

EXHIBIT A - ACT

AN ACT

A Measure, amending the City of Portland Code, Title 17 by ordinance, by amending Chapter 17.105, included as Exhibit A.1 to provide for the continuation of a program dedicated to street repair and traffic safety through a temporary, 10 cents per gallon tax on motor vehicle fuels in Portland for vehicles not subject to weight-mile tax.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF PORTLAND, OREGON

The City of Portland ordains:

- Section 1: Title 17 is hereby amended by the changes attached as Exhibit A.1
- Section 2: If any part of this ordinance or any tax against any individual is found unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity will affect only that part of this Section or tax and will not affect or impair any other provision of the tax or Section.
- Section 3: This ordinance and the Code amendments attached as Exhibit A.1 shall be in full force and effect upon enactment by City of Portland voters at the election called for May 19, 2020.

Exhibit A.1 – City of Portland Code Chapter 17.105

Portland City Code Title 17 Public Improvements

**CHAPTER 17.105 - MOTOR VEHICLE FUEL
TAX**

(Chapter added by Resolution 37185 (approved at
May 17, 2016 election); effective May 17, 2016.)

Sections:

- 17.105.010 Tax Imposed.
- 17.105.015 Temporary Tax of 4 Years.
- 17.105.020 Use of Tax Revenues.
- 17.105.025 Definitions.
- 17.105.030 License Requirements.
- 17.105.035 License Applications and Issuance.
- 17.105.040 Failure to Secure License.
- 17.105.045 Amount and Payment of Tax.
- 17.105.050 Revocation of License.
- 17.105.055 Cancellation of License.
- 17.105.060 Remedies Cumulative.
- 17.105.065 Billing Purchasers.
- 17.105.070 Failure to Provide Invoice or Delivery Tag.
- 17.105.075 Transporting Motor Vehicle Fuel or Use Fuel in Bulk.
- 17.105.080 Exemption of Weight Receipt Holders.
- 17.105.085 Exemption of Export Fuel.
- 17.105.090 Exemption of Motor Vehicle Fuel or Use Fuel Sold or Distributed to Dealers.
- 17.105.095 Payment of Tax and Delinquency.
- 17.105.100 Monthly Statement of Dealer, Seller or User.
- 17.105.105 Failure to File Monthly Statement.
- 17.105.106 Refunds.
- 17.105.110 Examinations and Investigations.
- 17.105.115 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.
- 17.105.120 Examining Books and Accounts of Carriers of Motor Vehicle Fuel of Use Fuel.
- 17.105.125 Records to be Kept by Dealers, Sellers and Users.
- 17.105.130 Records to be Kept 3 Years.
- 17.105.135 Citizen Oversight Committee; Annual Audits.
- 17.105.140 Tax Effective If Passed.
- 17.105.145 Administrative Rules.

17.105.010 Tax Imposed.

(Amended by Ordinance No. 188086, effective December 16, 2016.) A Motor Vehicle Fuel Tax is hereby imposed on every Dealer, Seller, or User. The tax imposed shall be paid

monthly to the City. The Tax Administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the Motor Vehicle Fuel Tax, including all powers specified in ORS 319.010 to 319.430, and ORS 310.510 to 310.990.

17.105.015 Temporary Tax of 4 Years.

This Chapter will be in full force and effect upon enactment. The Motor Vehicle Fuel Tax established in Section 17.105.045 shall be imposed beginning on the tax implementation date established by the Tax Administrator and shall sunset 4 years after the tax implementation date. The tax implementation date shall not be earlier than ~~September 1, 2016~~ January 1, 2021. The Tax Administrator is authorized to collect amounts receivable under this Chapter for taxes and penalties accrued prior to the termination of the Motor Vehicle Fuel Tax.

17.105.020 Use of Tax Revenues.

- A. For the purpose of this Section, Motor Vehicles Fuel Tax net revenues means the revenue from the tax and penalties imposed by this Chapter remaining after interest, collection, administrative, other costs, refunds, and credits are deducted from Motor Vehicle Fuel Tax revenues.
- B. The City shall use Motor Vehicles Fuel Tax net revenues only for construction, reconstruction, improvement, repair, maintenance, operation and use of public Highways, roads and streets as described in the Oregon Constitution, Article IX, Section 3a.
- C. The type of projects to be completed will be those approved and undertaken out of the Street Repair and Traffic Safety Program, and will include but not be limited to projects in the following categories:
 - 1. Street Repair
 - 2. Safe Routes to Schools
 - 3. Sidewalk Completion
 - 4. High Crash Corridor Safety Improvements
 - 5. Reducing Bicycle/Car/Pedestrian conflicts
 - 6. Intersection Safety Improvements

17.105.025 Definitions.

(Amended by Ordinance No. 188086, effective December 16, 2016.) As used in this Chapter, unless the context requires otherwise, the following words and phrases shall mean:

- A. City means the City of Portland.

