



600 NE Grand Ave.
Portland, OR 97232-2736

Council meeting agenda

Thursday, December 3, 2020

2:00 PM

<https://zoom.us/j/615079992> or
888-475-4499 (toll free)

Revised 12/2

Please note: To limit the spread of COVID-19, Metro Regional Center is now closed to the public.

This meeting will be held electronically. You can join the meeting on your computer or other device by using this link: <https://zoom.us/j/615079992> or by calling 888-475-4499 (toll free).

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1. Call to Order and Roll Call

2. Public Communication

Public comment may be submitted in writing and will also be heard by electronic communication (videoconference or telephone). Written comments should be submitted electronically by emailing legislativecoordinator@oregonmetro.gov. Written comments received by noon on the day of the meeting will be provided to the council prior to the meeting.

Those wishing to testify orally are encouraged to sign up in advance by either: (a) contacting the legislative coordinator by phone at 503-797-1916 and providing your name and the agenda item on which you wish to testify; or (b) registering by email by sending your name and the agenda item on which you wish to testify to legislativecoordinator@oregonmetro.gov. Those requesting to comment during the meeting can do so by using the "Raise Hand" feature in Zoom or emailing the legislative coordinator at legislativecoordinator@oregonmetro.gov. Individuals will have three minutes to testify unless otherwise stated at the meeting.

3. Consent Agenda

- 3.1 Considerations of the Council Meeting Minutes for
November 19, 2020 Minutes

[20-5485](#)

Attachments: [Council Meeting Minutes for November 19, 2020](#)

- 3.2 Resolution No. 20-5144, For the Purpose of Amending One Existing and Adding Two New Projects to the 2021-24 Metropolitan Transportation Improvement Program (MTIP) Impacting Hillsboro, Trimet, and Washington County (NV21-04-NOV) [RES 20-5144](#)
- Attachments: [Resolution No. 20-5144](#)
[Exhibit A to Resolution No. 20-5144](#)
[Staff Report](#)

4. Resolutions

- 4.1 Resolution No. 20-5413, For the Purpose of Re-Adopting Metro Code Chapter 7.04 (Investment Policy) for Fiscal Year 2020-2021 [RES 20-5413](#)
- Presenter(s): Brian Kennedy, Metro
- Attachments: [Resolution No. 20-5413](#)
[Staff Report](#)
[Exhibit A to Staff Report](#)
- 4.2 Resolution No. 20-5147, For the Purpose of Amending the FY 2020-21 Budget and Appropriations Schedule to Provide Changes in Operations [RES 20-5147](#)
- Presenter(s): Cinnamon Williams, Metro
- Attachments: [Resolution No. 20-5147](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)
[Attachment 2 to Staff Report](#)

5. Ordinances (First Reading and Public Hearing)

- 5.1 Ordinance No. 20-1451, For the Purpose of Updating Metro Code Chapter 5.10 to Improve Clarity, Remove Outdated Sections and Align with the Regional Waste Plan and to Add a New Metro Code Chapter 5.15 and to Update Definitions in Metro Code Chapter 5.00 [ORD 20-1451](#)

Presenter(s): Jennifer Erickson, Metro

- Attachments: [Ordinance No. 20-1451](#)
[Exhibit A to Ordinance No. 20-1451](#)
[Exhibit B to Ordinance No. 20-1451](#)
[Exhibit C to Ordinance No. 20-1451](#)
[Staff Report](#)
[Attachment 1 to Staff Report](#)
[Attachment 2 to Staff Report](#)
[Attachment 3 to Staff Report](#)
[Attachment 4 to Staff Report](#)

5.1.1 Public Hearing for Ordinance No. 20-1451

- 5.2 Resolution No. 20-5148, For the Purpose of Adopting the Supportive Housing Services Work Plan [RES 20-5148](#)
[8](#)

Presenter(s): Jes Larson, Metro
Rachael Lembo, Metro

- Attachments: [Resolution No. 20-5148](#)
[Exhibit A to Resolution No. 20-5148](#)
[Public Testimony on Exhibit A](#)
[Staff Report](#)

- 5.3 Ordinance No. 20-1452, For the Purpose of Adding a New Title XI to the Metro Code and a New Chapter 11.01 "Supportive Housing Services Program" within that Title [ORD 20-1452](#)
[2](#)

Presenter(s): Jes Larson, Metro
Rachael Lembo, Metro

- Attachments: [Ordinance No. 20-1452](#)
[Exhibit A to Ordinance No. 20-1452](#)
[Staff Report](#)

- 5.4 Ordinance No. 20-1453, For the Purpose of Adding a New Metro Code Section 2.19.270 Establishing a Supportive Housing Services Regional Oversight Committee [ORD](#)
[20-145](#)
[3](#)

Presenter(s): Jes Larson, Metro
Rachael Lembo, Metro

Attachments: [Ordinance No. 20-1453](#)
[Exhibit A to Ordinance No. 20-1453](#)
[Staff Report](#)

- 5.5 Ordinance No. 20-1454, For the Purpose of Amending Metro Code Title VII to Add New Chapters 7.05 “Income Tax Administration for Personal and Business Taxes”, 7.06 “Personal Income Tax”, and 7.07 “Business Income Tax” [ORD](#)
[20-145](#)
[4](#)

Presenter(s): Jes Larson, Metro
Rachael Lembo, Metro

Attachments: [Ordinance No. 20-1454](#)
[Exhibit A to Ordinance No. 20-1454](#)
[Exhibit B to Ordinance No. 20-1454](#)
[Exhibit C to Ordinance No. 20-1454](#)
[Staff Report](#)

5.5.1 Public Hearing for Resolution 20-5148 and Ordinance No. 20-1452, 20-1453, and 20-1454

6. Chief Operating Officer Communication

7. Councilor Communication

8. Adjourn

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Ogeysiiska takooris la'aanta ee Metro

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សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬដើម្បីទទួលបានកម្មប្រតិបត្តិការរើសអើងសម្រាប់សេចក្តីណែនាំ www.oregonmetro.gov/civilrights។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ មុនថ្ងៃប្រជុំដើម្បីអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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. 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.

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

Agenda Item No. 3.1

Consideration of the Council Meeting Minutes for November 19, 2020

Consent Agenda

Metro Council Meeting
Thursday, December 03, 2020

Metro

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



Metro

Minutes

Thursday, November 19, 2020

2:00 PM

This meeting was held virtually

Council meeting

1. Call to Order and Roll Call

Council President Lynn Peterson called the Metro Council meeting call to order at 2:02 p.m.

Present: 7 - Council President Lynn Peterson, Councilor Sam Chase, Councilor Shirley Craddick, Councilor Craig Dirksen, Councilor Bob Stacey, Councilor Christine Lewis, and Councilor Juan Carlos Gonzalez

2. Public Communication

John Isaacs, Portland Business Alliance: Mr. Isaacs voiced his concern regarding the double taxation from the Supportive Housing Services measure.

3. Consent Agenda

Approval of the Consent Agenda

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

Aye: 7 - Council President Peterson, Councilor Chase, Councilor Craddick, Councilor Dirksen, Councilor Stacey, Councilor Lewis, and Councilor Gonzalez

3.1 Considerations of the Council Meeting Minutes for November 05, 2020 Minutes

4. Resolutions

4.1 Resolution No. 20-5136, For the Purpose of Appointing Members to the Supportive Housing Services Oversight Committee

Council President Peterson introduced Ms. Jes Larson, Housing Policy Program Manager, and Ms. Anneliese Koehler, Regional and State Affairs Advisor, to present on Resolution No. 20-5136. Ms. Larson discussed the collaboration recruitment process with each county and the composition of the oversight committee, which included

those with lived experiences. She reported on the oversight committee process that included annual reports from implementing program regarding the work, and monitoring all expenditures. She mentioned that a review of local implementation plan would be the first task of 2021, and that onboarding would take place on November 23, 2020. Ms. Larson introduced the oversight committee appointees with a brief bio of the members.

Council Discussion

Councilor Dirksen voiced his appreciation for the collaboration from the region.

Councilor Craddick voiced her appreciation for the oversight committee.

Councilor Chase thanked and welcomed the new oversight committee members.

Councilor Lewis voiced her appreciation for all county commissioners and liaisons.

Councilor Gonzalez voiced his appreciation to staff and the new oversight committee members.

A motion was made by Councilor Gonzalez, seconded by Councilor Stacey, that this item be approved. The motion passed by the following vote:

Aye: 7 - Council President Peterson, Councilor Chase, Councilor Craddick, Councilor Dirksen, Councilor Stacey, Councilor Lewis, and Councilor Gonzalez

5. Ordinances (Second Reading)

- 5.1 Ordinance No. 20-1450, For the Purpose of Amending Metro Code Chapter 2.19, Metro Advisory Committees, To Establish the Committee on Racial Equity

Council President Peterson introduced Ms. Raahi Reddy, Director of Diversity, Equity and Inclusion to present on Ordinance No. 20-1450. Ms. Reddy reminded the Council on the role CORE has played such as advising the Council on programs and investments. She introduced invited speakers Maria Caballero-Rubio, Executive Director at Centro Cultural, Molly Chidsey, Equity Program Manager for WPES, and Martine Coblenz, Co-Chair for CORE. The invited guests discussed their experience with Metro and their equity efforts and thanked the CORE members for their dedication and efforts.

Council Discussion

Councilors thanked and discussed the importance of the CORE members.

A motion was made by Councilor Dirksen, seconded by Councilor Chase, that this item be approved. The motion passed by the following vote:

Aye: 7 - Council President Peterson, Councilor Chase, Councilor Craddick, Councilor Dirksen, Councilor Stacey, Councilor Lewis, and Councilor Gonzalez

6. Chief Operating Officer Communication

Ms. Marissa Madrigal reported on the approval of the Oregon Zoo Lights drive-through experience.

7. Councilor Communication

Councilor Lewis discussed Transgender Remembrance Day that would take place on November 20th and requested a moment of silence for all transgender lives lost.

Councilor Dirksen reported that the Road User Fee Task Force approved to create a mandatory road user fee charge for new vehicles.

Councilor Craddick discussed the Oregon Zoo Bond oversight committee meeting, the JPACT meeting, and her attendance of the stakeholder information session for the Parks Bond refinement plan.

Councilor Lewis also discussed her attendance of the stakeholder information session for the Parks Bond refinement plan and mentioned the oversight committee process for the bond.

8. Adjourn

Seeing no further business, Council President Lynn Peterson adjourned the Metro Council meeting at 3:09 p.m.

Respectfully submitted,



Diadira Pedro-Xuncax, Council Policy Assistant

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF NOVEMBER 19, 2020

ITEM	DOCUMENT TYPE	DOC DATE	DOCUMENT DESCRIPTION	DOCUMENT No.
3.1	Minutes	11/19/20	Council Meeting Minutes for November 05, 2020	111920c-01

Agenda Item No. 3.2

Resolution No. 20-5144, For the Purpose of Amending One Existing and Adding Two New Projects to the 2021-24 Metropolitan Transportation Improvement Program (MTIP) Impacting Hillsboro, TriMet, and Washington County (NV21-04-NOV)

Consent Agenda

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING ONE) RESOLUTION NO. 20-5144
EXISTING AND ADDING TWO NEW PROJECTS)
TO THE 2021-24 METROPOLITAN) Introduced by: Chief Operating Officer
TRANSPORTATION IMPROVEMENT) Andrew Scott in concurrence with
PROGRAM (MTIP) IMPACTING HILLSBORO,) Council President Lynn Peterson
TRIMET, AND WASHINGTON COUNTY (NV21-
04-NOV)

WHEREAS, the Metropolitan Transportation Improvement Program (MTIP) prioritizes projects from the Regional Transportation Plan (RTP) to receive transportation related funding; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council approved the 2021-24 MTIP via Resolution 20-5110 on July 23, 2020; and

WHEREAS, JPACT and the Metro Council must approve any subsequent amendments to add new projects or substantially modify existing projects in the MTIP; and

WHEREAS, the U.S. Department of Transportation (USDOT) has issued clarified MTIP amendment submission rules and definitions for MTIP formal amendments and administrative modifications that both ODOT and all Oregon MPOs must adhere to which includes that all new projects added to the MTIP must complete the formal amendment process; and

WHEREAS, MTIP amendments now must also include assessments for required performance measure compliance, expanded RTP consistency, and strive to meet annual Metro and statewide obligation targets resulting in additional MTIP amendment processing practices and procedures; and

WHEREAS, the city of Hillsboro received an ODOT \$1 million dollar Immediate Opportunity Fund grant award and along with their match commitment of \$1 million of local funds will construct and extend NE Huffman St as a two through-lane arterial in the Hillsboro Technology Park from NE Starr Blvd to 30th Ave; and

WHEREAS, TriMet successfully competed for and was selected as one of nine award recipients to receive a Federal Transit Administration Section 5312 Safety Research & Demonstration Program \$825,506 federal grant allowing them to design a risk ranking evaluation tool for rail crossing safety improvements, including upgrading cameras to document risks and incidents at grade crossings on its MAX light rail system; and

WHEREAS, Washington County has agreed to take on lead agency responsibilities to complete the construction phase and committed additional local funds to resolve a construction phase funding shortfall for the city of Tigard's Durham Rd/Upper Boones Ferry Rd from OR99W to I-5 Transportation System Management and Operations/Intelligent Transportation System project to complete traffic signal upgrades and communication infrastructure improvements at identified intersections; and

WHEREAS, the a review of the proposed project changes has been completed against the current approved Regional Transportation Plan (RTP) to ensure the projects remain consistent with the goals and strategies identified in the RTP with the results confirming that no RTP inconsistencies exist as a result of the project changes from the November 2021-24 MTIP Formal Amendment; and

WHEREAS, the RTP consistency check areas included financial/fiscal constraint verification, eligibility and proper use of committed funds, an assessment of possible air quality impacts, a deviation assessment from approved regional RTP goals and strategies, a validation that the required changes have little or no impact upon regionally significant projects, and a reconfirmation that the MTIP's financial constraint finding is maintained a result of the November 2020 Formal Amendment; and

WHEREAS, Metro's Transportation Policy and Alternatives Committee (TPAC) received their notification plus amendment summary overview, and recommended approval to Metro's Joint Policy Advisory Committee on Transportation (JPACT) on November 6, 2020; and

WHEREAS, JPACT approved Resolution 20-5144 consisting of the November 2020 Formal MTIP Amendment bundle on November 19, 2020 and provided their approval recommendation to Metro Council; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT on December 3, 2020 to formally amend the 2021-24 MTIP to include the required changes or additions to the three identified projects as part of Resolution 20-5144.

ADOPTED by the Metro Council this 3rd day of December 2020.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



Proposed November 2020 Formal Transition Amendment Bundle
 Amendment Type: **Formal/Full**
 Amendment #: **NV21-04-NOV**
 Total Number of Projects: 3

Key Number & MTIP ID	Lead Agency	Project Name	Amendment Action	Added Remarks
Project #1 ODOT Key 22314 MTIP ID TBD NEW PROJECT	Hillsboro	NE Huffman St Improvement Project (City of Hillsboro)	ADD NEW PROJECT: The formal amendment adds the smaller capacity enhancing project (1 though lane in each direction) from NE Starr Blvd west to 30th Ave plus 650 feet of intersection construction at 30th Ave. ODOT awarded the City of Hillsboro a \$1 million dollar state Immediate Opportunity Fund (IOF) award with the City providing \$1 million in matching funds. The funding is all being programmed for construction needs.	OTC approval was required for this project award and occurred during their October 2020 meeting. The capacity enhancing project is included the 2018 RTP modeled at full-build-out capacity (2 through lanes in each direction with a median lane)
Project #2 ODOT Key TBD MTIP ID TBD NEW PROJECT	TriMet	Risk Ranking & Data Validation for Grade Crossing	ADD NEW PROJECT: The formal amendment adds the new FTA section 5312 discretionary grant award to TriMet to the 2021-24 MTIP	The grant award is from the FTA Safety Research & Demonstration Program (SRDP) and Bus Operator Compartment (BCP) Program. TriMet's grant award is one of 10 projects nationwide funded under the Safety Research and Demonstration Program (SRDP) and Bus Operator Compartment Program (BOCP)
Project #3 ODOT Key 18311 MTIP ID 70647	Tigard Washington County	Durham Rd/Upper Boones Ferry Rd. OR99W - I-5	COST INCREASE: The formal amendment changes the lead agency from Tigard to be Washington County to deliver the construction phase. The total project cost increases from \$1,504,286 to \$1,865,015 (increase of \$360,729 = 23.9%) and represents a cost increase above the 20% threshold requiring a formal amendment	The cost increase results from revised project costs identified in the 60% design update. The project's original programming dates back to 2016. Revised costs have not occurred for inflation and other design requirements until now that the project reached the 60% design level. The project description is also being updated through this amendment.



Metro
2021-24 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
ADD NEW PROJECT
 Add new IOF funding award

Lead Agency: Hillsboro		Project Type:	Highway		ODOT Key:	22314
Project Name: NE Huffman St Improvement Project (City of Hillsboro)	1	ODOT Type	Highway		MTIP ID:	TBD
		Performance Meas:	Yes		Status:	4
Project Status: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%,90% design activities initiated).		Capacity Enhancing:	YES		Comp Date:	8/1/2022
		Conformity Exempt:	No		RTP ID:	18021
Short Description: Construct/extend new 2 through lane arterial on NE Huffman St from NE Starr Blvd west to NE 30th Ave and include 650' on 30th Ave intersection, shoulders, mountable curbs, and stormwater management		On State Hwy Sys:	No		RFFA ID:	N/A
		Mile Post Begin:	N/A		RFFA Cycle:	N/A
		Mile Post End:	N/A		UPWP:	No
		Length:	N/A		UPWP Cycle:	N/A
		1st Year Program'd:	2021		Past Amend:	0
		Years Active:	1		OTC Approval:	Yes
		STIP Amend #:	21-24-0081		MTIP Amnd #:	NV21-04-NOV
Detailed Description: In the Hillsboro Technology Park on NE Huffman St from NE Starr Blvd west to NE 30th AV (2,600 lineal feet) and 650 feet on 30th Ave (intersection construction), construct/extend new 2 through lane arterial (12' lanes) and include shoulders (6' wide), mountable curbs, and stormwater management. (ODOT IOF Award, OTC approval - October 2020, RTP ID 18021, Bid Let date estimate: 7/4/2021)						
STIP Description: Improvements to NE Huffman St and NE 30th Ave in the Hillsboro Technology Park to improve transportation flow and business access. improvements include an extension of NE Huffman St and NE 30th Ave, mountable curbs, and stormwater management.						
Last Amendment of Modification: None - Initial programming in progress						

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (Utility Relocation)	Construction	Total
Federal Funds								
								\$ -
								\$ -
							Federal Totals:	\$ -
Federal Fund Obligations:				\$ -				Federal Aid ID
EA Number:								
Initial Obligation Date:								
State Funds								
IOF	S600	2021					\$ 1,000,000	\$ 1,000,000
								\$ -
								\$ -
								\$ -
ODOT State funds are committed as part of the required match							State Total:	\$ 1,000,000
State Fund Obligations:								
EA Number:								
Initial Obligation Date:								
Local Funds								
Local	Match	2021					\$ 1,000,000	\$ 1,000,000
								\$ -
							Local Total	\$ 1,000,000
Phase Totals Before Amend:			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Phase Totals After Amend:			\$ -	\$ -	\$ -	\$ -	\$ 2,000,000	\$ 2,000,000
Year Of Expenditure (YOE):								\$ 2,000,000

Notes and Summary of Changes:

- > Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- > Summary: New capacity enhancing project being added to the MTIP. Project is in the RTP and has completed required air conformity analysis. Full Huffman St build-out is 5 lanes (2 through lanes + median lane) per the 2018 RTP.

Amendment Summary:

The formal amendment adds the smaller capacity enhancing project (1 through lane in each direction) from NE Starr Blvd west to 30th Ave, plus 650 feet of intersection construction at 30th Ave. ODOT awarded the City of Hillsboro a \$1 million dollar state Immediate Opportunity Fund (IOF) award with the City providing \$1 million in matching funds. The funding is all being programmed for construction needs. The total of \$2 million dollars allows a through lane in each direction to be construction with shoulders, mountable curbs, and address stromwater management. The project is covered under Key 18021 in the RTP which reflects the full build-out at 2 through lanes in each direction with a median turn lane. Full build-out will occur later. OTC approval was required and occurred during their October 2020 meeting. MTIP and STIP programming is occurring now as the construction phase bid let date is planned for 7/4/2021.

- > Will Performance Measurements Apply: Yes - Pavement, &Safety

RTP References:

- > RTP ID: 18021 - Huffman St Extension, Phase 1
 - > RTP Description: Construct five-lane road with bike/ped facilities.
 - > Exemption Status: Project is not an exempt per 40 CFR 93.126, Table 2. The project is a capacity enhancing improvement. Required air conformity analysis has been completed.
 - > UPWP amendment: Not applicable & not required
 - > RTP Goals: Goal 10 Fiscal Stewardship
 - > Goal Objective 10.1 Infrastructure Condition
- Description: Plan, build and maintain regional transportation assets to maximize their useful life, minimize project construction and maintenance costs and eliminate maintenance backlogs

Fund Codes:

- > IOF = State Immediate Opportunity Fund program funds..
- > Local = General local funds provided by the lead agency as part of the required match.

Other

- > On NHS: No
- > Metro Model: Yes
- > Model category and type: Motor Vehicle
- > TCM project: No
- > Located on the CMP: No



Metro
20121-24 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
ADD NEW PROJECT
 Add new 5312 FTA grant award for

Lead Agency: TriMet		Project Type: Transit	ODOT Key: TBD
Project Name: Risk Ranking & Data Validation for Grade Crossing	2	ODOT Type: Transit	MTIP ID: TBD
		Performance Meas: No	Status: T22
		Capacity Enhancing: No	Comp Date: 6/1/2022
		Conformity Exempt: Yes	RTP ID: 10927
		On State Hwy Sys: No	RFFA ID: N/A
		Mile Post Begin: N/A	RFFA Cycle: N/A
		Mile Post End: N/A	UPWP: No
		Length: N/A	UPWP Cycle: N/A
		1st Year Program'd: 2021	Past Amend: 1
		Years Active: 1	OTC Approval: Yes
STIP Amend #: TBD	MTIP Amnd #: NV21-04-NOV		
Detailed Description: FTA Section 5312 FY20 Safety, Research and Demonstration (SRD) and Bus Operator Compartment Redesign (BCP) Project Selection to develop a Risk Ranking Methodology and Evaluation Tool for grade crossing safety. Measure the relative risk associated with existing conditions at grade crossings, future considerations of incidents, and the potential efficacy of new safety treatments to support risk reduction. Validate the accuracy of the Risk Ranking methodology, by upgrading cameras along the rail alignment to allow real-time video analytics and documentation of situational and environmental changes associated with risks and incidents at grade crossings			
STIP Description: TBD			

Last Amendment of Modification: None. New. Initial programming in the MTIP is now occurring.

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Construction	Other (Transit)	Total
Federal Funds								
5312		2021					\$ 825,506	\$ 825,506
								\$ -
								\$ -
No fund code identified for 5312 programmatic code in the FTA website. Match requirement is 20%							Federal Totals:	\$ 825,506
Federal Fund Obligations:								Federal Aid ID
EA Number:								
Initial Obligation Date:								
State Funds								
								\$ -
								\$ -
							State Total:	\$ -
State Fund Obligations:								
EA Number:								
Initial Obligation Date:								
Local Funds								
TriMet GF	Match	2021					\$ 206,377	\$ 206,377
Other	OVM	2021					\$ 43,623	\$ 43,623
								\$ -
Local other funds reflect overmatch commitment from TriMet							Local Total	\$ 250,000
Phase Totals Before Amend:			\$ -		\$ -	\$ -	\$ -	\$ -
Phase Totals After Amend:			\$ -		\$ -	\$ -	\$ 1,075,506	\$ 1,075,506
							Year Of Expenditure (YOE):	\$ 1,075,506

Notes and Summary of Changes:

- > Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- > New FTA 5312 discretionary grant award to TriMet. Overall local fund contribution by TriMet is 23.2% and above the required 20% minimum match.

Amendment Summary:

- The formal amendment adds the new FTA section 5312 discretionary grant award to TriMet to the 2021-24 MTIP. Programming is occurring now to enable TriMet to move forward to FTA with their TrAMS grant application as soon as possible. The grant award is from the FTA Safety Research & Demonstration Program (SRD) and Bus Operator Compartment (BCP) Program
- > Will Performance Measurements Apply: Yes - Transit and possibly later under Safety

RTP References:

- > RTP ID: 10927 - Operating Capital: Information Technology Phase 1
- > RTP Description: Communication System
- > Exemption Status: Project is an exempt, non-capacity type project per 40 CFR 93.126, Table 2 - Other - Grants for training and research programs.
- > UPWP amendment: Not applicable & not required
- > RTP Goals: Goal 5 - Safety and Security
- > Goal Objective 5.1 Transportation Safety
- > Goal Description: Eliminate fatal and severe injury crashes for all modes of travel.

Fund Codes:

- > 5312 = Federal FTA Section 5312 providing funding to develop innovative products and services assisting transit agencies in better meeting the needs of their customers. This specific 5312 funding pot is allocated through a competitive discretionary funding call.
- > TriMet GF = General local funds committed by TriMet to fulfill the required minimum match to the federal funds. For this project the 5312 minimum match requirement is 20%
- > Other = General local funds provided by the lead agency above the required match amount to support phase costs above the federal and match amount programmed.

Other

- > On NHS: No
- > Metro Model: No
- > Model category and type: N/A
- > TCM project: No
- > Located on the CMP: No



Metro
20121-24 Metropolitan Transportation Improvement Program (MTIP)
PROJECT AMENDMENT DETAIL WORKSHEET

Formal Amendment
COST INCREASE
 Address Other and Construction

Lead Agency: Tigard Washington County		Project Type:	TSMO		ODOT Key:	18311
Project Name: Durham Rd/Upper Boones Ferry Rd. OR99W - I-5	3	ODOT Type	OPS-ITS		MTIP ID:	70647
		Performance Meas:	Yes		Status:	4
Project Status: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%,90% design activities initiated) Short Description: Design upgrades to signal hardware and communication. Add adaptive signal timing and detection Traffic signal upgrades and communication infrastructure at the intersections along Durham Rd and Upper Boones Ferry Rd from OR99W to I-5 allowing integration into the regional traffic signal management system and providing signal timing changes to meet demand and provide traveler information.		Capacity Enhancing:	No		Comp Date:	12/1/2022
		Conformity Exempt:	Yes		RTP ID:	11104
		On State Hwy Sys:	No		RFFA ID:	N/A
		Mile Post Begin:	N/A		RFFA Cycle:	N/A
		Mile Post End:	N/A		UPWP:	No
		Length:	N/A		UPWP Cycle:	N/A
		1st Year Program'd:	2015		Past Amend:	11
		Years Active:	7		OTC Approval:	No
		STIP Amend #: TBD			MTIP Amnd #: NV21-04-NOV	

Detailed Description: ~~Design upgrades to signal hardware and communication.~~ Add adaptive signal timing and detection In Tigard on Durham Rd and Upper Boones Ferry Rd between OR99W to I-5, complete traffic signal upgrades and communication infrastructure improvements at multiple intersections allowing these improvements will enable this section of road system to be integrated into the regional traffic signal management system, allowing signal timing changes to meet demand and provide traveler information and data to support regional transportation goals.

STIP Description: Traffic signal upgrades and communication infrastructure at the intersections along Durham Rd and Upper Boones Ferry Rd from OR99W to I-5. These improvements will enable this section of road system to be integrated into the regional traffic signal management system, allowing signal timing changes to meet demand and provide traveler information and data to support regional transportation goals.

Last Amendment of Modification: Administrative - MINOR COST INCREASE - May 2020 The Admin Mod increases the total PE obligation amount as a technical correction and adjusts the construction phase STP and overmatch ratio amounts.

