency capacity building. Increase City staff's capacity, tools, and skills to design and implement processes that engage a broad diversity of affected and interested communities, including under-served and under-represented communities, in meaningful and appropriate ways.

69. Finding: Policies 2.5 through 2.7 concern broad approaches to educating community members and City staff about planning processes, and are not applicable to these Zoning Code amendments.

Community assessment

Policy 2.8. Channels of communication. Maintain channels of communication among City Council, the Planning and Sustainability Commission (PSC), project advisory committees, City staff, and community members.

70. Finding: The City Council interprets this policy to create the opportunity for the community and advisory committees to have opportunities to communicate their issues and concerns to the PSC and City Council outside of the formal legislative process. These changes are a legislative process

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with formal opportunities to testify to communicate directly with City Council. Therefore, this policy does not apply.

Policy 2.9. Community analysis. Collect and evaluate data, including community-validated population data and information, to understand the needs, priorities, and trends and historical context affecting different communities in Portland.

Policy 2.10. Community participation in data collection. Provide meaningful opportunities for individuals and communities to be involved in inventories, mapping, data analysis, and the development of alternatives.

Policy 2.11. Open Data. Ensure planning and investment decisions are a collaboration among stakeholders, including those listed in Policy 2.1. Where appropriate, encourage publication, accessibility, and wide-spread sharing of data collected and generated by the City.

71. Finding: Policies 2.9 through 2.11 concern how the City collects and makes available data that supports land use decisions. In this case, the City published data concerning the storage tank capacity of existing FFTs as part of the discussion draft, proposed draft, and recommendation draft with an opportunity for the community and terminal owners to validate that data.

Transparency and accountability

Policy 2.12. Roles and responsibilities. Establish clear roles, rights, and responsibilities for participants and decision makers in planning and investment processes. Address roles of City bureaus, elected officials, and participants, including community and neighborhood leadership, business, organizations, and individuals.

Policy 2.13. Project scope. Establish clear expectations about land use project sponsorship, purpose, design, and how decision makers will use the process results.

Policy 2.14. Community influence. At each stage of the process, identify which elements of a planning and investment process can be influenced or changed through community involvement. Clarify the extent to which those elements can be influenced or changed.

Policy 2.15. Documentation and feedback. Provide clear documentation for the rationale supporting decisions in planning and investment processes. Communicate to participants about the issues raised in the community involvement process, how public input affected outcomes, and the rationale used to make decisions.

72. Finding: The City Council interprets Policies 2.12 Through 2.15 to guide the process for making planning and investment decisions. As described in the findings for Statewide Planning Goal 1 (Citizen Involvement), the original legislative process was clearly outlined in notices, documents and on the project website as to how to testify to influence the Proposed Draft at the PSC, which amended the proposal. Then the Recommended Draft was published with the opportunity to testify to the City Council at the 2016 public hearings.

For the re-adoption of the FFTZ amendments, the notice for the remand explicitly identified what the City Council was considering (the same ordinance with proposed clarifying amendments) and how to participate in the hearing or submit written testimony. The City Council received public testimony at the November 20, 2019 hearing on the substance of the regulations and the written record was left open for additional testimony until December 2, 2019. The City Council adopted findings to provide clear documentation for the rationale supporting the decision.

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For this re-adoption process, on May 26, 2022, BPS filed a 35-day DLCD notice and sent a legislative notice on June 9, 2022, for the June 30, 2022, City Council public hearing on the remand of Ordinance No. 188142. The notice was sent to the City's legislative notice list, the fossil fuel terminal property owners, and the parties to the appeal.

On June 30, 2022, the Portland City Council held a public hearing and received testimony on the re-adoption of the fossil fuel terminal zoning restrictions. Due to the ongoing COVID-19 pandemic, this hearing was held both in-person and electronically. The hearings could be viewed live in City Hall and on the City of Portland YouTube channel, and members of the public were able to testify in-person, by phone or via Zoom video conference. The written record was left open for additional testimony until July 7, 2022. The evidentiary record from the previous decisions are incorporated by reference and supplemented by additional evidence provided by BPS staff, the testimony Council received at the June 30 hearing and the written testimony received by July 7. The findings in this document respond to the public testimony and explain the rationale used to make this decision.

Community involvement program

Policies 2.16 through 2.23.

73. **Finding:** These policies concern the City's Community Involvement Program and are not applicable because the FFTZ amendments do not change this program.

Process design and evaluation

Policy 2.24. Representation. Facilitate participation of a cross-section of the full diversity of affected Portlanders during planning and investment processes. This diversity includes individuals, stakeholders, and communities represented by race, color, national origin, English proficiency, gender, age, disability, religion, sexual orientation, gender identity, and source of income.

Policy 2.25. Early involvement. Improve opportunities for interested and affected community members to participate early in planning and investment processes, including identifying and prioritizing issues, needs, and opportunities; participating in process design; and recommending and prioritizing projects and/or other types of implementation.

Policy 2.26. Verifying data. Use data, including community-validated population data, to guide planning and investment processes and priority setting and to shape community involvement and decision-making efforts.

Policy 2.27. Demographics. Identify the demographics of potentially affected communities when initiating a planning or investment project.

Policy 2.28. Historical understanding. To better understand concerns and conditions when initiating a project, research the history, culture, past plans, and other needs of the affected community, particularly under-represented and under-served groups, and persons with limited English proficiency (LEP). Review preliminary findings with members of the community who have institutional and historical knowledge.

Policy 2.29. Project-specific needs. Customize community involvement processes to meet the needs of those potentially affected by the planning or investment project. Use community involvement techniques that fit the scope, character, and potential impact of the planning or investment decision under consideration.

Policy 2.30. Culturally-appropriate processes. Consult with communities to design culturally-

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appropriate processes to meet the needs of those affected by a planning or investment project. Evaluate, use, and document creative and culturally-appropriate methods, tools, technologies, and spaces to inform and engage people from under-served and under-represented groups about planning or investment projects.

Policy 2.31. Innovative engagement methods. Develop and document innovative methods, tools, and technologies for community involvement processes for plan and investment projects.

Policy 2.32. Inclusive participation beyond Portland residents. Design public processes for planning and investment projects to engage affected and interested people who may not live in Portland such as property owners, employees, employers, and students, among others, as practicable.

Policy 2.33. Inclusive participation in Central City planning. Design public processes for the Central City that recognize its unique role as the region's center. Engage a wide range of stakeholders from the Central City and throughout the region including employees, employers, social service providers, students, and visitors, as well as regional tourism, institutional, recreation, transportation, and local/regional government representatives, as appropriate.

Policy 2.34. Accessibility. Ensure that community involvement processes for planning and investment projects are broadly accessible in terms of location, time, and language, and that they support the engagement of individuals with a variety of abilities and limitations on participation.

Policy 2.35. Participation monitoring. Evaluate and document participant demographics throughout planning and investment processes to assess whether participation reflects the demographics of affected communities. Adapt involvement practices and activities accordingly to increase effectiveness at reaching targeted audiences.

Policy 2.36. Adaptability. Adapt community involvement processes for planning and investment projects as appropriate to flexibly respond to changes in the scope and priority of the issues, needs, and other factors that may affect the process.

Policy 2.37. Process evaluation. Evaluate each community involvement process for planning or investment projects from both the City staff and participants' perspectives, and consider feedback and lessons learned to enhance future involvement efforts.

74. Finding: The City Council interprets Policies 2.24 through 2.37 to address how the community involvement program is designed and developed to support planning and investment projects. The community involvement process conducted in support of initial adoption of the FFTZ amendments engaged a broad range of stakeholders. As part of the concept development of the zoning code changes, BPS held stakeholder focus group meetings with representatives from energy providers (the FFTs, the Western States Petroleum Association, Northwest Natural, and business organizations) and environmental organizations. The Discussion Draft was crafted in response to these discussions. In turn, comments on the Discussion Draft informed changes that were incorporated in the Proposed Draft. A large number of people testified at both the PSC and City Council public hearings as part of the initial adoption in 2016, which resulted in amendments to the regulations.

The City of Portland does not have adopted code or policies to establish a decision-making process for a remand decision. In 2019, the City Council found that the re-adoption of the remanded amendments was a continuation of the initial legislative proceeding. Accordingly, the City Council determined that it was appropriate to bring the ordinance directly back to City Council, given the extensive public process that happened as part of the initial adoption of the ordinance in 2016. The

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City Council held a public hearing, received written testimony, and made no substantive changes to the Zoning Code are required to address the remand issues.

The Council continues to find that this re-adoption of the remanded amendments are a continuation of the initial legislative proceeding. Accordingly, the City Council determined that it was appropriate to bring the ordinance directly back to City Council, given the extensive public process that happened as part of the initial adoption of the ordinance in 2016 and the re-adoption in 2019 and that no substantive changes to the Zoning Code are required to address the remand issues.

Prior to filing the remand ordinance, the Bureau of Planning and Sustainability held a meeting with the fossil fuel terminal property owners and the parties to the previous appeals to discuss the remanded ordinance. The engagement meeting was held on May 20, 2022. Subsequently, City staff held discussions with their representatives prior to the City filing the ordinance on June 9. During these discussions, the representatives provided potential revisions to the code amendments, which were attached to the Portland Business Alliance written testimony on June 30. The testimony did not include any justification or explanation as to why the changes are needed or what specific issues it addresses. Three of the proposed changes were included in proposed Amendment #1, which was published on June 9 as part of the ordinance exhibits.

Notification of the June 30, 2022, City Council public hearing on the remand of Ordinance No. 188142 was sent to the City's legislative notice list, the fossil fuel terminal property owners, and the parties to the appeal.

On June 30, 2022, the Portland City Council held a public hearing and received testimony on the re-adoption of the fossil fuel terminal zoning restrictions. Due to the ongoing COVID-19 pandemic, this hearing was held both in-person and electronically. The hearings could be viewed live in City Hall and on the City of Portland YouTube channel, and members of the public were able to testify in-person, by phone or via Zoom video conference. The written record was left open for additional testimony until July 7, 2022. The evidentiary record from the previous decisions are incorporated by reference and supplemented by additional evidence provided by BPS staff, the testimony Council received at the June 30 hearing and the written testimony received by July 7.

Therefore, the City Council finds community involvement program for this legislative process is consistent with these policies.

Information design and development

Policy 2.38. Accommodation. Ensure accommodations to let individuals with disabilities participate in administrative, quasi-judicial, and legislative land use decisions, consistent with federal regulations.

75. Finding: The City Council hearing on June 30, 2022, was held at City Hall, an accessible location, with opportunities for virtual testimony. Due to the ongoing COVID-19 pandemic, this hearing was held both in-person and electronically. The hearings could be viewed live in City Hall and on the City of Portland YouTube channel, and members of the public were able to testify in-person, by phone or via Zoom video conference. The notice of the City Council hearing included specific information on how individuals can request accommodations to ensure participation in the proceedings.

Policy 2.39. Notification. Notify affected and interested community members and recognized organizations about administrative, quasi-judicial, and legislative land use decisions with enough lead time to enable effective participation. Consider notification to both property owners and renters.

76. Finding: For the original adoption of the FFTZ amendments, the City sent the required Measure 56

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notice to all owners of industrial zoned properties when it published the Proposed Draft prior to the PSC hearing. The City also sent a legislative notice to interested parties, including neighborhood associations, business associations, and other affected jurisdictions, that have requested notice of proposed land use changes.

The City Council's action on remand is a continuation of the initial legislative proceeding. Prior to conducting a hearing, the City sent a legislative notice to interested parties, FFT owners and the attorneys that participated in the appeal to inform them of the opportunity to testify at the June 30, 2022, City Council public hearing. Additionally, Council left the written record open until July 7, 2022, to provide additional opportunities to participate.

Policy 2.40. Tools for effective participation. Provide clear and easy access to information about administrative, quasi-judicial, and legislative land use decisions in multiple formats and through technological advancements and other ways.

Policy 2.41. Limited English Proficiency (LEP). Ensure that limited English proficient (LEP) individuals are provided meaningful access to information about administrative, quasi-judicial, and legislative land use decisions, consistent with federal regulations.

77. Finding: Regular communications about the original adoption of the FFTZ project and opportunities to participate and provide input were made available through the project website.

Chapter 3: Urban Form

78. Finding: The City Council interprets that the overall intent of these policies is to foster a compact urban form, make corridors vibrant, enhance public realm. The policies relate to design and the physical structure. The FFTZ amendments limit one type of use and do not impact or change design or physical development requirements. Therefore, the goals and policies of this chapter are generally not applicable. However, to the extent a policy could be deemed applicable, the City Council provides further findings below.

GOAL 3.A: A city designed for people. Portland's built environment is designed to serve the needs and aspirations of all Portlanders, promoting prosperity, health, equity, and resiliency. New development, redevelopment, and public investments reduce disparities and encourage social interaction to create a healthy connected city.

79. Finding: The City Council interprets this goal to guide the design of new development and the impact it has on Portland's built environment. This goal is not directly applicable to the FFTZ amendments because this ordinance regulates one type of use in Portland's industrial and employment zones. The FFTZ amendments do promote prosperity and equity by preserving the industrial development capacity to support employment growth, which contributes to more equitably distributed household prosperity. Further, the FFTZ amendments promote health and resiliency by limiting future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing FFTs, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can make Portland more resilient.

GOAL 3.B: A climate and hazard resilient urban form. Portland's compact urban form, sustainable building development practices, green infrastructure, and active transportation system reduce carbon

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emissions, reduce natural hazard risks and impacts, and improve resilience to the effects of climate change.

80. Finding: The City Council interprets this goal to guide actions to promote a resilient urban form. The FFTZ amendments do not change Portland’s compact urban form because the amendments regulate one type of industrial use and do not include comprehensive plan or zoning map changes. The FFTZ amendments do not change Portland’s sustainable building practices, green infrastructure, or active transportation system because the amendments are limited to one type of use in Portland’s industrial and employment zones and do not affect the City’s sustainable building practices, green infrastructure, or active transportation system.

The 2035 Comprehensive Plan defines the verb “improve” to mean make the current situation better. The ordinance reduces natural hazard risks and impacts because most of Portland’s employment and industrial zones are in areas with high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. The FFTZ amendments are a regulatory approach that reduces risk from an earthquake by limiting the size of new FFTs and prohibiting the expansion of fossil fuel storage tank capacity at existing FFTs, with limited exceptions for jet and renewable fuels, which is an improvement over the current regulations that allow for unlimited growth in FFTs. The FFTZ regulations improves resiliency by designating existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing fossil fuel storage tank capacity to increase safety and resilience.

The PBA coalition testimony claims, without supporting evidence, that the ordinance will “hinder” the City’s safety goals. The City Council interprets the word “hinder” to mean to create difficulties, resulting in delay or obstruction. The testimony does not elaborate or provide evidence as to how the FFTZ amendments will hinder the City’s safety goals. The purpose of the ordinance is to begin to proactively address the safety risks due to earthquakes by not making the problem worse by continuing to allow the unlimited expansion of fossil fuel storage tank capacity.

The WSPA testimony claims the ordinance will discourage seismic and safety improvements that typically occur with new infrastructure improvements – types of infrastructure improvements are not defined. WSPA testimony claims the ordinance will prohibit new terminals, new intermodal links and new fuel tanks in Portland. Council finds this statement is inaccurate with respect to the limits in the FFTZ amendments. The amendments prohibit new bulk fossil fuel terminals with more than 2 million gallons of liquid fossil fuel storage capacity. New fuel terminals with less than 2 million gallons of fossil fuel storage (and unrestricted amounts of jet fuel and renewable fuel) are considered a Warehouse and Freight Movement use and continue to be allowed in Portland’s employment and industrial zones (PCC 33.140, Table 140-1). The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with Goal 4.D and Policies 4.79 and 4.80 and the findings in response to those goals and policies are incorporated by reference.

GOAL 3.C: Focused growth. Household and employment growth is focused in the Central City and other centers, corridors, and transit station areas, creating compact urban development in areas with

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a high level of service and amenities, while allowing the relative stability of lower-density single-family residential areas.

81. Finding: The FFTZ amendments are focused on changes to allowed uses in the City’s industrial areas and do not affect the City’s goal in creating compact urban development. This goal does not apply.

GOAL 3.D: A system of centers and corridors. Portland’s interconnected system of centers and corridors provides diverse housing options and employment opportunities, robust multimodal transportation connections, access to local services and amenities, and supports low-carbon complete, healthy, and equitable communities.

82. Finding: The FFTZ amendments are focused on changes to allowed uses in the City’s industrial areas and do not affect the City’s goal in creating a system of centers and corridors. This goal does not apply.

GOAL 3.E: Connected public realm and open spaces. A network of parks, streets, City Greenways, and other public spaces supports community interaction; connects neighborhoods, districts, and destinations; and improves air, water, land quality, and environmental health.

83. Finding: The FFTZ amendments are focused on changes to the City’s industrial areas, which play a limited role in the City’s connected network of parks and open spaces. Six of the existing FFTs have frontage on the Willamette River with designated natural resources that are protected by the Greenway Overlay Zone (Chapters 33.440), which is not amended by this ordinance. This goal does not apply.

GOAL 3.F: Employment districts. Portland supports job growth in a variety of employment districts to maintain a diverse economy.

84. Finding: The 2035 Comprehensive Plan defines the verb “maintain” to mean keep what you have; conserve; preserve; continue. As described in the Economic Opportunities Analysis (EOA), Portland has a diverse economy with a wide range of businesses and employment opportunities that are distributed across the Central City, neighborhood commercial areas, campus institutions and industrial areas. The City Council interprets this goal to apply to the City’s economy in general and not specific businesses or industries. The City Council finds that the policy means that the City will support job growth in all employment districts in order to maintain a diverse economy, but the policy does not require the City to support the job growth of specific industries at all costs. The FFTZ amendments maintain Portland’s diverse economy because the changes do not include map changes, nor do they allow for new incompatible land uses in industrial areas. Therefore, these changes will continue to provide the same opportunities for employment in Portland’s employment districts. The FFTZ regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s employment districts. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served. The limits on expansion of fossil fuel storage tank capacity at FFTs are mitigated by designating existing FFTs as a limited use that allows the terminals to maintain, preserve and continue to operate and improve their intermodal facilities and supports opportunities for growth through a number of exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions.

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As noted below in the findings for the 2035 Comprehensive Plan, the FFTZ amendments are consistent with the goals and policies of Chapter 6 (Economic Development) of the 2035 Comprehensive Plan and the findings in response to those goals and policies are incorporated by reference.

GOAL 3.G: Nature in the city. A system of habitat corridors weaves nature into the city, enhances habitat connectivity, and preserves natural resources and the ecosystem services they provide.

85. Finding: The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The verb “preserve”, which is defined in the 2035 Comprehensive Plan, means to save from significant change or loss and reserve for special purpose. The Willamette and Columbia rivers play a major role in the habitat corridors that weave nature into Portland. Six of the existing FFTs have frontage on the Willamette River with designated natural resources that are protected by the Greenway Overlay Zone (Chapters 33.440), which is not amended by this ordinance. In considering the natural hazard risks that the FFTs pose to the ecosystem functions on the river, as identified by the Portland Bureau of Emergency Management’s Critical Energy Infrastructure Hub Study (2016) and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub, the City Council finds that continuing to allow the unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area does not enhance the current or future natural resource functions of the rivers and represents a significant risk to the loss of those functions. Therefore, the FFTZ regulations focus on limiting risk by limiting fossil fuel storage tank capacity, but designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing fossil fuel storage tank capacity to increase safety. These regulations will limit the natural hazard risks to the natural resources, habitat connectivity functions and ecosystem services provided by the rivers.

Citywide design and development

Policy 3.1. Urban Design Framework. Use the Urban Design Framework (UDF) as a guide to create inclusive and enduring places, while providing flexibility for implementation at the local scale to meet the needs of local communities.

86. Finding: The UDF is a guide at the citywide scale. The UDF identifies the Rivers pattern area, which encompasses most of Portland’s industrial and employment areas, including all of the existing FFTs. The FFTZ amendments are focused on changes to allowed uses in the City’s industrial areas. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses. Therefore, these changes are consistent with this policy because they do not change the location or character of the Rivers pattern area.

Policy 3.2. Growth and stability. Direct the majority of growth and change to centers, corridors, and transit station areas, allowing the continuation of the scale and characteristics of Portland’s residential neighborhoods.

87. Finding: The FFTZ amendments are focused on changes to allowed uses in the City’s industrial areas. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The other industrial uses continue to operate under current zoning regulations. These changes will not affect the City’s policies to direct most growth to centers and corridors or affect the scale and characteristics of Portland’s residential neighborhoods.

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Policy 3.3. Equitable development. Guide development, growth, and public facility investment to reduce disparities, ensure equitable access to opportunities, mitigate the impacts of development on income disparity, displacement and produce positive outcomes for all Portlanders.

3.3.a. Anticipate, avoid, reduce, and mitigate negative public facility and development impacts, especially where those impacts inequitably burden communities of color, under-served and under-represented communities, and other vulnerable populations.

3.3.b. Make needed investments in areas that are deficient in public facilities to reduce disparities and increase equity. Accompany these investments with proactive measures to avoid displacement and increase affordable housing.

3.3.c. Encourage use of plans, agreements, incentives, and other tools to promote equitable outcomes from development projects that benefit from public financial assistance.

3.3.d. Incorporate requirements into the Zoning Code to provide public and community benefits as a condition for development projects to receive increased development allowances.

3.3.e. When private property value is increased by public plans and investments, require development to address or mitigate displacement impacts and impacts on housing affordability, in ways that are related and roughly proportional to these impacts.

3.3.f. Coordinate housing, economic development, and public facility plans and investments to create an integrated community development approach to restore communities impacted by past decisions.

3.3.g. Encourage developers to engage directly with a broad range of impacted communities to identify potential impacts of private development projects, develop mitigation measures, and provide community benefits to address adverse impacts.

88. Finding: The verb “guide”, which is defined in the 2035 Comprehensive Plan, means to shape or direct actions over time to achieve certain outcomes. The 2035 Comprehensive Plan specifically says that this verb is used when the City has a role in shaping outcomes but implementation involves multiple other implementers and actions taking place over a long period of time. In this situation, the City Council interprets that the overall intent of these policies is to prompt a consideration of the equity impacts of these amendments. One of the ways to reduce disparities and produce positive outcomes for all Portlanders is to create more opportunities for middle wage jobs, especially for people without college degrees. Those opportunities can be found in Portland’s industrial areas. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to encourage growth in Portland’s industrial districts. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The remaining industrial uses continue to operate under current zoning regulations. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served. These changes support the retention of existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions.

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The PBA coalition and WSPA testimony repeats previous claims, without supporting evidence, that the ordinance will “hurt” or “damage” the local economy. The implication is that the FFT amendments may constrain the supply of fossil fuels to serve anticipated population and employment growth, which in turn could increase fuel costs that could disproportionately affect lower-income households. This concern is based on an unsupported premise that the long-term future demand for fossil fuels will exceed the fossil fuel storage tank capacity of the existing terminals. As shown in the BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 is not projected to exceed the historic peak consumption, especially when exceptions for additional storage tank capacity for jet and renewable fuels are accounted for. The City Council finds that, as in 2016 and 2019, the testimony does not contradict or refute any of the supporting evidence or findings that Council has relied upon for adopting this ordinance. The ordinance has been crafted to provide the fossil fuel storage tank capacity, with the allowed exceptions, necessary to serve the regional market as part of a growing economy.

Testimony raised concern that the ordinance would unnecessarily burden eastern Oregon and Washington and Idaho. As explained under Policy 6.48, Council finds the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that a combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho’s fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

The Council finds that the BPS memo on Liquid Fossil Fuel Demand and the Lighthouse Energy Consulting memo on natural gas, as evidence that there will be sufficient fossil fuel storage capacity at the existing FFTs to serve the regional market as part of a growing economy. Council notes that there was no evidence that contradicted this evidence.

The City Council finds that the other types of anti-displacement mitigation measures identified in this policy are focused on housing and not applicable to Zoning Code changes that affect allowed uses in industrial zones.

Policy 3.4. All ages and abilities. Strive for a built environment that provides a safe, healthful, and attractive environment for people of all ages and abilities.

89. Finding: The verb “strive”, which is defined in the 2035 Comprehensive Plan, means to devote serious effort or energy to work to achieve over time. The City Council interprets this policy to be focused on creating a supportive built environment for children, the elderly and people with disabilities. Specifically, the policy is focused on the built environment of centers, corridors and residential areas where children, the elderly and people with disabilities inhabit the city. The FFTZ amendments are limited to changes allowed in industrial zones and do not impact centers, corridors and residential areas. Therefore, Council finds that this policy does not apply.

To the extent the policy does apply to individuals that work in the industrial zones, the FFTZ amendments maintain Portland’s diverse employment opportunities because the changes do not

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include map changes, nor do they allow for new incompatible land uses in industrial areas. Therefore, these changes will continue to provide the same opportunities for employment in Portland's employment districts.

Policy 3.5. Energy and resource efficiency. Support energy-efficient, resource-efficient, and sustainable development and transportation patterns through land use and transportation planning.

90. Findings: The verb "support", which is defined in the 2035 Comprehensive Plan, means to aid the cause of. The City Council interprets this policy to mean that land use and transportation planning should aid in creating efficient and sustainable development patterns. The City Council finds that this policy applies to the city as whole and does not require the City Council to ensure that individual businesses or industries are more energy-efficient, resource-efficient, or sustainable. Rather, the policy requires City Council to consider how city-wide development and transportation plans can create patterns that are more efficient. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, will not significantly change the development pattern in Portland's industrial districts. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan. Therefore, these changes will continue to support the sustainable development and transportation patterns across the city as a whole.

Policy 3.6. Land efficiency. Provide strategic investments and incentives to leverage infill, redevelopment, and promote intensification of scarce urban land while protecting environmental quality.

91. Findings: The City Council interprets this policy to guide investment and incentive decisions and finds that this ordinance is not that type of decision. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, which guide the City's infrastructure investment decisions. The City's Enterprise Zone program, which provides a property tax exemption to industrial firms, is one of the programs in which the City of Portland provides financial incentives to businesses. These changes do not affect that program, and FFTs that make new capital investments remain eligible for that program. The amendments promote intensification by designating the existing FFTs as limited uses. The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. The FFTZ amendments do not amend the Greenway Overlay Zone standards or review process. Therefore, the City continues to plan for strategic investments and incentives in the industrial districts, promote intensification while protecting environmental quality.

Policy 3.7. Integrate nature. Integrate nature and use green infrastructure throughout Portland.

92. Findings: No changes to greenway or environmental overlay zones, stormwater requirements, or tree code are a part of this ordinance. This policy does not apply.

Policy 3.8. Leadership and innovation in design. Encourage high-performance design and development that demonstrates Portland's leadership in the design of the built environment, commitment to a more equitable city, and ability to experiment and generate innovative design solutions.

93. Finding: The FFTZ amendments are use limitations for one type of use found in Portland's industrial areas. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. Further, the

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use limitations encourage innovation to FFTs to replace and reconfigure existing storage tank capacity to increase safety.

Policy 3.9. Growth and development. Evaluate the potential impacts of planning and investment decisions, significant new infrastructure, and significant new development on the physical characteristics of neighborhoods and their residents, particularly under-served and under-represented communities, with attention to displacement and affordability impacts. Identify and implement strategies to mitigate the anticipated impacts.

94. Finding: The City Council finds that this policy requires the City Council to assess the impacts of planning decisions on neighborhoods and their residents, particularly those that are under-served and under-represented. The City Council finds that one of the ways that under-served and under-represented communities can be impacted is through access to employment opportunities, especially in industrial areas that can have more jobs with higher wages for people without college degrees. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain employment opportunities in Portland's industrial districts. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. The remaining industrial uses continue to operate under current zoning regulations. These changes apply to one type of use in the industrial zones, therefore, these changes will not have a significant impact on industrial areas, including the employment opportunities. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served. These changes will not impact the physical characteristics of neighborhoods or result in increased displacement or affordability impacts, therefore no mitigations strategies have been identified.

Policy 3.10. Rural, urbanizable, and urban land. Preserve the rural character of rural land outside the Regional Urban Growth Boundary. Limit urban development of urbanizable land beyond the City Limits until it is annexed and full urban services are extended.

95. Finding: The FFTZ amendments apply to one type of use in the industrial zones, therefore, these changes will not have a significant impact on rural land outside the UGB. This policy does not apply.

Policy 3.11. Significant places. Enhance and celebrate significant places throughout Portland with symbolic features or iconic structures that reinforce local identity, histories, and cultures and contribute to way-finding throughout the city. Consider these especially at:

- High-visibility intersections
- Attractions
- Schools, libraries, parks, and other civic places
- Bridges
- Rivers
- Viewpoints and view corridor locations
- Historically or culturally significant places
- Connections to volcanic buttes and other geologic and natural landscape features
- Neighborhood boundaries and transitions

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96. **Finding:** The existing FFTs are near significant places, such as the St Johns Bridge and the Willamette River, but are not considered significant places that should be enhanced or celebrated. This policy does not apply.

Centers

Policy 3.12. Role of centers. Enhance centers as anchors of complete neighborhoods that include concentrations of commercial and public services, housing, employment, gathering places, and green spaces.

Policy 3.13. Variety of centers. Plan for a range of centers across the city to enhance local, equitable access to services, and expand housing opportunities.

Policy 3.14. Housing in centers. Provide housing capacity for enough population to support a broad range of commercial services, focusing higher-density housing within a half-mile of the center core.

Policy 3.15. Investments in centers. Encourage public and private investment in infrastructure, economic development, and community services in centers to ensure that all centers will support the populations they serve.

Policy 3.16. Government services. Encourage the placement of services in centers, including schools and colleges, health services, community centers, daycare, parks and plazas, library services, and justice services.

Policy 3.17. Arts and culture. Ensure that land use plans and infrastructure investments allow for and incorporate arts, culture, and performance arts as central components of centers.

Policy 3.18. Accessibility. Design centers to be compact, safe, attractive, and accessible places, where the street environment makes access by transit, walking, biking, and mobility devices such as wheelchairs, safe and attractive for people of all ages and abilities.

Policy 3.19. Center connections. Connect centers to each other and to other key local and regional destinations, such as schools, parks, and employment areas, by frequent and convenient transit, bicycle sharing, bicycle routes, pedestrian trails and sidewalks, and electric vehicle charging stations.

Policy 3.20. Green infrastructure in centers. Integrate nature and green infrastructure into centers and enhance public views and connections to the surrounding natural features.

97. **Finding:** Policies 3.12 through 3.20 provide direction on the desired characteristics and functions of centers. The FFTZ amendments do not change the center designations on the Urban Design Framework. The FFTZ amendments change allowed uses in the City's industrial areas. There are no FFTs located in centers. These policies do not apply.

Central City

Policy 3.21. Role of the Central City. Encourage continued growth and investment in the Central City, and recognize its unique role as the region's premier center for jobs, services, and civic and cultural institutions that support the entire city and region.

Policy 3.22. Model Urban Center. Promote the Central City as a living laboratory that demonstrates how the design and function of a dense urban center can concurrently provide equitable benefits to human health, the natural environment, and the local economy.

Policy 3.23. Central City employment. Encourage the growth of the Central City's regional share of employment and continue its growth as the region's unique center for innovation and exchange

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through commerce, employment, arts, culture, entertainment, tourism, education, and government.

Policy 3.24. Central City housing. Encourage the growth of the Central City as Portland’s and the region’s largest center with the highest concentrations of housing and with a diversity of housing options and services.

Policy 3.25. Transportation hub. Enhance the Central City as the region’s multimodal transportation hub and optimize regional access as well as the movement of people and goods among key destinations.

Policy 3.26. Public places. Promote public places and the Willamette River waterfront in the Central City as places of business and social activity and gathering for the people of its districts and the broader region.

98. Finding: Policies 3.21 through 3.26 provide direction on the desired characteristics and functions of the Central City. The FFTZ amendments do not change the Central City boundary on the Urban Design Framework. The FFTZ amendments change allowed uses in the City’s industrial areas. There are no FFTs located in the Central City. These policies do not apply.

Gateway Regional Center

Policy 3.27 Role of Gateway. Encourage growth and investment in Gateway to enhance its role as East Portland’s center of employment, commercial, and public services.

Policy 3.28 Housing. Encourage housing in Gateway, to create East Portland’s largest concentration of high-density housing.

Policy 3.29 Transportation. Enhance Gateway’s role as a regional high-capacity transit hub that serves as an anchor for East Portland’s multimodal transportation system.

Policy 3.30 Public places. Enhance the public realm and public places in Gateway to provide a vibrant and attractive setting for business and social activity that serves East Portland residents and the region.

99. Finding: Policies 3.27 through 3.30 provide direction on the desired characteristics and functions of the Gateway Regional Center. The FFTZ amendments do not change the regional center boundary on the Urban Design Framework. The FFTZ amendments change allowed uses in the City’s industrial areas. There are no FFTs located in the Gateway Regional Center. These policies do not apply.

Town Centers

Policy 3.31 Role of Town Centers. Enhance Town Centers as successful places that serve the needs of surrounding neighborhoods as well as a wider area, and contain higher concentrations of employment, institutions, commercial and community services, and a wide range of housing options.

Policy 3.32 Housing. Provide for a wide range of housing types in Town Centers, which are intended to generally be larger in scale than the surrounding residential areas. There should be sufficient zoning capacity within a half-mile walking distance of a Town Center to accommodate 7,000 households.

Policy 3.33 Transportation. Improve Town Centers as multimodal transportation hubs that optimize access from the broad area of the city they serve and are linked to the region’s high-capacity transit system.

Policy 3.34 Public places. Provide parks or public squares within or near Town Centers to support their roles as places of focused business and social activity.

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100.Finding: Policies 3.31 through 3.34 provide direction on the desired characteristics and functions of the town centers. The FFTZ amendments do not change the boundary any of the Town Centers on the Urban Design Framework. The FFTZ amendments change allowed uses in the City’s industrial areas. There are no FFTs located in town centers. These policies do not apply.

Neighborhood Centers

Policy 3.35 Role of Neighborhood Centers. Enhance Neighborhood Centers as successful places that serve the needs of surrounding neighborhoods. In Neighborhood Centers, provide for higher concentrations of development, employment, commercial and community services, and a wider range of housing options than the surrounding neighborhoods.

Policy 3.36 Housing. Provide for a wide range of housing types in Neighborhood Centers, which are intended to generally be larger in scale than the surrounding residential areas, but smaller than Town Centers. There should be sufficient zoning capacity within a half-mile walking distance of a Neighborhood Center to accommodate 3,500 households.

Policy 3.37 Transportation. Design Neighborhood Centers as multimodal transportation hubs that are served by frequent-service transit and optimize pedestrian and bicycle access from adjacent neighborhoods.

Policy 3.38 Public places. Provide small parks or plazas within or near Neighborhood Centers to support their roles as places of local activity and gathering.

101.Finding: Policies 3.35 through 3.38 provide direction on the desired characteristics and functions of neighborhood centers. The FFTZ amendments do not change the neighborhood center boundaries on the Urban Design Framework. The FFTZ amendments change allowed uses in the City’s industrial areas. There are no FFTs located in neighborhood centers. These policies do not apply.

Inner Ring Districts

Policy 3.39 Growth. Expand the range of housing and employment opportunities in the Inner Ring Districts. Emphasize growth that replaces gaps in the historic urban fabric, such as redevelopment of surface parking lots and 20th century auto-oriented development.

Policy 3.40 Corridors. Guide growth in corridors to transition to mid-rise scale close to the Central City, especially along Civic Corridors.

Policy 3.41 Distinct identities. Maintain and enhance the distinct identities of the Inner Ring Districts and their corridors. Use and expand existing historic preservation and design review tools to accommodate growth in ways that identify and preserve historic resources and enhance the distinctive characteristics of the Inner Ring Districts, especially in areas experiencing significant development.

Policy 3.42 Diverse residential areas. Provide a diversity of housing opportunities in the Inner Ring Districts’ residential areas. Encourage approaches that preserve or are compatible with existing historic properties in these areas. Acknowledge that these areas are historic assets and should retain their established characteristics and development patterns, even as Inner Ring centers and corridors grow. Apply base zones in a manner that takes historic character and adopted design guidelines into account.

Policy 3.43 Active transportation. Enhance the role of the Inner Ring Districts’ extensive transit, bicycle, and pedestrian networks in conjunction with land uses that optimize the ability for more

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people to utilize this network. Improve the safety of pedestrian and bike connections to the Central City. Strengthen transit connections between the Inner Ring Districts and to the Central City.

102.Finding: Policies 3.39 through 3.43 provide direction on the desired characteristics and functions of the Inner Ring Districts. The FFTZ amendments change allowed uses in the City's industrial areas. There are no FFTs located in the Inner Ring Districts. These policies do not apply.

Corridors

Policy 3.44. Growth and mobility. Coordinate transportation and land use strategies along corridors to accommodate growth and mobility needs for people of all ages and abilities.

Policy 3.45. Connections. Improve corridors as multimodal connections providing transit, pedestrian, bicycle, and motor vehicle access and that serve the freight needs of centers and neighborhood business districts.

Policy 3.46. Design. Encourage street design that balances the important transportation functions of corridors with their roles as the setting for commercial activity and residential living.

Policy 3.47. Green infrastructure in corridors. Enhance corridors with distinctive green infrastructure, including landscaped stormwater facilities, extensive tree plantings, and other landscaping that both provide environmental function and contribute to a quality pedestrian environment.

103.Finding: Policies 3.44 through 3.47 provide direction on the desired characteristics and functions of corridors. The FFTZ amendments do not change the boundary of corridors on the Urban Design Framework. The FFTZ amendments change allowed uses in the City's industrial areas. There are no FFTs located in corridors. These policies do not apply.

Civic Corridors

Policy 3.48. Integrated land use and mobility. Enhance Civic Corridors as distinctive places that are models of ecological urban design, with transit-supportive densities of housing and employment, prominent street trees and other green features, and high-quality transit service and pedestrian and bicycle facilities.

Policy 3.49. Design great places. Improve public streets and sidewalks along Civic Corridors to support the vitality of business districts, create distinctive places, provide a safe, healthy, and attractive pedestrian environment, and contribute to quality living environments for residents.

Policy 3.50. Mobility corridors. Improve Civic Corridors as key mobility corridors of citywide importance that accommodate all modes of transportation within their right-of-way or on nearby parallel routes.

Policy 3.51. Freight. Maintain freight mobility and access on Civic Corridors that are also Major or Priority Truck Streets.

104.Finding: The FFTZ amendments change allowed uses in the City's industrial areas. There are no FFTs located in civic corridors. These policies do not apply.

Neighborhood Corridors

Policy 3.52. Neighborhood Corridors. Enhance Neighborhood Corridors as important places that support vibrant neighborhood business districts with quality multi-family housing, while providing transportation connections that link neighborhoods.

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105.Finding: Policies 3.48 through 3.51 provide direction on the desired characteristics and functions of civic corridors. The FFTZ amendments do not change the boundary of civic corridors on the Urban Design Framework. The FFTZ amendments change allowed uses in the City’s industrial areas. There are no FFTs located in neighborhood corridors. These policies do not apply.

Transit Station Areas

Policy 3.53. Transit-oriented development. Encourage transit-oriented development and transit-supportive concentrations of housing and jobs, and multimodal connections at and adjacent to high-capacity transit stations.

Policy 3.54. Community connections. Integrate transit stations into surrounding communities and enhance pedestrian and bicycle facilities (including bike sharing) to provide safe and accessible connections to key destinations beyond the station area.

Policy 3.55. Transit station area safety. Design transit areas to improve pedestrian, bicycle, and personal safety.

Policy 3.56. Center stations. Encourage transit stations in centers to provide high density concentrations of housing and commercial uses that maximize the ability of residents to live close to both high-quality transit and commercial services.

Policy 3.57. Employment stations. Encourage concentrations of jobs and employment-focused land uses in and around stations in employment-zoned areas.

Policy 3.58. Transit neighborhood stations. Encourage concentrations of mixed-income residential development and supportive commercial services close to transit neighborhood stations. Transit neighborhood stations serve mixed-use areas that are not in major centers.

Policy 3.59. Destination stations. Enhance connections between major destinations and transit facilities and strengthen the role of these station areas as places of focused activity.

106.Finding: Policies 3.53 through 3.59 provide direction on the desired characteristics and functions of transit station areas. The FFTZ amendments do not change the boundary of civic corridors on the Urban Design Framework. The FFTZ amendments change allowed uses in the City’s industrial areas. There are no FFTs located in transit station areas. These policies do not apply.

City Greenways

Policy 3.60. Connections. Create a network of distinctive and attractive City Greenways that link centers, parks, schools, rivers, natural areas, and other key community destinations.

Policy 3.61. Integrated system. Create an integrated City Greenways system that includes regional trails through natural areas and along Portland’s rivers, connected to neighborhood greenways, and heritage parkways.

Policy 3.62. Multiple benefits. Design City Greenways that provide multiple benefits that contribute to Portland’s pedestrian, bicycle, green infrastructure, and parks and open space systems.

Policy 3.63. Design. Use design options such as distinctive street design, motor vehicle diversion, landscaping, tree plantings, scenic views, and other appropriate design options, to create City Greenways that extend the experience of open spaces and nature into neighborhoods, while improving stormwater management and calming traffic.

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107.Finding: Policies 3.60 through 3.63 provide direction on the desired characteristics and functions of city greenways. The FFTZ amendments do not change the city greenway designations on the Urban Design Framework. The FFTZ amendments change allowed uses in the City’s industrial areas. There are no FFTs located along city greenways. These policies do not apply.

Urban habitat corridors

Policy 3.64. Urban habitat corridors. Establish a system of connected, well-functioning, and diverse habitat corridors that link habitats in Portland and the region, facilitate safe fish and wildlife access and movement through and between habitat areas, enhance the quality and connectivity of existing habitat corridors, and establish new habitat corridors in developed areas.

Policy 3.65. Habitat connection tools. Improve habitat corridors using a mix of tools including natural resource protection, property acquisition, natural resource restoration, tree planting and landscaping with native plants, and ecological design integrated with new development.

Policy 3.66. Connect habitat corridors. Ensure that planned connections between habitat corridors, greenways, and trails are located and designed to support the functions of each element, and create positive interrelationships between the elements, while also protecting habitat functions, fish, and wildlife.

108.Finding: The City Council interprets Policies 3.64 through 3.66 to provide direction on the desired characteristics and functions of urban habitat corridors. The FFTZ amendments do not change the urban habitat corridor designations on the Urban Design Framework. The Willamette and Columbia Rivers are considered urban habitat corridors. The FFTZ amendments support the urban habitat corridor policies by reducing the risk associated with a major earthquake. The first step in making the current situation better is to ensure that the situation does not get worse by continuing to allow the unlimited increase in fossil fuel terminal storage tank capacity in a high-risk area. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize environmental impacts in the event of a major earthquake. No changes to the environmental or greenway overlay zones are proposed as part of this project, therefore the natural resource values and functions that contribute the habitat functions will be maintained.

Employment areas

Policy 3.67. Employment area geographies. Consider the land development and transportation needs of Portland’s employment geographies when creating and amending land use plans and making infrastructure investments.

109. The verb “consider”, which is defined in the 2035 Comprehensive Plan, means to take into account when planning or making decisions. The City Council interprets this policy to require the City Council to consider the development and transportation needs of Portland’s employment geographies when making planning and investment decisions, but the policy does not require the City Council to accommodate all industries and all geographies.

As described in the Economic Opportunities Analysis (EOA), Portland has a diverse economy with a wide range of businesses and employment opportunities that are distributed across the Central

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City, neighborhood commercial areas, campus institutions and industrial areas. The FFTZ amendments maintain Portland’s diverse economy because the changes do not include map changes, nor do they allow for new incompatible land uses in industrial areas. Therefore, these changes will continue to provide the same opportunities for employment in Portland’s employment area geographies. The FFTZ regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s employment districts. Further, the City Council considered the unique needs of the FFTs and mitigated the limits on expansion of fossil fuel storage tank capacity by designating existing fossil fuel terminals as a limited use that allows the terminals to maintain, preserve and continue to operate and improve their intermodal facilities and supports opportunities for growth through a number of exceptions, such as jet or renewable fuels, to the storage capacity restrictions.

