

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )	ORDINANCE NO. 20-1443
CODE SECTION 2.01.055 TO ADDRESS )	
SITUATIONS REQUIRING COMPLETE )	Introduced by Metro Attorney Carrie
ELECTRONIC PARTICIPATION BY COUNCIL )	MacLaren in concurrence with Council
MEMBERS AND DECLARING AN )	President Lynn Peterson
EMERGENCY	

WHEREAS, Metro Code Section 2.01.055 was established by Ordinance 94-559A and adopted by the Metro Council on September 8, 1994 to permit Metro council members to attend council meetings electronically so long as a majority of the council members are still physically present at meetings; and

WHEREAS, revisions have been proposed by the Metro Attorney to update Metro Code Section 2.1.55 in order to conduct regular business in the time of crisis and to address emergency situations threatening the health, safety and welfare of the Metro area which make it impractical for a majority of council members to be physically present at meetings;

WHEREAS, Governor Kate Brown has declared a state of emergency due to the public health threat posed by the novel infectious coronavirus (COVID-19) and has issued Executive Order No. 20-05 prohibiting large gatherings of 250 people or more, statewide;

WHEREAS, Metro Council finds the need for immediate adoption of this ordinance given the quickly developing COVID-19 situation, the declaration of a state of emergency, and the prohibition of large gatherings statewide; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Amendment. Metro Code section 2.01.055 (Participation of Council Members by Electronic Means) is hereby amended as referred to in Exhibit A attached hereto; and
2. That this Ordinance being necessary for the health, safety, and welfare of the Metro area and to ensure effective and ethical governance as required by state law, an emergency is declared to exist, and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 38(1).

ADOPTED by the Metro Council this 12<sup>th</sup> day of March 2020.

\_\_\_\_\_  
Lynn Peterson, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Nellie Papsdorf, Recording Secretary

\_\_\_\_\_  
Carrie MacLaren, Metro Attorney

## **STAFF REPORT**

IN CONSIDERATION OF ORDINANCE NO. 20-1443, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 2.01.055 TO ADDRESS SITUATIONS REQUIRING COMPLETE ELECTRONIC PARTICIPATION BY COUNCIL MEMBERS AND DECLARING AN EMERGENCY

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Date: March 11, 2020  
Department: Capital Assets  
Meeting Date: Thursday, March 12, 2020

Prepared by: Courtney Patterson  
Length: 15 minutes

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### **ISSUE STATEMENT**

The current state of emergency declared by Governor Kate Brown in connection with the COVID-19 situation may result in an order of social distancing which would make it impossible for the Metro Council to physically meet in person to carry on regular Metro business. As such, amending the code is needed to ensure effective and continued governance while also prioritizing the health, safety, and welfare of council members, Metro staff, and the general public.

### **ACTION REQUESTED**

We recommend adoption of Ordinance No. 20-1443. This ordinance permits electronic participation by all council members during emergency situations where requiring a majority of council members to attend in person is impracticable or dangerous.

### **IDENTIFIED POLICY OUTCOMES**

This action will allow Metro council to continue to meet and conduct regular business where in person attendance is impracticable or dangerous due to an emergency situation that threatens the health, safety and welfare of the Metro Area.

### **POLICY QUESTION**

This action seeks to allow Council to operate electronically during the current public health situation. It ensures continuity of government.

### **POLICY OPTIONS FOR COUNCIL TO CONSIDER**

Option 1: Leave Code as is. Four Council members would have to be physically present to meet quorum requirements. This could endanger their individual health. If more than three

Councilors would like to participate electronically, the meeting would be cancelled due to lack of quorum.

Option 2: Operate Council under the emergency meeting provisions. This would still allow Council to meet. However, Council would only be allowed to discuss issues specifically related to COVID-19. All other business would stop.

Option 3: Recommended course of action. Adopt this ordinance. It allows Council to meet quorum electronically during this public health emergency. It also allows them to discuss other routine business.

## **STAFF RECOMMENDATIONS**

Metro Council should adopt Ordinance No. 20-1443.