PROJECT FUNDING DETAILS

Fund Type	Fund Code	Year	Planning	Preliminary Engineering	Right of Way	Other (ITS)	Construction	Total
Federal Funds								
STP-U	M23E Z230	2016				\$ 429,643		
STP-U	M23E Z230	2015				\$ 429,643		\$ 429,643
Equity Bonus	LZ1E	2016		\$ 291,300				\$ 291,300
STP-U	Z230	2016		\$ 72,119				\$ 72,119
STP-U	Z230	2021					\$ 206,938	\$ 206,938
								\$ -
								\$ -
Other phase moved to correct obligation year of 2015							Federal Totals:	\$ 1,000,000
Federal Fund Obligations:				\$ 363,419		\$ 429,643		Federal Aid IDs
EA Number:				None		C2341702		C067(105)
Initial Obligation Date:				9/15/2016		9/9/2015		C067(110)
State Funds								\$ -
								\$ -
							State Total:	\$ -
Local Funds								
Local	Match	2016				\$ 49,175		
Local	Match	2015				\$ 49,175		\$ 49,175
Other	OVM	2015				\$ 31,183		\$ 31,183
Local	Match	2016		\$ 33,341				\$ 33,341
Local	Match	2016		\$ 8,254				\$ 8,254
Local	Match	2021					\$ 23,685	\$ 23,685
Other	OVM	2021					\$ 389,831	\$ -
Other	OVM	2021					\$ 719,377	\$ 719,377
								\$ -
							Local Total	\$ 865,015
Phase Totals Before Amend:			\$ -	\$ 405,014	\$ -	\$ 478,818	\$ 620,454	\$ 1,504,286
Phase Totals After Amend:			\$ -	\$ 405,014	\$ -	\$ 510,001	\$ 950,000	\$ 1,865,015
							Year Of Expenditure (YOE):	\$ 1,865,015

Notes and Summary of Changes:

- > Red font = prior amended funding or project details. Blue font = amended changes to funding or project details. Black font indicates no change has occurred.
- > Lead agency change with a cost increase to the construction phase. No scope change.

Amendment Summary:

The formal amendment changes the lead agency from Tigard to be Washington County to deliver the construction phase. The total project cost increases from \$1,504,286 to \$1,865,015 (increase of \$360,729 = 23.9%) and represents a cost increase above the 20% threshold requiring a formal amendment. The cost increase results from revised project costs identified in the 60% design update. The project's original programming dates back to 2016. Revised costs have not occurred for inflation and other design requirements until now that the project reached the 60% design level. The project description is also being updated through this amendment.

- > Will Performance Measurements Apply: Yes - ITS and possibly safety.
- > Are funding shelf-life obligation conditions applicable: Yes. The Construction phase STP funds must be obligated before the end of FY 2023 (September 30, 2023). If not obligated by the end of FY 2023, the STP funds will lapse and be rescinded from the project.

RTP References:

- > RTP ID: 11104 - Regional TSMO Program Investments for 2018-2027
- > RTP Description: Implement and maintain Transportations System Management and Operations (TSMO) investments used by multiple agencies (e.g., Central Signal System, traffic signal priority, data communications and archiving) and coordinate response to crashes. The regional program also includes strategy planning (e.g., periodic TSMO Strategy updates), coordination of activities for Transport subcommittee to TPAC, updates to the blueprints for agency software and hardware systems (ITS Architecture), improving traveler information with live-streaming data for connected vehicle and mobile information systems (TripCheck Traveler Information Portal Enhancement), and improving "big data" processing (PSU PORTAL) to support analyzing performance measures.
- > Exemption Status: Project is an exempt, non-capacity type project per 40 CFR 93.126, Table 2 -Traffic control devices and operating assistance other than signalization projects.
- > UPWP amendment: Not applicable & not required
- > RTP Goals: Goal 4 Reliability and Efficiency
- > Goal Description: Objective 4.2 Travel Management – Increase the use of real-time data and decision-making systems to actively manage transit, freight, arterial and throughway corridors.

Fund Codes:

- > STP-U = Federal Surface Transportation Program funds appropriated to the states with a portion allocated to the MPOs.
- > Local = General local funds provided by the lead agency as part of the required match.
- > Other = General local funds provided by the lead agency above the required match amount to support phase costs above the federal and match amount programmed.

Other

- > On NHS: No for SW Durham Rd and Yes for Upper Boones Ferry Rd
- > Metro Model: Yes
- > Model category and type: Minor Arterial identified in the Motor Vehicle modeling network
- > TCM project: No
- > Located on the CMP: No

Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: November 19, 2020
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead
Subject: November 2020 MTIP Formal Amendment & Resolution 20-5144 Approval Request

FORMAL AMENDMENT STAFF REPORT

FOR THE PURPOSE OF AMENDING ONE EXISTING AND ADDING TWO NEW PROJECTS TO THE 2021-24 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) IMPACTING HILLSBORO, TRIMET, AND WASHINGTON COUNTY (NV21-04-NOV)

BACKGROUND

What This Is:

The November 2020 Formal Metropolitan Transportation Improvement Program (MTIP) Formal/Full Amendment which is contained in Resolution 20-5144 and being processed under MTIP Amendment NV21-04-NOV.

What is the requested action?

JPACT approved Resolution 20-5144 on November 19, 2020 consisting of three projects in the November 2020 Formal Amendment Bundle and requests Metro Council their final approval enabling the projects to be amended correctly into the 2021-24 MTIP with final approval to occur from USDOT.

Proposed November 2020 Formal Amendment Bundle					
Amendment Type: Formal/Full					
Amendment #: NV21-04-NOV					
Total Number of Projects: 3					
ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
Project #1 Key 22314 NEW PROJECT	TBD	Hillsboro	NE Huffman St Improvement Project (City of Hillsboro)	Construct/extend new 2 through lane arterial on NE Huffman St from NE Starr Blvd west to NE 30th Ave and include 650' on 30th Ave intersection, shoulders, mountable curbs, and stormwater management	<u>ADD NEW PROJECT:</u> The formal amendment adds the smaller capacity enhancing project (1 though lane in each direction) from NE Starr Blvd west to 30th Ave plus 650 feet of intersection construction at 30th Ave. ODOT awarded the City of Hillsboro a \$1 million dollar state Immediate Opportunity Fund (IOF) award with the City providing \$1 million in matching funds. The funding is all being programmed for construction needs.

ODOT Key #	MTIP ID #	Lead Agency	Project Name	Project Description	Description of Changes
Project #2 Key TBD NEW PROJECT	TBD	TriMet	Risk Ranking & Data Validation for Grade Crossing	Design a risk ranking evaluation tool for rail crossing safety improvements, including upgrading cameras to document risks and incidents at grade crossings on its MAX light rail system.	ADD NEW PROJECT: The formal amendment adds the new FTA section 5312 discretionary grant award to TriMet to the 2021-24 MTIP.
Project #3 Key 18311	7067	Tigard Washington County	Durham Rd/Upper Boones Ferry Rd. OR99W - I-5	Design upgrades to signal hardware and communication. Add adaptive signal timing and detection Traffic signal upgrades and communication infrastructure at the intersections along Durham Rd and Upper Boones Ferry Rd from OR99W to I-5 allowing integration into the regional traffic signal management system and providing signal timing changes to meet demand and provide traveler information.	COST INCREASE: The formal amendment changes the lead agency from Tigard to be Washington County to deliver the construction phase. The total project cost increases from \$1,504,286 to \$1,865,015 (increase of \$360,729 = 23.9%) and represent a cost increase above the 20% threshold requiring a formal amendment.

Added Note 11-6-2020: TPAC members raised a question about the OTC report concerning the Hillsboro NE Huffman St Immediate Opportunity Fund (IOF) construction project. Specifically, the question requested clarification concerning the funding amount for the project. Hillsboro received a \$1 million IOF state grant and is providing the required \$1 million local match. The funds are being programmed only for the construction phase in the MTIP and STIP. The amounts in the below table seemed a little confusing to some TPAC members as to the awarded funding amount.

Project	Current Funding	Proposed Funding
Northeast Huffman Street Improvement Project (City of Hillsboro)	\$0	\$2,000,000
Type A Immediate Opportunity Funds (IOF) (KN 19992)	\$1,724,748	\$724,748
City of Hillsboro contribution	\$1,000,000	\$0
TOTAL	\$2,724,748	\$2,724,748

Discussion with ODOT staff confirmed that the above table was provided to provide a summary of the awarded funding. The first line provides the funding need identified by the city of Hillsboro. The construction phase proposed funding need is \$2 million. The second line identifies the IOF funding source in Key 19992 with a total of \$1,724,748 available. The award of \$1 million is reduced from the capacity leaving \$724,748. The third line provides Hillsboro's 50% local contribution of \$1 million. The final matching totals represent how the available funding shifts to become committed funding with \$2 million now funding the Huffman Street improvement project.

The final accounting of the awarded funding indicates that the proposed programming of \$2 million dollars (\$1 million IOF + \$1 million local funds) in the construction phase is correct

Note to TPAC Members:

As of the start of FY 2021 (October 1, 2020), Metro is now under annual Obligation Targets. The program applies to the three MPO Transportation Management Agencies (TMA) which includes Metro. The requirements only affects Metro federal formula funds including Congestion Mitigation

Air Quality (CMAQ), Surface Transportation Block Grant (STBG), and Transportation Alternatives (TA) funds. ODOT funded programs, Transit federal funds, and discretionary federal grant awards, are not subject to the Obligation Targets Program requirements. The Obligation Target requirements were to begin with the FY 2020 federal fiscal year. However, due to the Covid-19 situation, the requirements were suspended. FY 2020 was used as a training year to implement and assess several of the new requirements. With the beginning of FY 2021, spring training is over, and the real game now begins.

During TPAC’s January 2021 meeting, members will receive an updated summary briefing about the Obligation Targets program and impacts on MTIP and STIP programming, plus project delivery procedures. The TMAs have spent the last two years working with ODOT on the program requirements, potential rewards, penalties, and possible exceptions. Overall, the Obligation Targets program as developed is fair and still offers Metro flexibility in development of the RFFA Step 2 discretionary funding program. However, at the same time, the Obligation Target program will force project accountability and penalize federally funded projects that fail to complete their federal requirements, and not are delivered in an acceptable time frame.

The overall goal of the program for the TMAs and ODOT is not punitive, but is to ensure appropriated and allocated federal formula funds to the TMAs are programmed, obligated, and expended in a timely fashion to help ensure ODOT is never penalized under the annual FHWA nationwide Redistribution program. The Redistribution program rescinds federal funds from states for failing to meet their state obligation targets and redistributes the funds to other states that met their annual targets.

A detailed summary of the new proposed amended project is provided below.

Project 1:		NE Huffman St Improvement Project (City of Hillsboro) (New Project)	
Lead Agency:	Hillsboro		
ODOT Key Number:	22314	MTIP ID Number:	TBD
Projects Description:	<p>Project Snapshot:</p> <ul style="list-style-type: none"> Proposed improvements: Construct/extend new 2 through lane arterial on NE Huffman St from NE Starr Blvd west to NE 30th Ave and include 650' on 30th Ave intersection, shoulders, mountable curbs, and stormwater management Source: New project. Funding: The awarded source of funding for the project is from ODOT’s Immediate Opportunity Fund (IOF) program and local fund committed by the city of Hillsboro Project Type: Highway – Capacity enhancing arterial extension Location: In Hillsboro in the Hillsboro Technology Park on Huffman St Cross Street Limits: At NE Starr Blvd. then west to 30th Ave including 650 feet of intersection construction at 30th Ave Overall Mile Post Limits: N/A – not located on the State Highway System Current Status Code: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated). STIP Amendment Number: 21-24-0081 MTIP Amendment Number: NV21-04-NOV 		

- OTC approval required: Yes (Occurred October 2020)

AMENDMENT ACTION: ADD NEW PROJECT

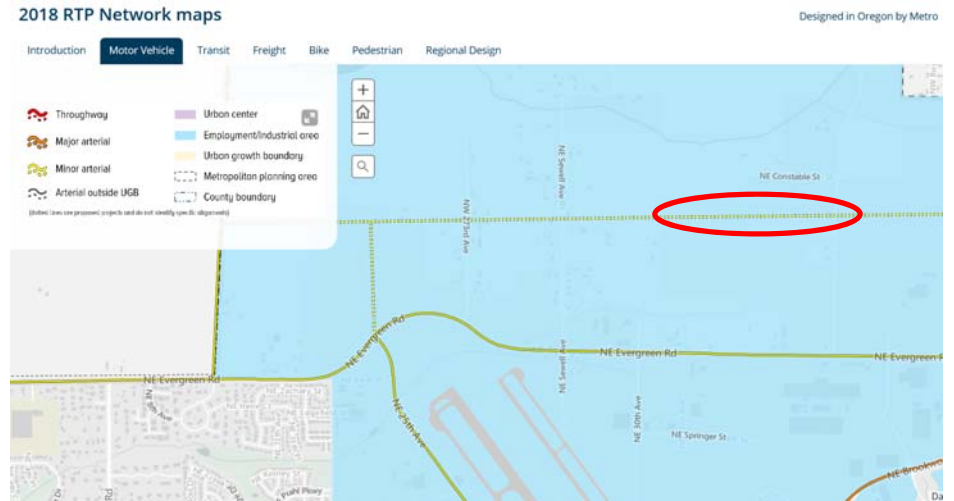
The formal amendment adds the smaller capacity enhancing project (1 though lane in each direction) from NE Starr Blvd west to 30th Ave plus 650 feet of intersection construction at 30th Ave.

ODOT awarded the City of Hillsboro a \$1 million dollar state Immediate Opportunity Fund (IOF) award with the City providing \$1 million in matching funds. The funding is all being programmed for construction needs. The total of \$2 million dollars allows a though lane in each direction to be constructed with shoulders, mountable curbs, and addresses stormwater management.

The project is covered under Key 18021 in the RTP which reflects the full build-out at 2 through lanes in each direction with a median turn lane. As a capacity increasing project, air conformity analysis has been completed in the RTP. Full build out will occur later. OTC approval was required and occurred during their October 2020 meeting. MTIP and STIP programming is occurring now as the construction phase bid let date is planned for 7/4/2021.

What is changing?

The NE Huffman St construction project will construct a new 2 through-lane arterial (1 lane in direction) with a final proposed build out at five lanes (2 through lanes in each direction with a median lane) The full-build-out at five lanes has completed required air conformity analysis and is modeled in the 2018 RTP Motor Vehicle network. The project is capacity enhancing and considered a regionally significant project.



Additional Details:

The purpose of ODOT's "Immediate Opportunity Fund" (IOF) is to support primary economic development in Oregon through the construction and improvement of streets and roads. The 1987 Oregon Legislature created

	<p>state funding for immediate economic opportunities with certain motor vehicle gas-tax increases.</p> <p>Access to this fund is discretionary and the fund may only be used when other sources of financial support are unavailable or insufficient. The IOF is not a replacement or substitute for other funding sources.</p> <p>The IOF is designed to meet the following objectives:</p> <ul style="list-style-type: none"> • Provide needed street or road improvements to influence the location, relocation or retention of a firm in Oregon. • Provide procedures and funds for the Oregon Transportation Commission (OTC) to respond quickly to economic development opportunities. • Provide criteria and procedures for Business Oregon, other agencies, local governments and the private sector to work with the Oregon Department of Transportation (ODOT) in providing road improvements needed to ensure specific job development opportunities for Oregon or to revitalize business or industrial centers. <p>There are a total of four classifications of IOF eligible projects (A through D) The Hillsboro Huffman St awarded project is classified as a Type A IOF eligible project: This is defined as a business's decision to locate, relocate or expand hinges on an immediate commitment of road construction resources to construct the road improvement project.</p> <p>The direct benefits in terms of "primary" jobs created or retained by the development through the construction of a road improvement have been demonstrated. The jobs created by the development must be "primary" jobs, such as manufacturing, production, warehousing, distribution, or others that create new wealth for the Oregon economy and support development of at least one of the state of Oregon's strategic key industries, which have been identified by the Oregon Business Development Commission as being key to the state's economic vitality, growth and diversification. Normally, retail and service jobs do not meet this definition.</p>
<p>Why a Formal amendment is required?</p>	<p>Per the FHWA/FTA/ODOT/MPO approved Amendment Matrix, adding a new project to the MTIP requires a formal/full amendment to be completed.</p>
<p>Total Programmed Amount:</p>	<p>The project programming totals \$2 million dollars all in the construction phase.</p>
<p>Added Notes:</p>	<ul style="list-style-type: none"> • MTIP and STIP programming are occurring now as the planned construction phase Bid Let date is scheduled for 7/4/2021. • OTC approval was required and occurred during their October 2020 meeting • The OTC staff memo along with project location maps is included as Attachment 1

Project 2: Risk Ranking & Data Validation for Grade Crossing (New Project)	
Lead Agency:	TriMet
ODOT Key Number:	TBD MTIP ID Number: TBD
Projects Description:	<p>Project Snapshot:</p> <ul style="list-style-type: none"> Proposed improvements: Design a risk ranking evaluation tool for rail crossing safety improvements, including upgrading cameras to document risks and incidents at grade crossings on its MAX light rail system. Source: New project. Funding: The project contains awarded federal FTA Section 5312 funding from the Safety Research and Demonstration Program plus required local match. Project Type: Research/Operational Improvements Location: Regional MPO -To be applied across TriMet’s MAX rail system Cross Street Limits: N/A Overall Mile Post Limits: N/A Current Status Code: T22 = Programming actions in progress or programmed in current MTIP STIP Amendment Number: TBD MTIP Amendment Number: NV21-04-NOV OTC approval was not required for this amendment.
What is changing?	<p>AMENDMENT ACTION: ADD NEW PROJECT</p> <p>The formal amendment adds the new Federal Transit Administration (FTA) Section 5312 discretionary grant award to TriMet to the 2021-24 MTIP. Programming is occurring now o enable TriMet to move forward to FTA with their TrAMS grant application as soon as possible.</p> <p>The grant award is from the FTA Safety Research & Demonstration Program (SRDP) and Bus Operator Compartment (BCP) Program. TriMet’s grant award is one of 10 projects nationwide funded under the Safety Research and Demonstration Program (SRDP) and Bus Operator Compartment Program (BOCP). The funding allocation from these two sources totaled \$9.1 in competitive allocations.</p> <p>Risk Ranking & Data Validation for Grade Crossing Project: (Source: TriMet Grant Application)</p> <p>Since 1986, there have been 41 fatalities related to collisions between MAX trains and pedestrians (including suicides and trespassers), bicyclists or motor vehicles.</p> <p>An evaluation of TriMet Pedestrian Grade Crossing Safety conducted in May of 2019 found that TriMet is leading the industry in Rail Grade crossing safety practices, and that TriMet's rate of fatalities per Light Rail vehicle revenue mile was well below comparable industry averages between 2007 and 2015.</p>

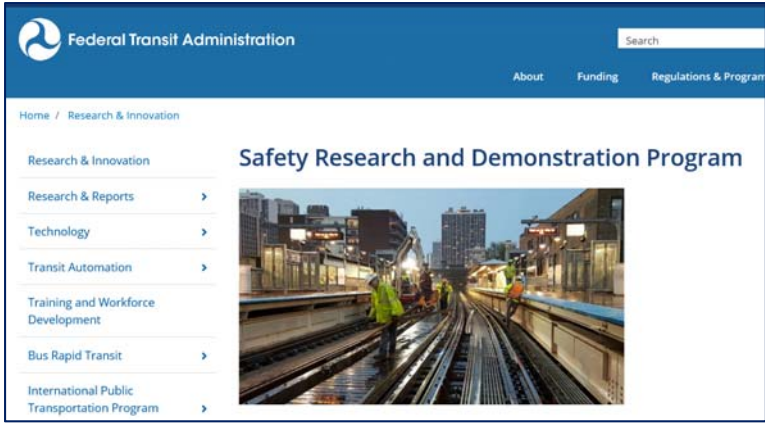
TriMet strives for continuous improvement and increased safety. Through effective data collection, TriMet captures data from a variety of sources including reported and documented near misses through an accident/incident database, an additional incident management database, a request for safety analysis process for internal concerns and hazard, and a Service Improvement Process database for collecting information from customer facing inputs. All of these sources inform operator training and design of safety improvements. In addition, new sources of data input are on the horizon as technology evolves, data management practices change and customers find new ways to communicate.

A more unified and modular approach is needed to ensure that all data is being correctly aggregated and weighted, investments in safety are being directed to the highest need locations, and the appropriate level of intervention and design is applied to achieve optimal safety outcomes for TriMet and the people who use the TriMet system. Currently, data is gathered episodically from the individual data sources at the time an new grade crossing safety project is commenced and decisions on site selection and design interventions, while made based on data, are still reliant on more qualitative measures and the process could be improved by providing additional tools for quantitative evaluation of grade crossings using a multi-factor analysis that includes measures from all available data sources.

TriMet will develop a Risk Ranking Methodology and Tool for grade crossing safety improvements. The tool will allow TriMet to effectively aggregate a broad range of data inputs, statistically analyze, evaluate risk at shared corridor grade crossings and prioritize and appropriately scale investments in safety upgrades based on quantitative multi-factor risk rankings. Following development, the efficacy and accuracy of the tool will be validated by conducting an inventory of TriMet grade crossings and current safety enhancements, and deployment of real-time Video Content Analytics on cameras at grade crossings. The demonstration of real-time video content analytics that provide situational awareness and documentation of changes in conditions that indicate relative risk increases at or near grade crossings is innovative as a practice on its own. The utility of the software is increased by using it to validate risk assessments that are used to determine project selection and investments in safety upgrades.

The tool will initially be used to evaluate TriMet's Blue Line grade crossings. Attention will be given to comparing the performance of grade crossings that benefited from safety upgrades as part of prior focused investment in Rail Pedestrian Safety Enhancements (RPSE) and crossings that may still need improvement.

The Risk Ranking Tool will be designed to achieve optimal interoperability with data inputs, understanding that data gathering tools and systems will evolve. This will provide transferability for use on additional TriMet alignments and at other transportation agencies. Demonstration and validation of the tool will allow FTA, through a cooperative agreement to

	<p>advise TriMet on broader industry needs so they are considered during the design and validation process.</p>
<p>Additional Details:</p>	 <p>The Safety Research and Demonstration (SRD) Program is part of a larger safety research effort at the U.S. Department of Transportation that provides technical and financial support for transit agencies to pursue innovative approaches to eliminate or mitigate safety hazards.</p> <p>The goals of FTA’s safety research are to:</p> <ul style="list-style-type: none"> • Improve public safety by reducing transit-related injuries, fatalities, safety events, and enhance system reliability by testing promising new technologies, designs and practices. • Assess ways to promote better public transit safety cultures through the adoption of voluntary safety standards and best-practices. <p>The primary objectives of the SRD Program are to assist rail transit agencies to:</p> <ul style="list-style-type: none"> • Explore advanced technologies, designs and/or practices to mitigate and prevent safety hazards on rail transit systems. • Evaluate cost-effectiveness and practicability of potential solutions.
<p>Why a Formal amendment is required?</p>	<p>Per the FHWA/FTA/ODOT/MPO approved Amendment Matrix, adding a new project to the MTIP requires a formal/full amendment to be completed.</p>
<p>Total Programmed Amount:</p>	<p>The total programming amount (5312 + local funds) is \$1,075,506</p>
<p>Added Notes:</p>	<p>A Funding award summary is included as Attachment 2 to the Staff Report</p>

<p>Project 3:</p>	<p>Durham Rd/Upper Boones Ferry Rd. OR99W - I-5</p>		
<p>Lead Agency:</p>	<p>Tigard Washington County</p>		
<p>ODOT Key Number:</p>	<p>18311</p>	<p>MTIP ID Number:</p>	<p>70647</p>
<p>Projects Description:</p>	<p>Project Snapshot:</p> <ul style="list-style-type: none"> • Proposed improvements: 		

	<p>Design upgrades to signal hardware and communication. Add adaptive signal timing and detection</p> <p>Traffic signal upgrades and communication infrastructure at the intersections along Durham Rd and Upper Boones Ferry Rd from OR99W to I-5 allowing integration into the regional traffic signal management system and providing signal timing changes to meet demand and provide traveler information.</p> <ul style="list-style-type: none"> • Source: Existing project • Funding: The project includes Metro federal allocated Surface Transportation Program funds and local funds • Project Type: TSMO/Operations • Location: On SW Durham Rd and Upper Boones Ferry Rd in Tigard • Cross Street Limits: OR99W to I-5 • Mile Post Limits: N/A • Current Status Code: 4 = (PS&E) Planning Specifications, & Estimates (final design 30%, 60%, 90% design activities initiated). • STIP Amendment Number: TBD • MTIP Amendment Number: NV21-04-NOV • OTC approval required: No • Red Flag Delivery Issues: Yes. See below narrative.
<p>What is changing?</p>	<p>AMENDMENT ACTION: COST INCREASE</p> <p>Key 18311 is a Transportation Management and Systems Operations improvement project funded with Metro allocated federal funds. The Lead agency through the Preliminary Engineering Phase has been the city of Tigard.</p> <p>The main scope of work will add adaptive signal timing and detection In Tigard on Durham Rd and Upper Boones Ferry Rd between OR99W to I-5, complete traffic signal upgrades and communication infrastructure improvements at multiple intersections.</p> <p>The amendment addresses a cost increase and change in lead agency delivery for the construction phase. The updated construction cost estimate reflects the inflation costs being significantly more than originally anticipated. The last Project Change Request (PCR) increased the project scope by adding a pedestrian signal which resulted in increased construction costs. The pedestrian signal has been verified by a traffic analysis. The "Other" phase needs to be increased to include a Benefit Report to document the adaptive system's effects on the corridor's traffic. Software will be purchased during the other phase. Additional costs being added to fully fund each phase of work.</p> <p>The project is considered an older project that has not progressed satisfactory through the federal transportation delivery process. The project has been delayed due to cost and design issues as noted above. The project was first programmed in 2015 in the 2015-18 MTIP with the Other phase obligating in 2015 and the PE phase obligating in 2016. As of five plus years later, the project is only now at the 60% design level and still has not completed the Preliminary Engineering (PE) phase. The project has</p>

	<p>slipped into its third MTIP without completing PE. The acceptable length of a PE phase to complete NEPA and final design is normally two years unless external environment obstacles emerge. The project has also required 11 prior amendments as well.</p> <p>As part of the amendment, Washington County has agreed to take over the delivery status as lead agency and provide the remaining local funding to address the Other phase and Construction phase funding shortfalls. Metro staff greatly appreciates Washington County’s support and their efforts working with ODOT to resolve the project funding shortfall and get the project back on an acceptable delivery schedule ensuring the construction phase federal funds do not lapse.</p> <p>Staff believes that through Washington County’s efforts and this 12th amendment, the required cost corrections to the Other and Construction phase will return the project to a construction phase obligation before the end of FY 2021 (September 30, 2021).</p>
<p>Additional Details:</p>	<p>Under the new statewide Obligation Targets program for MPO Transportation Management Agencies (TMA), older projects with federal funds programmed before 2020, and were slipped into FY 2020 but did not obligate their federal funds by the end of FY 2020, are identified to now have their remaining unobligated federal funds lapse if not obligated by the end of FY 2023 (as of September 30, 2023). The phase funding lapse condition applies to Key 18311, Durham Rd/Upper Boones Ferry Rd. OR99W - I-5 project. The Construction phase is programmed in 2021 and the construction phase is now expected to obligate before the end of FY 2021. If the funds do not obligate before the end of FY 2023, they will lapse and be returned to ODOT.</p>
<p>Why a Formal amendment is required?</p>	<p>Per the FHWA/FTA/ODOT/MPO approved Amendment Matrix, for projects that cost \$1 million or above, a formal/full amendment is required when the cost increase is above 20%. For this project the cost increase equals 23.9%.</p>
<p>Total Programmed Amount:</p>	<p>The total programmed amount increases from \$1,504,286 to \$1,865,015 which represents a \$360,729 increase to the project and primarily to the construction phase.</p>
<p>Added Notes:</p>	<p>Project location maps included in Attachment 3 with an MTIP Amendments summary included as Attachment 4.</p>

Note: The Amendment Matrix located on the next page is included as a reference for the rules and justifications governing Formal Amendments and Administrative Modifications to the MTIP that the MPOs and ODOT must follow.

