



600 NE Grand Ave.  
Portland, OR 97232-2736

## Council meeting agenda

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Thursday, March 29, 2018

2:00 PM

Metro Regional Center, Council chamber

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REVISED 3/28

**1. Call to Order and Roll Call**

**2. Public Communication**

**3. Consent Agenda**

3.1 Consideration of the Council Meeting Minutes for March 15, 2018 **18-4999**

3.2 Consideration of the Council Meeting Minutes for March 22, 2018 **18-4992**

**4. Resolutions**

4.1 Resolution No. 18-4879, For the Purpose of Recognizing the Contributions of Rev. Dr. Martin Luther King Jr. on the 50th Anniversary of his Assassination [RES 18-4879](#)

Presenter(s): Elizabeth Goetzinger, Metro

Attachments: [Resolution No. 18-4879](#)

4.2 Resolution No. 18-4871, For the Purpose of Amending the FY 2017-18 Budget and Appropriations Schedule and FY 2017-18 Through FY 2021-22 Capital Improvement Plan to Provide for a Change in Operations [RES 18-4871](#)

Presenter(s): Lisa Houghton, Metro

Attachments: [Resolution No. 18-4871](#)

[Exhibits A and B to Resolution No. 18-4871](#)

[Staff Report](#)

[Attachments 1-4 to Staff Report](#)

**5. Ordinances (Second Reading)**

- 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): Tim Collier, Metro

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

- 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](#)

6. **Chief Operating Officer Communication**

7. **Councilor Communication**

8. **Adjourn**

# Metro respects civil rights

Metro fully complies with Title VI of the Civil Rights Act of 1964 and related statutes that ban discrimination. If any person believes they have been discriminated against regarding the receipt of benefits or services because of race, color, national origin, sex, age or disability, they have the right to file a complaint with Metro. For information on Metro’s civil rights program, or to obtain a discrimination complaint form, visit [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights) or call 503-797-1536. Metro provides services or accommodations upon request to persons with disabilities and people who need an interpreter at public meetings. If you need a sign language interpreter, communication aid or language assistance, call 503-797-1700 or TDD/TTY 503-797-1804 (8 a.m. to 5 p.m. weekdays) 5 business days before the meeting. All Metro meetings are wheelchair accessible. For up-to-date public transportation information, visit TriMet’s website at [www.trimet.org](http://www.trimet.org).

### Thông báo về sự Metro không kỳ thị của

Metro tôn trọng dân quyền. Muốn biết thêm thông tin về chương trình dân quyền của Metro, hoặc muốn lấy đơn khiếu nại về sự kỳ thị, xin xem trong [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Nếu quý vị cần thông dịch viên ra dấu bằng tay, trợ giúp về tiếp xúc hay ngôn ngữ, xin gọi số 503-797-1700 (từ 8 giờ sáng đến 5 giờ chiều vào những ngày thường) trước buổi họp 5 ngày làm việc.

### Повідомлення Metro про заборону дискримінації

Metro з повагою ставиться до громадянських прав. Для отримання інформації про програму Metro із захисту громадянських прав або форми скарги про дискримінацію відвідайте сайт [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). або Якщо вам потрібен перекладач на зборах, для задоволення вашого запиту зателефонуйте за номером 503-797-1700 з 8.00 до 17.00 у робочі дні за п'ять робочих днів до зборів.

### Metro 的不歧视公告

尊重民權。欲瞭解Metro民權計畫的詳情，或獲取歧視投訴表，請瀏覽網站 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。如果您需要口譯方可參加公共會議，請在會議召開前5個營業日撥打503-797-1700（工作日上午8點至下午5點），以便我們滿足您的要求。

### Ogeysiiska takooris la'aanta ee Metro

Metro waxay ixtiraamtaa xuquuqda madaniga. Si aad u heshid macluumaad ku saabsan barnaamijka xuquuqda madaniga ee Metro, ama aad u heshid warqadda ka cabashada takoorista, booqo [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Haddii aad u baahan tahay turjubaan si aad uga qaybqaadatid kullanka dadweynaha, wac 503-797-1700 (8 gallinka hore illaa 5 gallinka dambe maalmaha shaqada) shan maalmo shaqo ka hor kullanka si loo tixgaliyo codsashadaada.

### Metro의 차별 금지 관련 통지서

Metro의 시민권 프로그램에 대한 정보 또는 차별 항의서 양식을 얻으려면, 또는 차별에 대한 불만을 신고 할 수 [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). 당신의 언어 지원이 필요한 경우, 회의에 앞서 5 영업일 (오후 5시 주중에 오전 8시) 503-797-1700를 호출합니다.

### Metroの差別禁止通知

Metroでは公民権を尊重しています。Metroの公民権プログラムに関する情報について、または差別苦情フォームを入手するには、[www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)。までお電話ください。公開会議で言語通訳を必要とされる方は、Metroがご要請に対応できるよう、公開会議の5営業日前までに503-797-1700（平日午前8時～午後5時）までお電話ください。

### សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬស្នើសុំទទួលបានកម្មប័ណ្ណរើសអើងសូមចូលទស្សនាគេហទំព័រ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំស្នើសុំអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

### إشعار بعدم التمييز من Metro

تحتزم Metro الحقوق المدنية. للمزيد من المعلومات حول برنامج Metro للحقوق المدنية أو لإيداع شكوى ضد التمييز، يُرجى زيارة الموقع الإلكتروني [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). إن كنت بحاجة إلى مساعدة في اللغة، يجب عليك الاتصال مقدماً برقم الهاتف 503-797-1700 (من الساعة 8 صباحاً حتى الساعة 5 مساءً، أيام الاثنين إلى الجمعة) قبل خمسة (5) أيام عمل من موعد الاجتماع.

### Paunawa ng Metro sa kawalan ng diskriminasyon

Iginagalang ng Metro ang mga karapatang sibil. Para sa impormasyon tungkol sa programa ng Metro sa mga karapatang sibil, o upang makakuha ng porma ng reklamo sa diskriminasyon, bisitahin ang [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Kung kailangan ninyo ng interpreter ng wika sa isang pampublikong pulong, tumawag sa 503-797-1700 (8 a.m. hanggang 5 p.m. Lunes hanggang Biyernes) lima araw ng trabaho bago ang pulong upang mapagbigyan ang inyong kahilingan.

