

## Chapter 18.20 Climate Pollution Fee

**18.20.010 Purpose.** The use of gas appliances causes fossil fuel emissions that, on average, exceed the emissions from comparable electric appliances. These additional emissions impose costs on Bend and surrounding communities. The purpose of this fee is to promote the general welfare of Bend residents and visitors by ensuring that some or all of those costs are reasonably attributed to those choosing to install these appliances in new residential construction within the City of Bend. In addition, this fee, as well as programs supported by revenue generated by the fee, may serve as an incentive to use electric equipment, reducing fossil fuel emissions and the associated economic costs to the City and its residents from those emissions. Revenue from the fee will be used to pay for the cost of preventing and mitigating present and future climate impacts from fossil fuel emissions. This chapter aligns with the Climate Action Goals set forth in Council Resolution 3044 and aligns with and implements the 2025 Community Climate Action Plan Update, adopted in Council Resolution 3421.

### 18.20.020 Definitions

- A. **Carbon intensity** means a measure of the amount of greenhouse gas emissions produced per unit of activity
- B. **Carbon produced** means the definition as set forth in section 18.20.040
- C. **City** means the City of Bend, Oregon, or as indicated by the context, may mean any official, officer, employee, or agent authorized to act on behalf of the City.
- D. **City Manager** means the City Manager or their designee.
- E. **Fossil fuel** means fuels derived from hydrocarbons, including but not necessarily limited to natural gas, coal, oil, propane, and kerosene
- F. **Gas appliance** means any household appliance that uses gas in any capacity and includes appliances that use gas and other sources, such as dual-fuel appliances.
- G. **Tier factor** means the definition as set forth in section 18.20.040
- H. **Life of equipment** means the definition as set forth in section 18.20.040
- I. **Net lifetime carbon produced** means the definition as set forth in section 18.20.050
- J. **Applicable new residential structures** means the new construction of any residential building governed by the Oregon Residential Specialty Code. “New” construction includes complete demolition and rebuilds, but excludes additions, alterations, renovations, or repairs to existing buildings.
- K. **Responsible party** means the person or entity responsible for the building permit fees.
- L. **Social cost of carbon** means the definition as set forth in section 18.20.040

**18.20.030 Authority.** The Bend City Council is authorized to adopt fees under its home rule authority and the authority of the Charter of the City of Bend. The Climate Pollution Fee created by this Chapter is not a tax on property or a property owner as a direct consequence of ownership, but instead is a fee or charge not subject to the limits of Section II(b), Article XI, of the Oregon Constitution, and is classified as such for the purposes of ORS 3.10.145. It is not a direct sales tax, but is instead a fee or charge which is unrelated to the sale of goods or services, and thus is not subject to a vote by the electors of Bend under Section 40 of the Bend Charter. It is a fee based on the costs attributable to the gas appliances to which the fee is applied.

#### **18.20.040 Fee Applicability**

- A. The requirements of this chapter apply to all new residential structures governed by the Oregon Residential Specialty Code, except for manufactured homes. The requirements of this chapter do not apply to structures governed by the Oregon Structural Specialty Code.
- B. If a gas appliance is installed in an applicable new residential structure, the responsible party is required to pay the Climate Pollution Fee required by this Chapter. The fee calculation methodology is set forth below in Section 18.20.050.
- C. When applying for a building permit for an applicable residential structure, the responsible party must accurately declare which gas appliances will be included in the structure.
- D. The fee amount that is due is that which is listed for the applicable appliance in the fee resolution in effect on the date an application was first submitted to the City for the permit.
- E. The Climate Pollution Fee is due on the date of permit issuance.
- F. There may be instances in which a particular appliance proposed to be installed is not specifically listed in the fee resolution, such as may be the case with newer technologies. In these instances, the fee established by this chapter is still required to be paid in the amount that applies to appliance in the fee resolution that most closely resembles the proposed appliance to be installed. The City retains discretion to make this determination; in making this determination, the City may consider any and all relevant factors, including but not limited to the energy use and the service life of the appliance.
- G. If natural gas piping is present for an appliance in an applicable residential structure but no appliance is installed, the uninstalled appliance will be assumed to use natural gas, absent documentary evidence to the contrary, and the fee will be

calculated accordingly. If a new electric appliance is installed, even with existing natural gas piping, no fee will be applied.

- H. The City Manager may adopt and amend rules, policies, and other resources to administer this Chapter, including relating to assessments, collections, inspections, appeals, and any other aspect of fee implementation.

#### **18.20.050 Fee Structure**

- A. The fee amount shall be set based on a calculation that takes into account the social cost of carbon, the net lifetime carbon produced of the relevant household appliance, and the relative size of the residential structure.
- B. The fee calculation is as follows:
  - a.  $\text{Fee Amount} = \text{Social Cost of Carbon} \times \text{Net Lifetime Carbon Produced} \times \text{Tier Factor}$
- C. The definitions for this formula are as follows:
  - a. **Social cost of carbon** means a monetary cost attributable to each metric ton of carbon dioxide produced, incorporating both the years when the emissions are produced and the value of future-year damages.
  - b. **Carbon produced** means the total amount of carbon produced by each appliance or equipment within an average-size, single-family home. This is calculated through the equipment's estimated annual energy usage and multiplied by the EPA's estimate for carbon produced per Therm of energy consumed.
  - c. **Net lifetime carbon produced** means the carbon produced from each gas appliance less the carbon produced from an electric appliance over the life of the equipment.
  - d. **Life of the equipment** means the estimated total number of years the equipment remains in service and produces carbon emissions.
  - e. **Tier Factor** is a multiplier that scales the fee value to the size of the home to account for lower or higher anticipated energy usage and carbon emissions.
- D. This methodology is further described in the Technical Memorandum accompanying Ordinance No. [XXXX]. The Technical Memorandum may be updated and modified, as necessary. The provisions of the Bend Code and adopted fee resolutions control over any inconsistent statement in the Technical Memorandum regarding the fee amount due in connection with an appliance in an applicable residential structure.
- E. The Council may adjust the fee amount to a lower value than the fee calculation, including below the level at which the fee would cover the full costs to the City, notwithstanding BMC 12.15.005.A. The Council may approve an adjustment to the fee amount, through a multiplier or other means. This adjustment will be reflected in

the City's Fee Schedule. The Council may change the adjustment by amending the Fee Schedule.

#### **18.20.060 Segregation of Revenue and Use of Funds**

- A. Revenue collected under this Chapter shall be deposited into the City's Climate Pollution Fund and must be used consistent with the purposes of that fund and this chapter.
- B. The Climate Pollution Fund may be used for any costs related to mitigating present and future climate impacts from fossil fuel emissions, including but not limited to responding to flooding, fires, extreme heat, and preventing such future climate impacts, including but not limited to by funding building decarbonization measures. Revenues may be used for any administrative costs related to any of the foregoing.
- C. It is not necessary that the expenditures of the Climate Pollution Fund specifically relate to the parcel, property, or residential structure from which Climate Pollution Fees are collected.
- D. Every year, beginning one year from the effective date of the Climate Pollution Fee, and at other times as requested by Council, Council will consider adjustments or changes to the fee and rate structure, and may take into consideration projections about the carbon intensity of the future energy supply, updating the value of the social cost of carbon, adjustments to the tier factors, or other factors that Council determines are relevant to the fee. The City Manager will provide to Council annual reports or other transparency and accountability measures related to the City's use of the Climate Pollution Fee revenue.

#### **18.20.070 Enforcement**

- A. Violation of any provision of this chapter is a class A civil infraction. Each day of violation is a separate infraction.