

Exhibit A - Clean: Chapter 7.07 Code Amendments

**CHAPTER 7.07 – PORTLAND CLEAN
ENERGY COMMUNITY BENEFITS**

(Chapter added by Measure 26-201 (approved at
November 6, 2018 election); Amended by
Ordinance No. 189389, effective February 21,
2019.)

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7.07.010 Findings.

- A.** The City of Portland has adopted numerous climate action goals. These goals affirm the importance of environmental justice; community-based efforts to decrease greenhouse gas emissions; and maximizing the social, economic, and environmental benefits of transitioning away from fossil fuels.
- B.** To meet the City’s goals there is an urgent need to fund and accelerate greenhouse gas emissions reductions and sequestration, especially within low-income communities and communities of color.
- C.** Climate change has a disproportionate impact on the health and financial well-being of low-income communities and communities of color.
- D.** To implement the City’s climate action goals and this Chapter, there is a critical need for more skilled workers. Members of historically disadvantaged groups, including people with disabilities, people experiencing gender or sex-based discrimination in the workplace, women, and people of color are under-represented in the skilled work force, and therefore offer an enormous untapped resource to meet the City’s climate action goals.
- E.** Large retail businesses are a significant contributor to greenhouse gas emissions. They encourage consumption of heavily packaged and non-recyclable products, have carbon intensive shipping, manufacturing, and supply chain practices, and share responsibility for generating a substantial portion of the City’s overall

greenhouse gas emissions when customer traffic and facility operations are considered. These businesses have an inherent responsibility and the financial capacity to support the goals of this Chapter, and an incentive to remain in the City to engage in retail activities here.

7.07.020 Policy and Purpose.

(Amended by Ordinance No. 189794, effective December 12, 2019.)

- A. Based on the findings set forth above, the purpose of this Chapter is to provide a consistent long-term funding source and oversight structure to invest in climate action projects that support environmental justice and social, economic, and environmental benefits for all Portlanders, including the development of a diverse and well-trained workforce and contractor pool to perform work that reduces or sequesters greenhouse gases.
- B. This Chapter requires large retailers (those with gross revenues nationally exceeding \$1 billion, and \$500,000 in Portland) to pay a surcharge of 1 percent on gross revenues from retail sales in Portland, excluding basic groceries, medicines, and health care services, in accordance with Subsection 7.02.500 F.

7.07.030 Definitions.

Unless otherwise defined in this Section, terms that are defined in the City's Business License Law, Chapter 7.02 of the Portland City Code, have the meanings provided therein.

- A. "Administrative expenses" means the salaries and benefits of Program staff; Committee management; planning, developing, and designing the Program; public outreach and communication; preparing solicitations; monitoring, evaluating, and reporting on Program activities; coordinating with local, state, and federal officials; official travel; accounting services; rental and purchase of equipment, utilities, and office supplies; and other overhead.
- B. "City" means the City of Portland.
- C. "Clean renewable energy" means energy that is not produced from fossil fuels or nuclear power and which is produced from sun, wind, water or other sources of renewable energy as identified by the City. In-river hydropower projects that harm or have the potential to harm salmonids or other aquatic species, or Native American or other communities that rely on such species, are not appropriate for support under this Chapter.
- D. "Climate Investment Plan" means a 5-year plan, regardless of the document's name, recommended by the Committee and adopted by City Council that sets funding priorities and funding levels in accordance with the purpose of this Chapter and the funding categories in Section 7.07.060. The Plan may further refine eligibility for grants and contracts under the funding categories. The Plan includes funding levels for community responsive grants, strategic initiatives, and the Green Infrastructure Maintenance Reserve.