METRO REQUIRED PROJECT AMENDMENT REVIEWS

In accordance with 23 CFR 450.316-328, Metro is responsible for reviewing and ensuring MTIP amendments comply with all federal programming requirements. Each project and their requested changes are evaluated against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. The programming factors include:

- Verification as required to programmed in the MTIP:
 - Awarded federal funds and is considered a transportation project
 - Identified as a regionally significant project.
 - Identified on and impacts Metro transportation modeling networks.
 - Requires any sort of federal approvals which the MTIP is involved.
- Passes fiscal constraint verification:
 - Project eligibility for the use of the funds
 - Proof and verification of funding commitment
 - Requires the MPO to establish a documented process proving MTIP programming does not exceed the allocated funding for each year of the four year MTIP and for all funds identified in the MTIP.
 - Passes the RTP consistency review: Identified in the current approved constrained RTP either as a stand- alone project or in an approved project grouping bucket
 - RTP project cost consistent with requested programming amount in the MTIP
 - If a capacity enhancing project – is identified in the approved Metro modeling network
- Satisfies RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP.
- If not directly identified in the RTP’s constrained project list, the project is verified to be part of the MPO’s annual Unified Planning Work Program (UPWP) if federally funded and a regionally significant planning study that addresses RTP goals and strategies and/or will contribute or impact RTP performance measure targets.
- Determined the project is eligible to be added to the MTIP, or can be legally amended as required without violating provisions of 23 CFR450.300-338 either as a formal Amendment or administrative modification:
 - Does not violate supplemental directive guidance from FHWA/FTA’s approved Amendment Matrix.

ODOT-FTA-FHWA Amendment Matrix	
Type of Change	
FULL AMENDMENTS	
1.	Adding or cancelling a federally funded, and regionally significant project to the STIP and state funded projects which will potentially be federalized
2.	Major change in project scope. Major scope change includes: <ul style="list-style-type: none"> • Change in project termini - greater than .25 mile in any direction • Changes to the approved environmental footprint • Impacts to AQ conformity • Adding capacity per FHWA Standards • Adding or deleting worktype
3.	Changes in Fiscal Constraint by the following criteria: <ul style="list-style-type: none"> • FHWA project cost increase/decrease: <ul style="list-style-type: none"> • Projects under \$500K – increase/decrease over 50% • Projects \$500K to \$1M – increase/decrease over 30% • Projects \$1M and over – increase/decrease over 20% • All FTA project changes – increase/decrease over 30%
4.	Adding an emergency relief permanent repair project that involves substantial change in function and location.
ADMINISTRATIVE/TECHNICAL ADJUSTMENTS	
1.	Advancing or Slipping an approved project/phase within the current STIP (if slipping outside current STIP, see Full Amendments #2)
2.	Adding or deleting any phase (except CN) of an approved project below Full Amendment #3
3.	Combining two or more approved projects into one or splitting an approved project into two or more, or splitting part of an approved project to a new one.
4.	Splitting a new project out of an approved program-specific pool of funds (but not reserves for future projects) or adding funds to an existing project from a bucket or reserve if the project was selected through a specific process (i.e. ARTS, Local Bridge...)
5.	Minor technical corrections to make the printed STIP consistent with prior approvals, such as typos or missing data.
6.	Changing name of project due to change in scope, combining or splitting of projects, or to better conform to naming convention. (For major change in scope, see Full Amendments #2)
7.	Adding a temporary emergency repair and relief project that does not involve substantial change in function and location.

- Adheres to conditions and limitation for completing technical corrections, administrative modifications, or formal amendments in the MTIP.
- Is eligible for special programming exceptions periodically negotiated with USDOT.
- Programming determined to be reasonable of phase obligation timing and is consistent with project delivery schedule timing.
- Reviewed and initially assessed for Performance Measurement impacts to include:
 - Safety
 - Asset Management - Pavement
 - Asset Management – Bridge
 - National Highway System Performance Targets
 - Freight Movement: On Interstate System
 - Congestion Mitigation Air Quality (CMAQ) impacts
 - Transit Asset Management impacts
 - RTP Priority Investment Areas support
 - Climate Change/Greenhouse Gas reduction impacts
 - Congestion Mitigation Reduction impacts
- MPO responsibilities completion:
 - Completion of the required 30 day Public Notification period:
 - Project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.
 - Acting on behalf of USDOT to provide the required forum and complete necessary discussions of proposed transportation improvements/strategies throughout the MPO.

APPROVAL STEPS AND TIMING

Metro’s approval process for formal amendment includes multiple steps. The required approvals for the November 2020 Formal MTIP amendment (NV21-04-NOV) will include the following:

<u>Action</u>	<u>Target Date</u>
● Initiate the required 30-day public notification process.....	October 21, 2020
● TPAC notification and approval recommendation.....	November 6, 2020
● JPACT approval and recommendation to Council.....	November 19, 2020
● Completion of public notification process.....	November 19, 2020
● Metro Council approval.....	December 3, 2020

Notes:

* If any notable comments are received during the public comment period requiring follow-on discussions, they will be addressed by JPACT.

USDOT Approval Steps:

<u>Action</u>	<u>Target Date</u>
● Amendment bundle submission to ODOT for review.....	December 8, 2020
● Submission of the final amendment package to USDOT.....	December 8, 2020
● ODOT clarification and approval.....	Mid - December, 2020
● USDOT clarification and final amendment approval.....	Early January, 2021

Added Note: Due to the holidays, final USDOT project approvals within the November 2020 Formal Amendment Bundle could be delayed until early to mid-January 2021. It is also possible final approvals could occur earlier in December if final reviews are completed in time for USDOT to approve the project(s) before holiday breaks occur.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:**
 - a. Amends the 2021-24 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 20-5110 on July 23, 2020 (FOR THE PURPOSE OF ADOPTING THE 2021-2024 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA).
 - b. Oregon Governor approval of the 2021-24 MTIP: July 23, 2020
 - c. 2021-2024 Statewide Transportation Improvement Program (STIP) Approval and 2021 Federal Planning Finding: September 30, 2020
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds, or obtain the next required federal approval step as part of the federal transportation delivery process.
4. **Metro Budget Impacts:** None to Metro

RECOMMENDED ACTION:

JPACT approved Resolution 20-5144 on November 19, 2020 consisting of three projects in the November 2020 Formal Amendment Bundle and requests Metro Council their final approval enabling the projects to be amended correctly into the 2021-24 MTIP with final approval to occur from USDOT

- JPACT Approval date: November 19, 2020
- TPAC notification and approval date: November 6, 2019

Attachments:

1. OTC Staff Report Project Location Map for Key 22314
2. Attachment 2: FTA Safety Award Notification
3. Project Location Map for Key 18311
4. MTIP Amendment History Summary for Key 18311



Oregon

Kate Brown, Governor

Oregon Transportation Commission

Office of the Director, MS 11

355 Capitol St NE

Salem, OR 97301-3871

DATE: September 30, 2020

TO: Kristopher W. Strickler
Director

FROM: Rian Windsheimer
Region 1 Manager

SUBJECT: **Agenda/Consent XX** - Request to approve \$1,000,000 of Type A Immediate Opportunity Funds (IOF) to the City of Hillsboro for the extension of Northeast Huffman Street and Northeast 30th Avenue in the Hillsboro Technology Park.

Requested Action:

Approve awarding \$1,000,000 of Type A [Immediate Opportunity Funds \(IOF\)](#) to the City of Hillsboro for the extension of Northeast Huffman Street and Northeast 30th Avenue, and adding the project to the 2021-2024 Statewide Transportation Improvement Program (STIP).

STIP Amendment Funding Summary

Project	Current Funding	Proposed Funding
Northeast Huffman Street Improvement Project (City of Hillsboro)	\$0	\$2,000,000
Type A Immediate Opportunity Funds (IOF) (KN 19992)	\$1,724,748	\$724,748
City of Hillsboro contribution	\$1,000,000	\$0
TOTAL	\$2,724,748	\$2,724,748

New project:

Northeast Huffman Street Improvement Project (City of Hillsboro) (KN TBD)			
PHASE	YEAR	COST	
		Current	Proposed
Construction	2021	\$0	\$2,000,000
TOTAL		\$0	\$2,000,000

Background:

The Hillsboro Technology Park includes over 800 acres of vacant land designated for industrial development and focused on firms in the targeted clusters of high technology, clean tech, and advanced manufacturing. Within the last two years, the City of Hillsboro has made significant investment in preparing this area for development. All but two properties fronting Northeast Starr Boulevard have been purchased by industrial users.

A traded sector high technology manufacturer has expressed significant interest in developing a research and development facility and a training facility on an industrial site in the Technology Park with construction beginning in late 2020 and fully operational by 2023. The manufacturer will create 100 new FTE positions at the project site within 5 years of completion of the project. The majority of positions will pay over the County average wage. The extension of Northeast Huffman Street and Northeast 30th Avenue will provide the transportation improvements needed to recruit the manufacturer. The transportation improvements will also attract other development opportunities at the Hillsboro Technology Park. The City has also seen interest from corporate headquarters entities as well as manufacturing, which could bring an additional 300-400 jobs to the Technology Park.

Proposed Project:

The extension of Northeast Huffman Street and Northeast 30th Avenue project in the Hillsboro Technology Park will provide a safe multi-modal connection for motor vehicles, bicycles, and pedestrians traveling along Northeast Huffman Street. The scope of work consists of 2,600 lineal feet of Northeast Huffman Street from its current westerly terminus at Northeast Starr Boulevard to the intersection (hammerhead) with Northeast 30th Avenue, approximately 650 lineal feet of 30th Avenue, and consists of improvements described below:

- Provide concrete pavement width for 34' roadway extending Northeast Huffman Street
- Bi-directional travel
- Develop storm water collection conveyance and management along Northeast Huffman Street and hammerhead portions of Northeast 30th Avenue
- 2- 12' travel lanes
- 2- 6' interim shoulders
- 2- interim 1' mountable curbs and associated storm water management

Benefits of the project would include:

- Positioning industrial sites closer toward development-ready status
- Providing a location to recruit key industry/traded sector businesses and/or provide expansion options in an effort to retain local traded sector businesses
- Providing transportation access to adjacent industrial sites
- Continuing to build a transportation network throughout the industrial area
- Offering an industrial site to a global semiconductor equipment manufacturer to expand and retain their presence in Hillsboro, and also create more jobs
- Providing further international exposure to Hillsboro, from visiting U.S. and overseas key industry business executives to this premiere facility

Immediate Opportunity Fund Program Type:

This project falls under the category of Type A: Benefits in terms of specific economic development projects that affirm job creation opportunities.

How the Project Meets Immediate Opportunity Fund Criteria:

The Immediate Opportunity Fund grant represents 12% of the estimated cost for the road improvements, site work, and necessary utilities. The remaining funds are provided by the Hillsboro Economic Development council, the agency that administers the North Hillsboro Industrial Renewal Area. The funds provided by the Immediate Opportunity Fund grant would include paying for grading, concrete paving, and concrete curbs/gutters. The road project will be advertised through the City of Hillsboro public bid process.

The proposed Northeast Huffman Street extension project is consistent with the Transportation System Plan adopted by the city of Hillsboro.

- This project is projected to create approximately 100 technical manufacturing, and management-level jobs with an average annual salary exceeding \$105,000.
- The road improvements will be in the public right-of-way and will be owned and maintained by the city of Hillsboro.
- The road improvements will serve general transportation needs and conform to access management policies.
- The road improvement project and the development meet all necessary land use and environmental requirements. Permits for the project and development are in the process of being obtained and there are no known issues that will prevent issuance of the permits.
- The project is consistent with the regional priorities for community and economic development developed by the relevant Regional Solutions Advisory Committee.

Options:

With approval, \$1,000,000 in IOF funds will be awarded to the City of Hillsboro for the extension of Northeast Huffman Street and Northeast 30th Avenue, which will improve transportation flow and business access.

Without approval, the traded sector high technology manufacturer may consider other competing locations.

Attachments:

- Attachment 1 – Location & Vicinity Map
- Attachment 2 – Business Oregon Recommendation to ODOT for IOF Award to the City of Hillsboro

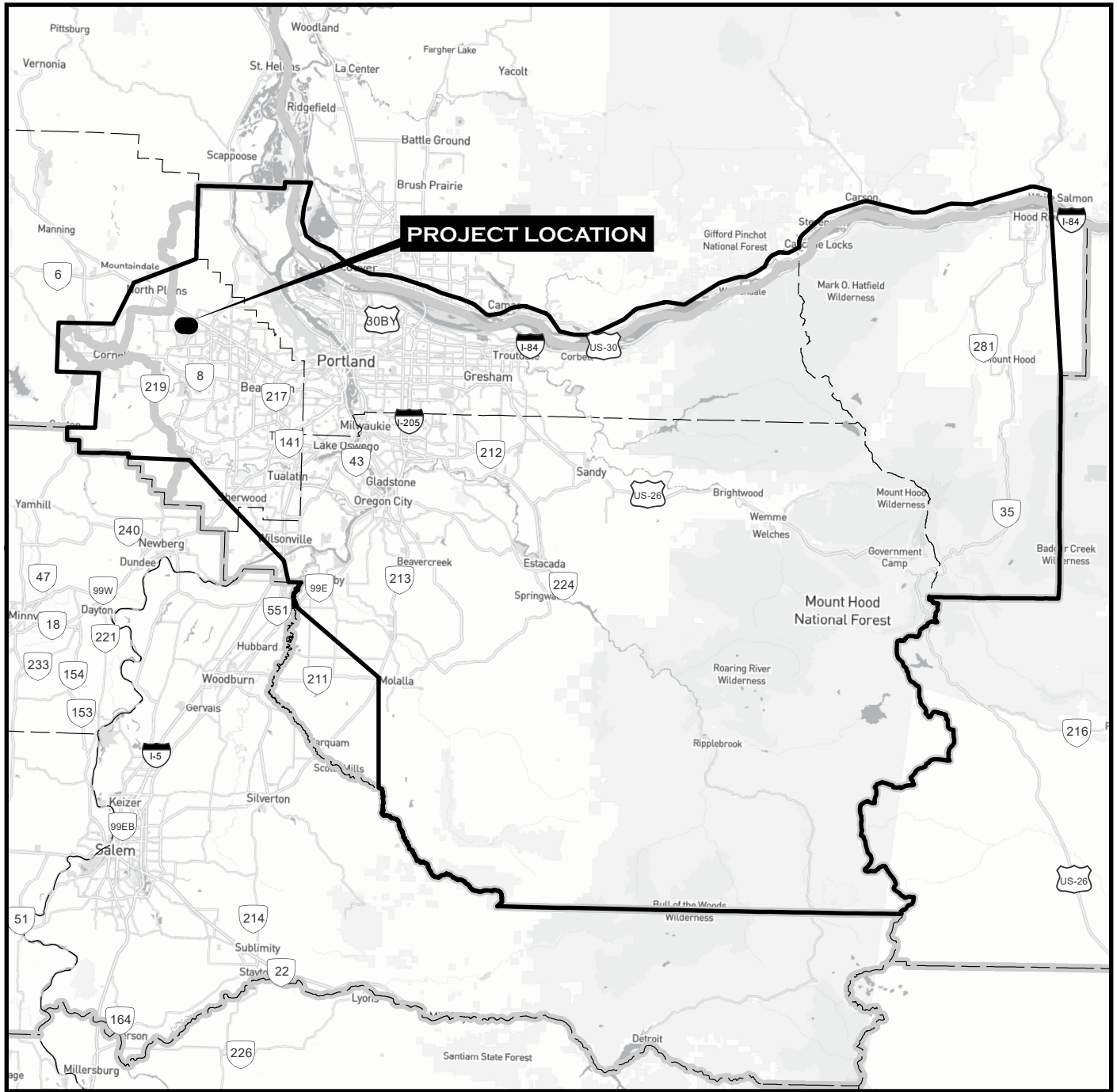
Copies to:

Jerri Bohard	Travis Brouwer	Cooper Brown	Lindsay Baker
Jess McGraw	Tom Fuller	Mac Lynde	Jeff Flowers
Arlene Santana	Amanda Sandvig	Alice Bibler	Rian Windsheimer
Tova Peltz	Jon Makler	Talena Adams	Gabriela Garcia
Vanessa Vissar	Cecelia Gilbert	Matt Freitag	Hope Derrickson

Always the following: “Jerri Bohard, Travis Brouwer, Copper Brown, Lindsay Baker and Jess McGraw” Other interested stakeholders: (Region Manager(s), Division Administrator(s), others, etc.)





PROJECT VICINITY

ODOT REGION 1







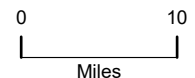
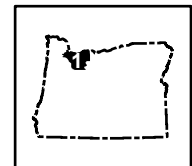
NE HUFFMAN ST IMPROVEMENT PROJECT (CITY OF HILLSBORO) KEY NO. TBD

STATE HIGHWAY CLASSIFICATION

-  INTERSTATE
-  STATEWIDE
-  LOCAL ROADS
-  PROJECT LOCATION

BOUNDARIES

-  ODOT REGION
-  COUNTY
-  ACT BOUNDARY
-  HYDROLOGIC FEATURES

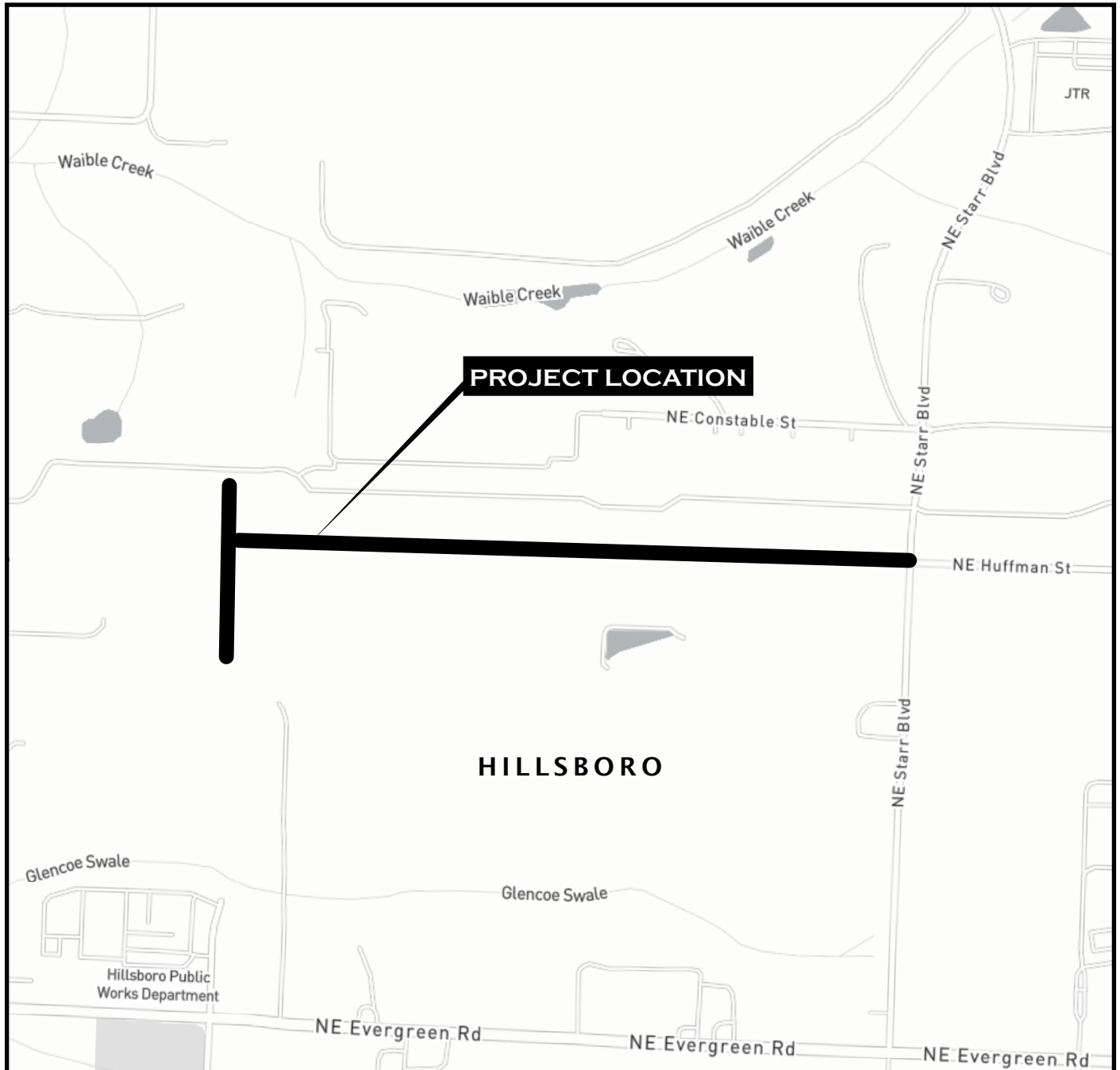


PRODUCED BY ODOT - GIS UNIT
ODOTMaps@odot.state.or.us
GIS NO. 23-52

DATE: 9/30/2020

PROJECT LOCATION

ODOT REGION 1



ACT: Region 1 ACT

COUNTY: Washington

CITY: Hillsboro

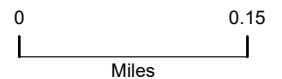
NE HUFFMAN ST IMPROVEMENT PROJECT (CITY OF HILLSBORO) KEY NO. TBD

STATE HIGHWAY CLASSIFICATION

- INTERSTATE
- STATEWIDE
- LOCAL ROADS
- PROJECT LOCATION

BOUNDARIES

- ODOT REGION
- COUNTY
- ACT BOUNDARY
- HYDROLOGIC FEATURES



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GIS NO. 23-52

DATE: 9/30/2020

Attachment 2: SRD and BCP Funding Award Summary

 An official website of the United States government [Here's how you know](#) 

Find the Latest Information on the Coronavirus/COVID-19 at [ETA's Coronavirus landing page](#).

United States Department of Transportation

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Office of Research, Demonstration and Innovation
Federal Transit Administration

Safety Research & Demonstration Program (SRD) and Bus Operator Compartment (BCP) Program Project Selections, FY2018-19

State	Project Sponsor	Project Description	Funding Amount	Project
IL	Chicago Transit Authority (CTA)	The Chicago Transit Authority (CTA) will receive funding for a pilot project to install new safety features for the electrified third rail at Oakton Skokie Station. The rail, which powers CTA subway cars, will be buffered and feature warning labels, improving safety for transit riders and rail maintenance crews.	\$1,183,091	Safety, R and Demons Program
LA	New Orleans Regional Transit Authority (NORTA)	The New Orleans Regional Transit Authority (NORTA) will receive funding to study the implementation of adding shields and barriers on its bus fleet to protect its bus operators. NORTA will work with its bus operators to secure feedback on the implementation of this project and install a prototype for field testing.	\$600,000	Bus Ope Compart Program
MD	Maryland Department of Transportation (MDOT)	The Maryland Department of Transportation (MDOT) will receive funding to expand its track warning and detection pilot program to five additional stations in the Baltimore Metro system. The technology will instantly alert train operators when someone is on the tracks.	\$675,000	Safety, R and Demons Program

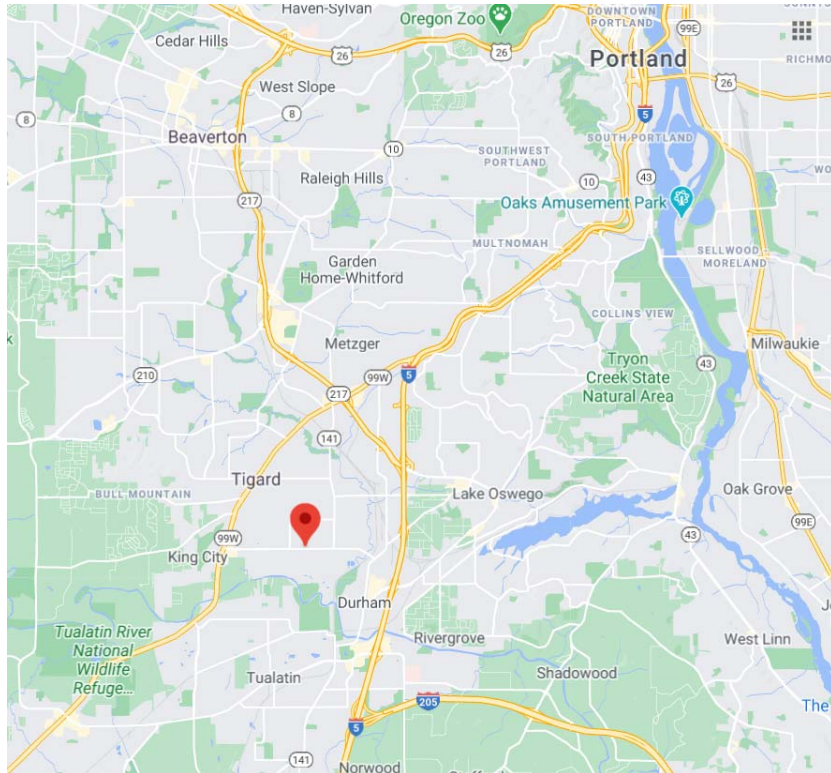
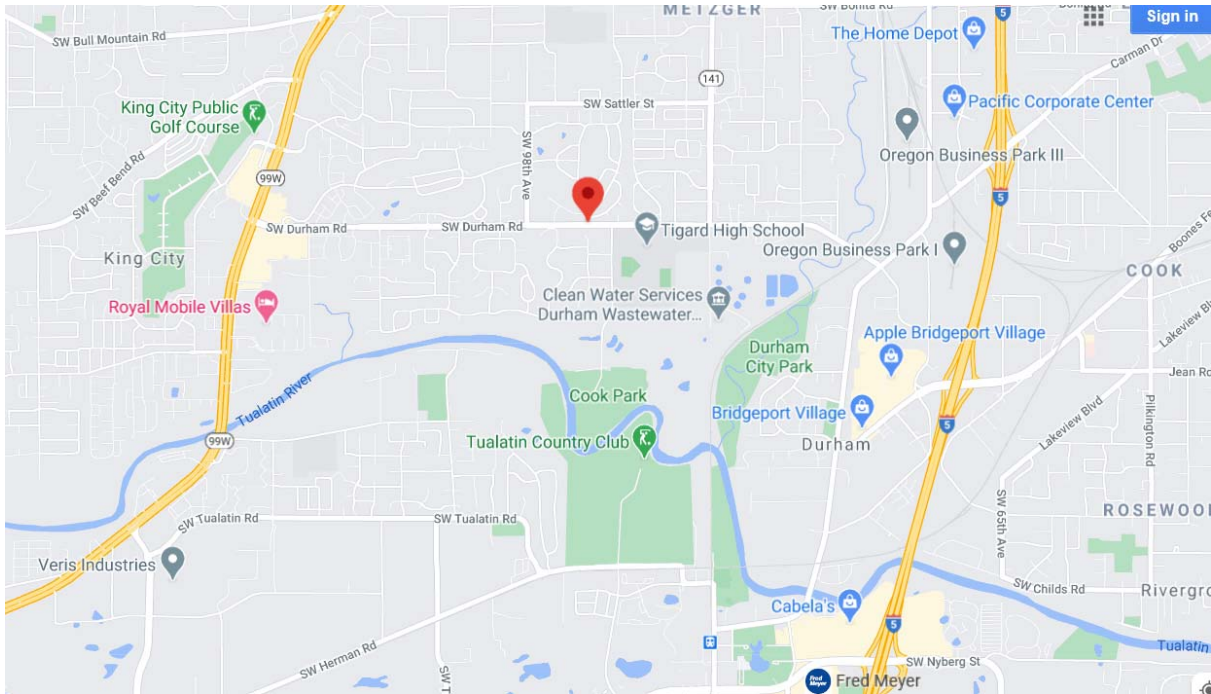
1200 New Jersey Avenue,
S.E.
Washington, DC 20590
United States

