

October 2024

Legislative amendments to the Comprehensive Plan goals, policies and map must be found to be consistent with the goals and policies of the Comprehensive Plan, Metro's Urban Growth Management Functional Plan, the Statewide Planning Goals, and any relevant area plans adopted by City Council. (33.835.040 and 33.810.050).

The Comprehensive Plan requires that amendments to its elements, supporting documents, and implementation tools comply with the plan itself. "Comply" means that the 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 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, and plan district where the amendment is proposed, and any plan associated with the regulations. (33.835.040)

Legislative zoning map amendments must be found to comply with the Comprehensive Plan Map with a zone change to a corresponding zone of the Comprehensive Plan Map. The change also must demonstrate that there are adequate public services capable of supporting the uses allowed by the zone. In addition, the school district(s) within which the sites are located must have adequate enrollment capacity to accommodate any projected increase in student population over the number that would result from development in the existing zone. This criterion applies only to sites that are within the David Douglas School District, which has an adopted school facility plan that has been acknowledged by the City of Portland. (33.855.050)

- 1. Finding:** The Odor Code Update Project (OCUP) contains text amendments. It does not make any changes to Comprehensive Plan goals or policies or the Comprehensive Plan map.
- 2. Finding:** The City Council has identified and addressed all relevant and applicable goals and policies and zoning code purpose statements relevant and applicable to zoning code text amendments in these additional findings of fact.
- 3. Finding:** As discussed in more detail below, the City Council has considered the public testimony on this matter and has weighed all applicable goals and policies and on balance has found the OCUP amendments are consistent with the goals and policies of the Comprehensive Plan, Metro Urban Growth Management Functional Plan, Statewide Planning Goals and other relevant city plans. The amendments are equally or more supportive of the comprehensive plan as a whole than the existing language, as discussed further in the findings for Policy 1.10.

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

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 ensures the opportunity for citizens to be involved in all phases of the planning process.

4. Finding: Portland adopted a Community Involvement Program on June 15, 2016. The Community Involvement Program serves as a framework to carry out policies from Chapter 2 — Community

Involvement, of the 2035 Comprehensive Plan, and applies to legislative land use and transportation projects initiated by the City. Among the commitments that the City is asked to make in the Comprehensive Plan are the following:

- To provide a wide range of opportunities for involvement in planning and investment decisions.
- To achieve greater equity in land use actions through setting priorities and making decisions with meaningful involvement of under-served and under-represented communities.
- To meaningfully involve, in decision making, those who potentially will be adversely affected by the results of those decisions.
- To provide this meaningful involvement throughout the phases of planning and investment projects - issue identification and project design through implementation, monitoring, evaluation, and enforcement.
- To provide well-designed, relevant, responsive and culturally-responsive public involvement.
- To build community capacity for meaningful participation and leadership in planning and investment decisions.

The City has an acknowledged Goal 1 program. Community involvement efforts for RICAP 10 have been conducted in accordance with that program. Therefore, the project is in compliance with Goal 1. More specific findings related to the city's community involvement efforts are found in response to the policies in Chapter 2 of the Comprehensive Plan and are incorporated here. Therefore, the requirements of Goal 1 are met.

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.

- 5. Finding:** Goal 2, as it applies to the OCUP amendments, requires the City to follow its established procedures for legislative amendments to the Comprehensive Plan policies, the Zoning Code, and the Zoning Map. The amendments comply with this goal because, as demonstrated by these findings, the amendments were developed consistent with the Statewide Planning Goals, the Metro Urban Growth Management Functional Plan, 2035 Comprehensive Plan and Portland Zoning Code, as detailed in this ordinance.

The Odor Code Update Project amends Portland's off-site odor regulations and proposes more workable and equitable rules by moving the odor regulations from Title 33 to Title 29 and exempting retail sales and services uses, which include things like restaurants or coffee shops, from the odor rules. It will also change the parameters for how the rules are implemented for uses to which they will still apply. These changes are intended to balance the need for neighborhood retail sales and service businesses to operate in the vicinity of residential areas with that of residents to have the use and enjoyment of their property without the interference of unreasonable odors. The project also makes even more explicit that, consistent with PP&Ds longstanding application, Chapter 33.262 does not require documentation of off-site impact standards in advance of establishing a use. This is not a change but a housekeeping clarification. Finally, the project removes the very limited circumstances in which advance documentation is explicitly required,

This is to address the problems that arise from trying to evaluate future operational performance standards at the permit stage. A building permit is finalized when construction is complete, which is often before operations of the uses in the development commence. The off-site impact standards are not intended to be development standards but are instead performance standards that apply to the operations of the use in a building. They are not standards for how the building is constructed and located on the site. Since future uses are often not known at the time of building permit and can change over time, the building permit stage is not the appropriate time to review for compliance with the off-site impacts standards. As a result, under the current system, there are very few permits subject to the documentation in advance requirements.

Other government agencies received notice from the 35-day DLCD notice and the City's legislative notice. The City did not receive any requests from other government agencies to modify the OCUP amendments.

The City Council's decision is based on the findings in this document, and the findings are based on the evidence presented to the Planning and Sustainability Commission and City Council that are incorporated in the record that provides the adequate factual basis for this decision. The Council legislative record specifically incorporates all materials linked on the project website, the reports, memos and presentations provided to the Planning and Sustainability Commission and City Council, the written and verbal testimony submitted to the Planning and Sustainability Commission and City Council, and notices sent to the public, and Odor Code Update Project electronic box available at efiles.portlandoregon.gov/Record/16946645 that contains reports, documents, and information related to the project. On the Bureau of Planning and Sustainability's website, the following link portland.gov/bps/planning/odor-code provides access to a portion of the legislative record. This link was available to the public and City Council during the public hearing process. The City Council's decision is based on the findings in this document, and the findings are based on the evidence presented to the Planning and Sustainability Commission and City Council that are incorporated in the record that provides the adequate factual basis for this 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.

6. **Finding:** Goal 5 addresses open spaces, scenic resources, historic resources, and natural resources. As noted below in the findings for the 2035 Comprehensive Plan, the RICAP 10 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, the 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.

