

# Fossil Fuel Facilities Proposed Code Changes

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Planning Commission  
Public Hearing

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# Presentation Overview

- Fossil Fuel Moratorium Background
- Prior PC and Council Review
- Proposed Code Changes
- Stakeholder Input To-Date
- Key Remaining Policy Questions
- Council Input from 9/12 Workshop
- Staff Recommendation



# Fossil Fuel Facility Moratorium Background

- Enacted June 2020, most recently extended on June 6, 2022; set to expire November 6, 2022, unless extended
- Moratorium applies to new or expanded large-scale fossil fuel facilities over 2 million gallons in capacity
- Does not apply to storage or use of petroleum for commercial sales or industrial processes or maintenance or repair of existing facilities
- Council direction: promote public safety and environmental protection and implement climate-friendly policies related to fossil fuels; prohibit new bulk fossil fuel facilities; consider whether expansions should be allowed; keep new regulations simple

# Prior Planning Commission and Council Review

<b>December 2020</b> City Council enacted moratorium	<b>May 25, 2021</b> Planning Commission workshop	<b>July 27, 2021</b> Planning Commission workshop	<b>March 8, 2022</b> Planning Commission workshop
<b>June 6, 2022</b> City Council extension of moratorium	<b>July 12, 2022</b> Planning Commission workshop	<b>August 1, 2022</b> City Council workshop	<b>Sept. 12, 2022</b> City Council workshop

# Proposed Fossil Fuel Code Changes (VMC Title 20)

## **Create three new land use categories for Fuel Storage and Handling Facilities:**

- Bulk Fossil Fuel
- Cleaner Fuel
- Small Fossil Fuel



# Proposed Fossil Fuel Code Changes (VMC Title 20)

## Bulk Fossil Fuel Facilities

- Prohibit any new facility in all zoning districts
- Allow for maintenance and upgrades to existing facilities
- Allow conversion of existing facilities to Cleaner Fuels
- Allow converted facilities to expand by up to 15%, subject to conditional use permit (CUP), SEPA and development standards

## Cleaner Fuel Facilities

- Prior draft would prohibit New Cleaner Fuel Facilities but allow conversion of existing
- Instead, staff recommends allowing New Cleaner Fuel Facilities in the IH District subject to conditional use and specific conditions

*(Both Options Discussed Below)*

## Small Fossil and Cleaner Fuel Facilities

- <60,000 gallons capacity
- Allow in the IH Heavy Industrial District subject to specific standards including must be 1,000' from residential zones
- Staff recommends allowing small cleaner fuel uses as 'limited use' and fossil fuel facilities as 'conditional use'

# Proposed Fossil Fuel Code Changes (VMC Title 20)

## Add new Special Use Standards as VMC 20.895.110

- Purpose & Applicability references Public Health and Safety **\*NEW\***
- Documentation of baseline capacity even for existing facilities
- 15% expansion of existing bulk facilities allowed if converted to cleaner fuels subject to requirement for seismic upgrades and other development standards
- New facilities must be sited >1,000 feet from any residential zoning district **\*NEW\***

