

PBOT

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Public Comment Open on the Transportation Demand Management in Commercial/ Mixed Use Zones Administrative Rule and Procedures Guide

In December 2016, City Council approved code changes that require Transportation Demand Management (TDM) for certain developments in the new Commercial/ Mixed Use Zones. Council directed the Portland Bureau of Transportation (PBOT) to develop the administrative process to implement the requirements.

PBOT worked with its bureau partners, including the Bureau of Planning and Sustainability (BPS), the Bureau of Development Services (BDS), and the Portland Housing Bureau (PHB) to form the *Transportation Demand Management Plans in Commercial/ Mixed Use Zone Administrative Rule and Procedures Guide* draft. Attached is the public Discussion Draft, which is available for public review and comment. The administrative rule and procedures guide will be enacted in conjunction with the City of Portland 2035 Comprehensive Plan, projected for May 24, 2018 at 1:00 pm.

Public Comment Details

- View the draft of the Transportation Demand Management Plans in Commercial/ Mixed Use Zone Administrative Rule and Procedures Guide attached below.
- Please provide comments via email to: tdmmixeduse@portlandoregon.gov
- The deadline for public comment is April 20, 2018.

What is Transportation Demand Management?

TDM is the practice of providing residents, employees and visitors information and incentives to walk, bicycle, ride transit and carpool while discouraging drive-alone trips. Common TDM tools include subsidized transit passes; bike commute reimbursements; and providing encouragement information to residents and employees.

There are a number of benefits of the Commercial/ Mixed Use Zone TDM requirement for residents, the neighborhoods and the broader Portland region, including:

- Reduced transportation costs for residents
- Enhanced mobility options for residents
- Mitigation of neighborhood parking impacts
- Greenhouse gas emission reduction citywide
- Improved health of all Portlanders



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Details for the new TDM Requirement for Developments in Commercial/ Mixed Use Zones

The new TDM requirement applies to a subset of development which are outside the Central City Plan District and in the newly designated Commercial/ Mixed Use Zones. A development in this zone that includes more than 10 new dwelling units and is close to transit, is required to have a TDM Plan approved prior to the issuance of a building permit.

There are two options for a developer to meet the TDM Plan requirement:

1. Pre-Approved TDM Plan – This administrative route requires a multi-modal financial incentive equivalent in value to an annual TriMet pass per unit, due at building permit issuance. The current rate is \$1,100 per market rate unit and \$308 per affordable unit (based on TriMet’s Low-Income Fare). Projects must participate in the dissemination of transportation options information and an annual transportation options survey of their residents.
2. Custom TDM Plan – Approved through a Transportation Impact Review (TIR) process (Type II discretionary Land Use Review). An applicant must develop a TDM Plan and implement approved TDM strategies. The Custom TDM Plan must demonstrate how the TDM strategies will contribute to sufficiently achieving the City’s mode share and residential auto ownership targets.

For more information:

Visit: <https://www.portlandoregon.gov/transportation/75487>

Email: tmmixeduse@portlandoregon.gov

Transportation Demand Management (TDM) Plans in Commercial/ Mixed-Use Zones

Discussion DRAFT Administrative Rule and Procedures Guide

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 Commercial/Mixed-Use zones in Chapters 33.226, 33.852 and 17.107.

In instances where a requirement or direction is quoted verbatim from Chapter 17.107 or from Title 33, Planning and Zoning, the text appears in italics.

II. Authority

Authority to develop this Administrative Rule and Procedures Guide in Title 17 as follows:

The Director of Transportation shall adopt administrative rules necessary to achieve the purpose of this Chapter. (17.107.060)

III. Applicability

A. Where does this apply. Applies to the Commercial/Mixed-Use Zones, outside the Central City Plan District: CR, CX, CM1, CM2, CM3 and CE zones. Refer to Portland Zoning Map, effective upon the enactment of the 2035 City of Portland Comprehensive Plan.

B. When does this apply. Per Title 33.266.410.B, the requirement is triggered when a development within a Commercial/Mixed-Use Zone includes more than 10 new dwelling units.

In the commercial/ mixed use zones, a TDM plan is required when new development includes more than 10 dwelling units, or an alteration to existing development includes the addition of more than 10 dwelling units. (33.266.410.B)

C. Exemptions.

1. Sites that are located far from transit, as defined in 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.

Sites that are located far from transit, as described in Paragraph 33.266.110.B.2, are exempt from this requirement. (33.266.410.B)

2. CX sites within the Central City Plan District are exempt from these requirements.

IV. Program Goals

- A. Reduce the vehicle miles traveled (VMT) associated with a new development.
- B. Mitigate the parking impacts associated with a new and expanded development.
- C. Increase the use of active forms of transportation, like walking, biking, taking transit and carpooling.

