



600 NE Grand Ave.
Portland, OR 97232-2736

Council meeting agenda

Thursday, March 15, 2018

2:00 PM

Metro Regional Center, Council chamber

1. Call to Order and Roll Call

2. Public Communication

3. Presentations

3.1 Oregon Convention Center Renovations **18-4980**

Presenter(s): Craig Stroud, Metro
Andrew Colas, Colas Construction

4. Consent Agenda

4.1 Resolution No. 18-4872, For the Purpose of Approving a Reallocation of the 2016 Nature in Neighborhoods Regional Trails Grants [RES 18-4872](#)

Attachments: [Resolution No. 18-4872](#)
[Staff Report](#)

4.2 Consideration of the Council Meeting Minutes for March 1, 2018 **18-4984**

4.3 Consideration of the Council Meeting Minutes for March 8, 2018 **18-4985**

5. Ordinances (First Reading and Public Hearing)

5.1 Ordinance No. 18-1417, For the Purpose of Adopting Solid Waste Charges and User Fees for FY 2018-19 [ORD 18-1417](#)

Presenter(s): Stephen Albaugh, Metro

Attachments: [Ordinance No. 18-1417](#)
[Exhibit A to Ordinance No. 18-1417](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)

5.1.1 Public Hearing for Ordinance No. 18-1417

5.2 Ordinance No. 18-1420, For the Purpose of Amending
Metro Code Chapter 7.01 Relating to Excise Tax
Exemptions

[ORD 18-1420](#)

Presenter(s): Tim Collier, Metro

Attachments: [Ordinance No. 18-1420](#)
[Exhibit A to Ordinance No. 18-1420](#)
[Exhibit A to Ordinance No. 18-1420 \(Redlined\)](#)
[Staff Report](#)

5.2.1 Public Hearing for Ordinance No. 18-1420

6. Chief Operating Officer Communication

7. Councilor Communication

8. Adjourn

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Agenda Item No. 3.1

Oregon Convention Center Renovations

Presentations

Metro Council Meeting
Thursday, March 15, 2018
Metro Regional Center, Council Chamber

Agenda Item No. 4.1

Resolution No. 18-4872, For the Purpose of Approving a
Reallocation of the 2016 Nature in Neighborhoods Regional
Trails Grants

Consent Agenda

Metro Council Meeting
Thursday, March 15, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING A) RESOLUTION NO. 18-4872
REALLOCATION OF THE 2016)
NATURE IN NEIGHBORHOODS) Introduced by Chief Operating Officer Martha
REGIONAL TRAILS GRANTS) Bennett in concurrence with Council President
) Tom Hughes

WHEREAS, in 2005, the Metro Council established an initiative designed to protect and restore our region’s significant fish and wildlife habitat and connect people with nature as provided in Resolution No. 05-3574A, “Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative called Nature in Neighborhoods,” adopted May 12, 2005;

WHEREAS, the Metro Council established the Nature in Neighborhoods grant program in 2005 to provide local communities support to fulfill this regional initiative (Resolution No. 05-3580A);

WHEREAS, in May 2013, voters in the Metro region approved a 5-year local option levy for Metro’s parks and natural areas including new and expanded funding for what were referred to in the levy as Nature in Neighborhoods community grants;

WHEREAS, the Metro Council reiterated the community grant program’s purpose, eligibility and funding criteria via Resolution No. 12-4398 referring the 5-year local option levy to the voters, and called for the creation of a committee to review grant applications and make award recommendations to the Metro Council;

WHEREAS, Metro has solicited and received applications for 2016 Nature in Neighborhoods community grants, now known as “Regional Trails” grants, and the grant review committee has identified the proposals which best meet the grant criteria and the goals of the Nature in Neighborhoods grant program;

WHEREAS, the Metro Council adopted Resolution No. 15-4612 approving \$500,000 in the FY 2015-16 Budget and Appropriation Schedule for 2015 Nature in Neighborhoods Regional Trails grants;

WHEREAS, the Metro Council adopted Resolution No. 16-4680 approving the 2016 Nature in Neighborhoods Regional Trails grants;

WHEREAS, Wood Village declined the 2016 Nature in Neighborhoods Regional Trails grant award of \$67,390, and the grant review committee subsequently identified Oregon State Parks’ Tryon Creek State Park Boones Ferry trails project as the proposal which best meets the grant criteria and the goals of the Nature in Neighborhoods grant program; now therefore

BE IT RESOLVED that the Metro Council hereby approves the award of the 2016 Nature in Neighborhoods Regional Trails grant to Oregon State Parks for the Tryon Creek State Park Boones Ferry trails project for \$67,390.

ADOPTED by the Metro Council this _____ day of March, 2018.

Tom Hughes, Council President

Approved as to Form:

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION 18-4872, FOR THE PURPOSE OF APPROVING A REALLOCATION OF THE 2016 NATURE IN NEIGHBORHOODS REGIONAL TRAILS GRANTS

Date: February 23, 2018

Prepared by: Heather Nelson Kent, 503-797-1739
Crista Gardner, 503-797-1627

BACKGROUND

For nearly two decades, the Metro Council has provided funding for grants to community groups, non-profits, local governments and other organizations, which grants are designed to improve water quality and wildlife habitat and give people of all ages opportunities to learn about and connect with nature.

In May 2013, voters approved Measure 26-152 (the “Natural Areas Levy”), providing new funding for Metro’s parks and natural areas and providing increased funding for Nature in Neighborhoods community grants.

Grant Evaluation Criteria

Using the framework provided by Metro Council in Resolution No. 12-4398, Metro’s grant program staff developed an outreach plan, application materials and evaluation criteria for regional trails grants. Staff worked to align this new funding with other state, regional and community initiatives so that these grants can achieve multiple benefits. Nature in Neighborhoods regional trails grants implement the Regional Trails Plan; support and create partnerships in local communities that improve water quality, fish and wildlife habitat; and improve the ability of all communities to learn about and connect with nature. The regional trails grant criteria focused on the following goals and categories:

- Increasing access to nature for Regional Trail users: These grants support projects that increase or enhance access to nature for Regional Trail users by planning, building or improving Regional Trails that connect people to parks and/or natural areas.
- Increasing nature as part of our Regional Trails system: These grants emphasize improving the trail users’ experience of nature or enriching people’s experience of nature when using Regional Trails.
- Community engagement: For both project categories, proposals must show how the grant meets Metro’s goals for community engagement and improve the ability of all communities, including underserved communities (e.g. low-income, communities of color) to learn about, help restore, experience and connect with nature and the region’s natural areas through Regional Trails.

Metro received 18 pre-applications, which total \$1,225,130 in requests for \$500,000 in available funding.

Metro's Nature in Neighborhoods grant program follows a two-step process. The review committee evaluated pre-applications based on the information submitted by applicants, the stated evaluation criteria, and the review committee's professional and collective judgment. The purpose of the pre-application review is to determine the best proposals to invite for full applications.

Of the initial 18 pre-applications submitted, the review committee recommended inviting 13 to submit full applications. Those invited had one month to prepare a full application. The same committee reviewed the final proposals using the same evaluation criteria and recommended 9 for funding, including a grant to Wood Village.

In 2017 Wood Village declined the 2016 Nature in Neighborhoods Regional Trails grant award of \$67,390. Staff identified that the next highest-ranked application by the review committee was Oregon State Parks' Tryon Creek State Park Boones Ferry trails project.

Nature in Neighborhoods Regional Trails Grant Review Committee

Participation on the grant review committee is by application, open and advertised to all community members. The Parks and Nature Director selected the 2016 review committee from a pool of applicants, including Metro staff members with experience in active transportation and trails planning. The committee included local experts in trail planning and design, trail construction management, environmental planning and habitat restoration, outreach related to recreational trails or active transportation, grant management, volunteer coordination, and/or community partnerships. Committee members declared any direct conflict of interest in the proposals and did not score or participate directly in the discussion or ranking of application where there was a conflict. Perceived conflicts were also noted and recorded in meeting minutes.

2016 Nature in Neighborhoods Regional Trails Grant Review Committee

Lake McTighe, Metro, Planning

Daniel Newberry, Johnson Creek Watershed Council

Mike Rose, Alta Planning and Design

Robert Spurlock, Metro, Parks and Nature

Holly Van Houten, community member

Jill Van Winkle, IMBA Trail Solutions

Amber Wierck, Clean Water Services

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

Resolution No. 16-4680, For the Purpose of Approving 2016 Nature In Neighborhood Regional Trails Grants.

Resolution No. 12-4398, For the Purpose of Referring to the Voters of the Metro Area a Local Option Levy for the Purpose of Preserving Water Quality, Fish and Wildlife Habitat and Maintaining Metro's Parks and Natural Areas for the Public.

Resolution No. 05-3574A, Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative called Nature in Neighborhoods.

3. Anticipated Effects

This Resolution approves the reallocation of the 2016 Nature in Neighborhoods regional trails grants and begins the individual contract award process for Oregon State Parks' Tryon Creek State Park Boones Ferry trails project with an anticipated project start date on or after March 15, 2018. Projects may be up to two years in length.

4. Budget Impacts

This Resolution authorizes award of a contract in an amount previously identified by the Metro Council in the budget for this purpose. The adopted FY 2017-18 budget includes the necessary appropriation authority for reimbursement of this grant reallocation.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 18-4872.

Agenda Item No. 4.2

**Consideration of the Council Meeting Minutes for
March 1, 2018**

Consent Agenda

Metro Council Meeting
Thursday, March 15, 2018
Metro Regional Center, Council Chamber

Agenda Item No. 4.3

**Consideration of the Council Meeting Minutes for
March 8, 2018**

Consent Agenda

Metro Council Meeting
Thursday, March 15, 2018
Metro Regional Center, Council Chamber

Agenda Item No. 5.1

Ordinance No. 18-1417, For the Purpose of Adopting Solid
Waste Charges and User Fees for FY 2018-19
Ordinances (First Read)

Metro Council Meeting
Thursday, March 15, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING SOLID WASTE CHARGES AND USER FEES FOR FY 2018-19.) ORDINANCE NO. 18-1417) Introduced by Chief Operating Officer) Martha Bennett with the concurrence of) Council President Tom Hughes

WHEREAS, Metro Code Chapter 5.02 establishes charges for the acceptance of solid waste at Metro Central and Metro South transfer stations; and,

WHEREAS, Metro Code chapters 5.01 and 5.02 establish user fees on solid waste accepted at all disposal sites in the system; and,

WHEREAS, Metro Code Section 5.06.030 establishes a community enhancement fee in an amount not to exceed \$1.00 on solid waste delivered to eligible solid waste facilities in the Metro region; and,

WHEREAS, Metro’s costs for solid waste services and programs have changed; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Solid Waste Fees and Charges. The schedule of solid waste fees and charges attached hereto as Exhibit “A” is approved, and shall be implemented on the Effective Date of this ordinance.

Section 2. Effective Date. This ordinance shall become effective on July 1, 2018.

ADOPTED by the Metro Council this ____ day of ____, 2018.

Tom Hughes, Council President

Attest:

Approved as to Form:

Nellie Papsdorf, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit “A” to Ordinance No. 18-1417

SCHEDULE OF SOLID WASTE FEES AND CHARGES

Effective July 1, 2018

Charges at Metro Central Station and Metro South Station

Tonnage Charges by waste class

The rates per ton pursuant to Metro Code sections 5.02.040(a)(1) and 5.02.080 shall be:

- (1) Mixed solid waste\$ 64.41
- (2) Clean Wood56.84
- (3) Yard Debris.....48.62
- (4) Residentially generated organic waste.....66.08
- (5) Commercially generated organic waste (Metro Central only).....65.23

Transaction Charges by transaction class

The rates per transaction pursuant to Metro Code 5.02.040(a)(3) shall be:

- (1) For users of staffed scales.....\$ 10.00
- (2) For users of automated scales2.00

Minimum Charges

Minimum tonnage charges pursuant to Metro Code sections 5.02.040(b) and 5.02.080(h)(2) shall be based on 360 pounds for all classes of solid waste.

Fees on Disposal of Solid Waste

Regional System Fees by waste class

The rates per ton pursuant to Metro Code sections 5.01.300, 5.02.120 and 5.02.130 shall be:

- (1) Cleanup material contaminated by hazardous substances\$ 2.50
- (2) All other solid wastes.....17.81

Community Enhancement Fees

The rates per ton pursuant to Metro Code sections 5.06.030 shall be:

- (1) Putrescible solid waste.....\$ 1.00
- (2) Non-putrescible solid waste (as authorized by Metro Chief Operating Officer)1.00

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 18-1417 FOR THE PURPOSE OF ADOPTING SOLID WASTE CHARGES AND USER FEES FOR FY 2018-19.

Date: March 15, 2018

Presented by: Tim Collier, FRS (Ext. 1913)

Summary

Each year, the Chief Operating Officer proposes new solid waste rates as part of the budget process. The changes are needed to keep current with costs and tonnage flows.

Main points of this legislation.

- Metro's tip fee for garbage is proposed to be \$97.45 in FY 2018-19. This is an increase of \$2.50 (2.63%) from the current rate. It will result in a small increase every month to ratepayers. The change is driven by a \$1.21 increase in the tonnage charge for garbage along with \$1.60 on a per ton basis increase in the Metro Excise Tax. These increases are slightly offset by \$0.31 per ton decrease in the regional system fee. (More information on the Regional System Fee is provided on the next page.)
- Transaction fees will remain unchanged at \$10 for staffed loads (fees paid by self-haulers) and \$2 for automated loads.
- The minimum load size will be reduced 20 pounds to 360 pounds, while the minimum load charge is held constant at \$28
- Tip fee increases are proposed for residential organic waste accepted at Metro regional transfer stations. This increase stems from increases in Metro's per-ton contract cost. The rate model also suggests an increase of \$8.24 per ton for commercial organics, however, staff is proposing to keep the rate flat to support Metro's recovery work in this area. The impact of this rate buy-down is projected to be \$99,375 in FY 2018-19. This rate decision will be reviewed annually for appropriateness.
- Tip fees for clean wood will no longer be pegged to yard debris. In turn, the rate for clean wood will increase by \$8.15 per ton. Tip fees for yard debris will decrease by \$0.07 per ton.