7. **Finding:** Goal 6 requires the maintenance and improvement of the quality of air, water, and land resources. The State has not yet adopted administrative rules for complying with Statewide Planning Goal 6. The City is in compliance with federal and state environmental standards and statutes, including the federal Clean Water Act and Clean Air Act. The Oregon Department of Environmental Quality (DEQ) is the enforcement authority of the Clean Air Act in Oregon, which regulates six air pollutants or groups of pollutants: sulfur dioxide (SO₂), particulate matter (PM_{2.5}

and PM10), nitrogen dioxide (NO₂), carbon monoxide (CO), ozone (O₂), and lead.¹ Businesses that emit threshold amounts of these pollutants are regulated by DEQ and require a permit. The odor rules that is being amended here to exempt retail sales and service uses from the City odor standard regulate detectable odors emitted by businesses. These odors are not measurable chemical compounds in the same way that the CWA regulated pollutants listed above are, though those pollutants often have detectable odors associated with them. The odor standards apply to human sensory detection and are therefore subjective and unmeasurable.

Existing City regulations including Title 10 (Erosion Control), the Stormwater Management Manual and for the Environmental overlay zones will remain in effect and are applicable to future development. These other regulations are generally the mechanism used to assure compliance with this goal. As noted below in the findings for the 2035 Comprehensive Plan, the OCUP 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, the amendments are consistent with the requirements of Statewide Planning Goal 6.

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

8. Finding: The State has not yet adopted specific requirements for complying with Statewide Planning Goal 7. The Buildable Land Inventory (BLI), which was adopted (Ordinance 187831) and acknowledged by LCDC on April 25, 2017, included a development constraint analysis that identified parts of Portland that are subject to natural hazards. The City of Portland used several sources of information in its Comprehensive Plan to identify potential hazards:

- Special flood hazard area (Land area covered by the floodwaters of the base flood, as shown on the Federal Emergency Management Agency (FEMA) maps in effect on November 26, 2010);
- Floodway (The active flowing channel during a flood, as designated on the flood maps adopted under authority of Title 24 of the Portland City Code);
- 1996 Flood Inundation area (A record peak flow in February of 1996 caused the Willamette River and its major tributaries to flood. This map was created to delineate the inundated areas near the mainstem and major tributaries of the Willamette River);
- Potential Rapidly Moving Landslide Hazard Zones (as shown in the DOGAMI IMS-22 publication); and
- Deep landslide—High Susceptibility or Landslide Deposit or Scarp as shown in the DOGAMI IMS-57 publication.

¹ Congressional Research Service. Clean Air Act: A Summary of the Act and Its Major Requirements. (2022). Retrieved from <https://crsreports.congress.gov/product/pdf/RL/RL30853#:~:text=The%20act%20establishes%20federal%20standards,major%20sources%20of%20air%20pollution.>

The OCUP amendments will not expose people to additional hazard because the code changes do not include amendments to any programs or regulations that implement floodplain or landslide hazard policies.

The OCUP amendments are also consistent with this goal because City programs that are deemed in compliance with Metro Title 3 requirements for flood management, and erosion and sediment control (i.e., City Title 10 Erosion Control, and the balanced cut and fill requirements of City Title 24), as well as the environmental overlay zones are unchanged and ensure any new development will be done in a way to protect people and property from hazards.

As noted below in the findings for the 2035 Comprehensive Plan, the OCUP 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, the 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.

- 9. 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."

The City of Portland has a robust and diverse system of parks, recreation areas and open spaces. The City's Parks 2020 Vision documents the City's long-term plan to provide a wide variety of high-quality park and recreation services and opportunities for all residents.

The OCUP amendments do not impact that existing vision nor do they affect any land designated as open space.

As noted below in the findings for the 2035 Comprehensive Plan, the OCUP 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, the 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 the health, welfare, and prosperity of Oregon's citizens.

- 10. 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. The OCUP project does not reduce the supply of employment land because no land is being removed from the City's employment land base, and no new permanent nonindustrial uses are being allowed within industrial zones.

As noted below in the findings for the 2035 Comprehensive Plan, the OCUP 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, the 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.

- 11. 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. Needed housing includes attached and detached single-family housing and multiple family housing for both owner and renter occupancy; government assisted housing, mobile home or manufactured dwelling parks; manufactured homes on individual lots; and housing for farmworkers.

Goal 10 requires each city to inventory its buildable residential lands, forecast future needs, and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Goal 10 and its implementing administrative rules contain the following specific requirements:

1. Identify future housing needs by amount, type, tenure and affordability;
2. Maintain a residential Buildable Lands Inventory (BLI) with sufficient land to meet identified needs;
3. Adopt land use maps, public facility plans and policies to accommodate needed housing (housing capacity, as well as type, tenure and affordability);
4. Meet minimum density and housing mix requirements (including the Metropolitan Housing Rule);
5. Adopt clear and objective standards for needed housing.

The adopted 2035 Comprehensive Plan conducted city-wide analysis to demonstrate compliance with Goal 10. The City's Housing Needs Analysis, which was adopted (Ordinance 185657) and acknowledged by LCDC on June 11, 2014, consists of five distinct reports that analyzed the state of housing supply, housing affordability issues and the City's ability to meet projected housing

demand. The Buildable Land Inventory (BLI), which was adopted (Ordinance 187831) and acknowledged by LCDC on April 25, 2017, identified the supply of land available to provide this needed housing. Supporting documents adopted with the acknowledged 2035 Comprehensive Plan (Ordinance 187832) established that the residential housing capacity of the unconstrained vacant and underutilized parcels in Portland is approximately 169,000 units. This is much more than the estimated 20-year need of 123,000 housing units by 2035. Portland has a surplus of housing capacity.

Goal 10 mandates that local jurisdictions ensure adequate capacity, and provides a “floor” for such measure, but does not restrict or prevent jurisdictions from increasing housing capacity above a set “ceiling”. In other words, just because the City has shown that it meets the number of requisite units to accommodate the forecast growth, Goal 10 does not prevent the City from increasing the capacity, and especially so when such increases help improve the housing target performance in other areas of the goal (type, tenure and affordability).

The OCUP project is consistent with Goal 10 in that it does not impact the underlying zoning that dictates the number of dwelling units or floor area that is allowed within each zone or plan district.