- B.** Dealer means any Person who:
1. Imports or causes to be imported Motor Vehicle Fuel or Use Fuel for sale, use or Distribution in the city, but Dealer does not include any Person who imports into the city Motor Vehicle Fuel or Use Fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a Dealer hereunder if that Dealer assumes liability for the payment of the applicable Motor Vehicle Fuel Tax to the City and Dealer does not include terminal storage facilities; or
 2. Produces, refines, manufactures or compounds Motor Vehicle Fuel or Use Fuel in the city for use, Distribution or sale in the city; or
 3. Acquires in the city for sale, use or Distribution in the city Motor Vehicle Fuel or Use Fuel with respect to which there has been no Motor Vehicle Fuel Tax previously incurred.
- C.** Distribution. In addition to its ordinary meaning, the delivery of Motor Vehicle Fuel by a Dealer or Seller to any Service Station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines. Use Fuel is withdrawn directly for sale or for delivery into the fuel tanks of Motor Vehicles whether or not the Service Station, tank or storage facility is owned, operated or controlled by the Dealer or Seller.
- D.** Highway means every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.
- E.** Motor Vehicle means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of Motor Vehicle Fuel.
- F.** Motor Vehicle Fuel includes gasoline, mogas, methanol and any other flammable or combustible gas or liquid, by whatever name such gasoline, diesel, mogas, methanol, gas or liquid is known or sold, usable as fuel for the operation of Motor Vehicles, except gas, mogas, methanol or liquid, the chief use of which, as determined by the Tax Administrator, is for purposes other than the propulsion of Motor Vehicles upon the Highways.
- G.** Motor Vehicle Fuel Tax means the tax imposed on Motor Vehicle Fuel and Use Fuel in this Chapter.
- H.** Person means any natural Person, association, firm, partnership, corporation, joint venture or other business entity.
- I.** Seller means
1. A person that sells Motor Vehicle Fuel or Use Fuel to a user of vehicles; or
 2. If the Motor Vehicle Fuel or Use Fuel is dispensed at a non-retail facility,

the person that owns the users accounts and bills the users for Motor Vehicle Fuel purchased at a non-retail facility.

- J.** Service Station means any place operated for the purpose of retailing and delivering Motor Vehicle Fuel or Use Fuel into the fuel tanks of Motor Vehicles.
- K.** Street Repair and Traffic Safety Program means the City of Portland program in the Transportation Operating Fund where Motor Vehicle Fuel Tax net revenue pursuant to this chapter is deposited and street repair and traffic safety expenditures are recorded.
- L.** Terminal Storage Facility means any fuel storage facility that has marine or pipeline access.
- M.** Tax Administrator means the City Council, the City Council's designees, or any Person or entity with whom the City Council contracts to implement the Motor Vehicle Fuel Tax program or a portion thereof.
- N.** Use Fuel means any combustible gas or material of a kind used for the generation of power to propel a Motor Vehicle on the Highways except Motor Vehicle Fuel as defined in Subsection 17.105.025 F. above.
- O.** User means the Person required to obtain a User's License as required in ORS 319.550.
- P.** User's License means the license required in ORS 319.550.
- Q.** Weight Receipt means a receipt issued by the Oregon Department of Transportation, stating the combined weight of each self-propelled or motor-driven vehicle.

17.105.030 License Requirements.

(Amended by Ordinance No. 188086, effective December 16, 2016.) No Dealer, Seller or User shall sell, use, or distribute any Motor Vehicle Fuel or Use Fuel until they have secured a Dealer's, Seller's, or User's license as required herein.

17.105.035 License Applications and Issuance.

(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A.** Every Person, who is a Dealer or Seller of Motor Vehicle Fuel in the City of Portland, shall make application to the Tax Administrator for a license authorizing such Person to engage in business as a Dealer or Seller in the City of Portland. Every Person who is required to have the User's License pursuant to ORS 319.550 shall make application to the Tax Administrator for a license authorizing such Person to use fuel in the City of Portland.
- B.** Applications for the license shall be made on forms prescribed by the Tax Administrator.

- C. Applications shall include, among other items as may be required by the Tax Administrator:
1. The business name under which the applicant transacts business.
 2. The address of applicant's principal place of business and location of distributing stations in and within three miles of the city.
 3. The name and address of the managing agent, the names and addresses of the several Persons constituting the firm or partnership or, if a corporation, the name under which the corporation is authorized to transact business and the names and addresses of its principal officers and registered agent, as well as primary transport carrier.
- D. If an application for a Dealer's license, Seller's license or User's License is complete and accepted for filing, the Tax Administrator shall issue to the Dealer, Seller or User a license in such form as the Tax Administrator may prescribe to transact business in the city. A license issued hereunder is not assignable, and is valid only for the Dealer, Seller or User in whose name it is issued.
- E. The Tax Administrator shall retain all completed applications together with a record of all licensed Dealers, Sellers and Users.

17.105.040 Failure to Secure License.

(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A. If a Dealer, Seller or User sells, distributes, or uses any Motor Vehicle Fuel or Use Fuel without first filing the application and obtaining the license required by Section 17.105.035, the Motor Vehicle Fuel Tax on all Motor Vehicle Fuel or Use Fuel sold, distributed or used by that Dealer, Seller or User shall be immediately due and payable.
- B. The Tax Administrator shall determine, from as many available sources as the Tax Administrator determines reasonable, the amount of tax due, shall assess the Dealer, Seller or User for the tax due together with a penalty of 100 percent of the tax. In any suit or proceeding to collect the tax or penalty or both, the assessment shall be prima facie evidence that the Dealer, Seller or User therein named is indebted to the City in the amount of the tax and penalty stated.
- C. Any tax or penalty assessed pursuant to this Section may be collected in the manner prescribed in Section 17.105.095 with reference to delinquency in payment of the fee or by an action at law.
- D. In the event any suit or action is instituted to enforce this Section, if the City is the prevailing party, the City shall be entitled to recover from the Person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

17.105.045 Amount and Payment of Tax.

(Amended by Ordinance No. 188086, effective December 16, 2016.) In addition to any fees or taxes otherwise provided for by law, every Dealer, Seller or User engaging in the city in the sale, use or Distribution of Motor Vehicle Fuel or Use Fuel shall:

- A. Not later than the 25th day of each calendar month, submit a report to the Tax Administrator on forms prescribed by the Tax Administrator of all Motor Vehicle Fuel sold, used or distributed by them in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or Distribution the Dealer or Seller has assumed liability for the applicable Motor Vehicle Fuel Tax during the preceding calendar month.
- B. Except as provided in ORS 319.690 and ORS 319.692, not later than the 20th day of each calendar month, submit a report to the Tax Administrator on forms prescribed by the Tax Administrator of all Use Fuel sold, used or distributed by them in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or Distribution the Dealer or Seller has assumed liability for the applicable Motor Vehicle Fuel Tax during the preceding calendar month.
- C. Pay a Motor Vehicle Fuel Tax computed on the basis of 10 cents per gallon of such Motor Vehicle Fuel or Use Fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this Code or Administrative Rules promulgated in accordance with this Chapter.

