City Code 17.104: Climate and Health Standards for Buildings

17.104.010 Purpose. The purpose of this Chapter is to reduce the carbon emissions of commercial and multifamily residential buildings to zero by 2050 and provide information to tenants to improve the affordability, health, and resilience of rental housing.

17.104.020 Definitions. For purposes of this Chapter, and administrative rules adopted under this Chapter, the following words and phrases will be construed as defined in this Section.

A. "**Baseline performance year**" means the benchmark year for energy and carbon emissions reported for any covered building, not including energy consumed through onsite renewable energy production.

B. "**Campus portfolio**" means two or more covered buildings on the same or adjacent parcels owned by the same building owner that is served by a campus district heating, cooling, water reuse, and/or power system. Where more than one owner is part of a district campus under a joint agreement, one owner shall be deemed the building owner for the purposes of complying with this Chapter 22.925

C. "**Carbon emissions**" means greenhouse gas emissions released into the atmosphere that contribute to climate change, including but not limited to carbon dioxide, methane, and nitrous oxide. Carbon emissions are expressed in metric tons of carbon dioxide equivalent CO2e Carbon emissions are calculated based on emissions factors determined by the City Administrator and onsite fuel consumption reported by covered building owners (including but not limited to natural gas, propane, and fuel oil).

D. "**Carbon pollution impact fee**" means a fee established by the City Administrator that an owner pays in lieu of a covered building achieving required levels of carbon performance.

E. "**City**" means City of Portland.

F. "**City Administrator**" means the City Administrator or the City Administrator's designee.

G. "**Climate and health information**" means information related to a building's energy costs and descriptive information about the physical building and its health risks.

H. **"Commercial tenant**" means a person or entity under a rental agreement to occupy a commercial rental unit to the exclusion of others.

I. "**Condominium**" means a property that combines a separate ownership of individual units with common ownership of other elements such as common areas.

J. "**Covered building**" includes any commercial building or residential building with four or more dwelling units, including but not limited to:

1. Single buildings;

2. One or more buildings held in the condominium form of ownership and governed by a single board of managers; or

3. Two or more buildings that are served by the same electric or gas meter or are served by the same heating or cooling system(s).

4. "Covered building" does not include buildings predominantly used for industrial, manufacturing, parking, primary or secondary education, warehouse, or worship purposes.

K. **"Director"** means the Director of the Bureau of Planning and Sustainability or the Director's designee.

L. "**Emissions factor**" means the carbon emissions associated with an energy source as reported by the U.S. Environmental Protection Agency Stationary Combustion Sources for natural gas and other fuels, the Oregon Department of Environmental Quality for each utility-specific emission intensity, and consideration of Oregon Clean Energy Targets in ORS 469A.410, Climate Protection Program caps in ORS 468A.205, or other information representative of carbon emission intensity in the City.

M. "**Energy**" means:

1. Electricity, including electricity that is delivered through the electric grid and electricity that is generated at a building site using solar or wind energy resources;

2. Natural gas;

3. Steam, hot water, or chilled water;

4. Propane;

5. Fuel oil;

6. Wood;

7. Coal; or

8. Any other fuel that meets a covered building's energy load.

N. "**ENERGY STAR score**" means the 1 to 100 numeric rating generated by the ENERGY STAR Portfolio Manager web-based tool developed by the U.S. Environmental Protection Agency that compares the relative energy usage of the building to that of similar buildings, where available.

O. "**Energy management tool**" means ENERGY STAR Portfolio Manager, or any alternative system or tool approved by the City Administrator for evaluating building energy, carbon emissions, or health data.

P. "**Energy use intensity (EUI)**" means a numerical value calculated by the energy management tool that represents the annual total net site energy consumed by a building relative to its gross floor area, reported as thousand British thermal units per square foot (kBtu/sf).

Q. "**Final carbon performance standard**" means that all energy sources used by a covered building have zero carbon emissions.

R. "**Greenhouse gas intensity (GHGI)**" means a numerical value calculated with the emissions factor provided by the City Administrator and the energy management tool. GHGI represents the carbon emissions from a covered building relative to its gross floor area, expressed kgCO2e/sf for a particular 12-month period.