### Notificación de no discriminación de Metro

Metro respeta los derechos civiles. Para obtener información sobre el programa de derechos civiles de Metro o para obtener un formulario de reclamo por discriminación, ingrese a [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Si necesita asistencia con el idioma, llame al 503-797-1700 (de 8:00 a. m. a 5:00 p. m. los días de semana) 5 días laborales antes de la asamblea.

### Уведомление о недопущении дискриминации от Metro

Metro уважает гражданские права. Узнать о программе Metro по соблюдению гражданских прав и получить форму жалобы о дискриминации можно на веб-сайте [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Если вам нужен переводчик на общественном собрании, оставьте свой запрос, позвонив по номеру 503-797-1700 в рабочие дни с 8:00 до 17:00 и за пять рабочих дней до даты собрания.

### Avizul Metro privind nediscriminarea

Metro respectă drepturile civile. Pentru informații cu privire la programul Metro pentru drepturi civile sau pentru a obține un formular de reclamație împotriva discriminării, vizitați [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Dacă aveți nevoie de un interpret de limbă la o ședință publică, sunați la 503-797-1700 (între orele 8 și 5, în timpul zilelor lucrătoare) cu cinci zile lucrătoare înainte de ședință, pentru a putea să vă răspunde în mod favorabil la cerere.

### Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib daim ntawv tsis txaus siab, mus saib [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Yog hais tias koj xav tau lus kev pab, hu rau 503-797-1700 (8 teev saww ntxov txog 5 teev tsaus ntuj weekdays) 5 hnub ua hauj lwm ua ntej ntwam lub rooj sib tham.

**Television schedule for Metro Council meetings**

<p><b>Clackamas, Multnomah and Washington counties, and Vancouver, WA</b>  Channel 30 – Community Access Network  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  Call or visit web site for program times.</p>	<p><b>Portland</b>  Channel 30 – Portland Community Media  <i>Web site:</i> <a href="http://www.pcmtv.org">www.pcmtv.org</a>  <i>Ph:</i> 503-288-1515  Call or visit web site for program times.</p>
<p><b>Gresham</b>  Channel 30 - MCTV  <i>Web site:</i> <a href="http://www.metroeast.org">www.metroeast.org</a>  <i>Ph:</i> 503-491-7636  Call or visit web site for program times.</p>	<p><b>Washington County and West Linn</b>  Channel 30– TVC TV  <i>Web site:</i> <a href="http://www.tvctv.org">www.tvctv.org</a>  <i>Ph:</i> 503-629-8534  Call or visit web site for program times.</p>
<p><b>Oregon City and Gladstone</b>  Channel 28 – Willamette Falls Television  <i>Web site:</i> <a href="http://www.wftvmedia.org/">http://www.wftvmedia.org/</a>  <i>Ph:</i> 503-650-0275  Call or visit web site for program times.</p>	

**PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.** Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site [www.oregonmetro.gov](http://www.oregonmetro.gov) and click on public comment opportunities.

Agenda Item No. 3.1

**Consideration of the Council Meeting Minutes for  
March 22, 2018**

*Consent Agenda*

Metro Council Meeting  
Thursday, March 29, 2018  
Metro Regional Center, Council Chamber

Agenda Item No. 4.1

**Resolution No. 18-4879**, For the Purpose of Recognizing  
the Contributions of Rev. Dr. Martin Luther King Jr. on the  
50th Anniversary of his Assassination

*Resolutions*

Metro Council Meeting  
Thursday, March 29, 2018  
Metro Regional Center, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RECOGNIZING THE ) RESOLUTION NO. 18-4879  
CONTRIBUTIONS OF REV. DR. MARTIN )  
LUTHER KING JR. ON THE 50<sup>TH</sup> ) Introduced by Council President Tom Hughes  
ANNIVERSARY OF HIS ASSASSINATION )

WHEREAS, Metro is committed to Diversity, Equity, and Inclusion to address systemic inequities that impact our communities by providing support and tools to Metro staff, Metro Council, and community partners to create an equitable region for all; and

WHEREAS, Metro recognizes that the Rev. Dr. Martin Luther King Jr. had a vision of racial equity, social and economic justice and national unity; and

WHEREAS, the sanitation workers of AFSCME Local 1733 in Memphis were subject to unsafe working conditions and racial and social injustice to such a degree that their 1968 strike drew the support of Dr. King, civil rights and labor activists, faith leaders and the broader community of the United States seeking justice and civil rights; and

WHEREAS, in the midst of that strike, Dr. King was assassinated on April 4, 1968, on the balcony of the Lorraine Motel in Memphis, Tennessee; and

WHEREAS, Dr. King’s support of equal rights led to landmark legislation, such as the Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Fair Housing Act; and

WHEREAS, these acts did not end racial injustice in the United States, and poverty, joblessness, discrimination and displacement continued well after Dr. King’s death and continue to this day; and

WHEREAS, Metro strives to honor the work of Dr. King and the 1968 Memphis Sanitation Strike through pay equity, contract preference, First Opportunity Target Area hiring and support for efforts that mitigate displacement of people of color; now therefore:

BE IT RESOLVED that the Metro Council recognizes the 50<sup>th</sup> Anniversary of the assassination of Rev. Dr. Martin Luther King Jr as an opportunity to reflect upon racial injustice and discrimination, and continues to commit itself to support equality and equity throughout the greater Portland region.

We ask all Metro facilities, programs and staff to honor his memory and work by recognizing a one minute moment of silence on April 4, 2018 at 4:01 pm PST.

ADOPTED by the Metro Council this 5<sup>th</sup> day of April 2018.

