



## Memorandum

**DATE:** July 5, 2022

**TO:** City of Vancouver Planning Commission

**FROM:** Chad Eiken, Director, Community Development Department  
Bryan Snodgrass, Principal Planner, Community Development Department

**RE:** Proposed Fossil Fuel Code Standards

This memorandum provides an overview of proposed updates to zoning code standards for large scale fossil fuel facilities, which staff will present to the Commission at their July 12 workshop. The adoption of new standards will allow for the lifting of the existing moratorium on new fossil fuel facilities, which was originally enacted by the Council in June 2020 and extended most recently in June 2022, with a new expiration date of November 8, 2022.

### **Moratorium Background**

The moratorium, which was enacted by Council in June of 2020, prohibits new or expanded large-scale fossil fuel facilities, based on concerns about potential impacts to local public and environmental health and safety and how such facilities contribute to climate change. The purpose of the moratorium is to allow time to update the land use code standards for such uses and to align them with other planning efforts currently underway, such as the Vancouver Strategic Plan update, Climate Action Plan, and other Title 20 code amendments

The moratorium prohibits new or expanded facilities engaged in distribution, extraction, refinement, processing or bulk movement of fossil fuels, or bulk storage of over two million gallons of fossil fuels. Facilities producing energy from landfill gas, fossil fuel by-products such as asphalt or others, or direct consumer sales such as gas stations, are all explicitly exempted from the moratorium. Upkeep, repair, maintenance, or City-mandated health and safety improvements of any existing facilities are also exempted.

The current fossil fuel facility moratorium follows a narrower crude oil facility moratorium and zoning code standards that was adopted in 2014, and was spurred by a proposed large scale crude oil transshipment terminal proposed at the Port of Vancouver in 2013. That facility was ultimately denied by the Governor in 2018 following a unanimous denial recommendation from the state Energy Facility Site Evaluation Council which is tasked with review of the very largest energy facilities.

Staff presented a set of potential code updates for fossil fuel facilities at the August 2, 2021 City Council workshop and received feedback, which was used in the drafting of a SEPA Determination of Non-Significance (DNS) for the proposed code amendments, in order to solicit public comment. The

City received an appeal of its SEPA Determination from the Washington State Petroleum Association, which identified several concerns with the City’s analysis.

Staff agreed that more analysis was likely needed and therefore withdrew the SEPA DNS to allow for additional work, which staff determined will require assistance from outside experts. Last December, Council agreed that more time would be needed to strengthen the development code changes and environmental review to withstand a potential challenge and extended the temporary moratorium until November 8, 2022.

**Summary of Proposed Code Changes**

The purpose of these proposed standards is to minimize the risk of spill or discharge of fuels into groundwater sources or waters of the state; to avoid and minimize any impacts to adjacent communities from fire or explosion; to support a reduction in greenhouse gas emissions and a transition to renewable fuel and energy production consistent with Federal, state and local targets; and to protect and preserve fish and wildlife habitat areas to ensure viable Tribal fisheries consistent with Treaty fishing rights.

At a high level, the proposed changes include:

- New bulk fossil fuel storage and handling facilities, including oil, gas or coal storage or transshipment, would be prohibited
- Existing bulk facilities could be maintained and upgraded
- Existing facilities could be expanded slightly if converted to cleaner fuel and brought up to seismic standards, by conditional use permit
- ‘Cleaner fuels’ would be specifically defined
- Small fossil fuel storage and handling, intended for local markets, would be allowed by conditional use subject to new standards
- New use and development standards would be added for all three types of fossil fuel facilities
- Coal and other solid fuel storage yards, and coal and biomass electricity generating facilities would be prohibited in all districts

A more detailed description of the proposed changes can be found in the below table.

	<b>Proposed Change</b>	<b>Code Section</b>
1	Create new land use category “Bulk Fossil Fuel Storage and Handling Facility” to include: petroleum and petroleum products, coal, and natural gases including without limitation methane, propane, and butane. The new use category does not include facilities that store and handle finished products derived from fossil fuels, such as asphalt, plastics, fertilizers, paint, and denatured ethanol, and facilities storing or handling cleaner fuels. It also excludes Small Fossil Fuel or Cleaner Fuel Storage and Distribution Facilities and Vehicle Fuel Sales (existing use category), addressed separately in the code. Delete existing use category “Bulk Crude Storage.”	VMC 20.160.020 Listing of Use Classifications
2	Create new land use category “Cleaner Fuel Storage and Handling Facilities” for converted bulk fossil fuel facilities only, to include liquid or gaseous fuels that are low or no emissions, including: carbon-free fuels (e.g. green hydrogen), biomass renewable fuels, alcohol fuels, biodiesel fuel, E85 motor fuel, and alternative fuels exclusively for the propulsion of motor vehicles which meet the requirements of state law RCW 19.112.010(3). Define “Cleaner Fuels” in Definitions section.	VMC 20.160.020 Listing of Use Classifications  VMC 20.150 Definitions