17.105.050 Revocation of License.

(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A. The Tax Administrator may revoke the license of any Dealer, Seller, or User who fails to comply with any provision of this Chapter. The Tax Administrator shall mail, by certified mail addressed to the Dealer, Seller or User at their last known address appearing in the files of the Tax Administrator, a notice of intent to revoke. The notice of revocation shall provide the reason(s) for revocation which include, but are not limited to, failure to register for a license, failure to remit the tax, failure to file required reports or any information as required by the Tax Administrator, or failure to pay any penalty or interest assessments.
- B. A Dealer, Seller or User has the right to protest a notice of revocation to the Tax Administrator in writing within 14 days. The Tax Administrator must forward the appeal, including the reasons for the determination, to the Business License Appeals Board within 30 days. The Tax Administrator may prescribe by Administrative Rule procedures for the protest and appeal of license revocations. The license revocation shall become effective when the local protest and appeal process provided in Administrative Rules is completed and a final decision has been issued.

17.105.055 Cancellation of License.

(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A. The Tax Administrator may, upon written request of a Dealer, Seller or User, cancel a license issued to that Dealer, Seller or User. The Tax Administrator shall, upon approving the Dealer's, Seller's or User's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the license shall no longer be effective.
- B. The Tax Administrator may, after 30 days' notice has been mailed to the last known address of the Dealer, Seller or User, cancel the license of Dealer, Seller or User upon finding that the Dealer, Seller or User is no longer engaged in the business of a Dealer, Seller or User.

17.105.060 Remedies Cumulative.

Except as otherwise provided in Sections 17.105.095 and 17.105.105, the remedies provided in Sections 17.105.040, 17.105.050, and 17.105.055 are cumulative. No action taken pursuant to those sections shall relieve any Person from the penalty provisions of this Code.

17.105.065 Billing Purchasers.

(Amended by Ordinance No. 188086, effective December 16, 2016.) Dealers in Motor Vehicle Fuel or Use Fuel shall render bills to all purchasers of Motor Vehicle Fuel or Use Fuel. The bills shall separately state and describe the different products sold or shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the Tax Administrator are maintained.

17.105.070 Failure to Provide Invoice or Delivery Tag.

(Amended by Ordinance No. 188086, effective December 16, 2016.) No Person shall receive and accept Motor Vehicle Fuel or Use Fuel from any Dealer, or pay for the same, or sell or offer the Motor Vehicle Fuel or Use Fuel for sale, unless the Motor Vehicle Fuel or Use Fuel is accompanied by an invoice or delivery tag showing the date upon which Motor Vehicle Fuel or Use Fuel was delivered, purchased or sold and the name of the Dealer in Motor Vehicle Fuel or Use Fuel.

17.105.075 Transporting Motor Vehicle Fuel or Use Fuel in Bulk.

(Amended by Ordinance No. 188086, effective December 16, 2016.) Every Person operating any conveyance for the purpose of hauling, transporting or delivering Motor Vehicle Fuel or Use Fuel in bulk shall, before entering upon the public Highways of the city with such conveyance, have and possess during the entire time of the hauling or transporting of such Motor Vehicle Fuel or Use Fuel, an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The Person hauling such Motor Vehicle Fuel or Use Fuel shall, at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

17.105.080 Exemption of Weight Receipt Holders.

(Amended by Ordinance No. 188086, effective December 16, 2016.) Use Fuel sold to holders of a Weight Receipt shall not be charged the Use Fuel Tax.

17.105.085 Exemption of Export Fuel.

(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A. The Motor Vehicle Fuel Tax imposed by Section 17.105.010 shall not be imposed on Motor Vehicle Fuel or Use Fuel:
 - 1. Exported from the city by a Dealer; or
 - 2. Sold by a Dealer for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a Motor Vehicle, but every Dealer shall be required to report such exports and sales to the city in such detail as may be required
- B. In support of any exemption from Motor Vehicle Fuel Taxes claimed under this Section other than in the case of stock transfers or deliveries in the Dealer's own equipment, every Dealer must execute and file with the Tax Administrator an export certificate in such form as shall be prescribed, prepared and furnished by the Tax Administrator, containing a statement, made by some Person having actual knowledge of the fact of such exportation, that the Motor Vehicle Fuel or Use Fuel has been exported from the city, and giving such details with reference to such shipment as the Tax Administrator may require. The Tax Administrator may demand of any Dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The Tax Administrator may, in a case where the Tax Administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate. Any Motor Vehicle Fuel or Use Fuel carried from the city in the fuel tank of a Motor Vehicle shall not be considered as exported from the city.
- C. No Person shall, through false statement, trick or device, or otherwise, obtain Motor Vehicle Fuel for export as to which the Motor Vehicle Fuel Tax has not been paid and fail to export the same, or any portion thereof, or cause the Motor Vehicle Fuel or any portion thereof not to be exported, or divert or cause to be diverted the Motor Vehicle Fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the Tax Administrator and the Dealer from whom the Motor Vehicle Fuel was originally purchased of their act.
- D. No Dealer, Seller, User, or other Person shall conspire with any Person to withhold from export, or divert from export or to return Motor Vehicle Fuel or Use Fuel to the city for sale or use so as to avoid any of the fees imposed herein.
- E. In support of any exemption from taxes on account of sales of Motor Vehicle Fuel or Use Fuel for export by the purchaser, the Dealer shall retain in their files for at least 3 years, an export certificate executed by the purchaser in such form and

containing such information as is prescribed by the Tax Administrator. This certificate shall be prima facie evidence of the exportation of the Motor Vehicle Fuel or Use Fuel to which it applies only if accepted by the Dealer in good faith.