As noted below in the findings for the 2035 Comprehensive Plan, the OCUP 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, the 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.

- 12. 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.

Findings addressing water, sanitary sewage disposal, stormwater management, and school district capacity are found in findings in response to Comprehensive Plan Chapter 8 policies. Findings addressing transportation systems are in response to Chapter 9 policies. The findings in response to those goals and policies are incorporated by reference. Therefore, as described in these findings, the OCUP 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.

- 13. Finding:** This goal requires Portland to adopt a Transportation System Plan (TSP) that supports safe, convenient and economical movement of people and goods, and supports a pattern of travel that

will avoid air pollution, traffic and livability problems. Parts, but not all, of the City's TSP have to be adopted as part of the Comprehensive Plan.

All cities are required to provide safe and convenient motor vehicle, pedestrian and bicycle travel on a well-connected network of streets. Larger cities are required to provide for transit service and to promote more efficient performance of existing transportation facilities through transportation system management and demand management measures.

Goal 12 rules require coordination with the state and regional transportation plans (such as the Oregon Highway Plan and the Regional Transportation Plan), and with other transportation providers. OAR 660-012-0060 states that if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would have a significant negative impact on an existing or planned transportation facility, then the local government must take mitigating action, or plan for additional facilities to accommodate the expected impact. Generally, a jurisdiction cannot take action that significantly increases traffic on a facility that is failing to meet state, regional, or local mobility standards.

As noted below and in the findings for the 2035 Comprehensive Plan, the OCUP 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 amendments are consistent with the requirements of Statewide Planning Goal 12.

Goal 13. Energy Conservation. To conserve energy.

- 14. 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 OCUP amendments do not adopt or amend a local energy policy or implementing provisions. Therefore, the 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.

- 15. Finding:** Metro exercises Goal 14 obligations 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. Therefore, the OCUP amendments are consistent with the requirements of Statewide Planning 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.

- 16. Finding:** Statewide Planning Goal 15 requires cities to adopt local greenway plans, along with criteria for new development, new uses, and the increase of uses along the river. The City implements Statewide Planning Goal 15 through application of the Greenway and River overlay zones.

The OCUP amendments do not affect the Greenway or River overlay zones or regulations. Therefore, the amendments are consistent with Statewide Planning Goal 15.

Part II. Metro Urban Growth Management Functional Plan

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 the regional plan. Metro adopted its Urban Growth Management Functional Plan under this authority. Only the titles addressed below are relevant or applicable.

In Metro's 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.

- 17. Finding:** The City Council has identified the Urban Growth Management Functional Plan titles listed below to be applicable to the OCUP project. Titles that are not applicable to this project are not included in the narrative below.

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.

- 18. 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.

Metro has designated the areas that may qualify for these regional incentives, including transit stations, the Central City, Gateway regional center, along with Hollywood, Hillsdale, Raleigh Hills, West Portland, Lents, and St. Johns town centers. The OCUP amendments help to achieve Metro 2040 Growth Concept by supporting the ability of small retail sales and service businesses to operate within centers, thereby strengthening the centers roles as anchors of complete neighborhoods. Therefore, the amendments are consistent with the applicable requirements of Metro Title 6.

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 and for evaluating and informing the region about the effectiveness of those requirements. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan upon the expiration of the appropriate appeal period specified in ORS 197.830 or 197.650 or, if an appeal is made, upon the final decision on appeal. Once the amendment is deemed to comply, the functional plan requirement shall no longer apply to land use decisions made in conformance with the amendment. 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.

- 19. Finding:** Required notice was provided to Metro more than 35 days before the first evidentiary hearing on August 27, 2024. Title 8 also requires the City to provide findings of compliance with the *Urban Growth Management Functional Plan*. These findings meet this requirement. All applicable requirements of Title 8 have been met.

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.

In order to protect these areas, Metro shall not require any city or county to authorize an increase in the residential density of a single-family neighborhood in an area mapped solely as Neighborhood. In addition, specific limits on access to commercial services are applied to commercial uses within designated neighborhood centers in order to reduce air pollution and traffic congestion. This Title also calls on Cities to establish a level of service standard for parks and greenspaces that calls for a park facility within a specified distance of all residences.

- 20. Finding:** Title 12 largely restricts Metro's authority to plan and regulate density in single-family neighborhoods. The OCUP amendments were originated by the City's legislative process, respond to locally identified needs, and are not at the direction of Metro. The project amends Portland's off-site odor regulations and proposes more workable and equitable rules by exempting retail sales and services uses, which include things like restaurants or coffee shops, from the odor rules. It will also change the parameters for how the rules are implemented for uses to which they will still apply. The changes do not include amendments to neighborhood center designations or commercial use limits.

The amendments also remove a requirement that, in some cases, documentation of compliance with Chapter 33.262 is required at the time of permit. The reason for this change is that building permit is finalized when construction is complete, which is often before operations of the uses in the development commence. The off-site impact standards are not intended to be development standards but are instead performance standards that apply to the operations of the use in a building. They are not standards for how the building is constructed and located on the site. Since future uses are often not known at the time of building permit and can change over time, the building permit stage is not the appropriate time to review for compliance with the off-site impacts standards. As a result, under the current system, there are very few permits subject to the documentation in advance requirements.

The City has already established a goal in its Parks 2020 Vision of providing a basic, developed Neighborhood Park facility within a half mile of every Portland resident, and a Community Park within a mile of every resident. Therefore, these amendments comply with Title 12.

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.

- 21. Finding:** The City Council has identified the guiding principles, goals, and policies listed below to be applicable to the OCUP project. Guiding principles, goals, and policies that are not applicable to this project are not included in the narrative below.

Guiding Principles

The 2035 Comprehensive Plan adopted five "guiding principles" in addition to the goals and policies typically included in a comprehensive plan. These principles were adopted to reinforce that implementation of the plan needs to be balanced, integrated and multi-disciplinary, and the influence of each principle helps to shape the overall policy framework of the plan. While the policies in the Comprehensive Plan effectively ensure that the guiding principles are met, the findings below further demonstrate that in addition to meeting those specific policies on balance, the amendments in [INSERT PROJ] are consistent with these guiding principles as described below.

