

BEFORE THE METRO COUNCIL

RESOLUTION DECLARING A STATE OF	)	RESOLUTION NO. 20-5096
EMERGENCY IN THE METRO REGION AS A	)	
RESULT OF COVID-19 PANDEMIC AND	)	Introduced by Marissa Madrigal, Chief
DELEGATING AUTHORITY TO METRO’S	)	Operating Officer in concurrence with
CHIEF OPERATING OFFICER	)	Council President Lynn Peterson
	)	

WHEREAS, Coronaviruses are a group of viruses that can cause respiratory disease, with the potential to cause serious illness or loss of life for individuals with underlying health conditions; and

WHEREAS, on March 8, 2020, Governor Kate Brown issued Executive Order No. 20-03, Declaration of Emergency due to the Coronavirus (COVID-19) outbreak in Oregon, under ORS 401.025(1); and

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a pandemic; and

WHEREAS, on March 12, 2020, Governor Brown issued Executive Order No. 20-05, prohibiting large gatherings due to the COVID-19 outbreak in Oregon; and

WHEREAS, on March 23, 2020, Governor Brown issued Executive Order No. 20-12, Stay Home, Save Lives, ordering, among other things, Oregonians to stay at home; and

WHEREAS, on March 29, 2020, the President of the United States declared that a major disaster exists in the State of Oregon and ordered Federal assistance to supplement State, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic beginning on January 20, 2020, and continuing; and

WHEREAS, the COVID-19 pandemic requires a significant amount of resources at the local level to keep the public and community informed and as safe as possible; and

WHEREAS, these conditions create a need for a Declaration of Emergency for the Metro region; and

WHEREAS, Metro has broad home rule authority to carry out its functions in any manner that it deems appropriate; and

WHEREAS, the current state prohibitions on group gatherings are necessary to protect public health, but also create challenges for holding public meetings and hearings, which may require the extension of deadlines in the Metro Code in order for Metro to meet its obligations for processing applications, renewing licenses, and providing opportunities for public participation; and

WHEREAS, Metro Code Section 2.20.030 provides that the Metro Chief Operating Officer (COO) is the chief administrative officer of Metro and is responsible for the proper administration of all Metro affairs; and

WHEREAS, Metro Code Section 2.20.050 describes actions the COO may take in the event of circumstances creating a public emergency; and

WHEREAS, on April 2, 2020, the COO issued a Declaration of Emergency in the Metro region as a result of the COVID-19 pandemic, which is attached as Exhibit A; now therefore

BE IT RESOLVED that the Metro Council:

1. The Metro Council hereby ratifies the Declaration of Emergency in the Metro Region issued by the Metro COO on April 2, 2020, which is attached as Exhibit A, and delegates to the COO all authority necessary to respond to the COVID-19 pandemic; and
2. Delegates to the COO authority to suspend, waive, or amend Metro's administrative Rules, standards, and forms, without notice, if such action is necessary to respond to the COVID-19 pandemic and effective only during the emergency period; and
3. Delegates to the COO authority to amend Solid Waste Franchises and Non-Systems Licenses for putrescible waste as needed to respond to the COVID-19 pandemic, and
4. Delegates to the COO authority to suspend the provisions of Metro Code Section 5.01.260 regarding material recovery of non-putrescible waste when necessary to respond to the COVID-19 pandemic; and
5. Delegates to the COO authority to extend any deadline set forth in Metro Code Chapters 5.01, 5.02, 5.03 and 5.05 if strict adherence to the deadline would create an extreme hardship on a regulated entity or Metro due to federal, state or local orders related to the COVID-19 pandemic; and
6. Delegates to the COO authority to extend any deadline set forth in Metro Code Section 3.07.1430 regarding the procedures for processing applications for a major amendment of the Urban Growth Boundary, if strict adherence to the deadlines would unreasonably limit public participation in the hearing process due to ongoing prohibitions on public gatherings.
7. This Declaration remains in effect until the Metro Council determines that the emergency no longer exists, and takes action to terminate the Declaration.

