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TRN-9.02 - Transportation Demand Management (TDM) Plans for Residential Uses Administrative Rule and Procedures Guide (Interim Rule)

Administrative Rules Adopted by Bureaus Pursuant to Rule Making Authority (ARB)

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TRANSPORTATION DEMAND MANAGEMENT (TDM) PLANS FOR RESIDENTIAL USES ADMINISTRATIVE RULE AND PROCEDURES GUIDE (INTERIM RULE)

Interim Administrative Rule Adopted by the Portland Bureau of Transportation Pursuant to Rule-Making Authority

ARB-TRN-9.02

HISTORY

Adopted by Director of Portland Bureau of Transportation May 21, 2018.

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Related documents

 [TRN-9.02 Administrative Rule](#) (203.81 Kb)

TRN-9.02

Transportation Demand Management (TDM) Plans for Residential Uses

Administrative Rule and Procedures Guide

Administrative Rule Adopted by the Portland Bureau of Transportation Pursuant to Rule-Making Authority

I. Purpose

Provide guidance to the Portland Bureau of Transportation (PBOT), other City Bureaus, applicants, and the public on the implementation of the Transportation and Parking Demand Management (TDM) requirements for Residential Uses in Code Chapters 33.226, 33.852 and 17.107.

II. Authority

The authority to develop this Administrative Rule and Procedures Guide is provided by Code sections 3.12.040 and 17.107.060.

III. Applicability

- A. Where does this rule apply?** This rule applies to the zones identified in Code section 33.266.410.B.
- B. When does this rule apply?** Per Code section 33.266.410.B, the requirement is triggered when a new development within a Commercial/Mixed-Use or Multi-Dwelling Zone includes a building with more than 10 new dwelling units, or an alternation to existing development includes the addition of more than 10 dwelling units within a building.
- C. Exemptions.**
 - 1. Sites that are located far from transit, as defined in Code section 33.266.110.B.2 as more than 1,500 feet from a transit station, or more than 500 feet from a transit street with 20-minute peak hour service, are exempt from these requirements.
 - 2. Sites within the Central City Plan District are exempt from these requirements.

IV. Program Goals

- A.** Reduce the Vehicle Miles Traveled (VMT) per capita associated with new development.
- B.** Mitigate the parking impacts associated with new and expanded development.
- C.** Increase the use of active forms of transportation, like walking, biking, taking transit and carpooling.

V. Definitions

- A. Affordable Units** – Dwelling units that qualify for the affordable unit Multimodal Incentive Fee rate are dwelling units in a development that are regulated as affordable by an affordability covenant or regulatory agreement with the Portland Housing Bureau for a period of at least 60 years following the date of construction of the residential housing.
- B. Building Permit** – For purposes of the Pre-Approved TDM Plan Requirement, Building Permit means a permit issued by the City Building Official pursuant to the State of Oregon Structural Specialty Code Section 301, as may be amended.
- C. Commercial/Mixed Use Zone** – Portland’s commercial/mixed use zones (CR, CX, CM1, CM2, CM3 and CE). Refer to Portland Zoning Map.
- D. Market-Rate Units** – All dwelling units within a development that are not subject to a recorded covenant or regulatory agreement with regard to tenant incomes or unit rents.
- E. Multi-Dwelling Zone** – Portland’s multi-dwelling residential zones (RM1, RM2, RM3, RM4, RX and RMP). Refer to Portland Zoning Map.
- F. Ongoing Participation and Adaptive Management** – This term, referenced in Code section 17.107.20, refers to the process of outlining successive actions should the applicant not meet its modal split Performance Targets or fail to implement the approved Custom TDM Plan. The timing of this element is tied to Code section 17.107.045, Required Reporting.
- G. Pattern Areas** – Five primary geographies in Portland that have differing physical characteristics, needs, and assets. Each of these areas has unique topographies and natural features, patterns and types of development, street and other infrastructure characteristics, and histories that have shaped their urban form. The five primary Pattern Areas are: Central City, Inner Neighborhoods, Western Neighborhoods, Eastern Neighborhoods and River. In addressing the Custom TDM approval criteria (Code section 33.852.110.B.) the following Pattern Area mode share goals adopted in the Transportation System Plan are used:
 - 1. Inner Neighborhoods: By 2035, 70% of all trips should be made by non-single-occupancy vehicles.
 - 2. Eastern and Western Neighborhoods: By 2035, 65% of all trips should be made by non-single-occupancy vehicles.
- H. PBOT Active Transportation and Safety (ATS)** – Staff Division within the Portland Bureau of Transportation (PBOT) that is responsible for TDM Programs, including the implementation of the collected Multimodal Incentive Fees.
- I. Transportation Demand Management (TDM)** – A variety of strategies to encourage more efficient use of the existing transportation system by reducing reliance on the personal automobile. This is achieved by encouraging people through education, outreach, financial incentives, and pricing to choose other modes, share rides, travel outside peak times, and telecommute, among other methods. Effective transportation demand management also incorporates management of parking supply and demand. TDM strategies help reduce traffic congestion, reduce the amount of money that must be spent to expand transportation system capacity, improve air quality, and ensure road capacity is available for those who need it most.
- J. Transportation Impact Review (TIR)** – A mechanism to evaluate whether the multimodal transportation system is capable of supporting proposed development and to consider proportional mitigation measures.

