

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )  
CODE CHAPTER 7.01 RELATING TO EXCISE )  
TAX REGARDING EXEMPTIONS )

ORDINANCE NO. 16-1372

Introduced by Martha Bennett, Chief  
Operating Office, with the concurrence of  
Tom Hughes, Council President

WHEREAS, Section 7.01.050 of the Metro Code provides certain exemptions from Metro's Excise Tax as described in Metro Code Chapter 7.01.

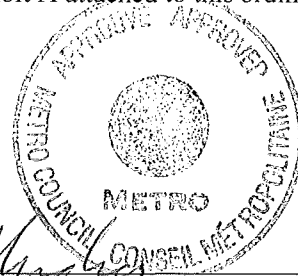
WHEREAS, In 2008, the Metro Council exempted the Oregon Zoo revenues from the Metro Excise Tax through ordinance 08-1187A when the Oregon Zoo became part of the General Fund as the Metro Council found that the separate recording of excise tax was unnecessary,

WHEREAS, The Metro Regional Parks, the Metro Regional Center and the Research Center are also located in the General Fund and the Metro Council finds it is appropriate to exempt these functions from the Metro Excise Tax, now therefore:

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Metro Code Section 7.01.050 is amended as set forth in Exhibit A attached to this ordinance.

ADOPTED by the Metro Council this 31st day of March, 2016.



*Tom Hughes*  
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Tom Hughes, Council President

Attest:

*Alexandra Eldridge*  
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Alexandra Eldridge, Recording Secretary

Approved as to Form:

*Alison R. Kean* for:  
\_\_\_\_\_  
Alison R. Kean, Metro Attorney

**EXHIBIT A TO ORDINANCE 16-1372**

**METRO CODE – TITLE VII FINANCE  
CHAPTER 7.01 Excise Taxes  
Sections 7.01.050**

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 Metropolitan Exposition and Recreation Commission (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 fundraising 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 fundraising 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.
- (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.
  - (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.

- (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.
- (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.
- (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.

(13) Persons, users or operators making 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 not 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.

(14) Persons, users or operators making payments received by Metro from any use, parking or other revenue generator at a Metro regional park.

(15) Persons, users or operators making payments received by Metro for the use, lease, parking or any other revenue generator at the Metro Regional Center and its adjacent parking structure.

(16) Persons, users or operators making payments received by Metro for any service, product or other revenue generator by the Research Center.

(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.

(Ordinance No. 90-333A. Amended by Ordinance No. 90-355, Sec. 2; Ordinance No. 95-590, Sec. 1; Ordinance No. 96-634, Sec. 3; Ordinance No. 98-767, Sec. 8; Ordinance No. 00-857B, Sec. 7; Ordinance No. 02-976, Sec. 1; Ordinance No. 03-994A, Sec. 3; Ordinance No. 03-1020, Sec. 2; Ordinance No. 05-1091A, Sec. 2; Ordinance No. 06-1127, Sec. 1; and Ordinance No. 08-1187A, Sec. 4.)

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE 16-1372 FOR THE PUPOSE OF AMENDING METRO CODE CHAPTER 7.01 RELATING TO EXCISE TAX REGARDING EXEMPTIONS

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Date: March 17, 2016

Presented by: Kathy Rutkowski 503-797-1630

#### BACKGROUND

This legislation is the continuation of a process that began over ten years ago. In 2004 the Metro Council enacted Resolution No. 04-3465, “adopting comprehensive financial policies for Metro.” The financial policies are the cornerstone of Metro’s financial planning and financial management. Operating independently of changing circumstances and conditions, the policies are designed to help safeguard Metro’s assets, promote effective and efficient operations and support the achievement of Metro’s strategic goals. They establish basic principles to guide Metro’s elected officials and staff in carrying out their financial duties and fiduciary responsibilities.

In FY 2005-06, the budget introduced changes both in process and presentation in order to provide greater transparency, provide stronger adherence to financial policies and dovetail with the Council’s strategic planning process. The foundation for this change was the creation of the consolidated General Fund. Effective July 1, 2005 Metro combined all discretionary budgetary funds into one fund in order to more effectively provide fiscal and budgetary transparency, relate programs to Council objectives, and enable flexibility in setting priorities for the overall agency as well as funding those priorities.

In 2008, a review of Metro’s excise tax code demonstrated inconsistencies with Metro’s financial policies and constraints on the Metro Council’s flexibility to meet the changing needs of Metro’s programs. Prior to the consolidation of the General Fund, functional areas such as the Oregon Zoo, Regional Parks, Metro Regional Center Operations and Planning were budgeted in separate funds. As the enterprise revenues generated by these functions contained excise tax, this excise tax was recorded separately as General Fund revenue reducing the enterprise revenue generated by the functions. Once all revenues were recorded directly in the General Fund this separate recording of excise tax became unnecessary. As a result, in 2008 the Council, through adoption of ordinance 08-1187A, exempted the Oregon Zoo from the Metro excise tax. The resolution to that ordinance indicated that Metro would, in the future, evaluate exempting other General Fund functions from the excise tax.

This action completes the review contemplated in 2008 and requests the exemption of the remaining General Fund functions from the Metro excise tax. Adoption of this ordinance would add exemptions in Metro Code 7.01 relating to excise for the Metro Regional Parks and Natural Areas, Research Center and Metro Regional Center operations, including the attached parking garage. As all of these functions reside in the General Fund the net impact on the General Fund is zero.

#### ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** Metro Code 7.01 Excise Tax and Metro Code 7.01.050 Excise Tax Exemptions
3. **Anticipated Effects:** Adoption of this ordinance would exempt the enterprise revenues of all currently existing General Fund departments from the Metro excise tax.

4. **Budget Impacts:** The net budgetary impact on the General Fund is zero. When implemented the enterprise revenues of these functions would increase while the excise tax revenue would decrease.

**RECOMMENDED ACTION**

The Chief Operating Office recommends adoption of this Ordinance.