

ORDINANCE No. 189389 *As Amended*

*Amend City Code related to the administration of the Portland Clean Energy Community Benefits Initiative and other housekeeping amendments (Ordinance; amend Code Chapter 7.02, and add Code Chapter 7.07)

The City of Portland ordains:

Section 1. The Council finds:

1. At the November 6, 2018 general election, Portland voters approved Ballot Measure 26-201, the Portland Clean Energy Community Benefits Initiative (“the Measure”) with a 65% yes vote. The Measure imposes a 1% surcharge on the retail sales within Portland of certain large retailers to fund clean energy projects and jobs training. The measure amended City Code to require Portland retailers with total annual retail revenue over \$1 billion and Portland annual retail revenue over \$500,000 to pay a 1% surcharge on gross revenue from retail sales within Portland.
2. Almost all the proceeds from the surcharge will be placed into a new Portland Clean Energy Community Benefits Fund to be administered and disbursed for purposes consistent with the Measure. Remaining proceeds may be placed in the PBOT Transportation Operating Fund, Climate Transportation Investment Account as required by the Measure and the Oregon Constitution, Article IX, section 3a.
3. This Ordinance implements the Measure by amending Section 7.02, Business License Law, for the taxation elements of the Measure, and creating a new Section 7.07, Portland Clean Energy Community Benefits Fund, for the non-taxation elements.
4. The Revenue Division of the Bureau of Revenue and Financial Services is responsible for implementing the taxation elements of this new surcharge. In the implementation process, the Revenue Division determined that some technical revisions were necessary for clarity and administrability of the taxation elements of the Measure.
5. The need for minor housekeeping changes to Chapter 7.02 (unrelated to the passage of the Portland Clean Energy Community Benefits Initiative) has also been recognized and it is in the interest of the City to include them in this Ordinance.
6. The Office of the City Auditor recommends placing the non-taxation elements of the Measure (policy, purpose, fund administration, fund committee and allocation priorities) into a new Chapter 7.07, Portland Clean Energy Community Benefits Fund.
7. Changes to the taxation aspects of the Measure included in this Ordinance are narrowly tailored to make the Measure clearer and more administrable, while cleaving to the intent and objectives of the Measure passed by voters. They include capitalization of certain defined terms, a change from prior tax year to current tax year

for retail sales thresholds, clarification of who is required to file a schedule, and how penalties and interest will be calculated. The Ordinance also expands the Director's authority to assess penalties for violations of Code Chapter 7.02.

8. The taxation amendments in EXHIBIT A were posted on the Revenue Division's website for public comment for six weeks. Dozens of comments were received and considered prior to finalizing this Ordinance.
9. The non-taxation amendments in EXHIBIT B are adopted exactly as passed by voters.
10. The Portland Clean Energy Initiative Coalition Steering Committee has reviewed the proposed Code Chapter 7.02 amendments in EXHIBIT A and supports them. The Steering Committee is comprised of 350PDX, the Asian Pacific American Network of Oregon, the Audubon Society of Portland, the Coalition of Communities of Color, Columbia Riverkeeper, the NAACP Portland Branch 1120, OPAL Environmental Justice Oregon, Oregon Physicians for Social Responsibility, Sierra Club Oregon Chapter, and Verde. Chief Petitioners Rev. E.D. Mondaine and Adriana Voss-Andreae also support these changes.
11. Beginning in Fiscal Year 2019-2020, the Revenue Division will need four additional Senior Revenue Auditor positions to administer the tax. These positions will be added by later action of the Council.


NOW, THEREFORE, The Council directs:

- a. City Code Section 7.02 is amended as set forth in the attached EXHIBIT A.
- b. City Code Section 7.07 is created as set forth in attached EXHIBIT B.
- c. The BRFS Revenue Division is directed to request budget adjustments and additional authority for four Senior Revenue Auditor positions to administer the program. These positions are expected to start in May 2020.

Section 2. The Council declares that an emergency exists to make immediate, binding and certain Code changes for taxpayers and tax return preparers, and to enable the Revenue Division to begin the administrative rulemaking process; therefore, this ordinance shall be in full force and effect upon passage.

Passed by the Council: FEB 21 2019

Mayor Ted Wheeler
Prepared by: Scott Karter/Thomas Lannom
Date Prepared: February 1, 2019

Mary Hull Caballero
Auditor of the City of Portland
By 
Deputy

Agenda No. 160

Item Type: Ordinance No. 189389

As Amended

Council Meeting Date: February 21, 2019

Title: *Amend City Code related to the administration of the Portland Clean Energy Community Benefits Initiative and other housekeeping amendments (Ordinance; amend Code Chapter 7.02, and add Code Chapter 7.07)

AGENDA TYPE

CONSENT REGULAR TIME CERTAIN Start Time: 3:30 pm Item 1 of 2

Total amount of time needed for presentation, testimony and discussion (Regular and Time Certain): 1 Hour

INTRODUCED BY:

COMMISSIONER / AUDITOR APPROVAL

Mayor - Finance & Administration - Wheeler MD
Position 1/ Utilities - Fritz _____
Position 2/ Works - Fish _____
Position 3/ Affairs - Hardesty _____
Position 4/ Safety - Eudaly _____
City Auditor - Hull Caballero _____

BUREAU APPROVALS

Bureau: OMF/CAO
OMF/CAO:
Bureau Approval: Jennifer Cooperman Digitally signed by Jennifer Cooperman Date: 2019.02.12 08:01:44 -08'00'

Prepared By: Thomas Lannom

Date Prepared: February 11, 2019

1) Is a completed Impact Statement attached? Yes

2) Does the item amend the budget? Yes No
If yes, Budget Office Approval

3) Is the item a Code ordinance? Yes No
If yes, Auditor Office Approval Tom/Jan DB/kal

4) Is this item a contract, code, easement, franchise, comp plan or Charter? Yes No
If yes, Attorney Office Approval

Ken McGair Digitally signed by Ken McGair Date: 2019.02.12 10:23:55 -08'00'

5a) Is item a Portland Policy Document or Administrative Rule? Yes No

5b) If yes, is the City Policy/Admin Rule directive in the ordinance or resolution? Yes

ACTION TAKEN:

CLERK USE: DATE FILED FEB 12 2019

Mary Hull Caballero
Auditor of the City of Portland

By: [Signature]
Deputy

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	<u>1</u> Fritz	<u> </u>
2. Fish	2. Fish	<input checked="" type="checkbox"/>
3. Hardesty	3. Hardesty	<input checked="" type="checkbox"/>
4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>
Wheeler	Wheeler	<input checked="" type="checkbox"/>