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

- 22. Finding:** This guiding principle asserts prosperity is about more than job growth. It also is about having a resilient regional economy, thriving local businesses and growth in living-wage jobs. It is also prosperity shared by Portland households. The 2035 Comprehensive Plan measures household prosperity in terms of a "self-sufficiency index" of what income is needed to meet basic household needs – costs of housing, childcare, food, healthcare and transportation.

Equitably distributed household prosperity means that the economic benefits of a prosperous city are broadly accessible to satisfy essential needs, advance wellbeing, and achieve full potential. Council finds that household prosperity is equitably distributed when households of a range of income levels and all neighborhoods have access to amenities and services.

The OCUP amendments contribute to the principle of equitable prosperity by supporting the ability of retail sales and service businesses to operate and locate pursuant to the City's centers and corridors strategy. The impetus for this project is specifically to ensure that small, local retail sales and service businesses can thrive close to neighborhoods thus providing the opportunity for jobs, amenities and services to be equitably distributed through the city.

Therefore, the amendments are consistent with the economic prosperity guiding principle. See also findings for relevant policies in Chapters 5 and 6.

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

- 23. Finding:** Council finds that this guiding principle requires the Council, when taking actions that implement the Comprehensive Plan, to not overlook the importance of minimizing health impacts and increasing opportunities for Portlanders to lead healthy, active lives.

As discussed in the findings for Goal 6 and adopted by reference here, it is important to make a distinction between odor and air emissions. Odor is a subjective response to a chemical in the air, while emissions contain a measurable amount of particulate matter or pollutants in the air². Uses that generate harmful emissions to human health, such as manufacturing and waste-related uses, are generally regulated by the Oregon Department of Environmental Quality (DEQ) and require an air quality permit. Emissions often do have an odor associated with them; however, many common items and daily activities, like foods and cooking, produce odors that do not contain measurable particulate matter and generally are not considered harmful to human health. Council finds that odors are not encompassed by this guiding principle.

The OCUP project proposes to move offsite odor standards from Title 33 to Title 29 and to exempt one commercial use category, retail sales and services, from the City's odor regulations. All other commercial use categories, such as vehicle repair, and all industrial uses, such as manufacturing and production, will continue to be subject to the odor regulations that are being moved from Title 33, Planning and Zoning, to Title 29, Property Maintenance. Oregon DEQ will continue to regulate emissions from uses that have an air quality permit. Emissions that cause harmful effects will continue to be regulated by DEQ and are not affected by this project – only odors from retail sales and service uses, such as restaurants or coffee shops, are exempt. Therefore, the amendments will not contribute to negative human health impacts from emission particulates.

Therefore, the amendments are consistent with the human health guiding principle.

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.

- 24. Finding:** This guiding principle states that actions taken to implement the Comprehensive Plan should equitably benefit and be shaped by underserved and underrepresented communities, including communities of color. This includes heightened awareness of not repeating systematic harms city policy has caused these communities, including communities of color, in the past.

This project will eliminate regulations that can make it difficult for small businesses, such as restaurants or food carts, to operate in areas where they are allowed but are proximate to

² Congressional Research Service. Clean Air Act: A Summary of the Act and Its Major Requirements. (2022). Retrieved from <https://crsreports.congress.gov/product/pdf/RL/RL30853#:~:text=The%20act%20establishes%20federal%20standards,major%20sources%20of%20air%20pollution.>

residential properties. An odor code compliance case led to the closure³ of a restaurant when the owner decided they could not afford the expensive equipment upgrades that would be required to remedy the situation. This raised concerns⁴, that were amplified by the local and national media, that the City's odor code was creating burdens on under-served and under-represented populations that operate restaurants and food carts that could be disparately impacting BIPOC and immigrant groups and diminishing community benefits to those groups.⁵

Exempting retail sales and service uses, which are often small businesses owned by under-served and under-represented communities, from the odor regulations will help to reduce disparities and burdens and will extend community benefits to those groups. Therefore, the amendments are consistent with the equity guiding principle.

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.

25. 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.” Included within that is encouragement of a low-carbon economy, which supports a “more stable, prosperous, and healthy community than one that remains dependent on fossil fuels.”

One strategy for achieving a low-carbon community is integrating higher density land uses with safe active transportation and transit systems for a compact urban form built around centers and corridors, which is critical in reducing a community's overall carbon footprint.

The OCUP amendments are supportive of Portland's compact urban form because it further supports the ability of retail sales and service uses, such as restaurants, food carts, coffee shops, and nail salons, to be located in neighborhood centers that contain housing and are adjacent to residentially zoned areas. This supports the resilience guiding principle strategy of “encouraging development of new housing units in focused geographic areas like centers – rather than spread across the city – grocery stores, restaurants, public spaces, and other services can successfully operate within walking distance of local residents.”

OCUP supports this strategy by updating the odor rules to exempt retail sales and service uses from the off-site impact odor rules that are being moved from Title 33 to Title 29. This is being done because the odor rules are difficult to enforce and mitigate for because odor is a subjective sensory experience and mitigating any odors that are detectable off-site can be prohibitively expensive.

³ City, state leaders say odor code that closed Portland Vietnamese restaurant doesn't pass smell test. (2024). Oregonian. Retrieved from <https://www.oregonlive.com/dining/2024/03/city-state-leaders-think-odor-code-that-closed-portland-vietnamese-restaurant-doesnt-pass-smell-test.html>

⁴ Restaurant Association Calls City Odor Code “Unfair” and “Unbelievable”. (2024). Willamette Week. Retrieved from <https://www.wweek.com/restaurants/news-restaurants/2024/02/28/restaurant-association-calls-city-odor-code-unfair-and-unbelievable/>

⁵ After odor complaints shut down a Portland Vietnamese restaurant, city revisits a potentially discriminatory policy. (2024). NBC News. Retrieved from <https://www.nbcnews.com/news/asian-america/pho-gabo-odor-complaints-portland-rcna143921>

Under the current rules, any odor detected for more than 15 minutes crossing a property line is considered a violation. It is not possible for businesses like restaurants or coffee shops to ensure that odor is not detectable beyond their property due to the nature of business operations. However, sensitivities to odor are subjective and highly variable and there is no way to accurately measure odors.⁶ Without a way to measure odor, the city's Code Compliance inspectors are unable to set thresholds for odor concentrations in the way that they can for other off-site impacts such as glare or noise, which can be measured in lumens or decibels. This has meant enforcement actions can befall any business where small amounts of odor is detected beyond the business's property line for more than 15 minutes, leading to small businesses shutting down rather than installing costly equipment that may or may not be able to eliminate odors. Taken to an extreme, the odor rules could discourage restaurants and other retail sales and services from locating in neighborhood centers or along corridors that are adjacent to residential areas. This would undermine the resilience guiding principles strategies for promoting a compact urban form and focusing growth in centers and along corridors.