S. "**GHGI target**" means the target that limits a covered building's GHGI, reported as a numerical value of kgCO2e/sf over a 12-month period.

T. "**Gross floor area**" means the total number of square feet, measured from exterior surfaces of a building's fixed enclosing walls, including conditioned basements. Gross floor area does not include bays, docks, or other exterior spaces outside of the building.

U. "**Interim carbon performance standard**" means the calculated GHGI target for a covered building that will be achieved by a fixed date and every five years thereafter.

V. "Laboratory" means a facility engaged in scientific, medical, or technical research, testing, or analysis that requires continuous operation or controlled environmental conditions, and for which interruption of utilities or building systems would pose a risk to health, safety, research integrity, or regulatory compliance.

W. "Necessary" means information that cannot reasonably be obtained through aggregated utility data, building-level meters, or alternative documentation approved by the City Administrator.

X. "**Owner**" means any of the following:

1. One or more individuals or entities, jointly or severally, in whom is vested all or part of the legal title to real property, or all or part of the beneficial ownership and right to present use and enjoyment of real property;

2. A mortgagee of a covered building who is in possession of that covered building;

3. The board of the owners' association of unit owners responsible for the overall management, in the case of a condominium;

4. The master association, in the case of a condominium, where the powers of an owners' association are exercised by or delegated to a master association;

5. The board of directors in the case of a cooperative apartment corporation; or

6. An agent authorized to act on behalf of any of the above.

Y. "**Qualified person**" means a person having training in energy use analysis, including but not limited to a licensed professional architect or engineer in the state of Oregon.

Z. "**Regulated affordable housing**" means a dwelling unit regulated or certified as affordable housing by a local, state, or federal government.

AA. **"Residential rental dwelling unit**" means a rental dwelling unit in a covered building, including vacant rental dwelling units. Residential rental dwelling units do not include single room occupancy dwelling units or other similar dwelling units with shared sanitary or cooking facilities.

BB. **"Residential tenant**" means a person or entity under a rental agreement, to occupy a residential rental unit to the exclusion of others.

CC. "**Shared utility services**" means energy-related services such as electricity, natural gas, chilled water, heated water, or steam serving two or more buildings for a centralized system or a single utility building meter. Where more than one owner shares utility services or metering equipment, one owner will be deemed the covered building owner.

DD. "**Utility**" means an entity that distributes and sells natural gas, electric, or thermal energy services to covered buildinds.

EE. "**Undue hardship**" means a condition that is extraordinary, building-specific, and not primarily financial unless the owner provides documentation that compliance with the Chapter will result in bankruptcy.

FF. "Weather-normalized" means a method for modifying a building's energy use in a specific weather year to the energy use under typical weather conditions.

GG. "Zero carbon emissions" means a GHGI of zero without the use of offsets, renewable natural gas, or unregulated credit mechanisms.

17.104.030 Authority of City Administrator

The City Administrator may adopt, amend, and repeal administrative rules pursuant to Portland City Code Chapter 1.05.

17.104.040 Energy Performance Tracking and Reporting Requirements

A. Not later than June 1 of each year, the owner of any covered building 20,000 square feet or greater must accurately report energy performance information of the building to the City Administrator for the previous calendar year using the energy management tool. At a minimum, the energy performance information will include the following details to be made publicly accessible:

1. Building address;
2. Year of construction;
3. Primary use type and additional use types;
4. Gross floor area as defined by the energy management tool;
5. Number of residential units;
6. Site EUI;
7. Weather-normalized site EUI;
8. Annual natural gas consumption;
9. Annual electricity consumption and utility provider;
10. ENERGY STAR Score, where available;
11. GHGI; and
12. Total annual greenhouse gas emissions based on emissions factors provided by the City Administrator.

B. Optional information may be reported by the owner of a covered building to the City Administrator, including but not limited to contextual information related to energy use in the building.

C. For campus portfolios where two or more covered buildings are served by shared utility services, the owner of the campus portfolio may alternatively submit an energy report that includes the campus-wide gross floor area, site EUI, GHGI, and total annual greenhouse gas emissions using the energy management tool.

