



## Portland's Role on Clean Air

In 2018, Multnomah County and the City of Portland commissioned a study called "[Ensuring Healthy Air: Local Collaborative and Regulatory Options in the Portland, Metro Area](#)" to evaluate whether to establish a local clean air authority. The study concluded that it does not make sense to create a local air authority and replicate the role of the Department of Environmental Quality at the local level. However, the study identified important roles for local government to help fill gaps between state and federal action, particularly to develop a collaborative multi-agency strategy to advance programs to reduce air pollution and improve community education. The study recommended that the City and County explore funding sources to address this need.

### The Problem

The most significant air toxics concerns in Oregon are in Multnomah County and Portland. [The Portland Air Toxics Solutions \(PATS\)](#), conducted by the Oregon Department of Environment Quality (DEQ) and published in 2012, found that "the Portland region has the highest risk (in Oregon) to the population from air toxics due to business and population density." Moreover, "monitoring studies confirm the presence of air toxics at levels that can cause adverse health effects." Modeling conducted during this study analyzed the environmental justice impact of air toxics in the region and found that communities of color and low-income communities are at greatest health risk.

The City of Portland currently does not have an air quality program nor the resources to hire air quality experts. However, the PATS study documents the unique air pollution mitigation needs for Portland and Ensuring Healthy Air identified the role for local government. Local jurisdictions need to work together at the regional level and in collaboration with DEQ and our public health and educational partners like Portland State University (PSU) and Oregon Health and Science University (OHSU) to improve air quality, namely by focusing on diesel emissions, smoke (from woodstoves and



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wildfires), on-road transportation emissions and support DEQ's program to reduce industrial emissions.

## Proposed Clean Air Protection Program Outcomes

The intended outcomes for a City of Portland Clean Air Protection Program, in collaboration with DEQ, Multnomah County, Metro, PSU, OHSU, community organizations and businesses, include:

1. Cleaner air contributing to decreased rates of asthma, cardiovascular and respiratory diseases, and cancer over time, especially for impacted communities. Work to ensure the Portland region stays in compliance with National Ambient Air Quality standards. This will be achieved by:
  - Implementing policies and projects identified in the Ensuring Healthy Air study to reduce emissions and exposure from key areas with high density of sources and impacted populations living or working in proximity.
  - Supporting programs to address nexus of clean air and climate resilience, such as:
    - Expand access to air filtration and cooling systems.
    - Address tree disparities in neighborhoods in partnership with Parks and BES.
    - Provide safe and cooling community centers for heat and wildfire events, prioritizing East Portland.
2. Communities and businesses have access to increased resources to reduce air pollution, including technical assistance. This will be achieved by:
  - Initiating a Clean Air Grant Fund to reduce community exposure to air pollution
  - Supporting industry and community in developing Good Neighbor Agreements.
3. Reductions in exposure to pollution from motor vehicles, construction equipment, residential wood combustion, wildfire events, and heat with a priority focus on most impacted communities. This will be achieved by:
  - Implementing policies and projects identified in the Ensuring Healthy Air study
  - Coordinating with local, state, and regional partners to maximize clean air results and resources, such as supporting Multnomah County on residential wood smoke ban and woodsmoke reduction programs by helping with communication and additional resources
  - Expanding work to reduce diesel emissions and support MWESB access to grant funding for exhaust retrofits and engine conversions.
  - Supporting Oregon Department of Environmental Quality on state regulatory programs and rulemaking
  - Partnering with C40 Air quality Network and other national and international cities on actions and seeking to bring investment to Portland
4. Improved community understanding of air quality data and information and communication methods that are responsive to different community needs. This will be achieved by:



- Developing data tools for communities to gain insights and information about air pollution (past sources and levels, current sources and levels, and potential future exposures) to increase community capacity and technical expertise to engage in permit processes and propose technological solutions more effectively.
5. Improved access to data and information for City staff across bureaus to inform engagement, project, and policy decisions, like Transportation and Freight Planning. This will be achieved by:
- Using air pollution assessment methods to understand disparate impacts and increased health risks of air pollution on different communities.
  - Developing data tools and perform project level analyses for City staff. Run air pollution modeling and health risk analyses for projects and scenarios for policy decisions. Identify needs and synergistic work of partner agencies, community organizations, businesses, and researchers to improve accessibility of such tools.