Phone: 202-366-4052
Business Hours:
8:30 a.m.-5 p.m. ET, M-F

State	Project Sponsor	Project Description	Funding Amount	Project Pri
MD	International Transportation Learning Center	The International Transportation Learning Center based in Silver Spring, Maryland, will receive funding to redesign a transit bus compartment to improve safety for drivers. By designing a barrier, the compartment will minimize operator assaults and maintain positive passenger interactions through mirrors and lighting.	\$1,000,000	Bus Operat Compartment Program
NJ	Rutgers, The State University Of New Jersey	Rutgers University in New Jersey will receive funding to research and analyze trespasser detection at New Jersey Transit highway rail crossings to reduce fatalities. New Artificial Intelligence (AI) technology will gather data and help transit agencies develop trespasser avoidance solutions.	\$357,072	Safety, Res and Demonstra Program
NY	Metropolitan Transportation Authority (MTA)	The Metropolitan Transportation Authority (MTA) in New York will receive funding to research state-of-the-art bio-mechanics modeling to help save lives with modern, energy-absorbing materials to reduce injuries and fatalities following collisions involving people and trains.	\$3,450,907	Safety, Res and Demonstra Program
NC	City of Charlotte	The City of Charlotte, (Charlotte Area Transit System) in North Carolina will receive funding to install signs and develop a safety public education campaign for the CityLYNX Gold streetcar line. The project will educate riders and residents about the importance of pedestrian safety along the route.	\$56,080	Safety, Res and Demonstra Program
OR	Tri-County Metropolitan Transportation District Of Oregon (Tri-Met)	Tri-Met in Portland Oregon, will receive funding to design a risk ranking evaluation tool for rail crossing safety improvements, including upgrading cameras to document risks and incidents at grade crossings on its MAX light rail system.	\$825,506	Safety, Res and Demonstra Program
PA	Southeastern Pennsylvania Transportation Authority (SEPTA)	The Southeastern Pennsylvania Transportation Authority (SEPTA) in Philadelphia, Pennsylvania will receive funding to install an automated employee protection system, allowing rail transit workers to enhance their safety while working on the tracks.	\$742,000	Safety, Res and Demonstra Program
UT	Utah Transit Authority (UTA)	The Utah Transit Authority (UTA) in Salt Lake City, Utah will receive funding to identify strategies to prevent and mitigate suicides along UTA's FrontRunner commuter rail system & TRAX light rail corridors.	\$224,000	Safety, Res and Demonstra Program



Key 18311
Durham Rd/Upper Boones Ferry Rd. OR99W - I-5
Project Location Map



Attachment 4: Key 18311 MTIP Amendment History

[home](#) | [admin](#) | [RTP](#) | [RFFA](#) | [MTIP](#) | [FUND](#) |

[details](#) | [costs](#) | [programming](#) | [map](#) | [amendments](#) | [obligations](#) | [earmarks](#) | [comments](#)

ODOT Key: 18311 | MTIP ID: 70647
 Durham Rd/Upper Boones Ferry Rd. OR99W - I-5 - Cycle 2021-26

[add a new amendment](#)

amendment	type (adm/res)	request date	agency	requested by	metro approval date	
624	Administrative	01/11/2013	Tigard	Transport	01/18/2013	delete
724	Administrative	12/06/2013	Washington County	Ted Leybold	01/30/2014	delete
787	Administrative	06/12/2014	Tigard	Michele Thom	06/20/2014	delete
855	Administrative	09/26/2014	Tigard		12/03/2014	delete
979	Administrative	07/21/2015	Tigard	Michele Thom	08/12/2015	delete
1085	Administrative	10/27/2015	Tigard	Vaughan Rademeyer	12/07/2015	delete
1188	Administrative	08/19/2016	ODOT	Vaughan Rademeyer	08/22/2016	delete
1768	Administrative	09/23/2019	Tigard	Gabriela Garcia	10/03/2019	delete
1831	Administrative	12/27/2019	Tigard	Ken Lobeck	12/27/2019	delete
1858	Administrative	03/06/2020	Tigard	Ken Lobeck	03/06/2020	delete
1879	Administrative	05/17/2020	Tigard	Ken Lobeck	05/17/2020	delete

Key 18311 MTIP Amendments History					
Num	System ID	Amendment Number	Type	Approval Date	Actions
1	624	AMND13-51A	Administrative	01/22/2013	Transfer \$600K in Regional STP funds from TSMO bucket (K18012) to create a new project (\$125K for PE in 2014 and \$475K for CN in 2015).
2	724	AMND14-33A	Administrative	12/10/2013	Cancel K18311 and transfer federal funds to K17461 (Sherwood, Tualatin and Tigard ATMS)
3	787	AMND14-91A	Administrative	06/12/2014	Reestablish the project by transferring \$1,114,454 from K17461 (\$1,000,000 fed). Change the project name
4	855	N15-25	Administrative	09/26/2014	Slip Preliminary Engineering (PE) phase to 2015.
5	979	STIPFP15-86A	Administrative	08/20/2015	Create an OTHER phase and slip Construction phase and PE to 2016.
6	1085	N16-6	Administrative	12/07/2015	Slip Construction phase to 2017
7	1188	STIPFP16-62A	Administrative	08/31/2016	Amend K18311 Durham Rd/Upper Boones Ferry Rd: OR99W - I-5 to increase PE to \$324,641 by moving \$123,641 from Construction and adding \$123,641 agency funds to keep Construction at the same funding level.
8	1768	AB19-20-SEP1	Administrative	09/23/2019	PHASE SLIP - September 2019 Admin Mod: Slip Construction phase and funding from 2019 to 2020. Construction phase slip due to ongoing assessment of ADA triggers and required ADA work not included in scope and funding plan. Total project cost remains unchanged at \$1,238,095. -
9	1831	AB20-05-DEC2	Administrative	12/27/2019	Slip Construction phase to 2021
10	1858	AB20-09-MAR1	Administrative	03/06/2020	COST INCREASE: \$185k shifted from Construction phase to Other phase to address funding shortfall. Local funds backfilled Construction phase.
11	1879	AB20-11-MAY1	Administrative	05/17/2020	MINOR COST INCREASE The Admin Mod increases the total PE obligation amount as a technical correction and adjusts the construction phase STP and overmatch ratio amounts.
12	TBD	NV21-04-NOV (Current Amendment)	Formal	Pending	Cost Increase: Change the lead agency from Tigard to be Washington County to deliver the construction phase. The total project cost increases from \$1,504,286 to \$1,865,015 (increase of \$360,729 = 23.9%)

Agenda Item No. 4.1

Resolution No. 20-5413, For the Purpose of Readopting the Metro Investment Policy

Resolution

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RE-ADOPTING METRO	)	RESOLUTION NO. 20-5413
CODE CHAPTER 7.03 (INVESTMENT POLICY))	
FOR FISCAL YEAR 2020-2021	)	Introduced by Chief Operating Officer Marissa Madrigal in concurrence with Council President Lynn Peterson

WHEREAS, Metro Code Chapter 7.03 contains the investment policy which applies to all cash-related assets held by Metro; and

WHEREAS, the Investment Advisory Board reviews and approves the Investment Policy for submission to Metro Council; and

WHEREAS, the Investment Policy is subject to review and re-adoption annually by the Metro Council in accordance with ORS 294.135; and

WHEREAS, the Investment Officer has proposed no changes to the Investment Policy and the Investment Advisory Board has recommended that Metro Code Chapter 7.03 remain unchanged; now therefore,

BE IT RESOLVED that the Metro Council has reviewed and re-adopts Metro Code Chapter 7.03 with no changes, a copy of which is attached hereto as Exhibit A.

ADOPTED by the Metro Council this 3rd day of December 2020.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

IN CONSIDERATION OF RESOLUTION NO. 20-5413, FOR THE PURPOSE OF RE-ADOPTING METRO CODE CHAPTER 7.03 (INVESTMENT POLICY) FOR FISCAL YEAR 2020-2021

Date: November 17, 2020
Department: Finance and Regulatory Services
Meeting Date: December 3, 2020

Prepared by: Brian Kennedy, 503-797-1913
Presenter: Brian Kennedy
Length: 10 minutes

ISSUE STATEMENT

Metro Code Chapter 7.03, Investment Policy requires an annual review and re-adoption by Metro Council.

ACTION REQUESTED

Metro Council reviews and re-adopts Metro Code Section 7.03, Investment Policy.

IDENTIFIED POLICY OUTCOMES

Due to Metro's fiduciary responsibility, safety of capital and availability of funds to meet payment requirements are the overriding objectives of the investment program. Investment return targets are secondary.

POLICY QUESTION

Does Metro Council wish to re-adopt the Investment Policy?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

Metro Council could review and re-adopt Metro Code Chapter 7.03, Investment Policy as presented.

Metro Council could recommend modifications to the Investment Policy. Any changes to the policy in its current form would then be reviewed by both Metro's Investment Advisory Board and the Oregon Short-Term Fund Board prior to being presented to council as an ordinance.

STAFF RECOMMENDATIONS

Staff recommends the review and re-adoption of Metro Code Chapter 7.03, Investment Policy.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

The Investment Policy provides a framework for staff to invest all cash-related assets held by Metro. The primary focus is to ensure the safety of capital and availability of funds to meet the payment requirements of the agency. Through prudent investment of assets, Finance and Regulatory Services can meet this primary focus, while generating additional resources for programmatic use.

Metro Council appointed a five member citizen group, the Investment Advisory Board (IAB), to act in an advisory capacity for investment strategies and banking relationships, examine the legality and probity of investment activities, and establish written procedures for investment operations. The IAB recommended Metro Council review and re-adopt the Investment Policy in its current form and that staff prepare a more substantive review for the IAB later in 2021.

ORS 294 restricts the types and maturities of investments made by local governments. However, it provides additional flexibility when a written investment policy is adopted. ORS 294.135 restricts investment maturities to 18 months, but longer maturities are allowed for Metro due to our adopted policy and are contingent on annual review and re-adoption by Metro Council. Also prescribed by ORS 294.135, Metro's investment policy must be reviewed by the Oregon Short-Term Fund Board; the policy has previously been approved in its current form.

BACKGROUND

The most recent Council action on the Investment Policy was re-adoption by Resolution 19-1500. That resolution re-adopted the policy in its present form.

ATTACHMENTS

Attachment A: Metro Code Chapter 7.03, Investment Policy

CHAPTER 7.03

INVESTMENT POLICY¹

- 7.03.010 Scope
- 7.03.020 General Objectives
- 7.03.030 Standards of Care
- 7.03.040 Transaction Counterparties, Investment Advisers and Depositories
- 7.03.050 Safekeeping and Custody
- 7.03.060 Suitable and Authorized Investments
- 7.03.070 Investment Parameters
- 7.03.080 Prohibited Investments
- 7.03.090 Reporting
- 7.03.100 Policy Adoption and Re-Adoption
- 7.03.110 List of Documents Used in Conjunction with this Policy
- 7.03.120 Definitions

¹ Formerly Chapter 2.06 [readopted April 9, 1998; amended December 10, 1998; readopted April 15, 1999; readopted April 27, 2000; readopted December 11, 2001; readopted October 3, 2002; renumbered by Ord. 02-976, Sec. 1; readopted June 12, 2003; amended and readopted April 7, 2005, by Ord. 05-1075; readopted April 20, 2006; readopted June 21, 2007; amended and readopted June 26, 2008, by Ord. 08-1190; amended and readopted June 25, 2009, by Ord. 09-1216; amended and readopted June 17, 2010, by Ord. 10-1243; readopted June 23, 2011, by Res. 11-4272; amended and readopted June 21, 2012 by Ord. 12-1280; and amended and readopted May 9, 2013 by Ord. 13-1303].

7.03.010 Scope

These investment policies apply to all cash-related assets included within the scope of Metro's audited financial statements and held directly by Metro.

Funds held and invested by trustees or fiscal agents are excluded from these policies; however, such funds are subject to the regulations established by the state of Oregon.

Funds of Metro will be invested in compliance with the provisions of ORS Chapter 294 and other applicable statutes. Investments will be in accordance with these policies and written administrative procedures. Investment of any tax-exempt borrowing proceeds and of any debt service funds will comply with the Internal Revenue Code of 1986 provisions and any subsequent amendments thereto. [Ord. 90-365; Ord. 97-684, Sec. 1; Ord. 02-976, Sec. 1; Ord. 05-1075; Ord. 09-1216, Sec. 1; Ord. 15-1353, Sec. 1.]

7.03.020 General Objectives

Due to Metro's fiduciary responsibility, safety of capital and availability of funds to meet payment requirements are the overriding objectives of the investment program. Investment return targets are secondary.

- (a) Safety. Investments shall be undertaken in a manner that seeks to ensure the preservation of principal in the overall portfolio and security of funds and investments. The objective will be to mitigate credit risk and interest rate risk.
 - (1) Credit Risk. Metro will minimize credit risk, the risk of loss due to the financial failure of the security issuer or backer, by:
 - Limiting exposure to poor credits and concentrating the investments in the safest types of securities.
 - Pre-qualifying the financial institutions, broker/dealers, and advisers with which Metro will do business.
 - Diversifying the investment portfolio so that potential losses on individual securities will be minimized. For securities not backed by the full faith and credit of the federal government, diversification is required in order that potential losses on individual securities would not exceed the income generated from the remainder of the portfolio.
 - Actively monitoring the investment portfolio holdings for ratings changes, changing economic/market conditions, etc.
 - (2) Interest Rate Risk. Metro will minimize the risk that the market value of securities in the portfolio will fall due to changes in general interest rates by:

- Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
 - The portfolio should consist largely of securities with active secondary or resale markets. A portion of the portfolio may be placed in the Local Government Investment Pool (LGIP) which offers next-day liquidity.
- (b) Liquidity. The investment officer shall assure that funds are constantly available to meet immediate payment requirements, including payroll, accounts payable and debt service.
- (c) Return on Investment. The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into consideration the safety and liquidity needs of the portfolio. Section 7.03.090 contains additional details on the return objectives.

Although securities are purchased with the intent to hold to maturity, securities may be sold prior to their maturity in order to improve the quality, net yield, or maturity characteristic of the portfolio.

- (d) Legality. Funds will be deposited and invested in accordance with statutes, ordinances and policies governing Metro. [Ord. 87-228, Sec. 3; Ord. 90-365; Ord. 02-976, Sec. 1; Ord. 05-1075; Ord. 15-1353, Sec. 1.]

7.03.030 Standards of Care

- (a) Prudence. The standard of prudence to be applied by the investment officer shall be the “prudent person” rule: “Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.” The prudent person rule shall be applied in the context of managing the overall portfolio.
- (b) Ethics and Conflicts of Interest. Officers and employees involved in the investment process shall refrain from personal activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business. Disclosure shall be made to the governing body. They shall further disclose any personal financial/investment positions that could be related to the performance of

the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of Metro. Officers and employees shall, at all times, comply with the State of Oregon Government Standards and Practices code of ethics set forth in ORS Chapter 244.

- (c) Delegation of Authority. The Chief Operating Officer is the investment officer of Metro. The authority for investing Metro funds is vested with the investment officer, who, in turn, designates the investment manager to manage the day-to-day operations of Metro's investment portfolio, place purchase orders and sell orders with dealers and financial institutions, and prepare reports as required.
- (d) Investment Advisory Board (IAB). There shall be an investment advisory board composed of five (5) members.
 - (1) Terms of Service. The term of service for citizens appointed to the IAB shall be three (3) calendar years. The term of appointment shall be staggered so that not more than two (2) members' terms expire in any calendar year.
 - (2) Appointment. The investment officer shall recommend to the Council for confirmation the names of persons for appointment to the IAB.
 - (3) Duties. The IAB shall meet quarterly. The IAB will serve as a forum for discussion and act in an advisory capacity for investment strategies, banking relationships, the legality and probity of investment activities and the establishment of written procedures for the investment operations.
- (e) Monitoring the Portfolio. The investment manager will routinely monitor the contents of the portfolio comparing the holdings to the markets, relative values of competing instruments, changes in credit quality, and benchmarks. If there are advantageous transactions, the portfolio may be adjusted accordingly.
- (f) Indemnity Clause. Metro shall indemnify the investment officer, chief financial officer, investment manager, staff and the IAB members from personal liability for losses that might occur pursuant to administering this investment policy. The investment officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes,

provided that these deviations are reported to the council as soon as practicable.

- (g) Internal Controls. The investment officer shall maintain a system of written internal controls, which shall be reviewed annually by the IAB and the independent auditor. The controls shall be designed to prevent loss of public funds due to fraud, error, misrepresentation or imprudent actions. Metro's independent auditor at least annually shall audit investments according to generally accepted auditing standards and this ordinance. [Ord. 05-1075; Ord. 15-1353, Sec. 1.]

7.03.040 Transaction Counterparties, Investment Advisers and Depositories

- (a) Broker Dealers. The Investment Officer shall determine which broker/dealer firms and registered representatives are authorized for the purposes of investing funds within the scope of this investment policy. A list will be maintained of approved broker/dealer firms and affiliated registered representatives.

The following minimum criteria must be met prior to authorizing investment transactions. The Investment Officer may impose more stringent criteria.

- (1) Broker dealers must meet the following minimum criteria:
- (A) Be registered with the Securities and Exchange Commission (SEC);
 - (B) Be registered with the Financial Industry Regulatory Authority (FINRA);
 - (C) Provide most recent audited financials;
 - (D) Provide FINRA Focus Report filings.

A periodic (at least annual) review of all authorized broker/dealers will be conducted by the Investment Officer.

- (b) Investment Advisers. The Investment Officer may engage the services of one or more external investment advisers to assist in the management of Metro's investment portfolio in a manner consistent with this investment policy. If Metro hires an investment adviser to provide investment management services, the adviser is authorized to transact with its direct dealer relationships on behalf of Metro.

Approved investment adviser firms must be registered with the Securities and Exchange Commission (SEC) or licensed by the state of Oregon; (Note: Investment

adviser firms with assets under management > \$100 million must be registered with the SEC, otherwise the firm must be licensed by the state of Oregon).

A periodic (at least annual) review of all authorized investment advisers will be conducted by the Investment Officer to determine their continued eligibility within the portfolio guidelines.

- (c) Depositories. All financial institutions who desire to become depositories must be qualified Oregon Depositories pursuant to ORS Chapter 295.
- (d) Competitive Transactions. The Investment Officer shall obtain and document competitive bid information on all investments purchased or sold in the secondary market. Competitive bids or offers should be obtained, when possible, from at least three separate brokers/financial institutions or through the use of a nationally recognized trading platform. In the instance of a security for which there is no readily available competitive bid or offering on the same specific issue, then the Investment Officer shall document quotations for comparable or alternative securities. When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities as the same original issue price. However, the Investment Officer is encouraged to document quotations on comparable securities. If an investment adviser provides investment management services, the adviser must retain documentation of competitive pricing execution on each transaction and provide upon request. [Ord. 15-1353, Sec. 1.]

7.03.050 Safekeeping and Custody

- (a) Delivery vs. Payment. All securities purchased pursuant to this investment policy will be delivered by either book entry or physical delivery to a third party for safekeeping by a bank designated as custodian. Purchase and sale of all securities will be on a payment versus delivery basis. Delivery versus payment will also be required for all repurchase transactions and with the collateral priced and limited in maturity in compliance with ORS 294.035(2)(j).

Notwithstanding the preceding, an exception to the delivery versus payment policy is made when purchasing State and Local Government Series Securities (SLGS) from the United States Treasury's Bureau of Public Debt to satisfy arbitrage yield restriction requirements of the Internal Revenue Code for tax-exempt bond issues.

Custody/Safekeeping. The trust department of the bank designated as custodian will be considered to be a third party for the purposes of safekeeping of securities purchased from that bank. The custodian shall issue a safekeeping receipt to Metro listing the specific instrument, rate, maturity and other pertinent information. [Ord. 05-1075; Ord. 15-1353, Sec. 1.]

7.03.060 Suitable and Authorized Investments

(Definitions of terms and applicable authorizing statutes are listed in the "Summary of Investments Available to Municipalities" provided by the State Treasurer).

- (a) Investment Types. The following investments are permitted by this policy and ORS 294.035 and 294.810.
- (1) Lawfully issued general obligations of the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government and obligations whose payment is guaranteed by the United States, the agencies and instrumentalities of the United States or enterprises sponsored by the United States Government. Maximum percent of portfolio allocation is 100%. No more than 40% of the portfolio in any one agency, instrumentality, or sponsored enterprise.
 - (2) Certificates of Deposit (CD) from commercial banks in Oregon and insured by the Federal Deposit Insurance Corporation (FDIC). Maximum percent of portfolio allocation is 100%. Investments in Certificates of Deposit invested in any one institution shall not exceed 5% of the total available funds and 15% of the equity of the financial institution.
 - (3) Repurchase Agreements (Repo's) purchased from any qualified institution provided the master repurchase agreement is effective and the safekeeping requirements are met. The repurchase agreement must be in writing and executed in advance of the initial purchase of the securities that are the subject of the repurchase agreement.
 - (A) ORS 294.035 (3)(j) requires repurchase agreement collateral to be limited in maturity to three years and priced according to percentages prescribed by written policy of the Oregon Investment Council or the Oregon Short-Term Fund Board.
 - (B) ORS 294.135 (2) limits the maximum term of any repurchase agreement to 90 days.
 - (C) Acceptable collateral:

- (i) US Treasury Securities: 102%
- (ii) US Agency Discount and Coupon Securities: 102%

Maximum percent of portfolio allocation is 50%. The investment officer shall not enter into any reverse repurchase agreements.

- (4) Banker's Acceptances (BA) that are (i) guaranteed by, and carried on the books of, a qualified financial institution, (ii) eligible for discount by the Federal Reserve System, and (iii) issued by a qualified financial institution whose short-term letter of credit rating is rated in the highest category (A-1, P-1, F-1) by one or more nationally recognized statistical rating organization.

Qualified institution means a financial institution that is located and licensed to do banking business in the state of Oregon; or a financial institution located in the states of California, Idaho, or Washington that is wholly owned by a bank holding company that owns a financial institution that is located and licensed to do banking business in the state of Oregon.

Maximum percent of portfolio allocation is 25%. Investments in Bankers' Acceptances invested in any one institution shall not exceed 5% of the total available funds and 15% of the equity of the financial institution.

- (5) Corporate indebtedness subject to a valid registration statement on file with the Securities and Exchange Commission or issued under the authority of section 3(a)(2) or 3(a)(3) of the Securities Act of 1933, as amended. Must be issued by a commercial, industrial or utility business enterprise, or by or on behalf of a financial institution, including a holding company owning a majority interest in a qualified financial institution. The combined total invested in corporate indebtedness may not exceed 35%. No more than 5% of the total portfolio with any one corporate entity.

- (A) Commercial Paper (CP) rated on the trade date P-1 or better by Moody's Investors Service or A-1 or better by Standard & Poor's Corporation or equivalent rating by any nationally recognized statistical rating organization.
- (B) Corporate indebtedness must be rated on trade date in a rating category of "Aa" or better by Moody's Investors Service or a rating category of "AA" or better by Standard & Poor's Corporation or equivalent by any nationally recognized statistical rating organization.
- (C) Notwithstanding subparagraph (a) and (b) of this paragraph, the corporate indebtedness must be rated on the trade date P-2 or in a

rating category of "A" or better by Moody's Investors Service or A-2 or in a rating category of "A" or better by Standard & Poor's Corporation or equivalent rating by any nationally recognized statistical rating organization when the corporate indebtedness is:

- (i) Issued by a business enterprise that has its headquarters in Oregon, employs more than 50 percent of its permanent workforce in Oregon or has more than 50 percent of its tangible assets in Oregon; or
- (ii) Issued by a holding company owning not less than a majority interest in a qualified financial institution, as defined by ORS 294.035, located and licensed to do banking business in Oregon or by a holding company owning not less than a majority interest in a business enterprise described in subparagraph (i) of this subparagraph.

- (6) Lawfully issued debt obligations of the agencies and instrumentalities of the State of Oregon or its political subdivisions with a long-term rating in a rating category of "A" or an equivalent rating or better or the highest category for short term municipal debt.

Lawfully issued debt obligations of the States of California, Idaho or Washington or their political subdivisions with a long-term rating in a rating category of "AA" or an equivalent rating or better or the highest category for short term municipal debt.

Maximum percent of portfolio allocation is 25%. No more than 5% of the total portfolio in any one issuing entity.

Such obligations may be purchased only if there has been no default in payment of either the principal of or the interest on the obligations of the issuing county, port, school district or city, for a period of five years next preceding the date of the investment, per ORS 294.040.

- (7) State of Oregon Investment Pool. Maximum allowed per ORS 294.810, with the exception of pass-through funds (in and out within 10 days). A thorough investigation of the pool/fund is required prior to investing, and on a continual basis. Metro shall perform a periodic review of:
 - (A) Pool's investment policy and objectives
 - (B) Interest calculations and how it is distributed

- (C) How the securities are safeguarded
 - (D) How often the securities are priced
- (8) Market Interest Accounts and Checking Accounts. Metro shall maintain necessary allocation needed for daily cash management efficiency.
- (A) Callable securities. The maximum percent of callable securities in the portfolio shall be 35%.
 - (B) Summary of Permitted Investments.

Investment Type	Maximum Maturity	Maximum Portfolio Allocation	Maximum Allocation Per Issuer	Minimum Rating
U.S. Treasuries	5 years	100%	100%	-
Federal Agencies	5 years	100%	40%	-
Time CDs	5 years	100%	5%	FDIC insured
Repurchase Agreements	90 days	50%	-	Collateralized
Bankers Acceptances	180 days	25%	5%	A-1
Corporate notes	5 years	35%	5%	AA- A- if OR
Commercial Paper	270 days		5%	A-1 A-2 if OR
OR munis	5 years	25%	5% (per issuing entity)	A-
ID, CA, WA munis	5 years		5% (per issuing entity)	AA-
OSTF	-	Amount established by ORS 294.810	-	-
Market interest and checking accounts	-	Amount necessary for daily cash mgmt	-	-

[Ord. 05-1075; Ord. 09-1216, Sec. 1; Ord. 12-1280, Sec. 1.; Ord. 13-1303; Ord. 15-1353, Sec. 1; Ord. 17-1412, Sec. 1.]

7.03.070 Investment Parameters

- (a) Diversification by Maturity. Only investments which can be held to maturity shall be purchased. Investments shall not be planned or made predicated upon selling the security prior to maturity. This restriction does not prohibit the use of repurchase agreements under ORS 294.135(2).

Funds will be invested to coincide with projected cash needs or with the following serial maturity:

- 20% minimum to mature under three months;
- 25% minimum to mature under 18 months;
- 100% minimum to mature under five years.

At all times, Metro will maintain a minimum amount of funds to meet liquidity needs for the next three months, which can be through a combination of cash and investments. The duration of Metro's portfolio shall not exceed 2.5 years.

Investments may not exceed five (5) years. Investment maturities beyond 18 months may be made when supported by cash flow projections which reasonably demonstrate that liquidity requirements will be met.

- (b) Diversification by Investment. The investment officer will diversify the portfolio to avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions, or maturities.
- (c) Collateralization. Deposit-type securities (i.e., Certificates of Deposit) and all bank deposits for any amount exceeding FDIC coverage shall be collateralized through the Public Funds Collateralization Program as required by ORS Chapter 295. ORS Chapter 295 governs the collateralization of Oregon public funds and provides the statutory requirements for the Public Funds Collateralization Program. Bank depositories are required to pledge collateral against any public funds deposits in excess of deposit insurance amounts. ORS 295 sets the specific value of the collateral, as well as the types of collateral that are acceptable.
- (d) Total Prohibitions. The investment officer may not make a commitment to invest funds or sell securities more than 14 business days prior to the anticipated date of settlement of the purchase or sale transaction and may not agree to invest funds or sell securities for a fee other than interest. Purchase of standby or forward commitments of any sort are specifically prohibited.
- (e) Adherence to Investment Diversification. Diversification requirements must be met on the day an investment transaction is executed. If due to unanticipated cash needs, investment maturities or marking the portfolio to market, the investment in any

security type, financial issuer or maturity spectrum later exceeds the limitations in the policy, the investment officer is responsible for bringing the investment portfolio back into compliance as soon as is practical. [Ord. 05-1075; Ord. 08-1190; Ord. 13-1302; Ord. 15-1353, Sec. 1.]

7.03.080 Prohibited Investments

- (a) Private Placement or 144A Securities. Private placement or “144A” securities are not allowed. “144A” securities include commercial paper issued under section 4(2)144A (also known as “4(2)A”) of the Securities Act of 1933.
- (b) Mortgage-backed Securities are not allowed.
- (c) Securities Lending. Metro shall not lend securities nor directly participate in a securities lending program.
- (d) Fossil Fuel Companies Listed on the Carbon Fuel Underground 200™ list - Metro shall not invest directly in fossil fuel securities listed on the Carbon Fuel Underground 200 List. [Ord. 15-1353, Sec. 1.; Ord. 17-1412, Sec. 1.]