Therefore, exempting retail sales and service uses from the odor code rules is consistent with the resilience guiding principle.

⁶ di Milano, Politecnico. How Can Odors Be Measured? An Overview of Methods and Their Applications. Atmosphere 2020. 11(1), 92; Retrieved from <https://doi.org/10.3390/atmos11010092>

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.

- 26. Finding:** As noted above, the OCUP amendments are consistent with the relevant guiding principles of the 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 the Comprehensive Plan, to determine that this ordinance on the whole complies with the Comprehensive Plan.

The OCUP amendments seek to balance several overarching goals articulated in the guiding principles, goals, and policies of the Comprehensive Plan: to encourage a compact urban form built around a system of centers and corridors, to foster equitably distributed household prosperity and employment growth, and to protect livability by limiting off-site impacts.

The OCUP amendments address the sometimes competing needs of the businesses and residents in terms of off-site impacts from odors that may be generated by a business. On the one hand, there is a community need for local businesses, including retail sales and service uses such as restaurants and coffee shops, that are accessible to residents, as articulated in Comprehensive Plan policy 3.13, Role of Centers. This policy encourages complete neighborhoods in which residents can walk, bike, and take transit to meet their daily needs. This type of development necessarily means that retail sales and service uses will be adjacent to residential areas. On the other hand, there are concerns from residents that are bothered by the odors that these types of businesses can create and drift across property lines into residential areas and Comp Plan policies that address limiting and mitigation for off-site impacts.

As described below, the City Council's decision to adopt the OCUP 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. Therefore, this goal is met.

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.

- 27. Finding:** The findings show how the amendments are consistent with applicable Metro's Urban Growth Management Functional Plan and the Statewide Planning Goals, including Goal 2 which requires coordination. Metro, TriMet, and other state agencies received notice of the proposed amendments from the 35-day DLCD notice and the City's legislative notice. Therefore, this goal is met.

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.

- 28. 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 Comprehensive Plan. These findings demonstrate how the OCUP amendments are consistent

with the Comprehensive Plan, including advancing multiple relevant goals. These changes represent updating regulatory implementation tools that respond to community needs and identified problems, especially those of neighborhood businesses and adjacent residents.

Therefore, this goal is met.

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.

29. Finding: The City Council defines "flexibility" as a capability to adapt to new, different, or changing requirements. The OCUP amendments create a more efficient and flexible implementation tool (zoning code) by moving the odor code regulations from Title 33, Planning and Zoning, to Title 29, Property Maintenance, and eliminating the Title 33 requirement for new development to document compliance with the Off-Site Impacts chapter (Section 33.262.100) at the time of building permit.

One issue with the odor code being located in Title 33 is because of its subjective nature. Zoning Code Section 33.700.010 in the Administration and Enforcement chapter states that review of uses for development that are allowed by right is a nondiscretionary review, typically reviewed through building permits. As discussed in the findings for the Resilience Guiding Principle above and adopted by reference here, the odor rules are discretionary because sensitivity to and preference for odor are subjective and there is no tool that can be used to measure quantity or intensity of odor that would enable an objective threshold to be set and enforced. For this reason, the odor standard is not an appropriate regulation for the zoning code.

Another issue is that building permits are reviewed for compliance with development standards that apply to the site and structure being constructed. A building permit is finalized when construction is complete, which is often before operations of the uses in the development commence. The off-site impact standards are not intended to be development standards but are instead performance standards that apply to the operations of the use in a building. They are not standards for how the building is constructed and located on the site. Since future uses are often not known at the time of building permit and can change over time, the building permit stage is not the appropriate time to review for compliance with the off-site impacts standards. As a result, under the current system, there are very few permits subject to the documentation in advance requirements.

Moving the odor code rules from Title 33 to Title 29 and eliminating the ill-suited documentation in advance requirements show flexibility in adapting the code to be more efficient. Therefore, this goal is met.

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

30. 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 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 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 are not supported by the amendments but still the amendment is 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.

Council notes that the Comprehensive Plan introduction explains that "[t]he Comprehensive Plan contains a broad range of policies for 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." 2035 Comprehensive Plan, page HTU-5.

The OCUP amendments are a legislative amendment to the Zoning Code. These findings identify how the amendments comply with the Comprehensive Plan. That is, the amendments are evaluated against the relevant Comprehensive Plan's Guiding Principles, goals, and policies, as detailed throughout this set of findings.

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 overall purpose of the OCUP amendments is to balance the need for neighborhood retail sales and service businesses to operate in the vicinity of residential areas with those of residents to have the right of use and enjoyment of their property without the interference of unreasonable odors.

City Council has considered all the Comprehensive Plan guiding principles, goals, and policies and has found that the guiding principles, goals, and policies included in this report apply to the OCUP Amendments. Those not included do not apply to the proposal.

City Council finds that the OCUP Amendments are equally or more supportive of the applicable Comprehensive Plan guiding principles, goals, and policies than existing language as discussed below, and particularly with respect to the following policies: LIST THEM.

- Guiding Principle 1: Economic Prosperity
- Guiding Principle 4: Equity
- Goal 1.A Multiple goals
- Goal 3.D: A system of centers and corridors
- Policy 3.13 Role of centers
- Policy 3.15 Housing in centers
- Goal 4.C: Human and environmental health
- Policy 4.20 Walkable scale
- Policy 4.33 Off-site impacts
- Goal 5.C: Healthy connected city
- Policy 6.9. Small business development
- Policy 6.64 Small, independent businesses
- Policy 6.66 Neighborhood serving businesses
- Policy 6.67 Retail development
- Policy 6.73 Centers

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.