- K. Vehicle Miles Traveled (VMT) per Capita** – Miles driven in automobiles, per person, on average.

VI. Program Options

A. TDM requirements. Under Code section 33.266.410.B, there are two options for an applicant to fulfill this TDM Plan requirement:

- 1. Pre-Approved TDM Plan**
 - a. Multimodal financial incentives: equivalent in value to one adult annual TriMet pass per dwelling unit, due at Building Permit issuance. See the current annual fee schedule for exact rates. The fee schedule includes a rate for Affordable Units and a rate for Market-Rate Units.
 - b. Transportation options information: distributed to residents for the first four years of building occupancy.
 - c. Annual transportation survey: resident and employee participation for the first four years of building occupancy.
- 2. Custom TDM Plan**
 - a. A Transportation Impact Review (TIR), per requirements in Code section 33.852.105.H, including the TDM requirements in Code section 17.107.020.
 - b. This is a Type II Land Use Review.
 - c. Custom TDM Plan approval is based on approval criteria (Code section 33.852.110.B) – that require that the applicant demonstrate that the proposed TDM strategies contribute to City mode split goals and residential auto ownership targets.

VII. Pre-Approved TDM Plan – Administrative Process

A. General information. When the applicant selects this option, fees are calculated based on the number of dwelling units in the permit and added to the overall permit fees paid upon issuance. BDS staff will note the use of the fees for the Pre-Approved TDM Plan option selection in the permit system.

B. Procedure responsibilities.

1. The applicant shall, at the time of Building Permit application, provide adequate information regarding the proposed development including the zoning designation, number of new dwelling units, the number of Affordable Units and whether the site is close to transit (as described in 33.266.110.B.2).
2. BDS Planning and Zoning staff will verify that a TDM Plan is required for the development and enter the number of dwelling units in the applicable permits into the permit system. The permit system will generate the Multimodal Incentive Fee amount based on the fee calculation in subsection D, below.
3. PBOT Active Transportation and Safety (ATS) staff will conduct a TDM Review to verify the Pre-Approved TDM Plan components are complete, including the submission of a written and signed acknowledgement form, and will verify final approval.
4. Applicant will pay the total Multimodal Incentive Fee prior to the issuance of the Building Permit, as a part of Building Permit issuance fees at BDS.

C. Signed Pre-Approved TDM Agreement. Applicant must sign and submit the Pre-Approved TDM Plan Agreement Form to PBOT ATS staff prior to Building Permit issuance. The form includes:

1. A description of the planned development;
2. A TDM point of contact for the development;
3. Acknowledgement of the TDM requirements listed under Code sections 17.107.035, 17.107.045 and 17.107.050, including the enforcement and penalties; and
4. Acknowledgement that if the building owner changes at any point during the first four years of occupancy, the building owner must notify the subsequent owners of their obligation to the TDM program for this site and notify PBOT ATS staff of this change.