7.03.090 Reporting

- (a) Methods. A transaction report shall be prepared by the investment manager not later than one business day after the transaction, unless a trustee, operating under a trust agreement, has executed the transaction. The trustee agreement shall provide for a report of transactions to be submitted by the trustee on a monthly basis.
- (b) Compliance. Quarterly reports shall be prepared for each regular meeting of the IAB to present historical information for the past 12-month period and that allows the IAB to ascertain whether investment activities during the reporting period have conformed to the investment policy. Copies shall be provided to the Chief Operating Officer and the Metro Council. At each quarterly meeting, a report reflecting the status of the portfolio will be submitted for review and comment by at least three (3) members of the IAB. Discussion and comment on the report will be noted in minutes of the meeting. If concurrence is not obtained, notification will be given to the investment officer, including comments by the IAB.
- (c) Performance Standards. The overall performance of Metro’s investment program is evaluated quarterly by the IAB using the objectives outlined in this policy. The quarterly report which confirms adherence to this policy shall be provided to the Metro Council as soon as practicable.

The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a market average rate of

return during a market/economic environment of stable interest rates. The primary benchmark of the portfolio will be the Bank of America Merrill Lynch 0-3 Year US Treasury Index. The Investment Officer may use other appropriate benchmarks including the Local Government Investment Pool's monthly average yield or a series of appropriate benchmarks consistent with Metro's investment objectives for additional analysis. Metro will use these benchmarks to determine the effectiveness of the investment strategy and return relative to market. The Investment Officer, IAB, and the Investment Advisor will review benchmarks annually for appropriateness and consistency with Metro's investment objectives.

- (d) Accounting Method. Metro shall comply with all required legal provisions and Generally Accepted Accounting Principles (GAAP). The accounting principles are those contained in the pronouncements of authoritative bodies, including, but not necessarily limited to, the American Institute of Certified Public Accountants (AICPA); the Financial Accounting Standards Board (FASB); and the Government Accounting Standards Board (GASB). [Ord. 05-1075; Ord. 15-1353, Sec. 1.]

7.03.100 Policy Adoption and Re-adoption

- (a) The investment policy must be reviewed by the IAB and the Oregon Short-Term Fund Board prior to adoption by the Metro Council. Adoption of this policy supersedes any other previous Council action or policy regarding Metro's investment management practices.
- (b) This policy shall be subject to review and re-adoption annually by the Metro Council in accordance with ORS 294.135. [Ord. 05-1075; Ord. 15-1353, Sec. 1.]

7.03.110 List of Documents Used in Conjunction with this Policy

The following documents are used in conjunction with this policy and are available from the investment manager upon request:

- List of Authorized Brokers and Dealers
- List of Primary Dealers
- Calendar of Federal Reserve System Holidays
- Calendar of Local Government Investment Pool Holidays
- Broker/Dealer Request for Information
- Oregon State Treasury's Summary of Liquid Investments Available to Local Governments for Short-Term Fund Investment
- Oregon State Treasury's U.S. Government and Agency Securities for Local Government Investment Under ORS 294.035 and 294.040
- Oregon State Treasury's List of Qualified Depositories for Public Funds

- Attorney General’s letter of advice: Certificates of Deposit, ORS 294.035 and ORS Chapter 295
- Oregon Revised Statute Chapter 294 – County and Municipal Financial Administration
- Oregon Revised Statute Chapter 295 – Depositories of Public Funds and Securities
- Government Finance Officers Association Glossary of Cash Management Terms [Ord. 05-1075; Ord. 15-1353, Sec. 1.]

7.03.120 Definitions

Accrued Interest means interest earned but which has not yet been paid or received.

Benchmark Notes/Bonds mean Benchmark Notes and Bonds are a series of FNMA “bullet” maturities (non-callable) issued according to a pre-announced calendar. Under its Benchmark Notes/Bonds program, 2, 3, 5, 10 and 30-year maturities are issued each quarter. Each Benchmark Notes new issue has a minimum size of \$4 billion, 30-year new issues having a minimum size of \$1 billion, with reopenings based on investor demand to further enhance liquidity. The amount of non-callable issuance has allowed FNMA to build a yield curve in Benchmark Notes and Bonds in maturities ranging from 2 to 30 years. The liquidity emanating from these large size issues has facilitated favorable financing opportunities through the development of a liquid overnight and term repo market. Issues under the Benchmark program constitute the same credit standing as other FNMA issues; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Book Value means the value at which a debt security is reflected on the holder's records at any point in time. Book value is also called “amortized cost” as it represents the original cost of an investment adjusted for amortization of premium or accretion of discount. Also called “carrying value.” Book value can vary over time as an investment approaches maturity and differs from “market value” in that it is not affected by changes in market interest rates.

Bullet Notes/Bonds mean notes or bonds that have a single maturity date and are non-callable.

Callable Bonds/Notes mean securities which contain an imbedded call option giving the issuer the right to redeem the securities prior to maturity at a predetermined price and time.

Certificate of Deposit Account Registry Service (CDARS) means a private service that breaks up large deposits (from individuals, companies, nonprofits, public funds, etc.) and places them across a network of banks and savings associations around the United States. Allows depositors to deal with a single bank that participates in CDARS but avoid having funds above the FDIC deposit insurance limits in any one bank.

Commercial Paper means a short term unsecured promissory note issued by a company or financial institution. Issued at a discount and matures for par or face value. Usually a maximum maturity of 270 days, and given a short-term debt rating by one or more NRSROs.

Coupon Rate means the annual rate of interest on a debt security, expressed as a percentage of the bond's face value.

Discount Notes mean unsecured general obligations issued by Federal Agencies at a discount. Discount notes mature at par and can range in maturity from overnight to one year.

Federal Agency Security means a security issued by a federal agency or certain federally chartered entities (often referred to as government-sponsored enterprises or GSEs). Agency securities typically are not guaranteed by the federal government, particularly those of GSEs.

Federal Farm Credit Bank (FFCB) means one of the large Federal Agencies. A Government Sponsored Enterprise (GS) system that is a network of cooperatively-owned lending institutions that provide credit services to farmers, agricultural cooperatives and rural utilities. The FFCBs act as financial intermediaries that borrow money in the capital markets and use the proceeds to make loans and provide other assistance to farmers and farm-affiliated businesses. Consists of the consolidated operations of the Banks for Cooperatives, Federal Intermediate Credit Banks, and Federal Land Banks. Frequent issuer of discount notes, agency notes and callable agency securities. FFCB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and agricultural industry.

Federal Home Loan Bank System (FHLB) means one of the large Federal Agencies. A Government Sponsored Enterprise (GSE) system, consisting of wholesale banks (currently twelve district banks) owned by their member banks, which provides correspondent banking services and credit to various financial institutions, financed by the issuance of securities. The principal purpose of the FHLB is to add liquidity to the mortgage markets. Although FHLB does not directly fund mortgages, it provides a stable supply of credit to thrift institutions that make new mortgage loans. FHLB debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes and callable agency securities. Also issues notes under its "global note" and "TAP" programs.

Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac") means one of the large Federal Agencies. A government sponsored public corporation (GSE) that provides stability and assistance to the secondary market for home mortgages by purchasing first mortgages financed by the sale of debt and guaranteed mortgage backed securities. FHLMC debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S.

financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “reference note” program.

Federal National Mortgage Association (FNMA or "Fannie Mae") means one of the large Federal Agencies. A government sponsored public corporation (GSE) that provides liquidity to the residential mortgage market by purchasing mortgage loans from lenders, financed by the issuance of debt securities and MBS (pools of mortgages packaged together as a security). FNMA debt is not an obligation of, nor is it guaranteed by the U.S. government, although it is considered to have minimal credit risk due to its importance to the U.S. financial system and housing market. Frequent issuer of discount notes, agency notes, callable agency securities and MBS. Also issues notes under its “benchmark note” program.

Federal Reserve Bank means one of the 12 distinct banks of the Federal Reserve System.

Global Notes means notes designed to qualify for immediate trading in both the domestic U.S. capital market and in foreign markets around the globe. Usually large issues that are sold to investors worldwide and therefore have excellent liquidity. Despite their global sales, global notes sold in the U.S. are typically denominated in U.S. dollars.

Government National Mortgage Association (GNMA or "Ginnie Mae") mean one of the large Federal Agencies. Government-owned Federal Agency that acquires, packages, and resells mortgages and mortgage purchase commitments in the form of mortgage-backed securities. Largest issuer of mortgage pass-through securities. GNMA debt is guaranteed by the full faith and credit of the U.S. government (one of the few agencies that is actually full faith and credit of the U.S.).

Government Sponsored Enterprise (GSE) means a privately owned entity subject to federal regulation and supervision, created by the U.S. Congress to reduce the cost of capital for certain borrowing sectors of the economy such as students, farmers, and homeowners. GSEs carry the implicit backing of the U.S. Government, but they are not direct obligations of the U.S. Government. For this reason, these securities will offer a yield premium over Treasuries. Examples of GSEs include: FHLB, FHLMC, and FNMA.

Market Value means the fair market value of a security or commodity. The price at which a willing buyer and seller would pay for a security.

Mortgage Backed Security (MBS) means a type of asset-backed security that is secured by a mortgage or collection of mortgages. These securities must also be grouped in one of the top two ratings as determined by an accredited credit rating agency, and usually pay periodic payments that are similar to coupon payments. Furthermore, the mortgage must have originated from a regulated and authorized financial institution.

Nationally Recognized Statistical Rating Organization (NRSRO) means a designated rating organization that the SEC has deemed a strong national presence in the U.S. NRSROs provide credit ratings on corporate and bank debt issues. Only ratings of a NRSRO may be used for the regulatory purposes of rating. Includes Moody's, Standard and Poor's, Fitch and Duff & Phelps.

Par Value means face value, stated value or maturity value of a security.

Primary Dealer means any of a group of designated government securities dealers designated by to the Federal Reserve Bank of New York. Primary dealers can buy and sell government securities directly with the Fed. Primary dealers also submit daily reports of market activity and security positions held to the Fed and are subject to its informal oversight. Primary dealers are considered the largest players in the U.S. Treasury securities market.

Primary Market means the market for new issues of securities, as distinguished from the Secondary Market, where previously issued securities are bought and sold. A market is primary if the proceeds of sales go to the issuer of the securities sold. The term also applies to government securities auctions.

Reference Bills mean FHLMC's short-term debt program created to supplement its existing discount note program by offering issues from one month through one year, auctioned on a weekly or on an alternating four-week basis (depending upon maturity) offered in sizeable volumes (\$1 billion and up) on a cycle of regular, standardized issuance. Globally sponsored and distributed, Reference Bill issues are intended to encourage active trading and market-making and facilitate the development of a term repo market. The program was designed to offer predictable supply, pricing transparency and liquidity, thereby providing alternatives to Treasury bills. FHLMC's Reference Bills are unsecured general corporate obligations. This program supplements the corporation's existing discount note program. Issues under the Reference program constitute the same credit standing as other FHLMC discount notes; they simply add organization and liquidity to the short-term Agency discount note market.

Reference Notes mean FHLMC's intermediate-term debt program with issuances of 2, 3, 5, 10 and 30-year maturities. Initial issuances range from \$2 - \$6 billion with reopenings ranging \$1 - \$4 billion. The notes are high-quality bullet structures securities that pay interest semiannually. Issues under the Reference program constitute the same credit standing as other FHLMC notes; they simply add organization and liquidity to the intermediate- and long-term Agency market.

Secondary Market means markets for the purchase and sale of any previously issued financial instrument.

TAP Notes mean Federal Agency notes issued under the FHLB TAP program. Launched in 6/99 as a refinement to the FHLB bullet bond auction process. In a break from the FHLB's traditional practice of bringing numerous small issues to market with similar maturities, the TAP Issue Program uses the four most common maturities and reopens them up regularly through a competitive auction. These maturities (2,3,5 and 10 year) will remain open for the calendar quarter, after which they will be closed and a new series of TAP issues will be opened to replace them. This reduces the number of separate bullet bonds issued, but generates enhanced awareness and liquidity in the marketplace through increased issue size and secondary market volume.

Tennessee Valley Authority (TVA) means a federally owned corporation in the United States created by congressional charter in May 1933 to provide navigation, flood control, electricity generation, fertilizer manufacturing, and economic development in the Tennessee Valley, a region particularly impacted by the Great Depression. The enterprise was a result of the efforts of Senator George W. Norris of Nebraska. TVA was envisioned not only as a provider, but also as a regional economic development agency that would use federal experts and electricity to rapidly modernize the region's economy and society.

Treasury Bills (T-Bills) mean short-term direct obligations of the United States Government issued with an original term of one year or less. Treasury bills are sold at a discount from face value and do not pay interest before maturity. The difference between the purchase price of the bill and the maturity value is the interest earned on the bill. Currently, the U.S. Treasury issues 4-week, 13-week and 26-week T-Bills

Treasury Bonds mean long-term interest-bearing debt securities backed by the U.S. Government and issued with maturities of ten years and longer by the U.S. Department of the Treasury.

Treasury Notes mean intermediate interest-bearing debt securities backed by the U.S. Government and issued with maturities ranging from one to ten years by the U.S. Department of the Treasury. The Treasury currently issues 2-year, 3-year, 5-year, 7-year and 10-year Treasury Notes.

U.S. Government Backed Securities mean FDIC-guaranteed corporate debt issued under the Temporary Liquidity Guarantee Program (TLGP) and backed by the full faith and credit of the United States Government with a maximum final maturity of five years.

Yield to Maturity (YTM) at Cost means the percentage rate of return paid if the security is held to its maturity date at the original time of purchase. The calculation is based on the coupon rate, length of time to maturity, and original price. It assumes that coupon interest paid over the life of the security is reinvested at the same rate. The Yield at Cost on a security remains the same while held as an investment. [Ord. 15-1353, Sec. 1.]

Agenda Item No. 4.2

Resolution No. 20-5147, For the Purpose of Amending the FY 2020-21 Budget and Appropriations
Schedule

Resolution

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE FY 2020-21 BUDGET AND APPROPRIATIONS SCHEDULE TO PROVIDE FOR CHANGES IN OPERATIONS)
)
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)

RESOLUTION NO 20-5147
Introduced by Marissa Madrigal, Chief Operating Officer, with the concurrence of Council President Lynn Peterson

WHEREAS, the Metro Council has reviewed and considered the need to change appropriations within the FY 2020-21 Budget; and

WHEREAS, the Metro Council has reviewed and considered the need to reduce positions within the FY 2020-21 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 change 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, and

WHEREAS, ORS 294.338(3) allows an increase in appropriations when a request for services, the cost of which is supplied by another entity, necessitates a greater expenditure of public money for any specific purpose in order to provide the services when authorized by an official resolution or ordinance of the governing body stating the need for the recognition, and

WHEREAS, ORS 294.471(h) allows for the governing body to reduce appropriations when there is a reduction in available resources, now therefore

BE IT RESOLVED,

1. That the FY 2020-21 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 modifying expenditures, approving new FTE, removing FTE and transferring funds to and from contingency.

ADOPTED by the Metro Council this 3rd day of December, 2020.

Lynn Peterson, Council President

APPROVED AS TO FORM:

Carrie MacLaren, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION 20-5147 FOR THE PURPOSE OF AMENDING THE FY 2020-21 BUDGET AND APPROPRIATIONS SCHEDULE FOR CHANGES IN OPERATIONS

Date: November 15, 2020

Prepared by:
Annie Wilson, Financial Planning Analyst

Department: Finance and Regulatory Services

Presented by:
Cinnamon Williams, Financial Planning Director

Meeting date: December 3, 2020

ISSUE STATEMENT

This resolution will authorize changes in appropriations and FTE in the FY 2020-21 Budget.

ACTION REQUESTED

Council adoption of Resolution 20-5147.

IDENTIFIED POLICY OUTCOMES

Council approval will authorize the changes in appropriations and FTE requested by departments for FY 2020-21.

POLICY QUESTION

Council should consider whether the changes in appropriations and FTE have been justified and that adequate funds exist for other identified needs.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

Adoption of the Resolution will provide sufficient appropriations and FTE to accommodate the changes in operations outlined by the departments.

Disapproval of the Resolution will result in a significant operational budget shortfall and will require departments to reevaluate their proposed changes due to the denied requests for changes in appropriations and FTE.

STAFF RECOMMENDATIONS

The Chief Operating Officer recommends adoption of Resolution 20-5147.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Known Opposition: None known.

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. ORS

294.338(3) allows an increase in appropriations when a request for services, the cost of which is supplied by another entity, necessitates a greater expenditure of public money for any specific purpose in order to provide the services when authorized by an official resolution or ordinance of the governing body stating the need for the recognition. ORS 294.471(h) allows for the governing body to reduce appropriations when there is a reduction in available resources. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget. Metro Council should review and consider the need to reduce positions.

Anticipated Effects: This action provides for changes in operations as described above, provides changed appropriations authority, adds 2.0 FTE, and eliminates 2.45 FTE.

Budget Impacts: This action has no change in total appropriations, adds 2.0 FTE, and eliminates 2.45 FTE and has the following impacts on the FY 2020-21 budget:

- General Fund: net zero impact on total fund appropriations. Adds 2.0 FTE, paid for by a \$156 thousand transfer from the fund's contingency.
- Solid Waste Fund: net zero impact on total fund appropriations. Reduction of \$3.3 million in expenditures transferred to the fund's contingency. This reduction includes the elimination of 2.45 FTE.

BACKGROUND

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

General Fund

Human Resources is requesting 1.0 FTE for a Labor and Employee Relations (LER) Manager 1, costing \$98 thousand in FY 2020-21 and paid for by a transfer from the fund's contingency. There is not a manager dedicated to the LER group. Currently, the HR Director oversees the 3 LER program managers. HR has a need for a dedicated manager for this group, to be able to perform work for increased capacity and to oversee the program managers.

The agency has identified the need for a 1.0 FTE that will focus on oversight of the Americans with Disabilities Act (ADA) regulations and requirements, costing \$58 thousand in FY 2020-21 and paid for by a transfer from the fund's contingency. This FTE will establish systems, tracking, and compliance evaluations, and perform on-going monitoring and assessments for all of Metro. The position will be managed by the Deputy Chief Operating Officer's office within the Council department but will work closely with the Capital Asset Management department to develop and implement ADA compliance and planning procedures.

Solid Waste Fund

Waste Prevention and Environmental Services Department has been financially impacted by the current pandemic and has forecasted a drop in tonnage-related revenue due to depressed tonnage in the region. In addition, due to the ever-changing economic environment, the annual update to Solid Waste Fees have not been adopted. Both of these factors have projected reduced revenues for the Solid Waste Fund. To manage the financial implications, the Department is formally reducing their expenses by \$3.3 million, offset by increasing the fund's contingency. The Department chose to not reduce revenue to provide financial flexibility if the region recovers quickly.

\$2.7 million of the reductions relate to materials and service expenditures. The largest impacts include a \$700 thousand reduction in Investment and Innovation grant funds, a \$414 thousand reduction in the Youth Education and Leadership program, a \$200 thousand reduction in multi-family programs, a \$100 thousand elimination of budget for access to services payments to haulers in implementing Metro food separation policy, a \$200 thousand elimination of the Construction

Careers Pathway collective, a \$100 thousand reduction in Integrated Garbage and Recycling Data System program budget, a \$185 thousand reduction in MCSO investigations budget, a \$165 thousand reduction to the Resilience and Sustainability program, a \$150 thousand reduction in the Solid Waste communications budget, and a \$127 thousand reduction in the Analytics budget.

\$615 thousand of the reductions relate to personnel services expenditures and include the elimination of 2.45 FTE.

ATTACHMENTS

- Resolution 20-5147
- Attachment 1 – Schedule of Appropriations
- Attachment 2 – Schedule of FTE

**Attachment 1
Resolution 20-5147
Schedule of Appropriations**

	Current Appropriation	Revision	Revised Appropriation
GENERAL FUND			
Council	6,186,084	58,121	6,244,205
Office of the Auditor	825,955	-	825,955
Office of Metro Attorney	2,872,303	-	2,872,303
Information Services	5,956,614	-	5,956,614
Communications	1,951,150	-	1,951,150
Finance and Regulatory Services	4,905,068	-	4,905,068
Human Resources	3,472,835	97,970	3,570,805
Capital Asset Management	3,071,368	-	3,071,368
Planning and Development Department	29,557,631	-	29,557,631
Research Center	4,457,960	-	4,457,960
Waste Prevention and Environmental Services	-	-	-
Parks and Nature	3,146,500	-	3,146,500
Special Appropriations	3,486,067	-	3,486,067
Non-Departmental			
Debt Service	8,263,627	-	8,263,627
Interfund Transfers	26,876,078	-	26,876,078
Contingency	10,377,625	(156,091)	10,221,534
<i>Total Appropriations</i>	115,406,865	-	115,406,865
Unappropriated Balance	23,664,678	-	23,664,678
Total Fund Requirements	139,071,543	-	139,071,543
SOLID WASTE FUND			
Waste Prevention and Environmental Services	96,782,452	(3,307,102)	93,475,350
Non-Departmental			
Interfund Transfers	7,254,879	-	7,254,879
Contingency	18,043,528	3,307,102	21,350,630
<i>Total Appropriations</i>	122,080,859	-	122,080,859
Unappropriated Balance	11,450,000	-	11,450,000
Total Fund Requirements	133,530,859	-	133,530,859
Total Appropriations	807,454,603	-	807,454,603
Total Unappropriated Balance	670,047,318	-	670,047,318
	1,477,501,921	-	1,477,501,921

All Other Appropriations Remain as Previously Adopted

**Attachment 2
Resolution 20-5147
Schedule of FTE**

	Current FTE	Revision	Revised FTE
GENERAL FUND			
TOTAL FUND FTE	245.90	2.00	247.90
SOLID WASTE FUND			
TOTAL FUND FTE	173.31	(2.45)	170.86
TOTAL FTE	952.31	(0.45)	951.86

All Other FTE Remain as Previously Adopted

Agenda Item No. 5.1

Ordinance No. 20-1451, For the Purpose of Updating the Regional Waste Plan

Ordinance (First Reading and Public Hearing)

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF UPDATING METRO) ORDINANCE NO. 20-1451
CODE CHAPTER 5.10 TO IMPROVE CLARITY,)
REMOVE OUTDATED SECTIONS AND ALIGN) Introduced by Chief Operating Officer
WITH THE REGIONAL WASTE PLAN AND TO) Marissa Madrigal in concurrence with
ADD A NEW METRO CODE CHAPTER 5.15) Council President Lynn Peterson
AND TO UPDATE DEFINITIONS IN METRO
CODE CHAPTER 5.00

WHEREAS, the Metro solid waste code is set forth in Title V of the Metro Code; and

WHEREAS, Metro Code Chapter 5.10 contains the requirements for the Regional Waste Plan;
and

WHEREAS, the proposed updates to Metro Code Chapter 5.10 include moving provisions related to local government requirements to a new, separate chapter to improve clarity, consistency and make the code easier to understand by the public; and

WHEREAS, the proposed updates to Metro Code Chapter 5.10 remove obsolete requirements under the old Regional Solid Waste Management Plan as well as obsolete Oregon state statute that is no longer in effect; and

WHEREAS, as a result of updating and renumbering Metro Code Chapter 5.10, a new Metro Code Chapter 5.15 is added; and

WHEREAS, as a result of updating Metro Code Chapter 5.10, Metro Code Chapter 5.00 must also be updated to add and clarify definitions; and

WHEREAS, the proposed updates to Metro Code Chapter 5.10 and the addition of Metro Code Chapter 5.15 remove unnecessary and outdated provisions, clarifies terms, and other housekeeping revisions that will also improve its readability and make it easier to understand; and

WHEREAS, staff solicited input from the public on the proposed changes to Metro Code Chapter 5.10 and 5.15 by consulting with the Regional Waste Advisory Committee, Metro’s Committee on Racial Equity, local government partners, Metro Policy Advisory Committee and other stakeholders as well as providing a 30-day public comment period during September and October 2020; and

WHEREAS, because the current Chapter 5.10 code sections will be rewritten and significant portions moved to a new Chapter 5.15 and re-ordered to establish a more logical flow, current Chapter 5.10 should be repealed and replaced in its entirety with the attached Exhibit A to avoid confusing tracked changes; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council adopt the proposed updates to Metro Code Chapter 5.10 to improve clarity and consistency and to conform with other updates and improvements; and

WHEREAS, the Metro Council finds that the updates to Metro Code Chapter 5.10 provide greater clarity for the public and further the goals of the agency; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 5.10 is repealed and replaced in its entirety with a new Chapter 5.10 (“Regional Waste Plan”) as set forth in the attached Exhibit A;
2. A new Chapter 5.15 (“Local Government Requirements Under the Regional Waste Plan”) is added to the Metro Code as set forth in the attached Exhibit B.
3. Metro Code Chapter 5.00 (“Definitions”) is amended to add definitions as set forth in the attached Exhibit C.
4. To ensure accurate references in current administrative rules, all references in Metro Administrative Rules 4000-4085 to former section numbers in Metro Code Chapter 5.10 are hereby changed to the appropriate Chapter 5.15 reference without the need for a public comment period or oral hearing as normally required by Metro Code Chapter 5.08.

ADOPTED by the Metro Council this 10th day of December 2020.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Jaye Cromwell, Recording Secretary

Carrie MacLaren, Metro Attorney

Exhibit A

CHAPTER 5.10

REGIONAL WASTE PLAN

- 5.10.010 Authority
- 5.10.020 Application
- 5.10.030 Regional Waste Plan Requirements
- 5.10.040 Regional Waste Plan Amendments
- 5.10.050 Severability
- 5.10.060 Administrative Rules

5.10.010 Authority

Metro's solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.

5.10.020 Application

The Regional Waste Plan applies to all portions of Clackamas, Washington, and Multnomah Counties within Metro's jurisdictional boundary.

5.10.030 Regional Waste Plan Requirements

- (a) The Regional Waste Plan contains requirements and performance standards that are binding on a local government within Metro's jurisdictional boundary. The requirements and performance standards that are binding on a local government are set forth in Chapter 5.15 and associated administrative rules.
- (b) The Regional Waste Plan also contains requirements and performance standards that may result in changes to other sections of Metro Code including, but not limited to, all chapters in Title V and other code sections related to solid waste matters.

5.10.040 Regional Waste Plan Amendments

- (a) The Chief Operating Officer may recommend amendments to the Regional Waste Plan for consideration by Council. Council may adopt amendments to the Regional Waste Plan by ordinance.
- (b) If Council adopts an amendment to the Regional Waste Plan that affects the waste reduction program, the Chief Operating Officer will submit the applicable amendments to the DEQ for review and approval.
- (c) The Chief Operating Officer may administratively correct any typographical or scrivener's errors discovered in the Regional Waste Plan without further petition, notice, or hearing.

5.10.050 Severability

This chapter's sections and those of the Regional Waste Plan are severable. Any action by any state agency or judgment of a court of competent jurisdiction invalidating any section of this chapter or the Regional Waste Plan does not affect the validity of any other section.

5.10.060 Administrative Rules

The Chief Operating Officer may adopt administrative rules under the provisions set forth in Chapter 5.08 to govern the obligations under this chapter and implement all provisions of this chapter.