Adoption of Ordinance No. 18-1417 would authorize the following charges at Metro regional transfer stations, effective July 1, 2018.

Table 1. Proposed Solid Waste Charges at Metro Regional Transfer Stations
Rates Effective July 1, 2018

Rates	Current	Proposed	Change
Fees per transaction			
Users of staffed scales	\$10.00	\$10.00	\$ - 0 -
Users of automated scales	2.00	2.00	- 0 -
Fees per ton (Tip Fees)			
Mixed solid waste ("refuse")	\$ 94.95	\$ 97.45	\$ 2.50
Clean wood	49.69	57.84	8.15
Yard Debris	49.69	49.62	(0.07)
Residential organics	66.67	67.08	0.41
Commercial organics	66.23	66.23	- 0 -

Background Part 1. Overview of Metro’s Solid Waste Rates

Metro maintains two classes of solid waste rates. One class, the Regional System Fee, is charged on all disposal. The second class is a suite of charges for services at Metro regional transfer stations only.

1. **Regional System Fee** is a universal charge on the disposal of garbage. It is levied at all landfills, the Marion County waste to energy facility, Forest Grove Transfer Station, and the Metro stations. There are two levels of system fee: one for mixed solid waste, and a reduced rate for environmental cleanup materials. The proposed rates are \$17.81 and \$2.50 per ton, respectively. System fees raise about \$25 million per year and pay for Metro’s regional solid waste programs and services: household hazardous waste, latex paint recovery, St. Johns Landfill management, facility regulation, illegal dumpsite cleanup, and resource conservation and recycling.
2. **Charges for services at the Metro stations** cover the costs of Metro’s transfer station operations, transport, processing and disposal. Each customer pays a two-part fee: a fixed charge for the transaction costs and a variable charge (“tip fee”) for each ton in the load.
 - **“Transaction Charges”** are the fixed fees for each load of waste accepted. There are two levels of transaction fee: one for users of the staffed scales (mainly self-haulers), and another for users of the automated scales (mainly commercial haulers). Together they raise about \$3.1 million dollars per year and pay for the cost of operating the scalehouses and related functions.
 - **“Tip Fees”** are different for each waste stream – garbage, residential organics, commercial organics, and wood/yard debris – and reflect the costs that are specific to each stream. The current and proposed rates are shown in Table 1.

Every tip fee is made up of a **Tonnage Charge** and various pass-throughs (Table 2). The tonnage charge pays for the costs of doing the work. In this region, the Regional System Fee, Metro excise tax, and DEQ fees are charged on all disposal. Together, Metro’s tonnage charges raise about \$37.7 million per year, and pay for the costs of station operations, recovery, transport, processing, disposal, capital and management.

Of the add-on components, the Regional System Fee will decrease, while the excise tax is set to increase. The Regional System Fee is decreasing by 31 cents and the excise tax is increasing \$1.60 cents. These changes, combined with an increase in the tonnage charge of \$1.21 results in the Metro tip fee increasing by \$2.50 – \$97.45 per ton from \$94.95 per ton. DEQ fees are set to increase by seven cents, but this will not occur until April 1, 2019.

Table 2. Components of Proposed Metro Tip Fees by Waste Stream

Rates Effective July 1, 2018

Rate Component	Mixed Solid Waste	Organic Waste			
		Yard Debris	Clean Wood	Residential Organics	Commercial Organics
Tonnage Charge <i>Covers costs of transfer, transport, recovery, disposal.</i>	\$64.41	\$48.62	\$56.84	\$66.08	65.23
Pass-Throughs <i>Government fees and taxes levied at disposal sites.</i>					
Regional System Fee	\$17.81	_*	_*	_*	_*
Metro excise tax	12.41	_*	_*	_*	_*
DEQ fees	1.82	_*	_*	_*	_*
Enhancement Fee	1.00	1.00	1.00	1.00	1.00
Total = Tip Fee	\$97.45	\$49.62	\$57.84	\$67.08	\$66.23

* It is the policy of Metro and DEQ to support material recovery and recycling by levying solid waste surcharges and taxes on the waste that is ultimately disposed. For this reason, the Regional System Fee, Metro excise tax, and DEQ fees are not included in the tip fees for organic wastes.

Background Part 2. Understanding the Proposed FY 2018-19 Rates

There are five main reasons for the changes in the proposed FY 2018-19 rates.

1. **Inflation.** Inflation has increased to its highest level in nine years. As a result, the cost of Metro's Operating Contracts have also increased, driving tonnage charges higher.
2. **Tonnage Increases.** Staff expects year-over-year mixed solid waste tonnage increases to continue through FY 2018-19, with private stations expected to realize the bulk of the increase. The added tonnage has put downward pressure on marginal costs, resulting in a decrease regional system fees and partially offsetting inflation-driven increases in tonnage charges for mixed solid waste.
3. **Changes in demand for wood.** In the fall of 2015, SP Recycling, which received 80% of Metro's wood waste from mixed recovery operations, closed operations. The result has been a significant contraction in the secondary market for wood waste, leading Metro to establish a higher standard for "clean" wood waste. The volume of wood Metro accepts under the new standard is considerably lower and warrants a higher cost per ton. In turn, the rate for wood will increase \$8.15 per ton.
4. **Changing organics environment.** The rates for residential organics continue to be set at a level that covers their costs. The rate increase for residential and commercial organics is driven by underlying costs and tonnage. However, Metro's work on commercial food waste recovery is behind the staff recommendation to keep commercial organics rate flat for FY 2018-19. The financial impact is small and this decision is important to help advance commercial food waste recovery efforts.
5. **The excise tax.** The tax rate is set automatically by a formula in the Code each year, and is never a formal part of the rate ordinance. However, it is related to the rate actions because it is part of the tip fee (Table 2). For FY 2018-19, the excise tax rate will increase \$1.60 to \$12.41 per ton.

Information/Analysis

1. **Known Opposition.** There is no known opposition. The majority of ratepayers at Metro stations will experience an increase in Metro's tip fee for residential organic waste, wood and yard debris.
2. **Legal Antecedents.** The process for setting Metro's solid waste rates are set forth in Metro Code Chapter 5.02. Ordinance 14-1323 removed the specific Metro solid waste rates from Metro Code Chapter 5.02 and requires adoption of the rates via a separate ordinance and rate schedule. Metro reviews solid waste rates annually. The proposed FY 2018-19 rates comply with the restriction set forth in Chapter III, Section 15 of the Metro Charter limiting user charges to the amount needed to recover the costs of providing goods and services.

The excise tax rate is established automatically by a passive mechanism set forth in Metro Code sections 7.01.020 and 7.01.022 and does not require council action to take effect.

3. **Anticipated Effects:** If adopted, this ordinance would increase the tip fee for mixed solid waste at Metro transfer stations by \$1.21 per ton. It would also increase the tip fees for clean wood and residential organic wastes, while decreasing the tip fee for yard debris by the amounts set forth in Table 1.
4. **Budget Impacts.** The rates established by this ordinance are designed to raise \$65 million in enterprise revenue during FY 2018-19. This revenue would cover the cash requirements of the proposed FY 2018-19 solid waste budget.

RECOMMENDATION

The Chief Operating Officer recommends adoption of Ordinance No. 18-1417.



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Memo

Date: March 15, 2018
To: Metro Council
From: Tim Collier, Director, Finance and Regulatory Services
Subject: Solid Waste Rate Report for Fiscal Year 2018-19

As required by Metro Code 5.02.030 (f) (1), this report provides the context for the solid waste rate making process and documents the methodologies, data, assumptions, adopted criteria and any other factors used by the Chief Operating Officer in calculating the proposed rates and the response to the recommendations of the independent review.

Methodology

Three years ago, Metro engaged a consulting firm to review the solid waste rate setting process and provide recommendations for improving and simplifying development of those rates. In response to recommendations provided by the consultant, Metro implemented a new rate model based on a standard rate setting process:

- Step 1: Identify revenue requirements. This step identifies the total annual financial obligations of the system. This includes operations, capital improvements and replacements and fiscal policy compliance.
- Step 2: Allocate costs. This step establishes rate equity through cost causation or the cause and effect relationship between different costs and activities that cause those costs to be incurred.
- Step 3: Forecast activity. This step establishes a forecast for the solid waste activity anticipated for the coming fiscal year.
- Step 4: Establish Fees/Charges. This step achieves required revenue levels by establishing rates and charges that accurately reflect the cost to provide a particular service.

Step 1 – Identify Revenue Requirements

Revenue requirements are determined by projecting costs for the various solid waste functions that Metro performs. Those functions include:

Disposal Services. Metro owns two transfer stations that provide disposal services to commercial haulers, businesses and the public. Metro staffs the scalehouses, but the operation of the stations, transport and disposal are all performed by private operators under long-term contracts with Metro. Metro finances and manages this function as a municipal utility.

Regional Programs. Metro provides or participates in solid waste services and programs with region-wide impact. Some of these stem from state mandates. Others are driven by Metro's own goals and policies for the solid waste system. These programs and services are closer in form to public goods rather than utility functions. The programs are:

- Household hazardous waste reduction
- Latex paint recovery
- Resource conservation and recycling
- Landfill closure and stewardship

- Illegal dumpsite monitoring and clean-up

Regulation. Metro regulates privately-owned disposal facilities and manages its own flow control authority through a system of licensing, franchising, inspection and enforcement.

Revenue Requirement Summary

	Scalehouses	Mixed Solid Waste	Clean Wood	Yard Debris	Residential Organics	Commercial Organics	Regional System Fee
Revenue Requirement	\$2,798,882	\$32,829,012	\$144,943	\$663,384	\$3,254,447	\$885,910	\$24,467,169
Percentage of Total	4.30%	50.47%	0.22%	1.02%	5.00%	1.36%	37.62%

Step 2 – Allocate Costs

The rate process uses a cost of service approach that distributes costs based on a proportionate share of costs required to provide service. The methodology used identifies how expenses are allocated to the solid waste system functional areas including disposal and recovery, regional programs, sustainability, clean-up and compliance and general and administrative. Allocations are based on staff time, tickets processed, floor area and tonnage. The allocation factor is designed to be an equitable expression of the how and why the cost is incurred.

The cost of service details cost allocation for an additional layer of service by waste type; mixed solid waste, wood waste, yard debris, residential organics and commercial organics. Costs associated with processing each waste type were reviewed and discussed with Metro staff and/or engineers. The cost of service process reviewed existing cost allocation approaches and identified changes and additional allocation factors used in the process. A sensitivity analysis indicating the rate change/impact of alternative general and administrative cost allocations was included in the review.

Step 3 – Forecast Activity

Metro staff reviewed tonnage information from the current fiscal year and projected anticipated levels of tonnage and transactions by material type at Metro transfer stations and private facilities.

Summary of Tonnage Forecast

Facility	Material Class	Projected		% Change
		FY 2018	FY 2019	
Metro Central	Wet waste	164,358	165,209	0.52%
Metro Central	Dry waste	64,684	66,730	3.16%
Metro South	Wet waste	145,477	147,865	1.64%
Metro South	Dry waste	126,743	129,881	2.48%
Private	Wet waste	493,097	506,435	2.70%
Private	Dry waste	449,543	469,157	4.36%

Summary of Transactions

Facility	Transaction Type	Projected		% Change
		FY 2018	FY 2019	
Metro Central	Staffed	91,199	92,753	1.70%
Metro Central	Automated	52,182	52,798	1.18%
Metro South	Staffed	197,950	200,782	1.43%
Metro South	Automated	43,849	44,752	2.06%

Step 4: Establish Fees/Charges

Unit costs were developed for each rate/fee charged. The unit costs were analyzed to identify any warranted shifts in cost burden that could improve equity between the fees/charges. The result of the cost of service process is a calculated rate/fee for providing solid waste services.

Summary of Fees and Charges for FY 2018-19

	Mixed Solid Waste	Clean Wood	Yard Debris	Residential Organics	Commercial Organics
Transaction Fee					
Staffed Scalehouse	\$ 10.00	\$ 10.00	\$ 10.00	\$ 10.00	\$ 10.00
Automated Scalehouse	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00
Tip Fee					
Tonnage Charge	\$ 64.41	\$ 56.84	\$ 48.62	\$ 66.08	\$ 65.23
Regional System Fee	\$ 17.81				
Excise Tax	\$ 12.41				
DEQ Fees	\$ 1.82				
Community Enhancement Fees	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
Total Tip Fee	\$ 97.45	\$ 57.84	\$ 49.62	\$ 67.08	\$ 66.23

Assumptions

See Attachment A for the full list of assumptions used in the rate model. Key points are summarized below:

- Costs for disposal charges driven by contract cost inflation
- Other expenses based on budget estimates used in the Chief Operating Officer's budget
- Overall inflation assumptions match those used in the FY 2018-19 budget process
- Tonnage forecast is based on the forecast developed for the FY 2018-19 budget process and five year forecast

Criteria

In developing the rates, staff relied on Metro's legal authority as determined by the Metro Code and Oregon Revised Statute, as well as policies adopted by the Metro Council and other informal guidance used by staff. Those factors and criteria are summarized below.

Authority. Metro's authority to charge fees for goods and services is derived from the Oregon Constitution, from the Metro Charter and from the provisions of Oregon law, including Oregon Revised Statutes Chapter 268. ORS 268 also enumerates Metro's authorities over solid waste.