D. Fee calculation.

1. The Multimodal Incentive Fee is a one-time payment, due prior to the issuance of a Building Permit.
2. The Multimodal Incentive Fee is calculated by the summation of the following:
 - a. Multiplying the number of new Market-Rate Units by the current rate of an annual adult TriMet pass (see fee schedule for current rate).
 - b. If applicable, multiplying the number of new Affordable Units by the current rate of a low-income annual TriMet pass (see fee schedule for current rate).

E. Payment.

1. **When payment is due.** The Multimodal Incentive Fee for the Pre-Approved TDM Plan is due prior to the issuance of a Building Permit. No Building Permit will be issued for development being built using the Pre-Approved TDM Plan option unless and until the Multimodal Incentive Fee is paid.
2. **Form of payment.** The method of payment must be a check or other payment accepted by BDS.

F. Receiving and depositing payment.

1. **Receipts.** Receipts will be issued when permit fees are paid to BDS.
2. **Deposits.** The Multimodal Incentive Fee will be deposited into the Transportation Operating Fund. Receipt of Multimodal Incentive Fees will be tracked in the City's financial system using a dedicated internal order.

G. Expenditure of Multimodal Incentive Fee.

1. **Permitted Uses of Multimodal Incentive.** The Multimodal Incentive Fee can be used for the following purposes:

Each site may claim the multimodal incentives offered by PBOT up to the value of the Multimodal Incentive Fee paid for that site, less the administrative fee (see G.4.).

The multimodal incentives that ~~could~~ may be offered include, but are not limited to:

- a. Bike-share membership or ride credits,
- b. TriMet passes,
- c. Streetcar passes,

- d. Car-share incentives,
 - e. E-scooter membership or ride credits, and
 - f. Carpool incentives.
2. **After the certificate of occupancy is issued.** Per the signed agreement, within one month of issuance of the certificate of occupancy, the building owner, manager, or designated point of contact must contact PBOT ATS staff to discuss the selection and dissemination process for the multimodal incentives for the development. PBOT ATS staff will procure the incentives and deliver to the building owner, manager, or residents per the agreed upon method and timeline. In addition, PBOT ATS staff will disseminate transportation options information and travel surveys directly to recipients of the multimodal incentives.
 3. **Priorities for the Multimodal Incentive Fee.** The following guidelines shall be used for the expenditure of the Multimodal Incentive Fee. This is the order of priority for use of the Multimodal Incentive Fees:
 - a. For the residents of the property that contributed to the Multimodal Incentive Fee;
 - b. For residents along the corridor where the property that contributed to the Multimodal Incentive Fee is located, with priority to residents of regulated Affordable Units;
 - c. For residents throughout Portland, with a focus on incentives for underserved, minority populations, and residents of regulated Affordable Units.

It will be PBOT's goal to use the Multimodal Incentive Fee on incentives to be distributed directly to the residents of the development that contributed the money. However, if residents of that development do not utilize the entirety of the Multimodal Incentive Fee amount within four full calendar years of occupancy, PBOT will use the money to distribute incentives in order of the guidelines above.

4. **Administrative fee.** An administrative fee will be taken from the total Multimodal Incentive Fee amount to go toward the PBOT ATS staff administrative services needed to implement the Pre-Approved TDM Plan. The administrative fee is defined in the bureau's annual fee schedule.

H. Appeals.

1. **What can be appealed.** Applicants may appeal the following:
 - a. Calculation of the Multimodal Incentive Fee amount (mathematical error); or
 - b. Denial of Application for Refund of the Multimodal Incentive Fee.
2. **Procedures for processing.**
 - a. The applicant must submit a written request for a refund to the Director of the Bureau of Transportation for review.
 - b. If an appeal is approved, the applicable amount of the Multimodal Incentive Fee less the administrative fee will be refunded.