The FFTZ amendments maintain Portland’s role as a multimodal freight hub with enhanced freight access because they do not amend the City’s adopted Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the industrial areas where the FFTs are located. Also, the ordinance restricts new fossil fuel storage tank capacity and does not restrict transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system.

Policy 3.68. Regional Truck Corridors. Enhance designated streets to accommodate forecast freight growth and support intensified industrial use in nearby freight districts. *See Figure 3-7 — Employment Areas.* Designated regional truckways and priority truck streets (Transportation System Plan classifications are shown to illustrate this network).

110.Finding: The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The City Council interprets this policy to acknowledge the role that regional truck corridors play in our transportation system and to take steps to improve those functions. Portland’s approach to regional truck corridors is unchanged because the FFTZ amendments change the Zoning Code and do not amend the Citywide System Plan or the Transportation System Plan. This part of the policy does not apply.

The verb “support”, which is defined in the 2035 Comprehensive Plan, means to aid the cause of. The City Council interprets the direction in the policy to intensify industrial uses in freight districts to apply to Portland’s freight districts in general, but the policy does not require the City Council to support the intensification of all industries in those freight districts. The FFTZ regulations apply to only one type of industrial use that makes up a minority part of the uses found in Portland’s freight districts. Further, the City Council considered the unique needs of the FFTs and mitigated the limits on expansion of fossil fuel storage tank capacity by designating existing fossil fuel terminals as a limited use that allows the terminals to maintain, preserve and continue to operate and improve their intermodal facilities and supports opportunities for growth or intensification through a number of exceptions, such as jet or renewable fuels, to the storage capacity restrictions. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

Rivers Pattern Area

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Policy 3.69. Historic and multi-cultural significance. Recognize, restore, and protect the historic and multi-cultural significance of the Willamette and Columbia Rivers, including current activities such as subsistence fishing of legally-permitted fish species.

111.Finding: The verb “recognize” is defined in the 2035 Comprehensive Plan as to acknowledge and treat as valid. The City Council interprets this policy to acknowledge the multi-cultural significance that the rivers play in our community and to take steps to improve those functions. Most of Portland’s employment and industrial zones, including the Portland Harbor, are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Council recognizes that fossil fuel infrastructure poses considerable risk to the multi-cultural significance of the Willamette and Columbia Rivers in the event of a major earthquake. Continuing to allow the unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area increases the risk to the Willamette and Columbia Rivers as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. The FFTZ amendments are a regulatory approach to help protect the rivers by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which is an improvement over the current regulations that allow for unlimited growth in FFTs. The City Council finds that the ordinance does not directly restore the rivers. Nor does it hinder restoration because the amendments designate the existing FFTs as limited uses, which allows for the continued operation and maintenance of the facilities. The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. The FFTZ amendments do not amend the Greenway Overlay Zone standards or review process, which could result in restoration of the rivers in conjunction with new development allowed as part of the limited use designation.

Policy 3.70. River transportation. Recognize and enhance the roles of the Willamette and Columbia rivers as part of Portland’s historic, current, and future transportation infrastructure, including for freight, commerce, commuting, and other public and private transportation functions.

112.Finding: The verb “recognize” is defined in the 2035 Comprehensive Plan as to acknowledge and treat as valid. The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The City Council interprets this policy to acknowledge the role that the rivers play in our transportation system and to take steps to improve those functions. The City Council finds that the policy concerns transportation infrastructure, which is managed through the CSP and TSP. This policy does not apply because the ordinance does not amend the City’s adopted CSP or TSP.

Policy 3.71. Recreation. Improve conditions along and within the Willamette and Columbia rivers to accommodate a diverse mix of recreational users and activities. Designate and invest in strategically-located sites along the length of Portland’s riverfronts for passive or active recreation activities that are compatible with nearby land uses, historically and culturally important sites, significant habitat areas, restoration sites, and native fish and wildlife usage.

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113.Finding: Six of the 11 existing FFTs have frontage on the Willamette River. However, there are no recreation access points near these terminals. These amendments do not change any plans for recreation sites on the Willamette and Columbia rivers, therefore this policy does not apply.

Policy 3.72 Industry and port facilities. Enhance the regionally significant economic infrastructure that includes Oregon’s largest seaport and largest airport, unique multimodal freight, rail, and harbor access; the region’s critical energy hub; and proximity to anchor manufacturing and distribution facilities.

114.Finding: The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The City Council finds that the policy requires Council to improve the regionally significant infrastructure, which is done through the CSP and TSP. This policy does not apply because the ordinance does not amend the City’s adopted CSP or TSP, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the industrial areas where the FFTs are located.

The amendments enhance Oregon’s largest seaport and largest airport by including a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, or rail yard.

Further, the City Council acknowledges that the FFTs make up a significant portion of the region’s critical energy infrastructure hub in the Portland Harbor. The FFTZ amendments support private investment to enhance the unique multimodal freight, rail, and harbor access because the ordinance restricts new fossil fuel storage tank capacity and does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can continue to make investments in multimodal freight facilities.

Furthermore, as noted below, the FFTZ amendments are consistent with the goals and policies of Chapter 9 (Transportation) of the 2035 Comprehensive Plan, specifically Policies 9.30 to 9.32, and the findings in response to those goals and policies are incorporated by reference.

Policy 3.73. Habitat. Enhance the roles of the Willamette and Columbia rivers and their confluence as an ecological hub that provides locally and regionally significant habitat for fish and wildlife and habitat restoration opportunities.

115.Finding: Six of the 11 existing FFTs have frontage on the Willamette River. These parcels will continue to be subject to development regulations for flood plains and natural resources that protect significant habitat. Furthermore, no changes to existing protections in the greenway overlay zones are proposed. This policy does not apply.

Policy 3.74. Commercial activities. Enhance the roles of the Willamette and Columbia rivers in supporting local and regional business and commerce, including commercial fishing, tourism, recreation, and leisure.

116.Finding: The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The FFTZ regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s employment districts, therefore, the FFTZ amendments support Portland’s diverse economy because the changes do not include map changes, nor do they allow for new incompatible land uses in industrial areas, therefore there is no adverse impact to the land supply and economic opportunities along

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the Willamette and Columbia rivers. The limits on expansion of fossil fuel storage tank capacity are mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to maintain, preserve and continue to operate and improve their intermodal facilities and supports opportunities for growth through a number of exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions. In addition, the ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can continue to make investments in multimodal freight facilities. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

With respect to fishing, tourism, recreation and leisure, the City Council interprets this policy to require that the first step in making the current situation better is to ensure that the situation does not get worse. Continuing to allow the increase in FFTs in a high-risk area increases the risk to other businesses that rely on the rivers. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in FFTs. The FFTZ regulations support other commercial uses of the rivers by designating existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety.

Policy 3.75. River neighborhoods. Enhance the strong river orientation of residential areas that are located along the Willamette and Columbia Rivers.

117.Finding: The FFTZ amendments regulate the allowed uses in Portland’s industrial areas. None of the FFTs are in residential areas. This policy does not apply.

Policy 3.76. River access. Enhance and complete Portland’s system of river access points and riverside trails, including the Willamette Greenway Trail, and strengthen active transportation connections between neighborhoods and the rivers.

118.Finding: Six of the 11 existing FFTs have frontage on the Willamette River. However, there are no access points near these terminals. These amendments do not change any plans for recreation sites on the Willamette and Columbia rivers, therefore this policy does not apply.

Policy 3.77. River management and coordination. Coordinate with federal, state, regional, special districts, and other agencies to address issues of mutual interest and concern, including economic development, recreation, water transportation, flood and floodplain management and protection, regulatory compliance, permitting, emergency management, endangered species recovery, climate change preparation, Portland Harbor Superfund, brownfield cleanup, and habitat restoration.

119.Finding: The City Council interprets this policy to guide intergovernmental coordination on the management of the rivers. Other government agencies received notice from the 35-day DLCD notice and the City’s legislative notice. In the initial adoption of the ordinance, the City received testimony from the Port of Portland. The City responded to the issues raised by the Port by amending the code to include an exception for the storage of fossil fuels for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge

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servicing facility, rail yard, or as part of a fleet vehicle servicing facility. The City did not receive any requests from other government agencies to modify the FFTZ amendments.

The City has an established procedure for coordinated review of river-related development, including docks, in areas where city, state and federal agencies all have jurisdiction. The Streamlining Team was established pursuant to a 2003 Intergovernmental Agreement between the City of Portland (City), NOAA Fisheries, Army Corps of Engineers (Corps), and the U.S. Fish and Wildlife Service (USFWS). The FFTZ amendments do not change these procedures and there is no impact to this coordinated process.

Policy 3.78 Columbia River. Enhance the role of the Columbia River for river dependent industry, fish and wildlife habitat, subsistence and commercial fisheries, floating- and land-based neighborhoods, recreational uses, and water transportation.

120.Finding: The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The City Council interprets this policy to acknowledge the role that the Columbia River plays in our city and to take steps to improve those functions. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will continue to provide the same opportunities on the Columbia River. The City Council interprets this goal to apply to districts as whole and not to individual businesses or sectors of business. These regulations apply to only one type of business that is not found on the Columbia River. The remaining industrial uses continue to operate under current zoning regulations.

Policy 3.79 Willamette River North Reach. Enhance the role of the Willamette River North Reach for river dependent industry, fish and wildlife habitat, and as an amenity for riverfront neighborhoods and recreational users.

121.Finding: The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The FFTZ regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s employment districts, therefore, the FFTZ amendments support Portland’s diverse economy because the changes do not include map changes, nor do they allow for new incompatible land uses in industrial areas, therefore there is no adverse impact to the land supply and economic opportunities along the Willamette and Columbia rivers. The limits on expansion of fossil fuel storage tank capacity are mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to maintain, preserve and continue to operate and improve their intermodal facilities and supports opportunities for growth through a number of exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions. These regulations apply to only one type of river dependent industry. The remaining industrial uses continue to operate under current zoning regulations. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

Policy 3.80. Willamette River Central Reach. Enhance the role of the Willamette River Central Reach as the Central City and region’s primary riverfront destination for recreation, history and culture, emergency response, water transportation, and as habitat for fish and wildlife.

Policy 3.81 Willamette River South Reach. Enhance the role of the Willamette River South Reach as fish and wildlife habitat, a place to recreate, and as an amenity for riverfront neighborhoods and

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others.

122.Finding: For policies 3.80 and 3.81, the City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The City Council interprets this policy to acknowledge the role that the Willamette River plays in our city and to take steps to improve those functions. These regulations apply to only one type of business that is not found on Central and South reaches of the Willamette River. The remaining industrial uses continue to operate under current regulations. These policies do not apply.

Policy 3.82. Willamette River Greenway. Maintain multi-objective plans and regulations to guide development, infrastructure investments, and natural resource protection and enhancement within and along the Willamette Greenway.

123.Finding: The City Council finds that this policy is implemented through the Greenway Overlay Zones (PCC 33.440), which is not amended by this ordinance. This policy does not apply.

Central City Pattern Area

Policy 3.83. Central City districts. Enhance the distinct identities of the Central City's districts.

Policy 3.84. Central City river orientation. Enhance and strengthen access and orientation to the Willamette River in the Central City and increase river-focused activities.

Policy 3.85. Central City pedestrian system. Maintain and expand the Central City’s highly interconnected pedestrian system.

Policy 3.86. Central City bicycle system. Expand and improve the Central City’s bicycle system.

124.Finding: Policies 3.83 through 3.86 provide direction on the desired characteristics and functions of the Central City Pattern Area. The FFTZ amendments affect allowed uses in industrial zones outside the Central City. These policies do not apply.

Inner Neighborhoods Pattern Area

Policy 3.87 Inner Neighborhoods main streets. Maintain and enhance the Streetcar Era pattern of street-oriented buildings along Civic and Neighborhood corridors.

Policy 3.88 Inner Neighborhoods street patterns. Preserve the area’s urban fabric of compact blocks and its highly interconnected grid of streets.

Policy 3.89 Inner Neighborhoods infill. Fill gaps in the urban fabric through infill development on vacant and underutilized sites and in the reuse of historic buildings on adopted inventories.

Policy 3.90 Inner Neighborhoods active transportation. Use the extensive street, sidewalk, and bikeway system and multiple connections to the Central City as a key part of Portland’s active transportation system

Policy 3.91 Inner Neighborhoods residential areas. Continue the patterns of small, connected blocks, regular lot patterns, and streets lined by planting strips and street trees in Inner Neighborhood residential areas.

125.Finding: Policies 3.87 through 3.91 provide direction on the desired characteristics and functions of the Inner Neighborhoods Pattern Area. The FFTZ amendments affect allowed uses in industrial zones. There are not existing FFTs in the Inner Neighborhoods Pattern Area. These policies do not apply.

Eastern Neighborhoods Pattern Area

Policy 3.92 Eastern Neighborhoods street, block, and lot pattern. Guide the evolving street and block system in the Eastern Neighborhoods in ways that build on positive aspects of the area’s large blocks, such as opportunities to continue mid-block open space patterns and create new connections through blocks that make it easier to access community destinations.

Policy 3.93 Eastern Neighborhoods site development. Require that land be aggregated into larger sites before land divisions and other redevelopment occurs. Require site plans which advance design and street connectivity goals.

Policy 3.94 Eastern Neighborhoods trees and natural features. Encourage development and right-of-way design that preserves and incorporates Douglas fir trees and groves, and that protects the area’s streams, forests, wetlands, steep slopes, and buttes.

Policy 3.95 Eastern Neighborhoods buttes. Enhance public views of the area’s skyline of buttes and stands of tall Douglas fir trees.

Policy 3.96 Eastern Neighborhoods corridor landscaping. Encourage landscaped building setbacks along residential corridors on major streets.

Policy 3.97 Eastern Neighborhoods active transportation. Enhance access to centers, employment areas, and other community destinations in Eastern Neighborhoods by ensuring that corridors have safe and accessible pedestrian and bicycle facilities and creating additional secondary connections that provide low-stress pedestrian and bicycle access.

126.Finding: Policies 3.92 through 3.97 provide direction on the desired characteristics and functions of the Eastern Neighborhoods Pattern Area. The FFTZ amendments affect allowed uses in industrial zones. There are not existing FFTs in the Eastern Neighborhoods Pattern Area. These policies do not apply.

Western Neighborhoods Pattern Area

Policy 3.98 Western Neighborhoods village character. Enhance the village character of the Western Neighborhoods’ small commercial districts and increase opportunities for more people to live within walking distance of these neighborhood anchors.

Policy 3.99 Western Neighborhoods active transportation. Provide safe and accessible pedestrian and bicycle connections, as well as off-street trail connections, to and from residential neighborhoods.

Policy 3.100 Western Neighborhoods development. Encourage new development and infrastructure to be designed to minimize impacts on the area’s streams, ravines, and forested slopes.

Policy 3.101 Western Neighborhoods habitat corridors. Preserve, enhance, and connect the area’s network of habitat areas and corridors, streams, parks, and tree canopy.

Policy 3.102 Western Neighborhoods trails. Develop pedestrian-oriented connections and enhance the Western Neighborhoods’ distinctive system of trails to increase safety, expand mobility, access to nature, and active living opportunities in the area.

127.Finding: Policies 3.98 through 3.102 provide direction on the desired characteristics and functions of the Western Neighborhoods Pattern Area. The FFTZ amendments affect allowed uses in industrial zones. There are not existing FFTs in the Western Neighborhoods Pattern Area. These policies do not apply.

Chapter 4: Design and Development

Goal 4.A: Context-sensitive design and development. New development is designed to respond to and enhance the distinctive physical, historic, and cultural qualities of its location, while accommodating growth and change.

128.Finding: The City Council interprets this goal to not apply to the City's industrial areas, where the physical, historic and cultural qualities are less sensitive to changes from new development.

The FFTZ amendments regulate a land use (Bulk Fossil Fuel Terminals), but do not impose new standards that regulate site design, or the relationship to the street or adjacent land uses, that respond to or enhance the distinctive qualities of its location. Additionally, the changes do not impact the design of the terminals beyond limits to fossil fuel storage tank capacity.

Goal 4.B: Historic and cultural resources. Historic and cultural resources are integral parts of an urban environment that continue to evolve and are preserved.

129.Finding: Historic and cultural resources are located throughout the City, but very few are located in the industrial zones where the FFTZ amendments change the allowed uses. There are no designated Historic Landmarks or Districts in or immediately adjacent to any of the existing FFTs. Existing historic resource protections are not being amended (Chapter 33.445).

Goal 4.C: Human and environmental health. Neighborhoods and development are efficiently designed and built to enhance human and environmental health: they protect safety and livability; support local access to healthy food; limit negative impacts on water, hydrology, and air quality; reduce carbon emissions; encourage active and sustainable design; protect wildlife; address urban heat islands; and integrate nature and the built environment.

130.Finding: The City Council interprets this goal as seeking to ensure that development is designed and built in a manner that improves human and environmental health. Human and environmental health are improved by development that results in more safety and minimizes negative impacts on the environment. Portland's FFTs are within a disaster-prone area that is at risk for a catastrophic Cascadia earthquake disaster. Most of Portland's employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. Fossil fuel infrastructure poses considerable risks to human and environmental health in the event of a major earthquake.

The City Council finds that the first step in enhancing human and environmental health is to stop increasing the risk. Continuing to allow the unlimited increase in fossil fuel terminal storage tank capacity in an area with a high-risk of liquefaction in the event of a major earthquake does not enhance human or environmental health and represents the potential for increased negative impacts on water and hydrology and a threat to wildlife. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the

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terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize health impacts in the event of a major earthquake.

The PBA coalition testimony claims, without supporting evidence, that the ordinance will “hinder” the City’s safety goals. The City Council interprets the word “hinder” to mean to create difficulties, resulting in delay or obstruction. The testimony does not elaborate or provide evidence as to how the FFTZ amendments will hinder the City’s safety goals. The purpose of the ordinance is to begin to proactively address the safety risks due to earthquakes by not making the problem worse by continuing to allow the unlimited expansion of fossil fuel storage tank capacity. As explained above, the FFTZ amendments designate the existing FFTs as a limited use and allow for the replacement and reconfiguration of existing fossil fuel storage tank capacity in order to facilitate seismic and safety upgrades. Finally, the ordinance does not restrict improvements to other types of facilities at the existing FFTs, which can make seismic and safety improvements to the transloading and other multimodal facilities.

The WSPA testimony claims the ordinance will discourage seismic and safety improvements that typically occur with new infrastructure improvements – types of infrastructure improvements are not defined. WSPA testimony claims the ordinance will prohibit new terminals, new intermodal links and new fuel tanks in Portland. Council finds this statement is inaccurate with respect to the limits in the FFTZ amendments. The amendments prohibit new bulk fossil fuel terminals with more than 2 million gallons of liquid fossil fuel storage capacity. New fuel terminals with less than 2 million gallons of fossil fuel storage (and unrestricted amounts of jet fuel and renewable fuel) are considered a Warehouse and Freight Movement use and continue to be allowed in Portland’s employment and industrial zones (PCC 33.140, Table 140-1). The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

Council finds that the existing terminals are designated as a limited use to allow them to continue to operate to allow for a wide range of new infrastructure improvements, including safety and seismic upgrades. The FFTZ amendments limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing bulk fossil fuel terminals, with limited exceptions for jet and renewable fuels. Specifically, terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as a way to facilitate replacement and seismic upgrades. Also, since the adoption of the 2016 ordinance and at various times during the subsequent appeals process, there have been opportunities, including since October 30, 2020, for the existing terminals to undertake fossil fuel storage tank improvements and expansions to improve safety. To date, none of the terminals have applied to build new, safer fossil fuel tanks.

The Idaho Governor’s Office of Energy and Mineral Resources testimony claims that the ordinance would prevent the Pacific Northwest region from looking to Portland for fuel in times of emergency. This argument is undeveloped and does not explain how limits on expansion of fossil fuel storage tanks in Portland would hinder emergency response. The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, nor destination of the fuel. In times of emergency there is nothing the regulations that would prevent Portland terminals from serving the region. In terms of additional capacity to prepare for an emergency, the 2013 Oregon Resilience Plan included a recommendation to form a public-private partnership with the objective of reducing the state’s vulnerability to seismic events by evaluating

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the diversification of locations for the storage of liquid fuels and identification of new liquid fuel energy corridors, which indicates a need to not become further dependent on the high-risk location that is the Portland Critical Energy Infrastructure (CEI) Hub.

The FFTZ amendments help to reduce carbon emissions by allowing for additional storage tank capacity for renewable fuels that are needed to implement programs such as the DEQ Clean Fuels Program, which is designed to reduce the carbon intensity of Oregon’s transportation fuels.

The FFTZ amendments do not impact local access to healthy food; air quality; nor do they encourage active and sustainable design; address urban heat islands; or integrate nature and the built environment.

Goal 4.D: Urban resilience. Buildings, streets, and open spaces are designed to ensure long-term resilience and to adjust to changing demographics, climate, and economy, and withstand and recover from natural disasters.

131.Finding: Portland’s FFTs are within a disaster-prone area that is at risk for a catastrophic Cascadia earthquake disaster. Most of Portland’s employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. Fossil fuel infrastructure poses considerable risks to human and environmental health in the event of a major earthquake.

The City Council interprets this goal to mean buildings, streets and open spaces are designed for long-term resilience and can recover from natural disasters. The City Council finds that the first step in making Portland more resilient is to stop increasing the risk. Continuing to allow the increase in FFTs in a high-risk area increases the risk to the surrounding industrial district and the Willamette River. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can make Portland more resilient.

Context

Policy 4.1. Pattern areas. Encourage building and site designs that respect the unique built, natural, historic, and cultural characteristics of Portland’s five pattern areas described in Chapter 3: Urban Form.

Policy 4.2. Community identity. Encourage the development of character-giving design features that are responsive to place and the cultures of communities.

Policy 4.3. Site and context. Encourage development that responds to and enhances the positive qualities of site and context — the neighborhood, the block, the public realm, and natural features.

132.Finding: The City Council interprets policies 4.1 through 4.3 as to provide general policy direction on how to consider context for design and development standards. The City Council finds that in the City’s industrial areas, the physical design features are less important and are less sensitive to

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changes from new development. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones.

Policy 4.4. Natural features and green infrastructure. Integrate natural and green infrastructure such as trees, green spaces, ecoroofs, gardens, green walls, and vegetated stormwater management systems, into the urban environment. Encourage stormwater facilities that are designed to be a functional and attractive element of public spaces, especially in centers and corridors.

133.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones, including those that apply to natural features and green infrastructure.

Policy 4.5. Pedestrian-oriented design. Enhance the pedestrian experience throughout Portland through public and private development that creates accessible, safe, and attractive places for all those who walk and/or use wheelchairs or other mobility devices.

134.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones, including those that apply to pedestrian-oriented design features.

Policy 4.6. Street orientation. Promote building and site designs that enhance the pedestrian experience with windows, entrances, pathways, and other features that provide connections to the street environment.

135.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones, including those that apply to street orientation.

Policy 4.7. Development and public spaces. Guide development to help create high-quality public places and street environments while considering the role of adjacent development in framing, shaping, and activating the public space of streets and urban parks.

136.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones.

Policy 4.8. Alleys. Encourage the continued use of alleys for parking access, while preserving pedestrian access. Expand the number of alley-facing accessory dwelling units.

137.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones, including those that apply to alleys.

Policy 4.9. Transitional urbanism. Encourage temporary activities and structures in places that are transitioning to urban areas to promote job creation, entrepreneurship, active streets, and human interaction.

138.Finding: The City Council interprets this policy to relate to temporary commercial activities and public gathering places outside of industrial areas. This policy does not apply.

Health and safety

Policy 4.10. Design for active living. Encourage development and building and site design that promotes a healthy level of physical activity in daily life.

Policy 4.11. Access to light and air. Provide for public access to light and air by managing and shaping

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the height and mass of buildings while accommodating urban-scale development.

Policy 4.12. Privacy and solar access. Encourage building and site designs that consider privacy and solar access for residents and neighbors while accommodating urban-scale development.

Policy 4.13. Crime-preventive design. Encourage building, site, and public infrastructure design approaches that help prevent crime.

Policy 4.14. Fire prevention and safety. Encourage building and site design that improves fire prevention, safety, and reduces seismic risks.

139.Finding: The City Council interprets policies 4.10 through 4.14 to relate to development in areas where people live. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. This policy does not apply.

Residential areas

Policy 4.15. Residential area continuity and adaptability. Encourage more housing choices to accommodate a wider diversity of family sizes, incomes, and ages, and the changing needs of households over time. Allow adaptive reuse of existing buildings, the creation of accessory dwelling units, and other arrangements that bring housing diversity that is compatible with the general scale and patterns of residential areas.

Policy 4.16. Scale and patterns. Encourage design and development that complements the general scale, character, and natural landscape features of neighborhoods. Consider building forms, scale, street frontage relationships, setbacks, open space patterns, and landscaping. Allow for a range of architectural styles and expression.

Policy 4.17. Demolitions. Encourage alternatives to the demolition of sound housing, such as rehabilitation and adaptive reuse, especially affordable housing, and when new development would provide no additional housing opportunities beyond replacement.

Policy 4.18. Compact single-family options. Encourage development and preservation of small resource-efficient and affordable single-family homes in all areas of the city.

Policy 4.19. Resource efficient and healthy residential design and development. Support resource efficient and healthy residential design and development.

140.Finding: The City Council interprets policies 4.15 through 4.19 to relate to development inside residential areas. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in residential areas. This policy does not apply.

Design and development of centers and corridors

Policy 4.20. Walkable scale. Focus services and higher-density housing in the core of centers to support a critical mass of demand for commercial services and more walkable access for customers.

Policy 4.21. Street environment. Encourage development in centers and corridors to include amenities that create a pedestrian-oriented environment and provide places for people to sit, spend time, and gather.

Policy 4.22. Relationship between building height and street size. Encourage development in centers and corridors that is responsive to street space width, thus allowing taller buildings on wider streets.

Policy 4.23. Design for pedestrian and bicycle access. Provide accessible sidewalks, high-quality bicycle access, and frequent street connections and crossings in centers and corridors.

Policy 4.24. Drive-through facilities. Prohibit drive through facilities in the Central City, and limit new development of new ones in the Inner Ring Districts and centers to support a pedestrian-oriented environment.

Policy 4.25. Residential uses on busy streets. Improve the livability of places and streets with high motor vehicle volumes. Encourage landscaped front setbacks, street trees, and other design approaches to buffer residents from street traffic.

Policy 4.26. Active gathering places. Locate public squares, plazas, and other gathering places in centers and corridors to provide places for community activity and social connections. Encourage location of businesses, services, and arts adjacent to these spaces that relate to and promote the use of the space.

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Policy 4.27. Protect defining features. Protect and enhance defining places and features of centers and corridors, including landmarks, natural features, and historic and cultural resources.

Policy 4.28. Historic buildings in centers and corridors. Protect and encourage the restoration and improvement of historic resources in centers and corridors.

Policy 4.29. Public art. Encourage new development and public places to include design elements and public art that contribute to the distinct identities of centers and corridors, and that highlight the history and diverse cultures of neighborhoods.

141.Finding: Policies 4.20 through 4.29 provide direction regarding design and development in centers and corridors. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in centers and corridors. There are no existing FFTs in centers and corridors. These policies do not apply.

Transitions

Policy 4.30. Scale transitions. Create transitions in building scale in locations where higher-density and higher-intensity development is adjacent to smaller-scale single-dwelling zoning. Ensure that new high-density and large-scale infill development adjacent to single dwelling zones incorporates design elements that soften transitions in scale and limit light and privacy impacts on adjacent residents.

Policy 4.31. Land use transitions. Improve the interface between non-residential uses and residential uses in areas where commercial or employment uses are adjacent to residentially-zoned land.

Policy 4.32. Industrial edge. Protect non-industrially zoned parcels from the adverse impacts of facilities and uses on industrially zoned parcels using a variety of tools, including but not limited to vegetation, physical separation, land acquisition, and insulation to establish buffers between industrial sanctuaries and adjacent residential or mixed-use areas to protect both the viability of long-term industrial operations and the livability of adjacent areas.

142.Finding: Policies 4.30 through 4.32 provide direction regarding transitions between different types of land uses. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. These policies do not apply.

Off-site impacts

Policy 4.33. Off-site impacts. Limit and mitigate public health impacts, such as odor, noise, glare, light pollution, air pollutants, and vibration that public facilities, land uses, or development may have on adjacent residential or institutional uses, and on significant fish and wildlife habitat areas. Pay attention to limiting and mitigating impacts to under-served and under-represented communities.

143.Finding: The 2035 Comprehensive Plan defines the verb “limit” to mean to minimize or reduce something or the effects of something relative to the current situation or to a potential future situation. The verb “mitigate”, which is not defined in the 2035 Comprehensive Plan, means to make less severe. The City Council finds that this policy relates to impacts that public facilities or land uses may have on neighboring residential or institutional uses and on significant habitats. Further, the City Council interprets this policy to apply to non-residential uses, such as those allowed in commercial and employment zones, that can have negative public health impacts on adjacent residential and institutional uses. The FFTZ amendments do not change any of the development standards that regulate these types of uses. The FFTZ amendments do not change the Comprehensive Plan Map or the Zoning Map that would impact adjacent residential or institutional uses. These policies do not apply.

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Policy 4.34. Auto-oriented facilities, uses, and exterior displays. Minimize the adverse impacts of highways, auto-oriented uses, vehicle areas, drive-through areas, signage, and exterior display and storage areas on adjacent residential uses.

Policy 4.35. Noise impacts. Encourage building and landscape design and land use patterns that limit and/or mitigate negative noise impacts to building users and residents, particularly in areas near freeways, regional truckways, major city traffic streets, and other sources of noise.

Policy 4.36. Air quality impacts. Encourage building and landscape design and land use patterns that limit and/or mitigate negative air quality impacts to building users and residents, particularly in areas near freeways, regional truckways, high traffic streets, and other sources of air pollution.

Policy 4.37. Diesel emissions. Encourage best practices to reduce diesel emissions and related impacts when considering land use and public facilities that will increase truck or train traffic.

Policy 4.38. Light pollution. Encourage lighting design and practices that reduce the negative impacts of light pollution, including sky glow, glare, energy waste, impacts to public health and safety, disruption of ecosystems, and hazards to wildlife.

Policy 4.39. Airport noise. Partner with the Port of Portland to require compatible land use designations and development within the noise-affected area of Portland International Airport, while providing disclosure of the level of aircraft noise and mitigating the potential impact of noise within the affected area.

Policy 4.40. Telecommunication facility impacts. Mitigate the visual impact of telecommunications and broadcast facilities near residentially-zoned areas through physical design solutions.

144.Finding: Policies 4.34 through 4.40 provide direction regarding transitions between different types of land uses. The City Council interprets these policies to apply to non-residential uses that can have negative impacts on adjacent residential and institutional uses. The FFTZ amendments do not change any of the development standards that regulate these types of uses. The FFTZ amendments do not change the Comprehensive Plan Map or the Zoning Map that would impact adjacent residential or institutional uses. These policies do not apply.

Scenic resources

Policy 4.41. Scenic resources. Enhance and celebrate Portland's scenic resources to reinforce local identity, histories, and cultures and contribute toward way-finding throughout the city. Consider views of mountains, hills, buttes, rivers, streams, wetlands, parks, bridges, the Central City skyline, buildings, roads, art, landmarks, or other elements valued for their aesthetic appearance or symbolism.

Policy 4.42. Scenic resource protection. Protect and manage designated significant scenic resources by maintaining scenic resource inventories, protection plans, regulations, and other tools.

Policy 4.43. Vegetation management. Maintain regulations and other tools for managing vegetation in a manner that preserves or enhances designated significant scenic resources.

Policy 4.44. Building placement, height, and massing. Maintain regulations and other tools related to building placement, height, and massing to preserve designated significant scenic resources.

Policy 4.45. Future development. Encourage new public and private development to create new public viewpoints providing views of Portland's rivers, bridges, surrounding mountains, hills and buttes, the Central City skyline, and other landmark features.

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145.Finding: The City Council interprets Policies 4.41 through 4.45 provide direction regarding Portland’s designated scenic resources. The FFTZ amendments do not affect management of designated scenic resources. In 1991, the City adopted the Scenic Resources Protection Plan and applied a scenic (s) overlay zone to protect significant scenic resources. Two of the FFTs (BP West Coast and NuStar/Shore Terminals) are in a (s) overlay zone. The scenic resource protections (Chapter 33.480) are not amended by this ordinance and the height limits associated with the (s) overlay zone will continue to apply to the two FFT sites.

Historic and cultural resources

Policy 4.46. Historic and cultural resource protection. Protect and encourage the restoration of historic buildings, places, and districts that contribute to the distinctive character and history of Portland’s evolving urban environment.

Policy 4.47. State and federal historic resource support. Advocate for state and federal policies, programs, and legislation that would enable stronger historic resource designations, protections, and rehabilitation programs.

Policy 4.48. Continuity with established patterns. Encourage development that fills in vacant and underutilized gaps within the established urban fabric, while preserving and complementing historic resources.

Policy 4.49. Resolution of conflicts. Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to consider the character of the historic resources in the district.

Policy 4.50. Demolition. Protect historic resources from demolition. Provide opportunities for public comment, and encourage pursuit of alternatives to demolition or other actions that mitigate for the loss.

Policy 4.51. City-owned historic resources. Maintain City-owned historic resources with necessary upkeep and repair.

Policy 4.52. Historic Resources Inventory. Maintain and periodically update Portland’s Historic Resources Inventory to inform historic and cultural resource preservation strategies.

Policy 4.53. Preservation equity. Expand historic preservation inventories, regulations, and programs to encourage historic preservation in areas and in communities that have not benefited from past historic preservation efforts, especially in areas with high concentrations of under-served and/or under-represented people.

Policy 4.54. Cultural diversity. Work with Portland’s diverse communities to identify and preserve places of historic and cultural significance.

Policy 4.55. Cultural and social significance. Encourage awareness and appreciation of cultural diversity and the social significance of historic places and their roles in enhancing community identity and sense of place.

Policy 4.56. Community structures. Encourage the adaptive reuse of historic community structures, such as former schools, meeting halls, and places of worship, for arts, cultural, and community uses that continue their role as anchors for community and culture.

Policy 4.57. Economic viability. Provide options for financial and regulatory incentives to allow for the productive, reasonable, and adaptive reuse of historic resources.

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Policy 4.58. Archaeological resources. Protect and preserve archaeological resources, especially those sites and objects associated with Native American cultures. Work in partnership with Sovereign tribes, Native American communities, and the state to protect against disturbance to Native American archaeological resources.

146.Finding: The City Council interprets Policies 4.46 through 4.58 relate to implementation approaches directly related to the preservation of historic and cultural resources, which is not impacted by the FFTZ amendments. Historic and cultural resources are located throughout Portland, but very few are in the industrial zones where the FFTZ amendments change the allowed uses. There are no designated Historic Landmarks or Districts in or immediately adjacent to any of the existing FFTs. Existing historic resource protections are not being amended (Chapter 33.445). Therefore, the policies do not apply.

Public art

Policy 4.59. Public art and development. Create incentives for public art as part of public and private development projects.

147.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not create incentives for public art. This policy does not apply.

Resource-efficient design and development

Policy 4.60. Rehabilitation and adaptive reuse. Encourage rehabilitation and adaptive reuse of buildings, especially those of historic or cultural significance, to conserve natural resources, reduce waste, and demonstrate stewardship of the built environment.

148.Finding: The City Council interprets this policy to generally apply to the rehabilitation and adaptive reuse of buildings. The Council finds that the FFTs are not buildings with historic or cultural significance. Nonetheless, the FFTZ regulations encourage the rehabilitation of existing FFTs, as a whole, by designating them as a limited use, which allows the terminals to continue to operate and invest in facilities that improve their ability to withstand a major earthquake. Further, the use limitations provide flexibility to FFTs to rehabilitate existing fossil fuel storage tank capacity to increase safety.

Policy 4.61. Compact housing. Promote the development of compact, space- and energy-efficient housing types that minimize use of resources such as smaller detached homes or accessory dwellings and attached homes.

149.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to housing. This policy does not apply.

Policy 4.62. Seismic and energy retrofits. Promote seismic and energy-efficiency retrofits of historic buildings and other existing structures to reduce carbon emissions, save money, and improve public safety.

150.Finding: The City Council finds that “promote” means to “further the progress of, advance, or raise.” The 2035 Comprehensive Plan defines the verb “improve” to mean make the current situation better. Further, the City Council finds that seismic and energy-efficiency retrofits can be promoted through incentives or regulatory measures. The purpose of the policy is to reduce carbon emissions, save money and improve public safety. The City Council finds that the policy does not require all three elements are satisfied with every action. Rather, those are three outcomes that may be achieved when the City Council promotes seismic and energy-efficiency retrofits. Specifically, Council finds that energy retrofits reduce carbon emissions and save money through

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reduced energy consumption.

Here, the City Council finds that the FFTZ regulations promote seismic retrofits of existing FFTs by designating them as a limited use, which allows the terminals to continue to operate and invest in facilities that improve their ability to withstand a major earthquake. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety.

Policy 4.63. Life cycle efficiency. Encourage use of technologies, techniques, and materials in building design, construction, and removal that result in the least environmental impact over the life cycle of the structure.

Policy 4.64. Deconstruction. Encourage salvage and reuse of building elements when demolition is necessary or appropriate.

Policy 4.65. Materials and practices. Encourage use of natural, resource-efficient, recycled, recycled content, and non-toxic building materials and energy-efficient building practices.

Policy 4.66. Water use efficiency. Encourage site and building designs that use water efficiently and manage stormwater as a resource.

Policy 4.67. Optimizing benefits. Provide mechanisms to evaluate and optimize the range of benefits from solar and renewable resources, tree canopy, ecoroofs, and building design.

Policy 4.68. Energy efficiency. Encourage and promote energy efficiency significantly beyond the Statewide Building Code and the use of solar and other renewable resources in individual buildings and at a district scale.

Policy 4.69. Reduce carbon emissions. Encourage a development pattern that minimizes carbon emissions from building and transportation energy use.

Policy 4.70. District energy systems. Encourage and remove barriers to the development and expansion of low-carbon heating and cooling systems that serve multiple buildings or a broader district.

Policy 4.71. Ecodistricts. Encourage ecodistricts, where multiple partners work together to achieve sustainability and resource efficiency goals at a district scale.

Policy 4.72. Energy-producing development. Encourage and promote development that uses renewable resources, such as solar, wind, and water to generate power on-site and to contribute to the energy grid.

151.Finding: The City Council interprets Policies 4.63 through 4.72 provide direction regarding resource-efficient design and development. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. These policies do not apply.

Designing with nature

Policy 4.73. Design with nature. Encourage design and site development practices that enhance, and avoid the degradation of, watershed health and ecosystem services and that incorporate trees and vegetation.

Policy 4.74. Flexible development options. Encouraging flexibility in the division of land, the siting and design of buildings, and other improvements to reduce the impact of development on environmentally-sensitive areas and to retain healthy native and beneficial vegetation and trees.

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Policy 4.75. Low-impact development and best practices. Encourage use of low-impact development, habitat-friendly development, bird-friendly design, and green infrastructure.

Policy 4.76. Impervious surfaces. Limit use of and strive to reduce impervious surfaces and associated impacts on hydrologic function, air and water quality, habitat connectivity, tree canopy, and urban heat island effects.

Policy 4.77. Hazards to wildlife. Encourage building, lighting, site, and infrastructure design and practices that provide safe fish and wildlife passage, and reduce or mitigate hazards to birds, bats, and other wildlife.

Policy 4.78. Access to nature. Promote equitable, safe, and well-designed physical and visual access to nature for all Portlanders, while also maintaining the functions and values of significant natural resources, fish, and wildlife. Provide access to major natural features, including:

- Water bodies such as the Willamette and Columbia rivers, Smith and Bybee Lakes, creeks, streams, and sloughs.
- Major topographic features such as the West Hills, Mt. Tabor, and the East Buttes.
- Natural areas such as Forest Park and Oaks Bottom.

152.Finding: The City Council interprets Policies 4.73 through 4.78 provide direction regarding the interface between development and natural features and functions. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. These policies do not apply.

Hazard-resilient design

Policy 4.79. Natural hazards and climate change risks and impacts. Limit development in or near areas prone to natural hazards, using the most current hazard and climate change-related information and maps.

153.Finding: The 2035 Comprehensive Plan defines “limit” as to minimize or reduce something or the effects of something relative to the current situation or to a potential future situation. The City Council is relying on the most current hazard information that shows most of Portland’s industrial zoning are in areas with high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake.

The City Council finds that continuing to allow the unlimited increase in fossil fuel terminal storage tank capacity in an area with a high-risk of liquefaction in the event of a major earthquake is not limiting development in or near areas prone to natural hazards, and, therefore not consistent with this policy. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate

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and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake.

The PBA coalition testimony claims, without supporting evidence, that the ordinance will “hinder” the City’s safety goals. The City Council defines the word “hinder” to mean to create difficulties, resulting in delay or obstruction. The testimony does not elaborate or provide evidence as to how the FFTZ amendments will hinder the City’s safety goals. The purpose of the ordinance is to begin to proactively address the safety risks due to earthquakes by not making the problem worse by continuing to allow the unlimited expansion of fossil fuel storage tank capacity.

The WSPA testimony claims the ordinance will discourage seismic and safety improvements that typically occur with new infrastructure improvements – types of infrastructure improvements are not defined. WSPA testimony claims the ordinance will prohibit new terminals, new intermodal links and new fuel tanks in Portland. Council finds this statement is inaccurate with respect to the limits in the FFTZ amendments. The amendments prohibit new bulk fossil fuel terminals with more than 2 million gallons of liquid fossil fuel storage capacity. New fuel terminals with less than 2 million gallons of fossil fuel storage (and unrestricted amounts of jet fuel and renewable fuel) are considered a Warehouse and Freight Movement use and continue to be allowed in Portland’s employment and industrial zones (PCC 33.140, Table 140-1). The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

Council finds that the existing terminals are designated as a limited use to allow them to continue to operate to allow for a wide range of new infrastructure improvements, including safety and seismic upgrades. The FFTZ amendments limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing bulk fossil fuel terminals, with limited exceptions for jet and renewable fuels. Specifically, terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as a way to facilitate replacement and seismic upgrades. Also, since the adoption of the 2016 ordinance and at various times during the subsequent appeals process, there have been opportunities, including since October 30, 2020, for the existing terminals to undertake fossil fuel storage tank improvements and expansions to improve safety. To date, none of the terminals have applied to build new, safer fossil fuel tanks.

The Idaho Governor’s Office of Energy and Mineral Resources testimony claims that the ordinance would prevent the Pacific Northwest region from looking to Portland for fuel in times of emergency. This argument is undeveloped and does not explain how limits on expansion of fossil fuel storage tanks in Portland would hinder emergency response. The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, nor destination of the fuel. In times of emergency there is nothing the regulations that would prevent Portland terminals from serving the region. In terms of additional capacity to prepare for an emergency, the 2013 Oregon Resilience Plan included a recommendation to form a public-private partnership with the objective of reducing the state’s vulnerability to seismic events by evaluating the diversification of locations for the storage of liquid fuels and identification of new liquid fuel energy corridors, which indicates a need to not become further dependent on the high-risk location that is the Portland Critical Energy Infrastructure (CEI) Hub.

Policy 4.80. Geological hazards. Evaluate slope and soil characteristics, including liquefaction potential, landslide hazards, and other geologic hazards.