## **STRATEGIC CONTEXT**

- **Known Opposition/Support/Community Feedback**

None.

- **Anticipated Effects**

Metro Code Section 2.01.055 will allow complete electronic participation by council members under special circumstances. This amendment addresses situations that threaten the health, safety and welfare of the Metro area such as public health emergencies or natural disasters that make it infeasible or dangerous to require a majority of council members to be physically present for a meeting. All Public Meetings Law will still apply.

- **Financial Implications**

None.

## **BACKGROUND**

Metro Code 2.01.055 established a way for council members to participate in meetings electronically provided that the councilor intending to participate electronically files a written request with the Council President, the Council President files a written report with Metro's Chief Operating Officer, and a majority of the council is still physically present at the meeting. The current provisions of Metro Code 2.01.055 do not adequately contemplate emergency situations that necessitate electronic participation of all council members. For example, the current state of emergency declared by Governor Kate Brown in connection with the COVID-19 situation may result in an order of social distancing which would make it impossible for the Metro Council to physically meet in person to carry on regular Metro business. As such, amending the code is needed to ensure effective, continued governance

is paired with prioritizing the health, safety, and welfare of council members, Metro staff, and the general public.

## **ATTACHMENTS**

Attached is a redlined version of Metro Code Section 2.01 indicating the proposed amendment to 2.01.055. This amendment recognizes certain emergency situations that obviate the need to have a majority of the council physically present at Council meetings.

## **TITLE II**

### **ADMINISTRATION AND PROCEDURES**

- 2.01 Council Organization and Procedures
- 2.02 Personnel Code
- 2.03 Civil Penalties
- 2.04 Metro Contract and Procurement Policies
- 2.05 Procedure for Contested Cases
- 2.07 One Percent for Art Program
- 2.08 Office of Metro Attorney
- 2.09 Contractor's Business License Program
- 2.12 Office of Citizen Involvement
- 2.14 Facility-Related Parking Policy and Regulations
- 2.15 Metro Auditor
- 2.16 Naming of Facilities
- 2.17 Code of Ethics for Metro Officials and Requirements for Lobbyists
- 2.18 Campaign Finance Regulation
- 2.19 Metro Advisory Committees
- 2.20 Chief Operating Officer
- 2.21 Claims under ORS 197.352 (Ballot Measure 49)

### **Repealed**

- 2.06 Investment Policy  
[Moved to Chapter 7.03, Ord. 02-976, Sec. 1]
- 2.10 Voters' Pamphlet  
[Repealed Ord. 93-517B, Sec. 2]
- 2.11 Government Relations  
[Repealed Ord. 01-967, Sec. 1]
- 2.13 Tax Study Committee  
[Repealed Ord. 00-860A, Sec. 2]
- 2.21 Former "Claims under ORS 197.352 (Ballot Measure 37)"  
[Ord. 07-1168, Sec. 1]

## CHAPTER 2.01

### COUNCIL ORGANIZATION AND PROCEDURES

2.01.001	Definitions
2.01.010	Officers
2.01.020	Clerk of the Council
2.01.030	Regular Meetings
2.01.035	Work Sessions
2.01.040	Special Meetings
2.01.050	Emergency Meetings
2.01.055	Participation of Council Members by Electronic Means
2.01.060	Notice and Agenda
2.01.070	Ordinances
2.01.080	Resolutions
2.01.090	Conduct of Meetings
2.01.100	Adoption and Amendment of Rules
2.01.110	Reconsideration
2.01.120	Communications from the Public
2.01.130	Order of Business
2.01.140	Standing Committees of the Council
2.01.170	Salary and Expenditure Reimbursement Guidelines

### Repealed

2.01.160	Advisory Committees [Repealed Ord. 00-860A, Sec. 2]
2.01.180	Procedures for Appointing a Person to Fill a Vacancy on the Metro Council [Repealed Ord. 93-517B, Sec. 2]
2.01.200	Annual Budget [Repealed Ord. 07-1164A, Sec. 2]