I. Refunds.

1. **Refund eligibility.** Refunds may be granted if an applicant cancels a Building Permit prior to construction of development that is subject to the TDM Plan requirements and is using the Pre-Approved TDM Plan process.
2. **Procedures for processing.**
 - a. The applicant must submit a written request for a refund to the Director of the Bureau of Transportation for review.
 - b. If a refund is approved, the applicable amount of the Multimodal Incentive Fee less the administrative fee will be refunded.

J. Record Keeping.

1. **Record of receipts.** All Multimodal Incentive Fees that are received will be listed in chronological order in the City's financial system using a dedicated internal order.
2. **Record of information.** PBOT ATS staff will track the date received, the amount received, the address of the development for which the fee was paid, and the name of the point of contact for the development.
3. **Records of expenditures.**
 - a. Records of disbursements will include the date, specific multimodal incentives (including identifying number), and the name of the development for which the incentives are purchased.
 - b. PBOT ATS staff will record any unused benefits forfeited under G.3.
 - c. In the case of a refund, the date of the refund, the amount refunded, the name of the development for which the fee was refunded, and the name of the applicant who received the refund will be recorded.
4. **Reports.** PBOT ATS staff will prepare an annual report of receipts and expenditures of the Multimodal Incentive Fee. The annual report will indicate the source and the amount of all fees received and the multimodal incentives that were financed in whole or in part by the fee.

VIII. Custom TDM Plan – Land Use Review

- A. Purpose.** The following sections are intended to serve as guidelines for the implementation of the Transportation Impact Review (TIR) in Code chapter 33.852 and the accompanying TDM requirements in Code chapter 17.107.
- B. General procedure.** An applicant selects this option.
1. Applicant submits a TDM Plan (Attachment A.5) Scoping form and Traffic Scope Approval Form.
 2. Applicant submits their Transportation Impact Review (TIR)/ Land Use Review application with the necessary information and requirements as identified in Code section 33.852.105.H, and the TDM components as identified in Code section 17.107.020.
 3. The TIR is reviewed as a Type II land use review.
- C. Application requirements.** An applicant must prepare and submit a Land Use Application per the requirements in Code section 33.852.105.H., and the TDM Plan requirements in Code section 17.107.020.
- D. Components of a Custom TDM Plan.** A Custom TDM Plan must include, at a minimum, the requirements in Code sections 33.852.105.H. and 17.107.020. The below is an outline of the

basic TDM requirements that apply to the Residential Use projects (as described in 17.107.020):

1. Description of proposed development, including:
 - a. Trip Generation Estimates
 - b. Proposed auto parking
 - c. Proposed bicycle parking
2. Description of existing conditions, including:
 - a. Land uses
 - b. Traffic conditions
 - c. Multimodal facilities in the area with ¼ mile of the site
3. Performance Targets, including:
 - a. Mode split goals – as stated in Pattern Areas or as developed through Alternative Performance Targets
 - b. Description on how TDM strategies will help meet mode split goals
4. The incorporation of TDM strategies that PBOT views as minimum components of a successful TDM Plan:
 - a. Transportation Options Information & Communication
 - b. Multimodal Incentives
 - c. On-site Multimodal Infrastructure
 - d. On-site Parking Management
5. Reporting/ Documentation / Demonstrating Compliance
6. Ongoing Participation and Adaptive Management Plan – In instances where the resident survey data demonstrates that the Custom TDM Plan is not achieving the Performance Targets, outline additional actions not detailed in the TDM strategies (Code section 17.107.020.D.) that will be utilized to achieve the Performance Targets.

E. Review of Custom TDM Plan.

1. **Alternative performance targets.** Applicants may propose alternative performance targets described in Code section 17.107.020.C.4.a. TDM Plans with approved alternative performance targets will still need to include the minimum elements as described above. If the applicant proposes an alternative, they will need to demonstrate why it is not feasible to meet the given Performance Targets. PBOT ATS staff's review will be based on the following factors:
 - a. Relative availability of bicycle, transit, bike share, and car share infrastructure and services;
 - b. Any current TDM strategies that have been implemented by the applicant;
 - c. Travel characteristics of employees and residents; and
 - d. Best practices and performance of comparable sites in Portland and comparable cities.
2. **Evaluation.** Applicants will be expected to propose a reasonable Custom TDM Plan that will meet the approval criteria of Code section 33.852.110.B.:

In addressing the criteria in Code section 33.852.110.B, the following targets shall be used for mode share and residential auto ownership:

- a. Based on the Pattern Area where the development site is located, the following mode share goals of The Transportation System Plan shall be used:
 - i. Inner Neighborhoods: By 2035, 70% of all trips should be made by non-single-occupancy vehicles.
 - ii. Eastern and Western Neighborhoods: By 2035, 65% of all trips should be made by non-single-occupancy vehicles.
- b. By 2025, increase the percentage of new mixed use zone building households not owning an automobile from 13% to 25%, and reduce the percentage of households owning two automobiles from approximately 24% to 10%.

In addition to the criteria above, PBOT ATS staff will recommend evaluating the Custom TDM Plan based upon:

- a. Likelihood of implementation of the proposed TDM strategies; and
 - b. Demonstration that the plan will be at least as effective as the Pre-Approved TDM Plan.
3. **When.** Approval of the Custom TDM Plan happens during the Land Use Review process, prior to full Plan Submittal and Building Permit Application.
4. **Conditions of approval.** As best practice, PBOT ATS staff will recommend, in their review, requirements for the applicant to demonstrate compliance with the suggested TDM strategies as part of the TIR approval. Some conditions will come after occupancy; however, in order to assure compliance with the identified multimodal incentive, PBOT ATS staff will recommend that a condition of land use approval is payment of the multimodal incentive amount prior to the issuance of a Building Permit. The amount will vary depending on what is proposed by the applicant and approved in review.

The payment, expenditure, refund and record keeping process for these conditioned multimodal financial incentives are the same as under Section VII, above.

5. **Deposits.** The Multimodal Incentive Fee will be deposited into the Transportation Operating Fund. Receipt of Multimodal Incentive Fees will be tracked in the City's financial system using a dedicated internal order.

- F. Land Use Review fee.** See current Land Use Services Fee Schedule for current land use review fees.
- G. Appeals.** Per the Type II Land Use Review process, decisions are appealable to the City of Portland Hearings Officer. Appeal procedures are described in Code section 33.730.020.
- H. Record of Custom TDM Plan.** Land Use approval is recorded by the Bureau of Development Services with the County Recorder.
- I. Signed Custom TDM Plan Agreement.** Applicant must sign and submit the Custom TDM Plan Agreement Form to PBOT ATS staff prior to Building Permit issuance. The form includes:
 - 1. A description of the planned development;
 - 2. A TDM point of contact for the development;

3. Agreement to implement the TDM strategies outlined in the approved Custom TDM Plan;
 4. Acknowledgement of the enforcement and penalties in Code section 17.107.050; and
 5. Acknowledgement that if the building owner changes at any point during the first four years of occupancy, the building owner must notify the subsequent owners of their obligation to the TDM program for this site.
- J. After the certificate of occupancy is issued.** Per the signed agreement, within one month of issuance of the certificate of occupancy, the building owner, manager or designated point of contact must contact PBOT ATS staff to discuss the selection and dissemination process for their multimodal incentives. PBOT staff procures the incentives and delivers to the building owner, manager or residents per the agreed upon method and timeline.
- J. Reporting.** The building owner, manager or designated point of contact is required to actively participate in an annual City travel survey, developed and distributed by PBOT ATS staff, of residents and employees for the first four years of building occupancy.
- K. Documentation.** PBOT ATS staff may require the building owner, manager or designated point of contact to provide receipts or documentation for the implementation of any TDM strategies at the development site.

IX. Enforcement & Penalties

- A.** Per Code section 17.107.050, any building owner, tenant, property manager, or person who fails, omits, neglects, or refuses to comply with the provisions of the TDM plan requirement shall be subject to civil penalty of up to \$1,000 for every 7-day period during which the violation continues.
- B.** If an entity or person is fully implementing all other elements of the TDM plan requirements, failing to meet performance targets alone shall not be an enforcement violation.
- C.** The Bureau of Transportation shall seek voluntary compliance for a period of at least one month before resorting to penalties.