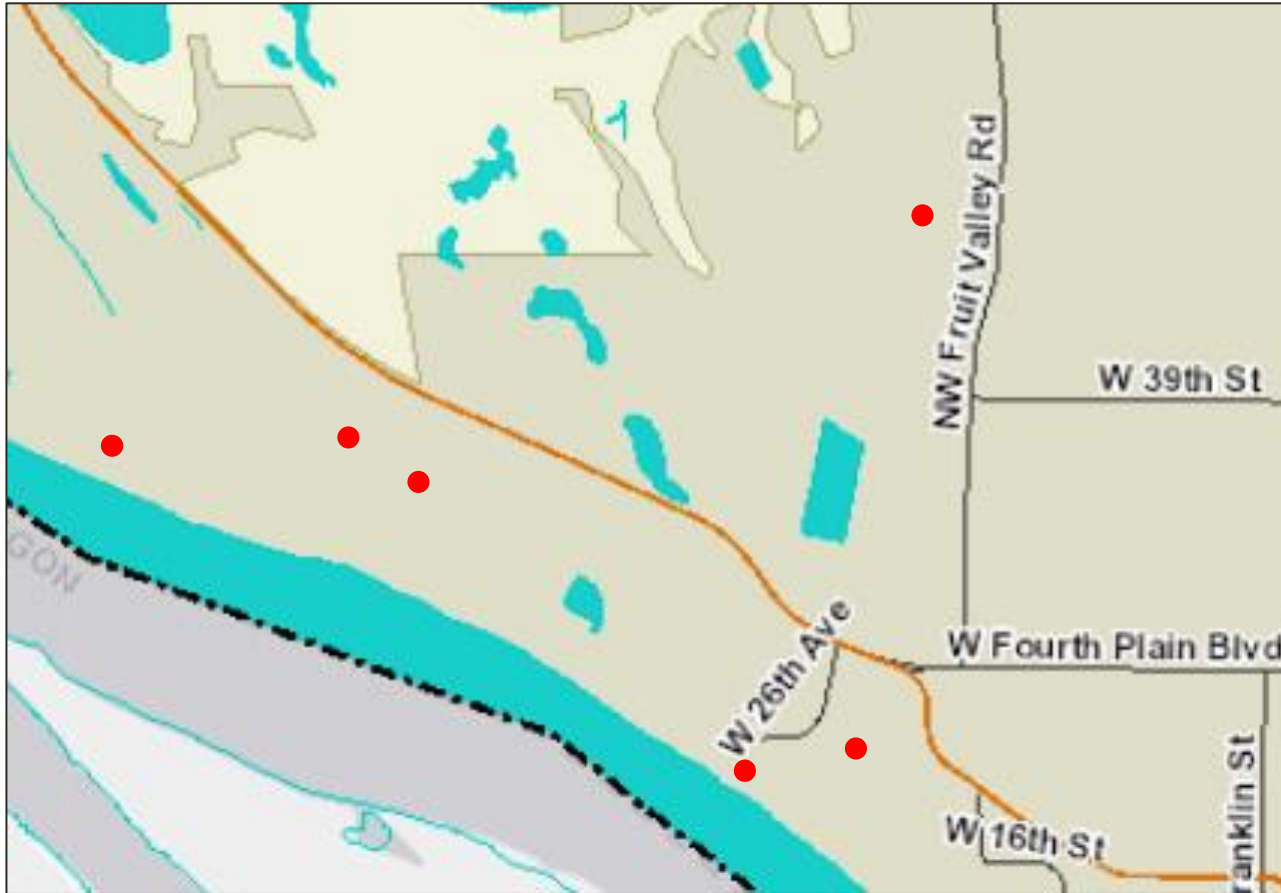
# Proposed Fossil Fuel Code Changes (VMC Title 20)

## Other Code “Clean-up” Amendments

- Delete solid fuel (e.g., coal) storage yards from Industrial Services land use description
- Delete reference to coal-fired electricity generation facility as an example of major utility facilities
- Delete use category “bulk crude storage” to be replaced by bulk fossil fuel storage and handling facilities