### **2.01.001 Definitions**

For the purpose of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

**Adoption** means the act of the council to approve a motion to adopt an ordinance or resolution.

**Quorum** means the majority of the members of the council holding office. [Ord. 88-241, Sec. 1; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1; Ord. 11-1251, Sec. 1]

### **2.01.010 Officers**

- (a) Council President. The Council President is elected by the voters of the region as provided for in the Charter. The Council President has the power and duties described in the Charter.
- (b) The Council shall, at its first meeting after the first Monday in January of each year, elect one Councilor to serve as its Deputy for the ensuing year. The affirmative vote of the majority of the Council is required to elect the Deputy. The Council may also adopt a resolution establishing such committees as the Council deems necessary for the orderly conduct of Council business. Committee members and committee chairs shall be appointed by the Council President subject to confirmation by the Council by resolution.
- (c) The Council President will preside at all meetings of the Council and will preserve order and decorum. The Council President is authorized to sign all documents memorializing Council's action on behalf of the Council. The Council President will have a vote on each matter before the Council, but will not make motions unless first relinquishing the position of Council President for the purpose of making such motion.
- (d) The Deputy shall be the acting Council President in the temporary absence or incapacity of the Council President, and will have the authority and perform the duties of the Council President but shall not receive the salary of the Council President. In the event a vacancy exists in the office of the Council President, the Deputy shall serve as the Acting Council President until a new Council President is elected or appointed pursuant to Metro Code Chapter 9.01. The Acting Council President shall not receive the salary of the Council President.
- (e) In the absence or incapacity of the Council President and the Deputy, the Council President may designate a Councilor to act as the Temporary Council President. [Ord. 79-65, Sec. 1; Ord. 88-241, Sec. 1; Ord. 95-583B, Sec. 1; Ord. 02-954A, Sec. 1; Ord. 07-1164A, Sec. 1]

### **2.01.020 Council Meetings and Records**

A qualified staff person designated by the Chief Operating Officer, shall be present at each meeting of the council and shall provide that the proceedings be recorded as specified in section 2.01.090(b). Sound recordings shall be made of each meeting. Equipment

malfunction shall not be a reason to postpone the meeting and shall not negate the minutes. The recorder may temporarily interrupt council proceedings in the event of equipment malfunction, changes of tapes or other cause of short-term loss of recording. The Chief Operating Officer shall also maintain a journal of council proceedings that shall be available to the public during regular office hours. [Ord. 79-65, Sec. 2; Ord. 88-241, Sec. 1; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1; Ord. 11-1251, Sec. 1]

### **2.01.030 Regular Meetings**

The council shall meet regularly on the dates and times established by a resolution adopted by the council. Regular meetings shall be held at a place designated in the published agenda of the meeting. Regular meetings may be adjourned to a specific time and place before the day of the next regular meeting. Published notice of the time and place of an adjourned meeting is not required. Matters included on the agenda of a regular meeting that is adjourned to a later date need not be republished. New matters to be considered at the adjourned meeting shall be published in the same manner as the agenda for a regular meeting. [Ord. 79-65, Sec. 3; Ord. 80-87, Sec. 1; Ord. 84-176, Sec. 1; Ord. 95-583B, Sec. 1]

### **2.01.035 Work Sessions**

The council may conduct work sessions for the purpose of receiving briefings from staff and other invited persons and for discussing issues of interest to the council. Public hearings may be held at work sessions, but are not required. Rules governing work sessions shall be prescribed by resolution. [Ord. 95-583B, Sec. 1]

### **2.01.040 Special Meetings**

The Council President or a majority of the members of the council may call a special meeting of the council provided that at least 24 hours notice is given to the council and the general public. Except for the provisions of this section, special meetings are subject to the same rules as regular meetings. If possible, the agenda and time and place of the meeting should be published in a newspaper of general circulation in the district. If publication is not possible, the provisions for notifying the public of emergency meetings should be followed. [Ord. 79-65, Sec. 4; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1]

