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BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

COLUMBIA PACIFIC BUILDING TRADES
COUNCIL, PORTLAND BUSINESS
ALLIANCE, WESTERN STATES
PETROLEUM ASSOCIATION,

Petitioners,

v.

CITY OF PORTLAND,

Respondent.

LUBA No. 2017- 001

01/06/17 10:34 LUBA

NOTICE OF INTENT TO APPEAL

I.

Notice is hereby given that Petitioners Columbia Pacific Building Trades Council, Portland Business Alliance, and Western States Petroleum Association intend to appeal the land use decision of Respondent City of Portland titled "Ordinance No. 188142 As Amended, Restrict bulk fossil fuel terminals. (Ordinance; Amend Title 33, Planning and Zoning)." Ordinance No. 188142 was passed by the Portland City Council on December 14, 2016. A copy of Ordinance No. 188142 that was filed by the City of Portland with the Oregon Department of Land Conservation and Development (pursuant to ORS 197.615) is attached as Exhibit A.

II.

Petitioners are represented by William L. Rasmussen, Miller Nash Graham & Dunn LLP, 111 S.W. Fifth Avenue, Suite 3400, Portland, Oregon 97204, (503) 224-5858.

///

1 III.

2 Respondent's mailing address and telephone number are: City of Portland,
3 221 S.W. Fourth Avenue, Room 130, Portland, Oregon 97204; (503) 823-4082. The City
4 Attorney for the City of Portland is Tracy Reeve, and the address and telephone number for the
5 City Attorney's Office is 1221 S.W. Fourth Avenue, Room 430, Portland, Oregon 97204;
6 (503) 823-4047.

7 IV.

8 According to representations of the City of Portland (Bureau of Planning and
9 Sustainability), no parties who participated in the proceedings requested notice of the final
10 adoption, and the City of Portland provided notice of the decision to only the Department of
11 Land Conservation and Development. Respondent submitted online notification of the land use
12 decision to the Department of Land Conservation and Development on December 20, 2016. The
13 mailing address and telephone number for the Department of Land Conservation and
14 Development is 635 Capitol Street N.E., Suite 150, Salem, Oregon 97301; (503) 373-0050.

15 NOTICE

16 Any party other than the respondent who desires to participate as a party in this
17 case before the Land Use Board of Appeals must file with the Board a Motion to Intervene in
18 this proceeding as required by OAR 661-010-0050.

19 DATED this 4th day of January, 2017.

20 MILLER NASH GRAHAM & DUNN LLP

21 

22 _____
23 William L. Rasmussen, OSB No. 064782

24 Attorney for Petitioners
25 Columbia Pacific Building Trades Council,
26 Portland Business Alliance, and Western States
Petroleum Association

ORDINANCE NO. 188142 As Amended

Restrict bulk fossil fuel terminals. (Ordinance; Amend Title 33, Planning and Zoning)

The City of Portland ordains:

Section 1. The Council finds:

General Findings

1. The rapid development of fossil fuel resources in the western U.S. and Canada has resulted in numerous facility and infrastructure projects proposed to transport coal, diluted bitumen, natural gas, propane or other fossil fuels through the West Coast.
2. Fossil fuels pose risks to safety, health, and livability, including mobility of people, other freight, and other commercial vehicles.
3. The Portland Bureau of Emergency Management's Mitigation Action Plan (MAP) identifies how natural hazard events like floods, landslides, and earthquakes might affect the City of Portland. The Portland area has experienced numerous earthquakes in the past, ranging from Magnitude 4.5 to 9.0. Portland is certain to experience seismic events in the future. Many of Portland's fossil fuel storage tanks were built before seismic design requirements in building codes were adopted.
4. Most of Portland's employment and industrial zones are located in areas with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management's Critical Energy Infrastructure Hub Study (2016). Fossil fuel infrastructure poses considerable risks in the event of a major earthquake.
5. The extraction and combustion of fossil fuels are significant sources of greenhouse gas emissions and major contributors to climate change and pollution.
6. Coal contains toxic heavy metals, including mercury, arsenic and lead, and exposure to these toxic heavy metals is linked to cancer, birth defects and other health problems.
7. A Union Pacific train carrying oil from North Dakota to Tacoma derailed in Mosier, Oregon on June 3, 2016, spilling 42,000 gallons of crude oil, igniting a fire, and leading to the evacuation of one-quarter of the town's residents.
8. Tribal communities in Oregon and Washington have expressed concerns about the safety risks of fossil fuel infrastructure and the related threats to human health, cultural heritage, and environmental quality.
9. The City's 2015 Climate Action Plan (adopted by Resolution 37135) identifies the need to establish a "fossil fuel export policy that considers lifecycle emissions, safety,