## The Proposed Funding Solution

To establish a Clean Air Protection Program to respond to this need and implement the above actions, Portland is developing a policy proposal to raise the required revenue through a Clean Air Surcharge. The proposal covers approximately 71 facilities in the City of Portland who hold Simple or Standard Air Contaminant Discharge Permits (ACDP), or Title V permits with Oregon DEQ, beginning in 2023, for the 2022 tax year. Proposed surcharge levels are shown in the table below.

Air Permit Holders	Description	Estimated number of facilities subject to fee	Emissions subject to fee (tons)	Base fee	Per-ton fee	Annual revenue
Simple ACDP	Fixed annual fee for each permittee	28	n.a.	\$20,000		\$560,000
Standard ACDP	Fixed annual fee for each permittee	25	n.a.	\$20,000		\$500,000
Title V	Fixed annual fee plus per ton fee on regulated pollutants subject to DEQ fee	18	3,000	\$20,000	\$250	\$1,110,000
						\$2,170,000

The Program will be overseen by a new Clean Air Advisory Committee that will make recommendations to the BPS Director on policies and projects to improve local air quality and adopt methods to measure program effectiveness. Clean Air Advisory Committee members will be appointed by the Director and paid an annual stipend. Members will represent the City's overall geographic and racial diversity, with at least three members either working or living in neighborhoods with the highest levels of air pollution.



**Public Comment**  
**DRAFT**  
**10.25.2021**

**ORDINANCE No.**

Establish a Clean Air Surcharge on major stationary sources of air pollution to fund a Clean Air Protection Program.

(Ordinance; amend Code Chapter 7.02 and Code Chapter 17.110)

The City of Portland Ordains:

Section 1. The Council finds:

1. Local sources of air pollution increase the incidence of respiratory diseases, cardiovascular disease, developmental impacts and nerve damage with widespread economic and social consequences.
2. The Oregon Department of Environmental Quality (DEQ) created the Portland Air Toxics Solutions project to further understand local air toxics problems after DEQ found the Portland region – when compared to all other Oregon regions – has the highest health risk from air toxics due to Portland’s business and population density.
3. The Portland Air Toxics Solutions project documented air toxics above health-based benchmarks and identified emission-reduction needs. Benchmarks are based on cancer and non-cancer adverse health effects. Modeling also found that communities of color and low-income communities are at the greatest health risk.
4. A Portland State University study found that 38% of people of color in Portland live within 1.2 miles of the City’s top 10 industrial point sources of air toxics, compared with only 33% of the white population.
5. Several national studies in 2020 and 2021 found positive associations between particulate matter exposure and increased COVID-19 infections and severity of health outcomes, including increased hospital admissions and mortality.
6. In 2018, the City and Multnomah County commissioned a study which found that the City needed to address its air quality, in coordination with the County and DEQ, and that the City needed to explore long-term, stable funding to meet this need (“[Ensuring Healthy Air: Local Collaborative and Regulatory Options in the Portland, Metro Area](#)”).
7. From November 2020 through November 2021, the Bureau of Planning and Sustainability (BPS) sought input from stakeholders and the general public on approaches to fund and implement an air quality program.
8. The City has limited general fund revenue and needs additional resources to establish and maintain a Clean Air Protection Program to address its air quality

and air pollution's impact on its residents.

9. Pursuant to its charter authority, the City currently levies a business license tax on entities doing business in the City (City Charter Section 2-105(a) 17; *see also* City Code Chapter 7.02 (Business License Law)).
10. Approximately 70 businesses that pay the City's business license tax are major stationary sources of air pollution. These businesses are required to hold air emissions permits from DEQ and include manufacturers of sheet metal, trucks, chemicals, glass, paint and asphalt roofing; fossil fuel and port terminals; power generators; cement plants and large food processors.
11. Together these businesses emit well over 632 tons of particulate matter, 285 tons of sulfur dioxide, 764 tons of nitrogen oxides and 1,319 tons of volatile organic compounds into the City's air each year, based on DEQ's permit data.
12. Establishing a clean air surcharge (Clean Air Surcharge) on businesses subject to the business license tax that are also major stationary sources of air pollution ensures that a business generating local air pollution also advances local air pollution solutions.
13. Revenue generated from the Clean Air Surcharge will fund a Clean Air Protection Program to:
  - a. Improve local air quality;
  - b. Decrease the public health impacts from exposure to local air pollution, increase community education about those impacts and support community-based solutions such as good neighbor agreements;
  - c. Engage community stakeholders to prioritize policies and projects to further the program's purpose including but not limited to the reduction of exposure to air pollution from motor vehicles, construction equipment, residential wood combustion, wildfire events and smoke, with a focus on the communities and geographic areas of the City most impacted by air pollution;
  - d. Engage the State of Oregon, Multnomah County, Metro, Portland State University and Oregon Health and Science University to coordinate air quality action and understand air pollution levels in the City and how that impacts exposure to City residents.