ADOPTED by the Metro Council this 23<sup>rd</sup> day of April 2020.



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Lynn Peterson, Council President

Approved as to Form:



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Carrie MacLaren, Metro Attorney

**METRO CHIEF OPERATING OFFICER  
DECLARATION OF EMERGENCY IN THE METRO REGION  
AS A RESULT OF THE COVID-19 PANDEMIC**

The Metro Chief Operating Officer finds that:

Coronaviruses are a group of viruses that can cause respiratory disease, with the potential to cause serious illness or loss of life for individuals with underlying health conditions.

On March 8, 2020, Governor Kate Brown issued Executive Order No. 20-03, declaration of emergency due to Coronavirus (COVID-19) outbreak in Oregon, under ORS 401.025(1).

On March 11, 2020, the World Health Organization declared COVID-19 a pandemic.

On March 12, 2020, Governor Brown issued Executive Order No. 20-05, prohibiting large gatherings due to COVID-19 outbreak in Oregon.

On March 23, 2020, Governor Brown issued Executive Order No. 20-12, Stay Home, Save Lives, ordering, among other things, Oregonians to stay at home.

On March 29, 2020, the President declared that a major disaster exists in the State of Oregon and ordered Federal assistance to supplement State, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic beginning on January 20, 2020, and continuing.

The COVID-19 pandemic requires a significant amount of resources at the local level to keep the public and community informed and as safe as possible.

COVID-19 is a disease causing or threatening loss of life and injury to people and is an emergency for the Metro region.

Based on the above findings, the Metro Chief Operating Officer declares a state of emergency in the Metro region, effective immediately, which remains in effect so long as COVID-19 poses an ongoing, immediate, and substantial threat to life, safety, health, or property in the Metro region and until the Chief Operating Officer terminates the declaration.

1. To protect the health and safety of Metro employees, with input from Metro's human resource department, IT, legal and other Metro department heads, I have and will continue to develop emergency policies and guidance on the use of sick leave, vacation leave, telecommuting, meeting protocol, identification of essential and non-essential staff for ongoing presence at Metro facilities, and other policies that will be in effect for the duration of the emergency.
2. To eliminate exposure to and spread of COVID-19, and in support of state and federal guidelines for social distancing, Metro is cancelling in-person programs and public meetings through April 30, 2020, at which time Metro will review the information from the CDC and Multnomah County Health for updated decisions. Where feasible, for continuity and continuation of services to the

public, Metro will conduct such programs and meetings in electronically, by telephone and/or videoconference.

3. To respond to the COVID-19 Pandemic, Metro may procure needed goods and services in accordance with ORS 279B.080 and without compliance with normal procurement procedures, redirect any necessary Metro funds for emergency purposes, and take any other action set forth in Metro Code Section 2.20.050, including any actions necessary for the protection of health and safety.
4. All permitted special events are cancelled during this emergency.
5. All burials at Metro cemeteries will be conducted by delivery only, without a graveside service, with participants allowed only if they remain in their vehicles and with no more than 5 vehicles allowed.
6. Metro will take all necessary steps authorized by law to coordinate the response to and recovery from this emergency, including but not limited to, requesting assistance from the federal government, the State of Oregon, and Clackamas, Multnomah, and Washington Counties.

Dated this 2nd day of April, 2020.

DocuSigned by:



Marissa Maungal, Chief Operating Officer

## **STAFF REPORT**

IN CONSIDERATION OF RESOLUTION NO. 20-5096, FOR THE PURPOSE OF DECLARING A STATE OF EMERGENCY IN THE METRO REGION AS A RESULT OF COVID-19 PANDEMIC AND DELEGATING AUTHORITY TO METRO'S CHIEF OPERATING OFFICER

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Date: April 20, 2020  
Department: Office of Metro Attorney  
Meeting Date: April 23, 2020

Prepared by: OMA  
Presenter: Shane Abma, OMA  
Length: 15 minutes

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## **ISSUE STATEMENT**

Shall the Metro Council adopt Resolution No. 20-5096 ("Resolution"), declaring a state of emergency in the Metro region related to the COVID-19 pandemic?