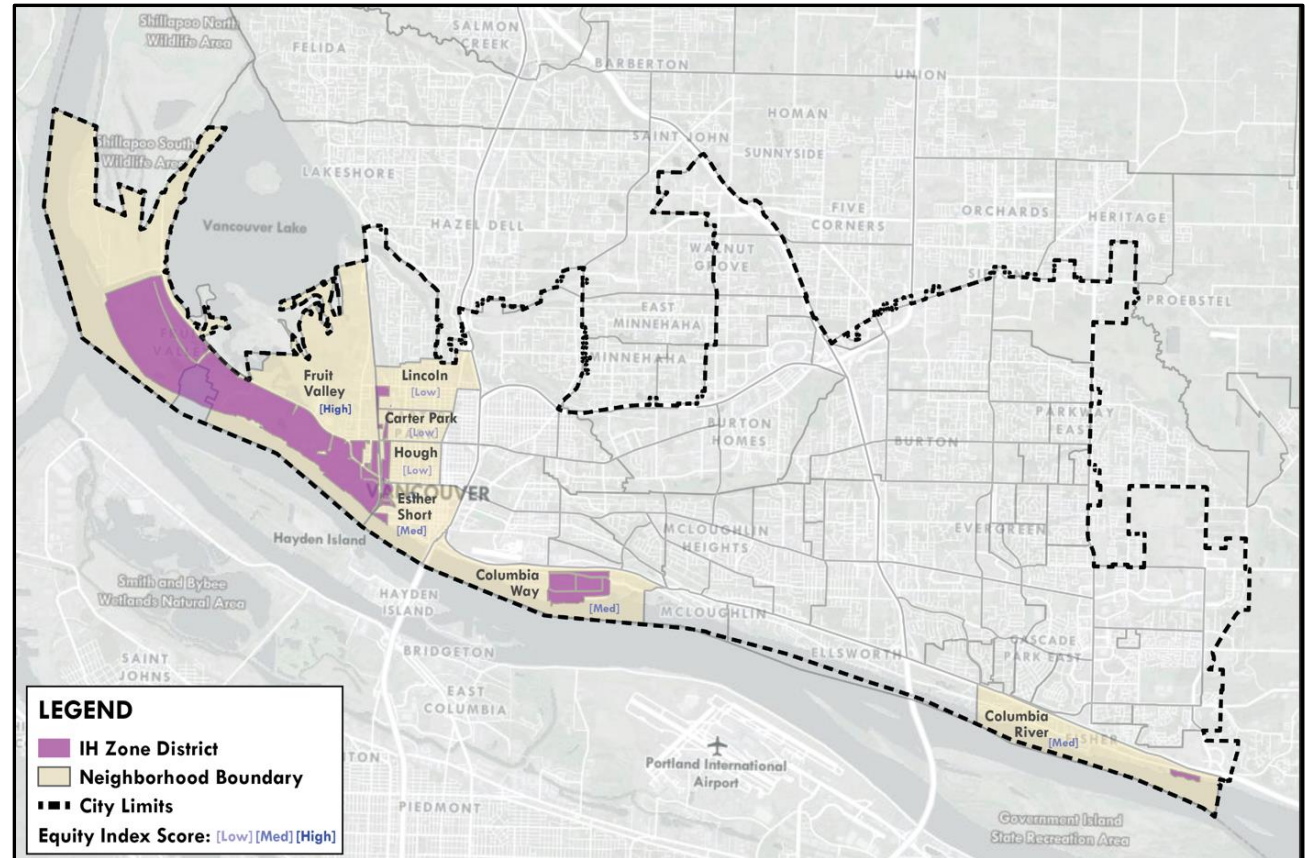
# Existing Bulk Fossil Fuel Facilities



- 6 existing facilities identified, on lands with moderate to high liquefaction susceptibility in the event of an earthquake
- The facilities generally process, store, or transport propane, natural gas, and petroleum products

# Heavy Industrial (IH) District and Equity Map

- Most of IH District is within Fruit Valley Neighborhood Association (FVNA)
- FVNA has high Equity Index (lower incomes, higher % non-white households, etc.)
- Proposed code changes prohibit new bulk facilities, limit new or expanded fuel facilities to address impacts to vulnerable neighborhoods





# Stakeholder Outreach

- Port of Vancouver and NuStar (tenant)
- Western States Petroleum Association (WSPA)
- Tidewater
- SW Washington Beyond Fossil Fuel Task Force
- Friends of the Gorge
- Physicians for Social Responsibility
- NW Natural
- Columbia Riverkeeper (ACE)
- Washington Environmental Council (ACE)
- Stand Up to Oil Coalition (ACE)
- Sierra Club Loo Wit (ACE)



# Two Key Remaining Policy Issues

Two policy issues resulting from public input, and one clean-up item are not addressed by the current draft code changes, as follows:

1. Policy: Should small fuel facilities be allowed as a limited use in the IH District instead of a conditional use?
2. Policy: Should new cleaner fuel facilities of up to 1 million gallons be prohibited, or allowed in the IH District as a conditional use?
3. Change existing bulk fossil fuel facilities from ‘prohibited’ to ‘conditional use’ in the IL District to allow one existing facility to be upgraded and expand