Exhibit B

CHAPTER 5.15

LOCAL GOVERNMENT REQUIREMENTS UNDER THE REGIONAL WASTE PLAN

GENERAL PROVISIONS

- 5.15.010 Purpose and Intent
- 5.15.020 Compliance with the Regional Waste Plan
- 5.15.030 Compliance Date; Extension Request
- 5.15.040 Non-Compliance
- 5.15.050 Technical and Financial Assistance
- 5.15.060 Local Government Conformity to the Regional Waste Plan
- 5.15.070 Administrative Rules

RESIDENTIAL SERVICE

- 5.15.110 Purpose and Intent
- 5.15.120 Implementation and Compliance
- 5.15.130 Residential Service Standard

BUSINESS SERVICE AND RECYCLING REQUIREMENT

- 5.15.210 Purpose and Intent
- 5.15.220 Implementation and Compliance
- 5.15.220 Business Service Standard
- 5.15.230 Business Recycling Requirement
- 5.15.240 Business Recycling Requirement Performance Standard
- 5.15.250 Metro Enforcement of Business Recycling Requirement
- 5.15.260 Business Recycling Requirement Model Ordinance

GENERAL EDUCATION

- 5.15.310 Purpose and Intent
- 5.15.320 Implementation and Compliance
- 5.15.330 General Education Standard

BUSINESS FOOD WASTE REQUIREMENT

- 5.15.410 Purpose and Intent
- 5.15.420 Business Food Waste and Covered Businesses
- 5.15.430 Business Food Waste Requirement
- 5.15.440 Business Food Waste Requirement Performance Standard
- 5.15.450 Temporary Waiver
- 5.15.460 Metro Enforcement of Business Food Waste Requirement
- 5.15.470 Business Food Waste Model Ordinance

GENERAL PROVISIONS

5.15.010 Purpose and Intent

The purpose of this chapter is to establish a process for determining whether local government actions comply with the Regional Waste Plan. The Council intends the process to be efficient and cost effective and to provide an opportunity for the Council to interpret the requirements of the Regional Waste Plan.

5.15.020 Compliance with the Regional Waste Plan

- (a) A local government must comply with the Regional Waste Plan.
- (b) Metro will notify each local government that is not in compliance with the Regional Waste Plan. The Chief Operating Officer will make findings regarding the non-compliance and will recommend actions that will bring the local government into compliance.
- (c) A local government that receives a notice of non-compliance must respond to Metro in writing within 60 days from the date of the notification. The response must include:
 - An agreement to implement Metro's recommended actions;
 - An alternate proposal for Metro's consideration and approval that describes other actions that the local government will take to achieve compliance; or
 - A request for a compliance extension under Section 5.15.030.
- (d) If a local government fails to respond as provided in subsection (c) or refuses to comply with the Regional Waste Plan requirements, the Chief Operating Officer may proceed to the non-compliance procedures under Section 5.15.040 and as set forth in administrative rule.

5.15.030 Compliance Date; Extension Request

- (a) Metro will notify each local government of the compliance date of all Regional Waste Plan requirements.
- (b) A local government may seek an extension of time to comply with a Regional Waste Plan requirement by submitting a written request for an extension to Metro as set forth in administrative rule.

5.15.040 Non-Compliance

- (a) The Council may review the Chief Operating Officer's finding that a local government has not complied with the Regional Waste Plan requirements and performance standards. The process is set forth in administrative rules.
- (b) If the Council finds that the local government action is out of compliance with the Regional Waste Plan or any related rules or provisions of the Metro Code, the Council may adopt a resolution that (1) identifies the noncompliant action; (2) directs changes in the local government action; and (3) requires any other action, including penalties.
- (c) If the Council chooses not to review the Chief Operating Officer's findings, the Chief Operating Officer will direct the necessary actions.

5.15.050 Technical and Financial Assistance

Metro will encourage a local government to use the technical and financial assistance programs provided by Metro to help the local government comply with the Regional Waste Plan requirements.

5.15.060 Local Government Conformity to the Regional Waste Plan

A local government may not adopt any ordinance, order, regulation, or contract affecting solid waste management that conflicts with the Regional Waste Plan requirements.

5.15.070 Administrative Rules

- (a) The Chief Operating Officer may adopt administrative rules under the provisions set forth in Chapter 5.08 to govern the obligations under this chapter and implement all provisions of this chapter.
- (b) In addition to the general administrative rulemaking authority in Chapter 5.08, the Chief Operating Officer also has explicit authority to establish by administrative rule:
 - (1) The procedures and timelines for seeking an extension for compliance.
 - (2) The process for review of the Chief Operating Officer's findings per section 5.15.040.

RESIDENTIAL SERVICE

5.15.110 Purpose and Intent

A local government must adopt and implement the residential service standard as required by the Regional Waste Plan and as specified in this chapter and administrative rules. The residential service standard ensures a comprehensive and consistent level of solid waste collection service for the region.

5.15.120 Implementation and Compliance

- (a) A local government must implement the residential service standard by adopting the provisions of Section 5.15.130 and associated administrative rules.
- (b) A local government must provide information related to compliance with this requirement at Metro's request and as specified in administrative rules.

5.15.130 Residential Service Standard

The Chief Operating Officer will adopt administrative rules to implement the residential service standard. The standard requires, without limitation, that a local government must:

- (a) Provide comprehensive single-family residential solid waste collection services including collection of acceptable recyclable materials;
- (b) Provide comprehensive multifamily residential solid waste collection services including collection of acceptable recyclable materials;
- (c) Implement minimum service levels for all collected materials for multifamily residential customers.
- (d) Develop and implement standards for collection areas, to ensure adequate access to collection receptacles.
- (e) Provide supporting solid waste outreach and education programs and materials to all residential solid waste generators.
- (f) Implement regional standards for collection container colors, signage and related informational materials.
- (g) Provide bulky waste collection service.

BUSINESS SERVICE AND RECYCLING REQUIREMENT

5.15.210 Purpose and Intent

The business service standard and recycling requirement provide education and collection service requirements for the business sector in order to create a consistent standard throughout the Metro region and to increase recycling.

5.15.220 Implementation and Compliance

- (a) A local government must implement the business service standard by adopting the provisions of Section 5.15.230 and associated administrative rules.
- (b) A local government must provide information related to compliance with this requirement at Metro's request and as specified in administrative rules.

5.15.230 Business Service Standard

- (a) Provide complete business solid waste collection services according to the standards specified in administrative rules; and
- (b) Provide solid waste outreach and education programs and materials to all business solid waste generators according to the standards specified in administrative rules.

5.15.240 Business Recycling Requirement

- (a) A local government must:
 - (1) Adopt the business recycling requirement model ordinance or demonstrate that existing local government ordinances comply with the performance standard in Section 5.15.250 and the corresponding administrative rules.
 - (2) Establish a method for businesses to comply with the business recycling requirement model ordinance or local government ordinance; or
 - (3) Enter into an intergovernmental agreement with Metro that provides for Metro to establish a method for enforcing compliance by businesses with the business recycling requirement.
- (b) The local government must provide information related to the local government's implementation of the business recycling requirements at Metro's request and as specified in administrative rules.

5.15.250 Business Recycling Requirement Performance Standard

The Chief Operating Officer will adopt administrative rules to address the business recycling requirement performance standard. The performance standard must include, without limitation, the following elements:

- (a) Businesses must:

- (1) Source-separate all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling;
 - (2) Provide recycling receptacles for internal maintenance or work areas where recyclable materials may be collected, stored, or both; and
 - (3) Post accurate signs where recyclable materials are collected, stored, or both that identify the materials that the business must source-separate for reuse or recycling and that provide recycling instructions.
- (b) A local government must ensure that businesses comply with the business recycling requirement.
- (c) A local government may exempt a business from some or all of the business recycling requirement if:
- (1) The business provides access to the local government for a site visit; and
 - (2) The local government determines during the site visit that the business cannot comply with the business recycling requirement.

5.15.260 Metro Enforcement of Business Recycling Requirement

The Chief Operating Officer may execute an intergovernmental agreement with a local government to enforce business recycling requirement within its jurisdiction.

5.15.270 Business Recycling Requirement Model Ordinance

The Chief Operating Officer may adopt a business recycling requirement model ordinance for use by a local government. The model ordinance is advisory only.

GENERAL EDUCATION

5.15.310 Purpose and Intent

A local government must adopt and implement the general education standard as required by the Regional Waste Plan and as specified in this chapter and administrative rules. The education standard ensures a comprehensive and consistent level of garbage, recycling, composting, waste prevention and reuse education and assistance for all customers in the region.

5.15.320 Implementation and Compliance

- (a) A local government must implement the education standard by adopting the provisions of Section 5.15.330 and associated administrative rules.
- (b) A local government must provide information related to compliance with this requirement at Metro's request and as specified in administrative rules.

5.15.330 General Education Standard

The Chief Operating Officer will adopt administrative rules to implement the general education standard. The standard must require without limitation that a local government must:

- (a) Provide solid waste outreach and education programs and materials to all solid waste customers as set forth in administrative rule.
- (b) Ensure implementation of all outreach and education programs required by state law.

BUSINESS FOOD WASTE REQUIREMENT

5.15.410 Purpose and Intent

The business food waste requirement provides an opportunity to increase recycling of food waste and to assist the Metro region to achieve waste reduction goals. Metro does not intend for this requirement to apply to food that is fit for human consumption and accepted for donation by a charitable organization or the use of food waste for animal consumption in compliance with applicable regulations. [Ord. No. 18-1418.]

5.15.420 Business Food Waste and Covered Businesses

Business food waste is solid waste consisting of food waste removed from the food supply chain that is not fit for human or animal consumption. A covered business is a business that cooks, assembles, processes, serves, or sells food.

5.15.430 Business Food Waste Requirement

A local government must require:

- (a) All covered businesses in its jurisdiction to source-separate business food waste for recovery;
- (b) All source-separated food waste from a covered business to be transported to a facility authorized by Metro to accept food waste; and
- (c) All persons, as defined by Metro Code Section 1.01.040(h), who provide space to a covered business to allow the source separation and collection of food waste at the place of business.

5.15.440 Business Food Waste Requirement Performance Standards

The Chief Operating Officer will adopt administrative rules to address the business food waste requirement performance standards. The performance standards must include, without limitation, the following elements:

- (a) Provisions requiring that a local government:
 - (1) Notify covered businesses and waste haulers of the business food waste requirement;
 - (2) Require covered businesses and waste haulers to comply with the business food waste requirement;
 - (3) Provide education and technical assistance to covered businesses and waste haulers regarding the business food waste requirement; and
 - (4) Enforce the business food waste requirement.
- (b) Provisions requiring a local government to compel persons providing space to a covered business to allow for the source separation and collection of business food waste.

Metro may allow a local government to waive the business food waste requirement as to a specific business as provided in administrative rules.

5.15.450 Temporary Waiver

Metro may waive a local government's implementation of the business food waste requirement as specified in administrative rules. The term of a waiver may not exceed one year.

5.15.460 Metro Enforcement of Business Food Waste Requirement

The Chief Operating Officer may execute an intergovernmental agreement with a local government to enforce business food waste requirements within its jurisdiction.

5.15.470 Business Food Waste Model Ordinance

Metro may adopt a business food waste requirement model ordinance for use by the local government. The model ordinance is advisory only.

Exhibit C

TITLE V

SOLID WASTE

- 5.00 Solid Waste Definitions
- 5.01 Solid Waste Facility Regulation¹
- 5.02 Regional System Fee
- 5.03 Solid Waste Fees at Metro Transfer Stations
- 5.04 Investment and Innovation Program²
- 5.05 Solid Waste Flow Control
- 5.06 Solid Waste Community Enhancement Programs
- 5.07 Recycling Credits
- 5.08 Administrative Rulemaking Authority for Title V
- 5.09 Illegal Disposal³
- 5.10 Regional Waste Plan⁴

Repealed

- 5.02 Disposal Charges and User Fees
[Repealed Ord. 19-1439]
- 5.03 Disposal Site Franchise Fees
[Repealed Ord. 14-1332, Sec. 2]
- 5.08 Rate Review Committee
[Repealed Ord. 00-860A, Sec. 2]

¹ Formerly "Disposal Site Franchising." Renamed by Ord. 95-621A, Sec 1.

² Formerly "One Percent for Recycling Program." Renamed by Ord. 02-937A, Sec 2. Formerly "Recycling Business Assistance Program." Amended by Ord. 17-1415.

³ Formerly "Illegal Dumping." Renamed by Ord. 13-1311, Sec. 1.

⁴ Formerly "Regional Solid Waste Management Plan" Renamed by Ord. 19-1432.

CHAPTER 5.00

SOLID WASTE DEFINITIONS

5.00.010 Definitions

For the purposes of Title V Solid Waste, unless the context requires otherwise, the following terms have the meaning indicated:

Activity means a primary operation or function that is performed in a solid waste facility or at a disposal site, including but not limited to resource recovery, composting, energy recovery, and other types of processing; recycling; transfer; incineration; and disposal of solid waste. This term does not include operations or functions that serve to support the primary activity, such as segregation.

Agronomic application rate means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may the application adversely impact the waters of the State. The application must be designed to:

- (1) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;
- (2) Condition and improve the soil comparable to that attained by commonly used soil amendments; or
- (3) Adjust soil pH to desired levels.

Alternative Program means a solid waste management service proposed by a local government that differs from the service required under Chapter 5.10.

Authorized official means a person authorized to issue citations under Chapter 5.09.

Available regional tonnage means the amount of putrescible solid waste tonnage that Metro may allocate to privately owned transfer stations after Metro has first reserved the applicable minimum amount of putrescible tonnage for the Metro transfer stations. [Ord. 19-1438]

Business means any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies and excluding businesses whose primary office is located in a residence.

Business recycling service customer means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

Chief Operating Officer means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

Clean fill means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving that does not contain contaminants that could adversely impact the waters of the State or public health. This term does not include putrescible waste, cleanup material, construction and demolition waste, or industrial waste.

Cleanup material means solid waste resulting from the excavation or cleanup of releases of hazardous substances into the environment, including street sweeping waste, non-hazardous contaminated soils that do not qualify as clean fill (such as petroleum contaminated soils) and contaminated debris resulting from the cleanup of chemical spills or releases. This term does not include solid waste generated by manufacturing or industrial processes.

Closure means restoring a solid waste facility or a disposal site to its condition before licensed or franchised solid waste activities began at the site. Closure includes, but is not limited to, the removal of all accumulations of solid waste and recyclable materials from the site.

Code means the Metro Code.

Community enhancement fee or **enhancement fee** means the fee collected in addition to general disposal rates that pays for rehabilitation and enhancement projects in the areas surrounding solid waste facilities and disposal sites.

Compost means the stabilized product of composting.

Composting means the controlled biological decomposition of organic material.

Conditionally exempt generator (CEG) means a conditionally exempt small quantity generator as defined in 40 CFR 261.5.

Conversion technology facility means a facility that uses primarily chemical or thermal processes other than melting (changing from solid to liquid through heating without changing chemical composition) to produce fuels, chemicals, or other useful products from solid waste. These chemicals of thermal processes include, but are not limited to, distillation, gasification, hydrolysis, pyrolysis, thermal depolymerization, transesterification and animal rendering, but do not include direct combustion, composting, anaerobic digestion, melting, or mechanical recycling. Mills that primarily use mechanical recycling or melting to recycle materials back into similar materials are not considered to be conversion technology facilities, even if they use some chemical or thermal processes in the recycling process.

Council means the Metro Council.

Customer means all generators receiving solid waste and recycling collection service whether or not they are the primary account holder.

DEQ means the Department of Environmental Quality of the State of Oregon.

Department means Metro's Property and Environmental Services Department.

Designated facility means a facility in the system of solid waste facilities and disposal sites that Metro authorizes under Chapter 5.05 to accept waste generated within the jurisdiction of Metro.

Direct haul means the delivery of putrescible waste from a solid waste facility directly to Metro's contract operator for disposal of putrescible waste. Direct haul is an activity under Chapter 5.01.

Disposal fee means a fee that pays the direct unit costs of transportation and disposal of general purpose solid waste.

Disposal site means the land, buildings, and equipment used for the disposal of solid waste whether or not open to the public. This term does not include a solid waste facility.

Electronic device means:

- (1) A computer monitor of any type having a viewable area greater than four inches measured diagonally;
- (2) A desktop computer or portable computer;
- (3) A television of any type having a viewable area greater than four inches measured diagonally; or
- (4) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

Energy recovery means a type of resource recovery that is limited to methods in which all or a part of solid waste materials are processed to use the heat content or another form of energy.

Facility means the land, buildings, and equipment used for an activity.

Franchise means the grant of authority or privilege given by the Council to operate a disposal site, transfer station, energy recovery facility, or to conduct any other activity that requires authorization under Chapter 5.01.

Franchisee means the holder of a current, validly issued franchise granted by the Council under Chapter 5.01.

Franchise fee means the fee Metro charges the franchisee for the administration of the franchise.

Hazardous substance means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC 9601 et seq., oil, as defined in ORS 465.200, and any substance designated by DEQ under ORS 465.400.

Hazardous waste has the meaning provided in ORS 466.005.

Hearings officer means a person that Metro designates to hear and decide cases under this title.

Household hazardous waste means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. Household hazardous waste may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.

Inert means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the State or public health.

License means the permission given by the Council or Chief Operating Officer to operate a solid waste facility not otherwise exempted or requiring a franchise under Chapter 5.01.

Licensee means the holder of a current, validly issued license granted by the Council or Chief Operating Officer under Chapter 5.01.

Limited capacity landfill means a landfill that has sought a site development plan amendment for expansion of the landfill capacity from the Oregon Department of Environmental Quality, and has not received approval from the Department by May 25, 2017, or the equivalent determination in another state. [Ord. 17-1401, Sec. 2.]

Local government means any city or county that is within Metro's jurisdiction, including the unincorporated areas of Clackamas, Multnomah, and Washington Counties.

Local government action means adoption of any ordinance, order, regulation, contract, or program affecting solid waste management.

Material recovery means a type of resource recovery that is limited to manual or mechanical methods of obtaining material from solid waste that still has useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material recovery includes obtaining material from solid waste that is used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

Medical waste means solid waste that is generated as a result of patient diagnosis, treatment or immunization of human beings or animals.

Metro Central Station is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

Metro South Station is the Metro solid waste transfer and recycling station located at 2001 Washington Street, Oregon City, Oregon 97045.

Multifamily residential means residential dwelling communities having at least five units.

New landfill means a landfill that receives its initial permission from DEQ to receive solid waste on or after May 25, 2017, or the equivalent determination in another state. [Ord. 17-1401, Sec. 2.]

Non-commercial customer means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

Non-putrescible waste means any waste that contains no more than trivial amounts of putrescible materials or minor amounts of putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This term includes construction and demolition waste. This term does not include cleanup material, source-separated recyclable materials, special waste, land clearing debris or yard debris.

Non-system facility means any solid waste facility, disposal site, transfer station, processing facility, recycling drop center, resource recovery facility or other facility for the disposal, recycling or other processing of solid waste if the facility is not part of the system.

Non-system license means the permission given by the Council or Chief Operating Officer to transport solid waste generated within the Metro boundary to a non-system facility.

Person has the same meaning as in Metro Code Section 1.01.040. For any person other than an individual, the acts of the person's employees, contractors, and authorized agents are considered the acts of the person.

Petroleum contaminated soil means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. This term does not include soil that is contaminated with petroleum products but also contaminated with hazardous waste or radioactive waste.

Process, processing, or processed means a method or system of altering the form, condition or content of wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping. This term does not include incineration or mechanical volume reduction techniques such as baling and compaction.

Processing facility means a facility where or by which solid wastes are processed. This term does not include commercial and home garbage disposal units which are used to process food wastes and are part of the sewage system, hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

Processing residual means the solid waste that remains after resource recovery has occurred and which is intended for disposal.

Putrescible means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

Putrescible waste means waste containing putrescible material.

Radioactive waste means the same as defined in ORS 469.300.

Rate means the amount that a solid waste facility or disposal site charges to receive, process, transfer, or dispose of solid waste.

Recoverable solid waste means source-separated or homogeneous material accepted in a single transaction at Metro Central Station or at Metro South Station in a form that is usable by existing technologies (notwithstanding the presence of incidental amounts or types of contaminants) for reuse, recycling, controlled biological decomposition of organic material including composting and digestion, and the preparation of fuels that meet an engineering, industrial, or market specification. This term does not include mass burning, incineration in refuse derived fuel facilities, and similar methods of extracting energy from mixed solid wastes.

Recyclable material means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled, or composted for the same or other purpose(s).

Recycle or **recycling** means any process by which waste materials are transformed into new products in such a manner that the original products may lose their identity.

Recycling drop center means a facility that receives and temporarily stores multiple source-separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale. This term does not include a facility that processes source-separated recyclable materials.

Regional Waste Plan or **RWP** means the Regional Waste Plan adopted as a functional plan by Council and approved by DEQ.

Regional system fee means a fee that recovers the costs for all associated regional solid waste activities related to managing, planning and administering the entire recycling, processing and disposal system.

Reload means the activity of receiving solid waste for the purpose of consolidating and transferring it to a solid waste facility.

Required use order means a written order issued pursuant to Chapter 5.05 requiring a waste hauler or other person to use a designated facility pursuant to the terms of the order.

Residence means the place where a person lives.

Resource recovery means a process by which useful material or energy resources are obtained from solid waste.

Reuse means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

RWP requirement means the portions of the Regional Waste Plan that are binding on local governments as set forth in Chapter 5.10.

Segregation means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the transfer of solid waste. Segregation does not include resource recovery or other processing of solid waste. The sole intent of segregation is not to separate useful material from the solid waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

Significant disruption means an event that disrupts access to a transfer station, creates increased risk to human health or the environment, or impacts the normal operations, transportation routes or established system of a waste hauler or a transfer station. A significant disruption event may be caused by system disruptions (such as long term road repair or closures or facility construction) or natural forces (such as severe weather, flood, landslide or earthquake).

Single-family residential means individual residential dwelling units, duplexes, triplexes, or four-plexes.

Solid waste means all putrescible and non-putrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid wastes, dead animals; infectious waste; and other such wastes, including without limitation cleanup materials, commingled recyclable material, petroleum contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris. This term does not include:

- (1) Hazardous wastes;
- (2) Radioactive wastes;
- (3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
- (4) Explosives.

Solid waste facility means a facility at which solid waste is received for transfer, resource recovery, and/or processing. The term does not include disposal sites.

Solid waste system facility means a facility that Metro designates as part of Metro's system for the management and disposal of solid and liquid waste. This term includes, but is not limited to, all designated facilities set forth in Chapter 5.05 and any non-system facility that receives solid waste from within the Metro area, whether pursuant to an authorized non-system license or otherwise.

Source separate or source separated or source separation means that the person who last uses recyclable material separates the recyclable material from solid waste.

Source-separated recyclable material or Source-separated recyclables means solid waste that has been source separated by the waste generator for the purpose of reuse, recycling, or composting. This term includes (1) all homogenous loads of recyclable materials that have been source separated by material type for the purpose of recycling (i.e., source-sorted) and (2) residential and commercial commingled recyclable materials, which include only those recyclable material types that the local jurisdiction, where the materials were collected, permits to be mixed together in a single container as part of its residential curbside recyclable material collection program. This term does not include any other commingled recyclable materials.

Special waste means any waste (even though it may be part of a delivered load of waste) that falls within one or more of the following categories:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 or 11 of this definition below.
- (2) Waste transported in a bulk tanker.
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) that once held commercial products or chemicals, unless the containers (or drums) are empty as provided in 40 CFR 261.7(b)(1).
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
- (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical-containing equipment).

- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
- (12) Any waste that requires extraordinary management or special handling. Examples of such special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.
- (13) Medical waste.

Specific material recycler means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. This term does not include a facility that processes commingled source-separated recyclables collected through curbside residential or commercial collection programs.

Standard recyclable materials means newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high-grade office paper, tin/steel cans, yard debris, mixed scrap paper, milk cartons, plastic containers, milk jugs, phone books, magazines, and empty aerosol cans.

State means the State of Oregon.

Substantial compliance means local government actions, on the whole, conform to the purposes of the performance standards in Chapter 5.10 and any failure to meet individual performance standard requirements is technical or minor in nature.

System means all facilities that Metro designates as part of its system for the management and disposal of solid and liquid waste. This includes, but is not limited to, the following:

- (1) Recycling and other volume reduction facilities;
- (2) Landfills, or other disposal means;
- (3) Resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel);
- (4) Recycling and transfer stations;
- (5) Roads, water lines, wastewater lines and treatment facilities to the extent used to carry out the provisions of ORS chapter 268 and other applicable laws of the state of Oregon;
- (6) All buildings, fixtures, equipment, real property and personal property that Metro owns, leases, operates or uses to dispose of solid and liquid waste;
- (7) Designated facilities as provided in Chapter 5.05.

Tonnage Allocation means an amount of the region's putrescible waste that Metro grants to a private transfer station.

Transaction means a customer's use of a Metro transfer station disposal facility, hazardous waste facility, or household hazardous waste collection event, for the purpose of delivering for disposal a single load of solid or hazardous waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers). A solid waste disposal transaction occurs when a customer enters a Metro transfer station facility, hazardous waste facility, or household hazardous waste collection event. [Ord. 19-1438]

Transaction fee means the fee that Metro imposes for each transaction at a Metro transfer station to pay for related scalehouse costs.

Transfer means the activity of receiving solid waste for purposes of transferring it from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of solid waste from more than one vehicle, and compaction. This term does not include resource recovery or other processing of solid waste.

Transfer station means a solid waste facility whose primary activity includes, but is not limited to, the transfer of solid waste to a disposal site.

Transfer station wasteshed means the area surrounding one or more transfer stations that is more immediately accessible to those transfer stations than any other transfer station, based on travel time.

Unacceptable waste means waste that is either:

- (1) Prohibited from disposal at a disposal site by state or federal law, regulation, rule, code, permit or permit condition; or
- (2) Special waste without an approved special waste permit.

Useful material means material that still has useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from solid waste, is suitable for use in the same or other purpose(s). For purposes of this Code, cleanup materials are not useful materials. Types of useful materials include, but are not limited to:

- (1) Material that can be reused;
- (2) Recyclable material;
- (3) Organic material(s) suitable for controlled biological decomposition (such as for making compost);
- (4) Material used in the preparation of fuel;
- (5) Material intended to be used, and which is in fact used, for construction or land reclamation (such as inert material for fill);

- (6) Material intended to be used, and which is in fact used, productively in landfill operations (such as roadbeds or alternative daily cover).

Vermiprocessing means a controlled method or system of biological processing that utilizes worms to consume and digest organic materials, and that produces worm castings for productive uses.

Waste means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose. For the purpose of Chapter 5.09, the term “waste” also includes any such material even if it is broken, recoverable, or recyclable.

Waste hauler means any person who is (1) franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul solid waste; or (2) engaged, in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated by such person or others within the Metro boundary.

Waste hierarchy means first, reduce the amount of solid waste generated; second, reuse material for its originally intended purpose; third, recycle or compost material that cannot be reduced or reused; fourth, recover energy from material that cannot be reduced, reused, recycled or composted so long as the energy recovery facility preserves the quality of air, water and land resources; and fifth, landfill solid waste that cannot be reduced, reused, recycled, composted or from which energy cannot be recovered.

Waste Reduction Program means the Waste Reduction Program required by ORS 459.055(2)(a), adopted by the Metro Council as part of the RWP, and accepted and approved by the DEQ as part of the RWP.

Yard debris means vegetative and woody material generated from residential or commercial landscaping activities. Yard debris includes landscape waste, grass clippings, leaves, hedge trimmings, branches, sod, scrapings, stumps and other vegetative waste having similar properties. This term does not include other solid waste such as soil, demolition debris, painted or treated wood waste. [Ord. 81 111, Sec. 2; Ord. 82-146, Sec. 2; Ord. 86-210, Sec. 1; Ord. 88-257, Sec. 2; Ord. 88-278, Sec. 1; Ord. 89-269, Sec. 2; Ord. 89-295, Sec. 1; Ord. 89-319; Ord. 90-337, Sec. 2; Ord. 90-372, Sec. 1; Ord. 91-386C, Sec. 2; Ord. 91-388, Secs. 1 and 8; Ord. 91 422B, Sec. 1; Ord. 92-455B, Sec. 1; Ord. 92-473A, Sec. 1; Ord. 93-482, Sec. 1; Ord. 94-531, Sec. 2; Ord. 94-557; Ord. 95-597, Sec. 1; Ord. 95-621A, Sec. 2; Ord. 97-681B, Sec. 1; Ord. 98-720A, Sec. 2; Ord. 98 762C, Secs. 1 and 54; Ord. 00 866, Sec. 1; Ord. 00-867, Secs. 1-2; Ord. 00-873, Sec. 1; Ord. 00-876A, Sec. 1; Ord. 01-907A, Sec. 1; Ord. 01 914, Sec. 1; Ord. 01 916C, Sec. 1; Ord. 01-917, Sec. 1; Ord. 02-937A, Sec. 3; Ord. 02-951B, Sec. 1; Ord. 02 974, Sec. 1; Ord. 03 1018A, Sec. 1; Ord. 03-1019, Sec. 1; Ord. 06 1101; Ord. 06-1103, Sec. 1; Ord. 06-1107; Ord. 07-1147B, Secs. 1, 5 and 9; Ord. 08-1183A; Ord. 08-1200; Ord. 12-1272, Secs. 1-2; Ord. 12-1277, Sec. 4; Ord. 13-1306, Sec. 1; Ord. 13-1311; Ord. 14-1323, Sec. 6; Ord. 14-1331; Ord. 16-1386; Ord. 17-1410; Ord. 18-1426; Ord. 19-1432; Ord. 19-1438.]