- E.** “Community responsive grant” means a grant to address one or more of the funding categories in Section 7.07.060 that is awarded to a qualified organization after a competitive, transparent process.
- F.** “Director” means the Director of the City’s Bureau of Planning and Sustainability or the Director’s authorized representative, designee or agent.
- G.** “Energy efficiency” means a measure of how efficiently an appliance, building, or organization uses energy. Examples of projects designed to increase energy efficiency include, but are not limited to:
1. Heating, lighting water and cooling efficiencies;
 2. Repairs to increase the performance of the building envelope;
 3. Community-initiated energy plans;
 4. Energy storage; and
 5. Green building design.
- H.** “Greenhouse gas reduction project” means a project implemented within the City that reduces emissions or the presence of carbon dioxide or other compounds that contribute to climate change.
- I.** “Greenhouse gas sequestration project” means a project that involves long-term storage of carbon dioxide or other pollutants to mitigate or defer global warming. Examples include but are not limited to:
1. Protection and restoration of urban tree canopy;
 2. Protection and restoration of greenspace and wetlands; and
 3. Agricultural practices that increase the capacity of the soil to store carbon by rebuilding soil organic matter and restoring degraded soil biodiversity, also known as regenerative agriculture.
- J.** “Green Infrastructure Maintenance Reserve” means an annual allocation from the Fund to support the long-term maintenance of green infrastructure in a manner defined in the Climate Investment Plan.
- K.** “Green infrastructure project” means a project that uses vegetation, soils and other elements and practices to restore some of the natural processes required to reduce greenhouse gases while also benefiting water quality and creating healthier urban environments. Examples include but are not limited to:
1. Urban tree canopy;
 2. Green roofs;

3. Greenspace protection;
 4. Bioswales; and
 5. Green streets.
- L.** “Non-profit organization” means any organization recognized by the Internal Revenue Service (“IRS”) under Sections 501 and 521(a) of the Internal Revenue Code, in addition to other tax-exempt entities recognized by the IRS such as schools.
- M.** “Portland Clean Energy Community Benefits Fund Program” or “Program” means the City program designed to effectively meet the purpose of this Chapter.
- N.** “Priority populations” means low-income communities and communities of color.
- O.** “Project” or “projects” means an organized effort with measurable outcomes and goals aligned with the categories in Section 7.07.060. These projects are the primary way funds collected under this Chapter are distributed to achieve the purpose of the Chapter.
- P.** “Qualified business” means a for-profit business.
- Q.** “Qualified organization” means a non-profit organization or government entity.
- R.** “Strategic initiative” means an organized effort to address a specific community need or opportunity that is aligned with the categories in Section 7.07.060 and that has measurable outcomes, goals and budget that is set in the Climate Investment Plan.
- S.** “Workforce priority populations” means people with disabilities, people experiencing gender or sex-based discrimination in the workplace, women and people of color.

7.07.033 Authority of Director.

- A.** The Director is authorized to administer and enforce the provisions of this Chapter.
- B.** Authority granted to the Director may be delegated, in writing, to employees or duly authorized agents of the Program.
- C.** The Director may, upon request, issue written interpretations of how this Chapter applies in general or to specific circumstances.
- D.** The Director is authorized to adopt, amend and repeal rules, procedures and forms to implement the provisions of this Chapter.
1. Before adopting, amending or repealing a 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 Program's website, must be published at least 4 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. Copies of all current rules will be posted on the Program's website.
3. Notwithstanding Subsections 1 and 2, 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 or the interest of the affected parties, 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.

7.07.035 Surcharge Collection and Enforcement.

(Added by Ordinance No. 189794, effective December 12, 2019.)

- A. The Revenue Division of the City administers and enforces collection of the Clean Energy Surcharge. The Division may adopt rules as necessary to implement the goals and purposes of Subsection 7.02.500 F. consistent with the processes provided in Section 7.02.210.
- B. The Division may recover all reasonable costs for such work from the Fund and such costs will not be considered part of the Fund's administrative expenses.
- C. Should any proceeds under Subsection 7.02.500 F. be deemed to constitute revenues described under Article IX, Section 3a, of the Oregon Constitution, those revenues must be deposited in a Climate Transportation Investment Account to be managed by the Portland Bureau of Transportation. Such funds must, consistent with the limitations in Section 3a, be used in a manner that promotes the purpose of this Chapter.

7.07.040 Portland Clean Energy Community Benefits Fund.

(Amended by Ordinance No. 189794, effective December 12, 2019.)