17.105.090 Exemption of Motor Vehicle Fuel or Use Fuel Sold or Distributed to Dealers.
(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A. Notwithstanding Section 17.105.095 of this Chapter, if the first sale, use or distribution of Motor Vehicle Fuel is from one licensed Dealer to another licensed Dealer, the selling or distributing Dealer is not required to pay the Motor Vehicle Fuel Tax imposed in this Chapter. When the purchasing or receiving Dealer first sells, uses or distributes the fuel, that Dealer shall pay the Motor Vehicle Fuel Tax regardless of whether the sale, use or distribution is to another licensed Dealer.
- B. The Seller of Use Fuel shall collect the Motor Vehicle Fuel Tax at the time the fuel is dispensed or placed for a price into a receptacle on a motor vehicle, from which receptacle the fuel is supplied to propel the vehicle, unless one of the following situations applies:
 - 1. The vehicle into which the Seller delivers or places the fuel bears a valid permit or users emblem issued by the Department of Transportation in accordance with Section 17.105.080.
 - 2. The fuel is dispensed at a nonretail facility, in which case the Seller shall collect any tax owed at the same time the seller collects the purchase price from the person to whom the fuel was dispensed at the nonretail facility. A Seller is not required to collect the tax under this paragraph from a person who certifies to the Seller that the use of the fuel is exempt from the tax imposed under this Chapter.
 - 3. A cardlock card is used for purchase of the fuel at an attended portion of a retail facility equipped with a cardlock card reader, in which case the cardlock card issuer licensed in this state is responsible for collecting and remitting the tax unless the person making the purchase certifies to the seller that the use of the fuel is exempt from the tax imposed under this Chapter.
- C. The holder of a User's License shall collect the Motor Vehicle Fuels Tax as provided in ORS 319.510 through ORS 319.880.
- D. A Dealer who renders monthly statements to the Tax Administrator as required by this Chapter shall show separately the number of gallons of Motor Vehicle Fuel sold or delivered to Dealers.
- E. A Seller who renders monthly statements to the Tax Administrator as required by this Chapter shall show separately the number of gallons of Use Fuel sold or delivered.

17.105.095 Payment of Tax and Delinquency.

(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A. The Motor Vehicle Fuel Tax imposed by this Chapter shall be paid to the Tax Administrator pursuant to Section 17.105.045.
- B. Except as provided in Subsections 17.105.095 D. and F., if payment of the tax on Motor Vehicle Fuel is not paid as required by Subsection 17.105.095 A., a penalty of 1 percent of such tax shall be assessed and be immediately due and payable.
- C. Except as provided in Subsections 17.105.095 D. and F., if payment of the tax on Use Fuel is not paid as required by Subsection 17.105.095 A., a penalty of 10 percent of such tax shall be assessed and be immediately due and payable.
- D. Except as provided in Subsection 17.105.095 F., if the payment of the tax and penalty in Subsection 17.105.095 B., if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in Subsection 17.105.095 B. and shall be immediately due and payable.
- E. If the Motor Vehicle Fuel Tax imposed by this Chapter is not paid as required by Subsection 17.105.095 A., interest shall be charged at the rate of .0329 percent per day until the tax, interest and penalties have been paid in full.
- F. Penalties imposed by this Section shall not apply if a penalty has been assessed and paid pursuant to Section 17.105.040. The Tax Administrator may for good cause shown waive any penalties assessed under this Section.
- G. If any Person fails to pay the Motor Vehicle Fuel Tax, interest, or any penalty provided for by this Section, the Tax Administrator shall commence and prosecute in any court of competent jurisdiction an action at law to collect the amounts due. Such action may be taken on the sole authority of the Tax Administrator.
- H. In the event any suit or action is instituted to collect the Motor Vehicle Fuel Tax, interest, or any penalty provided for by this Section, if the City is the prevailing party, the City shall be entitled to recover from the Person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

17.105.100 Monthly Statement of Dealer, Seller or User.

(Amended by Ordinance No. 188086, effective December 16, 2016.) Every Dealer, Seller or User in Motor Vehicle Fuel or Use Fuel shall provide to the Tax Administrator on or before the date required in Section 17.105.045 on forms prescribed, prepared and furnished by the Tax Administrator, a statement of the number of gallons of Motor Vehicle Fuel or Use Fuel sold, distributed or used by the Dealer, Seller or User during the preceding calendar month. The statement shall be signed by the Dealer, Seller or User or the Dealer's, Seller's or User's agent.

17.105.105 Failure to File Monthly Statement.

(Amended by Ordinance No. 188086, effective December 16, 2016.) If a Dealer, Seller or User fails to file any statement required by Section, the Tax Administrator shall determine from as many available sources as the Tax Administrator determines reasonable the amount of Motor Vehicle Fuel or Use Fuel sold, distributed or used by such Dealer, Seller or User for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of fuel sold, distributed or used. The Tax Administrator shall assess the Dealer, Seller or User for the Motor Vehicle Fuel Tax upon the amount determined, adding a penalty of 10 percent of the tax for non-reporting. The penalty shall be cumulative to other penalties provided in this Code.

17.105.106 Refunds.

Refunds on the Motor Vehicle Fuel Tax will be made pursuant to any refund provisions of Chapter 319 of the Oregon Revised Statutes, including but not limited to ORS 319.280, 319.320, and 319.831. Claim forms for refunds may be obtained from the Tax Administrator's office.