# Key Policy Issue #1

## Allow Small Fossil Fuel Facilities as a Limited Use instead of Conditional Use?

- Draft code would require a conditional use permit (CUP) for new small fossil fuel facilities (<60,000 gals.)
- Proposed alternative to allow small *cleaner* fuel facilities as a limited use, subject to development, standards in order to incentivize transition from fossil fuels

# Limited Use vs. Conditional Use Permit

Limited Use	Conditional Use
1. Administrative approval (by staff)	1. Approval by City Hearing Examiner
2. Public notice (14-day) for other application, e.g. site plan review	2. Public notice (30-day) and public hearing required
3. Relies on pre-defined conditions and mitigation measures	3. Additional conditions can be required based on specific project impacts
4. Appeal to Hearing Examiner (if related to impacts, would need to be under SEPA)	4. Appeal to City Council (if related to impacts, would be under SEPA or conditional use permit)
5. Lower permit cost, faster review, generally more certainty for applicants	5. Higher permit cost, more public process, less certainty for applicant due to unknown conditions
	6. Applicant's failure to comply with conditions may result in revocation of conditional use permit

# Staff Analysis: Key Policy Issue #1

## Allow Small Fossil Fuel Facilities as a CUP, or Limited Use?

- CUP provides maximum public input (public hearing) regarding siting of small fossil fuel facilities but adds process and ‘uncertainty’ regarding conditions
- Limited use would be an administrative process with public notice/comment and would require compliance with fixed development standards and SEPA review
- Limited use would not compromise public health and safety or environmental protection
- Incentivizing cleaner fuel facilities would be in alignment with the proposed Climate Action Framework
- Staff would support allowing small *cleaner fuel* facilities as a limited use, and small *fossil fuel* facilities as a conditional use in the IH District

# Key Policy Issue #2

## Prohibit New Cleaner Fuel Facilities, or Allow Them?

- First public draft of fossil fuel code changes emphasized public safety over climate action and included a prohibition on any new cleaner fuel facility
- More recent input through public engagement process urges City to allow path for new cleaner fuel facilities in order to help transition away from fossil fuel sources
- Accordingly, staff modified draft code changes to include an “Option A” and “Option B” regarding new cleaner fuel facilities



# Staff Analysis: Key Policy Issue #2

## Option A - Prohibit New Cleaner Fuel Facilities

- Provides maximum safety to public by removing risks from fire and explosion, spill impacts upon surface and groundwater sources, etc.
- Draft code contemplates allowing existing fossil fuel facilities to be converted to cleaner fuels with minimal process, and slightly expanded if converted
- Would not preclude reconsideration of a code amendment at a later date to allow specific types of cleaner fuel facilities, when more is known about future of fuel economy, automotive technology, etc.
- However, would likely hinder parallel efforts locally to advance climate action goals that promote a transition from fossil fuels to cleaner fuels

# Staff Analysis: Key Policy Issue #2

## Option B - Allow New Cleaner Fuel Facilities by CUP

- Would support parallel efforts locally to advance climate action goals that promote a transition from fossil fuels to cleaner fuels; signals City is open to greener fuels
- Concerns about risks to public safety and environment would be addressed by approval process and development standards, as follows:
  - Conditional use permit, SEPA (Environmental Review) required
  - Min. 1,000' buffer from residential zoning
  - Maximum size = 1M gallons or 3 acres of land, whichever is smaller
  - Construction to seismic standards; approval of fire response and spill control plans
  - Greenhouse gas emission study
  - Financial assurance in case of accident
  - Annual report to City regarding capacity, shipment activity/type
  - Permit oversight by SW WA Clean Air Agency and WA Department of Ecology

# Clean Up Items

- One existing bulk fuel facility is located in the IL District. To allow for maintenance and expansion as the other facilities, staff recommends making existing facilities a conditional use in the IL District.