economics, neighborhood livability and environmental impacts” (Climate Action Plan, action 3G, page 69).

10. The City committed in its 2015 Climate Action Plan to advancing policy and programs to reduce local fossil fuel use both in the City’s own operations and through community-wide initiatives.
11. In Resolutions 36959 and 36962 adopted in 2012, the Council expressed opposition to coal trains traveling through Portland until a programmatic, comprehensive and area-wide Environmental Impact Statement and comprehensive Health Impact Assessment are completed.
12. Resolution 37168, adopted November 12, 2015, expressed the City Council’s opposition to the “expansion of infrastructure whose primary purpose is transporting or storing fossil fuels in or through Portland or adjacent waterways.” It also expressed the Council’s intent not to restrict improvements in safety, efficiency, or seismic resilience; the provision of service directly to end users; or infrastructure that will accelerate the transition to non-fossil fuel energy sources.
13. The 2035 Comprehensive Plan sets policy direction (Policies 4.75 and 4.76) to encourage disaster-resilient development and specifically to reduce natural hazard risks to critical energy and transportation infrastructure in Portland Harbor. Most of Portland’s employment and industrial zones are located in areas with moderate to high levels of liquefaction susceptibility, as documented by the Portland Bureau of Emergency Management’s Critical Energy Infrastructure Hub Study (2016).
14. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals, which does not implement the Council’s policy actions described in Findings 9 – 13 above
15. As initial implementation of these policies, the proposed amendments create a new land use category and impose prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The amendments will prohibit new terminals and limit the expansion of existing terminals.
16. The amendments promote major benefits to human health and safety, environmental health and resilience, with minor impacts to economic prosperity and equity.
17. The amendments will restrict expansion at existing fuel terminals and prohibit new terminal development, potentially impacting associated job growth and tax revenue. At the same time, the code restrictions on fossil fuel terminal development will also limit potential financial risks from a major accident involving fossil fuel infrastructure.
18. The amendments will reduce the scale of low, but potentially catastrophic, safety risks associated with fossil fuel infrastructure, including explosive accidents at liquefied

natural gas (LNG) and liquefied petroleum gas (LPG) facilities, and seismic risks of tank farms.

19. The amendments will limit expansion at existing fuel terminals and prohibit new terminal development, which may negatively impact associated middle-wage, industrial job growth that disproportionately benefits workers of color.
20. The amendments will restrict development of fossil fuel terminals consistent with City and State objectives on climate change and public safety. While fossil fuels like natural gas and propane have the potential to replace higher-carbon fuels, substituting these fuels for higher-carbon fuels does not begin to approach the goal of an 80% reduction in carbon emissions by 2050 established in Portland's Climate Action Plan or the State's 75% goal.
21. The potential impacts of the code amendments on constraining the fossil fuel supply to meet regional demand is uncertain. Fossil fuel demand in this growing region has been relatively flat over the last 15 years. At best, the demand for fossil fuel may increase moderately, as indicated by trend-based forecasts, or may plateau and decline with a continued shift to other modes of transportation, more fuel efficient vehicles, electric vehicles, and other carbon reduction strategies.
22. In Resolution 37168, the City Council expressed support for accelerating the transition to non-fossil fuel energy sources. As part of that transition, the Oregon Department of Environmental Quality (ODEQ) is implementing the Oregon Clean Fuels Program, which requires a 10 percent reduction in average carbon intensity by 2025. Fuels that could be used to achieve the standards include ethanol, biodiesel, electricity, hydrogen, natural gas, propane, and biogas, which may require additional storage capacity. In order to facilitate implementation of the Clean Fuels Program, non-fossil fuel storage tanks are not subject to the capacity limits.