Allowable expenditures are set in state law. Under state law, Metro is limited to using the revenue derived from disposal fees only on activities related to solid waste. Specifically:

[T]he metropolitan service district shall use moneys collected by the district as service or user fees for solid waste disposal for (1) activities of the metropolitan service district related to solid waste, including activities of regional concern that are directly related to reducing the environmental impact from the generation, collection, transportation, processing and disposal of solid waste; and (2) planning, administrative and overhead costs for activities of the district related to solid waste. *[Oregon Revised Statutes section 459.335]*

User charges limited to the cost of service. The Metro Charter restricts the types of costs that may be recovered from user charges:

... charges for the provision of goods or services by Metro may not exceed the costs of providing the goods or services. These costs include, but are not limited to, costs of personal services, materials, capital outlay, debt service, operating expenses, overhead expenses, and capital and operational reserves attributable to the good or service. *[Metro Charter, Chapter III. Finance, Section 15]*

Metro code section 5.01.300 and Chapter 5.02 govern solid waste rates. (Chapter 7.01 governs the Metro excise tax generally, and various subsections address the solid waste excise tax in particular.)

Adopted Policies. In 1993 Metro adopted policies (Resolution 93-1824A) to guide choices during rate making. These criteria are summarized below and included in Attachment B pursuant to Resolution 93-1824A that recommends periodic council review every three years:

- Financial Criteria
 - Revenue adequacy, reliability and predictability
 - Authority to implement
 - Implementation and administrative cost and effort
 - Impact on credit rating
- Economic Effects
 - Rate payer equity and affordability
 - Impacts on the costs of living and of doing business in the region
- Environmental and Management
 - Consistency with agency-wide planning policies and the Solid Waste Management Plan
 - The rate structure should encourage waste reduction, reuse, and recycling

Bond Covenants. Metro continues to employ a number of the business practices that implemented its bond covenants even though the bonds were retired in December 2008:

- Pay as you go: means that ongoing costs are to be paid with ongoing revenue.
- Coverage to ensure revenue adequacy. One of Metro's practices for meeting the debt service coverage was to base the revenue requirement on the budget rather than expected expenditures. Metro generally continues to follow this practice. Exceptions are explicitly noted.
- Operating surpluses. The priority for the use of operating surpluses is: restore contingencies, fund the new capital reserve, and hold any remaining surplus as undesignated fund balance.

Independent Review Response

FCS Group provided the following recommendations in their report dated February 27, 2018:

Recommendations:

- Recommended disposal charges are projected to generate revenue that is slightly less than estimated revenue needs. The estimated shortfall can be absorbed by drawing on available fund balances.
 - *Response: Staff is aware of the deficit, which is reflective of Metro's approach to avoid significant increase in the commercial organics rate by drawing on reserves. Similar considerations are reviewed annually for all waste types*
- The review of reserve levels was last completed in 2015. It may be timely to recalibrate the target basis for the reserve funds. Updating to new targets will also help inform what level of reserves may be available to help offset future cost and disposal/processing charge impacts. A strategy for managing excess reserves and reserve replenishment should also be considered.
 - *Response: Metro concurs with this recommendation. Staff from Finance and Regulatory Services and Property and Environmental Services will work together with FCS Group to recalibrate reserve targets and identify strategies to manage excess reserves*
- Cost of service is not an exact science. It should be noted that if a function of solid waste service is within +/- 5 percent of the overall system average, they are generally considered to be paying their cost to serve. This range of reasonableness is given since although there is an industry accepted methodology, the specific classification and allocation of expenses reflect cost and waste characteristics at a given point in time. As time goes on, waste patterns, waste composition and facility requirements change resulting in changes to unit costs. The flexibility to work within the range of reasonableness can minimize annual peaks and valleys and help to maintain stable charges from year to year.
 - *Response: Metro concurs and will take steps to minimize annual peaks and valleys in rate setting.*
- Although the review period is FY 2018/19, the five year outlook indicates a peak in capital spending during FY 2022 and FY 2023. Analyzing alternative funding approaches within the next fiscal year will assist in determining the optimal funding mix and inform Metro's future rate-making strategy allowing for a proactive approach to meeting future revenue needs.

Response: Metro concurs and will work with FCS Group to identify optimal funding strategies to help inform the next rate setting process and ensure future adequate funding for future capital needs.

Solid Waste Rate Study

Assumptions

Attachment A

Economic & Financial Factors		FY 2019
General Cost Inflation		1.98%
Construction Cost Inflation		3.26%
Labor Cost Inflation		2.27%
Benefit Cost Inflation		10.00%
Weighted Labor and Benefits		4.63%
General Inflation plus Composite Growth		4.22%
Customer Growth		2.20%
No Escalation		0.00%
CPI Inflation - Central		2.63%
CPI Inflation - South		2.57%
CPI Inflation - CM. Organics		2.12%
CPI Inflation - Disposal		2.20%
CPI Inflation - Transport		2.27%
Fuel Cost Escalation		7.19%
Manual Input		
Investment Interest		1.00%
Labor and Benefits Split		
Salary Share		69.53%
Benefits Share		30.47%

Accounting Assumptions		FY 2019
FISCAL POLICY RESTRICTIONS		
Minimum Operating Fund Balance Target		
Select Minimum Operating Fund Balance Target	1	
1 - Defined as Days of O&M Expenses		
Min. Op. Fund Balance Target (days of O&M expense)		45
Max. Op. Fund Balance (days of O&M expense)		45
2 - Amount at Right ==>		
Min. Op. Fund Balance Target		\$ 4,000,000
Max. Op. Fund Balance		\$ 4,000,000
Minimum Capital Fund Balance Target		
Select Minimum Capital Fund Balance Target	2	
1 - Defined as % of Plant		
Plant-in-Service in FY 2014	\$	
Minimum Capital Fund Balance - % of plant assets		1.00%
2 - Amount at Right ==>		
		\$ 1,200,000
EQUIPMENT REPLACEMENT FUNDING		
Select Equipment Replacement Funding Strategy	4	
Depreciation in FY 2014	\$	
Amount of Annual Cash Funding from Rates		
1 - Equal to Annual Depreciation Expense		\$ 1,240,340
2 - Equal to Annual Depreciation less Annual Debt Principal Payments		\$ 1,240,340
3 - Equal to Amount at Right ==>		\$ -
4 - Do Not Fund Equipment Replacement		

Capital Financing Assumptions

FY 2019

FUNDING SOURCES

Grants

\$ -

Additional Proceeds (Costs)

[Extra line]

\$ -

[Extra line]

-

[Extra line]

-

[Extra line]

-

[Extra line]

-

Total Additional Proceeds

\$ -

REVENUE BONDS

Term (Years)

20

Interest Cost

5.00%

Issuance Cost

1.50%

Revenue Bond Coverage Requirement

1.25

LOW-INTEREST LOANS

Term (Years)

20

Interest Cost

1.00%

Required Local Match

5.00%

OTHER LOANS

Term (Years)

20

Interest Cost

4.00%

Issuance Cost

0.00%

Attachment B

Metro Solid Waste Rate Setting Criteria Updated February 8, 2018

In developing the rates, staff relies on Metro's legal authority as determined by the Metro Code and Oregon Revised Statute, as well as policies adopted by the Metro Council and other informal guidance used by staff. In addition, the solid waste rate setting process is guided by core set of criteria used to ensure effective management of the regional solid waste system.

This criteria includes the following principles:

- A. Consistency: Solid waste rate setting should be consistent with Metro's agency-wide planning policies and objectives, including but not limited to the Solid Waste Management Plan.
- B. Revenue Adequacy: Rates should be sufficient to generate revenues that fund the costs of the solid waste system.
- C. Equity: Charges to users of the waste disposal system should be directly related to disposal services received. Charges to residents of the Metro service district who may not be direct users of the disposal system should be related to other benefits received.
- D. Economic Impact and Affordability. Rate setting should consider the economic effects on the various types of rate payers, including the cost of living on residential waste generators and the cost of doing business on non-residential generators, as well as the economic effect on others in the region.
- E. Waste Reduction: The rate structure should encourage waste reduction, reuse, and recycling.
- F. Implementation and Administration: Rate setting should balance the relative cost and effort of implementing and administering the rates with financial and policy goals. Rates should be readily enforceable.
- G. Credit Rating Impacts: The rate structure should not negatively impact Metro's credit rating.
- H. Authority to Implement: Metro should ensure that it has the legal ability to implement the rate structure; or, if such authority is not already held, evaluate the relative difficulty of obtaining the authority.
- I. Reliability. Anticipated revenues used in the rate setting process should be considered stable and unlikely to deviate from financial plan expectations.
- J. Predictability: Metro rate adjustments should be predictable and orderly to allow local governments, haulers, and rate payers to perform effective planning.

Agenda Item No. 5.2

Ordinance No. 18-1420, For the Purpose of Amending
Metro Code Chapter 7.01 Relating to Excise Tax Exemptions

Ordinances (First Reading and Public Hearing)

Metro Council Meeting
Thursday, March 15, 2018
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE CHAPTER 7.01 RELATING TO EXCISE)
TAX EXEMPTIONS)
ORDINANCE NO. 18-1420
Introduced by Chief Operating Officer Martha
Bennett in concurrence with Council
President Tom Hughes

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 and

WHEREAS, in 2008, the Metro Council exempted the Oregon Zoo revenues from the Metro Excise Tax through Ordinance 08-1187 A; and

WHEREAS, in 2016, the Metro Council exempted the Metro Regional Parks, the Metro Regional Center and the Research Center from application of the Excise Tax; and

WHEREAS, the Oregon Convention Center and the Portland Expo Center currently pay excise tax on some revenues, but not on others; and the Metro Council finds that for transparency and for financial planning purposes, that it is appropriate to exempt these business units from paying Metro Excise Tax; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Metro Code section 7.01.050 is hereby amended as set forth in Exhibit A attached to this Ordinance.

ADOPTED by the Metro Council this 29 day of March 2018.

Tom Hughes, Council President

Attest:

Approved as to Form:

Nellie Papsdorf, Recording Secretary

Alison R. Kean, Metro Attorney

TITLE VII

FINANCE*

Chapter	Title
7.01	Excise Taxes
7.02	Financing Powers (former Chapter 8.01)
7.03	Investment Policy (former Chapter 2.06)
7.04	Construction Excise Tax

* Formerly Title VII, Excise Taxes. Ord. 02-976 renamed Title VII and incorporated Chapters 7.02 (formerly 8.01) and 7.03 (formerly 2.06).

CHAPTER 7.01

EXCISE TAXES

Section	Title
7.01.010	Definitions
7.01.020	Tax Imposed
7.01.022	Consumer Price Index Adjustment
7.01.025	Collection of Tax by Metro
7.01.030	Collection of Tax by Operator; Rules for Collection
7.01.040	Operator's Duties
7.01.050	Exemptions
7.01.060	Registration of Operator; Form and Contents; Execution; Certification of Authority
7.01.070	Due Date; Returns and Payments
7.01.080	Penalties and Finance Charges
7.01.090	Deficiency Determination; Fraud, Evasion, Operator Delay
7.01.100	Hearings, Contested Cases
7.01.110	Security for Collection of Tax
7.01.120	Refunds
7.01.130	Administration
7.01.150	Violations
Repealed	
7.01.23	Additional Excise Tax (Repealed Ord. 10-1239)
7.01.24	Repeal of Provisions Setting Amount of Additional Excise Tax and Budgeting of Revenue for Regional Parks and Greenspaces Programs (Repealed Ord. 04-1037)
7.01.028	Budgeting of Excess Revenue (Repealed Ord. 08-1187A, Sec. 3)
7.01.160	Effective Date and Effect of Initiative Passage (Repealed Ord. 07-1147B, Sec. 14)
7.01.170	Council Review of Ordinance Effect (Repealed Ord. 07-1147B, Sec. 14)
7.01.180	Excise Tax Credit Program Review (Repealed Ord. 07-1147B, Sec. 15)
7.01.190	Administrative Procedures for Excise Tax Credits (Repealed Ord. 07-1147B, Sec. 15)

7.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

"Accrual basis accounting" means revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.

"Cash basis accounting" means revenues are recorded when cash is received.

"Cleanup Material Contaminated By Hazardous Substances" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Inert" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Installment payments" means the payment of any amount that is less than the full payment owed either by any user to Metro or to an operator or by an operator to Metro.

"Metro ERC facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

"Metro facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro. Metro facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, including but not limited to the Oregon Zoo, Metro ERC facilities, all solid waste system facilities, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro.

"Metro regional park" means any park or park facility, equipment, system, function, service or improvement operated or managed by Metro, including but not limited to Oxbow Regional Park, Blue Lake Regional Park, Smith and Bybee Wetlands Natural Area, Howell Territorial Park, Chinook Landing Marine Park, M. James Gleason Memorial Boat Ramp, and Sauvie Island Boat Ramp. For purposes of this chapter, "Metro regional park" does not include Glendoveer Golf Course.

"Operator" means a person other than Metro who receives compensation from any source arising out of the use of a Metro facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

"Payment" means the consideration charged, whether or not received by Metro or an operator, for the use of a Metro facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

"Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

"Processing residual" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Recoverable solid waste" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Regional Recovery Rate" shall have the meaning assigned thereto in ORS 459A.010(4)(a).

"Solid waste system facility" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Source separate" or **"source separated"** or **"source separation"** shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Source-separated recyclable material" or **"source-separated recyclables"** shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Tax" means the tax imposed in the amount established in Section 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

"Useful material" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"User" means any person who pays compensation for the use of a Metro facility or receives a product or service from a Metro facility subject to the payment of compensation. [Ord. 90-333A, Sec. 2; Ord. 92-464, Sec. 1; Ord. 94-549B, Sec. 2; Ord. 00-857B, Sec. 1; Ord. 02-976, Sec. 1; Ord. 05-1091A, Sec. 1; Ord. 12-1277, Sec. 7; Ord 14-1331, Sec. 8.]

