

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )  
CODE 2.09 (CONTRACTOR'S BUSINESS )  
LICENSE PROGRAM) )  
ORDINANCE NO. 14-1347  
Introduced by Metro Attorney Alison R. Kean  
in concurrence with Council President Tom  
Hughes

WHEREAS, Metro Code 2.09 contains the Contractor's Business License Program which sets out the procedure for Metro to issue a contractor's business licenses; establish fees for said licenses; and distribute fees to participating jurisdictions; and

WHEREAS, State law, found in ORS Chapters 671 and 701, authorizes the program; and

WHEREAS, the current provisions of Metro Code 2.09 have not been updated since the passage of state legislation in 2007 which amended the regulatory scheme; and

WHEREAS, there is a need to amend Metro Code 2.09 to be consistent with state law; and

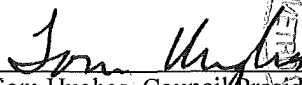
WHEREAS, there is a need to clarify the application and implementation of the program and distribution of fees through amendments;

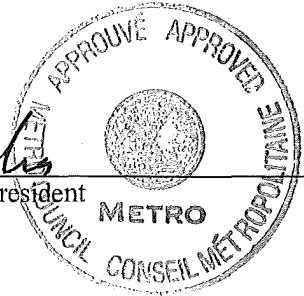
WHEREAS, Metro staff, in consultation with the Office of Metro Attorney, determined that the proposed amendments are needed and will benefit Metro, participating jurisdictions, and businesses in terms of overall understandability and ease of implementation; NOW THEREFORE,


THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. Metro Code Amendment. Metro Code Chapter 2.09 is hereby amended and re-adopted in its entirety as attached hereto in Exhibit A to this ordinance.

ADOPTED by the Metro Council this 30 day of October, 2014.

  
Tom Hughes, Council President



Attest:  
  
Alexandra Eldridge, Recording Secretary

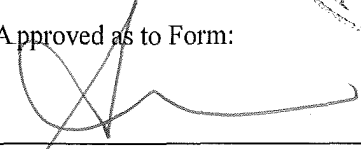
Approved as to Form:  
  
Alison R. Kean, Metro Attorney

Exhibit A to Ordinance

CHAPTER 2.09

CONTRACTOR'S BUSINESS LICENSE PROGRAM

SECTIONS	TITLE
2.09.010	Purpose and Authority
2.09.020	Definitions
2.09.030	Eligibility and License Issuance
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2.09.050	Exemptions
2.09.060	License <del>Applicability</del> <u>Effect</u>
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2.09.120	Renewal
2.09.130	Revocation
2.09.140	Appeal of a Revoked License or Denied Application
2.09.150	Penalty
2.09.160	Distribution of Fees
2.09.170	Regulations

2.09.010 Purpose and Authority

(a) The purpose of this ordinance is to provide a procedure for Metro to issue a business license to contractors and landscape contracting businesses ~~contractor's business license~~, establish a fee for the license, and distribute to participating jurisdictions the fees collected by Metro.

(b) The authority for Metro ~~the Metropolitan Service District~~ to issue business licenses to contractors and landscape contracting businesses, ~~a contractor's business license~~, establish requirements for the issuance of the license, charge a fee for the license, receive reimbursement for administrative expenses incurred in carrying out this program, determine the ~~dollar amount~~ number of residential building permits issued within the Metro Area, and distribute the fees to participating jurisdictions is granted by ORS 671.750 - 671.755 and ORS 701.013 - 701.015.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 2; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

2.09.020 Definitions

(a) "Contractor" ~~or "Landscape contractor"~~ has the meaning given under ORS 701.005. ~~and ORS 701.015(6)(c), respectively.~~

(b) "Landscape contracting business" has the meaning given under ORS 671.520(2).

~~(bc)~~ "Contractor business license" means a document issued by Metro to a contractor ~~or landscape contractor~~ or landscape contracting business that permits the contractor ~~or landscape contractor~~ or landscape contracting business to conduct business in participating jurisdictions.

~~(ed)~~ "Contractor's business license fee" means any fee paid to Metro for the issuance of a contractor's business license.