31. Finding: As noted earlier in these findings, the OCUP amendments are consistent with and designed to further the applicable elements of the Metro Urban Growth Management Functional Plan. See findings in Part II, Metro Urban Growth Management Functional Plan, which demonstrate consistency. Therefore, this policy is met.

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.

32. Finding: As noted earlier in these findings, the OCUP amendments are consistent with and designed to further the applicable elements of the Statewide Planning Goals. See findings in Part I, Statewide Planning Goals, which demonstrate consistency. Therefore, this policy is met.

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.

33. Finding: The OCUP amendments were developed to be consistent with applicable state and federal regulations, including the fair housing act, 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. Therefore, this policy is met.

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.

34. 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 OCUP amendments. In addition, the City sent a separate legislative notice to Multnomah County, adjacent cities, Metro and TriMet. No government agencies raised issues or concerns with the OCUP amendments. Therefore, this policy is met.

Policy 1.16. Planning Commission review. Ensure the Planning Commission reviews and makes recommendations to the City Council on all proposed legislative amendments to Comprehensive Plan elements, supporting documents, and implementation tools. The Planning Commission 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 Planning Commission are described in the Zoning Code.

35. Finding: The Planning Commission reviewed the OCUP amendments over the course of two meetings:

August 27, 2024 – PSC briefing and hearing

September 10, 2024 – PSC work session and vote

The PSC fulfilled its responsibilities as outlined in this policy. Therefore, this policy is met.

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 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.

- 36. Finding:** The City Council interprets the Chapter 2 goals and policies as calling for a broad range of meaningful community engagement approaches that complement the legally required public notices and meetings. The public engagement process provided opportunities for interested parties to comment on and influence the development of the OCUP amendments, the Planning Commission Recommended Draft, and the final decision before City Council.

The Odor Code Update Project moves Portland’s off-site odor regulations from Title 33 to Title 29 and proposes more workable and equitable rules by exempting retail sales and services uses, which include things like restaurants or coffee shops, from the odor rules. It will also change the parameters for how the rules are implemented for uses to which they will still apply. These changes are intended to balance the need for neighborhood retail sales and service businesses to operate in the vicinity of residential areas with those of residents to have the right of use and enjoyment of their property without the interference of unreasonable odors.

In the spring of 2024, project staff put together the In-House Draft proposal that was reviewed by BPS and other bureau staff. The feedback received then informed the Proposed Draft.

Proposed Draft and Planning Commission hearing

The Proposed Draft was released on July 22, 2024.

Mailed notice of the Proposed Draft was provided to a list of parties who request official notice of land use changes on July 22, 2024. Project staff reached out the City’s district coalition offices and offered to meet with coalition representatives to discuss the Proposed Draft. Only one group took up that offer and staff met with representatives of the Southeast Uplift district coalition on October 19, 2024

The Planning Commission held a public hearing on the project on August 27, 2024, and voted to recommend that City Council adopt the proposal on September 10, 2024.

Recommended Draft and City Council hearing

Project staff released the OCUP Recommended Draft on October 14, 2024. Notice of the Recommended Draft was provided to all individuals who participated in the Planning Commission process and who requested project updates on October 14, 2024. The public was provided opportunities to comment and suggest amendments in front of the City Council. The City Council held a hybrid in-person/virtual public hearing on October 30, 2024, to accept oral testimony. The City Council considered the public testimony received on the Recommended Draft before voting to adopt the OCUP zoning code amendments.

Therefore, the amendments are consistent with these policies.

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.

37. Finding: As described in the findings above, the legislative process was clearly outlined in notices, documents, including how to testify to influence the Proposed Draft at the Planning Commission and the Recommended Draft at City Council. The Recommended Draft was published with information about how to testify.

BPS staff contacted, met with, and coordinated with stakeholders to inform them how to engage in the decision-making process, how the process was structured, and additional opportunities to participate when such opportunities existed. Findings on this outreach are included in this document.

During the review phases of the project, BPS staff reached out to community interests and presented at community meetings to inform people of the proposed amendments. All meetings and events were open to the public and included opportunities for public comment. Therefore, the OCUP amendments are consistent with these policies.

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.

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.

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.

38. Finding: Consistent with Policies 2.38 through 2.41, and BPS community involvement practices, meetings, open house events, and all public meetings, described in more detail in the findings above, were noticed, and information was provided online. Information about accommodation and translation was provided on all notices. The City also sent a legislative notice on July 22, 2024, of the August 27 Planning Commission hearing to interested parties, including neighborhood associations,

business associations, and other affected jurisdictions, that have requested notice of proposed land use changes. The City sent a legislative notice on October 14, 2024, to interested parties, and others that participated in the Planning Commission hearings to inform them of the opportunity to testify at the October 30, 2024 Council public hearing. Therefore, the amendments are consistent with these policies.

Chapter 3: Urban Form

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.

39. Finding: As discussed in the findings for the Resilience guiding principle and adopted by reference here, the OCUP amendments are supportive of Portland’s compact urban form because they support the ability of retail sales and service uses, such as restaurants, food carts, coffee shops, and nail salons to be located in neighborhood centers that contain housing and are adjacent to residential areas. Therefore, the amendments are consistent with this goal.

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.

40. Finding: As discussed in the findings for the Resilience guiding principle and adopted by reference here, the OCUP amendments are supportive of Portland’s centers and corridors strategy because they support the ability of retail sales and service uses, such as restaurants, food carts, coffee shops, and nail salons to be located in neighborhood centers that contain housing and are adjacent to residential areas. Therefore, the amendments are consistent with this goal.

Policy 3.13. 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.

41. Finding: This policy, along with Policies 3.12 through 3.20, provide guidance on how centers identified on the Comprehensive Plan map should evolve over time. The policies address investments, uses, the relationship of centers to transportation networks, design, and development. As discussed in the findings for the Resilience guiding principle and adopted by reference here, the OCUP amendments support the role of centers as anchors of complete neighborhoods by supporting the ability of retail sales and service uses, such as restaurants, food carts, coffee shops, and nail salons to be located in neighborhood centers that contain housing and are adjacent to residential areas. Therefore, the amendments are consistent with this policy.