7.01.020 Tax Imposed

- (a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by Metro, each user, except persons subject to the tax provided in subsection 7.01.020(c), shall pay a tax of 7.5 percent of the payment charged by the operator or Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.
- (b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

- (c) Except as provided in Metro Code Section 7.01.050, each person who disposes of solid waste at a solid waste system facility shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste disposed exclusive of recoverable solid waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the person to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The person shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the person to the operator with each installment.
- (d) For the Metro fiscal year beginning July 1, 2010, the tax rate imposed and calculated under subsections (c) through (f) of this section shall be sufficient to generate net excise tax revenue of \$11,370,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.
- (e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) recoverable solid waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year 2014-15, and each fiscal year thereafter, the rate determined by this subsection shall be effective on the first day of each fiscal year unless another effective date is adopted by the Metro Council.
- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.
- (f) By March 1st of each year, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:
- (1) For the twelve (12) month period ending the previous December 31, the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and

- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if a Regional Recovery Rate of 58 percent had been met.

The result of such calculation by the Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1). [Ord. 90-333A; Ord. 92-464, Sec. 1; Ord. 93-484A, Sec. 1; Ord. 94-549B, Sec. 2; Ord. 96-642A, Sec. 1; Ord. 97-681B, Sec. 10; Ord. 98-767, Sec. 7; Ord. 00-857B, Sec. 2; Ord. 00-876A, Sec. 4; Ord. 02-939A, Sec. 1; Ord. 02-950B, Sec. 1; Ord. 02-976, Sec. 1; Ord. 03-1020, Sec. 1; Ord. 06-1116, Sec. 1; Ord. 07-1147B, Sec. 12; Ord. 08-1187A, Sec. 1; Ord. 07-1147B, Secs. 12 and 15; Ord. 10-1239, Sec. 1; Ord. 12-1277, Sec. 8; Ord. 14-1323, Sec. 7.]

7.01.022 Consumer Price Index Adjustment

Commencing with the Metro fiscal year beginning July 1, 2003, and each year thereafter, the amount of revenue to be generated by the taxes imposed by Section 7.01.020(c) shall be the amount of tax revenue authorized in Section 7.01.020(d) for the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland–Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate. [Ord. 00-857B, Secs. 3-4; Ord. 02-939A, Sec. 6; Ord. 02-976, Sec. 1.]

7.01.025 Collection of Tax by Metro

- (a) Metro shall allocate from all payments made directly to Metro by any user the amount of the tax provided for in Section 7.01.020.
- (b) Unless stated separately on any request for payment or charge imposed or established by Metro the excise tax shall be presumed to be included in the amount imposed or established by Metro so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to Metro plus the excise tax at the rate established herein. To the extent necessary to give effect to this provision, all rates and charges established by Metro and in effect on the effective date of this chapter shall be deemed decreased by such percentage amount so that after such date the amount of the rate or charge together with the amount of the excise tax provided for in Section 7.01.020 shall be equal to the previously established rate or charge. Thereafter rates and charges shall be subject to amendment as provided by law.
- (c) In the case of installment payments paid by the user to Metro a proportionate share of the tax shall be deemed paid by the user with each installment. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.030 Collection of Tax by Operator; Rules for Collection

- (a) Every operator, unless specifically exempted under the terms of this chapter, shall collect a tax from users as provided for in Section 7.01.020.

- (b) The operator shall report the tax to Metro consistent with the operator's basis of accounting, cash or accrual, except in the case of an operator of a solid waste facility. Solid waste facility operators shall report accrued revenue and excise tax calculated based upon loads or tons deposited at the site at the time of receipt of waste.
- (c) For the purpose of reporting the tax owed to Metro and notwithstanding the provisions of Section 7.01.040, the tax shall be presumed to be included in the amount imposed by the operator so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to the operator plus the excise tax owed to Metro at the rate established herein.
- (d) Metro shall provide the operator with a blank return and instructions that shall be used by the operator to report the excise tax owing to Metro. The amount of excise tax due shall be paid when the return is filed as provided for in Section 7.01.070.
- (e) There is no liability for excise taxes on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. Excise taxes may not be deemed uncollectible unless the underlying account is also uncollectible. If the taxes have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the taxes shall be paid with the return.
- (f) Installment payments of tax paid by the operator to Metro shall be applied first to finance charges and penalties and then to the oldest delinquent taxes.
- (g) The Chief Operating Officer shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the Chief Operating Officer shall give public notice of intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Code to violate rules and regulations duly adopted by the Chief Operating Officer. [Ord. 90-333A, Sec. 2; Ord. 92-464; Sec. 1; Ord. 93-509, Sec. 4; Ord. 02-976, Sec. 1.]

7.01.040 Operator's Duties

- (a) Each operator shall collect the tax imposed by this chapter at the same time as payment is collected from every user. The amount of tax shall be separately stated upon the operator's records, and any receipt or invoice rendered by the operator.
- (b) Each operator shall file a return in accordance with the terms provided for in Section 7.01.070. [Ord. 90-333A, Sec. 2; Ord. 92-464, Sec. 1.]

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 5.01.260(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) 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, or to operate parking lots at Metro ERC facilities.
 - (E) All payments made to Metro ERC, for use of the facility, for charges to provide food and beverage, or for event based revenue.
- (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 any 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.

- (17) The state of Oregon or any state agency provided that it is disposing of yard debris and soil generated from within an emergency eradication quarantine area for the purpose of addressing a government-declared public health, agricultural or environmental emergency.
- (b) Any person, user or operator that is exempt from 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. [Ord. 90-333A; Ord. 90-355, Sec. 2; Ord. 95-590, Sec. 1; Ord. 96-634, Sec. 3; Ord. 98-767, Sec. 8; Ord. 00-857B, Sec. 7; Ord. 02-976, Sec. 1; Ord. 03-994A, Sec. 3; Ord. 03-1020, Sec. 2; Ord. 05-1091A, Sec. 2; Ord. 06-1127, Sec. 1; Ord. 08-1187A, Sec. 4; Ord. 16-1372, Sec. 3; Ord. 17-1402.]

7.01.060 Registration of Operator; Form and Contents; Execution; Certification of Authority

- (a) Every person engaging or about to engage in business as an operator in Metro shall register with the Chief Operating Officer on a form provided by the Chief Operating Officer. Operators starting business must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his/her place of business and such other information to facilitate the collection of the tax as the Chief Operating Officer may require. The registration shall be signed by the operator.
- (b) The Chief Operating Officer shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from users, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Chief Operating Officer upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all users.
- (c) Said certificate shall, among other things, state the following:
- (1) The name of the operator;
 - (2) The address of the facility;
 - (3) The date upon which the certificate was issued; and
 - (4) "This Excise Tax Registration Certificate signifies that the person named has fulfilled the requirements of the Excise Tax Chapter of the Code of Metro for the purpose of collecting and remitting the excise tax. This certificate does not

authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a facility without strictly complying with all local applicable laws. This certificate does not constitute a permit or a franchise." [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.070 Due Date; Returns and Payments

- (a) The tax shall be collected from the operator by Metro as provided for in Section 7.01.030. All amounts of such taxes reported by any operator are due and payable to Metro on the 15th day of each month for the preceding month, and are delinquent if not received by Metro as specified in subsection (d) of this section by the due date. If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows. The initial return under this chapter may be for less than a full month preceding the due date. Thereafter, returns shall be made for the applicable monthly period.
- (b) On or before the 15th day of the month following each month of operation of a Metro facility, a return for the preceding month's tax shall be filed with the Chief Operating Officer. The return shall be filed in such form as the Chief Operating Officer may prescribe by every operator liable for payment of tax.
- (c) Returns shall show the amount of tax due for the related period. The Chief Operating Officer may require returns to show the total receipts upon which tax was collected or otherwise due, gross receipts of the operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of receipts exempt, if any.
- (d) The person required to file the return shall deliver the return, together with the tax due, to the Metro Administration Services Department of Finance and Management Information. Payment is considered to be delinquent if not received by Metro on or before the due date, by personal delivery to the Metro Administration Services Department of Finance and Management Information during business hours or, if delivered by mail, by receipt in Metro's mail room.
- (e) The Chief Operating Officer, if deemed necessary in order to ensure payment or facilitate collection by Metro of the amount of taxes in any individual case, may require returns and payment of the amount of taxes more frequently than monthly periods. [Ord. 90-333A, Sec. 2; Ord. 92-464, Sec. 1; Ord. 93-509, Sec. 5; Ord. 02-976, Sec. 1.]

7.01.080 Penalties and Finance Charges

- (a) Fraud. If the Chief Operating Officer determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (a) and (b) of this section.
- (b) Finance Charges. In addition to any penalties imposed, a finance charge of 1.5 percent shall be assessed on all delinquent taxes required to be remitted by an operator under this chapter. Finance charges shall be assessed on the 15th day of

the month following the month in which taxes are due, and on the 15th day of each month thereafter, until paid. Finance charges will be assessed only on unpaid delinquent balances and penalties, and not on previously assessed finance charges, and will continue to be assessed on negotiated repayment schedules.

- (c) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties and finance charges herein stated, provided, however, the operator may petition the Chief Operating Officer for waiver and refund of the penalties and finance charges or any portion thereof and the Chief Operating Officer may, if a good and sufficient reason is shown, waive and direct a refund of the penalties or finance charges or any portion thereof. [Ord. 90-333A, Sec. 2; Ord. 93-509, Sec. 6; Ord. 94-533, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.090 Deficiency Determination; Fraud, Evasion, Operator Delay

- (a) Deficiency Determinations. If the Chief Operating Officer determines that the results are incorrect, it may compute and determine the amount required to be paid on the basis of the facts contained in the return or returns, or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in Section 7.01.080.
- (1) In making a determination the Chief Operating Officer may offset overpayment, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 7.01.080.
 - (2) The Chief Operating Officer shall give to the operator a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the Chief Operating Officer. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.
 - (3) Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.
 - (4) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the Chief Operating Officer has given notice thereof, provided, however, the operator may petition for

redemption and refund if the petition is filed before the determination becomes final as herein provided.

- (b) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this chapter any report and remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the Chief Operating Officer shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of the tax due. As soon as the Chief Operating Officer has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, it shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Chief Operating Officer shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Chief Operating Officer of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the Chief Operating Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.
- (c) Operator Delay. If the Chief Operating Officer believes that the collection of any tax or any amount of tax required to be collected and paid to Metro will be jeopardized by delay, or if any determination will be jeopardized by delay, the Chief Operating Officer shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the Chief Operating Officer after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 10 days from the date of service of notice by the Chief Operating Officer. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.100 Hearings, Contested Cases

- (a) Any person against whom a determination is made under Section 7.01.090 or any person directly interested may request a hearing on the matter in contest and request redemption and refund within the time required in Section 7.01.090. The determination becomes final at the expiration of the allowable time and no hearing may be requested thereafter. Hearings shall be conducted as provided for in Chapter 2.05 except that the deadline for requesting a hearing shall be as provided for herein.
- (b) No request for a hearing and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof. [Ord. 90-333A, Sec. 2.]

7.01.110 Security for Collection of Tax

The Chief Operating Officer, whenever deemed necessary to ensure compliance with this chapter, may require any operator subject thereto to deposit with it such security in the form of cash, bond, or other security as the Chief Operating Officer may determine. The amount of the security shall be fixed by the Chief Operating Officer but shall not be greater than twice the operator's estimated average liability for the period for which he/she files returns, determined in such manner as the Chief Operating Officer deems proper. The amount of the security may be increased or decreased by the Chief Operating Officer subject to the limitation herein provided. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.120 Refunds

- (a) Refunds by District to Operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously collected or received by the Chief Operating Officer under this chapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the Chief Operating Officer within three (3) years from the date of payment. The claim shall be made on forms provided by the Chief Operating Officer. If the claim is approved by the Chief Operating Officer, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.
- (b) Refunds by Metro to Users. Whenever the tax required by this chapter has been collected by Metro or by an operator, and deposited by the operator with the Chief Operating Officer, and it is later determined that the tax was erroneously collected or received by the Chief Operating Officer, it may be refunded by the Chief Operating Officer to the user, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the Chief Operating Officer within three (3) years from the date of payment. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.130 Administration

- (a) Records Required From Operator, et cetera; Form. Every operator shall keep records of all sales and transactions. All records shall be retained by the operator for a period of three (3) years and six (6) months after they come into being.
- (b) Examination of Records; Investigations. The Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, may examine during normal business hours the books, papers and accounting records relating to any operator, after notification to the operator liable for the collection and payment of the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

- (c) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Chief Operating Officer may cause the Metro Attorney to bring an action in the courts of this state, or any other state, or of the United States in the name of Metro to collect the amount delinquent together with penalties and interest.
- (d) Confidential Financial Information. Except as otherwise required by law, it shall be unlawful for the Chief Operating Officer, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Chief Operating Officer under the terms of this chapter. Nothing in this subsection shall be construed to prohibit:
 - (1) The disclosure to, or the examination of, financial records by Metro officials, employees or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter; or
 - (2) The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of excise taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the Chief Operating Officer; or
 - (3) The disclosure of the names and addresses of any persons to whom excise tax registration certificates have been issued; or
 - (4) The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
 - (5) The disclosure of financial information to the office of the Metro Attorney, to the extent the Chief Operating Officer deems disclosure or access necessary for the performance of the duties of advising or representing the Chief Operating Officer. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.150 Violations

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Chief Operating Officer or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter. The Chief Operating Officer may impose a civil penalty of up to \$500 for each violation of this chapter. A violation includes, but is not limited to:

- (a) Failure to file any required tax payment and report, including any penalties and interest, within 60 days of the due date;
- (b) Filing a false or fraudulent report;

- (c) Failure to register a facility with the Chief Operating Officer as described in Section 7.01.060;
- (d) Failure to maintain a separate account for the excise tax collected. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

TITLE VII

FINANCE*

Chapter	Title
7.01	Excise Taxes
7.02	Financing Powers (former Chapter 8.01)
7.03	Investment Policy (former Chapter 2.06)
7.04	Construction Excise Tax

* Formerly Title VII, Excise Taxes. Ord. 02-976 renamed Title VII and incorporated Chapters 7.02 (formerly 8.01) and 7.03 (formerly 2.06).