Findings on Statewide Planning Goals

23. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the stated goals addressed below apply.
24. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement, including:
 - a. The Bureau of Planning and Sustainability maintained and updated as needed a project web site that included basic project information, announcements of public events, project documents and staff contact information.
 - b. On June 29, 2016, the Fossil Fuel Terminal Zoning Amendments Discussion Draft was published and posted on the Bureau website.
 - c. On August 8, 2016, notice of the proposed action was mailed to the Department of Land Conservation and Development (DLC) in compliance with the post-

- acknowledgement review process required by OAR 660-18-020. DLCD received the notice later that day.
- d. On August 12, 2016, the Fossil Fuel Terminal Zoning Amendments Proposed Draft was published and posted on the Bureau website.
 - e. On August 12, 2016, notice of the Planning and Sustainability Commission hearing on the Fossil Fuel Terminal Zoning Amendments was mailed to 367 people, including all neighborhood and business associations, and all those who had requested notice, as required by state law and administrative rules and the City's zoning code. The notice also announced the availability of the Fossil Fuel Terminal Zoning Amendments Proposed Draft.
 - f. On September 13, 2016, the Planning and Sustainability Commission held a hearing on the proposal. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.
 - g. On September 20, 2016, the City Council held a work session on the Fossil Fuel Terminal Zoning Amendments.
 - h. On October 11, 2016, the Planning and Sustainability Commission voted to recommend the Fossil Fuel Terminal Zoning Amendments to City Council, including PSC-recommended modifications to the Proposed Draft
 - i. On October 24, 2016, the Fossil Fuel Terminal Zoning Amendments Recommended Draft was published and posted on the Bureau website.
 - j. On October 25, 2016, notice of the City Council hearing on the Fossil Fuel Terminal Zoning Amendments was mailed to 1,123 people. The notice also announced the availability of the Fossil Fuel Terminal Zoning Amendments Recommended Draft.
 - k. On November 10, 2016, City Council held a hearing on the Planning and Sustainability Commission recommendation for the Fossil Fuel Terminal Zoning Amendments. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.
 - l. On November 16, 2016, City Council held a second hearing on the Fossil Fuel Terminal Zoning Amendments.
 - m. On December 8, 2016, voted to adopt the Zoning Code changes in the Fossil Fuel Terminal Zoning Amendments.
25. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision.
- a. The process for adopting the amendments followed the procedures required by Title 33.740, Legislative Procedures, OAR 660-018-0020, ORS 227.186 and ORS 197.610.
 - b. The applicable approval criteria for zoning code text amendments (33.835 Goal, Policy, and Regulation Amendments) are satisfied for the reasons explained in the findings below.
 - c. The amendments meet relevant goals and policies of the City's adopted Comprehensive Plan as described in the findings below for Portland's Comprehensive Plan Goals and Policies;

- d. The amendments are based on an identification of issues and problems as described in the general findings and in the project report and supporting documents contained in Exhibit A.
 - e. The amendments support this goal because the code changes provide use limitations for Bulk Fossil Fuel Terminals consistent with the City's adopted Comprehensive Plan.
 - f. The amendments also support this goal because development of the changes followed established city procedures for legislative actions, while also improving the clarity and comprehensibility of the City's codes.
26. **Goal 7, Natural Hazards**, requires reducing risk to people and property from natural hazards. The amendments support this goal because help limit the risks of storing large volumes of hazardous materials in an area with moderate to high susceptibility to an earthquake.
27. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The amendments are consistent with this goal because these changes and restrictions only apply to a new land use category, Bulk Fossil Fuel Terminals, and do not have a significant effect on the other allowed uses in industrial and employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.
28. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. Goal 12 is implemented by the Transportation Planning Rule (TPR), which requires certain findings if a proposed regulation will significantly affect an existing or planned transportation facility. Under OAR 660-012-0060(1), a land use regulation amendment significantly affects a transportation facility if it would:
- (a) *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*
 - (b) *Change standards implementing a functional classification system; or*
 - (c) *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - (A) *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*
 - (B) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*
 - (C) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