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154. Most of Portland’s employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake. According to the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report, a magnitude 8 or 9 Cascadia Subduction Zone earthquake would impact the CEI Hub with: ground shaking; liquefaction (soil behavior phenomenon in which a saturated sand softens and loses strength during strong earthquake ground shaking); lateral spreading (where surficial soil permanently moves laterally due to earthquake shaking); landslides; co-seismic settlement (where the ground surface is permanently lowered due to seismic shaking); and bearing capacity failures (when the foundation soil cannot support the structure it is intended to support).

According to the 2012 DOGAMI report, liquefaction and lateral spreading hazards are of primary concern to the fossil fuel terminals. As described in the 2012 Oregon State Energy Assurance Plan, this Critical Energy Infrastructure Hub (CEI Hub) sits on top of very poor soils that are highly susceptible to earthquake-induced permanent ground deformation. The CEI Hub is adjacent to the Willamette River and has extensive deposits of highly liquefiable soils. These soils (made of sands, silts, gravels and clays) have been naturally deposited by river activity as well as been created from man-made activities, such as hydraulically placed material from river dredging or debris placed as landfill.

The FFTs have significant seismic risks because most of the tanks have been constructed without any or only limited seismic design criteria on soils with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study and the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report. In addition, Multnomah County and the City of Portland commissioned a study of the impacts of fuel releases due to a Cascadia Subduction Zone (CSZ) earthquake. This study found that between 94.6 million and 193.7 million gallons of material could be released in the event of a CSZ earthquake, which could cause between \$359 million to \$2.6 billion in damages.

Continuing to allow the increase in FFTs in a high-risk area increases the risk to the surrounding industrial district and the Willamette River. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can make Portland more resilient.

Policy 4.81. Disaster-resilient development. Encourage development and site-management approaches that reduce the risks and impacts of natural disasters or other major disturbances and that improve the ability of people, wildlife, natural systems, and property to withstand and recover from such events.

155.Finding: The verb “encourage”, which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives.

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Council finds that development reduces the risks and impacts of natural disasters when the risk is lessened relative to the current situation. Additionally, the ability to withstand and recover from such events is improved when the current situation is made better.

The 2035 Comprehensive Plan defines the verb “improve” to mean make the current situation better. The City Council finds that the ability to withstand and recover from such events is improved when the current situation is made better. Most of Portland’s employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Continuing to allow the unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area increases the risk to the surrounding industrial district and the Willamette River.

The FFTZ amendments encourage development and site-management approaches that reduce the seismic risks and improve the ability of the FFTs to withstand and recover from such events by designating the existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety. The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

Policy 4.82. Portland Harbor facilities. Reduce natural hazard risks to critical public and private energy and transportation facilities in the Portland Harbor.

156.Finding: The 2035 Comprehensive Plan defines “reduce” as to lessen something relative to the current situation. Critical Energy Infrastructure Hub is located in the Portland Harbor. Most of the Portland Harbor is an area rated with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. The FFTs have significant seismic risks because most of the tanks have been constructed without any or only limited seismic design criteria on soils with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study and the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report. Continuing to allow the increase fossil fuel storage tank capacity in a high-risk area increases the risk to the facilities in the Portland Harbor, the surrounding industrial district, the Willamette River and Portland as a whole. In addition, Multnomah County and the City of Portland commissioned a study of the impacts of fuel releases due to a Cascadia Subduction Zone (CSZ) earthquake. This study found that between 94.6 million and 193.7 million gallons of material could be released in the event of a CSZ earthquake, which could cause between \$359 million to \$2.6 billion in damages.

The FFTZ amendments are consistent with this policy by restricting new fossil fuel storage tank capacity in order to stop increasing the risk, effectively lessening the risk relative to the current situation, which allows unlimited expansion of fossil fuel storage tanks. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing FFTs, with limited exceptions. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can reduce the natural hazards risk.

Policy 4.83. Urban heat islands. Encourage development, building, landscaping, and infrastructure

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design that reduce urban heat island effects.

157.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. This policy does not apply.

Policy 4.84. Planning and disaster recovery. Facilitate effective disaster recovery by providing recommended updates to land use designations and development codes, in preparation for natural disasters.

158.Finding: The City Council finds that it can “facilitate” disaster recovery by evaluating and adopting changes to land use designations and development codes in a manner that better prepares the city for a natural disaster. The FFTZ amendments are an update to the allowed uses in employment and industrial zones. The FFTZ amendments are a regulatory approach that improves Portland’s ability to withstand and recover from an earthquake by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which is an improvement over the current regulations that allow for unlimited growth in FFTs. The FFTZ regulations focus on limiting risk by limiting fossil fuel storage tank capacity, but designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake.

Healthy food

Policy 4.85. Grocery stores and markets in centers. Facilitate the retention and development of grocery stores, neighborhood-based markets, and farmer’s markets offering fresh produce in centers.

Policy 4.86. Neighborhood food access. Encourage small, neighborhood-based retail food opportunities, such as corner markets, food co-ops, food buying clubs, and community-supported agriculture pickup/drop-off sites, to fill in service gaps in food access across the city.

Policy 4.87. Growing food. Increase opportunities to grow food for personal consumption, donation, sales, and educational purposes.

Policy 4.88. Access to community gardens. Ensure that community gardens are allowed in areas close to or accessible via transit to people living in areas zoned for mixed-use or multi-dwelling development, where residents have few opportunities to grow food in yards.

159.Finding: The City Council interprets Policies 4.85 through 4.88 provide direction regarding the role of development in contributing to access to healthy foods. The City Council interprets this policy to relate to development outside of industrial areas. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. These policies do not apply.

Chapter 5: Housing

Goal 5.A: Housing diversity. Portlanders have access to high-quality affordable housing that accommodates their needs, preferences, and financial capabilities in terms of different types, tenures, density, sizes, costs, and locations.

Goal 5.B: Equitable access to housing. Portland ensures equitable access to housing, making a special effort to remove disparities in housing access for people with disabilities, people of color, low-income households, diverse household types, and older adults.

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Goal 5.C: Healthy connected city. Portlanders live in safe, healthy housing that provides convenient access to jobs and to goods and services that meet daily needs. This housing is connected to the rest of the city and region by safe, convenient, and affordable multimodal transportation.

Goal 5.D: Affordable housing. Portland has an adequate supply of affordable housing units to meet the needs of residents vulnerable to increasing housing costs.

Goal 5.E: High-performance housing. Portland residents have access to resource-efficient and high-performance housing for people of all abilities and income levels.

160.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not affect housing development. Except for Policies 5.11 to 5.16, which City Council interprets as requiring evaluation and analysis as to who will benefit and who will be burdened by a planning decision, the City Council finds that these goals and policies do not apply.

Diverse and expanding housing supply

Policy 5.1. Housing supply. Maintain sufficient residential development capacity to accommodate Portland's projected share of regional household growth.

Policy 5.2. Housing growth. Strive to capture at least 25 percent of the seven-county region's residential growth (Multnomah, Washington, Clackamas, Yamhill, Columbia, Clark, and Skamania counties).

Policy 5.3. Housing potential. Evaluate plans and investments for their impact on housing capacity, particularly the impact on the supply of housing units that can serve low- and moderate-income households, and identify opportunities to meet future demand.

Policy 5.4. Housing types. Encourage new and innovative housing types that meet the evolving needs of Portland households, and expand housing choices in all neighborhoods. These housing types include but are not limited to single-dwelling units; multi-dwelling units; accessory dwelling units; small units; pre-fabricated homes such as manufactured, modular, and mobile homes; co-housing; and clustered housing/clustered services.

Policy 5.5. Housing in centers. Apply zoning in and around centers that allows for and supports a diversity of housing that can accommodate a broad range of households, including multi-dwelling and family-friendly housing options.

Policy 5.6. Middle housing. Enable and encourage development of middle housing. This includes multi-unit or clustered residential buildings that provide relatively smaller, less expensive units; more units; and a scale transition between the core of the mixed use center and surrounding single family areas. Where appropriate, apply zoning that would allow this within a quarter mile of designated centers, corridors with frequent service transit, high capacity transit stations, and within the Inner Ring around the Central City.

Policy 5.7. Adaptable housing. Encourage adaption of existing housing and the development of new housing that can be adapted in the future to accommodate the changing variety of household types.

Policy 5.8. Physically-accessible housing. Allow and support a robust and diverse supply of affordable, accessible housing to meet the needs of older adults and people with disabilities, especially in centers, station areas, and other places that are proximate to services and transit.

Policy 5.9. Accessible design for all. Encourage new construction and retrofitting to create physically-accessible housing, extending from the individual unit to the community, using Universal Design

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Principles.

Policy 5.10. Coordinate with fair housing programs. Foster inclusive communities, overcome disparities in access to community assets, and enhance housing choice for people in protected classes throughout the city by coordinating plans and investments to affirmatively further fair housing.

Housing access

Policy 5.11. Remove barriers. Remove potential regulatory barriers to housing choice for people in protected classes to ensure freedom of choice in housing type, tenure, and location.

Policy 5.12. Impact analysis. Evaluate plans and investments, significant new infrastructure, and significant new development to identify potential disparate impacts on housing choice, access, and affordability for protected classes and low-income households. Identify and implement strategies to mitigate the anticipated impacts.

Policy 5.13. Housing stability. Coordinate plans and investments with programs that prevent avoidable, involuntary evictions and foreclosures.

Policy 5.14. Preserve communities. Encourage plans and investments to protect and/or restore the socioeconomic diversity and cultural stability of established communities.

Policy 5.15. Gentrification/displacement risk. Evaluate plans and investments, significant new infrastructure, and significant new development for the potential to increase housing costs for, or cause displacement of communities of color, low- and moderate-income households, and renters. Identify and implement strategies to mitigate the anticipated impacts.

Policy 5.16. Involuntary displacement. When plans and investments are expected to create neighborhood change, limit the involuntary displacement of those who are under-served and under-represented. Use public investments and programs, and coordinate with nonprofit housing organizations (such as land trusts and housing providers) to create permanently-affordable housing and to mitigate the impacts of market pressures that cause involuntary displacement.

161.Finding: The City Council interprets Policies 5.11 to 5.16 as requiring evaluation and analysis as to who will benefit and who will be burdened by a planning decision, including amendments to the Zoning Code. The City Council finds that one factor in housing stability and displacement is access to job opportunities across a wide range of wage scales, especially middle wage jobs such as those found in Portland’s industrial districts. The FFTZ amendments apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not change the land capacity in Portland’s industrial districts and continue to support continued growth in those districts. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

The regulations are narrowly crafted to support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels.

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Previous testimony raised concerns that the FFT amendments may constrain the supply of fossil fuels to serve anticipated population and employment growth, which in turn could increase fuel costs that could cause displacement of communities of color, low- and moderate-income households, and renters. This concern is based on an unsupported premise that the long-term future demand for fossil fuels will exceed the fossil fuel storage tank capacity of the existing terminals. As shown in the BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 are not projected to exceed the historic peak consumption, especially when exceptions for additional storage tank capacity for jet and renewable fuels are accounted for.

Testimony raised concerns that the ordinance would unnecessarily burden eastern Oregon and Washington and Idaho. As explained under Policy 6.48, Council finds the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that a combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho’s fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

Policy 5.17. Land banking. Support and coordinate with community organizations to hold land in reserve for affordable housing, as an anti-displacement tool, and for other community development purposes.

Policy 5.18. Rebuild communities. Coordinate plans and investments with programs that enable communities impacted by involuntary displacement to maintain social and cultural connections, and re-establish a stable presence and participation in the impacted neighborhoods.

Policy 5.19. Aging in place. Encourage a range of housing options and supportive environments to enable older adults to remain in their communities as their needs change.

Housing location

Policy 5.20. Coordinate housing needs in high-poverty areas. Meet the housing needs of under-served and under-represented populations living in high-poverty areas by coordinating plans and investments with housing programs.

Policy 5.21. Access to opportunities. Improve equitable access to active transportation, jobs, open spaces, high-quality schools, and supportive services and amenities in areas with high concentrations of under-served and under-represented populations and an existing supply of affordable housing.

Policy 5.22. New development in opportunity areas. Locate new affordable housing in areas that have high/medium levels of opportunity in terms of access to active transportation, jobs, open spaces, high-quality schools, and supportive services and amenities.

Policy 5.23. Higher-density housing. Locate higher-density housing, including units that are affordable and accessible, in and around centers to take advantage of the access to active transportation, jobs, open spaces, schools, and various services and amenities.

Policy 5.24. Impact of housing on schools. Evaluate plans and investments for the effect of housing

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development on school enrollment, financial stability, and student mobility. Coordinate with school districts to ensure plans are aligned with school facility plans.

Housing affordability

Policy 5.25. Housing preservation. Preserve and produce affordable housing to meet needs that are not met by the private market by coordinating plans and investments with housing providers and organizations.

Policy 5.26. Regulated affordable housing target. Strive to produce at least 10,000 new regulated affordable housing units citywide by 2035 that will be affordable to households in the 0-80 percent MFI bracket.

Policy 5.27. Funding plan. Encourage development or financial or regulatory mechanisms to achieve the regulated affordable housing target set forth for 2035.

Policy 5.28. Inventory of regulated affordable housing. Coordinate periodic inventories of the supply of regulated affordable housing in the four-county (Clackamas, Clark, Multnomah and Washington) region with Metro.

Policy 5.29. Permanently-affordable housing. Increase the supply of permanently-affordable housing, including both rental and homeownership opportunities.

Policy 5.30. Housing cost burden. Evaluate plans and investments for their impact on household cost, and consider ways to reduce the combined cost of housing, utilities, and/or transportation. Encourage energy-efficiency investments to reduce overall housing costs.

Policy 5.31. Household prosperity. Facilitate expanding the variety of types and sizes of affordable housing units, and do so in locations that provide low-income households with greater access to convenient transit and transportation, education and training opportunities, the Central City, industrial districts, and other employment areas.

Policy 5.32. Affordable housing in centers. Encourage income diversity in and around centers by allowing a mix of housing types and tenures.

Policy 5.33. Central City affordable housing. Encourage the preservation and production of affordable housing in the Central City to take advantage of the area's unique concentration of active transportation access, jobs, open spaces, and supportive services and amenities.

Policy 5.34. Affordable housing resources. Pursue a variety of funding sources and mechanisms including new financial and regulatory tools to preserve and develop housing units and various assistance programs for households whose needs are not met by the private market.

Policy 5.35. Inclusionary housing. Use inclusionary zoning and other regulatory tools to effectively link the production of affordable housing to the production of market-rate housing.

Policy 5.36. Impact of regulations on affordability. Evaluate how existing and new regulations affect private development of affordable housing, and minimize negative impacts where possible. Avoid regulations that facilitate economically-exclusive neighborhoods.

Policy 5.37. Mobile home parks. Encourage preservation of mobile home parks as a low/moderate-income housing option. Evaluate plans and investments for potential redevelopment pressures on existing mobile home parks and impacts on park residents and protect this low/moderate-income housing option. Facilitate replacement and alteration of manufactured homes within an existing mobile home park.

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Policy 5.38. Workforce housing. Encourage private development of a robust supply of housing that is affordable to moderate-income households located near convenient multimodal transportation that provides access to education and training opportunities, the Central City, industrial districts, and other employment areas.

Policy 5.39. Compact single-family options. Encourage development and preservation of small resource-efficient and affordable single-family homes in all areas of the city.

Policy 5.40 Employer-assisted housing. Encourage employer-assisted affordable housing in conjunction with major employment development.

Policy 5.41 Affordable homeownership. Align plans and investments to support improving homeownership rates and locational choice for people of color and other groups who have been historically under-served and under-represented.

Policy 5.42 Homeownership retention. Support opportunities for homeownership retention for people of color and other groups who have been historically under-served and under-represented.

Policy 5.43 Variety in homeownership opportunities. Encourage a variety of ownership opportunities and choices by allowing and supporting including but not limited to condominiums, cooperatives, mutual housing associations, limited equity cooperatives, land trusts, and sweat equity.

Policy 5.44 Regional cooperation. Facilitate opportunities for greater regional cooperation in addressing housing needs in the Portland metropolitan area, especially for the homeless, low- and moderate-income households, and historically under-served and under-represented communities.

Policy 5.45 Regional balance. Encourage development of a “regional balance” strategy to secure greater regional participation to address the housing needs of homeless people and communities of color, low- and moderate-income households, and historically under-served and under-represented communities throughout the region.

Homelessness

Policy 5.46. Housing continuum. Prevent homelessness and reduce the time spent being homeless by ensuring that a continuum of safe and affordable housing opportunities and related supportive services are allowed, including but not limited to Permanent Supportive Housing, transitional housing, self-built micro housing communities, emergency shelters, temporary shelters such as warming centers, and transitional campgrounds.

Health, safety, and well-being

Policy 5.47 Healthy housing. Encourage development and maintenance of all housing, especially multi-dwelling housing, that protects the health and safety of residents and encourages healthy lifestyles and active living.

Policy 5.48 Housing safety. Require safe and healthy housing free of hazardous materials such as lead, asbestos, and radon.

Policy 5.49. Housing quality. Encourage housing that provides high indoor air quality, access to sunlight and outdoor spaces, and is protected from excessive noise, pests, and hazardous environmental conditions.

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Policy 5.50. High-performance housing. Encourage energy efficiency, green building practices, materials, and design to produce healthy, efficient, durable, and adaptable homes that are affordable or reasonably priced.

Policy 5.51. Healthy and active living. Encourage housing that provides features supportive of healthy eating and active living such as useable open areas, recreation areas, community gardens, crime-preventive design, and community kitchens in multifamily housing.

Policy 5.52. Walkable surroundings. Encourage active transportation in residential areas through the development of pathways, sidewalks, and high-quality onsite amenities such as secure bicycle parking.

Policy 5.53. Responding to social isolation. Encourage site designs and relationship to adjacent developments that reduce social isolation for groups that often experience it, such as older adults, people with disabilities, communities of color, and immigrant communities.

Policy 5.54 Renter protections. Enhance renter health, safety, and stability through education, expansion of enhanced inspections, and support of regulations and incentives that protect tenants and prevent involuntary displacement.

Chapter 6: Economic Development

Goal 6.A: Prosperity. Portland has vigorous economic growth and a healthy, diverse economy that supports prosperity and equitable access to employment opportunities for an increasingly diverse population. A strong economy that is keeping up with population growth and attracting resources and talent can:

- Create opportunity for people to achieve their full potential.
- Improve public health.
- Support a healthy environment.
- Support the fiscal well-being of the city.

162.Finding: The City Council interprets this goal to apply to the city as whole and not to individual businesses or sectors of business. The City Council interprets this goal to mean that Portland has a strong economy with employment opportunities for a diverse population. The City Council finds that an important factor in a diverse economy is to provide access to job opportunities across a wide range of wage scales, especially middle wage jobs such as those found in Portland’s industrial districts.

The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s employment land supply to create opportunities for a growing economy.

These zoning regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. As explained in Policies 6.48 and 9.32, Council finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and will continue to support a strong and growing economy. The remaining industrial uses continue to operate under the current development review system. The FFTZ amendments establish clear definitions for fossil fuels and the Bulk Fossil Fuel Terminal use category. These changes support the existing FFTs by designating them as a limited use that allows the terminals to continue to operate and the limited use designation also allows the FFTs to invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing storage tank capacity, such as consolidating smaller tanks into larger tanks. Therefore, these amendments maintain the economic opportunity offered by the existing FFTs.

The PBA coalition testimony repeats previous claims, without supporting evidence, that the ordinance will “hurt the local economy”. The City Council finds that, as in 2016 and 2019, this testimony does not directly contradict or refute any of the supporting evidence or findings that Council has relied upon for adopting this ordinance. The ordinance has been crafted to provide the fossil fuel storage tank capacity, with the allowed exceptions, necessary to serve the regional market as part of a growing economy as demonstrated in the BPS memo on Liquid Fossil Fuel Demand (Policy 6.48).

WSPA claims the code amendments would be a public policy failure because they create significant adverse impacts on the local energy supply and subsequent damage to the economy. Council finds that this claim is repeated in various forms in their testimony without supporting evidence. WSPA correctly states that the amendments will not limit the regional demand for fuel. It is not the purpose of the zoning code amendments. Council finds the purpose of this ordinance is to limit the risk from a catastrophic Cascadia Subduction Zone earthquake by limiting the expansion of fossil fuel storage tank capacity in an area at high-risk of liquefaction, while at the same time providing

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enough capacity to serve future regional needs and facilitate a transition to cleaner fuels. WSPA claims the current infrastructure is insufficient for future fuel demand, by both quantity and type of fuel, without providing supporting evidence or contradicting the evidence in the record. Council rejects this argument and finds that the evidence in the record supports the conclusion that the City has carefully considered the impacts to the regional fossil fuel supply as a means to ensure the region's growing economy has the energy it needs. The existing terminals are designated as a limited use specifically to allow them to continue to operate to supply fossil fuels to region. The updated supporting memos on liquid fossil fuel and natural gas demand show that the amendments would not have a significant adverse impact on the "local" (or broader regional) energy supply. The BPS liquid fossil fuel demand memo shows that the increase in demand for fossil fuels is less than the historic peak consumption, without accounting for the renewable fuel component in those forecasts and the exception that allows additional storage tank capacity for jet fuel – the fossil fuel product that accounts for most of the increased consumption out to 2050.

Testimony raised concerns that the ordinance would unnecessarily burden eastern Oregon and Washington and Idaho. The Idaho Governor's Office of Energy and Mineral Resources, along with others from Idaho, submitted testimony that claims the proposed ordinance would seriously harm consumers in Oregon, Idaho and Washington by decreasing the availability of fuel in the future. The testimony urges the City to consider the entire Pacific Northwest region, and the states and communities that rely on the existing fuel terminal infrastructure. The testimony claims that Idaho is growing fast, expects increased fuel demand and as a result will need increased fuel infrastructure in Portland.

In response to the testimony, BPS prepared a memo to analyze Idaho (and Washington) petroleum demand. The BPS memo documented that only a small portion of Idaho's petroleum fuels are transported through Portland via barges on the Columbia/Snake River system, and there are multiple options available to meet future demand in Idaho, including other Lower Columbia River ports, pipeline terminals in Pasco and Spokane, in addition to the pipeline terminals in Boise and Pocatello that connect to refineries in Salt Lake City, Utah.

The 2022 BPS Regional Demand for Liquid Fossil Fuels memo documented an expected surplus capacity in Oregon based on future total petroleum consumption being less than the historic peak consumption in addition to exceptions for additional storage tank capacity for jet fuel and renewable fuels.

In Washington, total petroleum consumption is forecasted to exceed historic peak consumption. However, the US EIA data is at a statewide level and it is not possible calculate the portion of the future growth to southwest or eastern Washington that might be dependent on FFTs in Portland. Also, 87 percent of the forecasted growth in petroleum demand is jet fuel, for which additional storage tank capacity is allowed under an exception. Also, as explained above, renewable fuels are a component of the US EIA future forecast and therefore are part of the growth in the petroleum consumption, for which additional storage tank capacity is allowed under an exception. Finally, there are other Lower Columbia River ports and pipeline terminals in Spokane and Pasco that could serve as an alternative source to Portland to meet any remaining unmet demand.

The BPS analysis shows that the forecasted decrease in gasoline consumption in Oregon and Washington (-0.118 quadrillion Btu per year) could provide the needed capacity to meet the growing demand for gasoline in Idaho (0.027 quadrillion Btu per year). Further, the forecasted flat demand in distillate fuel oil in Oregon and Washington and marginal growth in Idaho (0.002 quadrillion Btu per year) does not account for the increasing renewable content in distillate fuel oil (see Oregon Clean Fuels program) that also could free up additional fossil fuel capacity. The

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forecasted growth in Idaho (0.002 quadrillion Btu per year) is only two percent of the total distillate fuel oil consumption in Oregon – which again, the US EIA data includes a portion that is renewable distillate fuel oil, which is expected to increase under recent trends and policies in Oregon and, for which there is an exception to add additional storage tank capacity to meet the increased demand for renewables.

Further, the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that this combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho’s fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

Goal 6.B: Development. Portland supports an attractive environment for industrial, commercial, and institutional job growth and development by: 1) maintaining an adequate land supply; 2) a local development review system that is nimble, predictable, and fair; and 3) high-quality public facilities and services.

163.Finding: The verb “support”, which is defined in the 2035 Comprehensive Plan, means to aid the cause of. The City Council interprets this goal to apply to the city as whole and not to individual businesses or sectors of business. The City Council interprets this goal to mean that an attractive environment for economic development has three elements: 1) adequate land supply; 2) a predictable development review system; and 3) high-quality public services. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s employment land supply.

These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The remaining industrial uses continue to operate under the current development review system. The FFTZ amendments establish clear definitions for fossil fuels and the Bulk Fossil Fuel Terminal use category. These changes support the existing FFTs by designating them as a limited use that allows the terminals to continue to operate and. The limited use designation also allows the FFTs to invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing storage tank capacity, such as consolidating smaller tanks into larger tanks.

The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the industrial districts where the FFTs are located.

Goal 6.C: Business district vitality. Portland implements land use policy and investments to:

- Ensure that commercial, institutional, and industrial districts support business retention and expansion.

164.Finding: The verb “ensure”, which is defined in the 2035 Comprehensive Plan, means to make sure that something will happen or be available. The City Council interprets this goal to apply to the city as whole and not to individual businesses or sectors of business. Further, the City Council interprets this goal to mean that the City will provide an adequate land base that is supported by public

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infrastructure investments that are needed to support businesses. Council also finds that the direct impact of the FFTZ amendments are on one type of use in industrial districts. The FFTZ amendments are consistent with this goal because they do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to support business retention and expansion in Portland's industrial districts. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. The other industrial uses continue to operate under current zoning regulations. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for expansion through exceptions, such as jet or renewable fuels. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing fossil fuel storage tank capacity. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the industrial districts where the FFTs are located.

- Encourage the growth of districts that support productive and creative synergies among local businesses.

165.Finding: The verb “encourage”, which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this goal to apply to the growth of districts in the city as whole and not to individual businesses or sectors of business. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to encourage growth in Portland's industrial districts. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. The remaining industrial uses continue to operate under current zoning regulations. These changes support the retention of existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other businesses will continue to be adequately served.

Previous testimony and legal arguments contended that because FFTs supply over 90 percent of the region's transportation fuel, they play an outsized role in the regional economy and that the FFT amendments will have a significant effect on other businesses in the region. The City Council found this testimony to be without substantial supporting evidence to show how the FFT amendments will unnecessarily harm the economy and local industry by restricting the supply of and impeding the efficient distribution of fossil fuel. As shown in the 2022 BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 is not projected to exceed the historic peak consumption, especially when exceptions that allow for additional storage tank capacity for jet and renewable fuels are accounted for. Therefore, the City Council finds that the FFT amendments will continue to support productive and creative synergies between the existing FFTs and local businesses.

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- Provide convenient access to goods, services, and markets.

166.Finding: The verb “provide”, which is defined in the 2035 Comprehensive Plan, means to supply, offer, or make available. The adjective “convenient”, which is not defined in the 2035 Comprehensive Plan, means to be situated to allow easy access. The City Council interprets this goal to apply to the city as whole and not to individual businesses or sectors of business. The City Council finds that the goal provides that the City will implement land use policies that will result in easy access to goods, services, and markets. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to facilitate access to goods, services and markets. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The remaining industrial uses continue to operate under current zoning regulations. These changes support the retention of existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. The limits and exceptions will enable the FFTs to maintain their ability to provide goods and services to their markets. The ordinance does not restrict the markets that can be served by the existing FFTs. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

These regulations allow the existing FFTs to continue to operate as a limited use. The regulations also provide exceptions to the storage tank capacity limits for jet and renewable fuels.

Previous testimony and legal arguments contended that because FFTs supply over 90 percent of the region’s transportation fuel, they play an outsized role in the regional economy and that the FFT amendments will have a significant effect on other businesses in the region. The City Council found this testimony to be without substantial supporting evidence to show how the FFT amendments will unnecessarily harm the economy and local industry by restricting the supply of and impeding the efficient distribution of fossil fuel. As shown in the 2022 BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 are not projected to exceed the historic peak consumption, especially when exceptions that allow for additional storage tank capacity for jet and renewable fuels are accounted for. Therefore, the City Council finds that the FFT amendments will continue to provide access to goods, services, and markets between the existing FFTs and local businesses.

The PBA coalition testimony repeats previous claims, without supporting evidence, that the ordinance will “hurt the local economy”. The City Council finds that, as in 2016 and 2019, these claims are not sufficiently explained, nor do they directly contradict or refute any of the supporting evidence or findings that Council has relied upon for adopting this ordinance. The ordinance has been crafted to provide the fossil fuel storage tank capacity, with the allowed exceptions, necessary to serve the future regional market as part of a growing economy (Policy 6.48).

WPSA claims the code amendments would be a public policy failure because they create significant adverse impacts on the local energy supply and subsequent damage to the economy. Council finds that this claim is repeated in various forms in their testimony without supporting evidence. WSPA

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correctly states that the amendments will not limit the regional demand for fuel. It is not the purpose of the zoning code amendments. Council finds the purpose of this ordinance is to limit the risk from a catastrophic Cascadia Subduction Zone earthquake by limiting the expansion of fossil fuel storage tank capacity in an area at high-risk of liquefaction, while at the same time providing enough capacity to serve future regional needs and facilitate a transition to cleaner fuels. WSPA claims the current infrastructure is insufficient for future fuel demand, by both quantity and type of fuel, without providing supporting evidence or contradicting the evidence in the record. The City has carefully considered the impacts to the regional fossil fuel supply as a means to ensure the region's growing economy has the energy it needs. The existing terminals are designated as a limited use specifically to allow them to continue to operate to supply fossil fuels to region. The updated supporting memos on liquid fossil fuel and natural gas demand show that the amendments would not have a significant adverse impact on the "local" (or broader regional) energy supply. The liquid fossil fuel demand memo shows that the increase in demand for fossil fuels is less than the historic peak consumption, without accounting for the renewable fuel component in those forecasts and the exception that allows additional storage tank capacity for jet fuel – the fossil fuel product that accounts for most of the increased consumption out to 2050.

The Idaho Governor's Office of Energy and Mineral Resources, along with others from Idaho, submitted testimony that claims the proposed ordinance would seriously harm consumers in Oregon, Idaho and Washington by decreasing the availability of fuel in the future. The testimony urges the City to consider the entire Pacific Northwest region, and the states and communities that rely on the existing fuel terminal infrastructure. The testimony claims that Idaho is growing fast, expects increased fuel demand and as a result will need increased fuel infrastructure in Portland.

Testimony raised concerns that the ordinance would unnecessarily burden eastern Oregon and Washington and Idaho. As explained under Policy 6.48, Council finds the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that a combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho's fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

- **Take advantage of our location and quality of life advantages as a gateway to world-class natural landscapes in Northwest Oregon, Southwest Washington, and the Columbia River Basin, and a robust interconnected system of natural landscapes within the region's Urban Growth Boundary.**

167.Finding: The City Council interprets this goal to apply to the city as whole and not to individual businesses or sectors of business. Further, the City Council interprets the intent of this goal is to leverage location, access and quality of life as an advantage to attracting and retaining businesses and employees to Portland. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, that could undermine business retention and expansion in Portland's industrial districts. Therefore, these changes do not conflict with the intent of this goal to encourage business district vitality in Portland.

Diverse, expanding city economy

Policy 6.1. Diverse and growing community. Expand economic opportunity and improve economic equity for Portland’s diverse, growing population through sustained business growth.

168.Finding: The verb “expand”, which is defined in the 2035 Comprehensive Plan, means to make something that already exists more extensive. The verb “improve”, which is defined in the 2035 Comprehensive Plan, means to make the current situation better. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business. The City Council finds that this policy provides direction to support business growth that makes economic opportunity available to a more diverse and growing community. The City Council finds that an important factor in improving economic equity is to provide access to job opportunities across a wide range of wage scales, especially middle wage jobs such as those found in Portland’s industrial districts.

The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s employment land supply to create opportunities for a growing economy in the industrial districts that are important to economic equity.

These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The remaining industrial uses continue to operate under the current development review system. The FFTZ amendments establish clear definitions for fossil fuels and the Bulk Fossil Fuel Terminal use category. These changes support existing FFTs by designating them as a limited use that allows the terminals to continue to operate. The limited use designation also allows the FFTs to invest in upgrades and supports opportunities for growth and expansion through exceptions, such as jet or renewable fuels. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing storage tank capacity, such as consolidating smaller tanks into larger tanks.

Previous testimony and legal arguments contended that because FFTs supply over 90 percent of the region’s transportation fuel, they play an outsized role in the regional economy and that the FFT amendments will constrain economic growth. In the current record, the PBA coalition and WSPA testimony repeats previous claims, without supporting evidence, that the ordinance will “hurt” or “damage” the local economy. The implication is the FFT amendments may constrain the supply of fossil fuels to serve anticipated population and employment growth. The City Council found this testimony to be without supporting evidence to show how the FFT amendments will unnecessarily harm the economy and local industry by restricting the supply of and impeding the efficient distribution of fossil fuel. As shown in the 2022 BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 is not projected to exceed the historic peak consumption, especially when exceptions that allow for additional storage tank capacity for jet and renewable fuels are accounted for. Therefore, the City Council finds that the FFT amendments support the retention of existing FFTs to continue to provide the fuel needed to support expanding economic opportunity.

Policy 6.2. Diverse and expanding economy. Align plans and investments to maintain the diversity of Portland’s economy and status as Oregon’s largest job center with growth across all sectors (commercial, industrial, creative, and institutional) and across all parts of the city.

Policy 6.3. Employment growth. Strive to capture at least 25 percent of the seven-county region’s employment growth (Multnomah, Washington, Clackamas, Yamhill, Columbia, Clark, and Skamania counties).

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Policy 6.4. Fiscally-stable city. Promote a high citywide jobs-to-households ratio that supports tax revenue growth at pace with residential demand for municipal services.

169.Finding: The City Council interprets Policies 6.2 through 6.4 to apply to the city as whole and not to individual businesses or sectors of business. The City Council interprets these policies to support a growing economy as described in the EOA. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s employment land supply to create opportunities for a growing economy consistent with the EOA.

Policy 6.5. Economic resilience. Improve Portland’s economic resilience to impacts from climate change and natural disasters through a strong local economy and equitable opportunities for prosperity.

170.Finding: The verb “improve”, which is defined in the 2035 Comprehensive Plan, means to make the current situation better; increase; enhance. The term “resilience”, which is defined in the 2035 Comprehensive Plan Guiding Principle, means the “reducing the vulnerability of our neighborhoods, businesses, and built and natural infrastructure to withstand challenges – environmental, economic and social – that may result from major hazardous events.” The City Council finds that “economic resilience” is improved when the local economy is strong and everyone has access to opportunities for prosperity.

The Council finds that the first step in making the current situation better is to ensure that the situation does not get worse. Continuing to allow the unlimited increase in FFTs in a high-risk area increases the risk to the surrounding industrial district and the Willamette River in the event of a major earthquake, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in FFTs. The FFTZ regulations improve resilience by designating existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety.

Allowing the FFTs to continue to operate and invest in upgrades will help support a strong local economy by providing for a continuing supply of fossil fuels. As shown in the 2022 BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 is not projected to exceed the historic peak consumption, especially when exceptions that allow for additional storage tank capacity for jet and renewable fuels are accounted for. Therefore, the City Council finds that the FFT amendments support the retention of existing FFTs to continue to provide access to the fuel needed to support expanding economic opportunity. Allowing the FFTs to continue to operate as a limited use, with limited opportunities to expand storage tank capacity will maintain the equitable opportunities for prosperity in terms of the middle-wage employment opportunities at the existing FFTs.

Policy 6.6. Low-carbon and renewable energy economy. Align plans and investments with efforts to improve energy efficiency and reduce lifecycle carbon emissions from business operations. Promote

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employment opportunities associated with the production of renewable energy, energy efficiency projects, waste reduction, production of more durable goods, and recycling.

171.Finding: The City Council interprets this policy to support changes to business operations to become more energy efficient and reduce carbon emissions. Further, this policy encourages renewable energy, including renewable fuels as an alternative to fossil fuels. The FFTZ amendments are consistent with this policy by providing an exception that allows for new storage tank capacity for renewable fuels.

Some testimony raised a concern that new renewable storage tank capacity could be exploited by a terminal operator by later shifting operations and using those tanks for fossil fuel storage without the knowledge of the City or the public. The City Council finds that the existing zoning code enforcement provisions provide protection from a terminal operator that might later shift renewable storage to fossil fuel storage. In addition to the community-based complaint system, terminal operators are subject to mandatory reporting requirements to report the contents of their tanks to the State Fire Marshal. The reports are available to the City of Portland through Community Right To Know laws that will enable the City to track and monitor the on-going use of new renewable tanks.

Policy 6.7. Competitive advantages. Maintain and strengthen the city’s comparative economic advantages including access to a high-quality workforce, business diversity, competitive business climate, and multimodal transportation infrastructure.

172.Finding: First, the verb “maintain”, which is defined in the 2035 Comprehensive Plan, means to keep what you have; conserve; preserve; continue. The City Council interprets the verb “strengthen”, which is not defined in the 2035 Comprehensive Plan, means to make stronger, improve. The policy defines Portland’s competitive advantages as four factors: workforce, business diversity, business climate, and multimodal transportation infrastructure. These factors have been identified in various planning and economic development documents that give Portland an advantage or better conditions in terms of attracting or growing businesses and the economy. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business.

LUBA found that the City had not considered the relationship between the FFTs (and any products that they supply) and local businesses. The appellants argued that the FFTs are special and are not just “one type of business” because they provide a product (fossil fuel) that other businesses depend on. The implied assumption is that with a growing regional economy, the demand for fossil fuels will increase and trigger the need for additional fossil fuel storage tanks. This assumption was not supported by the evidence; no evidence contradicts the City’s finding that there is adequate existing fossil fuel storage tank capacity to serve the forecasted future regional market.

The City Council has considered the role that FFTs play in supporting the regional economy and how Portland’s (and the region’s) economy will continue to be dependent on fossil fuels as we transition to a zero-carbon future. The City Council considered the future demand for petroleum in Oregon out to the year 2050. Council finds that there is a surplus of system capacity (approximately 5 billion BTU or 1.3%) between future demand and past historic peaks, and that surplus may be larger than 1.3 percent because the future demand forecast includes volumes of jet and renewable fuels for which the code includes specific exceptions to the storage tank capacity limits. These exceptions are included the code amendments because jet and renewable fuel are expected to be the faster growing segments of fuel consumption.

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Testimony raised concerns that the ordinance would unnecessarily burden eastern Oregon and Washington and Idaho. As explained under Policy 6.48, Council finds the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that a combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho’s fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

As part of this consideration, the City has narrowly crafted these regulations to support the retention of the existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate; invest in upgrades; and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions. Based on the totality of the record, the Council finds that the proposed ordinance will not decrease the availability of fuel to the region (broadly defined) and will not harm consumers in Oregon, Idaho, or Washington in the future.

Ultimately, however, access to fossil fuels is not listed as a competitive advantage in Policy 6.7. Council finds that the policy considers access to high-quality workforce, business diversity, competitive business climate, and multimodal transportation infrastructure as elements of a competitive economic advantages. The policy does not require expansion of fossil fuels capacity, particularly beyond what is a demonstrated need, as a necessary competitive advantage.

In general, the regulations maintain Portland’s competitive advantages because these regulations apply to only one type of business (FFTs) that makes up a minority part of the businesses found in Portland, therefore will not have a significant impact on Portland’s comparative economic advantages. Council finds that while the amendments do not strengthen the comparative economic advantages, the amendments maintain the competitive advantage. The amendments are adopted to achieve other policy objectives – reducing risk to people, property and the environment from natural hazards, particularly earthquakes. The City has considered the competing directives in these policies and has narrowly crafted the regulations to maintain the comparative economic advantages by supporting the retention of existing FFTs by designating them as a limited use that allows the terminals to continue to operate; maintain the existing storage tank capacity; invest in upgrades; and support opportunities for growth through exceptions, such as for jet or renewable fuels, to the storage tank capacity restrictions.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

The City Council has considered the impact that the FFT amendments may have on individual elements of Policy 6.7, as follows:

Maintain and strengthen access to a high-quality workforce. The term “access”, which is defined in the 2035 Comprehensive Plan, means the ability to make use of. Council interprets this policy to

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support education and training programs that create a high-quality workforce as well as actions to improve the local quality of life that helps to retain and attract skilled workers. Council finds that overall, these regulations will not impact the access to a high-quality workforce. The regulations will maintain access to a high-quality workforce because the 11 FFTs employ a small number of direct employees, compared to the overall industrial sector or the economy as a whole. Further, the regulations maintain the current direct workforce by designating the FFTs as a limited use that allows the terminals to continue to operate. The regulations also maintain the indirect workforce of contractors that may be needed to maintain the FFTs by allowing for the continued operation, maintenance and limited opportunities for growth. LUBA specifically called out the relationship between the FFTs and the products they supply to other businesses and the potential impact on the workforce. As explained in Policy 6.48, Council finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and will continue support a strong and growing economy, including a high-quality workforce.

Council interprets the policy direction to strengthen access to a high-quality workforce to mean promoting education and training programs that increase the number of trained employees that are available to work at Portland business. The zoning regulations (limit opportunities for new or expanded FFTs) do not directly impact education and training programs, therefore this factor does not apply.

Maintain and strengthen business diversity – The City Council interprets the term “diversity”, which is not defined in the 2035 Comprehensive Plan, means variety for the purposes of this policy. Portland’s adopted 2016 Economic Opportunities Analysis shows that Portland has a diversified economy with businesses and employment opportunities across four major areas – industrial districts, the Central City, neighborhood commercial districts, and health and education institutions. Specifically, Portland has adopted policies and zoning code restrictions to preserve its industrial lands and businesses. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, that could undermine the business retention and expansion in Portland’s industrial districts, which in turn supports Portland’s business diversity across the city as a whole. The regulations support the retention of the existing FFTs by designating them as a limited use that allows the terminals to continue to operate; invest in upgrades; and support opportunities for growth through exceptions, such as for jet or renewable fuels, to the storage tank capacity restrictions. Therefore, the regulations maintain the current business diversity in Portland.

The Council recognizes that the regulations do not strengthen business diversity in that they limit opportunities for new or expanded FFTs. However, FFTs make up a small fraction of the businesses in Portland (11 out of 130,000 businesses). Furthermore, even if the City were to allow unlimited expansion of FFTs, there is no evidence that this would strengthen business diversity. Council finds business diversity is strengthened by encouraging new and innovative sectors and the regulations have been carefully crafted to allow for new terminal facilities with less than 2 million gallons of fossil fuel storage tank capacity or expanded storage capacity for renewable fuels, Council expects to be a growing market given policy direction to cleaner, renewable fuels such as the DEQ Clean Fuels Program. Also, the regulations do not apply to businesses that store and utilize fossil fuels as an input.

Maintain and strengthen competitive business climate – The City Council interprets the term “business climate”, which is not defined in the 2035 Comprehensive Plan, means the perceived hospitality of the City to the needs and desires of businesses located in, or considering a move to, Portland. Council finds that the term business climate is difficult to measure and largely depends on the perceptions of different business sectors. Based on previous testimony from members of the

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business community, the regulations could weaken Portland’s business climate because Portland could be seen as a city that over-regulates businesses. The City has considered this testimony and has mitigated this impact by narrowly crafting the regulations to affect one type of business, but at the same time support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supporting opportunities for growth through exceptions, such as for jet or renewable fuels, to the storage capacity restrictions. Further, the regulations maintain a competitive business climate because they have been narrowly crafted to provide sufficient fossil fuel storage tank capacity to meet the modest forecasted growth in demand for liquid fossil fuels, especially for jet fuel that may be needed to support a growing economy.

