

Chapter 7.07 Portland Clean Energy Community Benefits

- Note

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

7.07.010 Findings.

- A.** The City of Portland has adopted a Climate Action Plan, which affirms the importance and value of local initiatives and community-based development to decrease carbon emissions, while also seeking to maximize the economic, social and environmental benefits of transitioning away from fossil fuels. In June 2017, in response to changed national priorities, the City reaffirmed the goals of the Climate Action Plan and established a new goal to meet 100 percent of community-wide electricity needs with clean renewable energy by 2035.
- B.** To meet the City's Climate Action Plan and 100 percent clean renewable energy goals there is an urgent need to fund and accelerate greenhouse gas reductions and energy efficiencies, especially in underserved communities.
- 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 Climate Action Plan and this Chapter, there is a critical need for more skilled workers. Members of historically disadvantaged groups, including women, people of color, and the chronically underemployed are under-represented in the skilled work force, and therefore offer an enormous untapped resource to meet the goals of the Climate Action Plan.
- E.** Large retail businesses are a significant contributor to carbon 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.
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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 ensure that the City of Portland's Climate Action Plan is implemented in a manner that supports social, economic and environmental benefits for all Portlanders, including the development of a diverse and well-trained workforce and contractor pool in the field of clean energy.
- 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.

C. Revenues raised through this business surcharge on Large Retailers will be deposited into a separate fund designated as the “Portland Clean Energy Community Benefits Fund.” The money in this fund will be used to finance programs that meet the following priorities:

1. Clean Energy Projects.

- a.** Renewable energy and energy efficiency projects, with an emphasis on those that benefit low income individuals and that broaden access to energy efficiency and clean renewable energy infrastructure to low income communities and communities of color;
- b.** Regenerative agriculture and green infrastructure projects that result in sequestration of greenhouse gases and support sustainable local food production.

2. Clean Energy Jobs Training. Job training, apprenticeship programs, and contractor support initiatives that prioritize skills training and workforce development for economically disadvantaged and traditionally under-employed workers, including communities of color, women, persons with disabilities, and the chronically underemployed.

3. Priority will be given to programs that both reduce greenhouse gases and promote economic, social, and environmental benefits.

D. This Chapter creates a “Portland Clean Energy Community Benefits Committee (“Committee”) made up of experts and community members to:

- 1.** make funding recommendations to the Mayor and City Council; and
- 2.** evaluate the effectiveness of the Fund in achieving the goals of this Chapter, as set forth in Subsection A.

7.07.030 Definitions.

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

A. “City” means the City of Portland.

B. “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 of Portland. 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 shall not be appropriate for support under this Chapter.

C. “Energy Efficiency” means a measure of how efficiently an appliance, building, organization or country 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.

D. “Greenhouse gas reduction projects” means a project implemented within the City of Portland that reduces emissions or the presence of carbon dioxide or other compounds that contribute to climate change.

E. “Greenhouse gas sequestration” 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. protections 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, also referred to as “regenerative agriculture.”

F. “Green infrastructure” 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.

G. “Program[s]” means an organized effort by a qualified non-profit organization to achieve greenhouse gas reduction outcomes in a framework that delivers the related social justice outcomes identified in this Chapter. The qualified non-profit can apply solely or in partnership with other non-profit entities, government entities or for-profit businesses. These programs will be the primary way funds collected under this Chapter are distributed from the City to achieve the goals of the Chapter.

H. “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.

I. “Regenerative agriculture” means farming and land management practices that reverse climate change by rebuilding soil organic matter and restoring degraded soil biodiversity.

7.07.035 Surcharge Collection and Enforcement.

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

A. The Revenue Division of the City of Portland shall administer and enforce 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 shall within 6 months of November 6, 2018 prepare a list of businesses it is aware of that meet the definition of Large Retailer and notify such businesses of their obligations under Subsection 7.02.500 F.

C. The Division may recover all reasonable costs for such work from the Portland Clean Energy Community Benefits Fund and such costs will not be considered part of the Fund administrative cost cap.

D. 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 shall be deposited in a Climate Transportation Investment Account to be managed by the Portland Bureau of Transportation. Such funds shall, consistent with the limitations in Section 3a, be used in a manner that promotes the goals of Section 7.07.040.

7.07.040 Portland Clean Energy Community Benefits Fund.

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

A. The proceeds from this Large Retailer business surcharge, after deducting the reasonable costs of administering and collecting the revenue, shall be placed in a special fund to be designated as the “Portland Clean Energy Community Benefits Fund” (“Fund”).