\_\_\_\_\_  
Tom Hughes, Council President

Approved as to Form:

\_\_\_\_\_  
Alison R. Kean, Metro Attorney

Agenda Item No. 4.2

**Resolution No. 18-4871**, For the Purpose of Amending the FY 2017-18 Budget and Appropriations Schedule and FY 2017-18 Through FY 2021-22 Capital Improvement Plan to Provide for a Change in Operations

*Resolutions*

Metro Council Meeting  
Thursday, March 29, 2018  
Metro Regional Center, Council Chamber



BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY 2017-18 BUDGET AND APPROPRIATIONS SCHEDULE AND FY 2017-18 THROUGH FY 2021-22 CAPITAL IMPROVEMENT PLAN TO PROVIDE FOR A CHANGE IN OPERATIONS )

RESOLUTION NO 18-4871 Introduced by Martha Bennett, Chief Operating Officer, with the concurrence of Council President Tom Hughes

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2017-18 Budget; and

WHEREAS, Metro Code chapter 2.02.040 requires Metro Council approval to add any new position to the budget; and

WHEREAS, the need for the increase of appropriations has been justified; and

WHEREAS, adequate funds exist for other identified needs; and

WHEREAS, ORS 294.463(1) provides for transfers of appropriations within a fund, including transfers from contingency that do not exceed 15 percent of a fund’s appropriations, if such transfers are authorized by official resolution or ordinance of the governing body, and

WHEREAS, ORS 294.463(3) provides for transfers of appropriations or of appropriations and a like amount of budget resources between funds of the municipal corporation when authorized by an official resolution or ordinance of the governing body stating the need for the transfer, and

WHEREAS, ORS 294.338(2) allows an increase in appropriations due to specific purpose grants or gifts when authorized by an official resolution or ordinance of the governing body stating the need for the recognition., now, therefore

BE IT RESOLVED,

- 1. That the FY 2017-18 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled “Revision” of Exhibits A and B to this Resolution for the purpose of recognizing new grants, approving new FTE, transferring funds from contingency and providing for increased appropriations.
2. That the FY 2017-18 through FY 2021-22 Capital Improvement Plan is hereby amended accordingly.

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

Tom Hughes, Council President

APPROVED AS TO FORM:

Alison Kean, Metro Attorney

**Exhibit A**  
**Resolution 18-4871**  
**Schedule of Appropriations**

<b>GENERAL FUND</b>	<b><u>Current</u></b> <b><u>Appropriation</u></b>	<b><u>Revision</u></b>	<b><u>Revised</u></b> <b><u>Appropriation</u></b>
Council	4,870,875	-	4,870,875
Office of the Auditor	751,334	-	751,334
Office of Metro Attorney	2,602,771	-	2,602,771
Information Services	5,488,674	38,737	5,527,411
Communications	1,933,422	-	1,933,422
Finance and Regulatory Services	5,499,377	-	5,499,377
Human Resources	3,061,714	-	3,061,714
Property and Environmental Services	2,798,484	-	2,798,484
Parks and Nature	11,724,456	-	11,724,456
Planning and Development Department	16,599,483	-	16,599,483
Research Center	4,523,501	-	4,523,501
Special Appropriations	4,329,429	-	4,329,429
Non-Departmental			
Debt Service	2,011,850	-	2,011,850
Interfund Transfers	17,459,587	261,549	17,721,136
Contingency	1,669,314	(300,286)	1,369,028
<i>Total Appropriations</i>	85,324,271	-	85,324,271
Unappropriated Balance	28,642,989	-	28,642,989
<b>Total Fund Requirements</b>	<b>\$113,967,260</b>	<b>\$0</b>	<b>\$113,967,260</b>
<b>MERC FUND</b>			
MERC	75,104,642	(1,360,000)	73,744,642
Non-Departmental			
Interfund Transfers	5,830,412	-	5,830,412
Contingency	53,413,386	1,387,852	54,801,238
<i>Total Appropriations</i>	134,348,440	27,852	134,376,292
<b>Total Fund Requirements</b>	<b>\$134,348,440</b>	<b>\$27,852</b>	<b>\$134,376,292</b>
<b>OREGON ZOO ASSET MANAGEMENT FUND</b>			
Visitor Venues - Oregon Zoo	5,279,782	215,000	5,494,782
Non-Departmental			
Interfund Transfers	135,318	-	135,318
Contingency	137,400	-	137,400
<i>Total Appropriations</i>	5,552,500	215,000	5,767,500
<b>Total Fund Requirements</b>	<b>\$5,552,500</b>	<b>\$215,000</b>	<b>\$5,767,500</b>
<b>OREGON ZOO OPERATING FUND</b>			
Visitor Venues - Oregon Zoo	36,597,364	-	36,597,364
Non-Departmental			
Interfund Transfers	4,431,724	215,000	4,646,724
Contingency	1,243,054	(168,865)	1,074,189
<i>Total Appropriations</i>	42,272,142	46,135	42,318,277
<b>Total Fund Requirements</b>	<b>\$42,272,142</b>	<b>\$46,135</b>	<b>\$42,318,277</b>
<b>PARKS AND NATURAL AREAS LOCAL OPTION LEVY FUND</b>			
Parks and Nature	12,485,136	731,979	13,217,115
Special Appropriations	2,240,711	-	2,240,711
Non-Departmental			
Interfund Transfers	4,308,772	-	4,308,772
Contingency	2,300,823	(613,475)	1,687,348
<i>Total Appropriations</i>	21,335,442	118,504	21,453,946
<b>Total Fund Requirements</b>	<b>\$21,335,442</b>	<b>\$118,504</b>	<b>\$21,453,946</b>

**Exhibit A**  
**Resolution 18-4871**  
**Schedule of Appropriations**

	<u>Current Appropriation</u>	<u>Revision</u>	<u>Revised Appropriation</u>
<b>SMITH AND BYBEE WETLANDS FUND</b>			
Parks and Nature	430,000	69,058	499,058
Non-Departmental			
Interfund Transfers	72,510	-	72,510
Contingency	1,000,000	-	1,000,000
<i>Total Appropriations</i>	1,502,510	69,058	1,571,568
Unappropriated Balance	1,177,440	-	1,177,440
<b>Total Fund Requirements</b>	<b>\$2,679,950</b>	<b>\$69,058</b>	<b>\$2,749,008</b>
<b>SOLID WASTE FUND</b>			
Property and Environmental Services	68,788,488	27,208	68,815,696
Finance and Regulatory Services	103,083	-	103,083
Non-Departmental			
Interfund Transfers	6,110,323	-	6,110,323
Contingency	15,895,967	(27,208)	15,868,759
<i>Total Appropriations</i>	90,897,861	-	90,897,861
Unappropriated Balance	29,866,723	-	29,866,723
<b>Total Fund Requirements</b>	<b>\$120,764,584</b>	<b>\$0</b>	<b>\$120,764,584</b>
<b>Total Appropriations</b>	<b>563,589,586</b>	<b>476,549</b>	<b>564,066,135</b>
<b>Total Unappropriated Balance</b>	<b>83,051,096</b>	<b>-</b>	<b>83,051,096</b>
<b>TOTAL BUDGET</b>	<b>\$646,640,682</b>	<b>\$476,549</b>	<b>\$647,117,231</b>