USE	OCI <sup>20</sup>	IL <sup>1</sup>	IH	ECX <sup>27</sup>
Railroad Yards	X	X	P	X
<del>Bulk Crude Oil</del> <u>Fossil Fuel Storage and Handling Facilities</u>	X <sup>34</sup>	X/C <sup>34</sup>	X/L/C <sup>34</sup>	X <sup>34</sup>
<u>Cleaner Fuel Storage and Handling Facilities</u>	X	X	C <sup>37</sup>	X
<u>Small Fossil Fuel or Cleaner Fuel Storage and Distribution Facilities</u>	X	X	C <sup>37</sup>	X



# Clean Up Items (cont.)

- VMC 20.160: Modify draft definition of Bulk Fossil Fuel Facility to delete “used to generate energy” to eliminate confusion (*Port of Vancouver comment*)
- VMC 20.160: Modify draft definition of Small Fossil Fuel or Cleaner Fuel Facility to allow accessory emergency generators outright (*Port of Vancouver comment*)
- VMC 20.440: Make industrial use table clear that existing bulk fossil fuel facilities are permitted, vs. non-conforming (*WSPA comment*)
- VMC 20.895.110: Make it clear that, so long as overall percent of fossil fuel does not increase, a partially-converted facility may move fuel to different storage tanks on-site (*Port of Vancouver comment*)



# SEPA

## (State Environmental Policy Act)

- Prior SEPA completed in 2021, withdrawn to allow for further analysis
- New SEPA DNS issued in August 2022
- Three SEPA Comment Letters Received by deadline:
  - Washington State Petroleum Association
  - Port of Vancouver
  - ACE
- Deadline to File SEPA Procedural Appeal is 9/13/22

# City Council Input from 9/12/22 Workshop

Following a staff presentation and discussion of the two key policy issues at their workshop on 9/12/22, a majority of City Council provided the following input:

1. Support allowing small cleaner fuel facilities as a limited use in the IH District, with small fossil fuel facilities as a conditional use
2. Support allowing new cleaner fuel facilities of up to 1M gallons/3 acres in the IH District by conditional use

# Staff Analysis & Summary

## Proposed Fossil Fuel Code Changes

- Responsive to and consistent with moratorium and Council direction
- Balance priorities of public safety, environmental protection, and climate action
- No additional large fossil fuel facilities would be allowed; modest expansions could be permitted if converted to cleaner fuels, upgraded to seismic codes, etc.
- Concerns about risks to public safety and environment from expansions, new cleaner fuel facilities, and small fossil fuel facilities would be addressed by approval process and development standards

# Staff Recommendation



*Staff recommends that Planning Commission recommend approval to City Council of the proposed fossil fuel code changes, with minor changes as outlined on previous slides.*





# Next Steps

- October 3: City Council Public Hearing (tentative)
- November 5: Ordinance takes effect
- November 8: Moratorium Expires



# Questions and Discussion

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# Sample Motion Language

*The Planning Commission recommends City Council adoption of fossil fuel facility standards as recommended by staff in the proposal dated August 11, 2022, with modifications dated September 6, 2022, based on the findings and conclusions in the staff report dated September 2, 2022.*

# Clean-up Item: Allow Existing Bulk Fuel in IL District

Trillium CNG (also referred to as NuStar Annex)

Fruit Valley Rd.

- Compressed Natural Gas Facility





# Existing Bulk Fossil Fuel Facilities



## Tidewater Barge Lines (Class 1)

- 1.3 M gallons tanks storing diesel fuel
- Miscellaneous fueling stations and tanks with lube oil, gasoline, diesel, and used oil totaling less than 20K gal



# Existing Bulk Fossil Fuel Facilities



NGL Energy Partners

Tristar Fuel Transfer Facility

## NGL Energy Partners

- Bulk propane terminal with storage capacity of 640,000 gallons

## TriStar Fuel Transfer Facility

- Container loading and unloading services for propane and butane



# Existing Bulk Fossil Fuel Facilities

## Tesoro (Class 1)

- 6.4 M gal diesel
- 5.1 M gal gasoline
- Misc. ethanol, B-1, less than 20 K gal

## NuStar Energy (Class 1)

- 17.8 M gal jet fuel
- Misc. additives = 10 K gal