### **2.01.050 Emergency Meetings**

In case of an actual emergency, the Council President or a majority of the members of the council may call an emergency meeting of the council upon such notice as is appropriate to the circumstances. The agenda shall be limited to the purposes for which the meeting is called. To the extent possible, telephone calls and news releases to the media and interested persons should be made to give public notice of the agenda and time and place of meeting. [Ord. 79-65, Sec. 5; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1]



## 2.01.055 Participation of Council Members by Electronic Means

- (a) For any regular meeting or special meeting of the council, council members may participate in the meeting by the use of a voice or data communication device that allows communication with all other meeting participants provided the following conditions are fulfilled:
- (1) The councilor who wishes to participate by electronic means must file a written request with the Council President stating the reasons why the councilor cannot be physically present at the meeting, and why extraordinary circumstances exist that require that the councilor should participate by electronic means.
  - (2) The Council President files with the Chief Operating Officer a written report explaining the circumstances and containing the Council President's determination that the physical absence of the councilor is both unavoidable and excusable and that the physically absent councilor should participate in the meeting.
  - (3) A majority of the council must be physically present at any special or regular meeting for a quorum to exist.
- (b) Any emergency meeting may be conducted by electronic means consistent with the Oregon Public Meetings Law.
- ~~(c)~~ Participation at any council meeting by electronic means shall not constitute attendance at a meeting of the council for the purpose of Section 22(1)(e) of the Metro Charter, unless an emergency exists pursuant to subsection (d). [Ord. 94-559A, Sec. 1; Ord. 02-958A, Sec. 1; Ord. 11-1251]
- ~~(c)(d)~~ Upon declaration by the Metro Council President, the requirements of subsection (a)(3) need not be satisfied for any meeting conducted electronically due to an emergency situation, such as a threat to the public health, safety or welfare of the Metro Area threat or natural disaster, provided that the meeting otherwise fulfills the requirements of Public Meetings Law.

## 2.01.060 Notice and Agenda

- (a) An agenda that sets forth the time, date, and place of the meeting, that includes the title and a brief description of the ordinances and other matters to be considered, and that states that copies of ordinances are available at the office of Metro shall be published in a newspaper of general circulation within the district no more than 10 nor less than three days before a regular meeting of the council. If an executive session will be held, the notice shall state the specific provision of the law authorizing the executive session. Items may be considered at a regular or special meeting that were not included in the published agenda as provided by law.
- (b) The Council President shall establish the agenda from the agenda items submitted by the councilors, council committees or the auditor. By majority vote of a quorum of the council any matter that has been filed for council consideration shall be

considered at a subsequent meeting. The Council President may, at his or her discretion, determine the time by which agenda items must be submitted for inclusion in the next succeeding agenda. [Ord. 79-65, Sec. 6; Ord. 84-176, Sec. 2; Ord. 88-241, Sec. 1; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1]

## **2.01.070 Ordinances**

- (a) The legislative action of Metro shall be by ordinance.
- (b) Before an ordinance is adopted, it shall be read at a previous meeting of the council; the title of the ordinance must be included in the written agenda of the meeting at which the ordinance is adopted; the agenda shall be publicized not less than three business days nor more than 10 days before the meeting; and copies of the ordinance shall be available for public inspection at least three business days before the meeting. The reading shall be full and distinct unless at the meeting:
  - (1) A copy of the ordinance is available for each person who desires a copy; and
  - (2) The Council President directs that the reading be by title only.
- (c) Ordinances may be introduced for council consideration by the council, a councilor or councilors, a committee of the council, the auditor, or by the Chief Operating Officer with the concurrence of the Council President. The council by resolution shall adopt procedures for introduction and consideration of ordinances.
- (d) Except as provided in Section 38(1) of the Metro Charter, the affirmative vote of at least four members of the council is required to adopt an ordinance. A roll call vote shall be taken on all ordinances. Any ordinance which receives four or more nay votes shall be defeated and shall be filed and receive no further consideration. Any ordinance voted upon and neither adopted nor defeated shall be continued to the next regular meeting.
- (e) Within seven days after adoption or final adoption of an ordinance, the enrolled ordinance shall be:
  - (1) Signed by the Council President;
  - (2) Attested by the person who served as recording secretary of the council at the meeting at which the council adopted the ordinance; and
  - (3) Filed in the records of Metro.
- (f) If required by law, a certified copy of each ordinance shall be filed with the Division of Courts Process of Multnomah County, and the county clerks for Washington and Clackamas counties.
- (g) The provisions of subsection (b) of this section do not apply to an ordinance adopted by the unanimous consent of the council and containing findings on the need for immediate adoption. [Ord. 79-65, Sec. 7; Ord. 88-241, Sec. 1; Ord. 91-407A, Sec. 1; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1]