B. Money in the Portland Clean Energy Community Benefits Fund shall be dedicated to the funding of the following, as described in more detail in Section 7.07.060:

1. Clean Energy Projects.

a. Renewable energy and energy efficiency projects, with an emphasis on programs that benefit low income individuals and that broaden access to energy efficiency and clean renewable energy infrastructure to low income communities and communities of color;

b. Regenerative agriculture and green infrastructure projects that result in sequestration of greenhouse gases and support sustainable local food production.

2. Clean Energy Jobs. Programs to increase access to and support for job training, apprenticeship programs and contractor support initiatives that prioritize skills training and workforce development for economically disadvantaged and traditionally under-employed workers, including communities of color, women, persons with disabilities, and the chronically underemployed.

3. Priority will be given to programs that both reduce greenhouse gases and promote social, economic and environmental benefits.

C. No more than 5 percent of the fund shall be spent on expenses associated with administering the fund once established. Specifically, the limitation will not apply to reasonably necessary expenses incurred through fiscal years ending June 2020, June 2021, and June 2022, while the program is being established and systems put in place for administering and collecting the surcharge and distributing funds.

D. The Fund shall be subject to a financial audit every year and a performance audit every 2 years, with the costs of any audit excluded from the 5 percent limitation for administrative expenses.

E. The Mayor and City Council shall generally accept the funding recommendations from the Committee. If the Mayor or Council determines that they will reject a funding recommendation, they shall provide the Committee with a written explanation of the decision.

7.07.050 The Portland Clean Energy Community Benefits Fund Committee.

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

A. There shall be established a “Portland Clean Energy Community Benefits Fund Committee (“Committee”) made up of experts and community members to:

1. make funding recommendations to the Mayor and City Council; and
2. evaluate the effectiveness of the Fund in achieving the goals of this Chapter.

B. The Committee shall be made up of nine members who are residents of the City of Portland. Members shall be appointed by the Mayor for staggered 4-year terms, with the exception of the first Committee, which will have five members appointed for 4-year terms and four members appointed for 2-year terms.

C. For the first Committee, each City Council member (including the Mayor) may nominate a committee member who meets the qualifications set forth in Subsection D.3. Those five nominees, once appointed, shall then recommend four additional members to the Mayor for appointment. The Mayor shall appoint members consistent with the recommendations of each City Council member and the Committee, absent good cause. Thereafter, when a member resigns or their term expires, the Committee shall recommend a replacement member.

D. The Mayor shall appoint members of the Committee based on the following background and expertise:

1. The Committee shall reflect the racial, ethnic and economic diversity of the City of Portland. At least two members will be residents living east of 82nd Avenue.
2. Committee members shall have demonstrated commitment to furthering the goals of the City’s Climate Action Plan and empowering historically disadvantaged groups, including women, people of color, people with disabilities, and the chronically underemployed.
3. At least one member of the Committee should have significant demonstrated experience in the following fields:
 - a. Residential renewable energy and energy efficiency projects;
 - b. Commercial renewable energy and energy efficiency projects;
 - c. Workforce development, job training and apprenticeship programs that are targeted at reaching historically disadvantaged groups;
 - d. Experience promoting minority-owned and/or women-owned businesses;
 - e. Sustainable local food production, green infrastructure and greenhouse gas sequestration; and
 - f. Financing tools that help make renewable energy and energy efficiency available to a broader spectrum of the public.
4. While Committee members may have experience in multiple fields, members with deep expertise in a single field will be encouraged in order to create a balanced Committee in which no one area of expertise dominates.

E. The Committee shall:

1. Establish and maintain a public website that includes the Committee’s membership, meeting agenda, meeting notes, governance standards and policy statements.
2. Solicit applications for funding from qualified nonprofit organizations registered with the State of Oregon. Requests for proposals as well as applications shall be posted on the Committee’s website.