- a. These amendments do not change the functional classification of an existing or planned transportation facility, nor change standards that implement a functional classification system.
 - b. These amendments create a new land use category, but impose prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals. The amendments will prohibit new terminals and limit the expansion of existing terminals.
 - c. Given the new prohibitions and limits on expansion, the amendments will not reduce or worsen the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
 - d. For the same reason, these changes will not have a significant effect on existing or planned transportation facilities because the proposed amendments are minor changes to the allowed uses in industrial uses, and will not increase development intensity in a manner that will be inconsistent with the function or classification of existing transportation facilities or increase automobile traffic.
 - e. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.
29. **Goal 15, Willamette River Greenway**, requires protection of the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River. The amendments support this goal because they minimize risks to natural, scenic and historic qualities along the river by restricting the storage of large volumes of hazardous materials in liquefaction zones near the river. The amendments prohibit new fossil fuel terminals, which will minimize potential risk to people and the environment by requiring any new terminal to be located outside of the liquefaction zone away from the greenway.

Findings on Metro Urban Growth Management Functional Plan

30. **Title 4, Industrial and other Employment Areas**, seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. The amendments support Title 4 because they do not increase the type or scale of non-industrial uses allowed in RSIAs, Industrial or General Employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial and employment areas of Portland.

Findings on Portland's Comprehensive Plan Goals

31. Since the adopted 2035 Comprehensive Plan is not yet effective, the proposed amendments are evaluated below for consistency with the City's existing, effective, and acknowledged Comprehensive Plan. Only the Comprehensive Plan goals addressed below are relevant and apply.
32. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because notification of the proposals, and an opportunity to provide comment at a public hearing before the Planning and Sustainability Commission, was provided to the Oregon Department of Land Conservation and Development consistent with ORS 197.610, and to Metro, Tri-Met, the Port of Portland, and the Oregon Department of Transportation consistent with 33.740.020. Nothing within these amendments changes or affects the Urban Growth Boundary, Urban Planning Area Boundary, or Urban Services Boundary.
33. **Goal 2, Urban Development**, calls for maintaining Portland's role as the major regional employment and population center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The zoning code amendments will have minimal impact on Portland as the region's major employment center because there are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial and employment areas of Portland.
34. **Policy 2.14, Industrial Sanctuaries**, calls for providing industrial sanctuaries and encouraging the growth of industrial activities by preserving industrial land primarily for manufacturing purposes. The amendments are consistent with this policy because these changes and restrictions only apply to a new land use category, Bulk Fossil Fuel Terminals, and do not significantly affect the other allowed uses in industrial and employment zones. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.
35. **Goal 5, Economic Development**, calls for fostering a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The amendments are consistent with this goal because these changes and restrictions only apply to a new land use category, Bulk Fossil Fuel Terminals, and do not have a significant effect on the other allowed uses in industrial and employment zones.
36. **Policy, 5.1, Urban Development and Revitalization**, encourages investment in the development, redevelopment, rehabilitation and adaptive reuse of urban land and buildings for employment and housing opportunities. Objectives A and C specifically call for ensuring a sufficient supply of commercially and industrially-zoned, buildable

land, and retaining industrial sanctuary zones and maximizing use of infrastructure and intermodal transportation linkages with and within these areas. The zoning code amendments support this policy and objectives and will not affect the City's supply of land for economic development and employment growth because there are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland.