## **2.01.080 Resolutions**

- (a) All matters other than legislation and procedural matters coming before the council and requiring council action shall be handled by resolution.
- (b) Excluding procedural matters, the affirmative vote of a majority of the council is required to adopt a resolution. Procedural matters shall be subject to Robert's Rules of Order, newly revised, unless this Code provides otherwise.
- (c) Resolutions shall become effective upon adoption unless a later date is specified therein.
- (d) The council by resolution shall adopt procedures for introducing and considering resolutions. \*Note: will require four "yes" votes to adopt resolution. [Ord. 79-65, Sec. 8; Ord. 88-241, Sec. 1; Ord. 95-53B, Sec. 1; Ord. 02-958A, Sec. 1]

## **2.01.090 Conduct of Meetings**

- (a) A quorum of the council is a majority of the members of the council holding office. If a quorum is present, the council may proceed with the transaction of its business. If fewer councilors are present they may compel absent members to attend.
- (b) Minutes of each meeting shall include at least the following information:
  - (1) All members of the council present;
  - (2) All motions, resolutions, and ordinances proposed and their dispositions;
  - (3) The results of all votes, and the vote of each councilor by name; and
  - (4) The substance of any discussion on any matter.
- (c) Minutes of executive sessions may be limited consistent with Oregon Law.
- (d) The written minutes shall be available to the public within a reasonable time after the meeting, and shall be maintained as a permanent record of the actions of the council by the Chief Operating Officer.
- (e) The council shall by resolution adopt rules establishing procedures governing conduct of debate on matters considered by the council at council meetings.
- (f) Council members present, but not voting or not specifically abstaining, shall be counted as voting with the majority. In the event that there is no such majority, such members shall be counted as abstaining.
- (g) Except for ordinances, the Council President may order the unanimous approval of any matter before the council unless there is an objection from one or more councilors. If there is an objection, then a voice vote shall be taken, unless the objecting councilor requests a roll call vote in which case a roll call vote shall be taken. At each meeting, the council shall rotate the order for each roll call vote so that the councilor who voted first shall vote last on the next roll call vote, except that the Council President shall always vote last on a roll call vote.

- (h) In the event a matter is the subject of a voice vote or a roll call vote, after the vote is taken the Council President shall announce the result of the votes. Prior to proceeding to the next item on the agenda, or if the item voted upon is the last item on the agenda before adjournment, any member may request that the council change that member's vote in which case the change in vote shall be announced by the Council President and the result of the votes as modified shall also be announced. Upon commencement of the next agenda or adjournment, as the case may be, all votes shall become final and may not be further changed without the unanimous consent of the council.
- (i) Any matter not covered by this chapter or a rule adopted by the council pursuant to a resolution shall be determined by Robert's Rules of Order, newly revised. The council may by a positive vote of two-thirds of the members of the council authorize the suspension of any rule adopted by a resolution of the council.
- (j) All meetings of the council, its committees and advisory committees shall be held and conducted in accordance with the Oregon Public Meetings Law. [Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1; Ord. 11-1251, Sec. 1]

#### **2.01.100 Adoption and Amendment of Rules**

No standing rule of procedure of the council shall be adopted, amended, or repealed except pursuant to a duly adopted resolution approved by the affirmative vote of a majority of the members of the council. Any rule may be suspended by a vote of two-thirds of the members of the council. [Ord. 79-65, Sec. 10; Ord. 95-583B, Sec. 1]