All Other Appropriations Remain as Previously Adopted

**Exhibit B**  
**Resolution 18-4871**  
**Schedule of FTE**

	<b>Current</b>		<b>Revised</b>
	<b><u>FTE</u></b>	<b><u>Revision</u></b>	<b><u>FTE</u></b>
<b>GENERAL FUND</b>			
<b>TOTAL FUND FTE</b>	<b>306.00</b>	<b>1.00</b>	<b>307.00</b>
<b>OREGON ZOO OPERATING FUND</b>			
<b>TOTAL FUND FTE</b>	<b>198.60</b>	<b>3.00</b>	<b>201.60</b>
<b>SOLID WASTE FUND</b>			
<b>TOTAL FUND FTE</b>	<b>119.79</b>	<b>2.00</b>	<b>121.79</b>
<b>TOTAL FTE</b>	<b>883.56</b>	<b>6.00</b>	<b>889.56</b>

All Other FTE Remain as Previously Adopted

## **STAFF REPORT**

### **FOR THE PURPOSE OF AMENDING THE FY 2017-18 BUDGET AND APPROPRIATIONS SCHEDULE AND FY 2017-18 THROUGH FY 2021-22 CAPITAL IMPROVEMENT PLAN TO PROVIDE FOR A CHANGE IN OPERATIONS**

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Date: March 29, 2018

Presented by: Lisa Houghton 503-797-1829

## **BACKGROUND**

The following amendments have been proposed for Council review and action:

### Principal Regional Planner

Property and Environmental Services is requesting an additional 1.00 FTE Principal Regional Planner to work with the cPMO Manager and Asset Management and Capital Planning Implementation Program Director on various upcoming Solid Waste projects. The position's initial responsibilities will be project management of the Metro South (MS) Assessment project, a significant Solid Waste Roadmap project that requires a full time and highly skilled project manager.

Annualized cost of the position is estimated at \$113,600.

This action requests the addition of 1.00 FTE and does not request additional appropriations. The department will absorb the additional personnel service costs of the increased FTE within existing appropriations.

### Senior Solid Waste Planner

Property and Environmental Services is requesting an additional 1.00 FTE Senior Solid Waste Planner to coordinate the new Council directed Investment and Innovation Grant Program. Council enacted this program through approval of Ordinance 17-1415 in December 2017. The Budget Impacts section of the staff report that accompanied the ordinance identified that, if the ordinance was approved, the Chief Operating Officer would request funding for a 1.0 full-time equivalent employee through the budget amendment process.

Annualized cost of the position is estimated at \$108,800; this budget amendment reflects a partial year.

This action requests the addition of 1.00 FTE and a \$27,208 transfer from the Solid Waste Fund contingency.

### Systems Analyst III

Information Services is requesting an additional 1.00 FTE Systems Analyst III to backfill and train under the direction of a long-term staff member who is due to retire this summer. The long-term staff member has specific expertise in PeopleSoft HRMS and Financial systems and is the primary resource in charge of system integrations between Payroll and the General Ledger modules and payroll, benefit organizations and PERS. This information cannot be transferred easily to staff who have existing and ongoing commitments. This position will provide backfill for the retiring staff member and provide capacity to fully train on existing processes to provide ongoing and uninterrupted service.

Annualized cost of the position is estimated at \$108,900; this budget amendment reflects a partial year of personnel service costs and one-time funds to set-up a workstation and computer equipment.

This action requests the addition of 1.00 FTE and a \$38,737 transfer from the General Fund contingency.

Education Specialists I and Associate Visual Communications Designer

The Oregon Zoo is requesting an additional 3.00 FTE for four positions as outlined below:

- .50 FTE Education Specialist I to support the expansion of the Animal Encounter Program. This role will enhance the reach of conservation education messaging and provide more consistent animal encounter opportunities for guests. The annual cost for the proposed FTE increase is estimated at \$35,300. The position is anticipated to generate earned revenues to cover its cost.
- 1.00 FTE Education Specialist I to support the ZAP Program. These responsibilities were previously handled by a .60 FTE Limited Duration position expiring on 6/30/2018 but the position has been vacant for several months. The additional FTE is due to additional responsibilities including support of a youth advisory council. The annual cost for the proposed FTE increase is estimated at \$73,400.
- 1.00 FTE Education Specialist I to support the new Education Center. These responsibilities were previously handled by a .75 FTE Limited Duration position expiring on 6/30/2018 but the position has been vacant for several months. The additional FTE is due to additional responsibilities including providing public conservation-themed programming in the Nature Exploration Station, hosting conservation themed event days and integrating conservation partners and messaging into other events. The annual cost for the proposed FTE increase is estimated at \$73,400.
- .50 FTE Associate Visual Communications Designer to assist in the production and maintenance of signage, interpretive, interactive three-dimensional exhibit and educational materials, on-grounds signage and audio-visual. The Zoo has been using temporary labor to fulfill these responsibilities each year, but the work is permanent and on-going. The annual cost for the proposed conversion is estimated at \$7,500.

This action requests the addition of 3.0 FTE and does not request additional appropriations. The department will absorb the additional costs of the increased FTE within existing appropriations.