V. Definitions

- A. **Transportation Demand Management (TDM)** – Encompasses 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.
- B. **Commercial/Mixed-Use Zone** – Newly designated zones from the 2035 Comprehensive Plan.
- C. **Mixed-Use Areas** – Compact areas of development that include a mix of uses, either within buildings or among buildings, and include residential development as one of the potential components.
- D. **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 (33.852.110.B.) the following Pattern Area mode share goals of the Transportation System Plan are used:
 - Inner Neighborhoods: By 2035, 70% of all trips should be made by non-single occupancy vehicles.
 - Eastern and Western Neighborhoods: By 2035, 65% of all trips should be made by non-single occupancy vehicles.
- E. **Transportation Impact Review (TIR)** –A mechanism to evaluate whether the multimodal transportation system is capable of supporting proposed development, as well as consideration of proportional mitigation measures.
- F. **Vehicle Miles Traveled (VMT) per Capita** – Miles driven in automobiles, per person, on average.
- G. **Ongoing Participation and Adaptive Management** – This term, referenced in 17.107.20, is the process of outlining successive actions should the applicant not meet its modal split Performance Targets, or fail to implement the approved TDM Custom TDM Plan. The timing of this element is tied to Chapter 17.107.045, Required Reporting.

- 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. **Affordable Units** – Units that qualify for the affordable unit multimodal incentive fee rate are residential units in a development document as affordable by a recorded covenant or regulatory agreement with a government entity that are rented, leased or for purchase by households earning 80% MFI (median family income) or less.
- J. **Market Rate Units** – All residential units within a development that are not subject to a recorded covenant or regulatory agreement with regard to tenant incomes or unit rents.
- K. **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 or as amended.

VI. Program Options and General Requirements

A. Program options to meet the TDM standard.

To meet the TDM standard, the applicant must choose one of the following:

1. *Go through the Transportation Impact Review process set out in chapter 33.852; or*
2. *Meet the objective standards of Title 17.107 as verified by the Portland Bureau of Transportation. (33.266.410.B)*

B. General TDM Requirements. Under 33.266.410.B, there are two options for an applicant to fulfill this TDM Plan requirement:

1. A Pre-Approved TDM Plan
 - Multimodal financial incentives: equivalent in value to one 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.
 - Transportation options information: distributed to residents for the first four years of building occupancy.
 - Annual transportation survey: resident and employee participation for the first four years of building occupancy.
2. Custom TDM Plan
 - A Transportation Impact Review (TIR), per requirements in Title 33.852.105.H, including the TDM requirements in 17.107.020.
 - This is a Type II Land Use Review.
 - Custom TDM Plan approval is based on approval criteria (33.852.110.B)– requires demonstrating that the proposal contributes to City mode split goals and residential auto ownership targets.

VII. Pre-Approved TDM Plan Process – Administrative Process

- A. General information.** The applicant selects this option. Fees are calculated based on the number of dwelling units in permits, 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 TRACS.
- 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 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 acknowledgement form to PBOT ATS staff, the acknowledgement 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 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 housing 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 Multimodal Incentive Account.
3. **Investment of the Multimodal Incentive Obligation.** Money collected from the Pre-Approved TDM Plan Requirement and deposited into Multimodal Incentive Account will be invested by the City Treasurer until needed for the TDM incentives for the specific building that contributed the funds. Interest earned is credited to the Multimodal Incentive Account at the end of each accounting period. Interest earned within the Multimodal Incentive Account shall remain in that account and be used for the same purposes as the Multimodal Incentive Fees in that account.

G. Expenditure of Multimodal Incentive Fee Money.

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

This obligation will pay for a menu of incentives that will be offered to residents of the site to increase the use of transit, bicycling, walking, and other alternatives to driving alone. (17.107.035.C)

The multimodal incentives that could be offered include:

- Bike share membership or ride credits
 - TriMet passes
 - Streetcar passes
 - Car share incentives (e.g. Zipcar, car2go, ReachNow)
 - Carpool incentives
2. **Priorities for the Multimodal Incentive Account.** The following guidelines shall be used for the expenditure of the Multimodal Incentive Account. 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 Account;
 - b. For residents along the corridor where the property that contributed to the Multimodal Incentive Account is located, with priority to residents of regulated affordable housing units;

- c. For residents throughout Portland, with a focus on incentives for underserved, minority populations, and residents of regulated affordable housing units.