- A. Proceeds from the Clean Energy Surcharge will be placed in a special fund to be designated as the “Portland Clean Energy Community Benefits Fund” (“Fund”).
- B. Fund proceeds will be distributed through grants and contracts.
- C. Qualified organizations are eligible to receive grants, solely or in partnership with other non-profit entities, government entities, or for-profit businesses.
- D. Qualified organizations and qualified businesses are eligible to receive contracts, solely or in partnership with other non-profit entities, government entities, or for-profit businesses.
- E. No more than 12 percent of the Fund will be spent on administrative expenses. The percent for a fiscal year will be calculated by dividing the administrative expenses for the fiscal year with the sum of the administrative expenses for the fiscal year and the average of the prior 3 fiscal years’ annual Fund revenues.
- F. The Fund is subject to a financial audit every year and a performance audit every 2 years, with the costs of any audit excluded from the administrative expenses limit.

7.07.050 The Portland Clean Energy Community Benefits Fund Committee.

(Amended by Ordinance No. 189794, effective December 12, 2019.)

- A. There is established a Portland Clean Energy Community Benefits Fund Committee (“Committee”) made up of experts and community members to:
 - 1. Recommend the Climate Investment Plan to the Mayor and City Council (together, the “City Council”); and
 - 2. Evaluate the effectiveness of the Program in achieving the goals of this Chapter.
- B. The Committee is made up of nine members who live, work, go to school or worship in the City. Members are appointed by the Mayor for staggered 4-year terms.
- C. When a Committee member resigns or the member’s term expires, the Committee recommends a replacement member. The Mayor considers the Committee’s recommendation when appointing Committee members.
- D. The Mayor appoints Committee members, confirmed by City Council, based on the following background and expertise:
 - 1. The Committee will reflect the racial, ethnic and economic diversity of the City. At least two members will be City residents who live east of 82nd Avenue.

2. Committee members will have demonstrated a commitment to furthering the City's climate action goals and empowering priority populations or workforce priority populations.
3. At least one member will have significant demonstrated experience in the following fields:
 - a. Residential renewable energy and energy efficiency;
 - b. Commercial renewable energy and energy efficiency;
 - c. Workforce development, job training or apprenticeship projects that target workforce priority populations;
 - d. Experience promoting minority-owned or women-owned businesses;
 - e. Regenerative agriculture, green infrastructure and greenhouse gas sequestration;
 - f. Financing tools that help make renewable energy and energy efficiency available to a broader spectrum of the public; and
 - g. Transportation decarbonization.
4. While Committee members may have experience in multiple fields, members with deep expertise in a single field will create a balanced Committee in which no one area of expertise dominates.

E. Program staff will:

1. Maintain a public website that includes the Committee's membership, bylaws, meeting agendas, meeting notes and relevant code, administrative rules and policy statements.
2. Implement the Program in accordance with the purpose of this Chapter.
3. Solicit grant applications from qualified organizations. Staff will post to a public website the City's grant solicitation documents as documents are released to the public; staff will post to a public website relevant grant application materials within a reasonable time period after City Council makes its award decision.
4. Solicit contract applications from qualified organizations and qualified businesses in accordance with City procurement practices.
5. Evaluate grant and contract applications to determine whether: (a) the project described in the application meets the priorities identified in the

Climate Investment Plan; and (b) the applicant has the capacity to implement the project and ensure fiscal accountability.

6. Manage the selection of grants and contracts in accordance with existing City rules and grant and procurement best practices, including but not limited to publishing on a public website the selection criteria and process for each funding opportunity.
7. Track progress in meeting workforce and contractor equity plan goals on a public website.
8. Perform additional work necessary to implement the Program.

F. The Committee will:

1. Recommend the Climate Investment Plan to the City Council. If City Council modifies the Climate Investment Plan, it must explain and post its explanation on the Program's website. The Committee will recommend its first Climate Investment Plan to City Council no later than 9 months after the effective date of this Subsection. The Committee will recommend subsequent Climate Investment Plans to City Council no later than 6 months after the expiration of the previous Climate Investment Plan.
2. Adopt a methodology to measure, track and report to the public and City Council the effectiveness of the Program in achieving the purpose of this Chapter. All grant and contract recipients will file reports consistent with the Committee's methodology on forms provided by the Program.
3. Adopt workforce and contractor equity plans with measurable goals to ensure projects are performed by workforce priority populations and include goals for contracting with businesses owned or operated by such populations. The Committee will develop the plans in consultation with workforce and contractor equity stakeholders and incorporate best practices from City's procurement practices.
4. Recommend City Council amend the Climate Investment Plan if the Committee determines that the Climate Investment Plan no longer meets the purpose of this Chapter.
5. Recommend to City Council amendments to this Chapter necessary to further the purpose of the Chapter.