17.105.110 Examinations and Investigations.

(Amended by Ordinance No. 188086, effective December 16, 2016.) The Tax Administrator, or duly authorized agents, may make any examination of accounts, records, stocks, facilities and equipment of Dealers, Sellers, Service Stations, Users and other Persons engaged in storing, selling or distributing Motor Vehicle Fuel or other petroleum product or products within this city, and such other investigations as it considers necessary in carrying out the provisions of this Chapter. If the examinations or investigations disclose that any reports of Dealers, Sellers, Users, or other Persons filed with the Tax Administrator pursuant to the requirements herein, have shown incorrectly the amount of gallonage of Motor Vehicle Fuel or Use Fuel distributed or the tax accruing thereon, the Tax Administrator may make such changes in subsequent reports and payments of such Dealers, Sellers, Users, or other Persons, or may make such refund or credit, as may be necessary to correct the errors disclosed by its examinations or investigation. The Dealer, Seller or Users shall reimburse the City for the reasonable costs of the examination or investigation if the action discloses that the Dealer, Seller or User paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such an examination or investigation results in an assessment by and an additional payment due to the City, such additional payment shall be subject to interest at the rate of .0329 percent per day from the date the original tax payment was due.

17.105.115 Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.

(Amended by Ordinance No. 188086, effective December 16, 2016.)

- A. Except as otherwise provided in this Code, any credit for erroneous overpayment of tax made by a Dealer, Seller or User taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a Dealer, Seller or User must be taken or filed within 3 years after the date on which the overpayment was made to the City.

- B. Except in the case of a fraudulent report or failure to make a report, every notice of additional tax proposed to be assessed under this Code shall be served on Dealers, Sellers and Users within 3 years from the date upon which such additional taxes become due or were paid, whichever is later, and shall be subject to penalty as provided in Section 17.105.095.
- C. In the case of the filing of a false or fraudulent report, a failure to file a required report, or willful refusal to remit the tax, an assessment may be made, or a proceeding for the collection of such assessment may be commenced, at any time.

17.105.120 Examining Books and Accounts of Carriers of Motor Vehicle Fuel or Use Fuel.
(Amended by Ordinance No. 188086, effective December 16, 2016.) The Tax Administrator or duly authorized agents of the Tax Administrator may at any time during normal business hours examine the books and accounts of any carrier of Motor Vehicle Fuel or Use Fuel operating within the city for the purpose of enforcing the provisions of this Code.

17.105.125 Records to be Kept by Dealers, Sellers and Users.
(Amended by Ordinance No. 188086, effective December 16, 2016.) Every Dealer, Seller and User of Motor Vehicle Fuel or Use Fuel shall keep a record in such form as may be prescribed or approved by the Tax Administrator of all purchases, receipts, sales and Distribution of Motor Vehicle Fuel or Use Fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the Tax Administrator or authorized officers or agents of the Tax Administrator.

17.105.130 Records to be Kept 3 Years.
(Amended by Ordinance No. 188086, effective December 16, 2016.) Every Dealer, Seller and User shall maintain and keep, for a period of 3 years and 6 months, all records of Motor Vehicle Fuel or Use Fuel used, sold and distributed within the city by such Dealer, Seller or User, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the Tax Administrator. In the event such records are not kept within the state of Oregon, the Dealer, Seller or User shall reimburse the Tax Administrator for all travel, lodging, and related expenses incurred by the Tax Administrator in examining such records. The amount of such expenses shall be assessed in addition to the tax imposed by Section 17.105.010.

17.105.135 Citizen Oversight Committee; Annual Audits.

- A. The City will appoint a citizen oversight committee that is representative of the city's diverse communities to ensure the Motor Vehicle Fuel Tax is being implemented as required, to monitor revenues and review expenditures made, and to report their findings in a public record to the City Council on an annual basis. The committee will be comprised of a minimum of 8 and a maximum of 20 members.
- B. The use of Motor Vehicle Fuel Tax net revenues will be audited annually.

17.105.140 Chapter Effective If Passed.

Chapter 17.105 of this Code does not take effect unless ~~Measure 26-173~~ Measure XXX is approved by the people according to elections results for the election held in the City on ~~May 17, 2016~~ May 19, 2020.

17.105.145 Administrative Rules.

The Tax Administrator has authority to promulgate administrative rules in accordance with this Chapter which shall have the same force and effect as any other provision of Chapter 17.105.

EXHIBIT B – Ballot Title**BALLOT TITLE FOR VOTERS' PAMPHLET****CAPTION (up to 10 words):**

Renew Motor Vehicle Fuel Tax for Street Repair, Maintenance, Safety

QUESTION (up to 20 words):

Shall Portland renew four-year, 10 cents per gallon fuel tax for maintenance (paving, potholes) and safety (crossings, lighting, sidewalks)?

BALLOT SUMMARY (up to 175 words):

Portland's 10 cents per gallon fuel tax was approved by voters in 2016. If renewed at the same tax rate, this measure is estimated to raise \$74.5 million over four years, beginning January 2021.

The funding would continue to be dedicated to street repair, maintenance and safety projects, including paving, pothole repair, sidewalk and safety improvements. Specific proposed investments include:

Street Repair and Maintenance

- \$25 million for paving, focused on busy and neighborhood streets

Safety

- \$6 million for Safe Routes to School projects to improve safety for elementary students
- \$4.5 million to expand Neighborhood Greenways and connect schools, parks, transit, and neighborhood businesses
- \$5 million for traffic signals and crossing beacons
- \$4.5 million for street lighting on High Crash Network
- \$4.5 million for sidewalks and other walkways
- \$1.5 million for small-scale neighborhood safety improvements

Community-Identified Transportation Needs

- \$13 million for potholes, gravel streets, and pavement base repair
- \$10.5 million for basic safety improvements

Expenditures go through independent financial audits and are reviewed by a public oversight committee that reports annually. Establishes license requirements.