Transfers of Resources between the General Fund and Four Other Funds

Finance and Regulatory Services is requesting transfers from the General Fund to four funds as outlined below:

- |   |           |
|---|-----------|
| • OCC Administration                        | \$ 27,852 |
| • Parks and Natural Areas Local Option Levy | \$118,504 |
| • Smith and Bybee Wetlands                  | \$ 69,058 |
| • Oregon Zoo Operating                      | \$ 46,135 |

The amounts listed will adjust interfund transfers initially recorded based on budgeted amounts and result in the correct amounts, based on lower actual costs, being transferred to the General Fund.

This action requests a \$261,549 transfer from the General Fund Contingency and related increases in appropriations authority in the four receiving funds.

Transfers of Resources between the Oregon Zoo Operating and Asset Management Funds and Capital Improvement Plan Changes

The following Capital Improvement Projects require revision as follows:

- The giraffe feeding station had an original project budget of \$500,000 (\$400,000 in FY18 and \$100,000 in FY17). Actual project costs are anticipated at \$800,000 due to construction costs being higher than expected due to market conditions.
- The amphitheater tier remodel project was budgeted at \$110,000 and actual costs are anticipated at \$175,000. Construction costs are higher than expected due to market conditions plus the addition of an add alternate to construct a stage pit for \$28,000.
- The WACO forklift, budgeted at \$87,405, was purchased for \$102,386.
- Endoscopy equipment, budgeted at \$65,000, was purchased for \$120,000.
- The project to replace the siding of the Living Collections administrative building was budgeted at \$50,000 in FY18 and cost \$85,046. There was a change order of \$35,000 to correct existing condition discovered during demolition of structural framing dry rot.
- Upgrade of elevator in Cascade Crest building in the amount of \$115,000 was added as a project. This was originally scheduled in FY20 but due to the condition worsening quicker than anticipated this project will be moved forward to spring of 2018.
- The maintenance work budgeted for Cascade Crest is being done in house thereby saving \$120,000.

This action requests a \$215,000 transfer from the Oregon Zoo Operating Fund contingency and a related increase in appropriations authority in the Oregon Zoo Asset Management Fund. This action also amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan. Attachment 1 outlines the Capital Project Details changes requested.

Parks and Nature - Parks and Natural Areas Local Option Levy – New Project and Capital Improvement Plan Changes

The following Capital Improvement Projects require revision as follows:

- The Oxbow Welcome Center provides support for guest and ranger services at Oxbow Park. The original project budget was approximately \$1,522,460. In order for the project to proceed the total project budget has been increased from \$1,522,460 to \$2,079,000. The expected increase for project expenses in FY18 are approximately \$310,333.
- The historical Howell Territorial Park Historic House is in need of siding replacement. This project was originally budgeted at \$80,000. Upon further investigation it has been determined that the current budget is sufficient to only replace the siding for the west and south sides of the house. It is proposed that additional funds of \$70,000 be utilized to replace siding for the entire house.
- The Oxbow Nature Play Area budget requires an additional \$175,000 to address the cost of installing accessible surfacing to the play area from existing park infrastructure. This surfacing is needed for the play area to be universally accessible, and provide a surfacing that reduces ongoing maintenance with the other safe fall surfacing in the play area. Amending the project budget will add the necessary funds to deliver on Levy commitments to the voters to support lower maintenance and operations of the play area.

In addition to the Capital Improvement Plan changes outlined above, one additional project with costs below the threshold for inclusion in the plan requires funds of \$58,142. The Columbia Cemetery fence and gate installation was not previously part of the Levy work plan. Metro staff and the Crime Prevention

Coordinator from the City of Portland worked collaboratively and determined that fencing this historic cemetery at NE 99<sup>th</sup> and Sandy Blvd. was the best solution to the crime and camping concerns of the neighbors. The fence clearly marks the boundary of the cemetery and allows for better rule enforcement.

This action requests a \$613,475 transfer from the Parks and Natural Area Local Option Levy Fund contingency and also amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan. Attachment 2 outlines the Capital Project Details changes requested.

#### MERC Venues Capital Improvement Plan Changes

The following Capital Improvement Projects require revision as follows:

- Oregon Convention Center:
  - The Master Plan Renovation has costs spread out over multiple fiscal years. The latest projection has costs shifting from FY2017-18 to FY2018-19 and FY2019-20. The project is still expected to be completed on time, prior to the Hyatt Convention Center Hotel opening in December 2019. The total project budget of \$35.5 million does not change. This amendment only impacts the fiscal years the expenses are expected to be incurred, and results in a reduction to the capital budget in the current year.

This action requests a \$1,360,000 transfer into the Oregon Convention Center Fund contingency and also amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan. Attachment 3 outlines the Capital Project Details changes requested.

- Portland Expo Center:
  - The Connector Glass Door project will expand the plaza for additional food and beverage sales opportunities. The original budget, prior to design, was \$165,000 over two fiscal years. The design work has now been completed and the architect has submitted a cost estimate for construction, which is higher than the current budget. This is due to various factors, including additional scope to provide more flexibility for food and beverage setups, additional requirements by the Portland Bureau of Development Services on exterior concrete work, and a higher cost escalation factor than was assumed at the time of original budget.
  - The New Hall A Shore Power project extended high voltage power to Lower Parking Lot 1. It involved infrastructure construction, acquisition and installation of Electrical Switchgear (shore power) and temporary shelter. There were a number of unforeseen conditions and unaccounted for PGE design standards and stipulations which resulted in contract change orders, additional engineering and special inspections.
  - The Halls D&E Roof Replacement project is nearly complete, with the connector roof, modifications to existing rooftop penthouses and final roof coating to be done. The projects should result in \$175,000 of expected savings.

This action amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan. Attachment 4 outlines the Capital Project Details changes requested.

#### **ANALYSIS/INFORMATION**

1. **Known Opposition:** None known.