Maintain and strengthen multimodal transportation infrastructure – The term “multimodal”, which is defined in the 2035 Transportation System Plan, means providing for many modes of travel within a single transportation corridor. Portland’s comparative advantage is the many different modes (road, rail, marine and pipeline) that are available to move goods and people within and through the city. The FFTs rely on interstate pipelines, marine terminals, and roads to receive and distribute fossil fuels and other products. The regulations maintain the multimodal transportation infrastructure by designating the existing FFTs as a limited use that allows the terminals to continue to operate; invest in upgrades (including maintaining and enhancing their privately-owned multimodal infrastructure); and support opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the citywide multimodal transportation system. The potential impacts to the multimodal transportation infrastructure are addressed in more detail under the 2035 Comprehensive Plan findings for policies 9.30, 9.31 and 9.32.

Policy 6.8. Business environment. Use plans and investments to help create a positive business environment in the city and provide strategic assistance to retain, expand, and attract businesses.

173.Finding: The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The City Council also determines that creating a positive business environment does not mean allowing for the unlimited expansion of all business types. These regulations are narrowly crafted to apply to only one type of business that makes up a minority part of the businesses found in Portland.

The City Council defines a “positive business environment” as providing an adequate land capacity that is supported by high-quality infrastructure, with predictable and fair development review regulations. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not change the land capacity in Portland’s industrial districts. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in Portland’s industrial districts.

In terms of predictable and fair development review regulations, these amendments only limit one type of business (FFT). However, the regulations maintain a competitive business climate by being narrowly crafted to support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions.

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The verb “provide”, which is defined in the 2035 Comprehensive Plan, means to supply, offer, or make available. The City Council interprets this policy to provide direction to the City to provide technical and financial assistance to retain, expand, and attract businesses. The City’s Enterprise Zone program, which provides a property tax exemption to industrial firms, is one of the main ways in which the City of Portland provides strategic financial assistance to businesses. These amendments do not affect that program, and FFTs that make new capital investments remain eligible for that program.

Policy 6.9. Small business development. Facilitate the success and growth of small businesses and coordinate plans and investments with programs that provide technical and financial assistance to promote sustainable operating practices.

174.Finding: The City Council interprets this policy to provide direction to the City to provide technical and financial assistance to small businesses, such as Prosper Portland’s Inclusive Business Resource Network or the Thriving Small Business Loan Program. The FFTZ amendments is a land use decision that amends the Zoning Code and does not change programs that provide technical and financial assistance to small businesses. This policy does not apply.

Policy 6.10. Business innovation. Encourage innovation, research, development, and commercialization of new technologies, products, and services through responsive regulations and public sector approaches.

175.Finding: The verb “encourage”, which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. These changes support innovation at existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions. Further, the use limitations provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety.

Policy 6.11. Sharing economy. Encourage mechanisms that enable individuals, corporations, non-profits, and government to market, distribute, share, and reuse excess capacity in goods and services. This includes peer-to-peer transactions, crowd funding platforms, and a variety of business models to facilitate borrowing and renting unused resources.

176.Finding: The verb “encourage”, which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. This policy does not apply.

Policy 6.12. Economic role of livability and ecosystem services. Conserve and enhance Portland’s cultural, historic, recreational, educational, food-related, and ecosystem assets and services for their contribution to the local economy and their importance for retention and attraction of skilled workers and businesses.

177.Finding: The verb “conserve”, which is not defined in the 2035 Comprehensive Plan, means to keep what you have; maintain; preserve; continue. The FFTZ amendments do not affect Portland’s cultural, historic, recreational, educational, food-related, and ecosystem assets and services. These

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regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. In considering the natural hazard risks that the FFTs pose to the ecosystem services on the river, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub, the City Council finds that continuing to allow the unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area does not enhance the current or future ecosystem services of the rivers. Therefore, the FFTZ regulations focus on limiting risk by limiting fossil fuel storage tank capacity, but designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. These regulations will limit the risks to the natural resource habitat functions and ecosystem services provided by the rivers, which will contribute to the retention and attraction of skilled workers and businesses.

Land development

Policy 6.13. Land supply. Provide supplies of employment land that are sufficient to meet the long-term and short-term employment growth forecasts, adequate in terms of amounts and types of sites, available and practical for development and intended uses. Types of sites are distinguished primarily by employment geographies identified in the Economic Opportunities Analysis, although capacity needs for building types with similar site characteristics can be met in other employment geographies.

178.Finding: The verb "provide", which is defined in the 2035 Comprehensive Plan, means to supply, offer, or make available. The City Council interprets this policy to mean that the City will provide an adequate land base that is supported by public infrastructure investments that are needed to support businesses. The FFTZ amendments are consistent with this policy because they do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to provide an adequate land supply in Portland's industrial districts, as defined in the EOA. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. The other industrial uses continue to operate under current zoning regulations. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the industrial districts where the FFTs are located.

Policy 6.14. Brownfield redevelopment. Overcome financial-feasibility gaps to cleanup and redevelop 60 percent of brownfield acreage by 2035.

179.Finding: The City Council interprets this policy to mean that the City will create programs to support the brownfield cleanup target. The FFTZ amendments are Zoning Code changes that are not directly related to the cleanup of brownfields. However, the changes designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities, including brownfield remediation.

Policy 6.15. Regionally-competitive development sites. Improve the competitiveness of vacant and underutilized sites located in Portland's employment areas using incentives, and regional and state assistance for needed infrastructure and site readiness improvements.

180.Finding: The verb "improve", which is defined in the 2035 Comprehensive Plan, means to make the current situation better; increase; enhance. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business. The FFTZ amendments are

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consistent with this policy because they do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain an adequate land supply in Portland's industrial districts. Further, these regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. The other industrial uses continue to operate under current zoning regulations. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the industrial districts where the FFTs are located. Finally, the City's Enterprise Zone program, which provides a property tax exemption to industrial firms, is one of the key incentives that the City of Portland offers to encourage businesses to invest in sites. These changes do not affect that program.

Policy 6.16. Regulatory climate. Improve development review processes and regulations to encourage predictability and support local and equitable employment growth and encourage business retention, including:

181.Finding: The verb "improve", which is defined in the 2035 Comprehensive Plan, means to make the current situation better; increase; enhance. The verb "encourage", which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business and does not require the City to allow for the unlimited expansion of individual businesses or sectors of business. The City Council interprets this policy to mean that changes to development regulations should consider how those changes affect predictability, equitable employment growth, and business retention. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business.

In terms of predictability, these development regulations apply to only one type of business that makes up a minority part of the businesses found in Portland. The development regulations are narrowly crafted to apply to one type of use and are clear and objective, with clearly defined terms, such as what is a fossil fuel, to provide predictability in regulating FFTs.

The verb "support", which is defined in the 2035 Comprehensive Plan, means to aid the cause of. The City Council defines equitable employment growth as providing for job opportunities across a wide range of wage scales, especially middle wage jobs such as those found in Portland's industrial districts. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other businesses will continue to be adequately served.

The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not change the land capacity in Portland's industrial districts and continue to support continued growth in those districts.

The verb "encourage", which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business and does not require the City to allow for the unlimited expansion of individual businesses or sectors of business. The regulations are narrowly crafted to support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to

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operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels.

6.16.a. Assess and understand cumulative regulatory costs to promote Portland’s financial competitiveness with other comparable cities.

182.Finding: The City Council interprets this policy to apply to a consideration of the cost, in terms of the time it takes to go through the development review process, the permit fees, and the system development charges, associated with the development review process. This policy applies to the city as whole and not to individual businesses or sectors of business. These regulations apply to only one type of business that makes up a small part of the businesses found in Portland’s industrial districts, therefore the regulatory cost impact is limited. The FFTZ amendments do not change any of the associated permit fees or system development charges, therefore it does not impact Portland’s financial competitiveness.

6.16.b. Promote certainty for new development through appropriate allowed uses and “clear and objective” standards to permit typical development types without a discretionary review.

6.16.c. Allow discretionary-review to facilitate flexible and innovative approaches to meet requirements.

183.Finding: The City Council interprets the verb “promote” means to “further the progress of, advance, or raise.” The City Council interprets policy 6.16.b and 6.16.c to work in tandem. Under policy 6.16.b, the direction is to promote certainty through appropriate allowed uses and “clear and objective” development standards. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business and does not require the City to allow for the unlimited expansion of individual businesses or sectors of business. The FFTZ amendments promote certainty by being narrowly crafted to apply only to fossil fuel terminals. Designating FFTs as a limited use, as opposed to a non-conforming use, allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, through clear and objective standards and definitions. The City Council did not establish a discretionary conditional use review for the FFT use. Council finds that another way to promote certainty is to ensure the regulations are clear. The amendments incorporated into this ordinance are crafted to increase certainty by clarifying definitions and exceptions.

The City Council finds that limiting risk from a major earthquake outweighs the policy direction to provide flexible and innovative approaches to accommodating additional fossil fuel storage tank capacity through a discretionary review process, in part, because continuing to locate all of the fossil fuel storage tank capacity in a high-risk area in Portland is counter to the 2013 Oregon Resilience Plan that recommends the diversification of locations for the storage of liquid fuels and identification of new liquid fuel energy corridors. The FFTs with access to the river are within the Greenway Overlay Zone (33.440), which establishes a discretionary review process to allow for industrial development, while preserving and enhancing the riparian habitat along the river. The FFTZ amendments do not amend the Greenway Overlay Zone standards or review process.

6.16.d. Design and monitor development review processes to avoid unnecessary delays.

184.Finding: The FFTZ amendments do not modify the development review process for FFTs. Designating the FFTs as a limited use does not subject those uses to new or additional development reviews. This ordinance includes a directive for BPS to monitor the effectiveness of this regulation and report back to City Council in two years.

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6.16.e. Promote cost effective compliance with federal and state mandates, productive intergovernmental coordination, and efficient, well-coordinated development review and permitting procedures.

185.Finding: The City Council interprets the verb “promote” to mean to “further the progress of, advance, or raise.” The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The City has an established procedure for coordinated review of river-related development, including docks, in areas where city, state and federal agencies all have jurisdiction. The Streamlining Team was established pursuant to a 2003 Intergovernmental Agreement between the City of Portland (City), NOAA Fisheries, Army Corps of Engineers (Corps), and the U.S. Fish and Wildlife Service (USFWS). The FFTZ amendments do not change these procedures and there is no impact to this coordinated process.

6.16.f. Consider short-term market conditions and how area development patterns will transition over time when creating new development regulations.

186.Finding: The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business. As described in the adopted EOA, Portland has a tight supply of industrial land. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will not affect Portland’s short-term industrial land supply. These regulations are consistent with Policy 6.37 (Industrial Sanctuaries) in that the City does not expect the industrial character and development pattern in these districts to transition over time. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels.

Policy 6.17. Short-term land supply. Provide for a competitive supply of development-ready sites with different site sizes and types, to meet five-year demand for employment growth in the Central City, industrial areas, campus institutions, and neighborhood business districts.

187.Finding: The verb “provide”, which is defined in the 2035 Comprehensive Plan, means to supply, offer, or make available. The City Council interprets this policy to mean that the City will provide an adequate land base that is supported by public infrastructure investments that are needed to support businesses. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business and does not require the City to provide a land supply for the unlimited expansion of individual businesses or sectors of business. The FFTZ amendments are consistent with this policy because they do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to provide an adequate land supply in Portland’s industrial districts. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The other industrial uses continue to operate under current regulations. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the industrial districts where the FFTs are located.

Policy 6.18. Evaluate land needs. Update the Economic Opportunities Analysis and short-term land supply strategies every five to seven years.

188.Finding: The City Council interprets this policy to provide direction to the city to update the EOA. The EOA was adopted in 2016 and is still within the effective time range. The FFTZ amendments do not amend the EOA. Therefore, this policy does not apply.

Policy 6.19. Corporate headquarters. Provide land opportunities for development of corporate

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headquarters campuses in locations with suitable transportation facilities.

189.Finding: The verb “provide”, which is defined in the 2035 Comprehensive Plan, means to supply, offer, or make available. The City Council interprets this policy to mean that the City will provide an adequate land base that is supported by public infrastructure investments that are needed for corporate headquarters. The FFTZ amendments are consistent with this policy because they do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to provide an adequate land supply in Portland’s industrial districts. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The other industrial uses continue to operate under current regulations. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the industrial districts where the FFTs are located.

Traded sector competitiveness

Policy 6.20. Traded sector competitiveness. Align plans and investments with efforts to improve the city and regional business environment for traded sector and export growth. Participate in regional and statewide initiatives.

Policy 6.21. Traded sector diversity. Encourage partnerships to foster the growth, small business vitality, and diversity of traded sectors.

Policy 6.22. Clusters. Align plans and investments with efforts that direct strategic business development resources to enhance the competitiveness of businesses in traded sector clusters.

190.Finding: The 2035 Comprehensive Plan defines “traded sector” as a business sector consisting of companies that compete in markets extending beyond the metropolitan region. The verb “align”, which is not defined in the 2035 Comprehensive Plan, means to coordinate or work together. The City Council interprets policies 6.20 through 6.22 to apply to the city as whole and does not require the City to allow for the unlimited expansion of individual businesses or sectors of business. The City Council finds that fossil fuel energy is not identified as a key traded sector in city, regional or statewide initiatives, as documented in the 2021 Greater Portland Comprehensive Economic Development Strategy and 2015 Portland Development Commission Strategic Plan.

The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to maintain Portland’s industrial districts as part of the efforts to support trade sector and export growth over time. These changes support the retention of existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions. The FFT amendments regulate only one type of business (FFT) that make up a small part of the multimodal infrastructure system. For example, in the 2020 Portland Harbor Marine Cargo Forecast, petroleum liquid bulk cargo accounts for 8% to 14% of the total volume of cargo flowing through the Portland Harbor (without accounting for automobiles or container cargo volumes). The FFT amendments regulate one part (fossil fuel storage tanks) of the FFTs and do not limit transloading facilities or multimodal infrastructure. The existing FFTs are designated as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure and fossil fuel storage tank capacity at the FFTs. The amendments do not limit expansion of pipeline infrastructure, marine terminals or rail facilities. The amendments support Oregon’s largest seaport and largest airport by including a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at an airport, surface

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passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, or rail yard.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area as part of the City's traded sector economic development strategy.

Policy 6.23. Trade and freight hub. Encourage investment in transportation systems and services that will retain and expand Portland's competitive position as a West Coast trade gateway and freight distribution hub.

191.Finding: The verb "encourage", which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to apply to the city as whole and not to individual businesses or sectors of business. The City Council interprets the policy in two ways. First, the policy calls on the City to continue to promote and encourage public sector investments in the freight transportation system, including those by the City, the Port of Portland, Metro, and the State of Oregon. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area where the FFTs are located.

Second, these changes support or foster the continuing investment in existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. In addition, the ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can continue to make investments in multimodal freight facilities. The amendments support Oregon's largest seaport and largest airport by including a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, or rail yard.

Finally, the City's Enterprise Zone program, which provides a property tax exemption to industrial firms, is one of the key incentives that the City of Portland offers to encourage businesses to invest in their facilities, including private multi-modal transportation systems such as docks, pipelines and transloading facilities. These changes do not affect that program, and FFTs that make new capital investments remain eligible for that program.

Policy 6.24. Traded sector land supply. Foster traded sector retention, growth, and competitive advantages in industrial districts and the Central City. Recognize the concentration of traded-sector businesses in these districts.

192.Finding: The verb "foster", which is defined in the 2035 Comprehensive Plan, means to encourage or guide the incremental development of something over a long period of time. The City Council

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interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, the retention, growth, and competitive advantages of Portland's industrial districts are maintained over time. These regulations are consistent with Policy 6.37 (Industrial Sanctuaries) in that the City does not expect the industrial character and development pattern in these districts to transition over time. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area where the FFTs are located.

Policy 6.25. Import substitution. Encourage local goods production and service delivery that substitute for imports and help keep the money Portlanders earn in the local economy.

193.Finding: The verb “encourage”, which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to encourage a strong local manufacturing and service delivery sector. The policy is not intended to and should not be read to discourage imported goods or services or place any burdens on interstate commerce. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to maintain Portland's industrial districts over time, which provides a land supply for local businesses that provide goods and services. Specifically, these changes include exceptions for renewable fuels that can be substitutes for fossil fuels. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area that can support service delivery.

Policy 6.26. Business opportunities in urban innovation. Strive to have Portland's built environment, businesses, and infrastructure systems showcase examples of best practices of innovation and sustainability.

194.Finding: The verb “strive”, which is defined in the 2035 Comprehensive Plan, means to devote serious effort or energy to work to achieve over time. The City Council interprets this policy to be focused on creating a supportive environment for innovation and sustainability. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. The other industrial uses continue to operate under current regulations. These changes support innovation at existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions to the storage capacity restrictions for jet or renewable fuels.

Equitable household prosperity

Policy 6.27. Income self-sufficiency. Expand access to self-sufficient wage levels and career ladders for low-income people by maintaining an adequate and viable supply of employment land and public facilities to support and expand opportunities in Portland for middle- and high-wage jobs that do not require a 4-year college degree.

6.27.a. Support the role of industrial districts as a leading source of middle-wage jobs that do not require a 4-year college degree and as a major source of wage-disparity reduction for under-

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served and under-represented communities.

6.27.b. Evaluate and limit negative impacts of plans and investments on middle and high wage job creation and retention.

195.Finding: The 2035 Comprehensive Plan defines “expand” as make something that already exists more extensive. The City Council finds income self-sufficiency is dependent on access to job opportunities across a wide range of wage scales, especially middle wage jobs such as those found in Portland’s industrial districts. The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The FFTZ amendments apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not change the land capacity in Portland’s industrial districts and continue to support continued employment growth in those districts.

The City Council finds that any negative impacts of the regulations are limited because the regulations are narrowly crafted to support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, which will help to retain the middle wage job opportunities at the FFTs.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area that can support the growth of middle wage jobs.

Policy 6.28. East Portland job growth. Encourage investment in, and alignment of, poverty-reduction efforts that address economic development, land use, transportation, housing, social services, public health, community development, and workforce development.

196.Finding: The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. There are no FFTs in East Portland. The FFTZ amendments apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not change the land capacity in Portland’s industrial districts and continue to support continued employment growth in those districts, including the existing industrial and employment land in East Portland.

Policy 6.29. Poverty reduction. Encourage investment in, and alignment of, poverty-reduction efforts that address economic development, land use, transportation, housing, social services, public health, community development, and workforce development.

Policy 6.30. Disparity reduction. Encourage investment in, and alignment of, public efforts to reduce racial, ethnic, and disability-related disparities in income and employment opportunity.

197.Finding: For policies 6.29 and 6.30, the City Council finds that access to job opportunities across a wide range of wage scales, especially middle wage jobs such as those found in Portland’s industrial

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districts is a key element of poverty and disparity reduction efforts. The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The FFTZ amendments apply to only one type of business that makes up a minority part of the businesses found in Portland's industrial districts. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not change the land capacity in Portland's industrial districts and continue to support continued employment growth in those districts.

Policy 6.31. Minority-owned, woman-owned and emerging small business (MWESB) assistance.

Ensure that plans and investments improve access to contracting opportunities for minority-owned, woman-owned, and emerging small businesses.

198.Finding: The City Council interprets this policy to focused on supporting minority-owned, woman-owned, and emerging small businesses through City programs. This policy does not apply.

Policy 6.32. Urban renewal plans. Encourage urban renewal plans to primarily benefit existing residents and businesses within the urban renewal area through:

1. Revitalization of neighborhoods.
2. Expansion of housing choices.
3. Creation of business and job opportunities.
4. Provision of transportation linkages.
5. Protection of residents and businesses from the threats posed by gentrification and displacement.
6. The creation and enhancement of those features which improve the quality of life within the urban renewal area.

199.Finding: The City Council interprets this policy to focused on urban renewal plans and not the Zoning Code. There are three urban renewal areas (Central Eastside, Willamette Industrial and Airport Way) that have industrial zoning that is amended by this ordinance. None of the existing FFTs are in the URAs. The FFTZ amendments do not include changes to any urban renewal plans. This policy does not apply.

Central City

Policy 6.33. Central City. Improve the Central City's regional share of employment and continue its growth as the unique center of both the city and the region for innovation and exchange through commerce, employment, arts, culture, entertainment, tourism, education, and government.

Policy 6.34. Central City industrial districts. Protect and facilitate the long-term success of Central City industrial districts, while supporting their evolution into places with a broad mix of businesses with high employment densities.

Policy 6.35. Innovation districts. Provide for expanding campus institutions in the Central City and Marquam Hill, and encourage business development that builds on their research and development strengths.

200.Finding: The FFTZ amendments change allowed uses in the City's industrial areas. There are no FFTs located in the Central City. These policies do not apply.

Industrial and employment districts

Policy 6.36. Industrial land. Provide industrial land that encourages industrial business retention, growth, and traded sector competitiveness as a West Coast trade and freight hub, a regional center of

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diverse manufacturing, and a widely-accessible base of family-wage jobs, particularly for under-served and under-represented people.

201.Finding: The verb “provide”, which is defined in the 2035 Comprehensive Plan, means to supply, offer, or make available. The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The City Council interprets this policy to be satisfied by maintaining an adequate industrial land base as determined by the EOA. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not reduce the industrial land designated in Portland. This ordinance does not amend the EOA. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions.

Policy 6.37. Industrial sanctuaries. Protect industrial land as industrial sanctuaries identified on the Comprehensive Plan Map primarily for manufacturing and distribution uses and to encourage the growth of industrial activities in the city.

202.Finding: The verb “protect”, which is defined in the 2035 Comprehensive Plan, means to defend or guard against loss, injury, or destruction. The City Council interprets this policy to apply to the city as whole and does not require the City to allow for the unlimited expansion of individual businesses or sectors of business. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will maintain Portland’s industrial sanctuaries as part of strategy to maintain an adequate industrial land base as determined by the EOA. These regulations are consistent with this policy in that the City does not expect the industrial character and development pattern in these districts to transition over time. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area where the FFTs are located.

Policy 6.38. Prime industrial land retention. Protect the multimodal freight-hub industrial districts at the Portland Harbor, Columbia Corridor, and Brooklyn Yard as prime industrial land that is prioritized for long-term retention.

203.Finding: The verb “protect”, which is defined in the 2035 Comprehensive Plan, means to defend or guard against loss, injury, or destruction. The City Council finds that this policy is implemented through the Prime Industrial Overlay Zone. The FFTZ amendments do not include changes to the overlay zone or to the Zoning Map where it is applied. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will maintain the prime industrial land for long-term retention.

6.38.a. Protect prime industrial lands from quasi-judicial Comprehensive Plan Map amendments that convert prime industrial land to non-industrial uses, and consider the potential for other map amendments to otherwise diminish the economic competitiveness or viability of prime industrial land.

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204.Finding: The verb “protect”, which is defined in the 2035 Comprehensive Plan, means to defend or guard against loss, injury, or destruction. The City Council finds that this policy applies to quasi-judicial decisions. The FFTZ amendments are adopted through a legislative process, therefore, this policy does not apply. Even if it did apply here, the City Council finds that this policy is implemented through the Prime Industrial Overlay Zone. The FFTZ amendments do not include changes to the overlay zone or to the Zoning Map where it is applied. The FFTZ amendments do not allow for new incompatible land uses or other map amendments, therefore, these changes will maintain the economic competitiveness or viability of prime industrial land.

6.38.b. Limit conversion of prime industrial land through land use plans, regulations, or public land acquisition for non-industrial uses, especially land that can be used by river-dependent and river-related industrial uses.

205.Finding: The City Council finds that this policy is implemented through the Prime Industrial Overlay Zone. The FFTZ amendments do not include changes to the overlay zone or to the Zoning Map where it is applied. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, that would lead to the conversion of prime industrial land. The ordinance does not authorize public land acquisition.

6.38.c. Limit regulatory impacts on the capacity, affordability, and viability of industrial uses in the prime industrial area while ensuring environmental resources are also protected.

206.Finding: The City Council interprets this policy to require a balance between minimizing regulations on industrial uses while at the same time protecting environmental resources. Council finds that the limits here are fossil fuel storage tank limitations as it applies to one industrial use. Those limitations are carefully crafted to ensure that the industrial uses remain viable while still protecting the environmental resources. Council finds that the purpose of this ordinance is to limit the risk of damage to environmental resources from a catastrophic Cascadia Subduction Zone earthquake by limiting the expansion of fossil fuel storage tank capacity, while at the same time allowing the existing terminals to make safety upgrades; to serve future regional needs; and facilitate a transition to cleaner fuels to reduce carbon emissions. The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

6.38.d. Strive to offset the reduction of development capacity as needed, with additional prime industrial capacity that includes consideration of comparable site characteristics. Offsets may include but are not limited to additional brownfield remediation, industrial use intensification, strategic investments, and other innovative tools and partnerships that increase industrial utilization of industrial land.

207.Finding: The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The FFTZ amendments do not include changes to the overlay zone or to the Zoning Map where it is applied, therefore, there is no reduction in development capacity as measured in the EOA. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, that would lead to the conversion of prime industrial land, therefore, there is no reduction in development capacity.

6.38.e. Protect prime industrial land for siting of parks, schools, large-format places of assembly, and large-format retail sales.

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208.Finding: The verb “protect”, which is defined in the 2035 Comprehensive Plan, means to defend or guard against loss, injury, or destruction. The City Council finds that this policy is implemented through the Prime Industrial Overlay Zone. The FFTZ amendments do not include changes to the overlay zone or to the Zoning Map where it is applied, therefore, prime industrial land continues to be protected.

6.38.f. Promote efficient use of freight hub infrastructure and prime industrial land by limiting non-industrial uses that do not need to be in the prime industrial area.

209.Finding: The City Council finds that this policy is implemented through the Prime Industrial Overlay Zone. The FFTZ amendments do not include changes to the overlay zone or to the Zoning Map where it is applied. The FFTZ amendments do not allow for new incompatible land uses. Therefore, non-industrial uses continue to be limited.

Policy 6.39. Harbor access lands. Limit use of harbor access lands to river- or rail-dependent or related industrial land uses due to the unique and necessary infrastructure and site characteristics of harbor access lands for river-dependent industrial uses.

210.Finding: The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will maintain Portland’s harbor access lands for river- or rail-dependent or related industrial uses.

Policy 6.40. Portland Harbor Superfund Site. Take a leadership role to facilitate a cleanup of the Portland Harbor that moves forward as quickly as possible and that allocates cleanup costs fairly and equitably. Encourage a science-based and cost-effective cleanup solution that facilitates re-use of land for river- or rail-dependent or related industrial uses.

211.Finding: The City Council interprets this policy to mean that the City will take a lead role to facilitate cleanup of the Portland Harbor. The FFTZ amendments are Zoning Code changes that are not directly related to the cleanup of Portland Harbor. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will maintain Portland’s industrial sanctuaries for river- or rail-dependent or related industrial uses. However, the changes designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities, including brownfield remediation related to the Portland Harbor cleanup efforts.

Policy 6.41. Multimodal freight corridors. Encourage freight-oriented industrial development to locate where it can maximize the use of and support reinvestment in multimodal freight corridors.

212.Finding: The verb “encourage”, which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to apply to districts as whole and not to individual businesses or sectors of business. The City Council finds that the policy requires the City to promote freight-oriented industrial development to locate near existing multimodal freight corridors, which is primarily done through applying industrial zoning. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes continue to support freight-oriented industrial development. These regulations apply to only one type of business that makes up a small part of the businesses found in Portland’s industrial districts.

The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. These changes support the retention of existing fossil fuel terminals by designating them as a limited use

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that allows the terminals to continue to operate and invest in upgrades to their intermodal facilities and supports maximizing the use of those facilities through exceptions for new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. Finally, the ordinance does not limit investment in or expansion of transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can make investments in multimodal freight facilities. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area where the FFTs are located. The potential impacts to the multimodal transportation infrastructure are addressed in more detail under the 2035 Comprehensive Plan findings for policies 9.30, 9.31 and 9.32.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

Policy 6.42. Columbia East. Provide a mix of industrial and limited business park development in Columbia East (east of 82nd Avenue) that expand employment opportunities supported by proximity to Portland International Airport and multimodal freight access.

213.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes continue to support expanded employment opportunities in the Columbia East geography. None of the existing FFTs are located in the Columbia East geography.

Policy 6.43. Dispersed employment areas. Provide small, dispersed employment areas for a flexible and affordable mix of office, creative services, small-scale manufacturing, traded sector and distribution, and other small-format light industrial and commercial uses with access to nearby freeways or truck streets.

214.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes continue to support expanded employment opportunities in the dispersed employment areas. None of the existing FFTs are located in these dispersed employment areas.

Policy 6.44. Industrial land use intensification. Encourage reinvestment in, and intensification of, industrial land use, as measured by output and throughput per acre.

215.Finding: The verb “encourage”, which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The City Council interprets this policy to apply to industrial districts as whole and not to individual businesses or sectors of business. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes are consistent with the intent to maintain Portland’s industrial districts over time.

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The amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades to their intermodal facilities and supports the intensification of those facilities through exceptions for new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety.

The City's Enterprise Zone program, which provides a property tax exemption to industrial firms, is one of the key incentives that the City of Portland offers to encourage businesses to invest in their facilities, including private multi-modal transportation systems such as docks, pipelines and transloading facilities. These changes do not affect that program, and FFTs that make new capital investments remain eligible for that program.

Policy 6.45. Industrial brownfield redevelopment. Provide incentives, investments, technical assistance and other direct support to overcome financial-feasibility gaps to enable remediation and redevelopment of brownfields for industrial growth.

216.Finding: The City Council interprets this policy to mean that the City will create programs to support brownfield cleanup in industrial areas. The FFTZ amendments are Zoning Code changes that are not directly related to the cleanup of brownfields. However, the changes designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities, including brownfield remediation.

Policy 6.46. Impact analysis. Evaluate and monitor the impacts on industrial land capacity that may result from land use plans, regulations, public land acquisition, public facility development, and other public actions to protect and preserve existing industrial lands.

217.Finding: The City Council interprets this policy to provide direction to the city to evaluate and monitor industrial land capacity and development trends that result from plan and zoning changes. The ordinance includes a directive for BPS to monitor the effectiveness of this regulation and report back to City Council in two years.

Policy 6.47. Clean, safe, and green. Encourage improvements to the cleanliness, safety, and ecological performance of industrial development and freight corridors by facilitating adoption of market feasible new technology and design.

218.Finding: The verb "encourage", which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. These changes encourage improvements by designating existing FFTs as a limited use that allows the terminals to continue to operate and invest in upgrades that can improve the cleanliness, safety, and ecological performance of FFTs.

Policy 6.48. Fossil fuel distribution. Limit fossil fuels distribution and storage facilities to those necessary to serve the regional market.

219.Finding: The 2035 Comprehensive Plan defines "limit" as to minimize or reduce relative to the current situation or to a potential future situation. The City Council interprets the phrase "regional market" to mean the state of Oregon, parts of Southwest and Eastern Washington, as well as parts of Idaho in recognition that Portland's fossil fuel terminals currently handle 90% of the fossil fuels

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consumed in Oregon and serve those other areas. Further, the City Council interprets this policy to address the potential future demand for fossil fuels out to at least the year 2035 given that is the planning horizon for the comprehensive plan.

Liquid fossil fuels

The City Council has considered the role that FFTs play in supporting the regional economy and how Portland's (and the region's) economy will continue to be dependent on fossil fuels as we transition to a zero-carbon future. The City Council considered the future demand for petroleum in Oregon out to the year 2050. As documented in the 2022 BPS Regional Demand for Liquid Fossil Fuels memo, the BPS forecast for fossil fuel consumption for Oregon, based on the US EIA regional forecast, calculates an approximate 11 percent increase in total petroleum consumption to 390,000 billion BTU in 2050. However, petroleum consumption in Oregon peaked in 1999 at 395,000 billion BTU, which is less than the 2050 consumption forecast. Also, the US EIA forecasts for petroleum includes the volumes of fuel ethanol and biodiesel blended with motor gasoline and distillate fuel oil, respectively, which under the amendments are renewable fuels. New storage tank capacity can be built to accommodate the increased consumption of renewable fuels because renewable fuels are specifically called out as being not fossil fuels in the code amendments, and therefore not subject to the limits on fossil fuel storage tank capacity. In addition, most (66%) of the increased consumption of petroleum in 2050 can be attributed to the 25,000 billion BTU increase in jet fuel consumption. New storage tank capacity can be built to accommodate the increased consumption of jet fuel under an exception in the code amendments for storage of fossil fuels for exclusive use at an airport. The City Council finds that there is a surplus of system capacity (approximately 5 billion BTU or 1.3%) between future demand and past historic peaks, and that surplus may be larger than 1.3 percent because the future demand forecast includes volumes of jet and renewable fuels for which the code includes specific exceptions to the storage tank capacity limits. These exceptions are included in the code amendments because jet and renewable fuel are expected to be the faster growing segments of fuel consumption. Accordingly, the City Council finds that there is no evidence that the demand will outpace the historic peak consumption in Oregon and that there is a surplus of system capacity to meet the expected demand.

Renewable (non-fossil) fuel storage capacity

In a related issue, previous testimony argued that the City had not recognized that almost all of the clean fuels that are needed to reduce demand for fossil fuels (e.g., ethanol or renewable diesel) fall under the City's definition of 'fossil fuel'. As currently used, clean fuels are a blend of fossil and renewable fuels. Under the definition of fossil fuels in the amendments, these cleaner, blended fuels are considered fossil fuels until they reach a 95 percent renewable content. However, this approach is consistent with the US EIA forecast for petroleum consumption, which includes renewable content such as ethanol, and therefore, this blended fossil fuel is included in the future demand forecast. One of the purposes of the DEQ Clean Fuels Program and Portland's Renewable Fuel Standard is to increase the renewable content over time. For example, the Office of Economic Analysis (OEA) 2022 Clean Fuels Forecast projects an increase in the biodiesel blend rate from 7.5% in 2019 to 10.5% in 2022. This increase in the blend rate is expected to result in the consumption of an additional 16 million gallons of biodiesel. Under these FFTZ amendments, additional storage tank capacity can be added to accommodate this increased demand for biodiesel. The same applies to the forecasted increased demand for an additional 30 million gallons of renewable diesel. At the same time, the overall volumes of blended fuel are projected to grow modestly, but remain below historic highs, especially when new storage for jet and renewable fuels are allowed under exceptions in the code.

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Marine cargo forecasts

Marine cargo forecasts are another source of information on the future movement of petroleum products. Up to one-third of the petroleum imported to serve the Oregon market comes via marine cargo. The cargo forecast with the largest growth rate for liquid bulks (which is mostly petroleum) is the oldest (2012). Other cargo forecasts for the Portland Harbor project a modest growth (from 0.9% to 1.8% per year growth) in volumes of liquid bulks. But those volumes do not exceed the historic peak volumes that were handled by Portland terminals. The most recent (2020) and most Portland-specific marine cargo forecast documents a 2040 reference case with a declining annual growth rate that results in a total volume of petroleum products that is less than what flowed through the Portland terminals in 2010, which is the historic peak volume in the marine cargo forecasts.

Future demand for natural gas

LUBA found that the City did not have sufficient evidence on future natural gas needs to support the finding that existing natural gas terminals and storage facilities are adequate to serve future demand in Oregon and Southwest Washington.

The City of Portland commissioned Lighthouse Energy Consulting to describe the natural gas infrastructure system, the future demand for natural gas, and the impact that the FFTZ amendments could have on the ability to meet the future demand for natural gas. Key findings from the 2022 Natural Gas System Review memo:

- Natural gas demand is expected to grow over the next 20-30 years.
- NW Natural is the only regulated utility with distribution pipelines and storage facilities in the City of Portland.
- There are no other purveyors or suppliers that store natural gas in Portland.
- NW Natural is responsible for preparing an Integrated Resource Plan to demonstrate to the Oregon Public Utility Commission that they can provide natural gas to meet expected demand over 20 years for their service territory (Western Oregon and SW Washington).
- The 2018 IRP (the most recent available plan) demonstrates that NW Natural can serve regional demand, including peak demand, to 2038 without the need for additional storage tank facilities in Portland.
- The critical need for storage tank capacity is during peak demand service, which is for winter heating during cold weather events.
- The 2018 IRP identifies additional options to meet peak demand that could meet forecasted demand beyond the 2038 planning horizon without the need for additional storage tank capacity in Portland.

In addition, LUBA found that the City had not considered how the electricity necessary to serve the anticipated increase battery-powered vehicles will be available if fossil fuel storage may not be increased and natural gas is needed to produce that electricity. Lighthouse Energy Consulting has prepared a separate memo that demonstrates that the FFTZ amendments will have no impact on electricity production. The memo shows that the two regulated electrical utilities (Portland General Electric and PacificPower) do not have fossil fuel generating plants in Portland; are not dependent on fossil fuel storage tank capacity in Portland; and have plans and strategies to meet increased demand for electricity due to increases in electric vehicles that do not rely on additional fossil

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fueled power generation in Portland. Further, the 2021 Oregon State Legislature passed HB 2021 which effectively prohibits new and expanded power plants using fossil fuels. Therefore, the FFTZ amendments will not have an adverse impact the availability of electricity to power vehicles.

LUBA also found that the City had not addressed the future role of natural gas in fueling transportation. The Lighthouse Energy Consulting Natural Gas System Review memo documents that NW Natural looked at future loads related to compressed natural gas as a transportation fuel in its 2018 IRP, estimating that it would comprise 0.6% of firm sales in 2038. This estimate was based on the use of compressed natural gas (CNG) as a replacement for diesel in commercial fleet vehicles. Further, since the demand for transportation is expected to be uniform across the seasons and not weather-dependent, NW Natural describes the impact on the peak day demand as “miniscule.” Because the load is not seasonally driven, any additional demand for CNG would likely be best served by regular deliveries of natural gas to NW Natural’s system, as its LNG storage resources are best used in meeting seasonal peak demands and not demands that are consistent throughout the year. Therefore, the FFTZ amendments will not have an adverse impact the availability of CNG to power vehicles.

Coal

As documented in the 2020 Annual Review of Public Health journal article Impacts of Coal Use on Health, all phases of the coal use continuum (mining, processing, combustion, and waste disposal) create adverse public health and environmental impacts. Public health impacts include cancer, cardiovascular disease, respiratory disease, kidney disease, mental health problems, adverse birth outcomes, impaired child development, and others. Based on these adverse health impacts, the City Council finds that there is a compelling reason to prohibit the storage of coal in Portland. In the 2021 Legislative Session, HB 2021 passed, which effectively prohibits new and expanded power plants using fossil fuels. Oregon’s only coal plant ceased operations in 2020. Therefore, the FFTZ amendments will not have an adverse impact on availability of coal to serve the regional market.

Idaho

The Idaho Governor’s Office of Energy and Mineral Resources, along with others from Idaho, submitted testimony that claims the proposed ordinance would seriously harm consumers in Oregon, Idaho and Washington by decreasing the availability of fuel in the future. The testimony claims that Idaho is growing fast, expects increased fuel demand, and as a result will need increased fuel infrastructure in Portland.

In response to the testimony, BPS prepared a memo to analyze Idaho (and Washington) petroleum demand. (Note: Eastern Oregon is included in the original BPS analysis of liquid petroleum demand, which utilized State of Oregon data.) The BPS memo documented that only a small portion of Idaho’s petroleum fuels are transported through Portland via barges on the Columbia/Snake River system, and there are multiple options available to meet future demand in Idaho, including other Lower Columbia River ports, pipeline terminals in Pasco and Spokane, in addition to the pipeline terminals in Boise and Pocatello that connect to refineries in Salt Lake City, Utah.

The 2022 BPS Regional Demand for Liquid Fossil Fuels memo documented an expected surplus capacity in Oregon based on future total petroleum consumption being less than the historic peak consumption in addition to exceptions for additional storage tank capacity for jet fuel and renewable fuels.

In Washington, total petroleum consumption is forecasted to exceed historic peak consumption. However, the US EIA data is at a statewide level and it is not possible calculate the portion of the

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future growth to southwest or eastern Washington that might be dependent on FFTs in Portland. Also, 87 percent of the forecasted growth in petroleum demand is jet fuel, for which additional storage tank capacity is allowed under an exception. Also, as explained above, renewable fuels are a component of the US EIA future forecast and therefore are part of the growth in the petroleum consumption, for which additional storage tank capacity is allowed under an exception. Finally, there are other Lower Columbia River ports and pipeline terminals in Spokane and Pasco that could serve as an alternative source to Portland to meet any remaining unmet demand.

The BPS analysis shows that the forecasted decrease in gasoline consumption in Oregon and Washington (-0.118 quadrillion Btu per year) could provide the needed capacity to meet the growing demand for gasoline in Idaho (0.027 quadrillion Btu per year). Further, the forecasted flat demand in distillate fuel oil in Oregon and Washington and marginal growth in Idaho (0.002 quadrillion Btu per year) does not account for the increasing renewable content in distillate fuel oil (see Oregon Clean Fuels program) that also could free up additional fossil fuel capacity. The forecasted growth in Idaho (0.002 quadrillion Btu per year) is only two percent of the total distillate fuel oil consumption in Oregon – which again, the US EIA data includes a portion that is renewable distillate fuel oil, which is expected to increase under recent trends and policies in Oregon and, for which there is an exception to add additional storage tank capacity to meet the increased demand for renewables.

Further, the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that this combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho’s fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

The FFTZ amendments support the retention of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety. Therefore, the City Council finds the liquid fossil fuel storage tank capacity that exists today in Portland, with the allowed exceptions, is adequate to serve the future regional market. Further, the City Council finds the natural gas storage tank capacity that exists today in Portland is adequate to serve the future regional market. In addition, limiting fossil fuel storage tank capacity at the existing facilities, with some exceptions, limits risk from a major earthquake, which outweighs any uncertainty in the future forecasts or any policy interpretation to provide unlimited opportunity to add storage tank capacity to accommodate any potential future increase in fossil fuel consumption.

WSPA testimony takes issue with the changing nature of the fuel demand studies and forecasts over the last six years and faults the City for assuming that it can forecast needs more than ten years in the future. The City acknowledges that the various fuel demand studies and forecasts in the record have changed over the last six years – that is the nature of future forecasts, they are updated to reflect the best available information. BPS has updated the demand forecasts to include the most recent data since the adoption of the 2019 ordinance. The code amendments include an

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exception to allow for expanded storage tank capacity for the fuel types, such as jet fuel and renewables, that are expected to see the most growth in demand. Certain types of fuels such as transitional fossil fuels and lower emission fuels mandated by the federal government will see demand increase as the demand for fossil gasoline decreases. The 2035 Comprehensive Plan and the Zoning Code are long-range planning documents. The State of Oregon utilizes a 20-year planning horizon. The US Energy Information Administration provides 30-year forecasts – which the City has relied upon to provide an extra measure of caution in defining the future regional market. Finally, the ordinance specifically calls upon BPS to report back to City Council on the trends in fossil fuel energy use and non-fossil energy use in Oregon as a means to monitor the changing fuel to ensure a fuel supply necessary to serve the regional market.

Policy 6.49. Industrial growth and watershed health. Facilitate concurrent strategies to protect and improve industrial capacity and watershed health in the Portland Harbor and Columbia Corridor areas.

