

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 06-1127
CODE SECTION 7.01.050 TO EXEMPT THE)	
OREGON ZOO CONSERVATION)	Introduced by Chief Operating Officer Michael J.
ADMISSION SURCHARGE FROM METRO)	Jordan, with the concurrence of Council
EXCISE TAX, EFFECTIVE JANUARY 1, 2007)	President David Bragdon

WHEREAS, The Oregon Zoo has established itself as one of the leading zoos in the country for its conservation efforts; and

WHEREAS, funding is necessary for the continued development of these innovative conservation programs; and

WHEREAS, the Metro Council has approved the creation of a Conservation Admission Surcharge at the Oregon Zoo; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That Metro Code Section 7.01.050 is amended to read as follows:

“7.01.050 Exemptions

- (a) The following persons, users and operators are exempt from the requirements of this chapter:
 - (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the state of Oregon.
 - (2) Persons who are users and operators of the Portland Center for the Performing Arts.
 - (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
 - (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
 - (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.

- (6) Users of the following facilities:
 - (A) Facilities that are licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a);
 - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - (C) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.

- (7) Persons making payments to Metro for the following purposes:
 - (A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
 - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
 - (C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects;

- (E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
- (F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;

(G) Payments collected with admission to the Oregon Zoo in the form of a Conservation Admission Surcharge;

~~(G)~~(H) Notwithstanding the provisions of subsections (C) through ~~(G)~~(F) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.
- (10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

- (11) Persons making the following payments:
- (A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
 - (B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and
 - (C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.
 - (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.
- (12) Persons making the following payments:
- (A) Payments to a person or entity other than Metro that entitle a person to admission to an event that is held at a Metro regional park; and
 - (B) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food or beverages at an event being held at a Metro regional park pursuant to the terms of a special use permit issued by Metro; and
 - (C) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food, or beverages at an event that is being sponsored and conducted by Metro at a Metro regional park.
 - (D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to an operator authorized by Metro to sell goods, food or beverages or to provide services at a Metro regional park shall be subject to tax.

(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.”

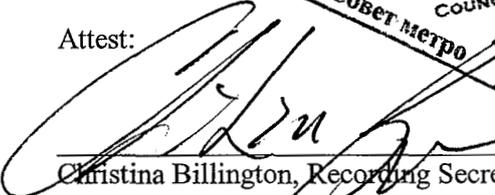
2. The amendment to Metro Code Section 7.01.050 Exemptions, takes effect January 1, 2007.

ADOPTED by the Metro Council this 7th day of September 2006.




David Bragdon, Council President

Attest:


Christina Billington, Recording Secretary

Approved as to Form:


Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1125, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 4.01.050 TO INCLUDE A CONSERVATION SURCHARGE WITH REGULAR ADMISSION TO THE OREGON ZOO, EFFECTIVE JANUARY 1, 2007, AND ORDINANCE NO. 06-1127, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 7.01.050 TO EXEMPT THE OREGON ZOO CONSERVATION ADMISSION SURCHARGE FROM METRO EXCISE TAX, EFFECTIVE JANUARY 1, 2007

Date: August 17, 2006

Prepared by: Tony Vecchio and Brad Stevens

BACKGROUND

The FY 2006-07 budget for the Oregon Zoo includes the addition of a twenty-five cents (\$0.25) conservation surcharge on regular admission. The zoo is part of a consortium of northwest conservation organizations. Funds raised through the conservation surcharge are to be pooled with the funds collected from the other member organizations and used to fund northwest conservation initiatives, including conservation projects at the Oregon Zoo. Initially, until a mechanism can be established through the conservation consortium, these funds will go to the Oregon Zoo Foundation to be tracked and managed through the Future for Wildlife Fund. The zoo will report back to Council annually on the disposition of surcharge funds, including a summary of surcharge funded projects.

The companion ordinance, Ordinance No. 06-1127, is necessary if the Metro Council wishes to exempt the surcharge from Metro Excise Tax. If the surcharge is subject to the excise tax, it is projected to generate \$95,000.00 annually. Exempting the surcharge from Metro Excise Tax is would generate an additional \$7,000.00 each year for conservation projects.

ANALYSIS/INFORMATION

- 1. Known Opposition** None known.
- 2. Legal Antecedents** Metro Code Section 4.01.050 Admission Fees and Policies identifies policies on Zoo admission fees and requires the Zoo to request an amendment to increase fees. Metro Code Section 7.01.050 Exemptions allows for excise tax exemptions for specified persons, users, and operators.
- 3. Anticipated Effects** The Conservation Surcharge is expected to generate approximately \$102,000.00 annually to fund northwest regional conservation projects.
- 4. Budget Impacts** The projected revenues and expenditures associated with the Conservation Surcharge are already included in the FY 2006-07 budget.

RECOMMENDED ACTION

Metro staff recommends the adoption of Ordinances Nos. 06-1125 and 06-1127.

Staff Report to Ordinance Nos. 06-1125 & 06-1127

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