~~(de)~~ "Business license tax" means any fee paid by a contractor or landscape contracting business ~~landscape contractor~~ to a city or county for any form of license that is required by the city or county to conduct business in that jurisdiction. The term does not include any franchise fee or privilege tax imposed by a participating jurisdiction upon a public utility under ORS 221.420 or 221.450 or any provision of a city charter.

~~(ef)~~ "Conducting business" means engaging directly, or through officers, agents and employees, in any activity in pursuit of gain. ~~to engage in any activity in pursuit of gain including activities carried on by a contractor or landscape contractor through officers, agents and employees, as well as activities carried on by a contractor or landscape contractor on that contractor's or landscape contractor's own behalf.~~

~~(fg)~~ "Participating jurisdiction" means any city or county located wholly or partly within the boundaries of Metro that has a requirement for a contractor or landscape contracting business ~~landscape contractor~~ to obtain a business license to conduct business in that jurisdiction, and the fee for this license is not based on or measured by adjusted net income.

~~(gh)~~ "Principal place of business" means the location of the central administrative office in this state of a contractor

or landscape contracting business ~~landscape contractor~~ conducting business in the Metro Area.

(~~h~~i) "Residential building permit" means ~~any~~ a building permit issued for the construction or alteration of a residential structure. A residential building permit does not mean an electrical permit, plumbing permit, or mechanical permit.

(j) "Residential structure" has the meaning given under ORS 701.005.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 3; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.030 Eligibility and License Issuance

Any contractor or landscape contracting business ~~landscape contractor~~ wishing to conduct business in any participating jurisdiction shall be issued a contractor's business license if subsections (a) ~~and through (b)~~ are met by the contractor or landscape contracting business ~~landscape contractor~~:

(a) Presents proof to Metro that the contractor or landscape contracting business ~~landscape contractor~~ has paid the business license tax imposed by ~~the city~~ when each participating jurisdiction in which:

- (1) ~~The principal place of business of landscape contractor is within the city~~  
The contractor or landscape contracting business has its principal place of business; and/or
- (2) ~~Presents proof that landscape contractor or landscape contractor has paid the business tax imposed by the city because the contractor or landscape~~ The contractor or landscape contracting business derives gross receipts of \$125,000 \$250,000 or more from business conducted within the boundaries of ~~city~~ a participating jurisdiction during the calendar year for which the business license tax is owed.

(b) Presents proof that the contractor or landscape contracting business is currently licensed by the State Construction Contractors Board or Landscape Contractors Board,

respectively, unless exempted from the state licensing requirements by ORS Chapter 701 or 671.

~~(b) (1) Presents proof that the contractor or landscape contractor is currently registered with the State of Oregon Construction Contractor's Board or the State of Oregon Landscape Contractor's Board;~~

(2c) Completes an application as required by Section 2.09.070 of this chapter;

(3d) Pays the contractor's business license fee established in Section 2.09.100 of this chapter; and

(4e) Meets all other license requirements provided under this chapter.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 4; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.040 Denial of Issuance

(a) Metro shall refuse to issue a license for any one of the following reasons:

- (1) Fraud, misrepresentation or false statement made in the applications at the time of application.
- (2) Failure to present proof at the time of application that the applicant has met all other license requirements provided under this chapter.
- (3) Failure to pay the contractor's business license fee established under Section 2.09.100 of this chapter.

(b) Notice of denial of ~~a~~ an application shall be given in writing to the applicant setting forth the grounds of the denial. Such notice shall be mailed to the applicant at the address that appears on the application for the license. This action of denial may be appealed as provided in Section 2.09.140 of this chapter.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 5. Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.050 Exemptions

(a) A contractor or landscape ~~contractor~~ contracting business that is required to be licensed by a city within the boundaries of Metro that imposes a business license tax based on or measured by adjusted net income earned by conducting business within the city may not obtain and possess a contractor's business license in lieu of that jurisdiction's business license ~~tax or business~~.