220.Finding: The 2035 Comprehensive Plan defines “facilitate” to mean to make something easier, to help bring about or make run more smoothly. The verb “improve”, which is defined in the 2035 Comprehensive Plan, means to make the current situation better; increase; enhance. Council interprets the policy to mean that the city should undertake strategies that both protect and improve industrial capacity as well as also protecting and improving watershed health. The verb “protect”, which is defined in the 2035 Comprehensive Plan, means to defend or guard against loss, injury, or destruction. The City Council finds that the first step in making the current situation better is to ensure that the situation does not get worse. Continuing to allow the unlimited expansion of FFTs in a high-risk area increases the risk to watershed health. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will protect and improve watershed health compared to the current regulations that allow for unlimited growth in FFTs. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s industrial capacity. The FFTZ regulations designate existing FFTs as a limited use, which protects their current capacity and allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the FFTZ amendments support the intensification of the FFTs through exceptions, such as jet or renewable fuels, to the storage tank capacity restrictions. Allowing the FFTs to continue to operate and invest in upgrades will help support a strong local economy by providing for a continuing supply of fossil fuels to support a strong local economy. Therefore, the FFT amendments do not impact the industrial capacity but at the same time they do protect watershed health, especially in the event of a major earthquake. These regulations do not directly improve watershed health.

Policy 6.50. District expansion. Provide opportunities for expansion of industrial areas based on evaluation of forecasted need and the ability to meet environmental, social, economic, and other goals.

221.Finding: The City Council interprets this policy to apply to Comprehensive Plan Map and Zoning Map amendments to expand industrial land use designations. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s industrial capacity. This policy does not apply.

Policy 6.51. Golf course reuse and redevelopment. Facilitate a mix of industrial, natural resource, and

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public open space uses on privately-owned golf course sites in the Columbia Corridor that property owners make available for reuse.

222.Finding: The City Council interprets this policy to apply to Comprehensive Plan Map and Zoning Map amendments. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s industrial capacity. This policy does not apply.

Policy 6.52. Residential and commercial reuse. Facilitate compatible industrial or employment redevelopment on residential or commercial sites that become available for reuse if the site is in or near prime industrial areas, and near a freeway or on a freight street.

223.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. This policy does not apply.

Policy 6.53. Mitigation banks. Facilitate industrial site development by promoting and allowing environmental mitigation banks that serve industrial land uses on prime industrial land.

224.Finding: The 2035 Comprehensive Plan defines “facilitate” to mean to make something easier, to help bring about or make run more smoothly. The City Council interprets this policy means to assist, but is not a requirement. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones, including environmental mitigation banks. This policy does not apply.

Policy 6.54. Neighborhood buffers. Maintain and enhance major natural areas, open spaces, and constructed features as boundaries and buffers for the Portland Harbor and Columbia Corridor industrial areas.

225.Finding: The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. This policy does not apply.

Policy 6.55. Neighborhood park use. Allow neighborhood park development within industrial zones where needed to provide adequate park service within one-half mile of every resident.

226.Finding: This policy addresses park development in industrial zones. The FFTZ amendments affect one type of allowed use in employment and industrial zones and do not change development standards that apply to development in those zones. This policy does not apply.

Campus institutions

Policy 6.56. Campus institutions. Provide for the stability and growth of Portland’s major campus institutions as essential service providers, centers of innovation, workforce development resources, and major employers.

Policy 6.57. Campus land use. Provide for major campus institutions as a type of employment land, allowing uses typically associated with health care and higher education institutions. Coordinate with institutions in changing campus zoning to provide land supply that is practical for development and intended uses.

Policy 6.58. Development impacts. Protect the livability of surrounding neighborhoods through adequate infrastructure and campus development standards that foster suitable density and attractive

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campus design. Minimize off-site impacts in collaboration with institutions and neighbors, especially to reduce automobile traffic and parking impacts.

Policy 6.59. Community amenities and services. Encourage campus development that provides amenities and services to surrounding neighborhoods, emphasizing the role of campuses as centers of community activity.

Policy 6.60. Campus edges. Provide for context-sensitive, transitional uses, and development at the edges of campus institutions to enhance their integration into surrounding neighborhoods, including mixed-use and neighborhood-serving commercial uses where appropriate.

Policy 6.61. Satellite facilities. Encourage opportunities for expansion of uses, not integral to campus functions, to locate in centers and corridors to support their economic vitality.

227.Finding: Policies 6.56 through 6.61 provide direction regarding campus institutions. There are no FFTs located on campus institutions. These policies do not apply.

Neighborhood business districts

Policy 6.62. Neighborhood business districts. Provide for the growth, economic equity, and vitality of neighborhood business districts.

Policy 6.63. District function. Enhance the function of neighborhood business districts as a foundation of neighborhood livability.

Policy 6.64. Small, independent businesses. Facilitate the retention and growth of small and locally-owned businesses.

Policy 6.65. Home-based businesses. Encourage and expand allowances for small, low-impact home based businesses in residential areas, including office or personal service uses with infrequent or by-appointment customer or client visits to the site. Allow a limited number of employees, within the scale of activity typical in residential areas. Allow home-based businesses on sites with accessory dwelling units.

Policy 6.66. Neighborhood-serving business. Provide for neighborhood business districts and small commercial nodes in areas between centers to expand local access to goods and services. Allow nodes of small-scale neighborhood-serving commercial uses in large planned developments and as a ground floor use in high density residential areas.

Policy 6.67. Retail development. Provide for a competitive supply of retail sites that support the wide range of consumer needs for convenience, affordability, accessibility, and diversity of goods and services, especially in under-served areas of Portland.

Policy 6.68. Investment priority. Prioritize commercial revitalization investments in neighborhoods that serve communities with limited access to goods and services.

Policy 6.69. Non-conforming neighborhood business uses. Limit non-conforming uses to reduce adverse impacts on nearby residential uses while avoiding displacement of existing neighborhood businesses.

Policy 6.70. Involuntary commercial displacement. Evaluate plans and investments for their impact on existing businesses.

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6.70.a. Limit involuntary commercial displacement in areas at risk of gentrification, and incorporate tools to reduce the cost burden of rapid neighborhood change on small business owners vulnerable to displacement.

6.70.b. Encourage the preservation and creation of affordable neighborhood commercial space to support a broad range of small business owners.

Policy 6.71. Temporary and informal markets and structures. Acknowledge and support the role that temporary markets (farmer’s markets, craft markets, flea markets, etc.) and other temporary or mobile-vending structures play in enabling startup business activity. Also, acknowledge that temporary uses may ultimately be replaced by more permanent development and uses.

Policy 6.72 Community economic development. Encourage collaborative approaches to align land use and neighborhood economic development for residents and business owners to better connect and compete in the regional economy.

Policy 6.73. Centers. Encourage concentrations of commercial services and employment opportunities in centers.

6.73.a. Encourage a broad range of neighborhood commercial services in centers to help residents and others in the area meet daily needs and/or serve as neighborhood gathering places.

6.73.b. Encourage the retention and further development of grocery stores and local markets as essential elements of centers.

6.73.c. Enhance opportunities for services and activities in centers that are responsive to the needs of the populations and cultural groups of the surrounding area.

6.73.d. Require ground-level building spaces in core areas of centers accommodate commercial or other street-activating uses and services.

6.73.e. Encourage employment opportunities as a key function of centers, including connections between centers, institutions, and other major employers to reinforce their roles as vibrant centers of activity.

228.Finding: Policies 6.62 through 6.73 provide direction regarding neighborhood business districts. There are no FFTs located in neighborhood business districts. These policies do not apply.

Chapter 7: Environmental and Watershed Health

Goal 7.A: Climate. Carbon emissions are reduced to 50 percent below 1990 levels by 2035.

229.Finding: The City Council finds that in order to achieve this goal, each legislative action should consider whether it can play a role in reducing the carbon emissions. The FFTZ amendments will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. The FFTZ amendments help reduce carbon emissions by supporting a transition to a reliable, low-carbon energy infrastructure by designating existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities to add storage capacity for renewable fuels to provide reliable low-carbon fuels to help meet the carbon emissions reduction goals.

Goal 7.B: Healthy watersheds and environment. Ecosystem services and ecosystem functions are maintained and watershed conditions have improved over time, supporting public health and safety,

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environmental quality, fish and wildlife, cultural values, economic prosperity, and the intrinsic value of nature.

230.Finding: The City Council interprets this goal to mean that maintaining and improving healthy watersheds provide ecosystem services and functions will provide a wide range of benefits. The FFTZ amendments maintain a healthy environment and sustain the ecosystem services of Portland's watersheds by limiting the risk associated with a major earthquake. The first step in making the current situation better is to ensure that the situation does not get worse by continuing to allow the unlimited increase in fossil fuel storage tank capacity in a high-risk area. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize environmental impacts in the event of a major earthquake. No changes to the environmental or greenway overlay zones are proposed as part of this project, therefore the natural resource values and functions will be sustained.

Goal 7.C: Resilience. Portland's built and natural environments function in complementary ways and are resilient in the face of climate change and natural hazards.

231.Finding: The City Council finds that the built and natural environments function in complementary ways when they both function without harming the other. The 2035 Comprehensive Plan defines "resilience" as the capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, the economy, and the environment. Portland's FFTs are within a disaster-prone area that is at risk for a catastrophic Cascadia Subduction Zone earthquake disaster. Most of Portland's employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub.

According to the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report, a magnitude 8 or 9 Cascadia Subduction Zone earthquake would impact the CEI Hub with: ground shaking; liquefaction (soil behavior phenomenon in which a saturated sand softens and loses strength during strong earthquake ground shaking); lateral spreading (where surficial soil permanently moves laterally due to earthquake shaking); landslides; co-seismic settlement (where the ground surface is permanently lowered due to seismic shaking); and bearing capacity failures (when the foundation soil cannot support the structure it is intended to support).

According to the 2012 DOGAMI report, liquefaction and lateral spreading hazards are of primary concern to the fossil fuel terminals. The CEI Hub is adjacent to the Willamette River and has extensive deposits of highly liquefiable soils. These soils (made of sands, silts, gravels and clays) have been naturally deposited by river activity as well as been created from man-made activities, such as hydraulically placed material from river dredging or debris placed as landfill.

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The FFTs have significant seismic risks because an estimated 91 percent of the actively used storage tanks in the CEI Hub were built prior to 1993, before modern seismic technology existed, according to the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub report. The tanks built before 1993 are expected to spill all of their contents during an earthquake while tanks built after 2004—when liquefaction of soft soils was incorporated into City of Portland requirements for seismic design—will release 10 percent of their contents.

The City Council interprets this goal to mean that the first step in making Portland more resilient is to stop increasing the risk. Continuing to allow the increase in FFTs in a high-risk area increases the risk to the surrounding industrial district and the Willamette River. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can make Portland more resilient.

The PBA coalition testimony claims, without supporting evidence, that the ordinance will “hinder” the City’s safety goals. The City Council understands the word “hinder” to mean to create difficulties, resulting in delay or obstruction. The testimony does not elaborate or provide evidence as to how the FFTZ amendments will hinder the City’s safety goals. The WSPA testimony claims the ordinance will discourage seismic and safety improvements that typically occur with new infrastructure improvements – types of infrastructure improvements are not defined.

Council finds that the purpose of the ordinance is to begin to proactively addressing the safety risks due to earthquakes by not making the problem worse by continuing to allow the unlimited expansion of fossil fuel storage tank capacity. Further, the amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. Council finds that the existing terminals are designated as a limited use to allow them to continue to operate to allow for a wide range of new infrastructure improvements, including safety and seismic upgrades. The FFTZ amendments limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing bulk fossil fuel terminals, with limited exceptions for jet and renewable fuels. Specifically, terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as a way to facilitate replacement and seismic upgrades. Also, since the adoption of the 2016 ordinance and at various times during the subsequent appeals process, there have been opportunities, including since October 30, 2020, for the existing terminals to undertake fossil fuel storage tank improvements and expansions to improve safety. To date, none of the terminals have applied to build new, safer fossil fuel tanks.

The Idaho Governor’s Office of Energy and Mineral Resources testimony claims that the ordinance would prevent the Pacific Northwest region from looking to Portland for fuel in times of emergency. This argument is undeveloped and does not explain how limits on expansion of fossil fuel storage tanks in Portland would hinder emergency response. The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, nor destination of the fuel. In times of emergency there is nothing the regulations that would prevent Portland terminals from serving the region. In terms of additional capacity to prepare for an emergency, the 2013 Oregon Resilience Plan included a recommendation to form a public-private partnership with the objective of reducing the state’s vulnerability to seismic events by evaluating

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the diversification of locations for the storage of liquid fuels and identification of new liquid fuel energy corridors, which indicates a need to not become further dependent on the high-risk location that is the Portland Critical Energy Infrastructure (CEI) Hub. Based on the totality of the record, the Council finds that the proposed ordinance will not hinder emergency response.

Goal 7.D: Environmental equity. All Portlanders have access to clean air and water, can experience nature in their daily lives, and benefit from development designed to lessen the impacts of natural hazards and environmental contamination.

232.Finding: The City Council interprets this goal to mean that the first step in lessening the impacts of natural hazards and environmental contamination is to stop increasing the risk. Continuing to allow the unlimited increase in FFTs in a high-risk area increases the risk to the surrounding neighborhoods and the Willamette River. The FFTZ amendments limit future risk and lessen the impact of natural hazards, specifically earthquakes, and environmental contamination by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake.

Goal 7.E: Community stewardship. Portlanders actively participate in efforts to maintain and improve the environment, including watershed health.

233.Finding: The City Council interprets this goal to mean that the City should have programs focused on community involvement in improving the environment. The FFTZ amendments change the Zoning Code and do not include other changes to stewardship programs. This goal does not apply.

Improving environmental quality and resilience

Policy 7.1. Environmental quality. Protect or support efforts to protect air, water, and soil quality, and associated benefits to public and ecological health and safety, through plans and investments.

Policy 7.2. Environmental equity. Prevent or reduce adverse environment-related disparities affecting under-served and under-represented communities through plans and investments. This includes addressing disparities relating to air and water quality, natural hazards, contamination, climate change, and access to nature.

234.Finding: The Council interprets policies 7.1 and 7.2 in tandem. The verb “protect”, which is defined in the 2035 Comprehensive Plan, means to defend or guard against loss, injury, or destruction. The verb “prevent”, which is defined in the 2035 Comprehensive Plan, means to proactively avoid or hinder adverse impacts or outcomes. The City Council finds that the policies seek to protect environmental quality and promote environmental equity. The City Council finds that these amendments are proactively seeking to avoid or hinder the adverse impacts from an earthquake to protect the air, water, and soil quality as documented in the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub report. Further, the City Council finds that environmental equity is achieved when disparities are prevented or reduced. The City Council finds that that the first step in protecting environmental quality is to stop increasing the risk. Continuing to allow the unlimited increase in FFTs in a high-risk area increases the risk in the event of an earthquake and does not protect the water quality to the surrounding neighborhoods and the Willamette River. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by

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designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake.

Policy 7.3. Ecosystem services. Consider the benefits provided by healthy ecosystems that contribute to the livability and economic health of the city.

235.Finding: The verb “consider”, which is defined in the 2035 Comprehensive Plan, means to take into account when planning or making a decision. The City Council’s decision to adopt the FFTZ amendments is based on the consideration of maintaining a healthy environment, especially the ecosystem benefits provided by the Willamette River, by limiting the risk associated with a major earthquake. The first step in making the current situation better is to ensure that the situation does not get worse by continuing to allow the unlimited increase in fossil fuel storage tank capacity in a high-risk area. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize environmental impacts in the event of a major earthquake. No changes to the environmental or greenway overlay zones are proposed as part of this project, therefore the natural resource values and functions will be sustained.

Policy 7.4. Climate change. Update and implement strategies to reduce carbon emissions and impacts and increase resilience through plans and investments and public education.

236.Finding: The FFTZ amendments help reduce carbon emissions by providing for a transition to a reliable, low-carbon energy infrastructure by designating existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities to increase safety and reliability. In addition, in Amendment #1, which was published on June 9 as part of the ordinance exhibits, clarifying changes to the limited use description and the definition of fossil fuels, as well as a separate definition for renewable fuels, are designed to clarify Council’s intent to allow for additional storage tank capacity for renewable fuel to provide reliable low-carbon, renewable fuels to help meet the carbon emissions reduction goals.

7.4.a. Carbon sequestration. Enhance the capacity of Portland’s urban forest, soils, wetlands, and other water bodies to serve as carbon reserves.

7.4.b. Climate adaptation and resilience. Enhance the ability of rivers, streams, wetlands, floodplains, urban forest, habitats, and wildlife to limit and adapt to climate-exacerbated flooding, landslides, wildfire, and urban heat island effects.

237.Finding: The City Council interprets Policies 7.4.a and 7.4.b as providing guidance to the City as to how to manage significant natural resources to achieve the City’s carbon reduction and climate resilience goals. The FFTZ amendments do not directly affect how the City manages natural resources. No changes to the environmental or greenway overlay zones are proposed as part of these amendments, therefore the natural resource values and functions will be sustained.

Policy 7.5. Air quality. Improve, or support efforts to improve, air quality through plans and investments, including reducing exposure to air toxics, criteria pollutants, and urban heat island effects. Consider the impacts of air quality on the health of all Portlanders.

Policy 7.6. Hydrology. Through plans and investments, improve or support efforts to improve

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watershed hydrology to achieve more natural flow and enhance conveyance and storage capacity in rivers, streams, floodplains, wetlands, and aquifers. Minimize impacts from development and associated impervious surfaces, especially in areas with poorly-infiltrating soils and limited public stormwater discharge points, and encourage restoration of degraded hydrologic functions.

Policy 7.7. Water quality. Improve, or support efforts to improve, water quality in rivers, streams, floodplains, groundwater, and wetlands through land use plans and investments, to address water quality issues including toxics, bacteria, temperature, metals, and sediment pollution. Consider the impacts of water quality on the health of all Portlanders.

Policy 7.8. Biodiversity. Strive to achieve and maintain self-sustaining populations of native species, including native plants, native resident and migratory fish and wildlife species, at-risk species, and beneficial insects (such as pollinators) through plans and investments.

Policy 7.9. Habitat and biological communities. Ensure that plans and investments are consistent with and advance efforts to improve, or support efforts to improve fish and wildlife habitat and biological communities. Use plans and investments to enhance the diversity, quantity, and quality of habitats habitat corridors, and especially habitats that:

- Are rare or declining.
- Support at-risk plant and animal species and communities.
- Support recovery of species under the Endangered Species Act, and prevent new listings.
- Provide culturally important food sources, including those associated with Native American fishing rights.

Policy 7.10. Habitat connectivity. Improve or support efforts to improve terrestrial and aquatic habitat connectivity for fish and wildlife by using plans and investments, to:

- Prevent and repair habitat fragmentation.
- Improve habitat quality.
- Weave habitat into sites as new development occurs.
- Enhance or create habitat corridors that allow fish and wildlife to safely access and move through and between habitat areas.
- Promote restoration and protection of floodplains.

Policy 7.11. Urban forest. Improve, or support efforts to improve the quantity, quality, and equitable distribution of Portland’s urban forest through plans and investments.

7.11.a. Tree preservation. Require or encourage preservation of large healthy trees, native trees and vegetation, tree groves, and forested areas.

7.11.b. Urban forest diversity. Coordinate plans and investments with efforts to improve tree species diversity and age diversity.

7.11.c. Tree canopy. Support progress toward meeting City tree canopy targets.

7.11.d. Tree planting. Invest in tree planting and maintenance, especially in low-canopy areas, neighborhoods with under-served or under-represented communities, and within and near urban habitat corridors.

7.11.e. Vegetation in natural resource areas. Require native trees and vegetation in significant natural resource areas.

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7.11.f. Resilient urban forest. Encourage planting of Pacific Northwest hardy and climate change resilient native trees and vegetation generally, and especially in urban habitat corridors.

7.11.g. Trees in land use planning. Identify priority areas for tree preservation and planting in land use plans.

7.11.h. Managing wildfire risk. Address wildfire hazard risks and management priorities through plans and investments.

Policy 7.12. Invasive species. Prevent the spread of invasive plants, and support efforts to reduce the impacts of invasive plants, animals, and insects, through plans, investments, and education.

Policy 7.13. Soils. Coordinate plans and investments with programs that address human-induced soil loss, erosion, contamination, or other impairments to soil quality and function.

238.Finding: The City Council interprets policies 7.5 through 7.13 as providing guidance to foster a healthy environment and sustain the ecosystem services of Portland’s air, water and land resources. The FFTZ amendments do not directly affect how the City manages natural resources. No changes to the environmental or greenway overlay zones are proposed as part of this project, therefore the natural resource values and functions will be sustained.

Policy 7.14. Natural hazards. Prevent development-related degradation of natural systems and associated increases in landslide, wildfire, flooding, and earthquake risks.

239.Finding: The 2035 Comprehensive Plan defines “prevent” as proactively avoid or hinder adverse impacts or outcomes. Development-related degradation means development that has adverse impacts on natural systems. For example, development in a floodplain that increases impervious surface can result in increased run-off that increases flooding. Further, Council finds that the policy seeks to avoid increasing risks associated with natural disasters, including earthquakes.

Most of Portland’s employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. The CEI Hub is adjacent to the Willamette River and has extensive deposits of highly liquefiable soils. These soils (made of sands, silts, gravels and clays) have been naturally deposited by river activity as well as been created from man-made activities, such as hydraulically placed material from river dredging or debris placed as landfill. According to the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report, a magnitude 8 or 9 Cascadia Subduction Zone earthquake would impact the CEI Hub with: ground shaking; liquefaction (soil behavior phenomenon in which a saturated sand softens and loses strength during strong earthquake ground shaking); lateral spreading (where surficial soil permanently moves laterally due to earthquake shaking); landslides; co-seismic settlement (where the ground surface is permanently lowered due to seismic shaking); and bearing capacity failures (when the foundation soil cannot support the structure it is intended to support). Fossil fuel infrastructure poses considerable risks in the event of a major earthquake, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub. The 2022 Multnomah County and the City of Portland study found that between 94.6 million and 193.7 million gallons of material could be released in the event of a CSZ earthquake, which could cause between \$359 million to \$2.6 billion in damages.

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The City Council interprets this policy to mean development regulations should not increase the risk from natural hazards. The first step in making the current situation better is to ensure that the situation does not get worse. Continuing to allow the unlimited increase in fossil fuel storage tank capacity in a high-risk area increases the risk to the Willamette River, which could degrade that natural system in the event of an earthquake. The current regulations that allow unlimited expansion of fossil fuel storage tank capacity increases the risk from natural hazards. The FFTZ amendments proactively limit future earthquake risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake.

The PBA coalition testimony claims, without supporting evidence, that the ordinance will “hinder” the City’s safety goals. The City Council interprets the word “hinder” to mean to create difficulties, resulting in delay or obstruction. The testimony does not elaborate or provide evidence as to how the FFTZ amendments will hinder the City’s safety goals. The WSPA testimony claims the ordinance will discourage seismic and safety improvements that typically occur with new infrastructure improvements – types of infrastructure improvements are not defined.

Council finds that the purpose of the ordinance is to begin to proactively address the safety risks due to earthquakes by not making the problem worse by continuing to allow the unlimited expansion of fossil fuel storage tank capacity. Further, the amendments limit the expansion of fossil fuel storage tank capacity at the existing FFTs. The amendments allow for new intermodal links and new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. Council finds that the existing terminals are designated as a limited use to allow them to continue to operate to allow for a wide range of new infrastructure improvements, including safety and seismic upgrades. The FFTZ amendments limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing bulk fossil fuel terminals, with limited exceptions for jet and renewable fuels. Specifically, terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as a way to facilitate replacement and seismic upgrades. Also, since the adoption of the 2016 ordinance and at various times during the subsequent appeals process, there have been opportunities, including since October 30, 2020, for the existing terminals to undertake fossil fuel storage tank improvements and expansions to improve safety. To date, none of the terminals have applied to build new, safer fossil fuel tanks.

The Idaho Governor’s Office of Energy and Mineral Resources testimony claims that the ordinance would prevent the Pacific Northwest region from looking to Portland for fuel in times of emergency. This argument is undeveloped and does not explain how limits on expansion of fossil fuel storage tanks in Portland would hinder emergency response. The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, nor destination of the fuel. In times of emergency there is nothing the regulations that would prevent Portland terminals from serving the region. In terms of additional capacity to prepare for an emergency, the 2013 Oregon Resilience Plan included a recommendation to form a public-private partnership with the objective of reducing the state’s vulnerability to seismic events by evaluating the diversification of locations for the storage of liquid fuels and identification of new liquid fuel

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energy corridors, which indicates a need to not become further dependent on the high-risk location that is the Portland Critical Energy Infrastructure (CEI) Hub. Based on the totality of the record, the Council finds that the proposed ordinance will not hinder emergency response.

Policy 7.15. Brownfield remediation. Improve environmental quality and watershed health by promoting and facilitating brownfield remediation and redevelopment that incorporates ecological site design and resource enhancement.

240.Finding: The City Council interprets this policy to mean that the City will create programs to support brownfield cleanup. The FFTZ amendments are Zoning Code changes that are not directly related to the cleanup of brownfields. However, the changes designate existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities, including brownfield remediation.

Policy 7.16. Adaptive management. Evaluate trends in watershed and environmental health using current monitoring data and information to guide and support improvements in the effectiveness of City plans and investments.

Policy 7.17. Restoration partnerships. Coordinate plans and investments with other jurisdictions, air and water quality regulators, watershed councils, soil and water conservation districts, Sovereign nations, and community organizations and groups including under-served and under-represented communities, to optimize the benefits, distribution, and cost-effectiveness of watershed restoration and enhancement efforts.

Policy 7.18. Community stewardship. Encourage voluntary cooperation between property owners, community organizations, and public agencies to restore or re-create habitat on their property, including removing invasive plants and planting native species.

241.Finding: The City Council interprets policies 7.16. through 7.18 to mean that the City will create programs to support restoration and community stewardship. The FFTZ amendments are Zoning Code changes that are not directly related to watershed restoration. These policies do not apply.

Planning for natural resource protection

Policy 7.19. Natural resource protection. Protect the quantity, quality, and function of significant natural resources identified in the City's natural resource inventory, including:

- Rivers, streams, sloughs, and drainageways.
- Floodplains.
- Riparian corridors.
- Wetlands.
- Groundwater.
- Native and other beneficial vegetation species and communities.
- Aquatic and terrestrial habitats, including special habitats or habitats of concern, large anchor habitats, habitat complexes and corridors, rare and declining habitats such as wetlands, native oak, bottomland hardwood forest, grassland habitat, shallow water habitat, and habitats that support special-status or at-risk plant and wildlife species.
- Other resources identified in natural resource inventories.

Policy 7.20. Natural resource inventory. Maintain an up-to-date inventory by identifying the location and evaluating the relative quantity and quality of natural resources.

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Policy 7.21. Environmental plans and regulations. Maintain up-to-date environmental protection plans and regulations that specify the significant natural resources to be protected and the types of protections to be applied, based on the best data and science available and on an evaluation of cumulative environmental, social, and economic impacts and tradeoffs. *See Figure 7-2 — Adopted Environmental Plans.*

7.21.a. Improve the effectiveness of environmental protection plans and regulations to protect and encourage enhancement of ecological functions and ecosystem services.

Policy 7.22. Land acquisition priorities and coordination. Maintain a land acquisition program as a tool to protect and support natural resources and their functions. Coordinate land acquisition with the programs of City bureaus and other agencies and organizations.

242.Finding: The City Council interprets policies 7.19 through 7.22 as providing guidance to the City as to how to protect significant natural resources. The *2035 Comprehensive Plan* background documents included an updated Natural Resources Inventory (NRI), which was adopted (Ordinance 185657) and acknowledged by LCDC on June 13, 2014. The NRI identified the location, quantity, and quality of all significant natural resources as required by the inventory provisions of Statewide Planning Goal 5. From the set of all significant resources, high and medium quality resources, ranked primarily from riparian corridor and wildlife habitat considerations, were identified to comply with the inventory requirements of Title 13 of Metro’s Urban Growth Management Functional Plan.

Environmental zones protect resources and functional values that have been identified by the City as providing benefits to the public. The FFTZ amendments are a regulatory approach that will limit the size of new fossil fuel terminals and prohibit the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels, which will be an improvement compared to the current regulations that allow for unlimited growth in fossil fuel terminals. Further, by designating existing FFTs as a limited use allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which can minimize environmental impacts in the event of a major earthquake. No changes to the environmental or greenway overlay zones are proposed as part of this project, therefore the natural resource values and functions will continue to be protected.

Protecting natural resources in development situations

Policy 7.23. Impact evaluation. Evaluate the potential adverse impacts of proposed development on significant natural resources, their functions, and the ecosystem services they provide to inform and guide development design and mitigation consistent with policies 7.24-7.26. and other relevant Comprehensive Plan policies.

Policy 7.24. Regulatory hierarchy: avoid, minimize, mitigate. Maintain regulations requiring that the potential adverse impacts of new development on significant natural resources and their functions first be avoided where practicable, then minimized, then lastly, mitigated.

Policy 7.25. Mitigation effectiveness. Require that mitigation approaches compensate fully for adverse impacts on locally and regionally significant natural resources and functions. Require mitigation to be located as close to the impact as possible. Mitigation must also take place within the same watershed or portion of the watershed that is within the Portland Urban Services Boundary, unless mitigating outside of these areas will provide a greater local ecological benefit. Mitigation will be subject to the following preference hierarchy:

- On the site of the resource subject to impact with the same kind of resource; if that is not

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possible, then

- Off-site with the same kind of resource; if that is not possible, then
- On-site with a different kind of resource; if that is not possible, then
- Off-site with a different kind of resource.

Policy 7.26. Improving environmental conditions through development. Encourage ecological site design, site enhancement, or other tools to improve ecological functions and ecosystem services in conjunction with new development and alterations to existing development.

243. The City Council interprets policies 7.23 through 7.26 as providing guidance to the City as to how to protect significant natural resources. The City's environmental and greenway overlay zones are the regulations that control development in order to protect the resources and functional values while allowing environmentally sensitive urban development. No changes to the environmental or greenway overlay zones are proposed as part of this project, therefore the natural resource values and functions will continue to be protected.

Aggregate resources

Policy 7.27. Aggregate resource protection. Protect aggregate resource sites for current and future use where there are no major conflicts with urban needs, or where these conflicts may be resolved.

Policy 7.28. Aggregate resource development. When aggregate resources are developed, ensure that development minimizes adverse environmental impacts and impacts on adjacent land uses.

Policy 7.29. Mining site reclamation. Ensure that the reclamation of mining sites protects public health and safety, protects fish and wildlife (including at-risk species), enhances or restores habitat (including rare and declining habitat types), restores adequate watershed conditions and functions on the site, and is compatible with the surrounding land uses and conditions of nearby land.

244. **Finding:** Policies 7.27 through 7.29 provide guidance on aggregate resources. The FFTZ amendments are Zoning Code changes that affect one allowed use in the employment and industrial zones and are not directly related to aggregate. These policies do not apply.

Watershed-specific policies

The policies above guide planning, actions, and investments citywide. The following policies are intended to augment the citywide Watershed Health and Environment policies by providing additional guidance relating and responding to the characteristics within each of Portland's distinctive watersheds. They address watershed-specific habitat types, hydrology, water quality issues, and stormwater management challenges. Together, the citywide and watershed-specific policies support the close coordination of watershed health and land use programs, guiding land use planning-related activities and future infrastructure investments. While these watersheds are not entirely within Portland's urban services boundary, Portland's actions can have significant benefits for the watershed as a whole.

Columbia River Watershed

Policy 7.30. In-water habitat. Enhance in-water habitat for native fish and wildlife, particularly in the Oregon Slough and near-shore environments along the Columbia River.

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Policy 7.31. Sensitive habitats. Enhance grassland, beach, riverbanks, wetlands, bottomland forests, shallow water habitats, and other key habitats for wildlife traveling along the Columbia River migratory corridor, while continuing to manage the levees and floodplain for flood control.

Policy 7.32. River-dependent and river-related uses. Maintain plans and regulations that recognize the needs of river-dependent and river-related uses while also supporting ecologically-sensitive site design and practices.

245.Finding: None of the existing FFTs have frontage on the Columbia River. The Columbia River plays a major role in the habitat corridors that weave nature into Portland, with designated natural resources that are protected by the Environmental Overlay Zone, which is not amended by this ordinance. In considering the natural hazard risks that the FFTs pose to the ecosystem functions on the river, as identified by the Portland Bureau of Emergency Management's Critical Energy Infrastructure Hub Study (2016), the City Council finds that continuing to allow FFTs in a high-risk area does not enhance the current or future natural resource functions of the Columbia River. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland's industrial districts. The other industrial uses continue to operate under current zoning regulations, including other river-dependent and river-related uses. Therefore, this ordinance maintains the needs of river-dependent and river-related uses, except for FFTs, while supporting ecologically-sensitive site design.

Willamette River Watershed

Policy 7.33. Fish habitat. Provide adequate intervals of ecologically-functional shallow-water habitat for native fish along the entire length of the Willamette River within the city, and at the confluences of its tributaries.

Policy 7.34. Stream connectivity. Improve stream connectivity between the Willamette River and its tributaries.

Policy 7.35. River bank conditions. Preserve existing river bank habitat and encourage the rehabilitation of river bank sections that have been significantly altered due to development with more fish and wildlife friendly riverbank conditions.

Policy 7.37. Contaminated sites. Promote and support programs that facilitate the cleanup, reuse, and restoration of the Portland Harbor Superfund site and other contaminated upland sites.

Policy 7.38. Sensitive habitats. Protect and enhance grasslands, beaches, floodplains, wetlands, remnant native oak, bottomland hardwood forest, and other key habitats for native wildlife including shorebirds, waterfowl, and species that migrate along the Pacific Flyway and the Willamette River corridor.

Policy 7.39. Riparian corridors. Increase the width and quality of vegetated Riparian buffers along the Willamette River.

Policy 7.40. Connected upland and river habitats. Enhance habitat quality and connectivity between the Willamette riverfront, the Willamette's floodplain, and upland natural resource areas.

Policy 7.41. River-dependent and river-related uses. Develop and maintain plans and regulations that recognize the needs of river-dependent and river-related uses, while also supporting ecologically-sensitive site design and practices.

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246.Finding: Policies 7.33 through 7.41 provide direction regarding the environment and watershed health in the Willamette River Watershed. The eleven existing FFTs have frontage on the Willamette River. The Willamette River plays a major role in the habitat corridors that weave nature into Portland, with designated natural resources that are protected by the Greenway Overlay Zone, which is not amended by this ordinance. In considering the natural hazard risks that the FFTs pose to the ecosystem functions on the river, as identified by the Portland Bureau of Emergency Management's Critical Energy Infrastructure Hub Study (2016), the City Council finds that continuing to allow FFTs in a high-risk area does not enhance the current or future natural resource functions of the Willamette River. This ordinance balances environmental and watershed health by narrowly crafting the regulations to apply to only one type of use that makes up a minority part of the uses found in Portland's industrial districts. The other industrial uses continue to operate under current regulations, including other river-dependent and river-related uses.

Columbia Slough Watershed

Policy 7.43. Fish passage. Restore in-stream habitat and improve fish passage within the Columbia Slough, including for salmonids in the lower slough.

Policy 7.44. Flow constriction removal. Reduce constriction, such as culverts, in the slough channels, to improve the flow of water and water quality.

Policy 7.45. Riparian corridors. Increase the width, quality, and native plant diversity of vegetated riparian buffers along Columbia Slough channels and other drainageways within the watershed, while also managing the slough for flood control.

Policy 7.46. Sensitive habitats. Enhance grasslands and wetland habitats in the Columbia Slough, such as those found in the Smith and Bybee Lakes and at the St. Johns Landfill site, to provide habitat for sensitive species, and for wildlife traveling along the Columbia and Willamette river migratory corridors.

Policy 7.47. Connected rivers habitats. Enhance upland habitat connections to the Willamette and Columbia rivers.

Policy 7.48. Contaminated sites. Ensure that plans and investments are consistent with and advance programs that facilitate the cleanup, reuse, and restoration of contaminated sites that are adjacent, or that discharge stormwater, to the Columbia Slough.

Policy 7.49. Portland International Airport. Protect, restore, and enhance natural resources and functions in the Portland International Airport plan district, as identified in Portland International Airport/Middle Columbia Slough Natural Resources Inventory. Accomplish this through regulations, voluntary strategies, and the implementation of special development standards.

247.Finding: Policies 7.43 through 7.49 provide direction regarding the environment and watershed health in the Columbia Slough Watershed. There are no existing FFTs in the Columbia Slough watershed. The Columbia Slough plays a major role in the habitat corridors that weave nature into Portland, with designated natural resources that are protected by the Environmental Overlay Zone, which is not amended by this ordinance. This ordinance helps to advance these policies by prohibiting new FFTs in this watershed.

Fanno and Tryon Creek Watersheds

Policy 7.50 Stream connectivity. Encourage the daylighting of piped portions of Tryon and Fanno creeks and their tributaries.

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- Policy 7.51** **Riparian and habitat corridors.** Protect and enhance riparian habitat quality and connectivity along Tryon and Fanno creeks and their tributaries. Enhance connections between riparian areas, parks, anchor habitats, and areas with significant tree canopy. Enhance in-stream and upland habitat connections between Tryon Creek State Natural Area and the Willamette River.
- Policy 7.52** **Reduced hazard risks.** Reduce the risks of landslides and streambank erosion by protecting trees and vegetation that absorb stormwater, especially in areas with steep slopes or limited access to stormwater infrastructure.

248.Finding: Policies 7.50 through 7.52 provide direction regarding habitat and river-related uses in the Fanno and Tryon Creek Watersheds. There are no existing FFTs in the Fanno and Tryon Creek watersheds, which play a major role in the habitat corridors that weave nature into Portland, with designated natural resources that are protected by the Environmental Overlay Zone, which is not amended by this ordinance. This ordinance helps to advance these policies by prohibiting new FFTs in these watersheds.

Johnson Creek Watershed

- Policy 7.53** **In-stream and riparian habitat.** Enhance in-stream and riparian habitat and improve fish passage for salmonids along Johnson Creek and its tributaries.
- Policy 7.54** **Floodplain restoration.** Enhance Johnson Creek floodplain functions to increase flood-storage capacity, improve water quality, and enhance fish and wildlife habitat.
- Policy 7.55** **Connected floodplains, springs, and wetlands.** Enhance hydrologic and habitat connectivity between the Johnson Creek floodplain and its springs and wetlands.
- Policy 7.56** **Reduced natural hazards.** Reduce the risks of landslides, streambank erosion and downstream flooding by protecting seeps, springs, trees, vegetation, and soils that absorb stormwater in the East Buttes.
- Policy 7.57** **Greenspace network.** Enhance the network of parks, trails, and natural areas near the Springwater Corridor Trail and the East Buttes to enhance habitat connectivity and nature-based recreation in East Portland.

249.Finding: Policies 7.53 through 7.57 provide direction regarding the environment and watershed health in the Johnson Creek Watershed. There are no existing FFTs in the Fanno and Tryon Creek watersheds, which play a major role in the habitat corridors that weave nature into Portland, with designated natural resources that are protected by the Environmental Overlay Zone, which is not amended by this ordinance. These regulations apply to only one type of allowed that makes up a minority part of the uses found in Portland’s industrial districts. The other industrial uses continue to operate under current regulations, including other river-dependent and river-related uses. This ordinance helps to advance these policies by prohibiting new FFTs in this watershed.

Chapter 8: Public Facilities and Services

Goal 8.A: Quality public facilities and services. High-quality public facilities and services provide Portlanders with optimal levels of service throughout the city, based on system needs and community goals, and in compliance with regulatory mandates.

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Goal 8.B: Multiple benefits. Public facility and service investments improve equitable service provision, support economic prosperity, and enhance human and environmental health.

Goal 8.C: Reliability and resiliency. Public facilities and services are reliable, able to withstand or recover from catastrophic natural and manmade events, and are adaptable and resilient in the face of long-term changes in the climate, economy, and technology.

Goal 8.D: Public rights-of-way. Public rights-of-way enhance the public realm and provide a multi-purpose, connected, safe, and healthy physical space for movement and travel, public and private utilities, and other appropriate public functions and uses.

Goal 8.E: Sanitary and stormwater systems. Wastewater and stormwater are managed, conveyed, and/or treated to protect public health, safety, and the environment, and to meet the needs of the community on an equitable, efficient, and sustainable basis.

Goal 8.F: Flood management. Flood management systems and facilities support watershed health and manage flooding to reduce adverse impacts on Portlanders' health, safety, and property.

Goal 8.G: Water. Reliable and adequate water supply and delivery systems provide sufficient quantities of high-quality water at adequate pressures to meet the needs of the community on an equitable, efficient, and sustainable basis.

Goal 8.H: Parks, natural areas, and recreation. All Portlanders have safe, convenient, and equitable access to high-quality parks, natural areas, trails, and recreational opportunities in their daily lives, which contribute to their health and well-being. The City manages its natural areas and urban forest to protect unique urban habitats and offer Portlanders an opportunity to connect with nature.

Goal 8.I: Public safety and emergency response. Portland is a safe, resilient, and peaceful community where public safety, emergency response, and emergency management facilities and services are coordinated and able to effectively and efficiently meet community needs.

Goal 8.J: Solid waste management. Residents and businesses have access to waste management services and are encouraged to be thoughtful consumers to minimize upstream impacts and avoid generating waste destined for the landfill. Solid waste — including food, yard debris, recyclables, electronics, and construction and demolition debris — is managed, recycled, and composted to ensure the highest and best use of materials.

Goal 8.K: School facilities. Public schools are honored places of learning as well as multifunctional neighborhood anchors serving Portlanders of all ages, abilities, and cultures.

Goal 8.L: Technology and communications. All Portland residences, businesses, and institutions have access to universal, affordable, and reliable state-of-the-art communication and technology services.

Goal 8.M: Energy infrastructure and services. Residents, businesses, and institutions are served by reliable energy infrastructure that provides efficient, low-carbon, affordable energy through decision-making based on integrated resource planning.

250.Finding: The City Council interprets the Chapter 8 goals to provide general guidance to public agencies and quasi-public agencies, including investor-owned utilities, in how to provide basic services to Portlanders. The adopted 2035 Comprehensive Plan includes the Citywide Systems Plan (CSP), which was adopted (Ordinance 185657) and acknowledged by LCDC on April 25, 2017. The CSP includes the Public Facilities Plan with information on current and future transportation, water, sanitary sewer, and stormwater infrastructure needs and projects, consistent with the requirements of Statewide Planning Goal 11.

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The FFTZ amendments do not include comprehensive plan map amendments and do not amend the CSP. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland’s industrial districts. The remaining industrial uses continue to be regulated under the current development regulations and do not intensify the development capacity. Therefore, these changes will not adversely impact the City’s public facilities or services. Therefore, the City continues to plan for public infrastructure investments in the industrial districts where the FFTs are located.

The City Council has determined that Goal 8.M (energy infrastructure) is the one goal that is applicable to this ordinance. Oregon Administrative Rules (OAR 860-027-0400) define integrated resource plans (IRP) as investor-owned energy utility’s written plan detailing its future long-term resource needs, its analysis of the expected costs and associated risks of the alternatives to meet those needs, and its action plan to select the best portfolio of resources to meet those needs. Therefore, the City Council finds that this goal only applies to investor-owned utilities. The NW Natural LNG Storage facility is the only FFT in Portland that is part of an investor-owned utility. NW Natural’s 2018 IRP identifies the replacement of mechanical process equipment used for the liquefaction, vaporization, or storage of LNG, but not expansion of storage capacity. The FFTZ amendments only regulate fossil fuel storage tank capacity, therefore these changes are consistent with the NW Natural IRP. The 2022 Lighthouse Energy Consulting memo on the natural gas infrastructure found that the NW Natural IRP identified natural gas resources that could meet the forecasted peak day demands over that 20-year period covered by the IRP. The additional peak day capacity does not rely on new or expanded natural gas infrastructure in the City of Portland. Therefore, the FFTZ amendments are consistent with this goal.

Prior to filing the remand ordinance, the Bureau of Planning and Sustainability held a meeting with the fossil fuel terminal property owners and the parties to the previous appeals to discuss the proposed amendments. The engagement meeting was held on May 20, 2022 and a representative from NW Natural attended the meeting. NW Natural did not submit any testimony in regards to this ordinance.