## **ACTION REQUESTED**

Adopt Resolution No. 20-5096.

## **SUMMARY**

The Resolution ratifies the Declaration of Emergency in the Metro Region issued by the Metro Chief Operating Officer (COO) on April 2, 2020, acknowledges that emergency conditions exist relating to the COVID-19 pandemic, and delegates authority to the COO to take actions necessary to implement the Declaration, including temporary extension of certain deadlines in the Metro Code, and suspension, waiver, or amendment of Metro administrative rules, standards, and forms.

## **DESCRIPTION OF DECLARATION**

First, the Resolution ratifies the Declaration of Emergency issued by the COO on April 2, 2020, and delegates all necessary authority to the COO to respond to the pandemic emergency. The Resolution also generally authorizes the COO to suspend, waive, or amend Metro's administrative rules, standards, and forms if such action is necessary to respond to the emergency.

Next, the Resolution includes more specific language that authorizes the COO to suspend certain code provisions and deadlines in Title V (Solid Waste) of the Metro Code, which regulates the region's solid waste entities. Title V includes regulations regarding flow control, recycling, illegal disposal, etc., and sets specific deadlines with respect to application approvals, franchise and license renewals and contested case hearing

schedules. The licenses and franchises themselves also often contain reporting requirement deadlines, tonnage allocation amounts and other regulatory requirements.

Although all licenses and franchises are essentially administrative permits, franchises and putrescible waste licenses often require action by the Metro Council to adopt or amend. Given the restraints and difficulties related to scheduling and appearing at Metro Council meetings during this pandemic crisis, the Resolution delegates to the COO authority to suspend, waive or amend administrative rules, as well as to amend solid waste franchises and putrescible waste licenses as needed to respond to changing solid waste situations based on the COVID-19 pandemic and to allow necessary extensions and renewals for these administrative permits (licenses and franchises) without requiring Metro Council action.

In addition, the Resolution authorizes the COO to temporarily suspend provisions of Metro Code Section 5.01.260 regarding material recovery of non-putrescible waste if necessary to respond to the COVID-19 pandemic. This section addresses Metro's Enhanced Dry Waste Recovery Program (aka "EDWRP") which requires that all mixed non-putrescible waste be processed for material recovery before being disposed.

Finally, the Resolution authorizes the COO to extend deadlines in Metro Code Chapters 5.01, 5.02, 5.03 and 5.05 if strict adherence to the deadline would create an extreme hardship on a regulated entity or Metro due to federal, state or local orders related to the COVID-19 pandemic. Certain deadlines may be difficult to meet if regulated entities or Metro staff are unable to work on-site or obtain necessary documents and data in a timely manner.

The Resolution also authorizes the COO to extend deadlines in the Metro Code regarding processing of a currently pending application from the City of Lake Oswego for amendment of the Urban Growth Boundary. Existing code provisions create a series of short timelines, which require a public hearing to be held no later than June 8, 2020. If the COO determines that attempting to hold a public hearing by that date would unreasonably limit public participation, the COO may extend the deadline.

### **ACTION REQUESTED**

Approval of the Resolution declaring a state of emergency and delegating authority to the COO that may necessary to respond to that emergency.

### **IDENTIFIED POLICY OUTCOMES**

By adopting this Resolution, the Metro Council will allow the COO to act rapidly to extend Metro Code deadlines and/or suspend or amend administrative rules and other standards if necessary to respond to the emergency.

**STAFF RECOMMENDATION**

Staff recommends adoption of Resolution No. 20-5096.