NOW, THEREFORE, the Council directs:

- a. City Code Chapter 7.02 is amended as set forth in the attached EXHIBIT A.

- b. City Code Chapter 17.110 is created as set forth in the attached EXHIBIT B.
- c. The Revenue Division Director will revise, develop or adopt administrative rules necessary for the implementation, collection and administration of the Clean Air Surcharge.
- d. The Revenue Division, BPS and the City Budget Office will prepare necessary adjustments to the Revenue Division's budget to implement the Clean Air Surcharge in the Fiscal Year 2021-2022 Spring Budget Monitoring Process.
- e. The Revenue Division is authorized to add 0.5 FTE to administer the Clean Air Surcharge. The position classification will be determined by the Bureau of Human Resources.
- f. BPS will coordinate intergovernmental agreements with the City's regional partners who hold DEQ air emissions permits to support the Clean Air Protection Program, including Metro, the Port of Portland, Portland State University, Oregon Health and Science University and the Oregon Air National Guard.
- g. BPS will continue its work with stakeholders to develop solutions, and the necessary funding, to ameliorate the climate crisis identified by the City Council in its 2020 Climate Emergency Declaration (Resolution No. 37494).

Passed by the Council:

Commissioner Carmen Rubio

Prepared by: Kyle Diesner

Date Prepared: October 21, 2021

**Mary Hull Caballero**

Auditor of the City of Portland

By

Deputy

EXHIBIT A

Amend the following sections in Chapter 7.02:

**7.02.100 Definitions.**

Subsections A. through O. remain unchanged.

- P.** “Major Stationary Source of Air Pollution” means a person that owns or operates a facility that is located in the City of Portland and:
- a. Is a “major source” as defined by section 501(2) of the Clean Air Act;  
or
  - b. Is required to obtain a Simple or Standard Air Contaminant Discharge Permit as established in Oregon Administrative Rules adopted by the Environmental Quality Commission.

**P-Q.** “Net Operating Loss” means the negative taxable income that may result after the deductions allowed by the Business License Law in determining net income for the tax year.

**Q-R.** “Non-business Income” means income not created in the course of the taxfiler’s business activities.

**R-S.** “Notice” means a written document mailed first class by the Division to the last known address of a taxfiler as provided to the Division in the latest registration form or tax return on file with the Division.

**S-T.** “Ownership of Outstanding Stock or Securities” means the incidents of ownership which include the power to vote on the corporation’s business affairs or the power to vote for the directors, officers, operators or other managers of the taxfiler.

**T-U.** “Person” includes, but is not limited to, an individual, a natural person, sole proprietorship, partnership, limited partnership, family limited partnerships, joint venture (including tenants-in-common arrangements), association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.

**U-V.** “Qualified Groceries” means food products that qualify for purchase under the U.S. Department of Agriculture Supplemental Nutrition Assistance Program (“SNAP”).

**V-W.** “Qualified Medicine or Drugs” means any medicine, drugs, or medical devices that are regulated by the U.S. Food and Drug Administration as a medicine or drug.

**W.X.** “Qualified Health Care Services” means any services that involves the provision of health care to the public, including but not limited to doctor, medical clinic and hospital visits and all related services, health insurance, and any care provided by senior care facilities or rehabilitation facilities. This definition includes but is not limited to all services defined as “health care services” under ORS 750.005(5).

**X.Y.** “Qualified Residential Garbage or Recycling Services” means any services provided by a business that are governed by PCC 17.102.140 or PCC 17.102.170.

**Y.Z.** “Qualified Retirement Plan” has the same meaning as prescribed in IRC § 401.

**Z.AA.** “Received” means the postmark date affixed by the United States Postal Service if mailed or the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.

**AA.BB.** “Registration Form” means the initial form that establishes a taxfiler’s account with the Division.

**BB.CC.** “Residential Rental Unit” means a “dwelling unit” a defined by ORS 90.100, that is rented or offered for rent for a period of more than 30 consecutive days.

**CC.DD.** “Retail Gross Revenue” means Retail Sales excluding the deductions outlined in Subsection 7.02.500 F.3.

**DD.EE.** “Retail Sale” means a sale to a consumer for use or consumption, and not for resale. Retail Sale also includes but is not limited to the sale of services, including but not limited to retail banking services.