Service provision and urbanization

Policy 8.1. Urban services boundary. Maintain an Urban Services Boundary for the City of Portland that is consistent with the regional urban growth policy, in cooperation with neighboring jurisdictions. The Urban Services Boundary is shown on the Comprehensive Plan Map.

Policy 8.2. Rural, urbanizable, and urban public facility needs. Recognize the different public facility needs in rural, urbanizable and urban land as defined by the Regional Urban Growth Boundary, the City Urban Services Boundary, and the City Boundaries of Municipal Incorporation. See Figure 8-1 — Urban, Urbanizable, and Rural Lands.

Policy 8.3. Urban service delivery. Provide the following public facilities and services at urban levels of service to urban lands within the City’s boundaries of incorporation:

- Public rights-of-way, streets, and public trails
- Sanitary sewers and wastewater treatment
- Stormwater management and conveyance
- Flood management
- Protection of the waterways of the state

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- Water supply
- Police, fire, and emergency response
- Parks, natural areas, and recreation
- Solid waste regulation

Policy 8.4. Supporting facilities and systems. Maintain supporting facilities and systems, including public buildings, technology, fleet, and internal service infrastructure, to enable the provision of public facilities and services.

Policy 8.5. Planning service delivery. Provide planning, zoning, building, and subdivision control services within the boundaries of incorporation, and as otherwise provided by intergovernmental agreement within the City's Urban Services Boundary.

251.Finding: The City Council interprets policies 8.1 through 8.5 provide direction on the provision of public facilities and services. The FFTZ amendments do not include new public facility or infrastructure projects. These policies do not apply.

Service coordination

Policy 8.6. Interagency coordination. Maintain interagency coordination agreements with neighboring jurisdictions and partner agencies that provide urban public facilities and services within the City of Portland's Urban Services Boundary to ensure effective and efficient service delivery. See Policy 8.3 for the list of services included. Such jurisdictions and agencies include, but may not be limited to:

- Multnomah County for transportation facilities and public safety.
- State of Oregon for transportation and parks facilities and services.
- TriMet for public transit facilities and services.
- Port of Portland for air and marine facilities and services.
- Metro for regional parks and natural areas, and for solid waste, composting, and recycling facilities and transfer stations.
- Gresham, Milwaukie, Clackamas County Service District #1, and Clean Water Services for sanitary sewer conveyance and treatment.
- Multnomah County Drainage District No. 1, Peninsula Drainage District No 1, and Peninsula Drainage District No. 2 for stormwater management and conveyance, and for flood mitigation, protection, and control.
- Rockwood People's Utility District; Sunrise Water Authority; and the Burlington, Tualatin Valley, Valley View, West Slope, Palatine Hill, Alto Park, and Clackamas River Water Districts for water distribution.
- Portland Public Schools and the David Douglas, Parkrose, Reynolds, Centennial, and Riverdale school districts for public education, park, trail, and recreational facilities.

Policy 8.7. Outside contracts. Coordinate with jurisdictions and agencies outside of Portland where the City provides services under agreement.

Policy 8.8. Public service coordination. Coordinate with the planning efforts of agencies providing public education, public health services, community centers, urban forest management, library services, justice services, energy, and technology and communications services.

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Policy 8.9. Internal coordination. Coordinate planning and provision of public facilities and services, including land acquisition, among City agencies, including internal service bureaus.

Policy 8.10. Co-location. Encourage co-location of public facilities and services across providers where co-location improves service delivery efficiency and access for historically under-represented and under-served communities.

252.Finding: The City Council interprets policies 8.6 through 8.10 provide direction on coordination with neighboring jurisdictions and partner agencies that provide urban public facilities and services within the City of Portland's Urban Services Boundary. The FFTZ amendments do not include new public facility or infrastructure projects or amendments to public service coordination agreements. These policies do not apply.

Service extension

Policy 8.11. Annexation. Require annexation of unincorporated urbanizable areas within the City's Urban Services Boundary as a prerequisite to receive urban services.

Policy 8.12. Feasibility of service. Evaluate the physical feasibility and cost-effectiveness of extending urban public services to candidate annexation areas to ensure sensible investment and to set reasonable expectations.

Policy 8.13. Orderly service extension. Establish or improve urban public services in newly-annexed areas to serve designated land uses at established levels of service, as funds are available and as responsible engineering practice allows.

Policy 8.14. Coordination of service extension. Coordinate provision of urban public services to newly-annexed areas so that provision of any given service does not stimulate development that significantly hinders the City's ability to provide other urban services at uniform levels.

Policy 8.15. Services to unincorporated urban pockets. Plan for future delivery of urban services to urbanizable areas that are within the Urban Services Boundary but outside the city limits.

Policy 8.16. Orderly urbanization. Coordinate with counties, neighboring jurisdictions, and other special districts to ensure consistent management of annexation requests, and to establish rational and orderly process of urbanization that maximize efficient use of public funds.

Policy 8.17. Services outside the city limits. Prohibit City provision of new urban services, or expansion of the capacity of existing services, in areas outside city limits, except in cases where the City has agreements or contracts in place.

Policy 8.18. Service district expansion. Prohibit service district expansion or creation within the City's Urban Services Boundary without the City's expressed consent.

Policy 8.19. Rural service delivery. Provide the public facilities and services identified in Policy 8.3 in rural areas only at levels necessary to support designated rural residential land uses and protect public health and safety. Prohibit sanitary sewer extensions into rural land and limit other urban services.

253.Finding: The City Council interprets policies 8.11 through 8.19 provide direction on extending public services. The FFTZ amendments do not include new public facility or infrastructure projects or service extensions. These policies do not apply.

Public investment

Policy 8.20. Regulatory compliance. Ensure public facilities and services remain in compliance with state and federal regulations. Work toward cost-effective compliance with federal and state mandates through intergovernmental coordination and problem solving.

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Policy 8.21. System capacity. Establish, improve, and maintain public facilities and services at levels appropriate to support land use patterns, densities, and anticipated residential and employment growth, as physically feasible and as sufficient funds are available.

Policy 8.22. Equitable service. Provide public facilities and services to alleviate service deficiencies and meet level-of-service standards for all Portlanders, including individuals, businesses, and property owners.

8.22.a. In places that are not expected to grow significantly but have existing deficiencies, invest to reduce disparity and improve livability.

8.22.b. In places that lack basic public facilities or services and also have significant growth potential, invest to enhance neighborhoods, fill gaps, maintain affordability, and accommodate growth.

8.22.c. In places that are not expected to grow significantly and already have access to complete public facilities and services, invest primarily to maintain existing facilities and retain livability.

8.22.d. In places that already have access to complete public facilities and services, but also have significant growth potential, invest to fill remaining gaps, maintain affordability, and accommodate growth.

Policy 8.23. Asset management. Improve and maintain public facility systems using asset management principles to optimize preventative maintenance, reduce unplanned reactive maintenance, achieve scheduled service delivery, and protect the quality, reliability, and adequacy of City services.

Policy 8.24. Risk management. Maintain and improve Portland's public facilities to minimize or eliminate economic, social, public health and safety, and environmental risks.

Policy 8.25. Critical infrastructure. Increase the resilience of high-risk and critical infrastructure through monitoring, planning, maintenance, investment, adaptive technology, and continuity planning.

Policy 8.26. Capital programming. Maintain long-term capital improvement programs that balance acquisition and construction of new public facilities with maintenance and operations of existing facilities.

254.Finding: The City Council interprets policies 8.20 through 8.26 provide direction on investment priorities for public facilities. The FFTZ amendments do not include new public facility or infrastructure projects. These policies do not apply.

Funding

Policy 8.27. Cost-effectiveness. Establish, improve, and maintain the public facilities necessary to serve designated land uses in ways that cost-effectively provide desired levels of service, consider facilities' lifecycle costs, and maintain the City's long-term financial sustainability.

Policy 8.28. Shared costs. Ensure the costs of constructing and providing public facilities and services are equitably shared by those who benefit from the provision of those facilities and services.

Policy 8.29. System development. Require private or public entities whose prospective development or redevelopment actions contribute to the need for public facility improvements, extensions, or construction to bear a proportional share of the costs.

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Policy 8.30. Partnerships. Maintain or establish public and private partnerships for the development, management, or stewardship of public facilities necessary to serve designated land uses, as appropriate.

255.Finding: The City Council interprets policies 8.27 through 8.30 provide direction on funding public facilities and services within the City of Portland’s Urban Services Boundary. The FFTZ amendments do not include new public facility or infrastructure projects. These policies do not apply.

Public benefits

Policy 8.31. Application of Guiding Principles. Plan and invest in public facilities in ways that promote and balance the Guiding Principles established in The Vision and Guiding Principles of this Comprehensive Plan.

Policy 8.32. Community benefit agreements. Encourage the use of negotiated community benefit agreements for large public facility projects as appropriate to address environmental justice policies in Chapter 2: Community Involvement.

Policy 8.33. Community knowledge and experience. Encourage public engagement processes and strategies for larger public facility projects to include community members in identifying potential impacts, mitigation measures and community benefits.

Policy 8.34. Resource efficiency. Reduce the energy and resource use, waste, and carbon emissions from facilities necessary to serve designated land uses to meet adopted City goals and targets.

Policy 8.35. Natural systems. Protect, enhance, and restore natural systems and features for their infrastructure service and other values.

Policy 8.36. Context-sensitive infrastructure. Design, improve, and maintain public rights-of-way and facilities in ways that are compatible with, and that minimize negative impacts on, their physical, environmental, and community context.

Policy 8.37. Site- and area-specific needs. Allow for site- and area-specific public facility standards, requirements, tools, and policies as needed to address distinct topographical, geologic, environmental, and other conditions.

Policy 8.38. Age-friendly public facilities. Promote public facility designs that make Portland more age-friendly.

256.Finding: The City Council interprets policies 8.31 through 8.38 provide direction on the associated public benefits that should be considered in conjunction with investment in public facilities and services within the City of Portland’s Urban Services Boundary. The FFTZ amendments do not include new public facility or infrastructure projects. These policies do not apply.

Public rights-of-way

Policy 8.39. Interconnected network. Establish a safe and connected rights-of-way system that equitably provides infrastructure services throughout the city.

Policy 8.40. Transportation function. Improve and maintain the right-of-way to support multimodal transportation mobility and access to goods and services as is consistent with the designated street classification.

Policy 8.41. Utility function. Improve and maintain the right-of-way to support equitable distribution of utilities, including water, sanitary sewer, stormwater management, energy, and communications, as appropriate.

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Policy 8.42. Stormwater management function. Improve rights-of-way to integrate green infrastructure and other stormwater management facilities to meet desired levels-of-service and economic, social, and environmental objectives.

Policy 8.43. Trees in rights-of-way. Integrate trees into public rights-of-way to support City canopy goals, transportation functions, and economic, social, and environmental objectives.

Policy 8.44. Community uses. Allow community use of rights-of-way for purposes such as public gathering space, events, or temporary festivals, if the community uses are integrated in ways that balance and minimize conflict with the designated through movement and access roles of rights-of-ways.

Policy 8.45. Pedestrian amenities. Encourage facilities that enhance pedestrian enjoyment, such as transit shelters, garbage containers, benches, etc. in the right-of-way.

Policy 8.46. Commercial uses. Accommodate allowable commercial uses of the rights-of-way for enhancing commercial vitality, if the commercial uses can be integrated in ways that balance and minimize conflict with the other functions of the right-of-way.

Policy 8.47. Flexible design. Allow flexibility in right-of-way design and development standards to appropriately reflect the pattern area and other relevant physical, community, and environmental contexts and local needs.

8.47.a. Use a variety of transportation resources in developing and designing projects for all City streets, such as the City of Portland's Pedestrian Design Guide, Bicycle Master Plan-Appendix A, NACTO Urban Bikeway Design Guide, NACTO Urban Street Design Guide, Portland Parks and Recreation Trail Design Guidelines, Designing for Truck Movements and Other Large Vehicles, and City of Portland Green Street Policy, Stormwater Management Manual, Design Guide for Public Street Improvements, and Neighborhood Greenways. (TSP objective 8.1.e.).

Policy 8.48. Corridors and City Greenways. Ensure public facilities located along Civic Corridors, Neighborhood Corridors, and City Greenways support the multiple objectives established for these corridors.

Policy 8.49. Coordination. Coordinate the planning, design, development, improvement, and maintenance of public rights-of-way among appropriate public agencies, private providers, and adjacent landowners.

8.49.a. Coordination efforts should include the public facilities necessary to support the uses and functions of rights-of-way, as established in policies 8.40 to 8.46.

8.49.b. Coordinate transportation and stormwater system plans and investments, especially in unimproved or substandard rights-of-way, to improve water quality, public safety, including for pedestrians and bicyclists, and neighborhood livability.

Policy 8.50. Undergrounding. Encourage undergrounding of electrical and telecommunications facilities within public rights-of-way, especially in centers and along Civic Corridors.

Policy 8.51. Right-of-way vacations. Maintain rights-of-way if there is an established existing or future need for them, such as for transportation facilities or for other public functions established in policies 8.40 to 8.46.

Policy 8.52. Rail rights-of-way. Preserve existing and abandoned rail rights-of-way for future rail or public trail uses.

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257.Finding: The City Council interprets policies 8.39 through 8.52 to apply to new public facilities or infrastructure projects in the right-of-way. The FFTZ amendments do not include new public facility or infrastructure projects in the right-of-way. These policies do not apply.

Trails

Policy 8.53. Public trails. Establish, improve, and maintain a citywide system of public trails that provide transportation and/or recreation options and are a component of larger network of facilities for bicyclists, pedestrians, and recreational users.

Policy 8.54. Trail system connectivity. Plan, improve, and maintain the citywide trail system so that it connects and improves access to Portland's neighborhoods, commercial areas, employment centers, schools, parks, natural areas, recreational facilities, regional destinations, the regional trail system, and other key places that Portlanders access in their daily lives.

Policy 8.55. Trail coordination. Coordinate planning, design, improvement, and maintenance of the trail system among City agencies, other public agencies, non-governmental partners, and adjacent landowners.

Policy 8.56. Trail diversity. Allow a variety of trail types to reflect a trail's transportation and recreation roles, requirements, and physical context.

Policy 8.57. Public access requirements. Require public access and improvement of public trails along the future public trail alignments shown in Figure 8-2 — Future Public Trail Alignments.

Policy 8.58. Trail and City Greenway coordination. Coordinate the planning and improvement of trails as part of the City Greenways system.

Policy 8.59. Trail and Habitat Corridor coordination. Coordinate the planning and improvement of trails with the establishment, enhancement, preservation, and access to habitat corridors.

Policy 8.60. Intertwine coordination. Coordinate with the Intertwine Alliance and its partners, including local and regional parks providers, to integrate Portland's trail and active transportation network with the bi-state regional trail system.

258.Finding: The City Council interprets policies 8.53 through 8.60 to apply to designated trails. While designated trail alignments are included in public rights of way adjacent industrial zones, the FFTZ amendments do not amend the designated trail alignments. These policies do not apply.

Sanitary system

Policy 8.61. Sewer connections. Require all developments within the city limits to be connected to sanitary sewers unless the public sanitary system is not physically or legally available per City Code and state requirements; or the existing onsite septic system is functioning properly without failure or complaints per City Code and state requirements; and the system has all necessary state and county permits.

Policy 8.62. Combined sewer overflows. Provide adequate public facilities to limit combined sewer overflows to frequencies established by regulatory permits.

Policy 8.63. Sanitary sewer overflows. Provide adequate public facilities to prevent sewage releases to surface waters as consistent with regulatory permits.

Policy 8.64. Private sewage treatment systems. Adopt land use regulations that require any proposed private sewage treatment system to demonstrate that all necessary state and county permits are obtained.

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Policy 8.65. Sewer extensions. Prioritize sewer system extensions to areas that are already developed at urban densities and where health hazards exist.

Policy 8.66. Pollution prevention. Reduce the need for wastewater treatment capacity through land use programs and public facility investments that manage pollution as close to its source as practical and that reduce the amount of pollution entering the sanitary system.

Policy 8.67. Treatment. Provide adequate wastewater treatment facilities to ensure compliance with effluent standards established in regulatory permits.

259.Finding: The City Council interprets policies 8.61 through 8.67 to apply to the provision of sanitary sewer facilities. The FFTZ amendments do not include comprehensive plan map amendments and do not amend the CSP. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland's industrial districts. The remaining industrial uses continue to be regulated under the current development regulations and do not intensify the development capacity. Therefore, these changes will not adversely impact the City's sanitary sewer system.

Stormwater Systems

Policy 8.68. Stormwater facilities. Provide adequate stormwater facilities for conveyance, flow control, and pollution reduction.

Policy 8.69. Stormwater as a resource. Manage stormwater as a resource for watershed health and public use in ways that protect and restore the natural hydrology, water quality, and habitat of Portland's watersheds.

Policy 8.70 Natural systems. Protect and enhance the stormwater management capacity of natural resources such as rivers, streams, creeks, drainageways, wetlands, and floodplains.

Policy 8.71. Green infrastructure. Promote the use of green infrastructure, such as natural areas, the urban forest, and landscaped stormwater facilities, to manage stormwater.

Policy 8.72. Stormwater discharge. Avoid or minimize the impact of stormwater discharges on the water and habitat quality of rivers and streams.

Policy 8.73. On-site stormwater management. Encourage on-site stormwater management, or management as close to the source as practical, through land use decisions and public facility investments.

Policy 8.74. Pollution prevention. Coordinate policies, programs, and investments with partners to prevent pollutants from entering the stormwater system by managing point and non-point pollution sources through public and private facilities, local regulations, and education.

Policy 8.75. Stormwater partnerships. Provide stormwater management through coordinated public and private facilities, public-private partnerships, and community stewardship.

260.Finding: The City Council interprets policies 8.68 through 8.75 to apply to the provision of stormwater facilities. The FFTZ amendments do not include comprehensive plan map amendments and do not amend the CSP. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland's industrial districts. The remaining industrial uses continue to be regulated under the current development regulations and do not intensify the development capacity. Therefore, these changes will not adversely impact the City's stormwater systems.

Flood management

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Policy 8.76. Flood management. Improve and maintain the functions of natural and managed drainageways, wetlands, and floodplains to protect health, safety, and property, provide water conveyance and storage, improve water quality, and maintain and enhance fish and wildlife habitat.

Policy 8.77. Floodplain management. Manage floodplains to protect and restore associated natural resources and functions and to minimize the risks to life and property from flooding.

Policy 8.78. Flood management facilities. Establish, improve, and maintain flood management facilities to serve designated land uses through planning, investment and regulatory requirements.

Policy 8.79. Drainage district coordination. Coordinate with drainage districts that provide stormwater management, conveyance, and flood mitigation, protection, and control services within the City's Urban Services Boundary.

Policy 8.80. Levee coordination. Coordinate plans and investments with special districts and agencies responsible for managing and maintaining certification of levees along the Columbia River.

261. The City Council interprets policies 8.76 through 8.80 to apply to the management of floodplains. Six of the existing FFTs have frontage on the Willamette River, with portions of the sites in the FEMA designated 100-year floodplain. For sites in flood prone areas, the FFTZ amendments do not amend the environmental overlay maps, nor do they change City programs that regulate development in the floodplain (i.e., Title 33.631 Sites in Flood Hazard Areas; Title 10 Erosion Control, and the balanced cut and fill requirements of Title 24).

Water systems

Policy 8.81. Primary supply source. Protect the Bull Run watershed as the primary water supply source for Portland.

Policy 8.82. Bull Run protection. Maintain a source-protection program and practices to safeguard the Bull Run watershed as a drinking water supply.

Policy 8.83. Secondary supply sources. Protect, improve, and maintain the Columbia South Shore wellfield groundwater system, the Powell Valley wellfield groundwater system, and any other alternative water sources designated as secondary water supplies.

Policy 8.84. Groundwater wellfield protection. Maintain a groundwater protection program and practices to safeguard the Columbia South Shore wellfield and the Powell Valley wellfield as drinking water supplies.

Policy 8.85. Water quality. Maintain compliance with state and federal drinking water quality regulations.

Policy 8.86. Storage. Provide sufficient in-city water storage capacity to serve designated land uses, meet demand fluctuations, maintain system pressure, and ensure supply reliability.

Policy 8.87. Fire protection. Provide adequate water facilities to serve the fire protection needs of all Portlanders and businesses.

Policy 8.88. Water pressure. Provide adequate water facilities to maintain water pressure in order to protect water quality and provide for the needs of customers.

Policy 8.89. Water efficiency. Reduce the need for additional water facility capacity and maintain compliance with state water resource regulations by encouraging efficient use of water by customers within the city.

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Policy 8.90. Service interruptions. Maintain and improve water facilities to limit interruptions in water service to customers.

Policy 8.91. Outside user contracts. Coordinate long-term water supply planning and delivery with outside-city water purveyors through long-term wholesale contracts.

262. The City Council interprets policies 8.81 through 8.91 to apply to the provision of water service. The FFTZ amendments do not include comprehensive plan map amendments and do not amend the CSP. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland's industrial districts. The remaining industrial uses continue to be regulated under the current development regulations and do not intensify the development capacity. Therefore, these changes will not adversely impact the City's water system.

Parks and recreation

Policy 8.92. Acquisition, development, and maintenance. Provide and maintain an adequate supply and variety of parkland and recreational facilities to serve the city's current and future population based on identified level-of-service standards and community needs.

Policy 8.93. Service equity. Invest in acquisition and development of parks and recreation facilities in areas where service-level deficiencies exist.

Policy 8.94. Capital programming. Maintain a long-range park capital improvement program, with criteria that considers acquisition, development, and operations; provides opportunities for public input; and emphasizes creative and flexible financing strategies.

Policy 8.95. Park planning. Improve parks, recreational facilities, natural areas, and the urban forest in accordance with current master plans, management plans, or adopted strategies that reflect user group needs, development priorities, development and maintenance costs, program opportunities, financing strategies, and community input.

Policy 8.96. Recreational trails. Establish, improve, and maintain a complete and connected system of public recreational trails, consistent with Portland Parks & Recreation's trail strategy.

Policy 8.97. Natural resources. Preserve, enhance, and manage City-owned natural areas and resources to protect and improve their ecological health, in accordance with both the natural area acquisition and restoration strategies, and to provide compatible public access.

Policy 8.98. Urban forest management. Manage urban trees as green infrastructure with associated ecological, community, and economic functions, through planning, planting, and maintenance activities, education, and regulation.

Policy 8.99. Recreational facilities. Provide a variety of recreational facilities and services that contribute to the health and well-being of Portlanders of all ages and abilities.

263. **Finding:** The City Council interprets policies 8.92 through 8.103 to address City-owned parks and natural areas and not development on private land. These policies do not apply.

Public safety and emergency response

Policy 8.104. Emergency preparedness, response, and recovery coordination. Coordinate land use plans and public facility investments between City bureaus, other public and jurisdictional agencies, businesses, community partners, and other emergency response providers, to ensure coordinated and comprehensive emergency and disaster risk reduction, preparedness, response, and recovery.

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Policy 8.105. Emergency management facilities. Provide adequate public facilities – such as emergency coordination centers, communications infrastructure, and dispatch systems – to support emergency management, response, and recovery.

Policy 8.106. Police facilities. Improve and maintain police facilities to allow police personnel to efficiently and effectively respond to public safety needs and serve designated land uses.

Policy 8.107. Community safety centers. Establish, coordinate, and co-locate public safety and other community services in centers.

Policy 8.108. Fire facilities. Improve and maintain fire facilities to serve designated land uses, ensure equitable and reliable response, and provide fire and life safety protection that meets or exceeds minimum established service levels.

Policy 8.109. Mutual aid. Maintain mutual aid coordination with regional emergency response providers as appropriate to protect life and ensure safety.

Policy 8.110. Community preparedness. Enhance community preparedness and capacity to prevent, withstand, and recover from emergencies and natural disasters through land use decisions and public facility investments.

Policy 8.111. Continuity of operations. Maintain and enhance the City's ability to withstand and recover from natural disasters and human-made disruptions in order to minimize disruptions to public services.

264.Finding: The City Council interprets policies 8.104 through 8.111 to address the provision of public safety and emergency response services and not development on private land. These policies do not apply.

Solid waste management

Policy 8.112. Waste management. Ensure land use programs, rights-of-way regulations, and public facility investments allow the City to manage waste effectively and prioritize waste management in the following order: waste reduction, recycling, anaerobic digestion, composting, energy recovery, and then landfill.

265.Finding: The City Council interprets this policy to address the provision of waste management services and not development on private land. These policies do not apply.

School facilities

Policy 8.113. School district capacity. Consider the overall enrollment capacity of a school district – as defined in an adopted school facility plan that meets the requirements of Oregon Revised Statute 195 – as a factor in land use decisions that increase capacity for residential development.

Policy 8.114. Facilities Planning. Facilitate coordinated planning among school districts and City bureaus, including Portland Parks and Recreation, to accommodate school site/facility needs in response to most up-to-date growth forecasts.

Policy 8.115. Co-location. Encourage public school districts, Multnomah County, the City of Portland, and other providers to co-locate facilities and programs in ways that optimize service provision and intergenerational and intercultural use.

Policy 8.116. Community use. Encourage public use of public school grounds for community purposes while meeting educational and student safety needs and balancing impacts on surrounding neighborhoods.

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Policy 8.117. Recreational use. Encourage publicly-available recreational amenities (e.g. athletic fields, green spaces, community gardens, and playgrounds) on public school grounds for public recreational use, particularly in neighborhoods with limited access to parks.

Policy 8.118. Schools as emergency aid centers. Encourage the use of seismically-safe school facilities as gathering and aid-distribution locations during natural disasters and other emergencies.

Policy 8.119. Facility adaptability. Ensure that public schools may be upgraded to flexibly accommodate multiple community-serving uses and adapt to changes in educational approaches, technology, and student needs over time.

Policy 8.120. Leverage public investment. Encourage City public facility investments that complement and leverage local public school districts' major capital investments.

Policy 8.121. School access. Encourage public school districts to consider the ability of students to safely walk and bike to school when making decisions about the site locations and attendance boundaries of schools.

Policy 8.122. Private institutions. Encourage collaboration with private schools and educational institutions to support community and recreational use of their facilities.

266.Finding: The City Council interprets policies 8.115 through 8.122 to address school facilities and not development on private land. These policies do not apply.

Technology and communications

Policy 8.123. Technology and communication systems. Maintain and enhance the City's technology and communication facilities to ensure public safety, facilitate access to information, and maintain City operations.

Policy 8.124. Equity, capacity, and reliability. Encourage plans and investments in technology and communication infrastructure to ensure access in all areas of the city, reduce disparities in capacity, and affordability, and to provide innovative high-performance, reliable service for Portland's residents and businesses.

267.Finding: The City Council interprets policies 8.123 and 8.124 to address the provision technology and communication services and not development on private land. This policy does not apply.

Energy infrastructure

Policy 8.125. Energy efficiency. Promote efficient and sustainable production and use of energy resources by residents and businesses, including low-carbon renewable energy sources, district energy systems, and distributed generation, through land use plans, zoning, and other legislative land use decisions.

Policy 8.126. Coordination. Coordinate with energy providers to encourage investments that ensure reliable, equitable, efficient, and affordable energy for Portland residents and businesses.

268.Finding: The City Council finds that "promote" means to "further the progress of, advance, or raise." The 2035 Comprehensive Plan defines "coordinate" as work together with others toward a common goal; collaborate. The verb "encourage", which is defined in the 2035 Comprehensive Plan, means to promote or foster using some combination of voluntary approaches, regulations, or incentives. As part of the concept development of the zoning code changes, in June 2016 BPS held stakeholder focus group meetings with representatives from energy providers - the FFTs, the Western States Petroleum Association and Northwest Natural. The Proposed Draft was crafted in

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response to these discussions and additional comments on the Discussion Draft. Further, in response to testimony at the Planning and Sustainability Commission, changes were made to the use regulations to designate FFTs as a limited use (rather than a prohibited use) and allow for a ten percent expansion of fossil fuel storage tank capacity in conjunction with seismic safety upgrades. The City Council received testimony from energy providers that a ten percent capacity increase limit would be a severe limitation and would not justify the private investment needed to replace existing tanks. However, the City Council found that the energy providers' proposed Energy Corridor Overlay zone and definition of "region" as a seven state area (PADD-5) was not consistent with other City goals and policies to reduce seismic risk.

Further, the City does not have the administrative authority and capacity to monitor and enforce regulations to control the destination of fossil fuels flowing through Portland to a seven-state region. Also, allowing for unlimited expansion of Portland's FFTs is not consistent with the seismic vulnerability of Portland's industrial districts, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study; the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report; the 2019 Portland State University Critical Energy Infrastructure Hub Fuel Tank Seismic Assessment, and the 2022 Multnomah County/City of Portland Impacts of a Cascadia Subduction Zone Earthquake on the CEI Hub.

The FFTZ amendments designate existing FFTs as a limited use, as opposed to a prohibited or nonconforming use, allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety. These changes support the retention of existing fossil fuel terminals by designating them as a limited use that supports opportunities for growth through exceptions, such as jet or renewable fuels that will encourage investments that ensure reliable, equitable, efficient, and affordable energy for Portland residents and businesses.

The City has a few provisions in the Zoning Code to support energy conservation, including energy efficiency or renewable energy improvements do not trigger nonconforming upgrade improvements (PCC 33.258); development standards for small, urban-wind turbines (PCC 33.299); and a requirement that new development in the Central City Plan District must register for green building certification (PCC 33.510). The FFTZ amendments do not amend any of these implementing provisions.

Prior to filing the remand ordinance, the Bureau of Planning and Sustainability held a meeting with the fossil fuel terminal property owners and the parties to the previous appeals to discuss the proposed amendments. The engagement meeting was held on May 20, 2022, and a representative from NW Natural attended the meeting. NW Natural did not submit any testimony in regards to this ordinance.

Chapter 9 Transportation

GOAL 9.A: Safety. Transportation safety impacts the livability of a city and the comfort and security of those using City streets. Comprehensive efforts to improve transportation safety through engineering, education, enforcement and evaluation will be used to eliminate traffic-related fatalities and serious injuries from Portland's transportation system.

Goal 9.B: Multiple goals. Portland's transportation system is funded and maintained to achieve multiple goals and measurable outcomes for people and the environment. The transportation system is safe, complete, interconnected, multimodal, and fulfills daily needs for people and businesses.

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GOAL 9.C: Great places. Portland’s transportation system enhances quality of life for all Portlanders, reinforces existing neighborhoods and great places, and helps make new great places in town centers, neighborhood centers and corridors, and civic corridors.

GOAL 9.D: Environmentally sustainable. The transportation system increasingly uses active transportation, renewable energy, or electricity from renewable sources, achieves adopted carbon reduction targets, and reduces air pollution, water pollution, noise, and Portlanders’ reliance on private vehicles.

GOAL 9.E: Equitable transportation. The transportation system provides all Portlanders options to move about the city and meet their daily needs by using a variety of safe, efficient, convenient, and affordable modes of transportation. Transportation investments are responsive to the distinct needs of each community.

GOAL 9.F: Positive health outcomes. The transportation system promotes positive health outcomes and minimizes negative impacts for all Portlanders by supporting active transportation, physical activity, and community and individual health.

GOAL 9.G: Opportunities for prosperity. The transportation system supports a strong and diverse economy, enhances the competitiveness of the city and region, and maintains Portland’s role as a West Coast trade gateway and freight hub by providing efficient and reliable goods movement, multimodal access to employment areas and educational institutions, as well as enhanced freight access to industrial areas and intermodal freight facilities. The transportation system helps people and businesses reduce spending and keep money in the local economy by providing affordable alternatives to driving.

GOAL 9.H: Cost effectiveness. The City analyzes and prioritizes capital and operating investments to cost effectively achieve the above goals while responsibly managing and protecting our past investments in existing assets.

GOAL 9.I: Airport Futures. Promote a sustainable airport (Portland International Airport [PDX]) by meeting the region’s air transportation needs without compromising livability and quality of life for future generations.

269.Finding: The City Council interprets these goals to address transportation improvements, programming, funding priorities and maintenance and not development on private land.

The City Council interprets these goals to apply to the transportation system as whole and not to individual components of the transportation. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not reduce the employment land base and continue to support a strong and diverse economy.

The Council finds that these goals require Portland to maintain Portland’s role as a multimodal freight hub. The FFTZ amendments maintain Portland’s role as a multimodal freight hub with enhanced freight access because they do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the industrial areas where the FFTs are located. Finally, the ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can make investments in multimodal freight facilities.

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The City Council interprets Goal 9G (Opportunities for prosperity) consistent with other policies that address how the multimodal transportation system continues to support a strong and diverse economy (see Policy 6.23 and 6.41). The FFTZ amendments support a strong and diverse economy by retaining the existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety. Therefore, the City Council finds the liquid fossil fuel storage tank capacity that exists today in Portland, with the allowed exceptions, is adequate to serve the future regional market. Further, the City Council finds the natural gas storage tank capacity that exists today in Portland is adequate to serve the future regional market. Therefore, the City Council finds that the FFT amendments support the retention of existing FFTs to continue to provide access to the fuel needed to support expanding economic opportunity. In addition, limiting fossil fuel storage tank capacity at the existing facilities, with some exceptions, limits risk from a major earthquake, which substantially outweighs any uncertainty in the future forecasts or any policy interpretation to provide unlimited opportunity to add storage tank capacity to accommodate any potential future increase in fossil fuel consumption.

The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. Council finds that the FFTZ amendments enhance the competitiveness of the city and region by narrowly crafting the ordinance to generally prohibit the expansion of fossil fuel storage capacity, while at the same time allowing for expansion storage tank capacity for jet and renewable fuels, which are expected to be the growing components of liquid fuel demand.

The City Council finds that the ordinance maintains Portland’s role as a West Coast trade gateway and freight hub and provides for efficient and reliable goods movement, multimodal access to employment areas and educational institutions, as well as enhanced freight access to industrial areas and intermodal freight facilities. The City Council interprets these goals to apply to the city as whole and does not require the City to allow for the unlimited expansion of individual businesses or sectors of business. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to maintain Portland’s industrial districts as part of the efforts to support trade sector and export growth over time. These changes support the retention of existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions. The ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. The amendments support Oregon’s largest seaport and largest airport by including a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, or rail yard. (See Policies 6.20 through 6.22)

The PBA coalition testimony repeats previous claims, without supporting evidence, that the ordinance will “hurt the local economy”. The City Council finds that, as in 2016 and 2019, this testimony does not contradict or refute any of the supporting evidence or findings that Council has relied upon for adopting this ordinance. The ordinance has been crafted to provide the fossil fuel storage tank capacity, with the allowed exceptions, necessary to serve the regional market as part

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of a growing economy as demonstrated in the BPS memo on Liquid Fossil Fuel Demand (Policy 6.48).

WSPA claims the code amendments would create significant adverse impacts on the local energy supply and subsequent damage to the economy. Council finds that this claim is repeated in various forms in their testimony without supporting evidence. WSPA correctly states that the amendments will not limit the regional demand for fuel. It is not the purpose of the zoning code amendments. Council finds the purpose of this ordinance is to limit the risk from a catastrophic Cascadia Subduction Zone earthquake by limiting the expansion of fossil fuel storage tank capacity in an area at high-risk of liquefaction, while at the same time providing enough capacity to serve future regional needs and facilitate a transition to cleaner fuels. WSPA claims the current infrastructure is insufficient for future fuel demand, by both quantity and type of fuel, without providing supporting evidence or contradicting the evidence in the record. Council rejects this argument and finds that the evidence in the record supports the conclusion that the City has carefully considered the impacts to the regional fossil fuel supply as a means to ensure the region's growing economy has the energy it needs. The existing terminals are designated as a limited use specifically to allow them to continue to operate to supply fossil fuels to region. The updated supporting memos on liquid fossil fuel and natural gas demand show that the amendments would not have a significant adverse impact on the "local" (or broader regional) energy supply.

Testimony raised concern that the ordinance would unnecessarily burden eastern Oregon and Washington and Idaho. As explained under Policy 6.48, Council finds the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that a combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho's fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

Designing and planning

Policy 9.1. Street design classifications. Maintain and implement street design classifications consistent with land use plans, environmental context, urban design pattern areas, and the Neighborhood Corridor and Civic Corridor Urban Design Framework designations.

Policy 9.2. Street policy classifications. Maintain and implement street policy classifications for pedestrian, bicycle, transit, freight, emergency vehicle, and automotive movement, while considering access for all modes, connectivity, adjacent planned land uses, and state and regional requirements.

9.2.a. Designate district classifications that emphasize freight mobility and access in industrial and employment areas serving high levels of truck traffic and to accommodate the needs of intermodal freight movement.

9.2.b. Designate district classifications that give priority to pedestrian access in areas where high levels of pedestrian activity exist or are planned, including the Central City, Gateway regional center, town centers, neighborhood centers, and transit station areas.

9.2.c. Designate district classifications that give priority to bicycle access and mobility in areas

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where high levels of bicycle activity exist or are planned, including Downtown, the River District, Lloyd District, Gateway Regional Center, town centers, neighborhood centers, and transit station areas.

Policy 9.3. Transportation System Plan. Maintain and implement the Transportation System Plan (TSP) as the decision-making tool for transportation-related projects, policies, programs, and street design.

Policy 9.4. Use of classifications. Plan, develop, implement, and manage the transportation system in accordance with street design and policy classifications outlined in the Transportation System Plan.

9.4.a. Classification descriptions are used to describe how streets should function for each mode of travel, not necessarily how they are functioning at present.

270.Finding: The FFTZ amendments do not change the functional classification of any existing or proposed transportation facility, nor do they change the standards implementing a functional classification system.

Policy 9.5. Mode share goals and Vehicle Miles Travelled (VMT) reduction. Increase the share of trips made using active and low-carbon transportation modes. Reduce VMT to achieve targets set in the most current Climate Action Plan and Transportation System Plan, and meet or exceed Metro’s mode share and VMT targets.

Policy 9.6. Transportation strategy for people movement. Design the system to accommodate the most vulnerable users, including those that need special accommodation under the Americans with Disabilities Act (ADA). Implement a prioritization of modes for people movement by making transportation system decisions per the following ordered list:

- Walking
- Bicycling
- Transit
- Fleets of electric, fully automated, multiple passenger vehicles
- Other shared vehicles
- Low or no occupancy vehicles, fossil-fueled non-transit vehicles

When implementing this prioritization ensure that:

- The needs and safety of each group of users are considered, and changes do not make existing conditions worse for the most vulnerable users.
- All users’ needs are balanced with the intent of optimizing the right of way for multiple modes on the same street.
- When necessary to ensure safety, accommodate some users on parallel streets as part of multi-street corridors.
- Land use and system plans, network functionality for all modes, other street functions, and complete street policies, are maintained.
- Policy-based rationale is provided if modes lower in the ordered list are prioritized.

Policy 9.7. Moving goods and delivering services. In tandem with people movement, maintain efficient and reliable movement of goods and services as a critical transportation system function. Prioritize freight system reliability improvements over single-occupancy vehicle mobility where there are solutions that distinctly address those different needs.

271.Finding: The City Council interprets policies 9.5 through 9.7 to mean that people movement and freight movement are critical functions of the transportation system that should be prioritized over

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single-occupancy vehicles. Further, the City Council interprets this policy to apply to transportation system design and investment decisions, and not land use decisions. Portland's role as a multimodal freight hub is maintained because the FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan. Therefore, the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area where the FFTs are located. The ordinance regulates fossil fuel storage tank capacity, it does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system.

Policy 9.8. Affordability. Improve and maintain the transportation system to increase access to convenient and affordable transportation options for all Portlanders, especially those who have traditionally been under-served or under-represented or have historically borne unequal burdens.

Policy 9.9. Accessible and age-friendly transportation system. Ensure that transportation facilities are accessible to people of all ages and abilities, and that all improvements to the transportation system (traffic, transit, bicycle, and pedestrian) in the public right-of-way comply with the Americans with Disabilities Act of 1990. Improve and adapt the transportation system to better meet the needs of the most vulnerable users, including the young, older adults, and people with different abilities.

Policy 9.10. Geographic policies. Adopt geographically-specific policies in the Transportation System Plan to ensure that transportation infrastructure reflects the unique topography, historic character, natural features, system gaps, economic needs, demographics, and land uses of each area. Use the Pattern Areas identified in Chapter 3: Urban Form as the basis for area policies.

9.10.a. Refer to adopted area plans for additional applicable geographic objectives related to transportation. Land use, development, and placemaking

272.Finding: Policies 9.8 through 9.10 address the design and planning of transportation facilities and not development on private land. These policies do not apply.

Land use, development, and placemaking

Policy 9.11. Land use and transportation coordination. Implement the Comprehensive Plan Map and the Urban Design Framework through coordinated long-range transportation and land use planning. Ensure that street policy and design classifications and land uses complement one another.

Policy 9.12. Growth strategy. Use street design and policy classifications to support Goals 3A-3G in Chapter 3: Urban Form. Consider the different design contexts and transportation functions in Town Centers, Neighborhood Centers, Neighborhood Corridors, Employment Areas, Freight Corridors, Civic Corridors, Transit Station Areas, and Greenways.

Policy 9.13. Development and street design. Evaluate adjacent land uses to help inform street classifications in framing, shaping, and activating the public space of streets. Guide development and land use to create the kinds of places and street environments intended for different types of streets.

273.Finding: For policies 9.11 through 9.13, the City Council interprets these policies as providing direction to ensure that the transportation system, specifically the street classifications, support the Comprehensive Plan Map (and land use designations). The FFTZ amendments do not change the functional classification of any existing or proposed transportation facility, nor do they change the standards implementing a functional classification system. The FFTZ amendments limit one type of use allowed in industrial areas. The remaining industrial uses continue to be regulated under the current development regulations and do not intensify the development capacity. Therefore, the long-range transportation and land use plan continue to be coordinated.

Streets as public spaces

Policy 9.14. Streets for transportation and public spaces. Integrate both placemaking and transportation functions when designing and managing streets by encouraging design, development, and operation of streets to enhance opportunities for them to serve as places for community interaction, environmental function, open space, tree canopy, recreation, and other community purposes.

Policy 9.15. Repurposing street space. Encourage repurposing street segments that are not critical for transportation connectivity to other community purposes.

Policy 9.16. Design with nature. Promote street alignments and designs that respond to topography and natural features, when feasible, and protect streams, wildlife habitat, and native trees.

274.Finding: These policies address the design and use of public streets and not development on private land. These policies do not apply.

Modal policies

Policy 9.17. Pedestrian transportation. Encourage walking as the most attractive mode of transportation for most short trips, within and to centers, corridors, and major destinations, and as a means for accessing transit.

Policy 9.18. Pedestrian networks. Create more complete networks of pedestrian facilities, and improve the quality of the pedestrian environment.

Policy 9.19. Pedestrian safety and accessibility. Improve pedestrian safety, accessibility, and convenience for people of all ages and abilities.

Policy 9.20. Bicycle transportation. Create conditions that make bicycling more attractive than driving for most trips of approximately three miles or less.

Policy 9.21. Accessible bicycle system. Create a bicycle transportation system that is safe, comfortable, and accessible to people of all ages and abilities.

Policy 9.22. Public transportation. Coordinate with public transit agencies to create conditions that make transit the preferred mode of travel for trips that are not made by walking or bicycling.

Policy 9.23. Transportation to job centers. Promote and enhance transit to be more convenient and economical than the automobile for people travelling more than three miles to and from the Central City and Gateway. Enhance regional access to the Central City and access from Portland to other regional job centers.

Policy 9.24. Transit service. In partnership with TriMet, develop a public transportation system that conveniently, safely, comfortably, and equitably serves residents and workers 24 hours a day, 7 days a week.