Chapter 4: Design and Development

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.

- 42. Finding:** City Council interprets this goal as calling for the protection and enhancement of human and environmental health as objectives that should guide City actions related to the built environment. City Council interprets development that is “efficiently designed” as designed to be resource- and cost-efficient.

As discussed in the finding for the Human Health and Resilience guiding principles, and adopted here by reference, the OCUP amendments support an efficiently designed, compact urban form made up of complete neighborhoods that include concentrations of commercial and public services and housing all of which contributes to opportunities to achieve healthy, active lives. Therefore, the amendments are consistent with this goal.

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.

- 43. Finding:** This policy is part of a group of policies that address design and development in centers and along corridors. The policies provide guidance on development scale, streetscapes, gathering spaces, public art, and historic preservation. City Council interprets these policies as applying to the higher-density commercial/mixed use, multi-dwelling, and employment zones within the mapped boundaries of centers and along designated civic and neighborhood corridors. Comprehensive Plan text accompanying these policies indicates that “centers and corridors are places where large numbers of people live, work, and visit.” As discussed in the findings for the Resilience guiding principle and Chapter 3 Urban Form, adopted by reference here, the OCUP amendments support a compact urban form that add to the supply of commercial services that are an integral piece of providing walkable access for customers. Therefore, the amendments are consistent with this policy.

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.

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.

- 44. Finding:** Policies 4.33 and 4.36 generally address impacts that can negatively affect adjacent residential uses and areas. The City Council interprets these policies 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 uses. They are implemented through a variety of design and impact-related performance standards in the zoning code. Current base zone development standards address potential off-site impacts through existing setback requirements, tree density standards, limitations on commercial uses and signage. Offsite impacts are additionally addressed in Chapter 33.262.

As discussed in the findings for Goal 6 and adopted by reference here, the City is in compliance with federal and state environmental standards and statutes, including the federal Clean Water Act and Clean Air Act. The Oregon Department of Environmental Quality (DEQ) is the enforcement authority of the Clean Air Act in Oregon, which regulates six air pollutants or groups of pollutants: sulfur dioxide (SO₂), particulate matter (PM_{2.5} and PM₁₀), nitrogen dioxide (NO₂), carbon monoxide (CO),

ozone (O₂), and lead.⁷ Businesses that emit threshold amounts of these pollutants are regulated by DEQ and require a permit. The odor rules that is being amended here to exempt retail sales and service uses from the City odor standard regulate detectable odors emitted by businesses. These odors are not measurable chemical compounds in the same way that the CWA regulated pollutants listed above are, though those pollutants often have detectable odors associated with them. The odor standards apply to human sensory detection and are therefore subjective and unmeasurable.

As discussed in the findings for the Human Health guiding principle, adopted here by reference, the OCUP project proposes to exempt one commercial use category—Retail Sales And Service—from the City's odor regulations and to move the odor off-site impacts standard from Title 33, Planning and Zoning, to Title 29, Property Maintenance. All other commercial and industrial use categories, such as vehicle repair and manufacturing and production, will continue to be subject to the odor off-site impacts regulations that are being moved from Title 33 to Title 29. Oregon DEQ will continue to regulate emissions from uses that have an air quality permit. Emissions that cause harmful effects will continue to be regulated and fall outside of the scope of this project – only odors from Retail Sales And Service uses, such as restaurants or coffee shops, will be exempt. The one change to the remaining off-site impact regulations in 33.262 (glare, noise, and vibration) is a clarification that the standards of Chapter 33.262 are not reviewed at the time of building permit but rather are performance standards that apply to operations on a site once the use has commenced. This change aligns the code with the City's existing system of complaint-based enforcement

The OCUP amendments will continue to support this policy because the off-site impacts regulations will continue to apply to all of those uses that are currently regulated with the exception of odor created by retail sales and service uses. Though the City will no longer enforce on the odor regulations for that small subset of uses, there are other avenues of redress that can be used for those odor impacts. Therefore, the amendments are consistent with these policies.

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.

⁷ Congressional Research Service. Clean Air Act: A Summary of the Act and Its Major Requirements. (2022). Retrieved from <https://crsreports.congress.gov/product/pdf/RL/RL30853#:~:text=The%20act%20establishes%20federal%20standards,major%20sources%20of%20air%20pollution.>

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.

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.
- Encourage the growth of districts that support productive and creative synergies among local businesses.
- Provide convenient access to goods, services, and markets.
- 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.

45. Finding: The OCUP amendments do not change the comprehensive plan designations of any currently designated employment land, therefore the project does not reduce the supply of employment land.

As discussed in the findings for the Economic Prosperity guiding principle, the OCUP amendments are supportive of economic prosperity by supporting the continuing operation of Retail Sales And Service uses, which provide jobs to many Portlanders, in centers and along corridors that are near to residential areas. Under the current off-site odor impacts enforcement regime, at least one small, locally-owned restaurant closed in response to enforcement actions related to off-site odor complaints from a single neighbor.^{8 910} Taken to its extreme, enforcement of the current odor regulations could lead to the closure of more small, locally-owned retail sales and services businesses, or make it more difficult for them to locate in centers and along corridors. The OCUP amendments support the continued operation of Retail Sales and Service uses, businesses that offer jobs to many Portlanders, in locations that are near to where most Portlanders live. Therefore, the amendments are consistent with these goals.

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.

⁸ City, state leaders say odor code that closed Portland Vietnamese restaurant doesn't pass smell test. (2024). Oregonian. Retrieved from <https://www.oregonlive.com/dining/2024/03/city-state-leaders-think-odor-code-that-closed-portland-vietnamese-restaurant-doesnt-pass-smell-test.html>

⁹ Restaurant Association Calls City Odor Code "Unfair" and "Unbelievable". (2024). Willamette Week. Retrieved from <https://www.wweek.com/restaurants/news-restaurants/2024/02/28/restaurant-association-calls-city-odor-code-unfair-and-unbelievable/>

¹⁰ After odor complaints shut down a Portland Vietnamese restaurant, city revisits a potentially discriminatory policy. (2024). NBC News. Retrieved from <https://www.nbcnews.com/news/asian-america/pho-gabo-odor-complaints-portland-rcna143921>

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.