EXHIBIT C

EXPLANATORY STATEMENT FOR VOTERS' PAMPHLET (up to 500 words)

In 2016, Portland voters approved a 10 cents per gallon fuel tax to fund street repair, maintenance, and safety improvements. Portland City Council also approved a companion heavy vehicle use tax.

Voter approval of this program followed independent research by City Club of Portland into options to fund local street maintenance and safety improvements. The report identified a local gas tax as a needed new funding source for transportation investments.

Over the past four years, the fuel tax has raised \$76 million dedicated to the Fixing Our Streets program, which repaved 38 lane miles of city streets, repaired over 400 sections of failing road, built sidewalks in East Portland, and 170 additional safety improvements across Portland. For a full list and map of completed projects, visit www.fixingourstreets.com.

If renewed by voters at the same tax rate, the 10-cent fuel tax is estimated to raise \$74.5 million over four years beginning January 2021.

Renewing the fuel tax will allow the Fixing Our Streets program to continue keeping Portland streets in good condition for current and future users, with project selection guided by existing plans and public input from neighborhood stakeholders, transportation justice advocates, and business groups.

For a full list of proposed projects, visit www.fixingourstreets.com/2020.

STREET REPAIR AND MAINTENANCE

If renewed, Fixing Our Streets funds would continue to fund repair and maintenance projects that prevent expensive full replacement of worn-out streets.

Proposed projects include **\$25 million dedicated to paving**, with a focus on busy and neighborhood street repair and maintenance projects that are less expensive to fix now. An additional **\$13 million would fund pothole, gravel street, and pavement base repair services** identified as community priorities.

SAFETY

If renewed, Fixing Our Streets funds would continue to be invested in safety projects for people driving, biking, and walking in neighborhoods across Portland, including creating safer intersections, reducing vehicle speeds on cut-through routes, retrofitting our existing Neighborhood Greenways, and making additional safety enhancements to existing projects.

Proposed projects and services for targeted investment include **\$5 million for traffic signals and crossing beacons, \$4.5 million for sidewalks, \$4.5 million for street lighting**, as well

as better and safer access to schools, transit, and community services for Portland's kids, seniors, and families. **\$6 million would fund Safe Routes to Schools projects, and \$4.5 million would expand Neighborhood Greenways.** An additional \$10.5 million would fund basic safety repairs.

SAME TAX RATE

Because this is a proposed renewal, the 10 cent per gallon tax rate would remain the same as it is today. The average Portlander would continue to pay approximately \$5 per month.

AUDITS AND INDEPENDENT OVERSIGHT

The Fixing Our Streets program will continue to go through annual independent financial audits. These audits will be shared with the oversight committee and the public. Spending from the program will be overseen by the **Fixing Our Streets Oversight Committee** representing the many communities with a stake in Portland's streets and roads.

Proposed Oversight Committee for Street Repair and Traffic Safety Program

Number of Members: 16

Term: Four years

Meeting Frequency: Quarterly

Membership Requirements

- 2 Business Representatives as follows:
 - 1 representing businesses with 1-50 employees
 - 1 representing businesses with 51+ employees
- 5 Community Representatives as follows:
 - 1 resident of Southwest or Northwest Portland
 - 1 resident of North Portland
 - 1 resident from Portland’s Central City
 - 1 resident of close-in Southeast or Northeast Portland
 - 1 resident of East Portland
- 6 Multimodal Representatives as follows:
 - 1 representative of pedestrians
 - 1 representative of transit riders
 - 1 representative of people with disabilities
 - 1 representative of people biking
 - 1 representative of people driving
 - 1 representative for freight
- 1 Nonprofit Representative with a focus on low-income communities and equity
- 2 Transportation Experts with a focus on construction and/or paving

Role of Oversight Committee

- Provide guidance to City Council on the effective use of new resources
- Monitor revenues, expenditures, and program/project implementation
- Annually review program priorities, spending, and any necessary revisions to project lists and financial plans, including the annual program audit. May make recommendations to City Council for revisions to the project list
- Monitor construction’s impacts to businesses and neighborhoods
- Monitor utilization of disadvantaged, minority-owned, women-owned, emerging small business, and service-disabled veteran business enterprises, to support community benefits
- Provide an annual report to City Council containing the above information

Staffing for the Committee

- Portland Bureau of Transportation (PBOT) staff

Exhibit D – Project List

Fixing Our Streets Program: Proposed Use of Revenue from 10-Cent Fuel Tax



What is the proposal?

In May 2016, Portland voters put their trust in the Portland Bureau of Transportation (PBOT) when they approved Measure 26-173, a new 10-cent fuel tax for repairing our streets and making them safer. This was the first local funding source in the city’s history dedicated exclusively to the city’s transportation needs. That same month, Portland City Council passed a [Heavy Vehicle Use Tax](#) on companies operating trucks over 13 tons, so that companies paid their fair share for road repair, too.

Under the banner “Fixing Our Streets”—PBOT manages every project funded by these taxes and has been working hard to deliver for Portland. Although Fixing Our Streets funds comprise less than 5% of PBOT’s annual budget, these dollars allow PBOT to leverage their investments and accelerate the work it already does to maintain a safe and reliable transportation system for everyone. This is especially important as we build for a growing city.

The Vision: Build on the demonstrated success of Fixing Our Streets and seek an additional \$74.5 million for **targeted investment** in paving, traffic signals, sidewalks, street lighting, as well as better and safer access to schools, transit, and community services for **Portland's kids, seniors, and families**. Spending from the program will be overseen by a **Fixing Our Streets Oversight Committee** representing the many communities with a stake in Portland's streets and roads.

The Tool: A renewal of the temporary 10-cent fuel tax that **sunset**s after four years. Voters will have the opportunity to vote on renewing Fixing Our Streets during the **May 2020 election**.