3. Evaluate applications for funding to determine whether they meet the allocation priorities set forth in Section 7.07.060, and whether the applicant nonprofit organization has the capacity to implement the program and project as described and to ensure fiscal accountability.
 4. Make recommendations for funding to the Mayor, consistent with the allocation priorities set out in Section 7.07.060. All applications and final recommendations will be posted on the Committee's website. If the Mayor or City Council reject a funding recommendation, then their explanation for that decision will be posted on the Committee's website.
 5. Adopt a methodology to measure, track and report to the public, the Mayor, and the City Council the effectiveness of the programs in implementing the City's Climate Action Plan in a manner that supports social, economic and environmental justice, including developing a diverse and well-trained workforce and contractor pool in the field of energy efficiency, renewables, green energy initiatives generally. All fund recipients shall file a report tracking their success in meeting the stated objectives.
 6. Adopt a workforce and contractor equity plan to ensure that the work funded by the Committee is being performed by historically disadvantaged groups, including measurable and ambitious goals for the training and hiring of historically disadvantaged groups, including women, people of color, people with disabilities, and the chronically underemployed and measurable goals for contracting with businesses owned or operated by such groups. In developing the plan and goals, the Committee shall consult with workforce and contractor equity stakeholders as well as incorporate appropriate best practices from City procurements. Progress in meeting these goals shall be prominently displayed on the Committee's homepage and, if goals are not being met, shall be the Committee's top priority to address.
 7. Make recommendations to the City Council on changes to this law as necessary to ensure the effectiveness of this Chapter in achieving the stated goals of implementing the City's Climate Action plan in a manner that supports social, economic and environmental justice.
- F. Staff within the Bureau of Planning and Sustainability shall assist the Committee as needed to initiate and begin implementation of the provisions of this Chapter. Once the Committee is appointed and a framework for implementing this Chapter is in place, the Committee may decide to either continue to utilize Bureau of Planning and Sustainability staff to support its work or hire its own program support staff. Staff costs shall be included the calculation of administrative expenses.

7.07.060 Funding Allocation Priorities.

A. The Committee shall allocate funds consistent with the goals of this Chapter and within the following allocation percentages to the extent possible:

1. Forty percent to sixty percent: Renewable energy and energy efficiency programs.
 - a. This category includes residential, commercial and school-based projects.
 - b. Programs broadening access to energy efficiency and renewable energy, such as community-initiated energy strategies and decentralized renewable energy, shall be a high priority.
 - c. At least one half of the projects under this Subsection should specifically benefit low-income residents and communities of color.
 - d. Funding agreements shall include terms to encourage rent stability including, but not limited to, provisions barring owners from using improvements funded by this Chapter as a basis for rent increases.

2. Twenty percent to twenty-five percent: Clean energy jobs training, apprenticeships and contractor support.

a. This category is intended to support non-profit programs that directly facilitate and promote job training, pre-apprenticeship programs, apprenticeship programs and contractor training and support that are primarily aimed at supporting economically disadvantaged and traditionally underrepresented workers in the skilled workforce (including people of color, women, persons with disabilities and chronically un-employed).

b. Programs supporting entry into union registered apprentice trades shall be a high priority.

3. Ten percent to fifteen percent: Regenerative agriculture and green infrastructure programs that result in sequestration of greenhouse gases.

a. This category is intended to reduce greenhouse gases by supporting sustainable local food production and green infrastructure programs that result in sequestration of greenhouse gases within the City.

b. Programs funded under this category should be designed to help demonstrate and promote the broader adoption of such practices, with a particular focus on low-income communities and communities of color.

4. Five percent: Future Innovation.

a. This category is intended to provide the Committee with flexibility to fund a project that does not directly fall under one of the other categories, but which provides an opportunity to further the goals of this Chapter.

B. In making funding decisions, the Committee shall consider the following:

1. Co-benefits: Whether a project prioritizes greenhouse gas reduction outcomes in a manner that promotes the economic, social and environmental justice outcomes identified in this Chapter.

2. Geographical diversity, with the goal of funding projects that operate at the neighborhood level (including east of 82nd Avenue) as well as citywide. The Committee may also consider providing support to neighborhood-scale organizations to develop and expand their organizational capacity to implement projects on a larger scale.

3. Organizational representation. To ensure that the City's work addressing climate change is inclusive as well as effective, at least 20 percent of the Committee's Funds shall be awarded to non-profit organizations with a stated mission and track-record of programs that benefit economically disadvantaged community members, including people of color, women, people with disabilities, and the chronically unemployed. The qualified non-profit can apply solely or in partnership with other non-profit entities, government entities or for-profit businesses.

4. Leveraging. Programs that would leverage additional governmental or private funding and therefore increase the overall program effectiveness should be priorities, but are not required.

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

6. If the Committee determines that the level of funding under any of these distribution categories is not meeting the climate or equity goals of the Chapter, the Committee may recommend that the City Council amend the Code to alter the allocation percentages.

C. Terms of Grants

1. U.S. made renewable energy products: Solar, wind, or other renewable energy systems purchases with monies provided by the Fund shall be predominantly manufactured in the United States unless a product meeting this criteria is unavailable or the cost is prohibitive.
 2. Workforce and Contractor Equity Agreement. Recipients of Funds must agree to the Workforce and Contractor Equity Agreement developed by the Committee.
 3. Family Wage Standards. Wage standards for projects funded by this Chapter shall 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).
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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 shall remain in full force and effect.