2. **Legal Antecedents:** ORS 294.463(1) provides for transfers of appropriations within a fund, including transfers from contingency that do not exceed 15 percent of a fund's appropriation, if such transfers are authorized by official resolution or ordinance of the governing body. ORS 294.463(3) provides for transfers of appropriations or of appropriations and a like amount of budget resources between funds of the municipal corporation when authorized by an official resolution or ordinance of the governing body stating the need for the transfer. ORS 294.338(2) allows an increase in appropriations due to specific purpose grants or gifts when authorized by an official resolution or ordinance of the governing body stating the need for the recognition. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget. Metro's adopted financial policies require any project exceeding \$100,000 or an existing CIP project increasing greater than 20 percent to receive Council approval.
3. **Anticipated Effects:** This action provides for changes in operations as described above, provides additional appropriations authority and adds 6.00 FTE.
4. **Budget Impacts:** This action has the following impacts on the FY 2017-18 budget:
  - Adds 1.00 FTE Principal Regional Planner in the Solid Waste Fund.
  - Adds 1.00 FTE Senior Solid Waste Planner in the Solid Waste Fund and requests \$27,208 from the Solid Waste Fund contingency.
  - Adds 1.00 FTE Systems Analyst III in the General Fund and requests \$38,737 from the General Fund contingency.
  - Adds 2.50 FTE Education Specialist I and .50 FTE Associate Visual Communications Designer in the Oregon Zoo Operating Fund.
  - Provides \$261,549 to four funds; the OCC Administration Fund, the Parks and Natural Areas Local Option Levy Fund, the Smith and Bybee Wetland Fund, and the Oregon Zoo Operating Fund through transfers from the General Fund.
  - Provides \$215,000 to the Oregon Zoo Asset Management fund through a transfer from the Oregon Zoo Operating Fund and amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan.
  - Provides \$613,475 to the Parks and Natural Areas Local Option Levy Fund through a transfer from the fund's contingency and amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan.
  - Increases the Oregon Convention Center Fund's contingency by \$1,360,000 and amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan.
  - Amends the FY 2017-18 through FY 2021-22 Capital Improvement Plan for projects at the Portland EXPO Center.

## **RECOMMENDED ACTION**

The Chief Operating Office recommends adoption of this Resolution.

**Mid-Year Amendment to FY 2017-18  
Capital Project Detail**

**Oregon Zoo Asset Management Fund**

Attachment 1

Resolution 18-4871

New? Y/N	Project ID	Project Title	GL Acct	Fund ID	Dept ID	Est. End Date	Revised Project Budget					Source/s of Funding (Carry Fwd, Grant, etc.)	Other Project Comments
							2018	2019	2020	2021	2022		
N	ZOO66	Giraffe Feeding Station	571000	325	27000	6/30/2018	700,000						
N	ZOO77	Amphitheater tier remodel	571000	325	27000	3/30/2018	175,000						
N		ZOO R&R < \$100K		326	27000	6/30/2018	165,046						incl Africafe 80,000 & LC Admin siding \$85,046
N	70001Z	Fleet Replacement Program	574000	326	27000	12/31/2017	63,000						Boom Lift
N	ZRW195	Maintenance - Cascade Crest	526100	326	27000		0						
N	Misc.	TBD ZOO R&R Projects	varies	326	27000	6/30/2018	186,973						
Y	TBD	Cascade Crest Elevator	572000	326	27000	6/30/2018	115,000						
N	ZRW180	Endoscopy Cart	574000	326	27000	6/30/2018	120,000						
N	7001Z	WACO Forklift	574000	326	27000	6/30/2018	102,386						Was in Fleet, on own line bc > \$100K

**Mid-Year Amendment to FY 2017-18**

**Capital Project Detail**

**Parks and Natural Areas Local Option Levy Fund**

Attachment 2

**Parks and Nature**

Resolution 18-4871

New? Y/N	Project ID	Project Title	GL Acct	Fund ID	Dept ID	Est. End Date						Source/s of Funding (Carry Fwd, Grant, etc.)	Other Project Comments
							2018	2019	2020	2021	2022		
N	LI005	Oxbow Welcome Center	572000	165	03430	7/1/2018	1,110,333	652,460				Levy Contingency; Open Spaces Fund; R&R Fund; Parks Capital Fund; Parks Special Account	Other funding sources that are not Levy Contingency will be applied in FY19
N	LI603	Historic Howell Siding Replacement	572000	165	03430	8/1/2018	150,000					Levy Contingency	
N	LI003	Oxbow Nature Play Area	571000	165	03430	6/30/2018	496,804					Levy Contingency	

**Mid-Year Amendment to FY 2017-18  
Capital Project Detail**

Attachment 3

**OCC Capital Projects**

Resolution 18-4871

New? Y/N	Project ID	Project Title	GL Acct	Fund ID	Dept ID	Est. End Date						Source/s of Funding (Carry Fwd, Grant, etc.)	Other Project Comments
							2018	2019	2020	2021	2022		
N	8R082	Master Plan Renovation	572000	550	55999	12/31/2019	4,640,000	27,630,000	2,650,000			No change in overall project budget - timing adjustment only	

**Mid-Year Amendment to FY 2017-18  
Capital Project Detail**

**Expo Capital Projects**

Attachment 4

Resolution 18-4871

New? Y/N	Project ID	Project Title	GL Acct	Fund ID	Dept ID	Est. End Date						Source/s of Funding (Carry Fwd, Grant, etc.)	Other Project Comments
							2018	2019	2020	2021	2022		
N	85106	Connector Glass Door	572000	556	55999	12/31/2018	225,000					Project increase covered by savings in other project.	
N	8R170	New Hall A Shore Power	572000	556	55999	12/31/2017	220,000					Project increase covered by savings in other project.	
N	8R136	Halls D&E Roof Replacement	572000	556	55999	12/31/2018	1,744,689	975,000				Savings used to cover increases in other projects.	

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 (Second Reading)*

Metro Council Meeting  
Thursday, March 29, 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 Wood .....56.84
- (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 scales .....2.00

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

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

## 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
<b>Pass-Throughs</b> <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
<b>Total = Tip Fee</b>	<b>\$97.45</b>	<b>\$49.62</b>	<b>\$57.84</b>	<b>\$67.08</b>	<b>\$66.23</b>

\* 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

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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
<b>Transaction Fee</b>					
Staffed Scalehouse	\$ 10.00	\$ 10.00	\$ 10.00	\$ 10.00	\$ 10.00
Automated Scalehouse	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00
<b>Tip Fee</b>					
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
<b>Total Tip Fee</b>	\$ 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%
<b>Labor and Benefits Split</b>		
Salary Share		69.53%
Benefits Share		30.47%

Accounting Assumptions		FY 2019
<b>FISCAL POLICY RESTRICTIONS</b>		
<b>Minimum Operating Fund Balance Target</b>		
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
<b>Minimum Capital Fund Balance Target</b>		
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
<b>EQUIPMENT REPLACEMENT FUNDING</b>		
Select Equipment Replacement Funding Strategy	4	
Depreciation in FY 2014	\$	
<b>Amount of Annual Cash Funding from Rates</b>		
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 (Second Reading)*

Metro Council Meeting  
Thursday, March 29, 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

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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.