37. **Goal 6, Transportation**, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. These amendments support this goal for the following reasons:
- a. These changes will not have a significant effect on existing or planned transportation facilities because the proposed amendments are minor changes to the allowed uses in industrial zones, and will not increase development intensity in a manner that will be inconsistent with the function or classification of existing transportation facilities or increase automobile traffic.
 - b. There are no changes proposed to the Comprehensive Plan or Zoning Map that will impact the overall size or intensity of development in the industrial areas of Portland, so there is no impact to the city's transportation system.
 - c. These amendments create a new land use category, but imposes prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals. The amendments will prohibit new terminals and limit the expansion of existing terminals.
 - d. Given the new prohibitions and limits on expansion, the amendments will not reduce or worsen the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan.
38. **Policy 6.9, Freight Classification Descriptions**, calls for designating a system of truck streets, railroad lines, and intermodal freight facilities that support local, national, and international distribution of goods and services. The amendments do not change the designation of any element of the city's freight system.
39. **Policy 6.18, Adequacy of Transportation Facilities**, calls for ensuring that amendments to land use regulations that change allowed uses are consistent with the identified function and capacity of, and adopted performance measures for, affected transportation facilities. This ordinance amends the zoning code to create a new land use category, but imposes prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals. The amendments will prohibit new terminals and limit the expansion of

existing terminals. Therefore, consistency with the identified function and capacity of transportation facilities is not impacted.

40. **Policy 6.29, Multimodal Freight System**, calls for developing and maintaining a multimodal freight transportation system for the safe, reliable, and efficient movement of goods within and through the City. The amendments do not change the designation of any element of the city's freight system.
41. **Goal 7, Energy**, calls for promoting a sustainable energy future by increasing energy efficiency in all sectors of the city by ten percent by the year 2000. **Policy 7.8, Energy Supply**, calls for supporting environmentally acceptable, sustainable energy sources, especially renewable resources such as solar, wind, hydroelectric, geothermal, and biomass (wood, farm and municipal waste). These amendments support a transition to non-fossil fuel energy sources by not including non-fossil fuel storage tanks in the storage capacity limits.
42. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland's air, water and land resources and protecting neighborhoods and business centers from detrimental noise pollution. **Policy 8.11, Special Areas, H. Willamette River Greenway** calls for the protection of the natural and economic qualities of lands along the Willamette River through the Willamette Greenway Plan. The amendments support this goal because they minimize or even reduce risks to natural and economic qualities along the river by restricting the storage of large volumes of hazardous materials in liquefaction zones near the river. The amendments prohibit new fossil fuel terminals, which will minimize potential risk to people and the environment by requiring any new terminal to be located outside of the liquefaction zone away from the greenway.
43. **Goal 10, Plan Review and Administration**, calls for the periodic review so that the Comprehensive Plan and implementing ordinances remain an up-to-date and workable framework for land use development. **Policy 10.6, Amendments to the Comprehensive Plan Goals, Policies, and Implementing Measures**, requires that all proposed amendments to implementing ordinances be reviewed by the Planning and Sustainability Commission prior to action by the City Council. These amendments support this policy. The Planning and Sustainability Commission reviewed these amendments at a public hearing on September 13, 2016 and made a recommendation on October 11, 2016, to action by the City Council.
44. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, requires that amendments to the zoning and subdivision regulations be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. The amendments are consistent with this policy and its objectives as follows:
 - a. The amendments address a present land use and development situation. The zoning code currently allows Bulk Fossil Fuel Terminals as a Warehouse and Freight Movement use without any limits on the size of terminals and without consideration

of liquefaction hazards and public safety. These amendments create a new land use category and impose prohibitions and limits that restrict the level of development to less than what is allowed under the current standards. The amendments will prohibit new terminals and limit the expansion of existing terminals.

- b. The amended regulation is simple and concise by using clear and objective standards and not requiring a discretionary land use review for the limited expansion of an existing terminal.