D. Between November 1 and December 31 of each year, the City Administrator will notify covered building owners of their obligation to report energy performance information for that calendar year, provided that the failure of the City Administrator to notify any covered building owner will not affect the owner's reporting obligation.

17.104.050 Energy Performance Reporting Schedule

The reports required by Section 17.104.040 will occur according to the following schedule:

A. For every commercial covered building with a gross floor area of at least 20,000 square feet, the report will be submitted no later than June 1, 2027, and not later than every June 1 thereafter.

B. For every residential covered building with a gross floor area of at least 20,000 square feet, the report will be submitted no later than June 1, 2028, and not later than every June 1 thereafter.

C. For newly constructed covered buildings or an existing building that changes use, the report will be submitted within six years of the owner receiving a Certificate of Occupancy from the City, and not later than every June 1 thereafter.

D. Report deadlines may be extended at the City Administrator's sole discretion.

17.104.060 Records Retention

Covered building owners will retain all information required to be reported under this Chapter to the City Administrator or prospective tenants for at least three years beyond the date on which reporting was required and make all climate, health, and energy information available for inspection and audit by the City Administrator during normal business hours.

17.104.070 Review of Reported Energy Performance Information

The City Administrator may arrange for a review of records to verify the accuracy of the climate, health, and energy information submitted by an owner of a covered building. The City

Administrator will provide prior written notice to a covered building owner at least 30 calendar days prior to examining the records. Covered building owners will provide the City Administrator with access to the requested records within the Portland metropolitan region, during normal business hours. Any failure by a covered building owner to comply with the City Administrator's efforts to verify climate, health, and energy information will constitute a violation of this Chapter.

17.104.080 Transparency of Energy Performance Information

The City Administrator will make City-wide energy performance summary statistics for the previous calendar year available to the public no later than November 1, 2027, and each November 1 thereafter.

17.104.090 Utility Data Access

A. A covered building owner will obtain data from each utility providing energy service to a covered building, subject to applicable data privacy laws. If certain data cannot be disclosed due to applicable data privacy laws, the utility will redact that information prior to submission to the owner

B. Effective January 1, 2027, upon the written or electronic request of a covered building owner, each utility will provide the owner with access to the monthly energy consumption data for all utility meters identified by the owner. The data provided by the utility will be aggregated and will not contain personally identifying information or any customer-specific billing data. The utility will provide access to the data within 60 days of the owner's request in a format that aligns with the Oregon Department of Energy’s Building Performance Standards requirements. Utilities providing energy service to a covered building will maintain energy consumption data for meters serving each covered building for at least the two most recent calendar years.

    1. Where a unit or other space is occupied by a tenant and separately metered by a utility, the utility may require the owner to submit a written or electronic request identifying such meters.

    2. To verify the owner’s data entry of utility history in the energy management tool estimation of building carbon emissions, the utility will coordinate with the City Administrator to ensure accuracy of building energy meter information.

C. An owner will request tenant-specific utility information from tenants, and tenants will provide building owners access to utility information, only when aggregated utility data is unavailable and only to the extent necessary to comply with this Chapter.

    1. To the maximum extent allowed by law, compliance with this Chapter will rely on aggregated utility data provided directly by utilities.

2. Owners will not require tenants to provide unredacted billing statements. Tenants may submit self-redacted documentation sufficient to verify energy use.

3. Nothing in this Chapter authorizes owners to collect or retain personally-identifying utility data beyond what is required to comply with this Chapter.

4. If a dispute regarding access to tenant utility information arises, the City Administrator will make a determination to resolve the dispute based on minimizing tenant burden and protecting data privacy.

D. When a covered building changes ownership, the previous owner will provide the new owner with all utility data for each month of the calendar year the previous owner retained ownership of the building.

17.104.100 Commercial-Only Building Data Access

Where a unit or other space in a non-residential covered building is occupied by a commercial tenant and separately metered by a utility, the owner may request tenant data relating to energy use, use of space, operating hours, and other information required for ENERGY STAR Portfolio Manager reporting.