IN CONSIDERATION OF ORDINANCE NO. 20-1451 FOR THE PURPOSE OF UPDATING METRO CODE CHAPTER 5.10 TO IMPROVE CLARITY, REMOVE OUTDATED SECTIONS AND ALIGN WITH THE REGIONAL WASTE PLAN AND TO ADD A NEW METRO CODE CHAPTER 5.15 AND TO UPDATE DEFINITIONS IN METRO CODE CHAPTER 5.00

Date: November 18, 2020

Prepared by: Jennifer Erickson
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Department: WPES

Presenter(s): Jennifer Erickson

Meeting date: December 3, 2020

Length: 20 minutes

ISSUE STATEMENT

Metro staff seeks to update and improve Metro's solid waste code (Metro Code Title V) and administrative rules to provide greater clarity and to provide the framework for implementation of the 2030 Regional Waste Plan.

ACTION REQUESTED

Adopt Ordinance No. 20-1451 to repeal existing Metro Code Chapter 5.10 (Regional Waste Plan) and replace with two Chapters: a revised Chapter 5.10 which covers overall Plan requirements and a new Chapter 5.15 focused specifically on local government requirements under the Plan. The proposed ordinance also includes various other housekeeping revisions to improve clarity and consistency, remove obsolete state law provisions and to conform to current code and rule format. Related definitions in Chapter 5.00 will also be updated as part of this process.

IDENTIFIED POLICY OUTCOMES

The policy framework that Council will set by adopting these changes will direct new service standards that enable implementation of the 2030 Regional Waste Plan and guide associated administrative rules. These changes help move the region toward a more clear and consistent standard--especially for people living in multifamily homes--and have a positive impact on communities of color and historically disadvantaged neighborhoods. The proposed improvements are a direct response to community input heard during Plan development as well as a study to review service levels and needs at multifamily properties. The proposed updates to Metro's solid waste code also remove unnecessary and outdated provisions, clarify terms, and respond to needed changes in the solid waste and recycling sector.

POLICY QUESTION(S)

1. Should the current Chapter 5.10 (Regional Waste Plan) be repealed and split into two separate chapters (5.10 and 5.15) to update and differentiate those requirements under the overall Regional Waste Plan from those that apply specifically to local governments?
2. If yes, should a portion of specific implementation detail be moved from code to administrative rules?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the ordinance as proposed to update Metro Code Chapter 5.10 as described in this staff report. This option will result in making the code easier to read and understand and will differentiate between overall Regional Waste Plan requirements and those that apply only to local governments.
2. Amend the ordinance to adopt other revisions to Metro Code Chapter 5.10 that are different than those described in this staff report. The potential effects of this option are unknown at this time because they would be dependent on the extent of the alternate proposal.
3. Do not approve the ordinance. This option will maintain the current Metro Code Chapter 5.10 including obsolete language and references.

STAFF RECOMMENDATIONS

Staff recommends approval of Ordinance No. 20-1451 to update Metro Code Chapter 5.10. Since all of the current Chapter 5.10 would be rewritten to establish a more logical flow, a large portion reorganized and moved to a new Chapter 5.15, and because several sections of current Chapter 5.10 are obsolete, staff recommends that the current Chapter 5.10 be repealed and replaced in its entirety with the attached Exhibit A to avoid confusing tracked changes.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Approval of this ordinance would result in updating current Chapter 5.10 and moving Regional Waste Plan requirements that apply to local governments to a new separate chapter (Chapter 5.15); Chapter 5.10 continues to govern the overall Regional Waste Plan. The proposed ordinance also includes various other housekeeping revisions to improve clarity and consistency as described below and provided in Exhibit A.

Staff recommends updating Metro Code Chapter 5.10 as described below:

1. Move all provisions related to local government requirements under the Regional Waste Plan into new Metro Code Chapter 5.15.

2. Update language throughout the chapter to remove legalese, passive voice, nominalizations and lengthy sentences.
3. Reorganize code sections into a more logical sector-specific approach. For example, rather than have several separate code sections dealing with single-family and multifamily residential requirements, code sections have been grouped by sector (residential, business, general education).
4. Remove old dates, irrelevant language and confusing references to obsolete state statute.
5. Establish new standards for multifamily residential solid waste services including collection container colors, service volume and frequency minimums and requiring the use of regional decals and signs.
6. Eliminate the Regional Service Standard Alternative Program. Local government alternative programs (every-other-week collection) that showed the same outcome as the Regional Service Standard (weekly collection) have been incorporated into the new standard. The Alternative Program has proven ineffective and burdensome to Metro and local governments.
7. Move and reword some specific implementation detail to administrative rules so that all local government requirements are in a single location and are communicated more clearly. These include: general service standards for all sectors; specific service standards for single-family, multifamily and business customers; education and outreach standards; materials required for collection.
8. General housekeeping to Metro Code Section 5.00 to update definitions.

KNOWN OPPOSITION

There is no known opposition to the proposed revisions to Metro Code Chapter 5.10. Metro received 19 comments during the 30-day public comment period, none of which resulted in any changes to the proposed code amendments. Public comments indicated general support for the policy.

PUBLIC OUTREACH

Metro provided an opportunity for the public to review and submit comments on the proposed updates. The public comment period was open from September 15 through October 15, 2020. Local government elected officials, city and county managers, residential property managers and owners, community-based organizations, tenant organizations and garbage and recycling companies were notified via email about the opportunity to comment. A call for comments paired with an infographic was posted on Metro's three social media platforms (Facebook, Twitter and Instagram). Some local governments also publicized the comment period through their communication channels. Metro staff met with the region's local government solid waste directors several times, presented to the Regional Waste Advisory Committee on three occasions (May, June and July 2020), to Metro's Committee on Racial Equity (July and September 2020) and to MPAC (September

2020). These committees all responded favorably to the proposal and offered no additional changes.

Most of the comments received during the public comment period were supportive and were in reference to the proposed administrative rules. Three changes were made to the rules based on comments received—all to improve clarity. If Council adopts Ordinance 20-1451, the associated rules will have an additional 30-day public comment period in early 2021 prior to consideration by Metro’s Chief Operating Officer.

Some comments received were outside the scope of the proposed code updates and housekeeping improvements. The full public comment report is provided as Attachment 1 to this report.

LEGAL ANTECEDENTS

Metro Charter, Title V of the Metro Code and ORS Chapters 268 and 459.

Ordinance 19-1431 For the Purpose of Adopting the 2030 Regional Waste Plan.

Ordinance 19-1432 For the Purpose of Amending Metro Code Title V for Consistency with the 2030 Regional Waste Plan.

ANTICIPATED EFFECTS

Approval of this ordinance would repeal the existing Metro Code Chapter 5.10 and replace it with an updated Chapter 5.10 and a new Chapter 5.15 to improve clarity and reflect the Regional Waste Plan as provided in Exhibit A.

BUDGET IMPACTS

There are no expected budget impacts associated with the adoption of this ordinance.

However, the transition to a more equitable and uniform garbage and recycling system for people living in multifamily homes will have costs. After an independent financial analysis, a 7-year timeline for meeting the required multifamily collection container color standard was identified as the cost-effective approach. It gives haulers the most flexibility in meeting the requirement and takes advantage of the seven year equipment depreciation schedule already built into local government franchised commercial rates. Upgrades are necessary not only to bring current systems up to a minimum standard, but also to ensure standardization as more multifamily homes and affordable housing are being constructed throughout the region.

BACKGROUND

In March 2019, the Metro Council adopted the 2030 Regional Waste Plan and set the policy direction for the region’s solid waste and recycling system. The new plan is very different than previous plans in that its values, principles, goals and actions specifically reflect the needs and aspirations of members of our community who haven’t historically had a strong

voice in the development of environmental plans, policies and programs. The foundation of this plan is equity—centering the voices, values and needs of communities of color and historically marginalized groups in the region’s solid waste and recycling system. The plan is implemented in many ways; through collaborative programs with local government partners and community organizations, and through required actions that bring minimum standards and consistency to a large and complex system. Metro Code and the associated administrative rules are the mechanism used to implement the required elements of the plan. Chapter 5.10 of the Metro Code is now obsolete and needs to be re-written to reflect the goals, policies and programs of the current Regional Waste Plan.

In March of 2019, the Metro Council adopted Ordinance 19-1432 which made non-substantive changes to terms and language in Title V to align with the new Regional Waste Plan. This ordinance was the first step towards shifting from the old plan to the new terminology and set the stage for future, more substantive changes.

Currently, Metro Code Chapter 5.10 implements the requirements of the 2008 Regional Solid Waste Management Plan and contains verbatim state statute and regional requirements that are no longer in place. The proposed changes will remove old state statute and clarify that the code implements the Regional Waste Plan, not state law. As it stands today, overall Regional Waste Plan requirements, requirements specific to local governments and regional service provision standards are scattered throughout Chapter 5.10. To better organize the chapter and provide more clarity, staff proposes to split the existing Chapter 5.10 into two chapters: Chapter 5.10 covers the overall plan, while all requirements specific to local governments are proposed for a new Chapter 5.15.

Current code is challenging to read and interpret, contains obsolete terms and does not reflect the wording in the new Regional Waste Plan. At the direction of the Metro Council, Metro staff has been working to update Metro’s solid waste code and administrative rules overall to provide greater clarity and predictability for the public and for those directly involved in the region’s garbage and recycling system. These efforts have sought to remove unnecessary and outdated provisions, improve readability, clarify terms, and enable greater flexibility for Metro to protect the public’s interest and respond to changes in the solid waste and recycling system. Metro staff seeks to continue to fulfill Council’s direction by updating Chapter 5.10, and adding a new Chapter 5.15 to improve organization and readability as well as to implement the current Regional Waste Plan.

To provide more clarity and differentiate between overall Regional Waste Plan requirements and those that specifically apply to local governments, staff proposes to split the existing Chapter 5.10 into the following two chapters:

1. Chapter 5.10 (Regional Waste Plan) will continue to govern the overall Regional Waste Plan.
2. Chapter 5.15 (Local Government Requirements Under the Regional Waste Plan) will govern the service standards that local governments are required to meet with regard to provision of garbage and recycling services.

In addition to the proposed revisions and new code chapter described above, administrative rules are being updated to reflect the current Regional Waste Plan. If the Metro Council adopts the proposed changes to Chapter 5.10 and establishes a new Chapter 5.15, the associated administrative rules will be posted for public comment and an oral hearing in January 2021 in accordance with Metro Code Chapter 5.08.

ATTACHMENTS

- Attachment 1: Ordinance No. 20-1451 *For The Purpose of Updating Metro Code Chapter 5.10 to Improve Clarity, Remove Outdated Sections and Align with the Regional Waste Plan and to Add a New Metro Code Chapter 5.15 and to Update Definitions in Metro Code Chapter 5.00.*
- Attachment 2: Draft Administrative Rules (AR 5.15-1000, 2000, 3000, 5000)
- Attachment 3: Public Comment Report
- Attachment 4: Overview of Proposed Revisions to Metro Code Chapter 5.10

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF UPDATING METRO	)	ORDINANCE NO. 20-1451
CODE CHAPTER 5.10 TO IMPROVE CLARITY,)	
REMOVE OUTDATED SECTIONS AND ALIGN	)	Introduced by Chief Operating Officer
WITH THE REGIONAL WASTE PLAN AND TO	)	Marissa Madrigal in concurrence with
ADD A NEW METRO CODE CHAPTER 5.15	)	Council President Lynn Peterson
AND TO UPDATE DEFINITIONS IN METRO)	
CODE CHAPTER 5.00)	

WHEREAS, the Metro solid waste code is set forth in Title V of the Metro Code; and

WHEREAS, Metro Code Chapter 5.10 contains the requirements for the Regional Waste Plan;
and

WHEREAS, the proposed updates to Metro Code Chapter 5.10 include moving provisions related to local government requirements to a new, separate chapter to improve clarity, consistency and make the code easier to understand by the public; and

WHEREAS, the proposed updates to Metro Code Chapter 5.10 remove obsolete requirements under the old Regional Solid Waste Management Plan as well as obsolete Oregon state statute that is no longer in effect; and

WHEREAS, as a result of updating and renumbering Metro Code Chapter 5.10, a new Metro Code Chapter 5.15 is added; and

WHEREAS, as a result of updating Metro Code Chapter 5.10, Metro Code Chapter 5.00 must also be updated to add and clarify definitions; and

WHEREAS, the proposed updates to Metro Code Chapter 5.10 and the addition of Metro Code Chapter 5.15 remove unnecessary and outdated provisions, clarifies terms, and other housekeeping revisions that will also improve its readability and make it easier to understand; and

WHEREAS, staff solicited input from the public on the proposed changes to Metro Code Chapter 5.10 and 5.15 by consulting with the Regional Waste Advisory Committee, Metro’s Committee on Racial Equity, local government partners, Metro Policy Advisory Committee and other stakeholders as well as providing a 30-day public comment period during September and October 2020; and

WHEREAS, because the current Chapter 5.10 code sections will be rewritten and significant portions moved to a new Chapter 5.15 and re-ordered to establish a more logical flow, current Chapter 5.10 should be repealed and replaced in its entirety with the attached Exhibit A to avoid confusing tracked changes; and

WHEREAS, the Chief Operating Officer recommends that the Metro Council adopt the proposed updates to Metro Code Chapter 5.10 to improve clarity and consistency and to conform with other updates and improvements; and

WHEREAS, the Metro Council finds that the updates to Metro Code Chapter 5.10 provide greater clarity for the public and further the goals of the agency; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 5.10 is repealed and replaced in its entirety with a new Chapter 5.10 (“Regional Waste Plan”) as set forth in the attached Exhibit A;
2. A new Chapter 5.15 (“Local Government Requirements Under the Regional Waste Plan”) is added to the Metro Code as set forth in the attached Exhibit B.
3. Metro Code Chapter 5.00 (“Definitions”) is amended to add definitions as set forth in the attached Exhibit C.
4. To ensure accurate references in current administrative rules, all references in Metro Administrative Rules 4000-4085 to former section numbers in Metro Code Chapter 5.10 are hereby changed to the appropriate Chapter 5.15 reference without the need for a public comment period or oral hearing as normally required by Metro Code Chapter 5.08.

ADOPTED by the Metro Council this 10th day of December 2020.

Lynn Peterson, Council President

Attest:

Approved as to Form:

— Jaye Cromwell, Recording Secretary

Carrie MacLaren, Metro Attorney

Exhibit A

CHAPTER 5.10

REGIONAL WASTE PLAN

- 5.10.010 Authority
- 5.10.020 Application
- 5.10.030 Regional Waste Plan Requirements
- 5.10.040 Regional Waste Plan Amendments
- 5.10.050 Severability
- 5.10.060 Administrative Rules

5.10.010 Authority

Metro's solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.

5.10.020 Application

The Regional Waste Plan applies to all portions of Clackamas, Washington, and Multnomah Counties within Metro's jurisdictional boundary.

5.10.030 Regional Waste Plan Requirements

- (a) The Regional Waste Plan contains requirements and performance standards that are binding on a local government within Metro's jurisdictional boundary. The requirements and performance standards that are binding on a local government are set forth in Chapter 5.15 and associated administrative rules.
- (b) The Regional Waste Plan also contains requirements and performance standards that may result in changes to other sections of Metro Code including, but not limited to, all chapters in Title V and other code sections related to solid waste matters.

5.10.040 Regional Waste Plan Amendments

- (a) The Chief Operating Officer may recommend amendments to the Regional Waste Plan for consideration by Council. Council may adopt amendments to the Regional Waste Plan by ordinance.
- (b) If Council adopts an amendment to the Regional Waste Plan that affects the waste reduction program, the Chief Operating Officer will submit the applicable amendments to the DEQ for review and approval.
- (c) The Chief Operating Officer may administratively correct any typographical or scrivener's errors discovered in the Regional Waste Plan without further petition, notice, or hearing.

5.10.050 Severability

This chapter's sections and those of the Regional Waste Plan are severable. Any action by any state agency or judgment of a court of competent jurisdiction invalidating any section of this chapter or the Regional Waste Plan does not affect the validity of any other section.

5.10.060 Administrative Rules

The Chief Operating Officer may adopt administrative rules under the provisions set forth in Chapter 5.08 to govern the obligations under this chapter and implement all provisions of this chapter.

Exhibit B

CHAPTER 5.15

LOCAL GOVERNMENT REQUIREMENTS UNDER THE REGIONAL WASTE PLAN

GENERAL PROVISIONS

- 5.15.010 Purpose and Intent
- 5.15.020 Compliance with the Regional Waste Plan
- 5.15.030 Compliance Date; Extension Request
- 5.15.040 Non-Compliance
- 5.15.050 Technical and Financial Assistance
- 5.15.060 Local Government Conformity to the Regional Waste Plan
- 5.15.070 Administrative Rules

RESIDENTIAL SERVICE

- 5.15.110 Purpose and Intent
- 5.15.120 Implementation and Compliance
- 5.15.130 Residential Service Standard

BUSINESS SERVICE AND RECYCLING REQUIREMENT

- 5.15.210 Purpose and Intent
- 5.15.220 Implementation and Compliance
- 5.15.220 Business Service Standard
- 5.15.230 Business Recycling Requirement
- 5.15.240 Business Recycling Requirement Performance Standard
- 5.15.250 Metro Enforcement of Business Recycling Requirement
- 5.15.260 Business Recycling Requirement Model Ordinance

GENERAL EDUCATION

- 5.15.310 Purpose and Intent
- 5.15.320 Implementation and Compliance
- 5.15.330 General Education Standard

BUSINESS FOOD WASTE REQUIREMENT

- 5.15.410 Purpose and Intent
- 5.15.420 Business Food Waste and Covered Businesses
- 5.15.430 Business Food Waste Requirement
- 5.15.440 Business Food Waste Requirement Performance Standard
- 5.15.450 Temporary Waiver
- 5.15.460 Metro Enforcement of Business Food Waste Requirement
- 5.15.470 Business Food Waste Model Ordinance

GENERAL PROVISIONS

5.15.010 Purpose and Intent

The purpose of this chapter is to establish a process for determining whether local government actions comply with the Regional Waste Plan. The Council intends the process to be efficient and cost effective and to provide an opportunity for the Council to interpret the requirements of the Regional Waste Plan.

5.15.020 Compliance with the Regional Waste Plan

- (a) A local government must comply with the Regional Waste Plan.
- (b) Metro will notify each local government that is not in compliance with the Regional Waste Plan. The Chief Operating Officer will make findings regarding the non-compliance and will recommend actions that will bring the local government into compliance.
- (c) A local government that receives a notice of non-compliance must respond to Metro in writing within 60 days from the date of the notification. The response must include:
 - An agreement to implement Metro's recommended actions;
 - An alternate proposal for Metro's consideration and approval that describes other actions that the local government will take to achieve compliance; or
 - A request for a compliance extension under Section 5.15.030.
- (d) If a local government fails to respond as provided in subsection (c) or refuses to comply with the Regional Waste Plan requirements, the Chief Operating Officer may proceed to the non-compliance procedures under Section 5.15.040 and as set forth in administrative rule.

5.15.030 Compliance Date; Extension Request

- (a) Metro will notify each local government of the compliance date of all Regional Waste Plan requirements.
- (b) A local government may seek an extension of time to comply with a Regional Waste Plan requirement by submitting a written request for an extension to Metro as set forth in administrative rule.

5.15.040 Non-Compliance

- (a) The Council may review the Chief Operating Officer's finding that a local government has not complied with the Regional Waste Plan requirements and performance standards. The process is set forth in administrative rules.
- (b) If the Council finds that the local government action is out of compliance with the Regional Waste Plan or any related rules or provisions of the Metro Code, the Council may adopt a resolution that (1) identifies the noncompliant action; (2) directs changes in the local government action; and (3) requires any other action, including penalties.
- (c) If the Council chooses not to review the Chief Operating Officer's findings, the Chief Operating Officer will direct the necessary actions.

5.15.050 Technical and Financial Assistance

Metro will encourage a local government to use the technical and financial assistance programs provided by Metro to help the local government comply with the Regional Waste Plan requirements.

5.15.060 Local Government Conformity to the Regional Waste Plan

A local government may not adopt any ordinance, order, regulation, or contract affecting solid waste management that conflicts with the Regional Waste Plan requirements.

5.15.070 Administrative Rules

- (a) The Chief Operating Officer may adopt administrative rules under the provisions set forth in Chapter 5.08 to govern the obligations under this chapter and implement all provisions of this chapter.
- (b) In addition to the general administrative rulemaking authority in Chapter 5.08, the Chief Operating Officer also has explicit authority to establish by administrative rule:
 - (1) The procedures and timelines for seeking an extension for compliance.
 - (2) The process for review of the Chief Operating Officer's findings per section 5.15.040.

RESIDENTIAL SERVICE

5.15.110 Purpose and Intent

A local government must adopt and implement the residential service standard as required by the Regional Waste Plan and as specified in this chapter and administrative rules. The residential service standard ensures a comprehensive and consistent level of solid waste collection service for the region.

5.15.120 Implementation and Compliance

- (a) A local government must implement the residential service standard by adopting the provisions of Section 5.15.130 and associated administrative rules.
- (b) A local government must provide information related to compliance with this requirement at Metro's request and as specified in administrative rules.

5.15.130 Residential Service Standard

The Chief Operating Officer will adopt administrative rules to implement the residential service standard. The standard requires, without limitation, that a local government must:

- (a) Provide comprehensive single-family residential solid waste collection services including collection of acceptable recyclable materials;
- (b) Provide comprehensive multifamily residential solid waste collection services including collection of acceptable recyclable materials;
- (c) Implement minimum service levels for all collected materials for multifamily residential customers.
- (d) Develop and implement standards for collection areas, to ensure adequate access to collection receptacles.
- (e) Provide supporting solid waste outreach and education programs and materials to all residential solid waste generators.
- (f) Implement regional standards for collection container colors, signage and related informational materials.
- (g) Provide bulky waste collection service.

BUSINESS SERVICE AND RECYCLING REQUIREMENT

5.15.210 Purpose and Intent

The business service standard and recycling requirement provide education and collection service requirements for the business sector in order to create a consistent standard throughout the Metro region and to increase recycling.

5.15.220 Implementation and Compliance

- (a) A local government must implement the business service standard by adopting the provisions of Section 5.15.230 and associated administrative rules.
- (b) A local government must provide information related to compliance with this requirement at Metro's request and as specified in administrative rules.

5.15.230 Business Service Standard

- (a) Provide complete business solid waste collection services according to the standards specified in administrative rules; and
- (b) Provide solid waste outreach and education programs and materials to all business solid waste generators according to the standards specified in administrative rules.

5.15.240 Business Recycling Requirement

- (a) A local government must:
 - (1) Adopt the business recycling requirement model ordinance or demonstrate that existing local government ordinances comply with the performance standard in Section 5.15.250 and the corresponding administrative rules.
 - (2) Establish a method for businesses to comply with the business recycling requirement model ordinance or local government ordinance; or
 - (3) Enter into an intergovernmental agreement with Metro that provides for Metro to establish a method for enforcing compliance by businesses with the business recycling requirement.
- (b) The local government must provide information related to the local government's implementation of the business recycling requirements at Metro's request and as specified in administrative rules.

5.15.250 Business Recycling Requirement Performance Standard

The Chief Operating Officer will adopt administrative rules to address the business recycling requirement performance standard. The performance standard must include, without limitation, the following elements:

- (a) Businesses must:

- (1) Source-separate all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling;
 - (2) Provide recycling receptacles for internal maintenance or work areas where recyclable materials may be collected, stored, or both; and
 - (3) Post accurate signs where recyclable materials are collected, stored, or both that identify the materials that the business must source-separate for reuse or recycling and that provide recycling instructions.
- (b) A local government must ensure that businesses comply with the business recycling requirement.
- (c) A local government may exempt a business from some or all of the business recycling requirement if:
- (1) The business provides access to the local government for a site visit; and
 - (2) The local government determines during the site visit that the business cannot comply with the business recycling requirement.

5.15.260 Metro Enforcement of Business Recycling Requirement

The Chief Operating Officer may execute an intergovernmental agreement with a local government to enforce business recycling requirement within its jurisdiction.

5.15.270 Business Recycling Requirement Model Ordinance

The Chief Operating Officer may adopt a business recycling requirement model ordinance for use by a local government. The model ordinance is advisory only.

GENERAL EDUCATION

5.15.310 Purpose and Intent

A local government must adopt and implement the general education standard as required by the Regional Waste Plan and as specified in this chapter and administrative rules. The education standard ensures a comprehensive and consistent level of garbage, recycling, composting, waste prevention and reuse education and assistance for all customers in the region.

5.15.320 Implementation and Compliance

- (a) A local government must implement the education standard by adopting the provisions of Section 5.15.330 and associated administrative rules.
- (b) A local government must provide information related to compliance with this requirement at Metro's request and as specified in administrative rules.

5.15.330 General Education Standard

The Chief Operating Officer will adopt administrative rules to implement the general education standard. The standard must require without limitation that a local government must:

- (a) Provide solid waste outreach and education programs and materials to all solid waste customers as set forth in administrative rule.
- (b) Ensure implementation of all outreach and education programs required by state law.

BUSINESS FOOD WASTE REQUIREMENT

5.15.410 Purpose and Intent

The business food waste requirement provides an opportunity to increase recycling of food waste and to assist the Metro region to achieve waste reduction goals. Metro does not intend for this requirement to apply to food that is fit for human consumption and accepted for donation by a charitable organization or the use of food waste for animal consumption in compliance with applicable regulations. [Ord. No. 18-1418.]

5.15.420 Business Food Waste and Covered Businesses

Business food waste is solid waste consisting of food waste removed from the food supply chain that is not fit for human or animal consumption. A covered business is a business that cooks, assembles, processes, serves, or sells food.

5.15.430 Business Food Waste Requirement

A local government must require:

- (a) All covered businesses in its jurisdiction to source-separate business food waste for recovery;
- (b) All source-separated food waste from a covered business to be transported to a facility authorized by Metro to accept food waste; and
- (c) All persons, as defined by Metro Code Section 1.01.040(h), who provide space to a covered business to allow the source separation and collection of food waste at the place of business.

5.15.440 Business Food Waste Requirement Performance Standards

The Chief Operating Officer will adopt administrative rules to address the business food waste requirement performance standards. The performance standards must include, without limitation, the following elements:

- (a) Provisions requiring that a local government:
 - (1) Notify covered businesses and waste haulers of the business food waste requirement;
 - (2) Require covered businesses and waste haulers to comply with the business food waste requirement;
 - (3) Provide education and technical assistance to covered businesses and waste haulers regarding the business food waste requirement; and
 - (4) Enforce the business food waste requirement.
- (b) Provisions requiring a local government to compel persons providing space to a covered business to allow for the source separation and collection of business food waste.

Metro may allow a local government to waive the business food waste requirement as to a specific business as provided in administrative rules.

5.15.450 Temporary Waiver

Metro may waive a local government's implementation of the business food waste requirement as specified in administrative rules. The term of a waiver may not exceed one year.

5.15.460 Metro Enforcement of Business Food Waste Requirement

The Chief Operating Officer may execute an intergovernmental agreement with a local government to enforce business food waste requirements within its jurisdiction.

5.15.470 Business Food Waste Model Ordinance

Metro may adopt a business food waste requirement model ordinance for use by the local government. The model ordinance is advisory only.