Fixing Our Streets helps realize the safer, more mobile and more sustainable Portland envisioned by the numerous plans and programs that direct PBOT's work citywide, including: the **Vision Zero Action Plan, PedPDX: Portland's Citywide Pedestrian Master Plan, Safe Routes to School**, area plans like **Southwest in Motion** and **Northwest in Motion**, and many more.

Guided by the city's **Racial Equity Goals**, Fixing Our Streets (2020-2024) will prioritize projects that address inequities in our transportation system. This means ensuring that marginalized or underrepresented communities have greater mobility, and thus access to social and economic growth.

We also follow the city's **Climate Action Plan**. We have an imperative to create safer streets that prioritize pedestrians, people biking, and people taking transit as well as more efficient streets for motor vehicles using low-carbon electricity and renewable fuels.

The attached project list builds on these plans and the extensive public input that informed them. It was also shaped by feedback from neighborhood stakeholders, transportation justice advocates, and business groups. The projects represent an expansion of what has made the original Fixing Our Streets so successful: A relentless focus on repairs and improvements to make it easier and safer for all Portlanders to get where they need to go.¹



¹ This project list is based on current analysis. Modifications to the list will be reviewed and approved by the Fixing Our Streets Oversight Committee.

SMOOTHER STREETS: Paving

What is it? Depending on the state of the road, paving treatments can range from surface seal coats, to a grind and repave, to a base layer repair, or to a complete rebuild. Fixing Our Streets (2020-2024) paving dollars are focused on preventive maintenance, including repaving streets and applying protective street coating.



How does it make a difference?

Addressing pavement wear-and-tear early saves money. Road treatments that protect streets from weather damage as well as heavy cars and trucks extends the life of a street significantly.

Priority locations:

- Streets in fair condition to avoid costly rebuilds in the future
- Busy streets that carry transit and freight
- Local streets vital to Portland’s all-ages-and-abilities Neighborhood Greenway network
- Streets in neighborhoods with communities of color and low-income residents

Paving
<u>Busy Streets</u>
N Ida Avenue (Lombard to Smith)
NE 138th Place (Halsey to Sacramento)
NE Killingsworth Street (60th to Portland Highway)
SE 122nd Avenue (Steele to Foster)
SE 162nd Avenue (Division to Powell)
SE Washington Street (102nd to 108th)
SW 45th Avenue (Flower to Vermont)
SW Bertha Boulevard (Beaverton Hillsdale Highway to Vermont)
SUBTOTAL Busy Streets: \$20 million
<u>Neighborhood Streets</u>
N Houghton Street (Dana to Haven)
N Tillamook Street (Flint to Williams)
NE Alberta Street (Cully to 72nd)
NW Flanders Street (16th to Westover)
NW Pettygrove Street (19th to 25th)
SE 87th Avenue (Holgate to Rural)
SE Bush Street (99th to 112th)
SUBTOTAL Neighborhood Streets: \$5 million
TOTAL Paving: \$25 million

SAFER STREETS: New Signals and Beacons



What is it? Traffic signals and crossing beacons are a vital way of increasing safety and preventing crashes. PBOT evaluates intersections to decide what engineering can make street crossings safer for everyone.

How does it make a difference? On our widest and busiest streets, people need a signal to safely cross the road. Rapid flashing beacons and traffic signals reduce pedestrian crashes by about 45%.

Priority locations:

Tier 1 priorities in PedPDX: Portland’s Citywide Pedestrian Master Plan, based on the following factors:

- Pedestrian crash history
- Distance from another protected crossing
- Ability to increase access to transit stops
- Alignment with city equity goals
- Traffic speed and crossing distance
- Proximity to schools, community centers, businesses, and key services

New Signals and Beacons
E Burnside Street at 24th Avenue
NE 114th Avenue at Halsey Street
SE 105th Avenue at Stark Street
SE 105th Avenue at Washington Street
SE César E Chávez Boulevard at Francis Street
TOTAL New Signals and Beacons: \$5 million

SAFER STREETS: Sidewalks and Other Walkways



What is it? Sidewalks and other walkways separate people from traffic lanes, providing safety, mobility, and access to active travel options. They allow people of all abilities to reach businesses, transit, schools, and other daily destinations.

How does it make a difference? Creating a separated space for people of all ages to safely walk or use their mobility device to travel is critical for a safe and accessible transportation system.

Priority locations:

Top tier priorities in PedPDX: Portland’s Citywide Pedestrian Master Plan, based on the following factors:

- Pedestrian crash history
- Distance from another protected crossing
- Ability to increase access to transit stops
- Alignment with city equity goals
- Traffic speed and crossing distance
- Proximity to schools, community centers, businesses, and key services

Sidewalks and Other Walkways
NE 42nd Avenue (Killingsworth to Holman)
NE Glisan Street (east of 122nd)
SE Mill Street (135th to 139th)
SE Washington Street (80th to 82nd)
SW Multnomah Boulevard (37th to 40th)
TOTAL Sidewalks and Other Walkways: \$4.5 million

SAFER STREETS: Safe Routes to School Projects

What is it? Safe Routes to School is a partnership between the city, schools, neighborhoods, community organizations, and agencies that makes walking, biking, and rolling fun, easy, and safe for all students and families. PBOT's Safe Routes to School program connects with every elementary, K-8, and middle school in Portland to offer education on safe, active ways of getting to school, and to identify and implement needed safety improvements around schools.



How does it make a difference?

Through a comprehensive approach, PBOT's Safe Routes to School program has increased the percentage of students walking and biking to school by 35% since it began in 2006. Improvements in this category of funding will include school crossing improvements, paths and missing connections to school grounds, infilling sidewalk gaps on priority residential streets, and tying in our existing network of bike routes to schools. Our goal: By 2035, 75% of all elementary school students in Portland will travel to school by foot or bike.