It will be PBOT’s goal to use the Multimodal Incentive Fees on incentives to be distributed directly to the residents of the development that contributed the money. However, if residents of that development site 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.

- 3. **Distribution of TDM Incentives.** Per the signed agreement, within one month 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 building owner, manager or residents per the agreed upon method and timeline.
- 4. **Administrative fee.** A 5% 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 City may charge fees for Transportation and Parking Demand Management goods and services provided, including but not limited to application review, incentives and education, performance monitoring, adaptive management, and compliance and enforcement. (17.107.070)

- H. **At Occupancy.** Per the signed agreement, within one month of issuance of 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 building owner, manager or residents per the agreed upon method and timeline.

I. 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. **Appeal fee.** There is a charge of \$500 for processing an appeal.

J. 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. **Fee.** There is a charge of \$500 for processing a refund request.

3. **Procedures for Processing.** The applicant must submit a written request for a refund to the Director of the Bureau of Transportation. Applications for refunds will be reviewed promptly by the City. Refunds will be paid promptly by the City.

If an appeal to the calculation of the Multimodal Incentive Fee (mathematical error) is successful and there has been an error, the applicable amount of the Multimodal Incentive Fee will be refunded in addition to the \$500 appeal fee.

K. Record Keeping.

1. **Record of Receipts.** All Multimodal Incentive Fees that are received will be listed in chronological order within the Multimodal Incentive Account. Each receipt will include the date received, the amount received, the address of the development for which the money was paid, and the name of the point of contact for the development.
2. **Record of Investments.** All investment transactions and all refunds must include the date and the description of the transaction.
3. **Records of Expenditures.** 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. Records of disbursements will include the date, specific multimodal incentives (including identifying number), and the name of the development for which the money are expended.
4. **Reports.** PBOT ATS staff will prepare an annual report of receipts and expenditures of the Multimodal Incentive Account. The annual report will indicate the source and the amount of all monies collected, earned, or received and the multimodal incentives that were financed in whole or in part by the money.

L. Transportation Options Information Dissemination. Every year, for the first four years of occupancy, PBOT ATS staff will supply the property manager with Transportation Options Information to disseminate to tenants or PBOT ATS staff will disseminate Transportation Options Information directly to tenants per 17.107.035.A.

M. Annual Survey Reporting. Per 17.107.035.D. and 17.107.045., the building owner or manager is required to actively facilitate the participation in an annual travel survey, developed and distributed by PBOT ATS staff, of residents and employees for the first four years of building occupancy.

VIII. Custom TDM Plan Process – Land Use Review

A. Purpose. The following sections are intended to serve as guidelines for the implementation of the Transportation Impact Review (TIR) in 33.852 and the accompanying TDM requirements in 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 33.852.105.H, and the TDM components as identified in 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 33.852.105.H., and the TDM Plan requirements in 17.107.020.
- D. Components of a Custom TDM Plan.** A Custom TDM Plan must include, at a minimum, the requirements in 33.852.105.H. and 17.107.020. The below is an outline of the basic TDM requirements that apply to the Commercial/ Mixed-Use Zone 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 (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 Chapter 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 33.852.110.B.:

Proposed transportation and parking demand management actions are contributing to the City sufficiently achieving the relevant mode share and residential auto ownership targets established by the Transportation System Plan for the uses and development on the site; (33.852.110.B)

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

- Based on the Pattern Area where the development site is located, the following mode share goals of The Transportation System Plan shall be used:
 - Inner Neighborhoods: By 2035, 70% of all trips should be made by non-single occupancy vehicles.
 - Eastern and Western Neighborhoods: By 2035, 65% of all trips should be made by non-single occupancy vehicles.
- 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:

- Likelihood of implementation of the proposed TDM strategies; and
- 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 on 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 conditioned multimodal incentive money will be deposited into the Custom TDM Multimodal Incentive Account.

F. Land Use Review Fee. See current Land Use Services Fee Schedule for current land use review fees.

The City may charge fees for Transportation and Parking Demand Management goods and services provided, including but not limited to application review, incentives and education, performance monitoring, adaptive management, and compliance and enforcement (17.107.070).

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 33.730.020.

H. Record of Custom TDM Plan. Land Use approval is recorded as a formal record with the Bureau of Development Services.

I. Signed Custom TDM Agreement. Applicant must sign and submit the Custom TDM Plan acknowledgement form to PBOT ATS staff, the acknowledgement 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 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. At Occupancy. 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 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 Title 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.