CHAPTER 7.01

EXCISE TAXES

Section	Title
7.01.010	Definitions
7.01.020	Tax Imposed
7.01.022	Consumer Price Index Adjustment
7.01.025	Collection of Tax by Metro
7.01.030	Collection of Tax by Operator; Rules for Collection
7.01.040	Operator's Duties
7.01.050	Exemptions
7.01.060	Registration of Operator; Form and Contents; Execution; Certification of Authority
7.01.070	Due Date; Returns and Payments
7.01.080	Penalties and Finance Charges
7.01.090	Deficiency Determination; Fraud, Evasion, Operator Delay
7.01.100	Hearings, Contested Cases
7.01.110	Security for Collection of Tax
7.01.120	Refunds
7.01.130	Administration
7.01.150	Violations
Repealed	
7.01.23	Additional Excise Tax (Repealed Ord. 10-1239)
7.01.24	Repeal of Provisions Setting Amount of Additional Excise Tax and Budgeting of Revenue for Regional Parks and Greenspaces Programs (Repealed Ord. 04-1037)
7.01.028	Budgeting of Excess Revenue (Repealed Ord. 08-1187A, Sec. 3)
7.01.160	Effective Date and Effect of Initiative Passage (Repealed Ord. 07-1147B, Sec. 14)
7.01.170	Council Review of Ordinance Effect (Repealed Ord. 07-1147B, Sec. 14)
7.01.180	Excise Tax Credit Program Review (Repealed Ord. 07-1147B, Sec. 15)
7.01.190	Administrative Procedures for Excise Tax Credits (Repealed Ord. 07-1147B, Sec. 15)

7.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

"Accrual basis accounting" means revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.

"Cash basis accounting" means revenues are recorded when cash is received.

"Cleanup Material Contaminated By Hazardous Substances" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Inert" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Installment payments" means the payment of any amount that is less than the full payment owed either by any user to Metro or to an operator or by an operator to Metro.

"Metro ERC facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

"Metro facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro. Metro facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, including but not limited to the Oregon Zoo, Metro ERC facilities, all solid waste system facilities, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro.

"Metro regional park" means any park or park facility, equipment, system, function, service or improvement operated or managed by Metro, including but not limited to Oxbow Regional Park, Blue Lake Regional Park, Smith and Bybee Wetlands Natural Area, Howell Territorial Park, Chinook Landing Marine Park, M. James Gleason Memorial Boat Ramp, and Sauvie Island Boat Ramp. For purposes of this chapter, "Metro regional park" does not include Glendoveer Golf Course.

"Operator" means a person other than Metro who receives compensation from any source arising out of the use of a Metro facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

"Payment" means the consideration charged, whether or not received by Metro or an operator, for the use of a Metro facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

"Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

"Processing residual" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Recoverable solid waste" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Regional Recovery Rate" shall have the meaning assigned thereto in ORS 459A.010(4)(a).

"Solid waste system facility" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Source separate" or **"source separated"** or **"source separation"** shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Source-separated recyclable material" or **"source-separated recyclables"** shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"Tax" means the tax imposed in the amount established in Section 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

"Useful material" shall have the meaning assigned thereto in Metro Code Section 5.00.010.

"User" means any person who pays compensation for the use of a Metro facility or receives a product or service from a Metro facility subject to the payment of compensation. [Ord. 90-333A, Sec. 2; Ord. 92-464, Sec. 1; Ord. 94-549B, Sec. 2; Ord. 00-857B, Sec. 1; Ord. 02-976, Sec. 1; Ord. 05-1091A, Sec. 1; Ord. 12-1277, Sec. 7; Ord 14-1331, Sec. 8.]

7.01.020 Tax Imposed

- (a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by Metro, each user, except persons subject to the tax provided in subsection 7.01.020(c), shall pay a tax of 7.5 percent of the payment charged by the operator or Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.
- (b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

- (c) Except as provided in Metro Code Section 7.01.050, each person who disposes of solid waste at a solid waste system facility shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste disposed exclusive of recoverable solid waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the person to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The person shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the person to the operator with each installment.
- (d) For the Metro fiscal year beginning July 1, 2010, the tax rate imposed and calculated under subsections (c) through (f) of this section shall be sufficient to generate net excise tax revenue of \$11,370,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.
- (e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) recoverable solid waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year 2014-15, and each fiscal year thereafter, the rate determined by this subsection shall be effective on the first day of each fiscal year unless another effective date is adopted by the Metro Council.
- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.
- (f) By March 1st of each year, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:
- (1) For the twelve (12) month period ending the previous December 31, the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and

- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if a Regional Recovery Rate of 58 percent had been met.

The result of such calculation by the Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1). [Ord. 90-333A; Ord. 92-464, Sec. 1; Ord. 93-484A, Sec. 1; Ord. 94-549B, Sec. 2; Ord. 96-642A, Sec. 1; Ord. 97-681B, Sec. 10; Ord. 98-767, Sec. 7; Ord. 00-857B, Sec. 2; Ord. 00-876A, Sec. 4; Ord. 02-939A, Sec. 1; Ord. 02-950B, Sec. 1; Ord. 02-976, Sec. 1; Ord. 03-1020, Sec. 1; Ord. 06-1116, Sec. 1; Ord. 07-1147B, Sec. 12; Ord. 08-1187A, Sec. 1; Ord. 07-1147B, Secs. 12 and 15; Ord. 10-1239, Sec. 1; Ord. 12-1277, Sec. 8; Ord. 14-1323, Sec. 7.]

7.01.022 Consumer Price Index Adjustment

Commencing with the Metro fiscal year beginning July 1, 2003, and each year thereafter, the amount of revenue to be generated by the taxes imposed by Section 7.01.020(c) shall be the amount of tax revenue authorized in Section 7.01.020(d) for the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland–Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate. [Ord. 00-857B, Secs. 3-4; Ord. 02-939A, Sec. 6; Ord. 02-976, Sec. 1.]

7.01.025 Collection of Tax by Metro

- (a) Metro shall allocate from all payments made directly to Metro by any user the amount of the tax provided for in Section 7.01.020.
- (b) Unless stated separately on any request for payment or charge imposed or established by Metro the excise tax shall be presumed to be included in the amount imposed or established by Metro so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to Metro plus the excise tax at the rate established herein. To the extent necessary to give effect to this provision, all rates and charges established by Metro and in effect on the effective date of this chapter shall be deemed decreased by such percentage amount so that after such date the amount of the rate or charge together with the amount of the excise tax provided for in Section 7.01.020 shall be equal to the previously established rate or charge. Thereafter rates and charges shall be subject to amendment as provided by law.
- (c) In the case of installment payments paid by the user to Metro a proportionate share of the tax shall be deemed paid by the user with each installment. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.030 Collection of Tax by Operator; Rules for Collection

- (a) Every operator, unless specifically exempted under the terms of this chapter, shall collect a tax from users as provided for in Section 7.01.020.

- (b) The operator shall report the tax to Metro consistent with the operator's basis of accounting, cash or accrual, except in the case of an operator of a solid waste facility. Solid waste facility operators shall report accrued revenue and excise tax calculated based upon loads or tons deposited at the site at the time of receipt of waste.
- (c) For the purpose of reporting the tax owed to Metro and notwithstanding the provisions of Section 7.01.040, the tax shall be presumed to be included in the amount imposed by the operator so that the excise tax shall be computed in such amount that the total charged shall equal the amount of compensation owed to the operator plus the excise tax owed to Metro at the rate established herein.
- (d) Metro shall provide the operator with a blank return and instructions that shall be used by the operator to report the excise tax owing to Metro. The amount of excise tax due shall be paid when the return is filed as provided for in Section 7.01.070.
- (e) There is no liability for excise taxes on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. Excise taxes may not be deemed uncollectible unless the underlying account is also uncollectible. If the taxes have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the taxes shall be paid with the return.
- (f) Installment payments of tax paid by the operator to Metro shall be applied first to finance charges and penalties and then to the oldest delinquent taxes.
- (g) The Chief Operating Officer shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement. Prior to the adoption of rules and regulations, the Chief Operating Officer shall give public notice of intent to adopt rules and regulations, provide copies of the proposed rules and regulations to interested parties, and conduct a public hearing on the proposed rules and regulations. Public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request. It is a violation of this Code to violate rules and regulations duly adopted by the Chief Operating Officer. [Ord. 90-333A, Sec. 2; Ord. 92-464; Sec. 1; Ord. 93-509, Sec. 4; Ord. 02-976, Sec. 1.]

7.01.040 Operator's Duties

- (a) Each operator shall collect the tax imposed by this chapter at the same time as payment is collected from every user. The amount of tax shall be separately stated upon the operator's records, and any receipt or invoice rendered by the operator.
- (b) Each operator shall file a return in accordance with the terms provided for in Section 7.01.070. [Ord. 90-333A, Sec. 2; Ord. 92-464, Sec. 1.]

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 5.01.260(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.~~

~~(D)~~(E) All payments made to Metro ERC, for use of the facility, for charges to provide food and beverage, or for event based revenue.

(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 any 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.

- (17) The state of Oregon or any state agency provided that it is disposing of yard debris and soil generated from within an emergency eradication quarantine area for the purpose of addressing a government-declared public health, agricultural or environmental emergency.
- (b) Any person, user or operator that is exempt from 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. [Ord. 90-333A; Ord. 90-355, Sec. 2; Ord. 95-590, Sec. 1; Ord. 96-634, Sec. 3; Ord. 98-767, Sec. 8; Ord. 00-857B, Sec. 7; Ord. 02-976, Sec. 1; Ord. 03-994A, Sec. 3; Ord. 03-1020, Sec. 2; Ord. 05-1091A, Sec. 2; Ord. 06-1127, Sec. 1; Ord. 08-1187A, Sec. 4; Ord. 16-1372, Sec. 3; Ord. 17-1402.]

7.01.060 Registration of Operator; Form and Contents; Execution; Certification of Authority

- (a) Every person engaging or about to engage in business as an operator in Metro shall register with the Chief Operating Officer on a form provided by the Chief Operating Officer. Operators starting business must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his/her place of business and such other information to facilitate the collection of the tax as the Chief Operating Officer may require. The registration shall be signed by the operator.
- (b) The Chief Operating Officer shall, within 10 days after registration, issue without charge a certificate of authority to each registrant to collect the tax from users, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be nonassignable and nontransferable and shall be surrendered immediately to the Chief Operating Officer upon the cessation of business at the location named or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed thereon so as to be seen and come to notice readily of all users.
- (c) Said certificate shall, among other things, state the following:
- (1) The name of the operator;
 - (2) The address of the facility;
 - (3) The date upon which the certificate was issued; and
 - (4) "This Excise Tax Registration Certificate signifies that the person named has fulfilled the requirements of the Excise Tax Chapter of the Code of Metro for the purpose of collecting and remitting the excise tax. This certificate does not

authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a facility without strictly complying with all local applicable laws. This certificate does not constitute a permit or a franchise." [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.070 Due Date; Returns and Payments

- (a) The tax shall be collected from the operator by Metro as provided for in Section 7.01.030. All amounts of such taxes reported by any operator are due and payable to Metro on the 15th day of each month for the preceding month, and are delinquent if not received by Metro as specified in subsection (d) of this section by the due date. If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows. The initial return under this chapter may be for less than a full month preceding the due date. Thereafter, returns shall be made for the applicable monthly period.
- (b) On or before the 15th day of the month following each month of operation of a Metro facility, a return for the preceding month's tax shall be filed with the Chief Operating Officer. The return shall be filed in such form as the Chief Operating Officer may prescribe by every operator liable for payment of tax.
- (c) Returns shall show the amount of tax due for the related period. The Chief Operating Officer may require returns to show the total receipts upon which tax was collected or otherwise due, gross receipts of the operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of receipts exempt, if any.
- (d) The person required to file the return shall deliver the return, together with the tax due, to the Metro Administration Services Department of Finance and Management Information. Payment is considered to be delinquent if not received by Metro on or before the due date, by personal delivery to the Metro Administration Services Department of Finance and Management Information during business hours or, if delivered by mail, by receipt in Metro's mail room.
- (e) The Chief Operating Officer, if deemed necessary in order to ensure payment or facilitate collection by Metro of the amount of taxes in any individual case, may require returns and payment of the amount of taxes more frequently than monthly periods. [Ord. 90-333A, Sec. 2; Ord. 92-464, Sec. 1; Ord. 93-509, Sec. 5; Ord. 02-976, Sec. 1.]

7.01.080 Penalties and Finance Charges

- (a) Fraud. If the Chief Operating Officer determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25 percent of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (a) and (b) of this section.
- (b) Finance Charges. In addition to any penalties imposed, a finance charge of 1.5 percent shall be assessed on all delinquent taxes required to be remitted by an operator under this chapter. Finance charges shall be assessed on the 15th day of

the month following the month in which taxes are due, and on the 15th day of each month thereafter, until paid. Finance charges will be assessed only on unpaid delinquent balances and penalties, and not on previously assessed finance charges, and will continue to be assessed on negotiated repayment schedules.

- (c) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties and finance charges herein stated, provided, however, the operator may petition the Chief Operating Officer for waiver and refund of the penalties and finance charges or any portion thereof and the Chief Operating Officer may, if a good and sufficient reason is shown, waive and direct a refund of the penalties or finance charges or any portion thereof. [Ord. 90-333A, Sec. 2; Ord. 93-509, Sec. 6; Ord. 94-533, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.090 Deficiency Determination; Fraud, Evasion, Operator Delay

- (a) Deficiency Determinations. If the Chief Operating Officer determines that the results are incorrect, it may compute and determine the amount required to be paid on the basis of the facts contained in the return or returns, or upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties or deficiencies shall be applied as set forth in Section 7.01.080.
- (1) In making a determination the Chief Operating Officer may offset overpayment, if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 7.01.080.
 - (2) The Chief Operating Officer shall give to the operator a written notice of its determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his/her address as it appears on the records of the Chief Operating Officer. In case of service by mail or any notice required by this chapter, the service is complete at the time of deposit in the United States Post Office.
 - (3) Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.
 - (4) Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the Chief Operating Officer has given notice thereof, provided, however, the operator may petition for

redemption and refund if the petition is filed before the determination becomes final as herein provided.