**EE.FF.** “Tax return” means any tax return filed by or due from the taxfiler, including an annual exemption request form.

**FF.GG.** “Tax Year” means the taxable year of a person for Federal and/or State income tax purposes.

**GG.HH.** “Taxfiler” means a person doing business within the City and required to file a return, a registration form or other income documentation under the Business License Law.

## 7.02.500 Tax Rate.

- A.** The tax established by the Business License Law is 2.2 percent of adjusted net income, for tax years beginning on or before December 31, 2017. For tax years beginning on or after January 1, 2018, the tax is 2.6 percent of adjusted net income, except as provided in Subsections B., C., ~~D., and E., F., and G.~~ of this Section.

Subsections B., C., D., E., and F. remain unchanged.

- G.** A Clean Air Surcharge is applicable to Major Stationary Sources of Air Pollution located within the City. A business may have more than one facility that is a Major Source of Air Pollution. Each facility is subject to the charge. The following surcharge is imposed, and where applicable, is in addition to the tax established in Subsection A. above. The proceeds from this surcharge shall be credited to the Clean Air Fund.
1. For the tax years beginning on or after January 1, 2022, a Clean Air Surcharge is imposed according to the following schedule:
    - a. For “major sources” as defined by section 501(2) of the Clean Air Act, the annual surcharge is the sum of a base surcharge and an emission surcharge.
      - i. The annual base surcharge is \$20,000.
      - ii. The emission surcharge is \$250 per ton of each regulated pollutant subject to the Oregon Title V Operating Permit Program or its successor. The emission surcharge shall be applied to emissions based on the elections made according to Oregon Administrative Rules adopted by the Environmental Quality Commission.
      - iii. The Clean Air Surcharge shall be applied to emissions during the calendar year ending prior to the first day of the tax year.
    - b. For sources required to obtain a Simple Air Contaminant Discharge Permit as established in Oregon Administrative Rules adopted by the Environmental Quality Commission, the annual surcharge is \$20,000.
    - c. For sources required to obtain a Standard Air Contaminant Discharge Permit as established in Oregon Administrative Rules adopted by the Environmental Quality Commission, the annual surcharge is \$20,000.
  2. For the tax years beginning on or after January 1, 2023, and again in each future tax year, the Clean Air Surcharge is increased according to the inflation index, as determined by the Consumers Price Index - All Urban Consumers (CPI-U) US City Average as

published by the US Department of Labor, Bureau of Labor Statistics, using the September to September index, not seasonally adjusted (unadjusted index).

3. No penalties or interest for failure to make quarterly estimated payments in the amount of the Clean Air Surcharge will be charged or imposed for the 2022 tax year. Thereafter, penalties and interest will be calculated as provided for in the Code.

# **Public Comment**

## **DRAFT**

**10.25.2021**

Exhibit B – Chapter 17.110

Amend the following sections in Chapter 17:

Chapter Index

17.110.010 Short Title

17.110.020 Purpose and Intent

17.110.030 Definitions

17.110.040 Administration

17.110.050 Clean Air Fund

17.110.060 Clean Air Advisory Committee

17.110.010 Short Title.

The ordinance codified in this Chapter will be known and may be referenced as the “Clear Air Protection Program” ordinance.

17.110.020 Purpose and Intent.

The purpose and intent of this Chapter is to:

- A. Ensure the City is working to decrease local air pollution, which has serious and adverse health consequences for Portland residents and disproportionately harms communities of color and low-income communities.
- B. Ensure the City is working to decrease the public health impacts from exposure to local air pollution, invest in community-based solutions and increase community education about those impacts.

17.110.030 Definitions.

For purposes of this Chapter, and administrative rules adopted under this Chapter, the following terms, phrases, words and their derivations will have the meaning given below. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "will" is mandatory and "may" is permissive.

- A. “Bureau” means the Bureau of Planning and Sustainability or any successor City bureau, along with its employees and agents.
- B. “City” means the City of Portland, an Oregon municipal corporation, and individuals authorized to act on the City’s behalf.
- C. “City Council” means the elected governing body of the City.

- D. “Committee” means the Clean Air Advisory Committee.
- E. “Director” means the director for the City’s Bureau of Planning and Sustainability or any successor City bureau.
- F. “Fund” means the Clean Air Fund.
- G. “State” means the State of Oregon.