# **Metro**

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



**Metro**

## **Minutes**

**Thursday, March 15, 2018**

**2:00 PM**

**Metro Regional Center, Council chamber**

**Council meeting**

**1. Call to Order and Roll Call**

Deputy Council President Shirley Craddick called the Metro Council meeting to order at 2:02 p.m.

**Present:** 6 - Councilor Sam Chase, Councilor Betty Dominguez, Councilor Shirley Craddick, Councilor Craig Dirksen, Councilor Kathryn Harrington, and Councilor Bob Stacey

**Excused:** 1 - Council President Tom Hughes

**2. Public Communication**

Sharon Nasset, City of Portland: Ms. Nasset provided testimony focused on livability and safety in the region. She recommended that dogs be placed in schools to prevent violence and protect students.

**3. Presentations****3.1 Oregon Convention Center Renovations**

Deputy Council President Craddick introduced Mr. Craig Stroud, Executive Director of the Oregon Convention Center (OCC), and Mr. Andrew Colas, President and Chief Operating Officer of Colas Construction, to present on the upcoming OCC renovations. Mr. Stroud provided an overview of the project, noting that it would update the 27-year old convention center, create a cohesive meeting and visitor atmosphere with the new Hyatt Regency Portland hotel, and improve the overall convention market position. He noted that the project had two major scopes: the plaza renovation and the interior renovation, and that the project budget was \$35.5 million.

Mr. Stroud reviewed the tentative timeline for the project and the designers and contractors. He noted that the project included a focus on hiring local minority and women-owned businesses, in order to support Metro's values and goals related to diversity, equity, and inclusion.

He provided an overview of the two scopes of the project, their designs, and their planned improvements. He noted that the plaza renovation focused on improving visibility and access to the building's entrances and creating an outdoor programmable space for event use, while the interior renovation focused on enhancing the level of guest experience, creating a memorable identity that was unique to Portland, and improving the convention center's competitiveness.

*Council Discussion*

Councilor Harrington asked about procurement opportunities within the project and spoke to how Metro's procurement policies support the agency's larger goals for advancing racial equity, diversity, and inclusion. Councilors expressed excitement for the renovations. Councilor Chase asked how underserved communities would be engaged in the construction process. Deputy Council President Craddick asked about the project's potential for further sustainability features, such as additional solar panels. Councilor Dirksen expressed appreciation for the unique design and planned improvements.

#### 4. Consent Agenda

##### Approval of the Consent Agenda

**A motion was made by Councilor Harrington, seconded by Councilor Dirksen, to adopt items on the consent agenda.**

**The motion passed by the following vote:**

**Aye:** 6 - Councilor Chase, Councilor Dominguez, Councilor Craddick, Councilor Dirksen, Councilor Harrington, and Councilor Stacey

**Excused:** 1 - Council President Hughes

4.1 Resolution No. 18-4872, For the Purpose of Approving a Reallocation of

the 2016 Nature in Neighborhoods Regional Trails Grants

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

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

**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

Deputy Council President Craddick introduced Mr. Tim Collier, Director of Finance and Regulatory Services, to provide a brief staff report. Mr. Collier explained that the ordinance signified the annual adoption of solid waste fees and taxes. He noted that the year's overall tip fee would increase by \$2.50, made up of increases in the tonnage charge and the excise tax. He explained that staff were also recommending the commercial organics rate be flat in order to continue assisting Metro's recovery work in that area. Mr. Collier informed the Council that the rates and processes were reviewed by an outside consultant and that the consultant's recommendations included: review Metro's current reserve funding levels and the five-year outlook for the fund, which would be commencing shortly.

*Council Discussion*

There was none.

5.1.1 Public Hearing for Ordinance No. 18-1417

Deputy Council President Hughes opened up a public hearing on Ordinance No. 18-1417 and requested that those wishing to testify come forward to speak.

Eric Wentland, City of Portland: Mr. Wentland, of Greenway Recycling, testified on Ordinance No. 18-1417. Mr. Wentland spoke to the proposed rates and asked the Metro

Council to reconsider the changes.

Terrell Garrett, City of Portland: Mr. Garrett, of Greenway Recycling, testified on Ordinance No. 18-1417. Mr. Garrett spoke about the differences between wet and dry waste processing and testified against the proposed rates in the ordinance.

Deputy Council President Craddick gavelled out of the public hearing. She noted that second read, Council consideration, and vote on Ordinance No. 18-1417 would take place on Thursday, March 29.

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

Deputy Council President Craddick introduced Mr. Tim Collier, Director of Finance and Regulatory Services, to provide a brief staff report. Mr. Collier explained that the ordinance was part of Metro's ongoing review of its fiscal policies. He noted that in reviewing Metro's current excise tax policies as they applied to the Oregon Convention Center and the Expo Center, staff recommended removing the excise tax from the facilities and replacing it with a management fee based on actual income from prior years. He stated that the change would allow for certainty both at the venues and with the general fund, and would be shown as a separate line in the budget to add to the transparency of the process.

*Council Discussion*

There was none.

5.2.1 Public Hearing for Ordinance No. 18-1420

Deputy Council President Craddick opened up a public hearing on Ordinance No. 18-1420 and requested that those wishing to testify come forward to speak. Seeing none, Deputy Council President Craddick gaveled out of the public hearing. She noted that second read, Council consideration, and vote on Ordinance No. 18-1420 would take place on Thursday, March 29.

**6. Chief Operating Officer Communication**

Chief Operating Officer Martha Bennett recognized departing Deputy Chief Operating Officer Scott Robinson for his contributions to Metro. She thanked him for all of his work at the agency and commended his capacity for hard work, his willingness to take on any challenge, and his eye for making things better. Councilors read a celebratory resolution in Mr. Robinson's honor and wished him well in his retirement.