- (b) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make within the time provided in this chapter any report and remittance of said tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the Chief Operating Officer shall proceed in such manner as deemed best to obtain facts and information on which to base an estimate of the tax due. As soon as the Chief Operating Officer has determined the tax due that is imposed by this chapter from any operator who has failed or refused to collect the same and to report and remit said tax, it shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Chief Operating Officer shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discovery by the Chief Operating Officer of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 10 days after the Chief Operating Officer has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.
- (c) Operator Delay. If the Chief Operating Officer believes that the collection of any tax or any amount of tax required to be collected and paid to Metro will be jeopardized by delay, or if any determination will be jeopardized by delay, the Chief Operating Officer shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the Chief Operating Officer after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 10 days from the date of service of notice by the Chief Operating Officer. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.100 Hearings, Contested Cases

- (a) Any person against whom a determination is made under Section 7.01.090 or any person directly interested may request a hearing on the matter in contest and request redemption and refund within the time required in Section 7.01.090. The determination becomes final at the expiration of the allowable time and no hearing may be requested thereafter. Hearings shall be conducted as provided for in Chapter 2.05 except that the deadline for requesting a hearing shall be as provided for herein.
- (b) No request for a hearing and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof. [Ord. 90-333A, Sec. 2.]

7.01.110 Security for Collection of Tax

The Chief Operating Officer, whenever deemed necessary to ensure compliance with this chapter, may require any operator subject thereto to deposit with it such security in the form of cash, bond, or other security as the Chief Operating Officer may determine. The amount of the security shall be fixed by the Chief Operating Officer but shall not be greater than twice the operator's estimated average liability for the period for which he/she files returns, determined in such manner as the Chief Operating Officer deems proper. The amount of the security may be increased or decreased by the Chief Operating Officer subject to the limitation herein provided. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.120 Refunds

- (a) Refunds by District to Operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously collected or received by the Chief Operating Officer under this chapter, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the Chief Operating Officer within three (3) years from the date of payment. The claim shall be made on forms provided by the Chief Operating Officer. If the claim is approved by the Chief Operating Officer, the excess amount collected or paid may be refunded or may be credited on any amounts then due and payable from the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his/her administrators, executors, or assignees.
- (b) Refunds by Metro to Users. Whenever the tax required by this chapter has been collected by Metro or by an operator, and deposited by the operator with the Chief Operating Officer, and it is later determined that the tax was erroneously collected or received by the Chief Operating Officer, it may be refunded by the Chief Operating Officer to the user, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded, is filed with the Chief Operating Officer within three (3) years from the date of payment. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.130 Administration

- (a) Records Required From Operator, et cetera; Form. Every operator shall keep records of all sales and transactions. All records shall be retained by the operator for a period of three (3) years and six (6) months after they come into being.
- (b) Examination of Records; Investigations. The Chief Operating Officer, or any person authorized in writing by the Chief Operating Officer, may examine during normal business hours the books, papers and accounting records relating to any operator, after notification to the operator liable for the collection and payment of the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

- (c) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the Chief Operating Officer may cause the Metro Attorney to bring an action in the courts of this state, or any other state, or of the United States in the name of Metro to collect the amount delinquent together with penalties and interest.
- (d) Confidential Financial Information. Except as otherwise required by law, it shall be unlawful for the Chief Operating Officer, or any officer, employee, or agent, to divulge, release, or make known in any manner any financial information submitted or disclosed to the Chief Operating Officer under the terms of this chapter. Nothing in this subsection shall be construed to prohibit:
 - (1) The disclosure to, or the examination of, financial records by Metro officials, employees or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter; or
 - (2) The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of excise taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the Chief Operating Officer; or
 - (3) The disclosure of the names and addresses of any persons to whom excise tax registration certificates have been issued; or
 - (4) The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
 - (5) The disclosure of financial information to the office of the Metro Attorney, to the extent the Chief Operating Officer deems disclosure or access necessary for the performance of the duties of advising or representing the Chief Operating Officer. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

7.01.150 Violations

It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Chief Operating Officer or to render a false or fraudulent return. No person required to make, render, sign, or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter. The Chief Operating Officer may impose a civil penalty of up to \$500 for each violation of this chapter. A violation includes, but is not limited to:

- (a) Failure to file any required tax payment and report, including any penalties and interest, within 60 days of the due date;
- (b) Filing a false or fraudulent report;

- (c) Failure to register a facility with the Chief Operating Officer as described in Section 7.01.060;
- (d) Failure to maintain a separate account for the excise tax collected. [Ord. 90-333A, Sec. 2; Ord. 02-976, Sec. 1.]

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 18-1420, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.01 RELATING TO EXCISE TAX EXEMPTIONS

Date: 3/15/2018

Prepared by: Tim Collier EXT. 1913

BACKGROUND

This legislation is the continuation of a financial policy review process that began over ten years ago. 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. Part of these changes included a review of excise tax policies and lead to the exemption from excise taxes for the Oregon Zoo, Parks and Nature, Research Center and Metro Center operations in prior years.

In 2017, staff reviewed of our current excise tax policies as applied to the Oregon Convention Center (OCC) and Portland Expo Center (Expo). Staff recommend that the same modifications that apply at the Oregon Zoo and Parks be extended to OCC and Expo and be replaced with a management fee based on actual income from two years prior. The primary reason for this is to be transparent in the fees charged to the Centers and to give them assurance of their fees for planning and budgeting purposes. Currently excise taxes are charged on some revenues, such as rents and food and beverage, but not others, such as advertising. Additionally, the way excise taxes are applied create uncertainty for the general fund. The policy change will allow for better planning and transparency, for both the venues and the general fund.

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** The adoption of this ordinance would exempt all of the revenues in the remaining MERC departments from the Metro Excise Tax.
4. **Budget Impacts** There will be a negligible impact on the General Fund as the excise tax will be replaced by a management fee which will be based income from two years prior activity.

RECOMMENDED ACTION

The Chief Operating Office recommends approval of Ordinance 18-1420.

Materials following this page were distributed at the meeting.



OREGN

Oregon
Convention
Center

OCC Plaza and Interior Renovation

Project Goals

- Update the 27-year old Convention Center
- Create a cohesive meeting and visitor atmosphere with the new Hyatt Regency Portland hotel
- Improve overall convention market position
- Two major scopes
 - Plaza renovation
 - Interior renovation

Project budget is \$35.5 million

OREGON

Oregon
Convention
Center

Tentative Timeline

August – December 2018
Exterior Plaza
MLK Lobby
Exhibit Level Prefunction Space

November 2018 – January 2019
Ginkoberry Concourse
South End Carpet
A/B/C Meeting Room Lobbies

January – March 2019
Holladay Lobby

April – September 2019
Oregon Ballroom
Oregon Ballroom Lobby
Oregon Ballroom Restrooms

OREGON

Oregon
Convention
Center

Designers and Contractors

A commitment to local minority and women-owned businesses

- **Lead architect:** LMN Architects
- **Associate architect:** Merryman Barnes
- **Landscape architect:** Mayer/Reed
- **General Contractor:** Colas Construction
- **Associate Contractor:** Raimore Construction

OREGON

Oregon
Convention
Center

Plaza Project Goals

- Improve visibility and access to the building's entrances
- Create outdoor programmable space for event use

Entrance Visibility



OREGON

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Convention
Center



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Plaza Layout Options



Car Show



Concert



Reception



OREGON

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Convention
Center

Pylon

Digital Pylon Studies



Luminous blade internal or edge-lit, glass or polycarbonate 5'-6" w x 30" h x 6" t

Fabricated structure, double-sided 5'w x 26'h x 8"t each side; material TBD consider weathering steel beadblasted stainless precast

fabricated letters with internal and/or halo illumination double-sided 3'-6" cap ht x 3" t

Full color digital display price as single or double sided features/video capabilities TBD

Dimensional metal letters mechanically fastened to face, double-sided 6" cap ht x 3/4" t

Provide new structural foundation at conduit for power/data as required 20' south of existing pylon. Planter materials by others, TBD.

1 Digital Pylon Study
Scale: 1/4" = 1'-0"

Code allows 100 sf of sign area, 20' high max, without modification.
Code allows 10 sf changing image sign without modification.
Proposed sign has 80 sf message areas only.
140 sf sign total area excluding luminous blade.
175 sf sign area with all components included.
Proposed sign has 35 sf changing image sign (same as existing)

OREGON

Oregon Convention Center

Martin Luther King Jr Boulevard Entrance



OREGON

Oregon
Convention
Center

Interior Project Goals

- Enhance level of guest experience
- Create a memorable identity that is unique to Portland
- Improve OCC competitiveness

Inspirational Images



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Oregon
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Center

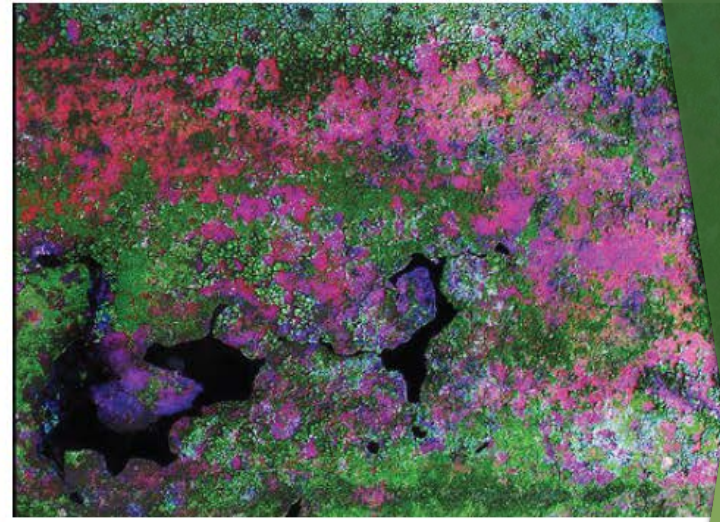
Inspirational Images



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Inspirational Images



OREGON

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Finish Palette



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Oregon
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Center

Martin Luther King Jr Lobby



OREGON

Oregon
Convention
Center

Martin Luther King Jr Lobby



OREGON

Oregon
Convention
Center

Gathering Space



OREGON

Oregon
Convention
Center

Sit Steps



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Pre-Function C



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Pre-Function Space



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Meeting Room Foyer – phase 2



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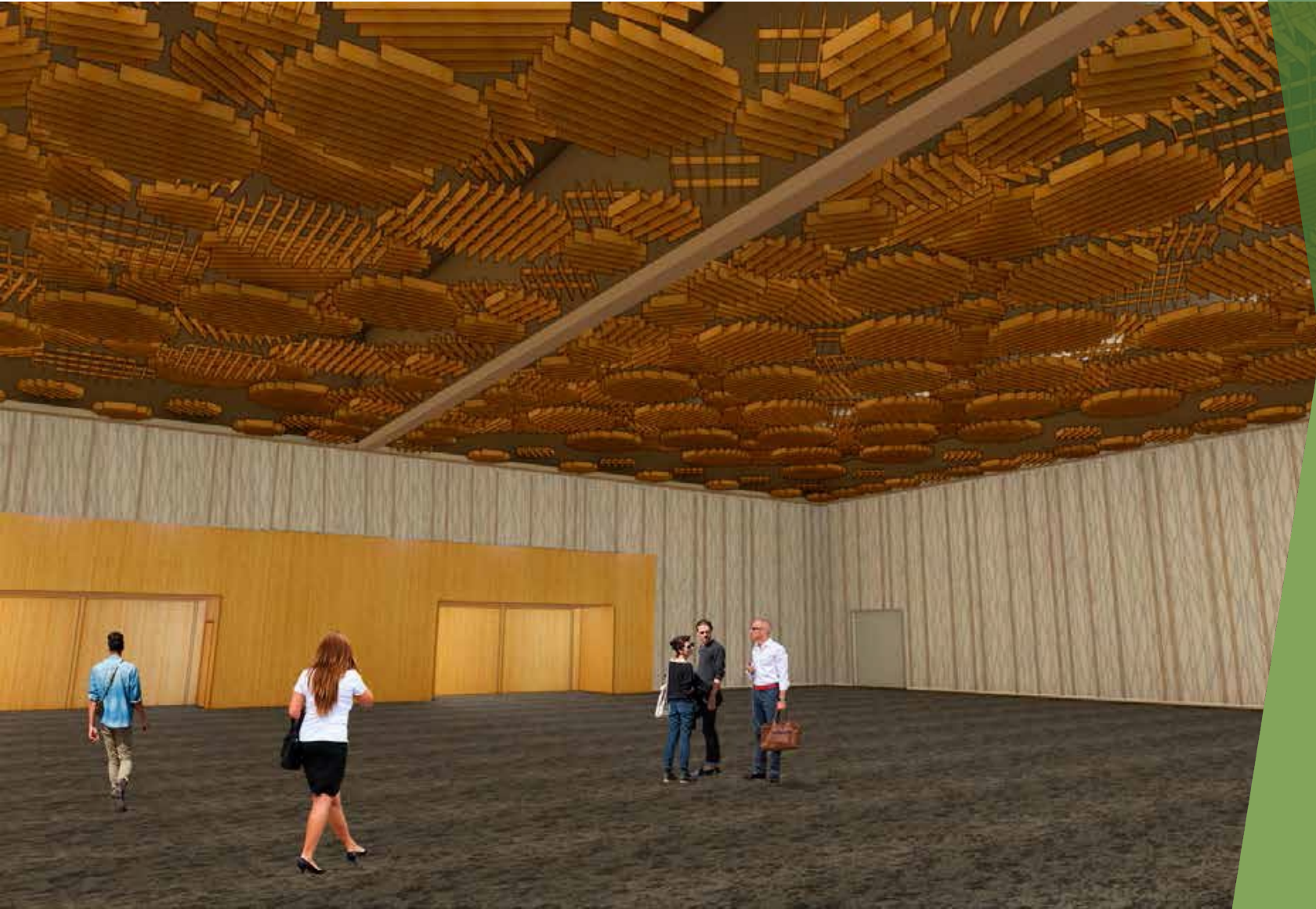
Oregon Ballroom Lobby