Policy 9.25. Transit equity. In partnership with TriMet, maintain and expand high-quality frequent transit service to all Town Centers, Civic Corridors, Neighborhood Centers, Neighborhood Corridors, and other major concentrations of employment, and improve service to areas with high concentrations of poverty and historically under-served and under-represented communities.

9.25.a. Support a public transit system and regional transportation that address the transportation needs of historically marginalized communities and provide increased mobility options and access.

Policy 9.26. Transit funding. Consider funding strategies and partnership opportunities that improve

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access to and equity in transit service, such as raising metro-wide funding to improve service and decrease user fees/fares.

Policy 9.27. Transit service to centers and corridors. Use transit investments to shape the city's growth and increase transit use. In partnership with TriMet and Metro, maintain, expand, and enhance Portland Streetcar, frequent service bus, and high-capacity transit, to better serve centers and corridors with the highest intensity of potential employment and household growth.

9.27.a. Locate major park-and-ride lots only where transit ridership is increased significantly, vehicle miles traveled are reduced, transit-supportive development is not hampered, bus service is not available or is inadequate, and the surrounding area is not negatively impacted.

Policy 9.28. Intercity passenger service. Coordinate planning and project development to expand intercity passenger transportation services in the Willamette Valley, and from Portland to Seattle and Vancouver, BC.

Policy 9.29. Regional trafficways and transitways. Maintain capacity of regional transitways and existing regional trafficways to accommodate through-traffic.

275.Finding: Policies 9.17 through 9.29 address the design and planning of transportation facilities and not development on private land. These policies do not apply.

Policy 9.30. Multimodal goods movement. Develop, maintain, and enhance a multimodal freight transportation system for the safe, reliable, sustainable, and efficient movement of goods within and through the city.

276.Finding: First, the City Council interprets Policy 9.30 to primarily direct public investment in Portland's multimodal freight infrastructure. The City Council interprets the verb "enhance", which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to develop, maintain and enhance the multimodal transportation infrastructure to support the movement of goods within and through Portland.

However, unlike other parts of the transportation system, the multimodal freight system is a mix of public and private infrastructure. Whereas most of the roadways are publicly owned and maintained, pipelines and rail infrastructure are privately owned. The marine terminals are a mix of public (Port of Portland) and private ownership. Therefore, City Council considered the impact that the FFT amendments could have on private investment in multimodal infrastructure. The FFTs are privately owned with specialized multimodal infrastructure such as pipelines, marine docks, and rail loading facilities (also referred to as transloading facilities). The FFT amendments regulate only one type of business (FFT) that make up a small part of the multimodal infrastructure system. For example, in the 2020 Portland Harbor Marine Cargo Forecast, petroleum liquid bulk cargo accounts for 8% to 14% of the total volume of cargo flowing through the Portland Harbor (without accounting for automobiles or container cargo volumes). The FFT amendments regulate one part (fossil fuel storage tanks) of the FFTs and do not limit transloading facilities or multimodal infrastructure. The existing FFTs are designated as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure and fossil fuel storage tank capacity at the FFTs. The amendments do not limit expansion of pipeline infrastructure, marine terminals or rail facilities. The amendments allow new intermodal fossil fuel terminals with a fossil fuel storage tank capacity up to 2 million gallons and terminals of any size that transport fuel exclusively by truck.

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LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

Policy 9.31. Economic development and industrial lands. Ensure that the transportation system supports traded sector economic development plans and full utilization of prime industrial land, including brownfield redevelopment.

277.Finding: The 2035 Comprehensive Plan defines “ensure” to mean to make something certain, to make sure that something will happen or be available. As discussed under Policies 6.20 through 6.22, the 2035 Comprehensive Plan defines “traded sector” as business sectors consisting of companies that compete in markets extending beyond the metropolitan region. The City Council interprets Policy 9.31 to primarily direct public investment in Portland’s multimodal transportation system to support economic development. The policy applies to the city as whole and does not require the City to allow for the unlimited expansion of individual businesses or sectors of business. The City Council finds that fossil fuel energy is not identified as a key traded sector in city, regional or statewide initiatives, as documented in the 2021 Greater Portland Comprehensive Economic Development Strategy and 2015 Portland Development Commission Strategic Plan, which Council finds to be the key traded sector economic development plans. Therefore, Council finds that this ordinance is consistent with this policy because the FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, and the City continues to plan for transportation system investments to maintain and strengthen the multimodal transportation infrastructure in the City’s prime industrial areas is support of traded sector economic development plans.

The 2035 Comprehensive Plan defines “prime industrial land” as land that is suited for traded sector industries and possesses site characteristics that are difficult or impossible to replace elsewhere in the region. Prime industrial areas are identified on Figure 6-1 of the 2035 Comprehensive Plan. The existing FFTs are located in a prime industrial area. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes do not conflict with the intent to support the full utilization of Portland’s prime industrial land. Council finds that this policy does not require the City to allow for the unlimited expansion of all types of trade sector businesses or products. At the same time, these changes support the retention of existing fossil fuel terminals by designating them as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions that will support the full utilization of the existing FFTs.

The City Council recognizes that the multimodal freight system is a mix of public and private infrastructure. Whereas most of the roadways are publicly owned and maintained, pipelines and rail infrastructure are privately owned. The marine terminals are a mix of public (Port of Portland) and private ownership. Therefore, City Council considered the impact that the FFT amendments could have on private investment in multimodal infrastructure. The FFTs are privately owned with specialized multimodal infrastructure such as pipelines, marine docks, and rail loading facilities (also referred to as transloading facilities). The FFT amendments regulate one part (fossil fuel storage tanks) of the FFTs and do not limit transloading facilities or multimodal infrastructure. The existing FFTs are designated as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure at the FFTs. The amendments do not limit expansion of pipeline infrastructure, marine terminals or rail facilities. The amendments support Oregon’s

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largest seaport and largest airport by including a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, or rail yard.

Finally, the City Council interprets the reference to brownfield redevelopment to mean the transportation system should support full utilization of prime industrial land, including the underutilized development capacity of sites with brownfield contamination. This policy provides direction for transportation system planning. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, and the City continues to plan for transportation system investments to maintain and strengthen the multimodal transportation infrastructure in the City's prime industrial areas. Further, this ordinance does not modify or provide direction to the City's brownfield remediation programs and incentives. The existing FFTs will maintain their current eligibility for the City's remediation programs and incentives.

Policy 9.32. Multimodal system and hub. Maintain Portland's role as a multimodal hub for global and regional movement of goods. Enhance Portland's network of multimodal freight corridors.

278. Finding: First, the City Council interprets Policy 9.32 to primarily direct public investment in Portland's multimodal freight infrastructure. The City Council interprets the verb "enhance", which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and enhance the multimodal transportation infrastructure to support the movement of goods within and through Portland as multimodal hub for regional and global trade.

However, unlike other parts of the transportation system, the multimodal freight system is a mix of public and private infrastructure. Whereas most of the roadways are publicly owned and maintained, pipelines and rail infrastructure are privately owned. The marine terminals are a mix of public (Port of Portland) and private ownership. Therefore, City Council considered the impact that the FFT amendments could have on private investment in multimodal infrastructure. The FFTs are privately owned with specialized multimodal infrastructure such as pipelines, marine docks, and rail loading facilities (also referred to as transloading facilities). The FFT amendments regulate only one type of business (FFT) that make up a small part of the multimodal infrastructure system. The FFT amendments regulate one part (fossil fuel storage tanks) of the FFTs and do not limit transloading facilities or multimodal infrastructure. The existing FFTs are designated as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure and fossil fuel storage tank capacity at the FFTs. The ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. The amendments support Oregon's largest seaport and largest airport by including a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, or rail yard. (See Policies 6.20 through 6.22) The amendments do not limit expansion of pipeline infrastructure, marine terminals or rail facilities. The amendments allow new intermodal fossil fuel terminals with a fossil fuel storage tank capacity up to 2 million gallons and terminals of any size that transport fuel exclusively by truck.

The City acknowledges the role the FFTs play in serving other businesses and the regional economy to sustain the movement of goods. This role is the main reason that the City has opted to designate the existing FFTs as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure at the FFTs.

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Previous testimony and legal arguments contended that because FFTs supply over 90 percent of the region's transportation fuel, they play an outsized role in the regional economy and that the FFT amendments will have a significant effect on other businesses in the region. The City Council found this testimony to be without substantial supporting evidence to show that the FFT amendments will unnecessarily harm the economy and local industry by restricting the supply of and impeding the efficient distribution of fossil fuel. As shown in the 2022 BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 are not projected to exceed the historic peak consumption, especially when exceptions that allow for additional storage tank capacity for jet and renewable fuels are accounted for.

Specifically, LUBA found that the City findings lacked evidence that the regulations will not result in any potential shift in transportation modes that could impact the City's multimodal transportation system. In reviewing the previous testimony, the City finds that the concerns about a potential shift in modes is based on an unfounded and unsupported speculation that these restrictions may constrain the supply of fuels needed to serve anticipated population and employment growth in the region or that the terminals will "cease operations". First, there is no evidence in the record that the FFTs will cease operations in response to these regulations. In response to the 2016 testimony, the City Council amended the regulations to make the FFTs a legal limited use, as opposed to a conditional or prohibited nonconforming use, that allows for their continued operation.

As for the concern that the FFT amendments will constrain the supply of fuels, City Council has taken careful consideration of future demand projections for both liquid fuels and natural gas to ensure regional needs will continue to be met. As shown in the 2022 BPS Liquid Fossil Fuel Demand Memo, future demand for fossil fuels out to the year 2050 are expected to grow modestly but not projected to exceed the historic peaks, especially when taking into account the exceptions that allow additional storage tank capacity for jet and renewable fuels, which are the two components of liquid fuels that are expected to grow the fastest. The 2022 BPS Liquid Fossil Fuel Demand Memo documents federal projections out to 2050 for modest growth in gasoline and diesel fuel, which includes a renewable component, and higher growth rates in jet fuel. The DEQ Clean Fuels Program's short-term forecast predicts an increase in demand for ethanol and renewable diesel. Based on these expectations, the FFT amendments include exceptions that allow FFTs to develop and enhance their facilities by adding storage tanks capacity for these products. The natural gas supply system relies solely on pipelines for distribution. The FFT amendments do not limit pipelines. Also, the Lighthouse Energy Consulting natural gas system memo demonstrates that there are sufficient alternatives to meet future demand for natural gas without the need for additional LNG storage in Portland.

Council finds that there is no evidence to assume that the amendments will result in a constrained fossil fuel supply that will result in a transportation mode shift that results in increased truck traffic and does not concede the point. Nevertheless, Council considered the transportation impacts of a speculative scenario in which an increased demand for fossil fuel exceeds the existing fossil fuel storage tank capacity in Portland. If the additional fossil fuel demand cannot be accommodated by additional storage tank capacity in Portland, then the fossil fuel must be stored elsewhere and delivered into the region via truck.

In response to the LUBA remand, the City Council has considered how the regulations might trigger a shift in transportation modes. The 2017 Oregon Fuel Action Plan documented that about 90 percent of Oregon's transportation fuels are produced by the refineries in Washington and delivered via the Olympic pipeline and barge to the Portland terminals. These terminals receive,

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store, blend, and transfer petroleum products. Most of the remaining ten percent is delivered by barge from refineries in the San Francisco Bay Area or by pipeline from refineries in Salt Lake City, Utah via a distribution terminal in Pasco, Washington. From the Pasco facility, fuel is trucked into Oregon to service eastern Oregon communities. California Bay Area refineries supply minimal quantities of fuel to a Chico, California terminal and then the fuel is trucked into Oregon to supply southern Oregon communities. A very small amount of fuel is delivered by rail.

However, in response to the testimony and remand issue identified by LUBA, City Council considers a speculative scenario in which the demand for fossil fuel exceeds the existing capacity of the Portland FFTs. Based on the information in the 2017 Oregon Fuel Action Plan, the increased demand for fuel is likely to be met through the following means:

1. Increased demand in Eastern Oregon could be met through the fuel terminal in Pasco, Washington, which has a pipeline connection to refineries in Salt Lake City.
2. Increased demand in Southern Oregon could be met through increased deliveries from the fuel terminal in Chico, California.
3. Increased demand in the Willamette Valley and the Northern and Central Oregon Coast are likely to be met either through increased deliveries to an Olympic Pipeline terminal in Vancouver, Washington; increased barge deliveries to another port on the Lower Columbia River or the Oregon Coast; or via rail.

This speculative scenario focuses on the potential impact of increased truck traffic between a new entry supply point in the region and the FFTs in Portland because once trucks arrive at the CEI Hub the trucks become part of the regional distribution system as if there were additional fossil fuel storage tank capacity in Portland.

There are two key points of entry that could result in increased truck traffic in Portland. Increased fossil fuel deliveries from Port Westward or Port of St. Helens in Oregon could result in increased truck traffic on Highway 30, which is designated as a Regional Truckway in the adopted 2035 Transportation System Plan. Regional truckways are the highest freight designation in Portland's freight system and are designed to facilitate interregional movement of freight and support industrial uses with high levels of truck activity. PBOT's RTP (2018/2040) traffic demand model projects the future traffic on Highway 30 at the Linnton terminals will grow about 30% over today to 3,420 vehicles in 2040 PM peak hour, but those volumes will still be lower than the roadway capacity. Increased truck traffic on this highway segment would have minimal impact because Highway 30 is part of the City's freight system and is not considered a congested facility, except at the interchange with the St. Johns Bridge. The St. Johns Bridge interchange is in the middle of the CEI Hub, therefore, this scenario would have similar transportation impacts as if the added fossil fuel storage tank capacity had been at a Portland FFT.

Increased deliveries from Vancouver, Washington (or other Washington ports) could result in increased truck traffic on Interstate 5, a designated Regional Truckway, which is the highest freight designation in Portland's freight system and is designed to facilitate interregional movement of freight and support industrial uses with high levels of truck activity. Increased truck traffic on this highway segment would have minimal impact because Interstate 5 is part of the City's freight system and currently is a congested route, which is the focus of planning and investment with the Interstate Bridge Replacement and I-5 Rose Quarter improvement projects.

Therefore, City Council finds, based on the findings for Policy 6.48, that there is no evidence of future unmet demand. This speculative scenario shows that even if there were to be unmet

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demand that triggers a change in transportation modes, the increased truck traffic would not adversely impact the multimodal transportation system because the impacts are expected to be limited to major truck routes that are designated for that type of traffic.

Policy 9.33. Freight network. Develop, manage, and maintain a safe, efficient, and reliable freight street network to provide freight access to and from intermodal freight facilities, industrial and commercial districts, and the regional transportation system. Invest to accommodate forecasted growth of interregional freight volumes and provide access to truck, marine, rail, and air transportation systems. Ensure designated routes and facilities are adequate for over-dimensional trucks and emergency equipment.

279.Finding: The City Council interprets Policy 9.33 to primarily direct public investment in Portland's multimodal transportation system to support economic development. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to develop, manage, and maintain the freight street network to support the movement of goods within and through Portland.

Policy 9.34. Sustainable freight system. Support the efficient delivery of goods and services to businesses and neighborhoods, while also reducing environmental and neighborhood impacts. Encourage the use of energy efficient and clean delivery vehicles, and manage on- and off-street loading spaces to ensure adequate access for deliveries to businesses, while maintaining access to homes and businesses.

280.Finding: The City Council interprets Policy 9.34 to primarily address the delivery of goods in the commercial and residential areas of Portland. The FFTZ amendments primarily concern limiting use in the employment and industrial zones. Therefore, this policy does not apply.

Policy 9.35. Freight rail network. Coordinate with stakeholders and regional partners to support continued reinvestment in, and modernization of, the freight rail network.

281.Finding: The FFT amendments regulate only one type of business (FFTs) that make up a small part of the multimodal infrastructure system. The FFT amendments regulate one part (fossil fuel storage tanks) of the FFTs and do not limit transloading facilities or multimodal infrastructure, including rail facilities. The existing FFTs are designated as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure, including rail facilities. The ordinance does not limit the expansion of transloading facilities, rail lines, docks or pipelines – facilities that are key components of the multimodal freight transportation system. The amendments support rail yards with a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at or rail yard.

Policy 9.36. Portland Harbor. Coordinate with the Port of Portland, private stakeholders, and regional partners to improve and maintain access to marine terminals and related river-dependent uses in Portland Harbor.

9.36.a. Support continued reinvestment in, and modernization of, marine terminals in Portland Harbor.

9.36.b. Facilitate continued maintenance of the shipping channels in Portland Harbor and the Columbia River.

9.36.c. Support shifting more long-distance, high-volume movement of goods to river and oceangoing ships and rail.

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282.Finding: Policies 9.36 directs the City to develop, maintain, and enhance a multimodal freight transportation system. The City Council interprets these policies to apply to transportation system design and city investment decisions, and not decisions considering the appropriate land use. The ordinance maintains Portland’s multimodal freight hub because it does not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments to maintain and strengthen the multimodal transportation infrastructure in the northwest industrial area where the FFTs are located.

The FFTZ amendments support continued reinvestment in, and modernization of, marine terminals in Portland Harbor because the changes do not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can make investments in multimodal freight facilities. The FFT amendments regulate one part (fossil fuel storage tanks) of the FFTs and do not limit transloading facilities or multimodal infrastructure. The existing FFTs are designated as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure and fossil fuel storage tank capacity at the FFTs. The amendments support the Portland Harbor by including a specific exemption to allow for additional fossil fuel storage tank capacity for exclusive use at a marine freight terminal, drydock, ship or barge servicing facility

Policy 9.37. Portland Heliport. Maintain Portland’s Heliport functionality in the Central City.

283.Finding: This policy applies to the Central City. There are no FFTs in the Central City. This policy does not apply.

Policy 9.38. Automobile transportation. Maintain acceptable levels of mobility and access for private automobiles while reducing overall vehicle miles traveled (VMT) and negative impacts of private automobiles on the environment and human health.

Policy 9.39. Automobile efficiency. Coordinate land use and transportation plans and programs with other public and private stakeholders to encourage vehicle technology innovation, shifts toward electric and other cleaner, more energy-efficient vehicles and fuels, integration of smart vehicle technology with intelligent transportation systems, and greater use of options such as car-share, carpool, and taxi.

Policy 9.40. Emergency response. Maintain a network of accessible emergency response streets to facilitate safe and expedient emergency response and evacuation. Ensure that police, fire, ambulance, and other emergency providers can reach their destinations in a timely fashion, without negatively impacting traffic calming and other measures intended to reduce crashes and improve safety.

284.Finding: Policies 9.38 through 9.40 address the design and use of public streets and not development on private land. These policies do not apply.

Airport Futures

Policy 9.41. Portland International Airport. Maintain the Portland International Airport as an important regional, national, and international transportation hub serving the bi-state economy.

Policy 9.42. Airport regulations. Implement the Airport Futures Plan through the implementation of the Portland International Airport Plan District.

9.42.a. Prohibit the development of a potential third parallel runway at PDX unless need for its construction is established through a transparent, thorough, and regional planning process.

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9.42.b. Support implementation of the Aircraft Landing Zone to provide safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures, vegetation, and construction equipment.

9.42.c. Support the Port of Portland's Wildlife Hazard Management Plan by implementing airport-specific landscaping requirements in the Portland International Airport Plan District to reduce conflicts between wildlife and aircraft.

Policy 9.43. Airport partnerships. Partner with the Port of Portland and the regional community to address the critical interconnection between economic development, environmental stewardship, and social responsibility. Support an ongoing public advisory committee for PDX to:

9.43.a. Support meaningful and collaborative public dialogue and engagement on airport related planning and development.

9.43.b. Provide an opportunity for the community to inform the decision-making related to the airport of the Port, the City of Portland, and other jurisdictions/organizations in the region.

9.43.c. Raise public knowledge about PDX and impacted communities.

Policy 9.44. Airport investments. Ensure that new development and redevelopment of airport facilities supports the City's and the Port's sustainability goals and policies, and is in accordance with Figure 9-3 — Portland International Airport. Allow the Port flexibility in configuring airport facilities to preserve future development options, minimize environmental impacts, use land resources efficiently, maximize operational efficiency, ensure development can be effectively phased, and address Federal Aviation Administration's airport design criteria.

285.Finding: Policies 9.41 through 9.44 provide policy direction related to Portland International Airport. The FFTZ amendments include an exemption for fossil fuel storage facilities for the exclusive use at airports to maintain a supply of jet fuel to Portland International Airport (PDX).

System management

Policy 9.45. System management. Give preference to transportation improvements that use existing roadway capacity efficiently and that improve the safety of the system for all users.

9.45.a. Support regional equity measures for transportation system evaluation.

Policy 9.46. Traffic management. Evaluate and encourage traffic speed and volume to be consistent with street classifications and desired land uses to improve safety, preserve and enhance neighborhood livability, and meet system goals of calming vehicle traffic through a combination of enforcement, engineering, and education efforts.

9.46.a. Use traffic calming tools, traffic diversion and other available tools and methods to create and maintain sufficiently low automotive volumes and speeds on neighborhood greenways to ensure comfortable cycling environment on the street.

Policy 9.47. Connectivity. Establish an interconnected, multimodal transportation system to serve centers and other significant locations. Promote a logical, direct, and connected street system through street spacing guidelines and district-specific street plans found in the Transportation System Plan, and prioritize access to specific places by certain modes in accordance with policies 9.6 and 9.7.

9.47.a. Develop conceptual master street plans for areas of the City that have significant amounts of vacant or underdeveloped land and where the street network does not meet City and Metro connectivity guidelines.

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9.47.b. As areas with adopted Street Plans develop, provide connectivity for all modes by developing the streets and accessways as shown on the Master Street Plan Maps in the Comp Plan.

9.47.c. Continue to provide connectivity in areas with adopted Street Plans for all modes of travel by developing public and private streets as shown on the Master Street Plan Maps in the Comp Plan.

9.47.d. Provide street connections with spacing of no more than 530 feet between connections except where prevented by barriers such as topography, railroads, freeways, or environmental constraints. Where streets must cross over protected water features, provide crossings at an average spacing of 800 to 1000 feet, unless exceptional habitat quality of length of crossing prevents a full street connection.

9.47.e Provide bike and pedestrian connections at approximately 330 feet intervals on public easements or rights-of-way when full street connections are not possible, except where prevented by barriers s such as topography, railroads, freeways, or environmental constraints. Bike and pedestrian connections that cross protected water features should have an average spacing of no more than 530 feet, unless exceptional habitat quality or length of connection prevents a connection.

Policy 9.48 Technology. Encourage the use of emerging vehicle and parking technology to improve real-time management of the transportation network and to manage and allocate parking supply and demand.

Policy 9.49 Performance measures. Establish multimodal performance measures and measures of system completeness to evaluate and monitor the adequacy of transportation services based on performance measures in goals 9.A. through 9.I. Use these measures to evaluate overall system performance, inform corridor and area-specific plans and investments, identify project and program needs, evaluate and prioritize investments, and regulate development, institutional campus growth, zone changes, Comprehensive Plan Map amendments, and conditional uses.

9.49.a. Eliminate deaths and serious injuries for all who share Portland streets by 2025.

9.49.b. Maintain or decrease the number of peak period non-freight motor vehicle trips, system-wide and within each mobility corridor to reduce or manage congestion.

9.49.c. By 2035, reduce the number of miles Portlanders travel by car to 11 miles per day or less, on average.

9.49.d. Establish mode split targets in 2040 Growth Concept areas within the City, consistent with Metro’s targets for these areas.

9.49.e. By 2035, increase the mode share of daily non-drive alone trips to 70 percent citywide, and to the following in the five pattern areas:

Pattern Area	2035 daily target mode share
Central City	85%
Inner Neighborhoods	70%
Western Neighborhoods	65%

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Eastern Neighborhoods	65%
Industrial and River	55%

9.49.f. By 2035, 70 percent of commuters walk, bike, take transit, carpool, or work from home at approximately the following rates:

Mode	Mode Share
Walk	7.5%
Bicycle	25%
Transit	25%
Carpool	10%
Single Occupant Vehicle (SOV)	30% or less
Work at home	10% below the line (calculated outside of the modal targets above)

9.49.g. By 2035, reduce Portland’s transportation-related carbon emissions to 50% below 1990 levels, at approximately 934,000 metric tons.

9.49.h. By 2025, increase the percentage of new mixed use zone building households not owning an automobile from approximately 13% (2014) to 25%, and reduce the percentage of households owning two automobiles from approximately 24% to 10%.

9.49.i. Develop and use alternatives to the level-of-service measure to improve safety, encourage multimodal transportation, and to evaluate and mitigate maintenance and new trip impacts from new development.

9.49.j. Use level-of-service, consistent with Table 9.1*, as one measure to evaluate the adequacy of transportation facilities in the vicinity of sites subject to land use review.

9.49.k. Maintain acceptable levels of performance on state facilities and the regional arterial and throughway network, consistent with the interim standard in Table 9.2*, in the development and adoption of, and amendments to, the Transportation System Plan and in legislative amendments to the Comprehensive Plan Map.

9.49.l. In areas identified by Metro that exceed the level-of-service in Table 9.2* and are planned to, but do not currently meet the alternative performance criteria, establish an action plan that does the following:

- Anticipates growth and future impacts of motor vehicle traffic on multimodal travel in the area
- Establishes strategies for mitigating the future impacts of motor vehicles

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- Establishes performance standards for monitoring and implementing the action plan.

*Note: Referenced Tables 9.1 and 9.2 are contained within the Transportation System Plan and should not be confused with tables or figures within the 2035 Comprehensive Plan.

9.49.m. Develop performance measures to track progress in creating and maintaining the transportation system.

Policy 9.50 Regional congestion management. Coordinate with Metro to establish new regional multimodal mobility standards that prioritize transit, freight, and system completeness.

9.50.a. Create a regional congestion management approach, including a market-based system, to price or charge for auto trips and parking, better account for the cost of auto trips, and to more efficiently manage the regional system.

Policy 9.51. Multimodal Mixed-Use Area. Manage Central City Plan amendments in accordance with the designated Central City Multimodal Mixed-Use Area (MMA) in the geography indicated in Figure 9-2. The MMA renders congestion / mobility standards inapplicable to any proposed plan amendments under OAR 660-0012-0060(10).

286.Finding: Policies 9.45 through 9.51 address the management of the City's transportation system and not development on private land. These policies do not apply.

Transportation Demand Management

Policy 9.52. Outreach. Create and maintain TDM outreach programs that work with Transportation Management Associations (TMA), residents, employers, and employees that increase the modal share of walking, bicycling, and shared vehicle trips while reducing private vehicle ownership, parking demand, and drive-alone trips, especially during peak periods.

Policy 9.53. New development. Create and maintain TDM regulations and services that prevent and reduce traffic and parking impacts from new development and redevelopment. Encourage coordinated area-wide delivery of TDM programs. Monitor and improve the performance of private-sector TDM programs.

Policy 9.54. Projects and programs. Integrate TDM information into transportation project and program development and implementation to increase use of new multimodal transportation projects and services.

287.Finding: Policies 9.52 through 9.54 address TDM programs. The FFTZ amendments affect one type of allowed use in employment and industrial zones. The City Council has not applied the TDM program to industrial development and those changes are not part of this ordinance.

Parking management

Policy 9.55. Parking management. Reduce parking demand and manage supply to improve pedestrian, bicycle and transit mode share, neighborhood livability, safety, business district vitality, vehicle miles traveled (VMT) reduction, and air quality. Implement strategies that reduce demand for new parking and private vehicle ownership, and that help maintain optimal parking occupancy and availability.

Policy 9.56. Curb Zone. Recognize that the Curb Zone is a public space, a physical and spatial asset that has value and cost. Evaluate whether, when, and where parking is the highest and best use of this public space in support of broad City policy goals and local land use context. Establish thresholds to utilize parking management and pricing tools in areas with high parking demand to ensure adequate

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on-street parking supply during peak periods.

Policy 9.57. On-street parking. Manage parking and loading demand, supply, and operations in the public right of way to achieve mode share objectives, and to encourage safety, economic vitality, and livability. Use transportation demand management and pricing of parking in areas with high parking demand.

Policy 9.58. Off-street parking. Limit the development of new parking spaces to achieve land use, transportation, and environmental goals, especially in locations with frequent transit service. Regulate off-street parking to achieve mode share objectives, promote compact and walkable urban form, encourage lower rates of car ownership, and promote the vitality of commercial and employment areas. Use transportation demand management and pricing of parking in areas with high parking demand.

Policy 9.59. Share space and resources. Encourage the shared use of parking and vehicles to maximize the efficient use of limited urban space.

Policy 9.60. Cost and price. Recognize the high public and private cost of parking by encouraging prices that reflect the cost of providing parking and balance demand and supply. Discourage employee and resident parking subsidies.

Policy 9.61. Bicycle parking. Promote the development of new bicycle parking facilities including dedicated bike parking in the public right-of-way. Provide sufficient bicycle parking at high-capacity transit stations to enhance bicycle connection opportunities. Require provision of adequate off-street bicycle parking for new development and redevelopment. Encourage the provision of parking for different types of bicycles. In establishing the standards for long-term bicycle parking, consider the needs of persons with different levels of ability.

288.Finding: Policies 9.55 through 9.61 address parking. The FFTZ amendments do not change parking requirements or development standards affecting parking or the use of the right-of-way for parking. These policies do not apply.

Finance, programs, and coordination

Policy 9.62. Coordination. Coordinate with state and federal agencies, local and regional governments, special districts, other City bureaus, and providers of transportation services when planning for, developing, and funding transportation facilities and services.

Policy 9.63. New development impacts. Prevent, reduce, and mitigate the impacts of new development and redevelopment on the transportation system. Utilize strategies including transportation and parking demand management, transportation system analysis, and system and local impact mitigation improvements and fees.

Policy 9.64. Education and encouragement. Create, maintain, and coordinate educational and encouragement programs that support multimodal transportation and that emphasize safety for all modes of transportation. Ensure that these programs are accessible to historically under-served and under-represented populations.

Policy 9.65. Telecommuting. Promote telecommuting and the use of communications technology to reduce travel demand.

Policy 9.66. Project and program selection criteria. Establish transportation project and program selection criteria consistent with goals 9A through 9I, to cost-effectively achieve access, placemaking, sustainability, equity, health, prosperity, and safety goals.

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Policy 9.67. Funding. Encourage the development of a range of stable transportation funding sources that provide adequate resources to build and maintain an equitable and sustainable transportation system.

289.Finding: Policies 9.62 through 9.67 address the funding and management of the City’s transportation system and not development on private land. These policies do not apply.

Connected and Automated Vehicles

Policy 9.68 Connected and Automated Vehicles Priorities and Outcomes. Prioritize connected and automated vehicles that are fleet/shared ownership, fully automated, electric and, for passenger vehicles, shared by multiple passengers (known by the acronym FAVES). Develop and implement strategies for each following topic.

9.68.a. Ensure that all levels of automated vehicles advance Vision Zero by operating safely for all users, especially for vulnerable road users. Require adequate insurance coverage for operators, customers, and the public-at-large by providers of commercial connected and autonomous vehicle services.

9.68.b. Ensure that connected and automated vehicles improve travel time reliability and system efficiency by:

1. maintaining or reducing the number of vehicle trips during peak congestion periods;
2. reducing low occupancy vehicle trips during peak congestion periods;
3. paying for use of, and impact on, Portland’s transportation system including factors such as congestion level, vehicle miles traveled, vehicle occupancy, and vehicle energy efficiency; and
4. supporting and encouraging use of public transportation.

9.68.c. Cut vehicle carbon pollution by reducing low occupancy “empty miles” traveled by passenger vehicles with zero or one passengers. Prioritize electric and other zero direct emission vehicles operated by fleets and carrying multiple passengers.

9.68.d. Make the benefits of automated mobility available on an equitable basis to all segments of the community while ensuring traditionally disadvantaged communities are not disproportionately hurt by connected and autonomous vehicle use. This includes people with disabilities, as well as communities of color, women, and geographically underserved communities.

9.68.e Identify, prevent, and mitigate potential adverse impacts from connected and automated vehicles.

Policy 9.69 Connected and Automated Vehicles Tools. Use a full range of tools to ensure that connected and automated vehicles and private data communications devices installed in the City right of way contribute to achieving Comprehensive Plan and Transportation System Plan goals and policies.

9.69.a. Maintain City authority to identify and develop appropriate data sharing requirements to inform and support safe, efficient, and effective management of the transportation system. Ensure that when connected and automated vehicles use City rights-of-way or when vehicles connect with smart infrastructure within the City they share information including, but not limited to, vehicle type, occupancy, speed, travel routes, and travel times, with appropriate

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privacy controls. Ensure that private data communications devices installed in the City right of way are required to share anonymized transportation data.

9.69.b. Design and manage the mobility zone, curb zone, and traffic control devices, e.g. to limit speeds to increase safety, to minimize cut-through traffic, evaluate future demand for pick-up and drop-off zones, and to prioritize automated electric vehicles carrying more passengers in congested times and locations;

9.69.c. Evaluate the public cost and benefit of investments in wayside communication systems serving connected and automated vehicles. Develop a criteria-driven automated vehicle wayside infrastructure investment plan.

9.69.d. Develop sustainable user-pays funding mechanisms to support connected and automated vehicle infrastructure and service investments, transportation system maintenance, and efficient system management.

9.69.e. Ensure that automated vehicles and vehicles that connect to smart City infrastructure, and private data communications devices installed in the City right of way, help pay for infrastructure and service investments, and support system reliability and efficiency. Develop a tiered pricing structure that reflects vehicle impacts on the transportation system, including factors such as congestion level, vehicle miles traveled, vehicle occupancy, and vehicle energy efficiency.

290.Finding: Policies 9.68 and 9.69 address the management of automated vehicles and not development on private land. These policies do not apply.

Chapter 10: Land Use Designations and Zoning

Goal 10.A: Land use designations and zoning. Effectively and efficiently carry out the goals and policies of the Comprehensive Plan through the land use designations, Zoning Map, and the Zoning Code.

291. The FFTZ amendments do not change the land use designations, nor do they amend the Comprehensive Plan Map or the Zoning Map. These findings show how the changes carry out the goals and policies of the Comprehensive Plan through the Zoning Code.

Land use designations

Policy 10.1. Land use designations. Apply a land use designation to all land and water within the City's Urban Services Boundary. Apply the designation that best advances the Comprehensive Plan goals and policies. The land use designations are shown on the adopted Land Use Map and on official Zoning Maps.

292. The FFTZ amendments do not change the land use designations, nor do they amend the Comprehensive Plan Map or the Zoning Map. These findings show how the changes carry out the goals and policies of the Comprehensive Plan through the Zoning Code.

The Zoning Map and the Zoning Code

Policy 10.2. Relationship of land use designations to base zones. Apply a base zone to all land and

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water within the City's urban services boundary. The base zone applied must either be a zone that corresponds to the land use designation or be a zone that does not correspond but is allowed per Figure 10-1 — Corresponding and Less-Intense Zones for Each Plan Map Designation. In some situations, there are long-term or short-term obstacles to achieving the level of development intended by the land use designation (e.g., an infrastructure improvement to serve the higher level of development is planned but not yet funded). In these situations, a less intense zone (listed in Figure 10-1) may be applied. When a land use designation is amended, the zone may also have to be changed to a corresponding zone or a zone that does not correspond but is allowed.

Policy 10.3. Amending the Zoning Map.

10.3.a. Amending a base zone may be done legislatively or quasi-judicially.

10.3.b. When amending a base zone quasi-judicially, the amendment must be to a corresponding zone (*see Figure 10-1 — Corresponding and Allowed Zones for Each Land Use Designation*). When a designation has more than one corresponding zone, the most appropriate zone, based on the purpose of the zone and the zoning and general land uses of surrounding lands, will be applied.

10.3.c. When amending a base zone legislatively, the amendment may be to a corresponding zone or to a zone that does not correspond but is allowed (*see Figure 10-1 — Corresponding and Allowed Zones for each Land Use Designation for zones that are allowed*). A legislative Zoning Map amendment may not be to a zone that is not allowed.

10.3.d. An amendment to a base zone consistent with the land use designation must be approved when it is found that current public services can support the uses allowed by the zone, or that public services can be made capable by the time the development is complete. The adequacy of services is based on the proposed use and development. If a specific use and development proposal is not submitted, services must be able to support the range of uses and development allowed by the zone. For the purposes of this requirement, services include water supply, sanitary sewage disposal, stormwater management, transportation, school district capacity (where a school facility plan exists), and police and fire protection.

10.3.e. An amendment to apply or remove an overlay zone or plan district may be done legislatively or quasi-judicially, and must be based on a study or plan document that identifies a specific characteristic, situation, or problem that is not adequately addressed by the base zone or other regulations.

293.Finding: The FFTZ amendments do not amend the Zoning Map. The changes only define the allowed uses in the base zones in the Zoning Code. This policy does not apply.

Policy 10.4. Amending the Zoning Code. Amendments to the zoning regulations must be done legislatively and should be clear, concise, and applicable to a broad range of development situations faced by a growing city. Amendments should:

294.Finding: The FFTZ amendments were initially adopted by a legislative process and the reconsideration on remand is a continuation of the initial legislative procedure at City Council. The regulations are clear and concise in creating one use category with clear definition of terms and is applicable to all employment and industrial zones.

10.4.a. Promote good planning:

- Effectively and efficiently implement the Comprehensive Plan.

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295.Finding: As demonstrated by these findings, the FFTZ amendments effectively and efficiently implement the Comprehensive Plan. Specifically:

The City Council has considered applicable policies to determine that this ordinance on the whole complies with the 2035 Comprehensive Plan and on balance is equally or more supportive of the goals and policies of the 2035 Comprehensive Plan than the current regulations. In reaching this conclusion, City Council has weighed and balanced competing policy directions.

In particular, the Council finds that Goals 3.B and 4.C with Policies 4.79 and 4.80, requires evaluating and reducing risk to people and property from natural hazards. The FFTZ amendments further these goals and policies by limiting the risks of storing large volumes of fossil fuels in an area with high susceptibility to an earthquake. Large fossil fuel terminals represent a risk to people, property and the natural environments that the City Council finds as a compelling reason to limit future risk by limiting the size of new facilities and prohibit the expansion of existing facilities. Continuing to allow an unlimited increase in fossil fuel storage tank capacity at FFTs in a high-risk area would be less supportive of the 2035 Comprehensive Plan than adopting the FFTZ amendments

Council further finds that Policy 6.48 provides direction to limit fossil fuel terminals to what is necessary to serve the region. The City Council has considered the role that FFTs play in supporting the regional economy and how Portland's (and the region's) economy will continue to be dependent on fossil fuels as we transition to a zero-carbon future. The City Council considered the future demand for petroleum in Oregon out to the year 2050. As documented in the 2022 BPS Regional Demand for Liquid Fossil Fuels memo, the BPS forecast for fossil fuel consumption for Oregon, based on the US EIA regional forecast, calculates an approximate 11 percent increase in total petroleum consumption to 390, 000 billion BTU in 2050. However, petroleum consumption in Oregon peaked in 1999 at 395,000 billion BTU, which is less than the 2050 consumption forecast. Also, the US EIA forecasts for petroleum includes the volumes of fuel ethanol and biodiesel blended with motor gasoline and distillate fuel oil, respectively, which under the amendments are renewable fuels. New storage tank capacity can be built to accommodate the increased consumption of renewable fuels because renewable fuels are specifically called out as being not fossil fuels in the code amendments, and therefore not subject to the limits on fossil fuel storage tank capacity. In addition, most (66%) of the increased consumption of petroleum in 2050 can be attributed to the 25,000 billion BTU increase in jet fuel consumption. New storage tank capacity can be built to accommodate the increased consumption of jet fuel under an exception in the code amendments for storage of fossil fuels for exclusive use at an airport. The City Council finds that there is a surplus of system capacity (approximately 5 billion BTU or 1.3%) between future demand and past historic peaks, and that surplus may be larger than 1.3 percent because the future demand forecast includes volumes of jet and renewable fuels for which the code includes specific exceptions to the storage tank capacity limits. These exceptions are included the code amendments because jet and renewable fuel are expected to be the faster growing segments of fuel consumption. Accordingly, the City Council finds that there is no evidence that the demand for petroleum will outpace the historic peak consumption in Oregon and there is a surplus of system capacity to meet the expected demand. The City Council also considered the Lighthouse Energy Consulting memo on the natural gas infrastructure that found that NW Natural's 2018 Integrated Resource Plan (IRP) identified natural gas resources that could meet the forecasted peak day demands over that 20-year period covered by the IRP. The additional peak day capacity does not rely on new or expanded natural gas infrastructure in the City of Portland. Further, the City Council

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finds the natural gas storage tank capacity that exists today in Portland is adequate to serve the future regional market.

The PBA coalition testimony repeats previous claims, without supporting evidence, that the ordinance will “hurt the local economy”. The City Council finds that, as in 2016 and 2019, these claims do not contradict or refute any of the supporting evidence or findings that Council has relied upon for adopting this ordinance. The ordinance has been crafted to provide the fossil fuel storage tank capacity, with the allowed exceptions, necessary to serve the future regional market as part of a growing economy (Policy 6.48). WPSA testimony claims the code amendments would create significant adverse impacts on the local energy supply and subsequent damage to the economy. WSPA claims the current infrastructure is insufficient for future fuel demand, by both quantity and type of fuel, without providing supporting evidence or contradicting the evidence in the record. The Idaho Governor’s Office of Energy and Mineral Resources, along with others from Idaho, submitted testimony that claims the proposed ordinance would seriously harm consumers in Oregon, Idaho and Washington by decreasing the availability of fuel in the future. The City Council acknowledges that Idaho petroleum consumption is expected to increase. As explained under Policy 6.48, Council finds the zoning code amendments do not regulate the direction of flow of petroleum products, nor do they regulate the ultimate destination or consumer of those products. Accordingly, based on the totality of the record, Council finds that a combination of factors – forecasted surplus fossil fuel storage capacity in Oregon; the exceptions for additional storage tank capacity for jet fuel and renewables to accommodate the large share of future growth in forecasted demand; only a small portion of Idaho’s fossil fuels come through Portland; and alternative sources of fossil fuels from terminals and pipelines outside of Portland – means that that the amendments properly limit storage to what is necessary to serve the regional market and will not decrease the availability of fuel to the region (broadly defined), will not hinder emergency response, and will not harm consumers in Oregon, Idaho, or Washington in the future.

The City has carefully considered the impacts to the regional fossil fuel supply as a means to ensure the region’s growing economy has the energy it needs. The existing terminals are designated as a limited use specifically to allow them to continue to operate to supply fossil fuels to region. The updated supporting memos on liquid fossil fuel and natural gas demand show that the amendments would not have a significant adverse impact on the “local” (or broader regional) energy supply. The liquid fossil fuel demand memo shows that the increase in demand for fossil fuels is less than the historic peak consumption, without accounting for the renewable fuel component in those forecasts and the exception that allows additional storage tank capacity for jet fuel – the fossil fuel product that accounts for most of the increased consumption out to 2050.

At the same time, Council finds that Goal 6.C with Policies 6.20 and 6.36, among others, provide for the retention and growth of businesses, especially those in the traded sector. However, the City Council interprets these policies apply to the economy in general, rather than specific types of business. The FFTZ amendments apply to a narrowly defined new land use category, Bulk Fossil Fuel Terminals, and do not have a significant effect on the other allowed uses in industrial and employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial and employment areas of Portland. These amendments are narrowly constructed to apply to one class of businesses that make up a small portion of the city, regional and state economy. Further, these regulations limit future expansion of these fossil fuel terminals, with some key exceptions, and designate these businesses as a limited use that allows their continued operation.