117.110.040 Administration.

- A. This Chapter will be administered by the Director. Authority granted to the Director may be delegated, in writing, to employees or agents of the Bureau.
- B. The Director may adopt procedures, forms and written policies for administering this Chapter.
- C. The Director may adopt rules relating to matters within the scope of this Chapter.
  - 1. Before adopting a new rule, the Director must notify interested parties and hold a public comment period. Such notice, which may be provided by mail or electronic means, such as posting on the Bureau’s website, must be distributed at least 2 weeks before the close of the public comment period. The notice must include instructions on how an interested party may comment on the proposed rule, a brief description of the subjects covered by the proposed rule and how to access the full text of the proposed rule.
  - 2. During the public comment period, the Director will receive written comments concerning the proposed rule. At the conclusion of the public comment period, the Director will either adopt the proposed rule, modify it or reject it, taking into consideration the comments received. If a substantial modification is made, an additional public comment period will be held. Unless otherwise stated, all rules are effective upon adoption by the Director. All rules adopted by the Director will be filed in the Bureau. Copies of all current rules will be posted on the Bureau’s website and made available to the public upon request.
  - 3. Notwithstanding Subsections 1 and 2 above, the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of not longer than 180 calendar days. The Director may extend the interim rule past the 180 calendar days for good cause, as determined in the Director’s sole discretion.

17.110.050 Clean Air Fund.

- A. The Clean Air Fund is hereby created and the City Treasurer will credit to the Fund all proceeds, assessments and interest received as a result of the Clean Air Surcharge in City Code Section 7.02.500 G.
- B. The Fund will be used to:
1. Improve local air quality;
  2. Decrease the public health impacts from exposure to local air pollution, support community-based solutions and increase community education about those impacts;
  3. Engage community stakeholders to prioritize policies and projects to further the clean air program's purpose. This could include but not be limited to prioritizing projects and policies that reduce exposure to air pollution from motor vehicles, construction equipment, residential wood combustion, wildfire events and smoke, with a priority focused on the communities and geographic areas of the city most impacted by air pollution.
  4. Engage the State of Oregon, Multnomah County, Metro, Portland State University, and Oregon Health and Science University to better coordinate air quality action and understand air pollution levels in the City and how that impacts exposure to City residents.
- C. No more than 11 percent of the Fund will be spent by the Revenue Division on its expenses associated with administering the Clean Air Surcharge. This limitation will not apply to expenses incurred in fiscal years ending in June 2022 through June 2024.

17.110.060 Clean Air Advisory Committee.

- A. The Clean Air Advisory Committee is hereby created. The Committee will consist of 7 members who are residents of the City, appointed by the Director. Appointments will be for terms of 2 years except that 3 of the initial appointments will be for terms of 1 year. If a vacancy occurs, the Director will appoint a member to fill the vacated term. The Director may remove a Committee member at any time.
- B. The Director will nominate members based on the following criteria:
1. Members will represent the City's overall geographic and racial diversity. At least 3 members will either work or reside in neighborhoods with the highest levels of air pollution, as identified by the Bureau.

2. Members will have a demonstrated commitment to furthering the Clean Air Protection Program's purpose.
3. At least one member will have significant experience in one of the following fields:
  - a. Analysis of air quality health impacts including health disparities (health risk assessment, epidemiology); or
  - b. Air quality monitoring (experience with designing monitoring and assessment studies of air pollution, experience collecting, managing, and analyzing air pollution data sets including modeling); or
  - c. Air quality scientist or engineer specializing in mitigation actions to provide technical guidance on actions to reduce air pollution;  
or
  - d. Public health or healthcare administration

C. The Committee will:

1. Advise the Director on policies and projects to improve local air quality, decrease the public health impacts from exposure to local air pollution, and improve community education on the adverse health impacts of local air pollution;
2. Identify opportunities to increase community resilience to climate change;
3. Recommend specific action to protect the health of communities of color and low-income communities;
4. Adopt a methodology to measure the Clean Air Protection Program's effectiveness and report those results to the City Council and publish any reports via a public website;
5. Recommend options to the Director for an environmental justice surcharge that could be levied on those entities subject to the clean air surcharge in City Code Section 7.02.500 G. if entities are in proximity to communities of color and low-income communities; and
6. Make recommendations to the Director as necessary to ensure that the Bureau receives adequate resources to implement the Clean Air Protection Program in a manner that supports social, economic and environmental justice.

D. The Committee will be staffed by the Bureau and such additional staff or consultants as may be deemed necessary by the Director for the Committee to fulfill its responsibilities. Staff will maintain a public website that includes the Committee's membership, meeting details and any reports.