OREGON

Oregon
Convention
Center

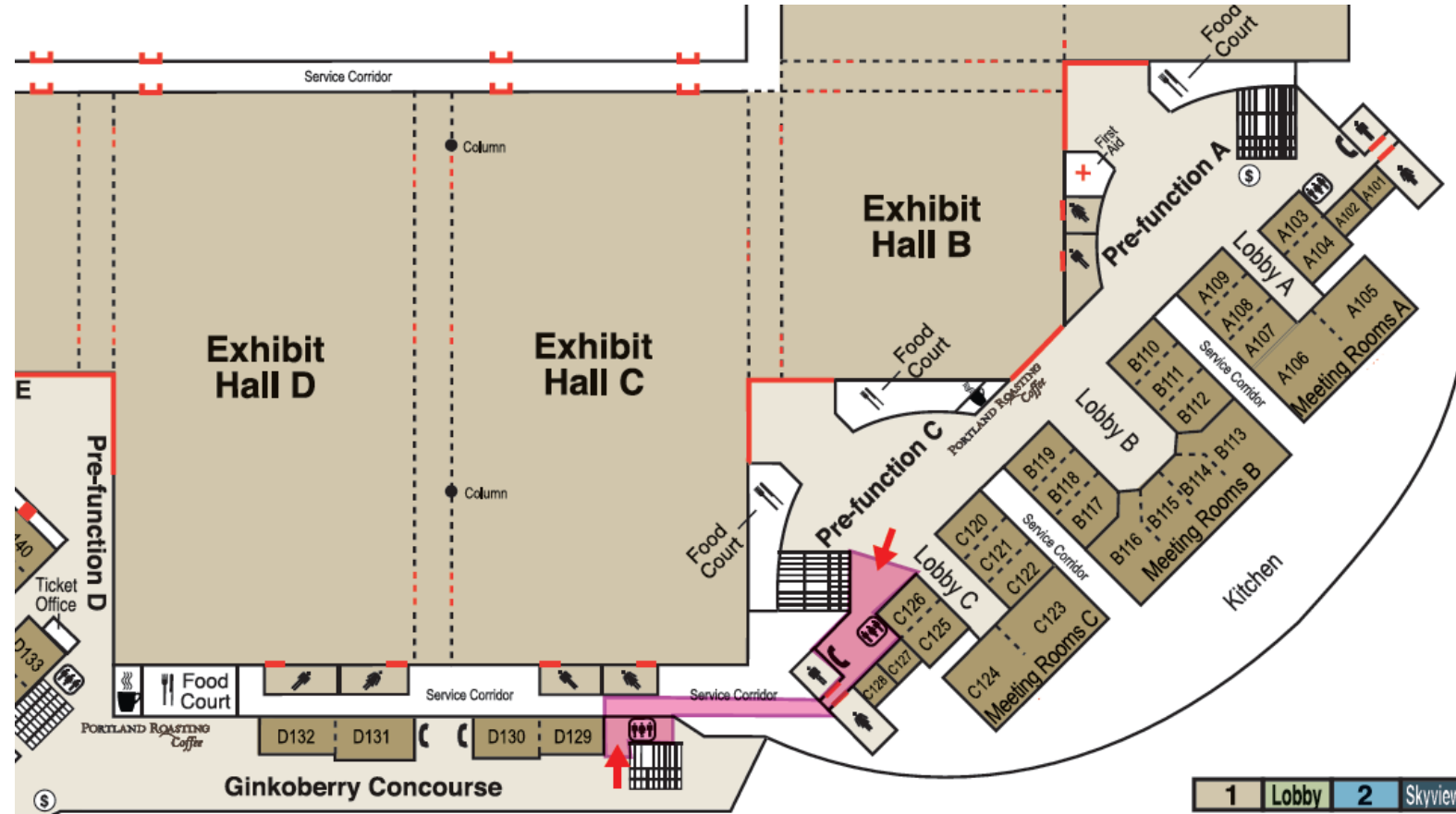
Oregon Ballroom



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Guest Passage



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Questions?

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Metro

*600 NE Grand Ave.
Portland, OR 97232-2736
oregonmetro.gov*



Metro

Minutes

Thursday, March 1, 2018

2:00 PM

Metro Regional Center, Council chamber

Council meeting

1. Call to Order and Roll Call

Council President Tom Hughes called the Metro Council meeting to order at 2:03 p.m.

Present: 6 - Council President Tom Hughes, Councilor Sam Chase, Councilor Shirley Craddick, Councilor Craig Dirksen, Councilor Kathryn Harrington, and Councilor Bob Stacey

2. Public Communication

Ron Swaren, City of Portland: Mr. Swaren shared concerns about congestion pricing on I-5, noting that he felt value pricing would not resolve congestion in the region. He recommended a western arterial highway to better relieve congestion.

Sharon Nasset, City of Portland: Ms. Nasset expressed concerns about Portland's decreasing livability and population growth. She testified in support of growing other cities in the state. She discussed the opportunities available in Oregon's smaller cities, such as infrastructure and transportation access.

Carolyn Anderson, City of Portland: Ms. Anderson spoke to the challenges of relying on public transit and requested that the Metro Council hold its meeting with public accessibility as the main goal. She added that it was sometimes difficult for community members to attend meetings that were held in the middle of the day and shared other challenges the public faced as the region grew.

3. Presentations**3.1 DEI Difference Makers Awards**

Council President Hughes introduced the Diversity, Equity, and Inclusion (DEI) Difference Makers Awards, noting that the awards honored and recognized Metro employees whose actions and behaviors had helped Metro grow as an agency. He explained that in January Metro celebrated its

fourth annual DEI Awareness month. He stated that as part of the celebration, employees were invited to nominate their colleagues or project teams for their contributions to embracing diversity, advancing regional equity, and practicing inclusion. President Hughes expressed that the Metro Council was grateful for the awardees contributions, talent, and commitment to helping Metro be a regional leader. He then called on Mr. Nathan Baptiste and Ms. Nyla Moore, Metro staff, to call upon the recipients and present the awards.

Mr. Nathan Baptiste and Ms. Nyla Moore thanked everyone for participating. Mr. Baptiste explained that the award had specific criteria, including influencing others, being a role model, continually learning, cultivating diverse teams, innovating and taking risks, and holding oneself and others accountable for advancing diversity, equity, and inclusion. He also thanked the Diversity Action Plan Internal Awareness committee for their help during the selection process. Mr. Baptiste and Ms. Moore then recognized the following award recipients; for the full list please see the March 1 meeting packet. The Metro Council thanked the recipients for their contributions to Metro and the region.

4. Consent Agenda

Approval of the Consent Agenda

A motion was made by Councilor Chase, seconded by Councilor Stacey, to adopt items on the consent agenda. The motion passed by the following vote:

Aye: 6 - Council President Hughes, Councilor Chase, Councilor Craddick, Councilor Dirksen, Councilor Harrington, and Councilor Stacey

4.1 Resolution No. 18-4870, For the Purpose of Adding or Amending Existing

Projects to the 2018-21 Metropolitan Transportation Improvement Program Involving Nine Projects Requiring Programming Additions, Corrections, or Cancellations Impacting OPRD, ODOT, SMART, and TriMet (FB18-06-FEB)

4.2 Consideration of the Council Meeting Minutes for February 22, 2018

5. Chief Operating Officer Communication

Ms. Martha Bennett provided an update on the following events or items: the 2017 Compliance Report, the Regional Leadership Forum on March 2, and the council meeting and public hearing on March 8 at the Willamette View Terrace Auditorium, that would focus on the appointment of a new councilor for District 2.

6. Councilor Communication

Councilors provided updates on the following meetings or events: the Westside Economic Alliance board of directors meeting, the Value Pricing Advisory Committee, the Transit-Oriented Development Steering Committee, and Travel Portland's annual industry update. Councilor Craddick expressed interest in the Metro Council sharing its thoughts on the proposed congestion pricing work; Councilor Chase agreed. (Councilor Dirksen shared a handout from the Value Pricing Advisory Committee meeting; please see the March 1 meeting packet.)

7. Adjourn

There being no further business, Council President Hughes adjourned the Metro Council meeting at 3:01 p.m. The Metro Council will convene the next regular council meeting on March 8 at 6:00 p.m. at the Terrace Auditorium at Willamette View.

Respectfully submitted,



Nellie Papsdorf, Legislative and Engagement Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MARCH 1, 2018

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
3.0	PowerPoint	03/01/18	2018 DEI Difference Maker Awards	030118c-01
4.2	Minutes	02/22/18	Council Meeting Minutes for February 22, 2018	030118c-02
5.0	Report	03/01/18	2017 Compliance Report	030118c-03
6.0	Handout	03/01/18	Recommended Round 2 Concepts	030118c-04

Metro

*600 NE Grand Ave.
Portland, OR 97232-2736
oregonmetro.gov*



Metro

Minutes

Thursday, March 8, 2018

6:00 PM

**Willamette View Terrace Auditorium,
12705 SE River Road, Portland, OR, 97222**

Council meeting

1. Call to Order, Introductions, and Meeting Overview

Council President Tom Hughes called the Metro Council meeting to order at 6:12 p.m. He stated that when Councilor Collette resigned her Metro Council seat in January 2018, the Council began the appointment process to choose her successor. He noted that the individual chosen would serve the remainder of Councilor Collette's term through the beginning of January 2019.

President Hughes reviewed the appointment process. He noted that each of the six applicants would receive five minutes to make an opening statement and then would be asked to answer three questions from the sitting Metro Councilors. He explained that following the applicant testimony, a public hearing would be held on the appointment. President Hughes announced that the Council would then discuss the appointment before making its nominations and voting.

Present: 6 - Council President Tom Hughes, Councilor Sam Chase, Councilor Shirley Craddick, Councilor Craig Dirksen, Councilor Kathryn Harrington, and Councilor Bob Stacey

2. Metro District 2 Applicant Testimony and Council Questions

Council President Hughes called on the applicants in alphabetical order to provide their statements:

- Mr. Joe Buck
- Ms. Betty Dominguez
- Mr. Eric Corey Freed
- Mr. John T. Gibbon
- Ms. Christine Lewis
- Ms. Carol Pauli

After each statement, the Metro Council asked each applicant the following questions:

- Why are diversity, equity, and inclusion important for any government agency and for Metro specifically?

- Identify three major issues that will impact District 2 or Metro in the next five years.
- If you are appointed, how do you see yourself talking about Metro's priority projects in your district in 2018?

3. Public Hearing

Council President Hughes opened up a public hearing on the Metro Council District 2 appointment and requested that those wishing to testify come forward to speak.

Mark Gamba, City of Milwaukie: Mayor Gamba testified in support of Ms. Betty Dominguez, explaining that she was well-suited and well-equipped for the job, and was committed to diversity, equity, and inclusion.

Theresa Kohlhoff, City of Lake Oswego: Councilor Kohlhoff spoke in support of her fellow Lake Oswego City Council member Mr. Joe Buck. She explained that he supported transit and transportation options, and understood the importance of equity.

Jim Bernard, City of Canby: Chair Bernard spoke in support of Ms. Betty Dominguez, noting that she was politically experienced and dedicated to equity and affordable housing.

Elizabeth Goetzinger, City of Portland: Ms. Goetzinger, representing AFSCME Local 3580 and 3580-1, testified in support of Ms. Betty Dominguez. Ms. Goetzinger explained that the union supported Ms. Dominguez due to her expertise and ability to deftly navigate difficult conversations.

Hector Mendoza, City of Canby: Mr. Mendoza spoke in support of Mr. Joe Buck. He explained that Mr. Buck treated his employees well and stood up for the members of his community.

Charles (Skip) Ormsby, City of Portland: Mr. Ormsby shared his concerns about transit challenges at the intersection of Highway 43 and State Street. He invited the new District 2 Councilor to help address the challenges and to fix the intersection.

Robin Boyce, City of Portland: Ms. Boyce testified in support of Ms. Betty Dominguez, explaining that she was an incredibly hard worker, cared deeply about livability and affordability, and listened to her community.

Kim Travis, City of Milwaukie: Ms. Travis, of the Milwaukie Planning Commission, spoke in support of Ms. Betty Dominguez, noting that she was the best suited for the appointment because of her extensive service.

Michelle Haynes, City of Happy Valley: Ms. Haynes read a letter on behalf of Ms. Mitzi Bauer and Ms. Kathy Wai, North Clackamas School District board members, in support of Betty Dominguez. (Ms. Haynes provided a copy of the letter to the Council; please see the March 8 meeting packet.)

Willy Meyers, City of Portland: Mr. Myers, on behalf of the Columbia Pacific Building Trades, testified that its members strongly supported Ms. Christine Lewis, due to her strong understanding of local government and policies, and her ability to get things done.

Jon DeCosta, City of Lake Oswego: Mr. DeCosta, President of the Lake Oswego Chamber of Commerce, spoke in support of Mr. Joe Buck, noting that he contributed greatly to the Lake Oswego community.

Sam Gillispie, Clackamas County: Mr. Gillispie, representing the UFCW Local 555 and Oregon NW Labor Council, spoke in

support of Ms. Christine Lewis, stating that she had significant experience in local government and understood the depth of the issues and the challenges facing the region.