#### **2.01.110 Reconsideration**

- (a) When a matter has been adopted or defeated, any councilor voting on the prevailing side may move for reconsideration of the matter.
- (b) Notice of the intention to move for reconsideration of an ordinance or resolution must be given orally by the councilor who intends to make the motion prior to adjournment on the same day on which the vote to be reconsidered was taken.
- (c) Motion to reconsider shall be made and voted on not later than the next regular meeting after the meeting on which the vote to be reconsidered was taken. The motion for reconsideration has precedence over any other motion.
- (d) A motion for reconsideration must receive the affirmative vote of a majority of the members of the council in order to be adopted.
- (e) There shall be only one reconsideration of any final vote even though the action of council reverses its previous action. [Ord. 79-65, Sec. 11; Ord. 95-583B, Sec. 1]

#### **2.01.120 Communications from the Public**

Communications from the public both for matters on the agenda and matters not on the agenda may be allowed by the council according to rules and procedures prescribed by resolution. [Ord. 79-65, Sec. 12; Ord. 91-407A, Sec. 3; Ord. 95-583B, Sec. 1]

### **2.01.130 Order of Business**

- (a) The general order of business for the council shall be prescribed by resolution.
- (b) Questions relating to the priority of business shall be decided without debate. The general order of business shall not be varied except upon the affirmative vote of a majority of the council present and voting, a quorum being present.
- (c) A consent agenda shall be presented for the consideration and vote of the council only at regular meetings. Items may be placed on the consent agenda pursuant to rules establishing criteria adopted by the council by resolution. Copies of the consent agenda shall be printed and distributed to the council prior to consideration.
- (d) Before calling for the vote on the consent agenda, the Council President shall ask if any councilor objects to any matter on the consent agenda. If any matter on the consent agenda is objected to by a member of the council, that matter shall be removed from the consent agenda and placed upon the regular agenda of the council at a time or place determined by the Council President. [Ord. 79-65, Sec. 13; Ord. 80-87, Sec. 2; Ord. 91-407A, Sec. 4; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1]

### **2.01.140 Standing Committees of the Council**

The council may from time to time establish standing committees as it deems necessary consistent with Section 2.01.010(b). The purpose, structure, membership and responsibilities of any standing committee shall be established by the council by the adoption of a resolution. [Ord. 79-65, Sec. 14; Ord. 88-241, Sec. 1; Ord. 91-407A, Sec. 5; Ord. 95-583B, Sec. 1; and Ord. 02-958A, Sec. 1]

### **2.01.170 Salary and Expenditure Reimbursement Guidelines**

- (a) Councilors shall be paid an authorized salary at the same time as regular Metro employees. The amount of the salary shall be as prescribed by law. The annual salary shall be divided into 24 equal payments. If a councilor vacates the office, he or she shall be paid on a pro-rata basis for the number of working days from the last pay period. A councilor may waive all or any portion of an authorized salary by signing a waiver form which indicates the amount of salary waived and the period of time for the waiver. The waiver shall remain in effect until written notice of cancellation is given prior to the commencement of the pay period for which the waiver will no longer be in effect. A councilor who waives a salary must sign a release form at the time of receipt of a salary which releases Metro from any further obligation for the period of time for which the salary is paid.
- (b) The council by resolution shall adopt guidelines for reimbursement of councilors for expenses incurred in the conduct of business of Metro. The guidelines shall specify the amount each councilor shall be allocated for authorized expenditures, the type of authorized expenditure, and procedures for the request and approval of expenditure reimbursement requests.

- (c) Pursuant to Metro Charter Section 21(4), the salary paid to members of the Council is the full and exclusive compensation that may be paid to them by Metro. Councilors may not become employees of Metro during their term of office. Councilors shall receive an equivalent benefit (health and welfare coverage) package received by full-time Metro employees but in no event shall such benefits be measured based on any determination of the amount of time devoted to official duties. [Ord. 89-289, Sec. 1; Ord. 93-481, Sec. 1; Ord. 95-583B, Sec. 1; Ord. 02-958A, Sec. 1]