A. Within 30 calendar days of a request by the owner, each commercial tenant in a covered building will provide all data that cannot otherwise be acquired by the owner and that is needed to comply with this Section, including consent to access utility data as described in Section 17.104.090. If a commercial tenant does not comply, the building owner may provide a written or electronic request to the City Administrator for an extension to the reporting schedule in Section 17.104.050.

B. When the owner of a covered building receives notice that a commercial tenant intends to vacate a unit or other space, the owner will request information relating to the tenant's energy use for any period of occupancy relevant to the owner's obligation to meet the reporting requirements in Sections 17.104.040, 17.104.050, 17.104.090, and 17.104.100(A).

17.104.110 Carbon Performance Standards

A. The City Administrator will calculate an interim carbon performance standard GHGI target for each covered building based on its site EUI and using a straight-line trajectory so that each building’s carbon emissions are reduced in equal increments of 20 percent below the building’s baseline performance year GHGI every five years until reaching the final carbon performance standard of zero carbon emissions by 2050.

B. Based on the carbon emissions reported under Section 17.104.040, the owner of each covered building will reduce the building's GHGI below or equal to the GHGI target for the building for each interim carbon performance standard, as follows:

    1. For every covered building containing a gross floor area of at least 20,000 square feet, the carbon emissions and GHGI reported for calendar year 2026 or 2027 will serve as the baseline performance year, unless an alternative baseline performance year is approved by the City Administrator.

    2. For the first interim carbon performance standard, the GHGI reported for calendar year 2030 will be used to determine compliance with a GHGI target calculated by multiplying the baseline performance year GHGI by 0.80.

    3. For the second interim carbon performance standard, the GHGI reported for calendar year 2035 will be used to determine compliance with a GHGI target calculated by multiplying the baseline performance year GHGI by 0.60.

    4. For the third interim carbon performance standard, the GHGI reported for calendar year 2040 will be used to determine compliance with a GHGI target calculated by multiplying the baseline performance year GHGI by 0.40.

    5. For the fourth interim carbon performance standard, the GHGI reported for calendar year 2045 will be used to determine compliance with a GHGI target calculated by multiplying the baseline performance year GHGI by 0.20.

    6. For the final carbon performance standard, the GHGI reported for calendar year 2050, and every five years thereafter, will be used to determine compliance with a GHGI target of zero carbon emissions.

    7. Once a covered building achieves the final carbon performance standard, the owner will maintain zero emissions in perpetuity.

C. For any newly constructed covered building or a covered building that changes use containing a gross floor area of 20,000 square feet or larger, the owner will establish a baseline performance year based on the average of any two consecutive full calendar years within six years of receiving a Certification of Occupancy from the City and meet the next applicable GHGI target within seven years of receiving a Certification of Occupancy from the City.

D. The owner may exclude carbon emissions from the GHGI for non-building energy end uses determined by the City Administrator, including but not limited to broadcast antennas, electric vehicle charging equipment, fossil fuel generators used exclusively for emergency power back-up, on-site cell phone towers, and parking structures.

E. A covered building must meet its GHGI target and reporting obligations regardless of any changes in ownership or lease agreements.

F. Between November 1 and December 31 of each year prior to an applicable interim or final carbon performance standard requirement, the City Administrator will notify covered building owners of the owner's obligation to meet a GHGI target, provided that the failure of the City Administrator to notify an owner will not affect the owner's obligation to comply with this Chapter.

17.104.120 Carbon Emissions Verification

A. Before an interim or final carbon performance standard reporting deadline, building owners will have a qualified person, other than the person who prepared and submitted the annual energy report required under Section 17.104.040, verify the accuracy of the covered building's reported energy, GHGI, and carbon emissions for the previous calendar year.

B. Carbon emissions verification applies to all utility emissions data and energy reporting used to determine a covered building's compliance with a GHGI target. If there are errors in data previously reported to the City, the qualified person will submit corrections within two months of discovering the error or notification of the error by the City Administrator.

17.104.130 Alternate Compliance Plans

A. If the owner of a campus with shared utility services believes a covered building cannot reasonably meet one or more of the applicable GHGI targets, then the owner may propose an Alternate Compliance Plan to the City Administrator for approval.