46. Finding: These policies provide direction regarding economic and employment growth. Except as noted below in response to Policy 6.13, the OCUP amendments do not affect the base development capacity in the commercial mixed-use areas. Therefore, there is no impact to employment capacity. As discussed in the findings for the Chapter 6 goals, the amendments are supportive of small retail sales and service businesses by encouraging the continued operation of these businesses in areas adjacent to residential areas.

Policy 6.62. Neighborhood business districts. Provide for the growth, economic equity, and vitality of neighborhood business districts.

Policy 6.64. Small, independent businesses. Facilitate the retention and growth of small and locally-owned businesses.

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.

47. Finding: Policies 6.62 through 6.65 provide direction regarding neighborhood districts and smaller businesses. As discussed in the findings for the Chapter 6 goals, these amendments support small retail sales and services businesses located in neighborhood business districts by removing a potential barrier to their continued operation in centers where there is a mixture of residential and retail commercial uses. Therefore, the amendments are consistent with these policies.

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.

48. Finding: This policy provide direction regarding neighborhood districts and smaller businesses. As discussed in the findings for the Chapter 6 goals, these amendments support small retail sales and services businesses located in neighborhood business districts by removing a potential barrier to

their continued operation in centers where there is a mixture of residential and retail commercial uses. Therefore, the amendments are consistent with this policy.

Chapter 7: Environmental and Watershed Health

Goal 7.A: Climate. Carbon emissions are reduced to 50 percent below 1990 levels by 2035.

49. Finding: One strategy for achieving a low-carbon community is integrating higher density land uses with safe active transportation and transit systems for a compact urban form built around centers and corridors, which is critical in reducing a community's overall carbon footprint.

As discussed in the Economic Prosperity Guiding Principle and adopted by reference here, the OCUP amendments are supportive of Portland's compact urban form because they support the ability of Retail Sales and Service uses, such as restaurants, food carts, coffee shops, and nail salons, to operate in neighborhood centers that are within walking distance of local residents. Therefore, the amendments are consistent with this goal.

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.

50. Finding: This goal focuses on City programs and actions to improve environmental quality. The OCUP amendments do not include amendments to any programs or regulations that implement these goals. A finding for this policy is included for reference because it might seem relevant given the policy title.

Chapter 9 Transportation

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.

51. Finding: This policy is one of a several modal policies that primarily address the design and use of transportation infrastructure, and the goal of developing a more multimodal system. The OCUP amendments do not affect the design or use of transportation infrastructure. This policy is included here to draw a distinction between environmental and neighborhood impacts from the freight system and from the off-site odor impacts that are being amended with the OCUP project. Vehicle emissions are not regulated under the Title 33, where the odor regulations are currently found, or by Title 29, where the odor regulations will be found with these amendments. Vehicle emissions have not and will not be addressed by odor off-site impact standards. Therefore, the OCUP amendments are not applicable to this policy.

Chapter 10: Land Use Designations and Zoning

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:

10.4.a. Promote good planning:

- Effectively and efficiently implement the Comprehensive Plan.

- Address existing and potential land use problems.
- Balance the benefits of regulations against the costs of implementation and compliance.
- Maintain Portland’s competitiveness with other jurisdictions as a location in which to live, invest, and do business.

10.4.b. Ensure good administration of land use regulations:

- Keep regulations as simple as possible.
- Use clear and objective standards wherever possible.
- 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.

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.

52. Finding: The OCUP recommendation amends the following chapters of the zoning code:

100	Open Space Zone
110	Single-Dwelling Residential Zones
120	Multi-Dwelling Residential Zones
130	Commercial/Mixed Use Zones
140	Employment and Industrial Zones
150	Campus Institutional Zones
203	Accessory Home Occupations
224	Drive-Through Facilities
254	Mining and Waste-Related
258	Nonconforming Situations
262	Off-Site Impacts
410	Buffer Zone
510	Central City Plan District
561	North Interstate Plan District
815	Conditional Uses
848	Impact Mitigation Plans

The Odor Code Update Project Recommended Draft presents the legislative amendments to the Zoning Code to implement the concepts presented in the report. In all cases, 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 V. Comprehensive Plan and Zoning Code Text 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.

53. Finding: The findings in this exhibit demonstrate how the OCUP zoning code amendments are consistent with the 2035 Comprehensive Plan, the Urban Growth Management Functional Plan, and the Statewide Planning Goals. Findings showing consistency with the purpose statements of individual zoning code sections are provided below.

The Council interprets this criterion to require the ordinance to be consistent with the Comprehensive Plan. Council notes that the Comprehensive Plan 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.”

The City Council has considered all applicable policies, and the findings in this exhibit demonstrate how the amendments to the zoning code are consistent with the 2035 Comprehensive Plan, the Urban Growth Management Functional Plan, and with the Statewide Planning Goals.

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.” Additional findings in response to Policy 1.10 describe how the Council interprets “equally or more supportive” are incorporated here by reference.

PCC 33.835.040.A requires Council to demonstrate that the OCUP amendments are consistent with, or adhere to, the entire Comprehensive Plan. PCC 33.835.040.A does not require Council to demonstrate that the amendments are consistent with, or adhere to, individual goals and policies but rather the entire plan. Regardless, as demonstrated in this exhibit, Council has considered all applicable goals and policies and finds that the OCUP amendments are consistent with all the individual goals and policies.

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 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, 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. 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.

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.

Council also finds that this criterion requires Council to consider whether the HRCP amendments are consistent with the Urban Growth Management Functional Plan and Statewide Planning Goals. As discussed fully above, Council finds that the OCUP amendments are consistent with both the Urban Growth Management Functional Plan and the Statewide Planning Goals.

As demonstrated by the findings in this ordinance, the amendments are consistent with relevant Comprehensive Plan, Urban Growth Management Functional Plan and the Statewide Planning Goals. The amendments do not affect the purpose statement for any base zone, overlay zone, plan district, use, development or land division regulation. The amendments also do not create a new plan district. Amendments to the zoning code