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Guilfs Lake Industrial Sanctuary (GLIS) Plan policies provide direction to maintain, protect and enhance businesses in the sanctuary. This plan was adopted in 2001 and does not address the need for resiliency in a high and medium liquefaction susceptibility area. The City Council interprets these policies to apply to the GLIS as a whole and not individual businesses. The City Council interprets the legislative intent of the GLISP is to maintain the area as an industrial sanctuary and to prohibit incompatible land uses. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses that could undermine the viability of the industrial sanctuary. These regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. The remaining industrial uses to continue to operate under current zoning regulations. The impact of the limits on fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to continue to operate and make upgrades and supports limited enhancement through exceptions to the storage capacity restrictions.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

- **Address existing and potential land use problems.**

296.Finding: Most of Portland's employment and industrial zones are in areas with high to very high levels of liquefaction susceptibility, as documented by the 2018 DOGAMI Earthquake Regional Impact Analysis. Fossil fuel infrastructure poses considerable risks in the event of a major earthquake. The FFTs have significant seismic risks because most of the tanks have been constructed without any or only limited seismic design criteria on soils with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management's 2016 Critical Energy Infrastructure Hub Study and the 2012 DOGAMI Earthquake Risk Study for Oregon's Critical Energy Infrastructure Hub report. Continuing to allow the increase in FFTs in a high-risk area increases the risk to the surrounding industrial district and the Willamette River. The FFTZ amendments limit future risk by limiting the size of new fossil fuel terminals and prohibiting the expansion of fossil fuel storage tank capacity at existing fossil fuel terminals, with limited exceptions for jet and renewable fuels.

- **Balance the benefits of regulations against the costs of implementation and compliance.**

297.The FFTZ amendments balance the benefits (limiting risk in the event of a major earthquake) by limiting and mitigating the cost of compliance. The major cost is prohibiting expansion of fossil fuel storage tank capacity at existing FFTs. This cost is mitigated by designating existing FFTs as a limited use, as opposed to a prohibited nonconforming use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake, which ultimately can make Portland more resilient. Further, the regulations include a number of provisions to facilitate operations and allow for expansion at the existing FFTs. First, the amendments are narrowly written to limit fossil fuel storage tank capacity – there are no limits on expansion of other types of facilities (intermodal facilities, pipelines, rail lines, marine terminals). The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, nor destination of the fuel. Second, the existing fossil fuel storage tanks are not frozen in place. The regulations prohibit the expansion of fossil fuel tank capacity, but existing terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as a way to facilitate replacement and seismic upgrades. Finally,

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the ordinance allows for new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

- **Maintain Portland’s competitiveness with other jurisdictions as a location in which to live, invest, and do business.**

298.Finding: The City Council interprets this policy to require the City maintain an adequate supply of employment and housing land, but that it does not require the City to accommodate specific individual businesses or sectors. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s employment land supply to create opportunities for a growing economy. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The remaining industrial uses continue to operate under the current development review system.

10.4.b. Ensure good administration of land use regulations:

- **Keep regulations as simple as possible.**

299.Finding: The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain Portland’s employment land supply to create opportunities for a growing economy. These regulations apply to only one type of business that makes up a minority part of the businesses found in Portland’s industrial districts. The remaining industrial uses continue to operate under the current development review system.

- **Use clear and objective standards wherever possible.**

300.Finding: The FFTZ amendments establish clear definitions for fossil fuels and the Bulk Fossil Fuel Terminal use category.

- **Maintain consistent procedures and limit their number.**
- **Establish specific approval criteria for land use reviews.**
- **Establish application requirements that are as reasonable as possible, and ensure they are directly tied to approval criteria.**
- **Emphasize administrative procedures for land use reviews.**
- **Avoid overlapping reviews.**

301.Finding: The FFTZ amendments do not establish new procedures or land use reviews. The FFTZ amendments establish clear definitions for fossil fuels and the Bulk Fossil Fuel Terminal use category. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland’s industrial districts. The other industrial uses continue to operate under current regulations. Designating the existing FFTs as a limited use, as opposed to a prohibited nonconforming or conditional use, allows the terminals to continue to operate and invest in upgrades without additional discretionary land use reviews. tank capacity, such as consolidating smaller tanks into larger tanks.

10.4.c. Strive to improve the code document:

- **Use clear language.**
- **Maintain a clear and logical organization.**
- **Use a format and layout that enables use of the document by lay people as well as professionals.**
- **Use tables and drawings to clarify and shorten the document.**
- **Identify and act on regulatory improvement suggestions.**

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302.Finding: The FFTZ amendments create a new use category consistent with the format used described and regulate other types of uses. The Zoning Code amendments are presented in as clear and objective of a way possible to ensure the intended users will be able understand and utilize the Zoning Code as it applies to their development proposals, land use, and properties, consistent with Comprehensive Plan Policy 10.4.

Part IV. Adopted Area Plans

Pursuant to PCC 33.835.040(A), Council considers whether the amendments are consistent with any plan associated with the regulations. The City Council finds that “consistent” means “the ordinance meets the requirements of, satisfies, or adheres to the regulations, mandate, or plan listed in the goal or policy. The City Council finds that Guild’s Lake Industrial Sanctuary Plan (GLISP) is the only plan associated with the FFTZ amendments.

Guilds Lake Industrial Sanctuary Plan (2001)

The Guild’s Lake Industrial Sanctuary (GLIS) Plan provides a policy framework to protect and promote the area’s long-term economic viability as an industrial district for a broad variety of industrial land uses and businesses. The GLIS is an area that runs northwest of NW Vaughn Street along the Willamette River to the St. Johns Bridge. The plan recognizes the unique role of industrial land in Portland’s economy and the importance of industrial businesses in providing living-wage jobs. The plan’s vision statement, policies and objectives have been adopted as part of Portland’s Comprehensive Plan and are implemented through the Zoning Code through the GLIS Plan District (33.531), which adds land use prohibitions and limits that were (at the time) above and beyond the limits in the industrial base zones.

Policy 1: Jobs and Economic Development

Maintain and expand industrial business and employment opportunities in the Guild’s Lake Industrial Sanctuary. Stimulate investment in the area’s public and private infrastructure and industrial facilities.

303.Finding: The 2035 Comprehensive Plan defines the verb “maintain” to mean keep what you have; conserve; preserve; continue. The 2035 Comprehensive Plan defines the verb “expand” to mean make something that already exists more extensive. The City Council interprets this policy and objectives to apply to the GLISP area as whole and not to individual businesses or sectors of business. Council interprets this policy to provide direction to support the growth of business and employment opportunities in the GLIS. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes maintain the area as an industrial sanctuary for industrial businesses and employment. These regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. The remaining industrial uses continue to operate under current zoning regulations. The impact of the limits on fossil fuel storage tanks is mitigated by designating the existing FFTs as a limited use, as opposed to a prohibited or non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for expansion. The regulations include a number of provisions to allow for expansion at the existing FFTs. First, the amendments are narrowly written to limit fossil fuel storage tank capacity – there are no limits on expansion of other types of facilities (intermodal facilities, pipelines, rail lines, marine terminals). The regulations do not regulate throughput (the volume of fossil fuels moving through the terminals), the type of fuel, nor destination of the fuel. Second, the existing fossil fuel storage tanks are not frozen in place. The regulations prohibit the expansion of fossil fuel tank capacity, but existing terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as

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a way to facilitate replacement and seismic upgrades. Finally, the ordinance allows for new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

The City Council interprets the verb “stimulate” to mean “encourage”, which is defined in the 2035 Comprehensive Plan as to promote or foster using some combination of voluntary approaches, regulations, or incentives. The FFTZ amendments apply to only one type of business that makes up a minority part of the businesses found in GLIS. The remaining industrial uses continue to operate under current zoning regulations. The limits on expansion of fossil fuel storage tank capacity at fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to continue to operate and invest in upgrades. In addition, the ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can make investments in multimodal freight facilities. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the area.

As noted in the findings above, the FFTZ amendments are consistent with the goals and policies of Chapter 6 (Economic Development) of the 2035 Comprehensive Plan and Statewide Planning Goal 9. The findings in response to those goals and policies are incorporated by reference.

Objective 1. Provide new employment opportunities by reusing or redeveloping reclaimed, underutilized and vacant land and buildings in the GLIS.

304.Finding: The City Council interprets the GLISP objectives as subpolicies that support the policy. The City Council does not interpret the objectives as mandatory requirements that must be satisfied with every legislative action. The City Council finds that the objective does not require the City to provide new employment opportunities with every legislative action but instead requires that the City maintain an adequate supply of industrial land that can provide for new employment opportunities, as defined in the EOA. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will continue to provide opportunities for industrial redevelopment in the GLIS. These regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. These changes support the retention and reuse of existing fossil fuel terminals by designating them as a limited use that allows the terminals to continue to operate and invest in upgrades, which maintains the current employment opportunities at these businesses. The regulations also provide opportunities to reuse and redevelop underutilized facilities at the existing FFTs. The existing fossil fuel storage tanks are not frozen in place. The regulations prohibit the expansion of fossil fuel tank capacity, but existing terminals are allowed to replace and reconfigure their existing fossil fuel storage tanks to adjust to future business needs as a way to facilitate replacement and seismic upgrades. The ordinance also allows for new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions,

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is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

Objective 2. Foster a business and public policy environment that promotes continued private and public sector investments in infrastructure, facilities, equipment and jobs.

305.Finding: The verb “foster”, which is defined in the 2035 Comprehensive Plan, means to encourage or guide the incremental development of something over a long period of time. The City Council interprets this objective seeks to creates an environment that furthers public and private sector investments. The City Council interprets this policy and objectives to apply to the GLISP area as whole and not to individual businesses or sectors of business. These regulations minimize the impact to businesses in the GLIS because they apply to only one type of business that makes up a minority part of the businesses found in GLIS and regulate one part (fossil fuel storage tanks) of the FFTs. The existing FFTs are designated as a limited use that allows for the continued operation, maintenance and improvement of the multimodal infrastructure and fossil fuel storage tank capacity at the FFTs. The regulations do not limit investment in transloading facilities or multimodal infrastructure. The ordinance encourages investment by allowing new storage tanks for jet fuel, renewable fuel, and other types of fuels identified in the exceptions in PCC 33.920.300.D. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the area.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

Objective 3. Enhance the GLIS as a competitive and forward-thinking industrial area by fostering innovative and environmentally-sensitive industrial projects and practices that improve the operational efficiency of GLIS firms while conserving natural resources and reducing pollution.

306.Finding: The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The verb “foster”, which is defined in the 2035 Comprehensive Plan, means to encourage or guide the incremental development of something over a long period of time. The City Council interprets this policy to mean that industrial development should incorporate green building practices, such as on-site stormwater management, and natural resource conservation, such as riverbank restoration. The City has achieved this objective through other regulatory programs, such as the Stormwater Management Manual and the Greenway Overlay Zone, that are not amended by this ordinance. The limits on expansion of fossil fuel storage tank capacity at fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to continue to operate and invest in other types of upgrades that conserve natural resources and reduce pollution.

Policy 2: Transportation

Maintain, preserve and improve the intermodal and multimodal transportation system to provide for the smooth movement of goods and employees into and through the Guild’s Lake Industrial Sanctuary.

307.Finding: The City Council interprets this policy consistent with other policies that address how to maintain and improve the multimodal transportation system (see Policy 6.23, 6.41, 9.30, 9.31 and 9.32). The City Council interprets this policy and the objectives to apply to the GLISP area as whole and not to individual businesses or sectors of business. The transportation policy discussion and action plan in the GLISP is focused on a street system that accommodates all modes of traffic while

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preserving operational characteristics that support truck movement. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the area that seeks to accommodate all modes of traffic consist with the freight classifications for the district's roadways.

The fossil fuel terminals are privately-owned, specialized intermodal facilities that exclusively transport liquid bulk products into and out of the GLISP area via pipeline, barge, rail and truck. There is no evidence that these terminals are used by other businesses to move other types of goods. The FFTZ amendments support continued investment in the intermodal and multimodal transportation system by designating existing FFTs as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels. Further, the use limitations (33.140.100.B.17.a) provide flexibility to FFTs to replace and reconfigure existing storage tank capacity to increase safety. The ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can make investments in multimodal freight facilities. As noted in the findings above, the FFTZ amendments are consistent with the goals and policies of Chapter 9 (Transportation) of the 2035 Comprehensive Plan and Statewide Planning Goal 12. The findings in response to those goals and policies are incorporated by reference.

Objective 1. Maintain, protect, and enhance the public and private multimodal transportation investments in the GLIS, including rail and marine terminal facilities, to ensure its continued viability as a major center for the import and export of industrial products in the state of Oregon.

308.Finding: The 2035 Comprehensive Plan defines the verb “maintain” to mean keep what you have; conserve; preserve; continue. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will continue to provide the same opportunities for investment to provide for the continued movement of goods through the GLIS. The FFT amendments regulate only one type of business (FFT) that make up a small part of the multimodal infrastructure system. For example, in the 2020 Portland Harbor Marine Cargo Forecast, petroleum liquid bulk cargo accounts for 8% to 14% of the total volume of cargo flowing through the Portland Harbor (without accounting for automobiles or container cargo volumes, which if they were accounted for would mean a smaller share of the total cargo volume). The FFT amendments regulate one part (fossil fuel storage tanks) of the FFTs and do not limit transloading facilities or multimodal infrastructure. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the area to provide for the continued viability as a major industrial center in Oregon.

The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The City Council finds that not every decision is required to enhance investments in the multimodal transportation system. The FFTZ regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. The City Council finds that the ordinance maintains the GLIS a major import and export freight hub by designating the existing FFTs as a limited use, as opposed to a non-conforming use, that allows the terminals to continue to operate and invest in upgrades and supports opportunities for growth through exceptions, such as jet or renewable fuels, to the storage capacity restrictions. The ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. The amendments support Oregon's largest seaport and largest airport by including a specific exemption to allow for additional fossil fuel storage tank

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capacity for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, or rail yard. The amendments protect the private multimodal investments at the FFTs by allowing for the maintenance, replacement and reconfiguration of existing fossil fuel storage tank capacity.

The amendments allow for the enhancement of the private multimodal investments at the FFTs because they do not limit the pipeline infrastructure, marine terminals or rail facilities at the existing FFTs. The amendments allow new intermodal fossil fuel terminals with a fossil fuel storage tank capacity up to 2 million gallons and terminals of any size that transport fuel exclusively by truck or that exclusively handle jet or renewable fuels. The amendments allow for additional storage tank capacity for jet fuel and renewable fuel, which are expected to be the fastest growing components of future liquid fuel demand. In addition, the regulations include a specific exception (33.920.300.D.7) that allows for additional fossil fuel storage for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, rail yard, or as part of a fleet vehicle servicing facility, which specifically addresses the role of FFTs in serving other businesses in the area, to support the movement of goods and people. The only part of the multimodal system that cannot be enhanced is expanding fossil fuel storage tank capacity. The City Council has carefully considered the impact of these amendments and included specific exceptions to ensure the continued viability of the GLIS as a major center for the import and export of industrial products in the state of Oregon.

The natural gas supply system relies solely on pipelines for distribution and is expected to do so in the future as described in the Lighthouse Energy Consultants natural gas system memo that demonstrates there are sufficient alternatives to meet future demand for natural gas without additional LNG storage in Portland.

Therefore, there will not be an adverse impact on the GLIS' continued viability as a major center for import and export of industrial products because:

- FFTs will be designated as limited uses and allowed to continue to operate, protect and enhance their multimodal transportation investments.
- FFT fossil fuel storage tanks are only part of the overall multimodal transportation system. The amendments do not affect investment in other parts of the system.
- The future demand projections for fuel indicate that the existing fossil fuel storage tank capacity will be sufficient to meet future needs when accounting for the exceptions that allow for additional storage tank capacity for jet fuel and renewable fuels as well as storage for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, rail yard, or as part of a fleet vehicle servicing facility.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.

Objective 2. Maintain operational characteristics on roads and at intersections that support truck movements and industrial economic growth, while accommodating traffic, transit, and emergency access needs.

309.Finding: The Council finds that this policy applies to functional classifications of the transportation system. The FFTZ amendments do not change the functional classification of any roads in the GLIS.

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These regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to maintain operational characteristics and intersections.

Objective 3. Minimize traffic conflicts between industrial and nonindustrial uses.

310.Finding: The City Council interprets the verb “minimize” to mean to reduce something to the smallest possible amount. Minimizing traffic conflicts is a function of transportation policy. The FFTZ amendments do not change any transportation policies, including the functional classification of any roads in the GLIS. The FFTZ amendments do not include map changes, nor do they allow for new incompatible nonindustrial land uses that could be expected increase traffic conflicts.

Objective 4. Manage congestion on highways and roads within the GLIS through regional and area-wide systems planning and maximize the efficiency of transportation facilities for all modes of travel, with the participation of private industry.

311.Finding: The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes will continue to provide the same opportunities for investment in the GLIS. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the area to manage congestion on highways and roads within the GLIS.

The City Council interprets the verb “maximize”, which is not defined in the 2035 Comprehensive Plan, to mean to make the best use of. These regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. The limits on expansion of fossil fuel storage tank capacity at fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to continue to operate and invest in other types of upgrades to all modes of travel. The FFTZ regulations allow terminals to maximize the efficiency of their private transportation facilities (docks and pipelines) by providing expanded opportunities through exceptions, such as for jet or renewable fuels, to the fossil fuel storage tank capacity restrictions. The ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of the multimodal freight transportation system. Existing FFTs and other industrial uses can make investments in multimodal freight facilities.

In response to the LUBA remand, the City Council has considered how the regulations might trigger a shift in transportation modes that could increase congestion on highways and roads in the GLIS. The 2017 Oregon Fuel Action Plan documented that about 90 percent of Oregon’s transportation fuels are produced by the refineries in Washington and delivered via the Olympic pipeline and barge to the Portland terminals. These terminals receive, store, blend, and transfer petroleum products. Most of the remaining ten percent is delivered by barge from refineries in the San Francisco Bay Area or by pipeline from refineries in Salt Lake City, Utah via a distribution terminal in Pasco, Washington. From the Pasco facility, fuel is trucked into Oregon to service eastern Oregon communities. California Bay Area refineries supply minimal quantities of fuel to a Chico, California terminal and then the fuel is trucked into Oregon to supply southern Oregon communities. A very small amount of fuel is delivered by rail.

However, in response to the testimony and remand issue identified by LUBA, City Council considers a speculative scenario in which the demand for fossil fuel exceeds the existing capacity of the Portland FFTs. Based on the information in the 2017 Oregon Fuel Action Plan, the increased demand for fuel is likely to be met through the following means:

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1. Increased demand in Eastern Oregon could be met from the fuel terminal in Pasco, Washington, which has a pipeline connection to refineries in Salt Lake City.
2. Increased demand in Southern Oregon could be met through increased deliveries from the fuel terminal in Chico, California.
3. Increased demand in the Willamette Valley and the Northern and Central Oregon Coast are likely to be met either through increased deliveries to an Olympic Pipeline terminal in Vancouver, Washington; increased barge deliveries to another port on the Lower Columbia River or the Oregon Coast; or via rail.

This speculative scenario focuses on the potential impact of increased truck traffic between the new entry supply point in the region and the FFTs in Portland because once trucks arrive at the CEI Hub the trucks become part of the regional distribution system as if there were additional fossil fuel storage tank capacity in Portland.

There are two key points of entry that could result in increased truck traffic. Increased fossil fuel deliveries from Port Westward or Port of St. Helens in Oregon could result in increased truck traffic on Highway 30, which is designated as a Regional Truckway in the adopted 2035 Transportation System Plan. Regional truckways are the highest freight designation in Portland's freight system and are designed to facilitate interregional movement of freight and support industrial uses with high levels of truck activity. PBOT's RTP (2018/2040) traffic demand model projects the future traffic on Highway 30 at the Linnton terminals will grow about 30% over today to 3,420 vehicles in 2040 PM peak hour, but those volumes will still be lower than the roadway capacity. Increased truck traffic on this highway segment would have minimal impact because Highway 30 is part of the City's freight system and is not considered a congested facility, except at the interchange with the St. Johns Bridge. The St. Johns Bridge interchange is in the middle of the CEI Hub, therefore, this scenario would have similar transportation impacts as if the added fossil fuel storage tank capacity had been at a Portland FFT.

Increased deliveries from Vancouver, Washington (or other Washington ports) could result in increased truck traffic on Interstate 5, a designated Regional Truckway, which is the highest freight designation in Portland's freight system and is designed to facilitate interregional movement of freight and support industrial uses with high levels of truck activity. Increased truck traffic on this highway segment would have minimal impact because Interstate 5 is part of the City's freight system and currently is a congested route, which is the focus of planning and investment with the Interstate Bridge Replacement and I-5 Rose Quarter improvement projects.

Therefore, City Council finds that there is no evidence of unmet demand and even if there were, the change in transportation modes would not adversely impact the multimodal transportation system because the impacts are expected to be limited to major truck routes that are designated for that type of traffic.

Objective 5. Develop alternative transportation options for employees of the GLIS, including transit, carpools, bicycling, and walking to reduce parking needs, vehicle emissions, and congestion levels.

312.Finding: The City Council interprets this policy to focus on the commute modes of employees of the GLIS. Developing alternative transportation options is a function of transportation policy. The FFTZ amendments do not change any transportation policies, therefore, this policy does not apply. Further, employment at FFTs is a small share of the overall employment of the GLIS. The limits on expansion of fossil fuel storage tank capacity at fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to continue to operate, which can maintain these employment levels, which can maintain ridership for the existing transit service.

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The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore the City continues to plan for public infrastructure investments in the area to support this objective.

Objective 6. Locate safe pedestrian and bicycle routes within the GLIS that minimize conflicts with industrial traffic. Improve pedestrian and bicycle connections to nearby residential areas to reduce congestion levels and auto emissions, preserve capacity of the street system, and reduce parking needs.

313.Finding: The City Council interprets this policy to focus on the investment in pedestrian and bicycle routes in the GLIS, which is a function of transportation policy. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore this policy does not apply.

Objective 7. Recognize the role of NW Vaughn Street as an important multimodal access route to the Guild's Lake Industrial Sanctuary and Northwest Portland.

314.Finding: The City Council interprets this policy to focus on the functional classification of NW Vaughn Street, which is a function of transportation policy. The FFTZ amendments do not amend the Citywide System Plan or the Transportation System Plan, therefore this policy does not apply.

Policy 3: Land Use

Preserve and protect land primarily for industrial uses, and minimize land use conflicts in the Guild's Lake Industrial Sanctuary. Allow compatible nonindustrial uses within the GLIS that provide retail and business services primarily to support industrial employees and businesses.

315.Finding: The City Council interprets this policy and the objectives to apply to the GLISP area as whole and not to individual businesses or sectors of business. The City Council interprets this policy to mean that the most effective way to preserve and protect industrial uses is to minimize land use conflicts by limiting nonindustrial uses, which is the reason why the City Council applied the Prime Industrial Overlay Zone to the GLIS as part of the 2035 Comprehensive Plan adoption. The Prime Industrial Overlay Zone restricts additional uses, such as self-service storage and major event entertainment, that are allowed in the industrial base zones. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, with these changes, the GLIS will continue to be used primarily for industrial uses and land use conflicts will be minimized.

Objective 1. Preserve the overall industrial character of the Guild's Lake Industrial Sanctuary.

316.Finding: The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, the overall industrial character of the GLIS will be preserved.

Objective 2. Preserve the physical continuity of the area designated as Industrial Sanctuary within the Guild's Lake Industrial Sanctuary.

317.Finding: The FFTZ amendments do not include map changes, including to the plan district boundaries, therefore, with the physical continuity of the GLIS is preserved.

Objective 3. Minimize conflicts between industrial and nonindustrial land uses.

318.Finding: The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, the GLIS will continue to be used primarily for industrial uses and land use conflicts will be minimized.

Objective 4. Prohibit new residential uses within the GLIS.

319.Finding: The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, residential uses within the GLIS will continue to be prohibited.

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Objective 5. Allow the provision of support services to employees and businesses in the GLIS to reduce trips outside of the GLIS.

320.Finding: The FFTZ amendments do not include map changes, nor do they allow for new nonindustrial land uses, therefore, this objective does not apply.

Objective 6. Encourage industrial businesses to locate their accessory offices and showrooms along NW Vaughn Street.

321.Finding: The FFTZ amendments do not include map changes, nor do they allow for new nonindustrial land uses. Additionally, there are no FFTs located on NW Vaughn, therefore, this objective does not apply.

Objective 7. Preserve the GLIS’s Willamette River waterfront as a location for river-dependent and river-related industrial uses.

322.Finding: The existing fossil fuel terminals are designated as a limited use that allows the terminals to continue to operate and invest in upgrades, including their waterfront facilities. The FFTZ amendments do not include map changes, nor do they allow for new nonindustrial land uses, therefore, the Willamette River waterfront is preserved as a location for river-dependent and river-related industrial uses.

Objective 8. Recognize the Willamette River as a valuable economic, transportation, natural and recreational resource for the entire city. Coordinate GLIS Plan policies and implementation measures with ongoing and future citywide planning efforts that address the significance of the river and the city’s industrial land supply.

323.Finding: The verb “recognize” is defined in the 2035 Comprehensive Plan as to acknowledge and treat as valid. The 2035 Comprehensive Plan defines “coordinate” as work together with others toward a common goal; collaborate. The FFTZ amendments do not include map changes, nor do they allow for new nonindustrial land uses, therefore, the city’s industrial land supply is maintained. The FFTZ amendments do not include changes that impact the economic, transportation, natural, and recreational resource function of the Willamette River. The waterfront is preserved as a location for river-dependent and river-related industrial uses. Finally, the ordinance does not limit transloading facilities, docks or pipelines – facilities that are key components of utilizing the Willamette River as part of the multimodal freight transportation system. As noted in the findings above, the FFTZ amendments are consistent with the policies 3.70, 3.72, 4.82, and 9.36 of the 2035 Comprehensive Plan, and the findings in response to those policies are incorporated by reference.

Objective 9. The industrial character and economic viability of the Guild’s Lake Industrial Sanctuary must continue to be the priority when considering the public need for expanded access to the Willamette River. Design and implement any greenway enhancements along the river so as to avoid or minimize negative impacts on industrial operations.

324.Finding: The FFTZ amendments do not include changes to the greenway enhancement requirements in Chapter 33.440, therefore this objective does not apply.

Objective 10. Contribute to the maintenance and enhancement of all of Northwest Portland as a diverse urban environment that includes opportunities for housing, commercial services, and industrial employment in relatively close proximity.

325.Finding: The FFTZ amendments do not include map changes, nor do they allow for new nonindustrial land uses, therefore, the diverse urban environment of Northwest Portland is maintained.

The City Council interprets the verb “enhance”, which is not defined in the 2035 Comprehensive Plan, to mean to intensify or improve. The FFTZ regulations apply to only one type of business that

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makes up a minority part of the industrial businesses found in GLIS. The limits on expansion of fossil fuel storage tank capacity at fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to maintain, preserve and continue to operate and improve their intermodal facilities to provide for the continued movement of fossil fuels through the GLIS and supports opportunities for enhancement through a number of exceptions, such as jet or renewable fuels, to the fossil fuel storage tank capacity restrictions; therefore the FFTZ changes contribute maintain and enhancing the industrial employment in this part of Northwest Portland.

Part V. Zoning Code Amendment Criteria

33.835.040 Approval Criteria

A. Amendments to the zoning code. Text amendments to the zoning code must be found to be consistent with the Comprehensive Plan, Urban Growth Management Functional Plan, and the Statewide Planning Goals. In addition, the amendments must be consistent with the intent or purpose statement for the base zone, overlay zone, plan district, use and development, or land division regulation where the amendment is proposed, and any plan associated with the regulations. The creation of a new plan district is subject to the approval criteria stated in 33.500.050.

326.Finding: The findings in this exhibit demonstrate how the FFTZ amendments are consistent with the 2035 Comprehensive Plan, the Urban Growth Management Functional Plan, and the Statewide Planning Goals.

The City Council interprets this criterion to require the FFTZ amendments show consistency with the Comprehensive Plan. The Council finds that “consistent” means “marked by harmony.” Council notes that the Comprehensive Plan also defines the phrase “consistent with” to mean “the subject meets the requirements of, satisfies, or adheres to the regulations, mandate, or plan listed in the goal or policy.” Council finds that the Comprehensive Plan’s definition applies to the term as used in the Comprehensive Plan, not the Zoning Code. However, Council interprets that for the purposes of considering consistency with the Comprehensive Plan, “consistent with” requires that the ordinance adheres to the Comprehensive Plan.

Council finds that PCC 33.835.040(A) requires that Council demonstrate that the FFT ordinance is consistent with, or adheres to, the entire Comprehensive Plan. Council finds that PCC 33.825.040(A) does not require Council to demonstrate that the ordinance is consistent with, or adheres to, individual goals and policies but rather the entire plan. Regardless, here, Council finds that as demonstrated in this exhibit, Council has considered all applicable goals and policies and finds that the ordinance is consistent with all applicable individual goals and policies. Council finds that there is no applicable goal or policy that is not consistent with the ordinance.

Council further finds this criterion operates in conjunction with Comprehensive Plan Policy 1.10 which requires that amendments to the Comprehensive Plan’s supporting documents, such as the Zoning Code, must “comply” with the Comprehensive Plan. “Comply” means “that amendments must be evaluated against the Comprehensive Plan’s applicable goals and policies and on balance be equally or more supportive of the Comprehensive Plan as a whole than the existing language or designation”

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Council finds that a proposed amendment is equally supportive when it is on its face directly supported by goals and policies in the Plan. The City Council finds that an amendment is more supportive of the Comprehensive Plan when the amendment will further advance goals and policies, particularly those that are aspirational in nature. The City Council finds that the policy requires consideration as to whether amendments are equally or more supportive of the Plan as a whole. The City Council finds that amendments do not need to be equally or more supportive of individual goals and policies, but rather amendments must be equally or more supportive of the entire Comprehensive Plan. Therefore, the Council finds that there may be instances where specific goals and policies are not supported by the amendments but still the amendment is equally or more supportive of the entire Comprehensive Plan when considered cumulatively. The Council finds that there is no precise mathematical equation for determining when the Plan as a whole is supported but rather such consideration requires Council discretion in evaluating the competing interests and objectives of the plan.

Council finds that the ordinance equally advances most of the Comprehensive Plan policies. Council further finds that the ordinance is more supportive of the Comprehensive Plan with regard to the following goals and policies:

GOAL 3.B: A climate and hazard resilient urban form. Portland's compact urban form, sustainable building development practices, green infrastructure, and active transportation system reduce carbon emissions, reduce natural hazard risks and impacts, and improve resilience to the effects of climate change.

Goal 4.C: Human and environmental health. Neighborhoods and development are efficiently designed and built to enhance human and environmental health: they protect safety and livability; support local access to healthy food; limit negative impacts on water, hydrology, and air quality; reduce carbon emissions; encourage active and sustainable design; protect wildlife; address urban heat islands; and integrate nature and the built environment.

Goal 4.D: Urban resilience. Buildings, streets, and open spaces are designed to ensure long-term resilience and to adjust to changing demographics, climate, and economy, and withstand and recover from natural disasters.

Policy 4.79. Natural hazards and climate change risks and impacts. Limit development in or near areas prone to natural hazards, using the most current hazard and climate change-related information and maps.

Policy 4.80. Geological hazards. Evaluate slope and soil characteristics, including liquefaction potential, landslide hazards, and other geologic hazards.

Policy 4.81. Disaster-resilient development. Encourage development and site-management approaches that reduce the risks and impacts of natural disasters or other major disturbances and that improve the ability of people, wildlife, natural systems, and property to withstand and recover from such events.

Policy 4.82. Portland Harbor facilities. Reduce natural hazard risks to critical public and private energy and transportation facilities in the Portland Harbor.

Goal 7.C: Resilience. Portland's built and natural environments function in complementary ways and are resilient in the face of climate change and natural hazards.

Policy 7.14. Natural hazards. Prevent development-related degradation of natural systems and associated increases in landslide, wildfire, flooding, and earthquake risks.

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Applying both the Zoning Code criterion and Policy 1.10 together, as discussed above, Council finds that the ordinance is consistent and complies with the Comprehensive Plan.

Further, the Council finds that the FFTZ amendments amend the allowed uses in all of the base zones. The City Council finds that because the amendments prohibit FFTs (an industrial use) in the open space, residential, commercial/mixed use, and campus institution base zones that these amendments are consistent with the purpose statements of those zones.

The Council finds that the general purpose statements for the Employment and Industrial Zones and the Use Categories that are applicable to satisfy this criteria and are addressed below.

The City Council finds that because the FFTZ amendments do not amend overlay zones or plan districts, or land division regulations, and therefore these purpose statements do not apply. No new plan district has been proposed, therefore the criteria in 33.500.050 do not apply.

Testimony by the PBA coalition implied that Resolution 37168 should be considered additional approval criteria. The City Council rejects this interpretation. Resolutions provide guidance on future City actions, such as directing BPS to develop proposed code changes to advance the resolution. However, in the context of making a legislative land use decision (amending the Zoning Code), the 2035 Comprehensive Plan and Title 33 (Planning and Zoning) establish the procedures and approval criteria for making these decisions. Neither the 2035 Comprehensive Plan nor Title 33 include references to include other resolutions that have not been incorporated into the 2035 Comprehensive Plan goals and policies.

Applying both the Zoning Code criterion and Policy 1.10 together, as discussed above, the Council finds that the amendments are consistent with the Comprehensive Plan, Urban Growth Management Functional Plan, and Statewide Planning Goals. Additionally, as discussed below, the Council finds that the FFTZ amendments are consistent with the intent or purpose statement for the base zones and the GLISP, the only plan associated with the regulations.

Part VI. Zoning Code Purpose Statements

33.100 Open Space Zone

33.100.010 Purpose

The Open Space zone is intended to preserve and enhance public and private open, natural, and improved park and recreational areas identified in the Comprehensive Plan. These areas serve many functions including:

- Providing opportunities for outdoor recreation;
- Providing contrasts to the built environment;
- Preserving scenic qualities;
- Protecting sensitive or fragile environmental areas;
- Enhancing and protecting the values and functions of trees and the urban forest;
- Preserving the capacity and water quality of the stormwater drainage system; and
- Providing pedestrian and bicycle transportation connections.

327.Finding: The City Council interprets the purpose statement for the Open Space zone to provide guidance to prohibit all types of industrial uses in the Open Space zone. The FFTZ amendments creates a new use category (Bulk Fossil Fuel Terminals) under the Industrial Categories and

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prohibits that use in the Open Space zone. Council finds this prohibition is consistent with the purpose of this zone.

33.110 Single-Dwelling Zones

33.110.010 Purpose

The single-dwelling zones are intended to preserve land for housing and to provide housing opportunities for individual households. The zones implement the comprehensive plan policies and designations for single-dwelling housing and provide options for infill housing that is compatible with the scale of the single-dwelling neighborhood.

- A. Use regulations. The use regulations are intended to create, maintain and promote single-dwelling neighborhoods. They allow for some non-household living uses but not to such an extent as to sacrifice the overall image and character of the single-dwelling neighborhood.

328.Finding: The City Council interprets the purpose statement for the Single-Dwelling Zones to provide guidance to prohibit all types of industrial uses in the Single-Dwelling Zones. The Single-Dwelling Zones prohibit Warehouse and Freight Movement uses, which is the use category that FFTs were previously categorized as. The FFTZ amendments creates a new use category (Bulk Fossil Fuel Terminals) under the Industrial Categories and prohibits that use in the Single-Dwelling Zones. Council finds this prohibition is consistent with the purpose of these zones.

33.120 Multi-Dwelling Zones

33.120.010 Purpose

The multi-dwelling zones are intended to preserve land for urban housing and to provide opportunities for multi-dwelling housing.

- A. Use regulations. The use regulations are intended to create and maintain higher density residential neighborhoods. At the same time, they allow for institutional, limited commercial, and other nonresidential uses, but not to such an extent as to sacrifice the overall residential neighborhood character of the multi-dwelling zones and their intended role as places for housing.

329.Finding: The City Council interprets the purpose statement for the Multi-Dwelling Zones to provide guidance to prohibit all types of industrial uses in the Multi-Dwelling Zones. The Multi-Dwelling Zones prohibit Warehouse and Freight Movement uses, which is the use category that FFTs were previously categorized as. The FFTZ amendments creates a new use category (Bulk Fossil Fuel Terminals) under the Industrial Categories and prohibits that use in the Multi-Dwelling Zones. Council finds that FFTs would sacrifice the overall residential character of these zones. Therefore, this prohibition of this nonresidential use in these zones is consistent with the purpose of these zones.

33.130 Commercial/Mixed Use Zones

33.130.010 Purpose

The commercial/mixed use zones are intended for commercial and mixed use areas of the City as designated on the Comprehensive Plan map. These zones implement the vision, guiding principles, and goals and policies of the Comprehensive Plan, and encourage economic prosperity, human health, environmental health, equity, and resilience. These zones are primarily distinguished by the uses allowed and the intensity of development allowed. The zones allow a mix of commercial activities, housing, and employment uses that reflect the different types of centers and corridors described in the Urban Design chapter of the Comprehensive Plan, and also accommodate smaller, dispersed commercial and mixed use areas to provide opportunities for services in areas between the centers and corridors.

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The commercial/mixed use zones are intended to serve local neighborhood areas, larger districts, as well as broader citywide or regional markets. The regulations promote uses and development that support healthy complete neighborhoods—places where people of all ages and abilities have safe and convenient access to the goods and services they need in their daily life, and where people have the opportunity to live active lifestyles. The zones encourage quality and innovative design, and facilitate creation of great places and great streets.

The development standards are designed to allow development flexibility, within parameters, that supports the intended characteristics of the specific zone. In addition, the regulations provide guidance to property owners, developers, and neighbors about the limits of what is allowed.

330.Finding: The City Council interprets the purpose statement for the Commercial/Mixed Use Zones to provide guidance to prohibit all types of industrial uses in the Commercial/Mixed Use Zones. The Commercial/Mixed Use Zones prohibit or limit Warehouse and Freight Movement uses, which is the use category that FFTs were previously categorized as. The FFTZ amendments creates a new use category (Bulk Fossil Fuel Terminals) under the Industrial Categories and prohibits that use in the Commercial/Mixed Use Zones. Council finds that FFTs would sacrifice the overall commercial/residential character of these zones. Therefore, this prohibition of this use in these zones is consistent with the purpose of these zones.

33.140 Employment and Industrial Zones

33.140.010 General Purpose of the Zones

The employment and industrial zones are for areas of the City that are reserved for industrial uses and for areas that have a mix of uses with a strong industrial orientation. The zones reflect the diversity of industrial and business areas in the City. The zones differ in the mix of allowed uses, the allowed intensity of development, and the development standards. The regulations promote areas which consist of uses and developments which will support the economic viability of the specific zoning district and of the City. The regulations protect the health, safety and welfare of the public, address area character, and address environmental concerns. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is allowed.

331.Finding: The City Council finds that the purpose statement does not require that the City allow every type of industrial use or business. The FFTZ amendments do not allow for new incompatible land uses, therefore, these changes are consistent with the intent to allow a mix of uses with a strong industrial orientation in Portland’s industrial districts. These regulations apply to only one type of use that makes up a minority part of the uses found in Portland’s industrial districts. The remaining industrial uses continue to operate under current regulations. The FFTZ amendments protect the health, safety and welfare of the public and address environmental concerns by reducing the risk associated with a major earthquake by ensuring that the situation does not get worse by continuing to allow the unlimited increase in fossil fuel storage tank capacity in a high-risk area. The regulations provide certainty by designating existing FFTs as a limited use, which allows the terminals to continue to operate and invest in facilities that reduce the risks and improve their ability to withstand a major earthquake.

33.150 Campus Institutional Zones

33.150.010 Purpose

The campus institutional zones implement the campus institution policies and Institutional Campus (IC) land use designation of the Comprehensive Plan. The zones are for institutions such as medical centers and colleges that have been developed as campuses, and for other uses that are compatible with surrounding neighborhoods. The differences between the zones reflect the diversity and location of campus institutions. Allowed uses and development standards promote the desired character of each

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zone, and reflect the character and development intensity of surrounding neighborhoods. The CI1 and IR zones encourage development that is at a low to medium density residential scale, while the CI2 zone encourages development that is at a more intense, urban scale. The development standards allow flexibility for development and provide guidance to property owners, developers, and neighbors about the limits of what is allowed.

332.Finding: The City Council interprets the purpose statement for the Campus Institutional Zones to provide guidance to prohibit or limit most types of industrial uses in the Campus Institutional Zones. The Campus Institutional Zones prohibit Warehouse and Freight Movement uses, which is the use category that FFTs were previously categorized as. The FFTZ amendments creates a new use category (Bulk Fossil Fuel Terminals) under the Industrial Categories and prohibits that use in the Campus Institutional Zones. Council finds that this prohibition in these zones is consistent with the purpose of these zones.

33.920 Description of Use Categories

33.920.010 Purpose

This Chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain site factors. The use categories provide a systematic basis for assignment of present and future uses to zones. The decision to allow or prohibit the use categories in the various zones is based on the goals and policies of the Comprehensive Plan.

333.Finding: The FFTZ amendments create a new use category – Bulk Fossil Fuel Terminals – based on the function, the type of product handled or produced, the type and amount of activity, and how the goods are sold or delivered. The use category has been assigned to the base zones. The designation of a prohibited or limited use is based on the findings in this exhibit that demonstrate how, on balance, the designation is consistent with the goals and policies of 2035 Comprehensive Plan.

33.531 Guild’s Lake Industrial Sanctuary Plan District

33.531.010 Purpose

The Guild’s Lake Industrial Sanctuary plan district fosters the preservation and growth of this premier industrial area adjacent to Portland’s central city. The plan district’s large number of well-established industrial firms are dependent on the area’s multimodal transportation system, including marine, rail, and trucking facilities, and on the ability of area streets to accommodate truck movements. Because of its proximity to inner-city neighborhoods with high concentrations of commercial and residential uses, the Guild’s Lake Industrial Sanctuary is particularly vulnerable to impacts from, and redevelopment to, nonindustrial uses. The provisions of the plan district recognize that the displacement of industrial uses by inappropriate nonindustrial uses potentially threatens the integrity of this district and investments in public and private infrastructure. The provisions of this chapter protect the area from incompatible uses which threaten the district’s integrity, stability and vitality and compromise its transportation system. This chapter also includes provisions to ensure a more pedestrian- and transit-oriented streetscape along NW Vaughn Street and an improved interface with the mixed-use neighborhood to the south.

334.Finding: The City Council finds that the Guild’s Lake Industrial Sanctuary (GLIS) Plan seeks to protect and promote the area’s long-term economic viability as an industrial district for a broad variety of industrial land uses and businesses. The FFTZ amendments maintain industrial zoning protections because the ordinance does not include changes to the Prime Industrial Overlay Zone, the GLIS Plan District, or to the Zoning Map where they are applied. The FFTZ amendments do not include map changes, nor do they allow for new incompatible land uses, therefore, these changes

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will continue to provide an adequate industrial land base for employment growth. The City Council finds that the purpose statement does not require that every industrial use is allowed or allowed to have unlimited growth. These regulations apply to only one type of business that makes up a minority part of the businesses found in GLIS. The limits on expansion of storage capacity at fossil fuel terminals is mitigated by designating existing fossil fuel terminals as a limited use that allows the terminals to continue to operate and invest in other types of upgrades. As noted above, the findings in response to Statewide Planning Goal 9, the goals and policies of Chapter 6 (Economic Development) of the 2035 Comprehensive Plan, and the Guilds Lake Industrial Sanctuary Plan are incorporated by reference. Therefore, FFTZ amendments are consistent with the purpose of the plan district.

LUBA found the City erred by not considering the role FFTs play in serving or supplying fossil fuels and other products to other businesses. Council considers this issue under Policies 6.48 and 9.32 and finds that the existing fossil fuel storage tank capacity in Portland, with the allowed exceptions, is adequate to serve the future regional market, and, therefore, the other industrial uses will continue to be adequately served.