3	Create new land use category under industrial use types called “Small Fossil Fuel Storage and Distribution Facilities” to include local distribution gas storage tanks with individual storage capacities of 30,000 gallons or less and cumulative storage of 60,000 gallons or less. Such tanks store fossil fuels or cleaner fuels and are either for local distribution to customers or serve as an accessory facility necessary to support an onsite allowed primary commercial, industrial, educational, scientific, or governmental use and do not meet the definitions of Bulk Fossil Fuel Facility. It also excludes vehicle fuel sales, a commercial use. In a related change, clarify that vehicle fuel sales (existing use classification) is for direct to consumer sale.	VMC 20.160.020 Listing of Use Classifications
4	Modify use classification “Industrial Services” to delete “solid fuel yards” (e.g. coal storage) as an example use, since this would fall into the bulk fossil fuel storage and handling use. Also, delete “fuel distributions” as this is proposed to be included as a new use category “Small Fossil Fuel or Cleaner Fuel Storage and Distribution Facilities.”	VMC 20.160.020 Listing of Use Classifications
5	Modify existing use classification “Major Utility Facilities” description to delete coal energy generating facilities as an example use type.	VMC 20.160.020 Listing of Use Classifications
6	Modify all residential zoning district use tables to prohibit all three new fossil fuel-related land uses	VMC 20.410.030-1  VMC 20.420.030-1
7	Modify commercial and mixed-use zoning districts to prohibit all three new fossil-fuel relate land uses.	VMC 20.430.030-1
8	Modify industrial district use table to prohibit new bulk fossil fuel storage and handling facilities in all districts, regardless of size.	VMC 20.440.030-1  VMC 20.895.110 <i>(new)</i>
9	Modify industrial district use table to allow maintenance and safety improvements to existing Bulk Fossil Fuel Storage and Handling Facilities (as a limited use, subject to certain standards) in the IH Heavy Industrial District and prohibit in all other districts. Minor expansions of existing facilities by up to 15% total of baseline capacity if converted to cleaner fuel and seismic upgrades are made, subject to a conditional use permit and certain standards of VMC 20.895.110.	VMC 20.440.030-1  VMC 20.895.110 <i>(new)</i>
10	Modify industrial district use table to allow conversion to Cleaner Fuel Storage and Handling Facilities (new use category for converted bulk fossil fuel storage and handling facilities – see #9 above) as a limited use subject to new standards at VMC 20.895.110. Expansion of such converted facilities by 15% subject to conditional use permit and standards of VMC 20.895.110. New cleaner fuel storage and handling facilities would be prohibited in all districts.	VMC 20.440.030-1  VMC 20.895.110 <i>(new)</i>
11	Modify industrial district use table to allow Small Fossil Fuel Storage and Distribution Facilities as permitted uses in the IH Heavy Industrial District.	VMC 20.440.030-1
12	Modify industrial district use table, footnote 33, to make it clear that biomass and coal energy generating plants are prohibited in all zoning districts.	VMC 20.440.030-1
13	Modify open space district use table to prohibit all fossil fuel-related uses.	VMC 20.450.030-2
14	Add special standards for Bulk Fossil Fuel Storage and Handling, Cleaner Fuel Storage and Handling, and Small Fossil Fuel or Cleaner Fuel Storage and Distribution uses at VMC 20.895.110 as follows:	VMC 20.895.110 <i>(new)</i>

	<ul style="list-style-type: none"> <li>• Purpose (environmental protection, reduce impacts from fire/explosion, support reduction in greenhouse gas emissions and promote transition to renewable fuel and energy production)</li> <li>• Allow for non-capacity improvements to all fuel-related facilities as a limited use, to include: maintenance, improvement of safety or security including seismic upgrades, decrease in air or water emissions, etc. Non-capacity improvements shall specify the baseline capacity for the facility.</li> <li>• Expansion of capacity of existing bulk fossil fuel storage and handling facilities would be allowed by up to 15% ONLY if converted to Cleaner Fuels, subject to a conditional use permit, required seismic upgrades, spill prevention and fire response plan, GHG impacts analysis, annual reporting, and proof of financial insurance in case of accidents.</li> <li>• Small Fossil Fuel Storage and Distribution Facilities would be allowed by conditional use permit, subject to compliance with seismic code requirements, approval of comprehensive spill prevention and fire response plans.</li> </ul>	
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**Next Steps**

Staff has identified a work plan for next steps following the July 12 workshop and will seek additional stakeholder input on the proposed amendments and issue a SEPA determination during the month of July. In August, staff will brief the City Council and obtain their feedback on the proposed amendments. If no further workshops with the Planning Commission are needed, a public hearing may be scheduled for September 13. A public hearing on the amendments may then be scheduled for the City Council on October 4, and the ordinance, if adopted, would take effect thirty (30) days later. The temporary moratorium is set to expire on November 8, 2022. If an additional workshop with the Planning Commission is needed prior to the September 13 meeting, staff anticipate scheduling this for July 26.

**Questions?**

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