

## AMENDMENTS TO FOSSIL FUEL ZONING CODE (Nov 16, 2016)

Four alternatives for existing terminal expansions:

1. Recommendation (no change) – allow 10 percent expansion for seismic upgrades (No on amendments #6 and 7)
2. No expansion of storage tank capacity. (Yes on #6, No on #7)
3. Expansion only for fuel blending (Yes on #6 and #7)
4. Expansion allowed for seismic upgrades and fuel blending (No on #6 and Yes on #7)

Amendments	Yes/No
<b>Title 33 code changes (Nov 10)</b>	
<u>Amendment #1</u> – Technical Correction to Exception #4 to clarify that truck only terminals are not Bulk Fossil Fuels Terminals.	
<u>Amendment #2</u> – Changes to Exception #7 to clarify that fuel storage for airports, marine servicing facilities and rail yards are not Bulk Fossil Fuel Terminals.	
<u>Amendment #3</u> – Clarifies the definition of Fossil Fuels by specifying that non-fuel petroleum-based products, such as asphalt and lubricants, are not fossil fuels.	
<b>Amendment to Ordinance (Nov 10)</b>	
<u>Amendment #4</u> – Provide additional direction for follow-up actions.	
<b>Title 33 code changes (new)</b>	
<u>Amendment #5 (new)</u> – Change description of limited use to include reference to storage <u>tank</u> capacity.	
<u>Amendment #6 (new)</u> – Delete provision that allows for up to 10% expansion for seismic replacement of storage tanks. <i>As amended to prohibit the storage of coal.</i>	
<del><u>Amendment #7 (new)</u> – Add provision that allows for up to 10% expansion for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program.</del>	
<b>Amendment to Ordinance (new)</b>	
<u>Amendment #8 (new)</u> – Adopt revised ordinance and findings based on amendments.	

## Amendments to Recommended Title 33 code changes

**Amendment #1** – Technical Correction to Exception #4 to clarify that truck only terminals are not Bulk Fossil Fuels Terminals.

### **33.920.300 Bulk Fossil Fuel Terminal**

#### **D. Exceptions.**

1. Truck or marine freight terminals that do not store, transport or distribute fossil fuels are classified as Warehouse And Freight Movement uses.
2. Truck or marine freight terminals that do not have transloading facilities and have storage capacity of 2 million gallons or less are classified as Warehouse And Freight Movement uses. However, multiple fossil fuel facilities, each with 2 million gallons of fossil fuel storage capacity or less but cumulatively having a fossil fuel storage capacity in excess of 2 million gallons, located on separate parcels of land will be classified as a Bulk Fossil Fuel Terminal when two or more of the following factors are present:
  - a. The facilities are located or will be located on one or more adjacent parcels of land. Adjacent includes separated by a shared right-of-way;
  - b. The facilities share or will share operating facilities such as driveways, parking, piping, or storage facilities; or
  - c. The facilities are owned or operated by a single parent partnership or corporation.
3. Gasoline stations and other retail sales of fossil fuels are not Bulk Fossil Fuel Terminals.
4. Distributors and wholesalers that receive and deliver fossil fuels exclusively by truck are not Bulk Fossil Fuel Terminals.
5. Industrial, commercial, institutional, and agricultural firms that exclusively store fossil fuel for use as an input are not Bulk Fossil Fuel Terminals.
6. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.

**Amendment #2** – Changes to Exception #7 to clarify that fuel storage for airports, marine servicing facilities and rail yards are not Bulk Fossil Fuel Terminals.

7. The storage of fossil fuels for exclusive use at an airport, surface passenger terminal, marine, truck or air freight terminal, drydock, ship or barge servicing facility, rail yard, or as part of a fleet vehicle servicing facility are not Bulk Fossil Fuel Terminals.
8. Uses that recover or reprocess used petroleum products are not Bulk Fossil Fuel Terminals.

**Amendment #3** – Clarifies the definition of Fossil Fuels by specifying that non-fuel petroleum-based products, such as asphalt and lubricants, are not fossil fuels.

### **33.910.030 Definitions**

The definition of words with specific meaning in the zoning code are as follows:

**Fossil Fuel.** Fossil fuels are petroleum products (such as crude oil and gasoline), coal, methanol, and gaseous fuels (such as natural gas and propane) that are made from decayed plants and animals that lived millions of years ago and are used as a source of energy. Denatured ethanol and similar fuel additives with less than 5 percent fossil fuel content, biodiesel/renewable diesel with less than 5 percent fossil fuel content, and petroleum-based products used primarily for non-fuel uses (such as asphalt, plastics, lubricants, fertilizer, roofing and paints) are not fossil fuels.