~~(b) Certain persons furnishing materials, improving personal property, owner builders, or persons otherwise licensed may be exempt from registration under this chapter under ORS 701.010.~~

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 6; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.060 License ~~Applicability~~ Effect

~~(a) If a contractor or landscape contractor has paid any business license tax imposed by participating jurisdictions in which the contractor or landscape contractor has an office, the contractor or landscape contractor may apply for a contractor's business license from Metro.~~

~~(b) If a contractor or landscape contractor has been issued a contractor's business license by Metro, the Except as provided for in 2.09.050, a contractor or landscape contracting business issued a contractor's business license by Metro ~~landscape contractor~~ may conduct business without any other business license in participating jurisdictions in which the contractor or landscape contracting business: landscape contractor:~~

- (1) Has no ~~office~~ principal place of business;
- (2) Has not derived gross receipts of \$250,000 or more from business conducted within the boundary of the participating jurisdiction during the calendar year for which the business license tax is owed.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 7; Ordinance No. 99-817A, Sec. 1; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.070 Application for License

To obtain a contractor's business license, a contractor or ~~landscape contractor~~ landscape contracting business must make application in person or by mail to Metro upon forms provided and prescribed by Metro. The completed application shall be filed with the fee described in Section 2.09.100 of this chapter with Metro before a contractor or ~~landscape contractor~~ landscape contracting business is issued a contractor's business license.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 8; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.080 Application Contents

Each application for a contractor's business license received by Metro shall contain:

- (a) The name of the contractor or landscape contracting business making application.
- (b) The name of a contact person ~~in the business~~.
- (c) The address of the principal place of business of the contractor or landscape contracting business.
- (d) The telephone number of the contractor or landscape contracting business.
- (e) State of Oregon Construction Contractor's Board ~~registration number~~ or State Landscape Contractor's Board license number unless exempted from state licensing requirements by ORS 701 or 671, respectively. If exemption is claimed, the contractor or landscape contracting business making application shall provide a statement of exemption on the form approved by Metro.
- (f) Date of application.

(g) The signature of the contractor or landscape contracting business ~~landscape contractor~~ making the application.

(h) Proof that the contractor or landscape contracting business has paid the business license tax to the participating jurisdiction in which:

(1) The contractor or landscape contracting business has its principal place of business; and/or

(2) The contractor or landscape contracting business derives gross receipts of \$250,000 or more from business conducted within the boundaries of a participating jurisdiction during the calendar year for which the business license tax is owed.

~~(h)~~ Such other information as Metro shall determine.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 9; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.090 Validity of the License

(a) The license shall be valid from the date of issuance to the first day of the month in the following year; if issued after the middle of any month, the license shall be valid to the first day of the following month of that year. The license shall not be issued for a portion of a year.

(b) Before the expiration of the contractor's business license, Metro shall notify the contractor or ~~landscape contractor~~ landscape contracting business to whom the license was issued of the approaching expiration. Within 90 days prior to the expiration date, the notice shall be mailed to the contractor or landscape contracting business ~~landscape contractor~~ to whom the license was issued at the address shown on the original application for the license maintained by Metro.

(c) Metro is not required to notify the contractor or landscape ~~contractor~~ contracting business of an approaching expiration if the contractor's ~~or landscape contractor's~~ business license has been revoked under Section 2.09.130 of this chapter, or if the contractor or landscape ~~contractor~~ contracting business failed to notify Metro of a change of address.



(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 10. Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

2.09.100 Fee

(a) The fee to be paid by any contractor ~~or landscape contractor~~ for a contractor's business license is ~~\$135~~ to be set by Metro and is nonrefundable.

(b) The fee to be paid by any landscape contracting business for a contractor's business license is to be set by Metro and is non-refundable.

(c) The fees in (a) and (b) above are to be twice the average business license tax charged to contractors and landscape contracting businesses, respectively, in participating jurisdictions in Metro's jurisdiction, plus Metro's administrative expenses.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 11; Ordinance No. 99-817A, Sec. 2.; Amended by Ordinance No. 14-1437).

2.09.110 License

Each contractor's business license issued under this chapter shall state upon its face the following:

- (a) The name of the licensee.
- (b) The address of the licensee.
- (c) A unique license number established by Metro.
- (d) The date of issuance.
- (e) The date of expiration.
- (f) Such other information as Metro shall determine.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 12; Ordinance No. 02-967, Sec. 1).