B. The Alternate Compliance Plan will be submitted by a qualified person and include, at a minimum:

1. A description of the extenuating circumstances that prevent the building from reasonably complying with the applicable GHGI target;

2. A physical description of the covered building;

3. An inventory of all major energy equipment including age, expected remaining life, efficiency, fuel type, designed performance, and capacity as indicated on the equipment's nameplate;

4. Recommendations, including engineering calculations, for proposed improvements to the covered building; and

5. A timeline to complete the proposed improvements and GHGI targets that achieve at least 50 percent reduction in carbon emissions below a 2026 or 2027 baseline performance year by 2035 and 100 percent reduction by 2050.

C. The City Administrator will establish rules and deadlines for Alternate Compliance Plans.

D. The Alternate Compliance Plan is a binding agreement between the owner or any future owner of the covered building and the City Administrator. The Alternate Compliance Plan will be referenced in an attachment to the covered building's deed.

E. Alternate Compliance Plans are intended to provide flexibility in the replacement of long-lived equipment such as air-conditioning and heating or long-lived envelope components such as windows and insulation. Alternate Compliance Plans are not intended to delay improvements such as changes in operations, maintenance and controls, lighting retrofits, and behavioral changes.

1. Alternate Compliance Plans will not include fuel switching to higher-emission fuels, renewable natural gas, or hydrogen. Alternate Compliance Plans will prioritize physical building improvements over operational improvements.

17.104.140 Carbon Pollution Impact Fee

A covered building owner who fails to achieve a building's interim or final carbon performance standard in Sections 17.104.110, 17.104.120 or 17.104.130 by the applicable compliance date will pay the following carbon pollution impact fee up to 100 percent of the building's emissions reductions required to meet the GHGI target for an interim or final carbon performance standard:

A. The carbon pollution impact fee will be determined by multiplying a covered building's carbon emissions above the building's GHGI target for five years and the cost of carbon for each applicable interim or final carbon performance standard year in Section 107.104.110.

1. For the first interim carbon performance standard, the cost of carbon is $380 per metric ton CO2e per year.

2. After the first interim carbon performance standard, the City Administrator will determine the cost of carbon per metric ton CO2e per year to account for inflation, the social cost of carbon, public health costs, and levels sufficient to incentivize owners to comply with this Chapter.

The carbon pollution impact fee will be reviewed at least once every five years and approved by City Council. Fees approved by Council may not be lower than the fee

established for the previous interim carbon performance standard.

B. Paid carbon pollution impact fees will be deposited into a dedicated fund and used solely to support compliance with this Chapter.

1. The City will use the carbon pollution impact fee to provide financial assistance for owners to comply with carbon performance standards including but not limited to grants, technical assistance, and financing for building retrofits. The City will prioritize financial assistance for regulated affordable housing, naturally occurring affordable housing, small property owners, and buildings serving low-income or climate-vulnerable tenants.

2. Administrative costs to implement this Chapter will be paid by the fund and will not exceed seven percent.

17.104.150 Residential Climate and Health Inventory

Not later than June 1, 2027, and every five years thereafter, the owner of a residential covered building will submit an accurate climate and health inventory to the City including the following:

A. Building address;

B. Year of construction;

C. Number of residential rental units;

D. Number of residential rental units cooled by owner-supplied air-conditioning and the type of cooling, such as central air-conditioner, window air-conditioner, portable heat pump, central heat pump, ductless heat pump, or evaporative cooler;

E. Number of residential rental units with natural gas stoves and whether mechanical stove ventilation to the outdoors is supplied by the owner.

F. By December 31, 2026, and every five years thereafter, the City Administrator will notify residential covered building owners of their obligation to comply with the climate and health inventory, provided that the failure of the City Administrator to notify an owner will not affect the obligation of the owner to comply.

17.104.160 Residential Tenant Notice

A. Effective January 1, 2027, in addition to the requirements set forth in ORS 90.295 and Portland City Code Section 30.01.086, owners of residential covered buildings will provide a notice of climate and health information to prospective tenants in application forms to lease a unit within the building.