### **Amendment to Ordinance**

**Amendment #4** – Provide additional direction for follow-up actions.

d. The Bureau of Planning and Sustainability shall report to City Council no later than December 31, 2019 on the implementation of this ordinance, including:

1. the number and description of any requests by existing terminal operators to replace and expand their facilities;
2. the number and description of building permits issued for fossil fuel tanks between 200,000 and 2 million gallons;
3. the trends in fossil fuel energy use and non-fossil energy use in Oregon;
4. the status of local and state regulatory proceedings that may improve seismic resilience of fossil fuel storage infrastructure; and
5. information on compliance with the Oregon Clean Fuels Program.

e. City Bureaus, including BDS, PBEM and Fire, shall work with the State of Oregon to develop policy options to require seismic upgrades of storage tanks within a firm deadline for replacement of older, unsafe tanks.

### **Title 33 code changes (new)**

**Amendment #5** – Change description of limited use to include reference to storage tank capacity.

### **33.140.100 Primary Uses**

- A. No change**
- B. Limited uses.**

17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].

a. Existing Bulk Fossil Fuel Terminals. The following use limitations apply to existing Bulk Fossil Fuel Terminals:

- (1) Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date] plus 10 percent. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] plus 10 percent is prohibited; and

(2) New fossil fuel storage tanks are prohibited unless a new fossil fuel storage tank is replacing an existing fossil fuel storage tank that does not meet current building code standards for seismic safety, and in that case, the capacity of the new fossil fuel storage tank is prohibited from being greater than the storage capacity of the existing tank that is being replaced plus 10 percent.

b. New Bulk Fossil Fuel Terminals are prohibited.

**Amendment #6** – Delete provision that allows for up to 10% expansion for seismic replacement of storage tanks.

### 33.140.100 Primary Uses

A. **No change**

B. **Limited uses.**

17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].

a. Existing Bulk Fossil Fuel Terminals. Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date]. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] is prohibited. The storage of coal is prohibited.

b. New Bulk Fossil Fuel Terminals are prohibited.

~~**Amendment #7**— Add provision that allows for up to 10% expansion for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program.~~

~~Option #1— 10% expansion for seismic replacement and fuel blending.~~

~~Option #2— 10% expansion only for fuel blending.~~

~~Option #1— 10% expansion for seismic replacement and fuel blending.~~

### 33.140.100 Primary Uses

~~A. **No change**~~

~~B. **Limited uses.**~~

~~17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].~~

~~a. Existing Bulk Fossil Fuel Terminals. The following use limitations apply to existing Bulk Fossil Fuel Terminals:~~

~~(1) Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date] plus 10 percent. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] plus 10 percent is prohibited; and~~

~~(2) New fossil fuel storage tanks are prohibited unless:~~

- ~~• The new fossil fuel storage tank is replacing an existing fossil fuel storage tank that does not meet current building code standards for seismic safety,~~

~~and in that case, the capacity of the new fossil fuel storage tank is prohibited from being greater than the storage capacity of the existing tank that is being replaced plus 10 percent; or~~

- ~~• The new fossil fuel storage tank is for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program administered by the Oregon Department of Environmental Quality.~~

~~b. New Bulk Fossil Fuel Terminals are prohibited.~~

~~Option #2 – 10% expansion only for fuel blending.~~

### ~~33.140.100 Primary Uses~~

~~A. No change~~

~~B. Limited uses.~~

~~17. Bulk Fossil Fuel Terminals. This regulation applies to all parts of Table 140-1 that have a [17].~~

~~a. Bulk Fossil Fuel Terminals that existed on [insert effective date] are allowed, but the total amount of fossil fuel that can be stored on the site in storage tanks is limited to the fossil fuel storage tank capacity that existed on [insert effective date]. An additional 10 percent of the total fossil fuel storage tank capacity that existed on [insert effective date] is allowed for the exclusive storage of fuel that is blended to achieve compliance with the Clean Fuels Program administered by the Oregon Department of Environmental Quality. Total fossil fuel storage tank capacity on the site in excess of the capacity that existed on [insert effective date] plus 10 percent is prohibited.~~

~~b. New Bulk Fossil Fuel Terminals are prohibited.~~

**Amendment #8** – Adopt revised ordinance and findings based on amendments.

~~Version 1 – PSC recommendation with no change to 10% for seismic and added Council direction.~~

~~Version 2 – no 10% expansion.~~

~~Version 3 – 10% expansion for clean fuel blending.~~

~~Version 4 – 10% expansion for seismic replacement and clean fuel blending.~~