#### 2.09.120 Renewal

Each contractor or landscape contracting business ~~landscape contractor~~ requesting renewal of a license must make application, as described in Section 2.09.070 of this chapter, to Metro upon forms provided and prescribed by Metro. The completed application for renewal of the contractor's business license shall be filed with the fee described in Section 2.09.100 of this chapter with Metro before a renewal license is issued.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 14; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.130 Revocation

(a) A license issued under this chapter may be revoked by Metro, after notice, for any of the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for the license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying out the licensed activity.
- (3) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
- (4) Failure to comply with the ordinances and resolutions of a jurisdiction within the boundaries of Metro in which the license holder is conducting business authorized by this license.

(b) Notice of revocation of a license shall be given in writing to the licensee setting forth the grounds of the complaint. Such notice shall be mailed by certified mail at least 10 working days before the date of revocation to the licensee at the address that appears on the application for the license being revoked. Revocation shall be effective 10 working days after notice of revocation.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 15; Ordinance No. 02-967, Sec. 1).

#### 2.09.140 Appeal of a Revoked License or Denied Application

Any contractor or landscape contracting business ~~landscape contractor~~ aggrieved by the action of Metro in denying an application for or revocation of a contractor's business license is entitled to appeal action under the provisions of Metro Code chapter 2.05.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 16; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

#### 2.09.150 Penalty

Any contractor or landscape contracting business that ~~landscape contractor~~ who fails to comply with or violates any provision of this chapter is subject to penalties under Section 1.01.110 of this Code. In the event that a provision of this chapter is violated by a firm or corporation, the officer or contractor or landscape contracting business ~~landscape contractor~~ responsible for the violation shall be subject to the penalty provided in Section 1.01.110 of this Code.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 17.; Amended by Ordinance No. 14-1437).

#### 2.09.160 Distribution of Fees

Metro shall distribute the contractor's business license fees collected by Metro under this chapter to participating jurisdictions after Metro has received reimbursement for administrative expenses incurred in carrying out the provisions of this chapter. At least once a year, each participating jurisdiction shall receive a share of the contractor's business license fees collected by Metro based on a ratio of the number of residential building permits issued by each participating jurisdiction to the total number of residential building permits issued during that year by all participating jurisdictions. Metro shall determine the number of residential building permits issued by participating jurisdictions as required to by ORS 701.015 and 671.755 or otherwise in Metro's discretion if no data anticipated by statute is available.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 18; Ordinance No. 02-967, Sec. 1.; Amended by Ordinance No. 14-1437).

2.09.170 Regulations

The Chief Operating Officer may establish such other contractor's business license regulations, not inconsistent with this chapter, as may be necessary and expedient.

(Ordinance No. 88-248, Sec. 1. Amended by Ordinance No. 91-411, Sec. 19; Ordinance No. 02-967, Sec. 1).

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 14-1347, FOR THE PURPOSE OF AMENDING METRO CODE 2.09 (CONTRACTOR'S BUSINESS LICENSE PROGRAM)

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Date: October 22, 2014

Prepared by: Tim Collier, Deputy Director,  
Finance and Regulatory Services, 503-797-1913

## BACKGROUND

Metro Code 2.09 contains the Contractor's Business License Program which sets out the procedure for Metro to issue a contractor's business licenses; establish fees for said licenses; and distribute fees to participating jurisdictions. State law, found in ORS Chapters 671 and 701, authorizes the program. The current provisions of Metro Code 2.09 have not been updated since the passage of state legislation in 2007 that amended the regulatory scheme. As such, amending the code is needed to ensure consistency with state law. Amendments proposed will also clarify the application and implementation of the program as well as remove questions raised concerning the criteria controlling the distribution of fees. The proposed amendments are needed and will benefit Metro, participating jurisdictions, and businesses in terms of overall understandability and ease of implementation.

## ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** ORS Chapter 701; ORS 701.013-701.015; ORS Chapter 671; ORS 671.750-671.755; Oregon Laws 1987 c.581 §2; Oregon Laws 1989 c.1064 §§1, 2; Oregon Laws 1991 c.79 §§1,2; Oregon Laws 1999 c.176 §1; Oregon Laws 2001 c.409 §10; Oregon laws 2007 c.541 §§43,44
3. **Anticipated Effects:** Consistency with state law; improved implementation of the business license program.
4. **Budget Impacts:** None.

## RECOMMENDED ACTION

The Office of Metro Attorney recommends adoption by the Metro Council of Ordinance No. 14-1347.