7.07.060 Funding Categories.

- A. Funding priorities and funding levels in the Climate Investment Plan and funded projects must further the purpose of this Chapter and fall within the following categories:

- 1.** Renewable energy and energy efficiency projects.
 - a.** This category includes residential, commercial, industrial, and school-based projects that reduce greenhouse gases within the City.
 - b.** Projects that broaden access to energy efficiency and renewable energy, such as community-initiated energy strategies and decentralized renewable energy, are a high priority.
 - c.** At least one half of the projects should benefit priority populations.
 - d.** Projects that impact tenants must include terms to encourage rent stability including but not limited to a term that prohibits landlords from using improvements funded by this Chapter as a basis for rent increases.
- 2.** Climate jobs training, apprenticeships, and contractor development projects.
 - a.** This category includes projects serving populations within the Portland metropolitan statistical area that directly facilitate and promote job training, pre-apprenticeship programs, apprenticeship programs, and contractor development in businesses that produce goods or services that reduce or sequester greenhouse gases.
 - b.** Projects supporting workforce priority populations are a high priority.
 - c.** Projects supporting entry into union-registered apprentice trades are a high priority.
- 3.** Regenerative agriculture and green infrastructure projects.
 - a.** This category includes projects that reduce or sequester greenhouse gases within the City.
 - b.** Projects must demonstrate or promote the adoption of regenerative agriculture or green infrastructure practices, with a focus on priority populations.
 - c.** Projects that provide benefits to priority populations are a high priority.
- 4.** Transportation decarbonization projects.
 - a.** This category includes projects that reduce greenhouse gases by displacing fossil fuel use.

b. Projects that provide direct benefits to priority populations are a high priority.

5. Organizational capacity building projects.

a. This category includes projects to provide non-profit organizations with trainings, technical assistance, consultation, operational funding, staff support and other resources that contribute to effective functioning.

b. Non-profit organizations that support priority populations are a high priority.

c. Organizations funded under this category should have a mission, vision, workplan, strategic plan, or other guiding document that demonstrates a meaningful connection to the purpose of this Chapter.

6. Other projects that reduce or sequester greenhouse gases.

a. This category includes projects that do not fall under another category but provide meaningful, measurable reduction or sequestration of greenhouse gases.

b. Projects that provide benefits to priority populations are a high priority.

B. Funding decisions must consider:

1. Co-benefits. Whether a project prioritizes greenhouse gas reduction or sequestration in a manner that promotes environmental justice and social, economic, and environmental benefits.

2. Geographical diversity. Whether projects operate at the neighborhood level (including east of 82nd Avenue) as well as citywide.

3. Organizational representation. To ensure that the Program is inclusive as well as effective, at least 20 percent of the Funds shall be awarded to non-profit organizations with a stated mission and track-record of benefitting economically disadvantaged community members, including workforce priority populations.

4. Leverage. Projects that leverage additional government or private funding and therefore increase the Program's effectiveness should be prioritized, but leverage is not required.

5. Held-over funds. If there are insufficient qualified applicants, funds may be held over to the following year.

C. Terms of Grants and Contracts.

- 1.** U.S.-made renewable energy products. Solar, wind or other renewable energy systems purchases must be predominantly manufactured in the United States unless such a product is unavailable or the cost is prohibitive.
- 2.** Workforce and Contractor Equity Agreement. Funding recipients must agree to workforce and contractor equity agreements developed by staff in alignment with workforce and contractor equity plans adopted by the Committee.
- 3.** Family Wage Standards. Wage standards for employees working on projects must be no less protective of workers than those contained in the State of Oregon's Energy Efficiency and Sustainable Technology Act, ORS 470.560(2)(g). For purposes of this Subsection, an employee is not a volunteer or trainee.

7.07.070 Severability Clause.

If any part, section or provision of this Chapter, or surcharge imposed pursuant to this Chapter, is found unconstitutional, illegal or invalid, such a finding will affect only that part, section or provision of the Chapter and the remaining parts, sections or provisions remain in full force and effect.