NOW THEREFORE, The Council directs:

- a. Adopt Fossil Fuel Terminal Zoning Amendments, *Recommended Draft* dated October 24, 2016, attached as Exhibit A.
- b. Adopt the commentary in Exhibit A, Fossil Fuel Terminal Zoning Amendments, *Recommended Draft*, dated October 24, 2016, as legislative intent and further findings.
- c. Amend Title 33, Planning and Zoning, as shown in Exhibit A, Fossil Fuel Terminal Zoning Amendments, *Recommended Draft*, dated October 24, 2016.
- d. The Bureau of Planning and Sustainability shall report to City Council no later than December 31, 2019 on the implementation of this ordinance, including:
 - the number and description of any requests by existing terminal operators to replace and expand their facilities;
 - the number and description of building permits issued for fossil fuel tanks between 200,000 and 2 million gallons;
 - the trends in fossil fuel energy use and non-fossil energy use in Oregon;
 - the status of local and state regulatory proceedings that may improve seismic resilience of fossil fuel storage infrastructure; and
 - information on compliance with the Oregon Clean Fuels Program.
- e. City Bureaus, including BDS, PBEM and Fire, shall work with the State of Oregon to develop policy options to require seismic upgrades of storage tanks within a firm deadline for replacement of older, unsafe tanks.

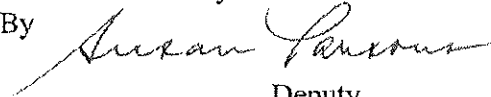
Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

188142

Passed by the Council: DEC 14 2016

Mary Hull Caballero
Auditor of the City of Portland

By


Deputy

Mayor Charles Hales

Prepared by: T. Armstrong and M. Armstrong
Date Prepared: October 24, 2016

~~1259~~, ~~1281~~, ~~178~~

Agenda No. **1385**
ORDINANCE NO. 188142, As Amended
Title

Restrict bulk fossil fuel terminals. (Ordinance; Amend Title 33, Planning and Zoning).

INTRODUCED BY Commissioner/Auditor: Charlie Hales	CLERK USE: DATE FILED <u>NOV 01 2016</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - <i>[Signature]</i>	Mary Hull Caballero Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <i>[Signature]</i> Deputy
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: <i>Susan Anderson</i>	ACTION TAKEN: NOV 09 2016 CONTINUED TO NOV 16 2016 9:30 A.M.
Prepared by: Tom Armstrong Date Prepared: 10/21/2016	NOV 16 2016 PASSED TO SECOND READING As Amended DEC 08 2016 2 P.M.
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	DEC 08 2016 <i>Rescheduled to DEC 14 2016 10:15 am</i> <i>Time Certain</i>
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: <i>KS Beaumont</i> required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date 11/10/2016	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:00pm</u>
Total amount of time needed: <u>3 hours</u> (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/>
Total amount of time needed: _____ (or presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Novick	✓	
Hales	✓	

CERTIFICATE OF FILING

I hereby certify that on January 4, 2017, I filed the original of this notice of intent to appeal, together with two copies, with the Land Use Board of Appeals, 775 Summer Street N.E., Suite 330, Salem, Oregon 97301-1283, by certified mail, return receipt requested.

MILLER NASH GRAHAM & DUNN LLP



William L. Rasmussen
Oregon State Bar No. 064782

Attorney for Petitioners
Columbia Pacific Building Trades
Council, Portland Business Alliance, and
Western States Petroleum Association

CERTIFICATE OF SERVICE

I hereby certify that on January 4, 2017, I served a true and correct copy of the foregoing notice of intent to appeal on the governing body, the governing body's legal counsel, and the persons listed in paragraphs III and IV of this Notice pursuant to OAR 661-010-0015(2) by mailing in a sealed, first-class postage-prepaid envelope and deposited with the United States Postal Service, Portland, Oregon.

MILLER NASH GRAHAM & DUNN LLP



William L. Rasmussen
Oregon State Bar No. 064782

Attorney for Petitioners
Columbia Pacific Building Trades
Council, Portland Business Alliance, and
Western States Petroleum Association