B. Notice of climate and health information will include, at a minimum, the following information provided by the City Administrator to owners:

    1. Instructions on how to access average and peak monthly electricity cost, income qualified energy bill discounts where applicable, and other energy assistance;

    2. Instructions on how to access average and peak monthly natural gas cost, income qualified energy bill discounts where applicable, and other energy assistance;

    3. Whether the stove uses electricity or natural gas as the fuel, and notification of the health risks associated with indoor natural gas combustion and cooking without proper ventilation;

    4. Whether the stove hood ventilates to the outdoors, and operational guidance to reduce indoor health and safety risks;

    5. The presence and type of mechanical cooling, such as central air-conditioner, window air-conditioner, portable heat pump, central heat pump, ductless heat pump, or evaporative cooler; and

    6. The presence and type of passive cooling measures, such as efficient windows, awnings, tree shading, or cool roofs.

C. By November 30, 2026, and at least every five years thereafter, the City Administrator will notify residential covered building owners of their obligation to comply with residential tenant notice, provided that the failure of the City Administrator to notify an owner will not affect the obligation of the owner to comply.

17.104.170 Extensions and Exemptions

A. The City Administrator may provide an extension or exemption to a covered building owner from the requirements of this Chapter if the owner submits documentation establishing any of the following:

    1. A demolition permit has been issued for the building within three years of an interim or final carbon performance standard compliance deadline.

    2. Energy data is not available from a utility serving the building for twelve consecutive months within a two-year period prior to the interim or final carbon performance standard compliance deadline, despite the owner demonstrating good-faith efforts to obtain the data including timely requests to the utility and compliance with utility

data access requirements, and where the lack of data is due to utility limitations or technical constraints and not the owner's action or inaction.

i. The City Administrator may require documentation of an owner's communications with the utility.

3. Building upgrades necessary to meet the interim or final carbon performance standard would require access to a laboratory or an in-patient or emergency healthcare facility that must maintain non-interruptible operations.

4. Structural or electrical capacity upgrades necessary to meet the interim or final carbon performance standard are infeasible due to distinct technical or physical limitations of the covered building, such as insufficient structural load capacity, electrical service constraints, or physical space limitations that cannot be reasonably mitigated through available engineering solutions.

5. Building upgrades necessary to meet the interim or final carbon performance standard would compromise the historical integrity of a covered building that:

   i. Is listed on a state or national register of historic places;

   ii. Is designated as an historic property under a local or state statute, ordinance, rule, or other legislative act or a survey conducted under a local or state statute, ordinance, rule, or other legislative act;

   iii. Is certified as a contributing resource within a historic district that is locally designated or is listed on a national register; or

   iv. Is eligible to be listed on the state or national register of historic places, either as an individual building or as a building that contributes to a historic district, in an opinion or certification by a state historic preservation officer or the keeper of the national register of historic places.

6. The building is new construction and received a Certificate of Occupancy from the City less than seven years before its next interim carbon performance standard compliance deadline.

7. The building received an extension or exemption from the Oregon Department of Energy's Building Performance Standards.

8. Compliance would cause undue hardship as documented by the owner and approved by the City Administrator.

B. The City will publicly report extensions and exemptions granted under this Section on an annual basis.

C. If the City Administrator learns that an extension or exemption was granted based on materially inaccurate documentation, then the City Administrator may revoke or modify the extension or exemption and the owner will be subject to penalties in Section 17.104.190.

17.104.180 Measures to Prevent Displacement of Tenants

A. If making whole building upgrades to meet an interim or final carbon performance standard would render a dwelling unit unsafe or unfit for occupancy during construction, as defined under ORS 90, and results in any residential tenant to relocate from their dwelling unit for more than one day but less than ten days, the owner must provide the following information to the City Administrator:

1. A description of the project provided and signed by a licensed contractor, including consideration of alternative options to prevent temporary removal of tenants, the cost associated with each alternative, and any certifications that the City Administrator may require.