William Gifford, City of Oregon City: Mr. Gifford testified in support of Ms. Carol Pauli, noting that she had experience in elected and volunteer positions, and was passionate and hardworking.

Aaron Brown, City of Portland: Mr. Brown spoke in support of Ms. Christine Lewis. He explained she was well-equipped and prepared to engage in Metro's work. He also noted she was knowledgeable about public policy and focused on equity.

Kevin Billman, City of Tigard: Mr. Billman, speaking on behalf of UFCW Local 555, testified in support of Ms. Christine Lewis, noting her significant experience working in all levels of government.

Derek Bradley, City of Portland: Mr. Bradley testified in support of Ms. Christine Lewis, noting that was flexible, open to change and dedicated to finding the right answers.

Amy Waterbury, City of Lake Oswego: Ms. Waterbury, spoke in support of Mr. Joe Buck, emphasizing that he was a strong supporter of diversity and inclusion. She noted that he lead the charge to advocate for diversity, equity, and inclusion as a councilor in Lake Oswego.

Rosie Stephens, City of Lake Oswego: Ms. Stephens testified in support of Mr. Joe Buck. She noted that he was committed to bettering his community and worked collaboratively with those around him.

John Lamotte, City of Lake Oswego: Councilor Lamotte spoke in support of Mr. Joe Buck. He explained that Mr.

Buck was passionate about leadership, committed to diversity, and had a strong understanding of pressing policy issues.

Scott Bullard, City of Lake Oswego: Mr. Bullard testified in support of Mr. Joe Buck, noting that he was passionate, knowledgeable, and an advocate for affordable housing.

Vaughn Emmons, City of Portland: Mr. Emmons testified in support of Ms. Christine Lewis. As a Metro and Metropolitan Exposition Recreation Committee (MERC) employee, he expressed support for Ms. Lewis's commitment to public safety and understanding of the issues affecting Metro's visitor venues.

James Barta, City of Portland: Mr. Barta spoke in support of Christine Lewis, crediting her understanding of good government and public policy.

Lindsey Scholten, City of Portland: Ms. Scholten, on behalf of the Oregon League of Conservation Voters (OLCV), testified in support of Ms. Christine Lewis. She explained that the OLCV worked to elect pro-environment candidates, and Ms. Lewis worked hard to make her community and Oregon better.

Taylor Murdoch, City of Lake Oswego: Mr. Murdoch spoke in support of Mr. Joe Buck. He noted that Mr. Buck would represent his community and advocate for their priorities.

Emily Smith, City of West Linn: As a resident of West Linn and community volunteer, Ms. Smith testified in support of Mr. Joe Buck. She noted that he cared of his community, was passionate about the issues. (She shared a packet of letters in support of Mr. Buck; please see the March 8 meeting packet.)

Christel Allen, City of Happy Valley: Ms. Allen, Political Director for NARAL Pro Choice Oregon, spoke in support of Ms. Christine Lewis. She spoke to the depth of Ms. Lewis's character and expertise as well as the lack of young women in local politics.

Matthew Riegg, City of Canby: Mr. Riegg spoke on behalf of Mr. Jerry Herman in support of Ms. Carol Pauli. He noted that she worked tirelessly to support her community and was an effective leader and collaborator.

Ms. Samantha Shepherd, City of Portland: Ms. Shepherd, Executive Director of CCO Oregon, spoke in support of Ms. Christine Lewis, noting that she worked hard and listened to the needs and priorities of her fellow community members.

Council President Hughes gaveled out of the public hearing.

4. Council Discussion

Councilors thanked everyone for participating and sharing their testimony. Councilor Harrington recognized the impressive slate of applicants. Councilor Dirksen spoke to the difficulty of the decision. Councilor Craddick expressed hope that the council's decision would not influence the applicants who were not appointed and that they would continue to run for office in the May primary. Councilor Stacey agreed with his colleagues. Councilor Chase noted that he was honored to consider the pool of candidates.

5. Council Nomination and Voting

Council President Hughes provided an overview of the nomination and voting process. He explained that councilors would nominate candidates for the position of councilor by motion, and that for a nominee to move forward, the nomination motion would need to be seconded. He stated that once nominations were complete, he would call for a vote by written and signed ballot. He noted that the votes would then be read with the name of the councilor who

submitted the vote. President Hughes explained that if any nominee received a majority of the votes, that person would be declared appointed to the vacant position. He added that if no nominee received a majority vote, a second written vote by ballot would occur on the top two nominees who received the most votes. He stated that the process would continue until a nominee received a majority vote of the Metro Council.

Councilor Harrington nominated Ms. Christine Lewis; Councilor Stacey seconded.

Councilor Dirksen nominated Mr. Joe Buck; Councilor Craddick seconded.

Councilor Chase nominated Ms. Betty Dominguez; Councilor Stacey seconded.

Council President Hughes then called on Ms. Nellie Papsdorf, Metro staff, to distribute the ballots and announce the results. The first round of votes was as follows:

- Three votes for Ms. Betty Dominguez: Council President Hughes, Councilor Chase, and Councilor Stacey
- Two votes for Mr. Joe Buck: Councilor Craddick and Councilor Dirksen
- One vote for Ms. Christine Lewis: Councilor Harrington

As there was no majority, Council President Hughes called for a vote on the two applicants who received the most votes: Ms. Betty Dominguez and Mr. Joe Buck. He asked Ms. Papsdorf to distribute the ballots and announce the results. The second round of votes was as follows:

- Four votes for Ms. Betty Dominguez: Council President Hughes, Councilor Chase, Councilor Stacey,

and Councilor Harrington

- Two votes for Mr. Joe Buck: Councilor Craddick and Councilor Dirksen

President Hughes announced that following a majority vote, the Metro Council had appointed Ms. Betty Dominguez to the position of Councilor for district two.

6. Resolutions

- 6.1 For the Purpose of Appointing a Councilor to Fill the Office of Metro Councilor for Council District No. 2

A motion was made by Councilor Chase, seconded by Councilor Stacey, to approve Resolution No. 18-4875. Councilor Harrington noted that Ms. Betty Dominguez would be filled in as the appointee for the vacant District 2 seat. The motion passed by the following vote:

Aye: 6 - Council President Hughes, Councilor Chase, Councilor Craddick, Councilor Dirksen, Councilor Harrington, and Councilor Stacey

7. Adjourn

There being no further business, Council President Hughes adjourned the Metro Council meeting at 9:10 p.m. He announced that Ms. Dominguez would be sworn in at the Metro Council work session on March 13 at 2pm. The Metro Council will convene the next regular council meeting on March 15 at 2:00 p.m. at the Metro Regional Center in the council chamber.

Respectfully submitted,

Nellie Papsdorf, Legislative and Engagement Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF MARCH 8, 2018

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
2.0	Handout	03/08/18	Applications for Metro Councilor, District 2	030818c-01
3.0	Letter	03/08/18	Letter from Mitzi Bauer and Kathy Wai	030818c-02
3.0	Letter	03/08/18	Letters in Support of Mr. Joe Buck	030818c-03

Unit Costs at Metro Transfer Stations
Based On FY18-19 Tonnage Forecast and Contract Pricing

Draft (For Analysis Only)

Description	Wet Mixed Solid Waste (refuse)	Dry Mixed Solid Waste (refuse)	MSW Blended Rate	Clean Wood	Yard Debris	Residential Organics	Commercial Organics
Tons:	313,075	196,611	509,686	2,550	13,645	49,253	12,058
Transaction Fee (Per Load)							
Staffed Scalehouse Equivalent	\$ 8.87	\$ 8.87	\$ 8.87	\$ 8.87	\$ 8.87	\$ 8.87	\$ 8.87
Automated Scalehouse Equivalent	\$ 2.01	\$ 2.01	\$ 2.01	\$ 2.01	\$ 2.01	\$ 2.01	\$ 2.01
Tip Fee							
Tip Fee Components:							
Tonnage Charge Equivalent	\$ 58.54	\$ 73.75	\$ 64.41	\$ 56.84	\$ 48.62	\$ 66.07	\$ 73.72
<i>Covers the cost of Metro's disposal and recovery operations.</i>							
Tonnage Charge Components (Per Ton):							
Fuels - Waste Transport	\$5.10	\$4.90	\$5.03	\$0.00	\$0.00	\$0.00	\$0.00
Disposal Fees - Landfill	\$17.99	\$17.26	\$17.71	\$0.00	\$0.00	\$0.00	\$0.00
Waste Transport	\$19.71	\$18.91	\$19.40	\$0.00	\$0.00	\$0.00	\$0.00
Transfer Station Operations	\$10.48	\$26.34	\$16.60	\$55.14	\$47.39	\$8.45	\$12.96
Organics Processing Fees	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$55.89	\$58.89
SW Operating & Maintenance	\$5.26	\$6.34	\$5.68	\$1.69	\$1.23	\$1.73	\$1.86
Fees and Taxes							
<i>Add-on and pass-through charges.</i>							
Regional System Fee Equivalent	\$ 17.81	\$ 17.81	\$ 17.81	\$ -	\$ -	\$ -	\$ -
<i>Covers costs of regional solid waste programs and services.</i>							
Metro Excise Tax Equivalent	\$ 12.41	\$ 12.41	\$ 12.41	\$ -	\$ -	\$ -	\$ -
<i>Contributes toward Metro general government revenue.</i>							
DEQ Fees Equivalent*	\$ 1.82	\$ 1.82	\$ 1.82	\$ -	\$ -	\$ -	\$ -
<i>Fees collected on behalf of DEQ.</i>							
Enhancement Fee Equivalent	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00	\$ 1.00
<i>Fee collected on behalf of host communities.</i>							
Total Tip Fee Equivalent (Per Ton):	\$ 91.58	\$ 106.79	\$ 97.45	\$ 57.84	\$ 49.62	\$ 67.07	\$ 74.72
Adopted Tip Fee (Per Ton):	\$ 97.45	\$ 57.84	\$ 49.62	\$ 67.07	\$ 66.23		
Adopted Transaction Fee (Per Staffed Load):	\$ 9.00	\$ 9.00	\$ 9.00	\$ 9.00	\$ 9.00	\$ 9.00	\$ 9.00
Adopted Transaction Fee (Per Auto Load):	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00

*DEQ Fee will increase from \$1.82 per ton to \$1.89 per ton on April 1, 2019

Explanation and Notes on the Table

Transaction Fees: Users of staffed scales pay the higher fee; users of automated scales pay the lower fee.

Disposal and recovery operations: Include transfer station operations, recovery, oversight, management, maintenance, and capital costs; and the cost of transport, organics processing, and waste disposal.

Regional programs and services: Revenue from the Regional System Fee is dedicated to Metro's regional solid waste programs and services: household hazardous waste, latex paint recovery, waste reduction planning and programs (including waste reduction education), St. Johns Landfill post-closure activities, solid waste facility regulation, and illegal dumpsite monitoring and cleanup. The Regional System Fee is charged on solid waste generated in the region and ultimately disposed. The fee is collected at all landfills and mass burners serving the region and at the Metro stations. Revenue from this fee does not cover any of Metro's direct cost for disposal and processing operations.

Metro general government. The excise tax is a source of revenue for Metro's general government activities including the Metro Council. Excise taxes are levied on Metro's enterprise activities (including the Oregon Convention Center, Expo, Metro parks, and other activities), and solid waste disposal. As with the Regional System Fee, the solid waste excise tax is charged on solid waste generated in the region and ultimately disposed. It is collected at the same disposal sites as the Regional System Fee.

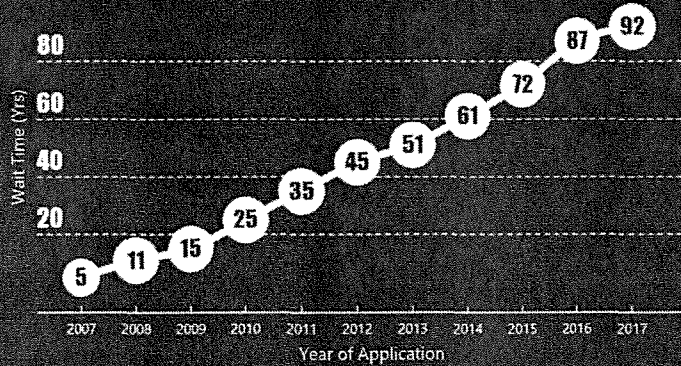
BREAK THE BACKLOG

CAMPAIGN FOR FAIRNESS IN EMPLOYMENT BASED IMMIGRATION

Sunday, March 18th @ 3:30 pm

Hillsboro Brookwood Library
2850 NE Brookwood Pkwy, Hillsboro, OR

**Wait-time
for
Employment
based Green
Cards for
India**



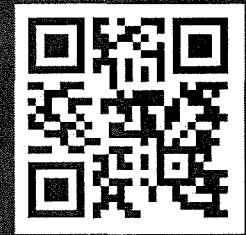
Wait-time for someone applying this year

92+ Years

Wait times have grown exponentially

There is little hope for a legal, high skilled employment based worker from India to get a Green Card in their lifetimes due to per country limits.

Join the community, local organizations and state officials to advocate for fairness in green card allocation.



TOPICS

Green Card Backlog
H4 EAD
H4 Kids
US Born Kids

Employment based immigration reform & addressing the green card backlog need to be part of the immigration conversation.

We need your support
#BreakTheBacklog

www.GCReforms.org

300,000 Primary Applicants & Families under Employment Based Green Card Backlog

~\$220B loss to GDP in 10 yrs.

~150,000 American born kids may get displaced

20,000 physicians have to wait 25 - 92 yrs to get Green Card

~50,000 educated H4 EAD spouses can not work

~25% lesser startups & businesses

40,000 H4 kids will become out of status at age 21

Employee are tied with same role for 25-92 years

Solutions

- 1 Eliminate per country limits
- 2 Recapture unused visas
- 3 Enact a fair merit based system

Contact your law makers - visit www.gcreforms.org/take-action