Priority Locations:

Projects will be drawn from the Safe Routes to School plan developed in 2017 with funding from the original Fixing Our Streets program.

Safe Routes to School Projects (listed by school district, with project examples)
Centennial (sidewalk infill on NE 174th Avenue)
David Douglas (sidewalk infill on SE Bush Street)
Parkrose (sidewalk infill on NE Shaver Street)
Portland Public (improved signage and markings, as well as ADA ramps at NE 74th and Sandy, at NE Buffalo and Martin Luther King Jr, at SE 14th and Bybee, and on SW Vista)
Reynolds (enhanced crossing at NE 148th Avenue and Sacramento Street)
TOTAL Safe Routes to School Projects: \$6 million

SAFER STREETS: Lighting Portland for Safety



What is it? Portland’s High Crash Network makes up 8% of Portland’s streets and is where 57% of serious injuries crashes and fatalities occur. Using a data-driven Vision Zero approach, PBOT has identified street lighting as a critical improvement to make these streets safer. Recent analysis indicates a number of our High Crash Network streets in some of our most diverse neighborhoods lack adequate street lighting. In addition, public engagement work by PBOT has found that people of color feel less safe walking on poorly lit streets.

How does it make a difference? No matter how you travel, better lighting improves visibility for everyone and can significantly reduce fatalities and injuries.

Priority locations:

- High Crash Network streets in the Vision Zero Action Plan based on fatalities and serious injuries
- Streets wider than 48 feet
- Streets with bus service
- Streets with lighting on only one side
- Alignment with city equity goals

Lighting Portland for Safety
NE Glisan Street (102nd to 162nd)
NE Killingsworth Street (42nd to Portland Highway)
SE 122nd Avenue (Stark to Powell)
SE Stark Street (122nd to 162nd)
SW Capitol Highway / 49th Avenue (Barbur to Stephenson)
TOTAL Street Lighting: \$4.5 million

SAFER STREETS: Neighborhood Greenways



What is it? Neighborhood Greenways are a network of residential streets that connect schools and parks, while providing access to business and transit. They feature 20 mph speed limits, painted bike markings, traffic calming features, and safer crossings of busy streets.

How does it make a difference? Neighborhood Greenways use existing residential streets and make them places where people of all ages and abilities feel safe traveling without a car. They form the backbone of the city's Safe Routes to School network and often run parallel to busier streets, proving a quiet place for families to bike and walk.

Priority Locations:

- Routes identified in the 2030 Bike Plan, East Portland in Motion, and Southwest in Motion
- Ability to support citywide Portland Comprehensive Plan goals, including Healthy Connected Communities, and the Climate Action Plan

Neighborhood Greenways
N Delaware Avenue (Willamette to Terry)
NE 115th Avenue (Fremont to Sandy)
NE Mason / Skidmore (37th to 77th)
NE Sacramento / Knott (122nd to 162nd)
SE 60s Greenway (Lincoln to Flavel)
SW Bertha Boulevard (35th to Barbur)
TOTAL Neighborhood Greenways: \$4.5 million

SAFER STREETS: Neighborhood Safety Improvements



What is it? As part of PBOT’s outreach and engagement for their “In Motion” plans, neighbors and businesses told us about the safety projects they consider most important. Many of these are small-scale, simple fixes, or alternate designs focused on pedestrians and people biking.

How does it make a difference? PBOT’s “In Motion” plans create new ways for people to travel safely in their neighborhoods by making new connections where none existed before. These improvements make it safer for pedestrians and people biking to access local schools, parks, main streets, and other community destinations without a car.

Neighborhood Safety Improvements (by area plan)
Northwest in Motion
North Portland in Motion
Southwest in Motion
TOTAL Neighborhood Safety Improvements: \$1.5 million

COMMUNITY TRANSPORTATION SERVICES: Basic Maintenance

What is it? PBOT has heard again and again from neighborhoods and businesses who want us to be more responsive to routine maintenance requests like fixing potholes, repairing sections of failing road (base repair), or maintaining gravel streets.

How does it make a difference? A quicker response to potholes and failing roads makes everyone safer. By establishing a dedicated citywide program for this routine maintenance, PBOT can deliver these services more efficiently.



Priority Locations:

- PBOT’s citywide gravel streets program
- Citywide pothole and base repair needs

Basic Maintenance	Target Allocation
Potholes	\$5 million
Gravel streets	\$4 million
Base repairs	\$4 million
TOTAL Basic Maintenance	\$13 million

COMMUNITY TRANSPORTATION SERVICES: Basic Safety Improvements



What is it? As our population grows and our streets become busier, we need to be more responsive to basic safety concerns citywide. Meeting our goal of eliminating fatalities and reducing serious injuries requires projects big and small. This includes creating safer intersections, reducing vehicle speeds on cut-through routes, retrofitting our existing Neighborhood Greenways, and making additional safety enhancements to existing projects.

How does it make a difference? A pedestrian hit by a person driving at 30 mph is 75% more likely to suffer serious injuries or death relative to a pedestrian hit at 20 mph. PBOT has several proven tools to significantly improve street safety. Establishing a citywide program for basic street safety services allows PBOT to deliver these services more efficiently. To make intersections safer, for example, PBOT can remove parking as well as improve everything from signage to striping to signal timing. Strategic placement of speed bumps is also a low-cost and effective treatment for reducing speed.

Priority Locations:

- Projects based on citywide crash data
- PedPDX priority intersections
- A focus on ensuring diverse communities are empowered to request these services

Basic Safety Improvements	Target Allocation
Additional safety enhancements	\$4 million
Neighborhood Greenway retrofits	\$2.5 million
Safer intersections	\$2 million
Speed bumps on cut-through routes	\$2 million
TOTAL Routine Safety Improvements	\$10.5 million