2. A tenant impact plan for any project triggering tenant relocation, which includes a description of how the property owner will maintain compliance with ORS 90 and PCC Title 30. All tenant impact plans must include an advance payment to all affected tenants that is sufficient to cover the cost of temporary housing during the period when any tenant will be relocated from their dwelling unit, as approved by the City Administrator. If any personal belongings must be removed or relocated to facilitate building upgrades, the property owner must provide tenants with moving assistance and secure alternative storage options as part of the impact plan. The City Administrator may approve alternative temporary housing arrangements where compliance with applicable temporary housing criteria is not feasible, provided that tenant hardship is minimized. Where temporary relocation materially increases a tenant's transportation burden, the owner must provide reasonable transportation assistance, which may include transit passes, mileage reimbursement, or equivalent support approved by the City Administrator.

3. A guarantee of right to return to the same dwelling unit after completion of the project for any tenants that must be removed temporarily, a copy of the lease addendum guaranteeing the right of return to the same dwelling unit to each tenant, and a description of any conditions placed on tenants related to relocation that are not expressly identified in the lease addendum provided to the City.

4. Temporary housing requirements. Temporary housing provided under this Section must be habitable, safe, and generally comparable in size and condition to the

tenant's dwelling unity, and reasonably proximate to the tenant's workplace, school, or public transit, where feasible.

B. If making whole building upgrades is necessary to meet an interim or final carbon performance standard that will require that any residential tenant relocate from their dwelling unit for more than ten calendar days or the termination of any ORS 90 tenancy, the owner must comply with Section 17.104.110 through payment of the carbon pollution impact fee in Section 17.104.140 instead of making the building upgrades, and provide the following information:

    1. A description of the project provided and signed by a licensed contractor, including consideration of alternative options to prevent removal of tenants, the cost associated with each alternative, and any certifications that the City Administrator may require.

C. Regulated affordable housing is exempt from the carbon performance standards and carbon pollution impact fee requirements in Sections 17.104.110, 17.104.120, 17.104.130 and 17.104.140.

D. Costs associated with the carbon performance standards in Section 17.104.110, including but not limited building retrofits and carbon pollution impact fees, shall not be passed through to residential tenants .

E. At least once every five years after 2030, the City Administrator will develop a carbon performance standards impact report, including potential displacement of tenants in residential covered buildings. Public comment and recommendations for program improvements will be received through the Sustainability and Climate Commission.

17.104.190 Enforcement and Penalties

A. It is a violation for a utility, covered building owner or a commercial tenant to fail to comply with the requirements of this Chapter or to misrepresent any material fact in a document required by this Chapter. Each day when the violation is not corrected will be deemed a separate violation and subject to the following penalties:

    1. Upon the first violation, the City Administrator will issue a written warning notice describing the violation.

    2. Upon any subsequent violation, the City Administrator will issue a written notice describing the violation and assess a civil penalty of $1,000 dollars a day.

    3. Based on a showing of good cause, the City Administrator may decrease any civil penalty assessed.

17.104.200 Right of Appeal and Payment of Assessments

A. After being issued a written warning notice of a first violation, a utility, covered building owner or commercial tenant receiving a subsequent notice of violation will, within 15 calendar days of issuance of the notice, either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer in accordance with procedures set forth in Chapter 22.10 of the City Code. The filing of an appeal request will stay the effective date of the assessment until the appeal is determined by the Code Hearings Officer. If, pursuant to the appeal hearing, payment of the assessment is ordered, the payment must be received by the City or postmarked within 15 calendar days after the order becomes final. The City Administrator may enter into settlement agreements related to enforcement actions.

B. An assessment which is not paid within the time provided will accrue interest at the rate consistent with the City's established accounting practices.

C. The City may take legal action to collect assessments which are not paid when due and restrict a covered building owner's business license or limit the owner's ability to obtain building permits.

D. The City Attorney may issue administrative subpoenas to produce documents, information, and materials, and for the attendance and testimony of witnesses under oath, related to the investigation of a violation or potential violation of this Chapter. The City Attorney may inspect, examine, and copy any books, papers, records, invoices, and other data needed to investigate potential violations. If any party refuses to obey a subpoena issued under this Section, the City Attorney may petition the Circuit Court of Multnomah County for an order requiring compliance with the subpoena.