**7. Councilor Communication**

Councilors provided updates on the following meetings, topics or events: an update on the Regional Disaster Planning Organization and an analysis on the impact of a Cascadia Level Earthquake, green card reform, the Joint Policy Advisory Committee on Transportation (JPACT), and the Metro Policy Advisory Committee (MPAC).

**8. Adjourn**

There being no further business, Deputy Council President Craddick adjourned the Metro Council meeting at 3:22 p.m. The Metro Council will convene a joint council meeting with the Tribal Council of the Confederated Tribes of Grand Ronde on March 22 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 15, 2018**

<b>ITEM</b>	<b>DOCUMENT TYPE</b>	<b>DOC DATE</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DOCUMENT No.</b>
<b>3.0</b>	PowerPoint	03/15/18	OCC Plaza and Interior Renovation	031518c-01
<b>4.2</b>	Minutes	03/01/18	Council Meeting Minutes for March 1, 2018	031518c-02
<b>4.3</b>	Minutes	03/08/18	Council Meeting Minutes for March 8, 2018	031518c-03
<b>5.1.1</b>	Handout	03/15/18	Unit Costs at Metro Transfer Stations	031518c-04
<b>7.0</b>	Handout	03/15/18	Break the Backlog: Campaign for Fairness in Employment Based Immigration	031518c-05

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**Metro**

## **Minutes**

**Thursday, March 22, 2018**

**2:00 PM**

**Joint Meeting with the Tribal Council of the Confederated Tribes  
of Grand Ronde  
Metro Regional Center, Council chamber**

**Council meeting**

**1. Call to order, welcome, and introductions**

Council President Tom Hughes called the joint council meeting of the Metro Council and Tribal Council of the Confederated Tribes of Grand Ronde to order at 2:02 p.m. He welcomed the Tribal Council to Metro and noted that he looked forward to working with them on an ongoing basis. Chairwoman Cheryle Kennedy provided a brief invocation to begin the meeting. She thanked the Metro Council for hosting the meeting and stated that the Tribal Council looked forward to collaborating further.

Sharon Nasset, City of Portland: Ms. Nasset provided public testimony. She discussed the history of the United States and emphasized the importance of good immigrant policy and sanctuary cities. (Ms. Nasset provided written materials as part of her testimony; please see the March 22 meeting packet.)

**2. Brief overview of Metro**

Council President Tom Hughes provided a brief overview of Metro as it related to the work of the Confederated Tribes of Grand Ronde.

**3. Overview of Tribal history and ongoing connections to the region**

Chairwoman Kennedy introduced Mr. David Harrelson, Cultural Resources Department Manager, to provide an overview of Tribal history and ongoing connections to the region. Mr. Harrelson highlighted the extensive history of native people in the region and the more than 30 tribes and bands that were gathered from around the area and removed to the reservation after signing treaties in the mid-1880s. He reviewed the history of the Confederated Tribes of Grand Ronde, including the effects of the termination of federal recognition in 1954.

**4. Past projects of Tribal/Metro collaboration**

The two councils discussed past projects of collaboration between the Confederated Tribes of Grand Ronde and Metro, including Blue Lake regional tribal carvings, Oregon Zoo totem poles, Graham Oaks Nature Park interpretive signage, the condor recovery program at the Oregon Zoo, and the River Island Natural Area.

**5. Current Metro projects where Tribe is engaging**

The councils discussed current Metro projects where the Confederated Tribes of Grand Ronde were engaging, including the Willamette Falls Legacy Project, Chehalem Ridge Nature Park, Quamash Prairie, East Council Creek Natural Area, and Gabbert Butte Nature Park.

**7. Identifying further partnership opportunities**

The Metro Council and the Tribal Council discussed topics of interest and areas for future collaboration. Councilors shared interest in the Willamette Falls project, including in the development of the walkway as well as its decorative art. Chairwoman Kennedy expressed an interest in exploring a memorandum of understanding (MOU) between the two bodies to recognize the shared areas of interest and what they might include. Councilors expressed interest in an ongoing relationship, with continuing informal and formal meetings between the two councils. Tribal Council members shared their interests and areas for future partnership opportunities, such as education, public engagement, food sovereignty and assessment, and plant and animal resource preservation.

**7. Next steps and wrap up**

Council President Hughes and Chairwoman Kennedy closed the meeting. They agreed that the two councils would continue to meet on an ongoing basis. Councilors thanked

each other for meeting and noted they looked forward to future collaborations between the two councils. Tribal Council members invited the Metro Council to upcoming events, including the Tumwata Lecture Series.

**8. Adjourn and refreshments**

There being no further business, Council President Hughes adjourned the joint council meeting at 3:21 p.m. The Metro Council will convene the next regular council meeting on March 29 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 22, 2018**

<b>ITEM</b>	<b>DOCUMENT TYPE</b>	<b>DOC DATE</b>	<b>DOCUMENT DESCRIPTION</b>	<b>DOCUMENT No.</b>
<b>1.0</b>	Handout	03/22/18	Sharon Nasset Testimony: Map of US Claimed by Spain	032218c-01
<b>1.0</b>	Handout	03/22/18	Sharon Nasset Testimony: Mexico/California	032218c-02
<b>1.0</b>	Handout	03/22/18	Sharon Nasset Testimony: Mexico's Territorial Evolution	032218c-03
<b>1.0</b>	Handout	03/22/18	Sharon Nasset Testimony: Tribes of the Indian Nation	032218c-04
<b>2.0</b>	Handout	03/22/18	Metro and Confederated Tribes of Grand Ronde collaboration	032218c-05
<b>3.0</b>	Handout	03/22/18	History of the Confederated Tribes of Grand Ronde	032218c-06
<b>3.0</b>	Handout	03/22/18	Confederated Tribes of Grand Ronde Information	032218c-07
<b>8.0</b>	Flyer	03/22/18	Tumwata Lecture Series	032218c-08
<b>8.0</b>	Photographs	03/22/18	Historical photographs of Willamette Falls	032218c-09