Exhibit C

TITLE V

SOLID WASTE

- 5.00 Solid Waste Definitions
- 5.01 Solid Waste Facility Regulation¹
- 5.02 Regional System Fee
- 5.03 Solid Waste Fees at Metro Transfer Stations
- 5.04 Investment and Innovation Program²
- 5.05 Solid Waste Flow Control
- 5.06 Solid Waste Community Enhancement Programs
- 5.07 Recycling Credits
- 5.08 Administrative Rulemaking Authority for Title V
- 5.09 Illegal Disposal³
- 5.10 Regional Waste Plan⁴

Repealed

- 5.02 Disposal Charges and User Fees
[Repealed Ord. 19-1439]
- 5.03 Disposal Site Franchise Fees
[Repealed Ord. 14-1332, Sec. 2]
- 5.08 Rate Review Committee
[Repealed Ord. 00-860A, Sec. 2]

¹ Formerly "Disposal Site Franchising." Renamed by Ord. 95-621A, Sec 1.

² Formerly "One Percent for Recycling Program." Renamed by Ord. 02-937A, Sec 2. Formerly "Recycling Business Assistance Program." Amended by Ord. 17-1415.

³ Formerly "Illegal Dumping." Renamed by Ord. 13-1311, Sec. 1.

⁴ Formerly "Regional Solid Waste Management Plan" Renamed by Ord. 19-1432.

CHAPTER 5.00

SOLID WASTE DEFINITIONS

5.00.010 Definitions

For the purposes of Title V Solid Waste, unless the context requires otherwise, the following terms have the meaning indicated:

Activity means a primary operation or function that is performed in a solid waste facility or at a disposal site, including but not limited to resource recovery, composting, energy recovery, and other types of processing; recycling; transfer; incineration; and disposal of solid waste. This term does not include operations or functions that serve to support the primary activity, such as segregation.

Agronomic application rate means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may the application adversely impact the waters of the State. The application must be designed to:

- (1) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;
- (2) Condition and improve the soil comparable to that attained by commonly used soil amendments; or
- (3) Adjust soil pH to desired levels.

Alternative Program means a solid waste management service proposed by a local government that differs from the service required under Chapter 5.10.

Authorized official means a person authorized to issue citations under Chapter 5.09.

Available regional tonnage means the amount of putrescible solid waste tonnage that Metro may allocate to privately owned transfer stations after Metro has first reserved the applicable minimum amount of putrescible tonnage for the Metro transfer stations. [Ord. 19-1438]

Business means any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies and excluding businesses whose primary office is located in a residence.

Business recycling service customer means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

Chief Operating Officer means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

Clean fill means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving that does not contain contaminants that could adversely impact the waters of the State or public health. This term does not include putrescible waste, cleanup material, construction and demolition waste, or industrial waste.

Cleanup material means solid waste resulting from the excavation or cleanup of releases of hazardous substances into the environment, including street sweeping waste, non-hazardous contaminated soils that do not qualify as clean fill (such as petroleum contaminated soils) and contaminated debris resulting from the cleanup of chemical spills or releases. This term does not include solid waste generated by manufacturing or industrial processes.

Closure means restoring a solid waste facility or a disposal site to its condition before licensed or franchised solid waste activities began at the site. Closure includes, but is not limited to, the removal of all accumulations of solid waste and recyclable materials from the site.

Code means the Metro Code.

Community enhancement fee or **enhancement fee** means the fee collected in addition to general disposal rates that pays for rehabilitation and enhancement projects in the areas surrounding solid waste facilities and disposal sites.

Compost means the stabilized product of composting.

Composting means the controlled biological decomposition of organic material.

Conditionally exempt generator (CEG) means a conditionally exempt small quantity generator as defined in 40 CFR 261.5.

Conversion technology facility means a facility that uses primarily chemical or thermal processes other than melting (changing from solid to liquid through heating without changing chemical composition) to produce fuels, chemicals, or other useful products from solid waste. These chemicals of thermal processes include, but are not limited to, distillation, gasification, hydrolysis, pyrolysis, thermal depolymerization, transesterification and animal rendering, but do not include direct combustion, composting, anaerobic digestion, melting, or mechanical recycling. Mills that primarily use mechanical recycling or melting to recycle materials back into similar materials are not considered to be conversion technology facilities, even if they use some chemical or thermal processes in the recycling process.

Council means the Metro Council.

Customer means all generators receiving solid waste and recycling collection service whether or not they are the primary account holder.

DEQ means the Department of Environmental Quality of the State of Oregon.

Department means Metro's Property and Environmental Services Department.

Designated facility means a facility in the system of solid waste facilities and disposal sites that Metro authorizes under Chapter 5.05 to accept waste generated within the jurisdiction of Metro.

Direct haul means the delivery of putrescible waste from a solid waste facility directly to Metro's contract operator for disposal of putrescible waste. Direct haul is an activity under Chapter 5.01.

Disposal fee means a fee that pays the direct unit costs of transportation and disposal of general purpose solid waste.

Disposal site means the land, buildings, and equipment used for the disposal of solid waste whether or not open to the public. This term does not include a solid waste facility.

Electronic device means:

- (1) A computer monitor of any type having a viewable area greater than four inches measured diagonally;
- (2) A desktop computer or portable computer;
- (3) A television of any type having a viewable area greater than four inches measured diagonally; or
- (4) Any part of a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier or air purifier.

Energy recovery means a type of resource recovery that is limited to methods in which all or a part of solid waste materials are processed to use the heat content or another form of energy.

Facility means the land, buildings, and equipment used for an activity.

Franchise means the grant of authority or privilege given by the Council to operate a disposal site, transfer station, energy recovery facility, or to conduct any other activity that requires authorization under Chapter 5.01.

Franchisee means the holder of a current, validly issued franchise granted by the Council under Chapter 5.01.

Franchise fee means the fee Metro charges the franchisee for the administration of the franchise.

Hazardous substance means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC 9601 et seq., oil, as defined in ORS 465.200, and any substance designated by DEQ under ORS 465.400.

Hazardous waste has the meaning provided in ORS 466.005.

Hearings officer means a person that Metro designates to hear and decide cases under this title.

Household hazardous waste means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. Household hazardous waste may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.

Inert means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the State or public health.

License means the permission given by the Council or Chief Operating Officer to operate a solid waste facility not otherwise exempted or requiring a franchise under Chapter 5.01.

Licensee means the holder of a current, validly issued license granted by the Council or Chief Operating Officer under Chapter 5.01.

Limited capacity landfill means a landfill that has sought a site development plan amendment for expansion of the landfill capacity from the Oregon Department of Environmental Quality, and has not received approval from the Department by May 25, 2017, or the equivalent determination in another state. [Ord. 17-1401, Sec. 2.]

Local government means any city or county that is within Metro's jurisdiction, including the unincorporated areas of Clackamas, Multnomah, and Washington Counties.

Local government action means adoption of any ordinance, order, regulation, contract, or program affecting solid waste management.

Material recovery means a type of resource recovery that is limited to manual or mechanical methods of obtaining material from solid waste that still has useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material recovery includes obtaining material from solid waste that is used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

Medical waste means solid waste that is generated as a result of patient diagnosis, treatment or immunization of human beings or animals.

Metro Central Station is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

Metro South Station is the Metro solid waste transfer and recycling station located at 2001 Washington Street, Oregon City, Oregon 97045.

Multifamily residential means residential dwelling communities having at least five units.

New landfill means a landfill that receives its initial permission from DEQ to receive solid waste on or after May 25, 2017, or the equivalent determination in another state. [Ord. 17-1401, Sec. 2.]

Non-commercial customer means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

Non-putrescible waste means any waste that contains no more than trivial amounts of putrescible materials or minor amounts of putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This term includes construction and demolition waste. This term does not include cleanup material, source-separated recyclable materials, special waste, land clearing debris or yard debris.

Non-system facility means any solid waste facility, disposal site, transfer station, processing facility, recycling drop center, resource recovery facility or other facility for the disposal, recycling or other processing of solid waste if the facility is not part of the system.

Non-system license means the permission given by the Council or Chief Operating Officer to transport solid waste generated within the Metro boundary to a non-system facility.

Person has the same meaning as in Metro Code Section 1.01.040. For any person other than an individual, the acts of the person's employees, contractors, and authorized agents are considered the acts of the person.

Petroleum contaminated soil means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. This term does not include soil that is contaminated with petroleum products but also contaminated with hazardous waste or radioactive waste.

Process, processing, or processed means a method or system of altering the form, condition or content of wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping. This term does not include incineration or mechanical volume reduction techniques such as baling and compaction.

Processing facility means a facility where or by which solid wastes are processed. This term does not include commercial and home garbage disposal units which are used to process food wastes and are part of the sewage system, hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

Processing residual means the solid waste that remains after resource recovery has occurred and which is intended for disposal.

Putrescible means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

Putrescible waste means waste containing putrescible material.

Radioactive waste means the same as defined in ORS 469.300.

Rate means the amount that a solid waste facility or disposal site charges to receive, process, transfer, or dispose of solid waste.

Recoverable solid waste means source-separated or homogeneous material accepted in a single transaction at Metro Central Station or at Metro South Station in a form that is usable by existing technologies (notwithstanding the presence of incidental amounts or types of contaminants) for reuse, recycling, controlled biological decomposition of organic material including composting and digestion, and the preparation of fuels that meet an engineering, industrial, or market specification. This term does not include mass burning, incineration in refuse derived fuel facilities, and similar methods of extracting energy from mixed solid wastes.

Recyclable material means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled, or composted for the same or other purpose(s).

Recycle or **recycling** means any process by which waste materials are transformed into new products in such a manner that the original products may lose their identity.

Recycling drop center means a facility that receives and temporarily stores multiple source-separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale. This term does not include a facility that processes source-separated recyclable materials.

Regional Waste Plan or **RWP** means the Regional Waste Plan adopted as a functional plan by Council and approved by DEQ.

Regional system fee means a fee that recovers the costs for all associated regional solid waste activities related to managing, planning and administering the entire recycling, processing and disposal system.

Reload means the activity of receiving solid waste for the purpose of consolidating and transferring it to a solid waste facility.

Required use order means a written order issued pursuant to Chapter 5.05 requiring a waste hauler or other person to use a designated facility pursuant to the terms of the order.

Residence means the place where a person lives.

Resource recovery means a process by which useful material or energy resources are obtained from solid waste.

Reuse means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

RWP requirement means the portions of the Regional Waste Plan that are binding on local governments as set forth in Chapter 5.10.

Segregation means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the transfer of solid waste. Segregation does not include resource recovery or other processing of solid waste. The sole intent of segregation is not to separate useful material from the solid waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

Significant disruption means an event that disrupts access to a transfer station, creates increased risk to human health or the environment, or impacts the normal operations, transportation routes or established system of a waste hauler or a transfer station. A significant disruption event may be caused by system disruptions (such as long term road repair or closures or facility construction) or natural forces (such as severe weather, flood, landslide or earthquake).

Single-family residential means individual residential dwelling units, duplexes, triplexes, or four-plexes.

Solid waste means all putrescible and non-putrescible wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-solid wastes, dead animals; infectious waste; and other such wastes, including without limitation cleanup materials, commingled recyclable material, petroleum contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris. This term does not include:

- (1) Hazardous wastes;
- (2) Radioactive wastes;
- (3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
- (4) Explosives.

Solid waste facility means a facility at which solid waste is received for transfer, resource recovery, and/or processing. The term does not include disposal sites.

Solid waste system facility means a facility that Metro designates as part of Metro's system for the management and disposal of solid and liquid waste. This term includes, but is not limited to, all designated facilities set forth in Chapter 5.05 and any non-system facility that receives solid waste from within the Metro area, whether pursuant to an authorized non-system license or otherwise.

Source separate or source separated or source separation means that the person who last uses recyclable material separates the recyclable material from solid waste.

Source-separated recyclable material or Source-separated recyclables means solid waste that has been source separated by the waste generator for the purpose of reuse, recycling, or composting. This term includes (1) all homogenous loads of recyclable materials that have been source separated by material type for the purpose of recycling (i.e., source-sorted) and (2) residential and commercial commingled recyclable materials, which include only those recyclable material types that the local jurisdiction, where the materials were collected, permits to be mixed together in a single container as part of its residential curbside recyclable material collection program. This term does not include any other commingled recyclable materials.

Special waste means any waste (even though it may be part of a delivered load of waste) that falls within one or more of the following categories:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 or 11 of this definition below.
- (2) Waste transported in a bulk tanker.
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) that once held commercial products or chemicals, unless the containers (or drums) are empty as provided in 40 CFR 261.7(b)(1).
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
- (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical-containing equipment).

- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
- (12) Any waste that requires extraordinary management or special handling. Examples of such special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.
- (13) Medical waste.

Specific material recycler means a facility that processes a single type of non-putrescible recyclable material that holds intrinsic value in established reuse or recycling markets. These materials include, but are not limited to, scrap metal, plastic, paper, or other similar commodities. This term does not include a facility that processes commingled source-separated recyclables collected through curbside residential or commercial collection programs.

Standard recyclable materials means newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high-grade office paper, tin/steel cans, yard debris, mixed scrap paper, milk cartons, plastic containers, milk jugs, phone books, magazines, and empty aerosol cans.

State means the State of Oregon.

Substantial compliance means local government actions, on the whole, conform to the purposes of the performance standards in Chapter 5.10 and any failure to meet individual performance standard requirements is technical or minor in nature.

System means all facilities that Metro designates as part of its system for the management and disposal of solid and liquid waste. This includes, but is not limited to, the following:

- (1) Recycling and other volume reduction facilities;
- (2) Landfills, or other disposal means;
- (3) Resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel);
- (4) Recycling and transfer stations;
- (5) Roads, water lines, wastewater lines and treatment facilities to the extent used to carry out the provisions of ORS chapter 268 and other applicable laws of the state of Oregon;
- (6) All buildings, fixtures, equipment, real property and personal property that Metro owns, leases, operates or uses to dispose of solid and liquid waste;
- (7) Designated facilities as provided in Chapter 5.05.

Tonnage Allocation means an amount of the region's putrescible waste that Metro grants to a private transfer station.

Transaction means a customer's use of a Metro transfer station disposal facility, hazardous waste facility, or household hazardous waste collection event, for the purpose of delivering for disposal a single load of solid or hazardous waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers). A solid waste disposal transaction occurs when a customer enters a Metro transfer station facility, hazardous waste facility, or household hazardous waste collection event. [Ord. 19-1438]

Transaction fee means the fee that Metro imposes for each transaction at a Metro transfer station to pay for related scalehouse costs.

Transfer means the activity of receiving solid waste for purposes of transferring it from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of solid waste from more than one vehicle, and compaction. This term does not include resource recovery or other processing of solid waste.

Transfer station means a solid waste facility whose primary activity includes, but is not limited to, the transfer of solid waste to a disposal site.

Transfer station wasteshed means the area surrounding one or more transfer stations that is more immediately accessible to those transfer stations than any other transfer station, based on travel time.

Unacceptable waste means waste that is either:

- (1) Prohibited from disposal at a disposal site by state or federal law, regulation, rule, code, permit or permit condition; or
- (2) Special waste without an approved special waste permit.

Useful material means material that still has useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from solid waste, is suitable for use in the same or other purpose(s). For purposes of this Code, cleanup materials are not useful materials. Types of useful materials include, but are not limited to:

- (1) Material that can be reused;
- (2) Recyclable material;
- (3) Organic material(s) suitable for controlled biological decomposition (such as for making compost);
- (4) Material used in the preparation of fuel;
- (5) Material intended to be used, and which is in fact used, for construction or land reclamation (such as inert material for fill);

- (6) Material intended to be used, and which is in fact used, productively in landfill operations (such as roadbeds or alternative daily cover).

Vermiprocessing means a controlled method or system of biological processing that utilizes worms to consume and digest organic materials, and that produces worm castings for productive uses.

Waste means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose. For the purpose of Chapter 5.09, the term “waste” also includes any such material even if it is broken, recoverable, or recyclable.

Waste hauler means any person who is (1) franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul solid waste; or (2) engaged, in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated by such person or others within the Metro boundary.

Waste hierarchy means first, reduce the amount of solid waste generated; second, reuse material for its originally intended purpose; third, recycle or compost material that cannot be reduced or reused; fourth, recover energy from material that cannot be reduced, reused, recycled or composted so long as the energy recovery facility preserves the quality of air, water and land resources; and fifth, landfill solid waste that cannot be reduced, reused, recycled, composted or from which energy cannot be recovered.

Waste Reduction Program means the Waste Reduction Program required by ORS 459.055(2)(a), adopted by the Metro Council as part of the RWP, and accepted and approved by the DEQ as part of the RWP.

Yard debris means vegetative and woody material generated from residential or commercial landscaping activities. Yard debris includes landscape waste, grass clippings, leaves, hedge trimmings, branches, sod, scrapings, stumps and other vegetative waste having similar properties. This term does not include other solid waste such as soil, demolition debris, painted or treated wood waste. [Ord. 81 111, Sec. 2; Ord. 82-146, Sec. 2; Ord. 86-210, Sec. 1; Ord. 88-257, Sec. 2; Ord. 88-278, Sec. 1; Ord. 89-269, Sec. 2; Ord. 89-295, Sec. 1; Ord. 89-319; Ord. 90-337, Sec. 2; Ord. 90-372, Sec. 1; Ord. 91-386C, Sec. 2; Ord. 91-388, Secs. 1 and 8; Ord. 91 422B, Sec. 1; Ord. 92-455B, Sec. 1; Ord. 92-473A, Sec. 1; Ord. 93-482, Sec. 1; Ord. 94-531, Sec. 2; Ord. 94-557; Ord. 95-597, Sec. 1; Ord. 95-621A, Sec. 2; Ord. 97-681B, Sec. 1; Ord. 98-720A, Sec. 2; Ord. 98 762C, Secs. 1 and 54; Ord. 00 866, Sec. 1; Ord. 00-867, Secs. 1-2; Ord. 00-873, Sec. 1; Ord. 00-876A, Sec. 1; Ord. 01-907A, Sec. 1; Ord. 01 914, Sec. 1; Ord. 01 916C, Sec. 1; Ord. 01-917, Sec. 1; Ord. 02-937A, Sec. 3; Ord. 02-951B, Sec. 1; Ord. 02 974, Sec. 1; Ord. 03 1018A, Sec. 1; Ord. 03-1019, Sec. 1; Ord. 06 1101; Ord. 06-1103, Sec. 1; Ord. 06-1107; Ord. 07-1147B, Secs. 1, 5 and 9; Ord. 08-1183A; Ord. 08-1200; Ord. 12-1272, Secs. 1-2; Ord. 12-1277, Sec. 4; Ord. 13-1306, Sec. 1; Ord. 13-1311; Ord. 14-1323, Sec. 6; Ord. 14-1331; Ord. 16-1386; Ord. 17-1410; Ord. 18-1426; Ord. 19-1432; Ord. 19-1438.]

**Solid Waste
Administrative Rule**

AR 5.15-1000 through 1020

Administrative Rule of Metro Code Chapter 5.15
Administrative Rule Adoption Record and Findings

**AR 5.15-1000 through 1020
Request for Compliance Date Extension and Non-Compliance
Procedures Administrative Rules**

These administrative rules are adopted under the authority of Metro Code, which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code Chapter 5.08, the COO provided an opportunity for public comment and held a public hearing on these rules before their adoption.

The COO finds that these administrative rules are necessary to implement certain provisions of Metro Code Chapter 5.15 and hereby adopts Administrative Rules Nos. 5.15-1000 through 1020. The requirements of these administrative rules are in addition to all other requirements and provisions in Metro Code Chapter 5.15. These rules have the same force and effect as any other provision of Metro Code Chapter 5.15.

It is so ordered:

Marissa Madrigal
Metro Chief Operating Officer

Date

SOLID WASTE

ADMINISTRATIVE RULES

AR 5.15-1000 through 1020

Request for Compliance Date Extension and Non-Compliance Procedures

Effective: XXXXX

Table of Contents

5.15 - 1000	Purpose
5.15 - 1005	Legal Authority
5.15 - 1010	Applicability of Rules
5.15 - 1015	Request for Compliance Date Extension
5.15 - 1020	Non-compliance procedures

DRAFT

5.15 – 1000 Purpose

To implement the local government requirements under the Regional Waste Plan as set forth in Metro Code Chapter 5.15.

5.15 – 1005 Legal Authority

1. Metro’s solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.
2. These rules are issued under the authority of Metro Code. These rules are in addition to all other requirements and provisions in Metro Code Chapters 5.10 and 5.15.

5.15 – 1010 Applicability of Rules

The local government requirements under the Regional Waste Plan apply to all portions of Clackamas, Washington, and Multnomah Counties within Metro’s jurisdictional boundary.

5.15 – 1015 Request for Compliance Date Extension

1. A local government may seek an extension of time to comply with a Regional Waste Plan requirement by filing a written request for an extension with the Chief Operating Officer.
2. The local government’s written request must demonstrate that: (1) the local government is making progress toward compliance with the Regional Waste Plan requirement; and (2) the local government has good cause for failure to meet the compliance date.
3. The Chief Operating Officer will notify the local government in writing of its decision to grant or deny the request and the reasons behind the decision within 60 days of receipt of the request.
4. The Chief Operating Officer may establish conditions for the extension to ensure the local government complies in a timely manner and that local government actions during the extension period do not undermine the region’s ability to implement the Regional Waste Plan.
5. No more than two extensions of time will be granted and the Chief Operating Officer will not extend the date for compliance for more than one year from the date of approval of the original request.

5.15 -1020 Non-Compliance Procedures

1. If the Chief Operating Officer finds that a local government is not in compliance with a Regional Waste Plan requirement or performance standard, then Chief Operating Officer will notify the local government of the finding in writing.
2. The local government may respond to the Chief Operating Officer’s finding of non-compliance. Responses and any relevant materials to support the response must be received within 60 days of the date of the Chief Operating Officer’s original notification of findings.
3. The Chief Operating Officer will review the local government’s response and determine if the local government is in compliance.
4. If the Chief Operating Officer determines that the local government remains out of compliance the Chief Operating Officer will notify the Council of the finding of noncompliance and will schedule a hearing within 90 days. The Chief Operating Officer will notify the local government of these findings and the date, time and location of the hearing.
5. The local government may file a response to the Council within 30 days of the Chief Operating Officer’s findings.
6. If the Council finds that the local government action does not comply with the Regional Waste Plan or any related rules or provisions of the Metro Code, the Chief Operating Officer will issue any requirements or penalties as directed in the Council order.

**Solid Waste
Administrative Rule**

AR 5.15-2000 through 2065

**Administrative Rule of Metro Code Chapter 5.15
Administrative Rule Adoption Record and Findings**

**AR 5.15-2000 through 2065
Residential Service Administrative Rules**

These administrative rules are adopted under the authority of Metro Code, which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code Chapter 5.08, the COO provided an opportunity for public comment and held a public hearing on these rules before their adoption.

The COO finds that these administrative rules are necessary to implement certain provisions of Metro Code Chapter 5.15 and hereby adopts Administrative Rules Nos. 5.15-2000 through 2065. The requirements of these administrative rules are in addition to all other requirements and provisions in Metro Code Chapter 5.15. These rules have the same force and effect as any other provision of Metro Code Chapter 5.15.

It is so ordered:

Marissa Madrigal
Metro Chief Operating Officer

Date

**SOLID WASTE
ADMINISTRATIVE RULES**
Residential Service

AR 5.15-2000 through 2065

Effective: XXXXX

Table of Contents

5.15 - 2000	Purpose
5.15 - 2005	Legal Authority
5.15 - 2010	Definitions
5.15 - 2015	Applicability of Rules
5.15 - 2020	Glass Separation Requirement
5.15 - 2025	Single-Family Residential Service Standards
5.15 - 2030	Exemption to Single-Family Yard Debris Service Standard
5.15 - 2035	Exemption for Single-Family Every Other Week Programs
5.15 - 2040	Multifamily Residential Service Standards
5.15 - 2045	Multifamily Receptacle Colors; Signage; Information Materials
5.15 - 2050	Exemptions to Multifamily Standards
5.15 - 2055	Compliance and Enforcement
5.15 - 2060	Reporting
5.15 - 2065	Funding Guidelines

5.15 – 2000 Purpose

To implement the residential service standard as set forth in Metro Code Chapter 5.15 and as required by the Regional Waste Plan to ensure a comprehensive and consistent level of recycling service for the region.

5.15 – 2005 Legal Authority

1. Metro’s solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.
2. These rules are issued under the authority of Metro Code. These rules are in addition to all other requirements and provisions in Metro Code Chapters 5.10 and 5.15.

5.15 – 2010 Definitions

Unless otherwise specifically defined below, all terms used are as defined in Metro Code Chapter 5.00.

Acceptable recyclable materials are a type of source-separated recyclable as-defined in Metro Code Chapter 5.00. For the purposes of these administrative rules, acceptable recyclable materials include the following:

Mixed waste paper	Steel cans
Newspaper	Aluminum
Magazines	Scrap metal
Corrugated cardboard	Plastic bottles and jars

Kraft paper	Round plastic containers/tubs
Aseptic containers	Glass bottles and jars
Yard debris	Motor oil

~~Adequate service means no overflow of garbage or recycling; receptacle lids must close. Bulky waste should not accumulate for more than seven days or impede access to service area. No bagged or overflow garbage present in recycling receptacles.~~

Minimum service means the lowest amount of acceptable recyclable material, glass, yard debris, and garbage collection service volume to be in compliance with residential service standard.

Commented [SK1]: A comment received by Sam Wisner showed that the adequate service definition added confusion to understanding the Multifamily Residential Service Standards. The definition was removed from rule and will be added to a guidance document.

5.15 – 2015 Applicability of Rules

The requirements of the Regional Waste Plan’s residential service standard apply to all portions of Clackamas, Washington, and Multnomah Counties within Metro’s jurisdictional boundary. For areas of Clackamas, Multnomah and Washington Counties outside of Metro’s jurisdictional boundary, the performance standards are recommendations.

5.15 - 2020 Glass Separation Requirement

For all residential customers, a local government must require that glass is kept separate from all other acceptable recyclable materials in collection receptacles and on collection vehicles.

5.15 - 2025 Single-Family Residential Service Standards

For all single-family residential customers, a local government must:

1. Provide at least one receptacle, with capacity of at least 60 gallons, for the collection of all acceptable recyclable materials except glass and motor oil.
2. Provide at least one receptacle for source-separated glass collection. The receptacle must have a capacity of at least five gallons.
3. Provide weekly collection of acceptable recyclable materials, glass, motor oil, and yard debris on the same day of the week as garbage, unless exempted under administrative rule 5.15-2030 or administrative rule 5.15-2035.
4. Provide at least one receptacle for yard debris collection. The receptacle must have a capacity of at least 60 gallons.

~~If food scraps service is offered, provide weekly collection of residential food scraps mixed with yard debris. Every other week collection of residential food scraps mixed with yard debris is allowed if approved by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health or safety code.~~

5. ~~Residential food scraps with yard debris can be offered at weekly or every other week frequency. Every other week collection of residential food scraps mixed with yard debris is allowed only if approved in advance by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health, or safety code.~~

Commented [SK2]: A comment submitted by Kristen Leichner provided wording that increased clarity. The wording has been changed to reflect her suggestion.

6. Provide bulky waste collection service.

7. Ensure that property owners and managers provide access to adequate on-site garbage and recycling collection service to renters of single-family residential properties.

Commented [SK3]: This edit is related to comment submitted by Sam Wisner. The term adequate is being removed.

5.15 - 2030 Exemption to Single-Family Yard Debris Service Standard

1. A local government may exempt rural service areas from regular on-route collection of yard debris provided that the local government distributes informational material to rural customers at least annually that provides options for proper management of yard debris, including instructions to not place yard debris in solid waste receptacles destined for disposal.
2. A local government may define “rural service areas” for purposes of solid waste collection and must provide its definition to Metro. A local government must notify Metro of any changes to that definition.

5.15 - 2035 Exemption for Single-Family Every Other Week Recycling and Yard Debris Collection Programs

A local government with an every-other-week recycling and/or yard debris collection program in place as of January 1, 2019 meets the residential service standard. A second recycling collection receptacle of at least 60 gallons capacity must be provided to every-other-week customers upon request and at no additional charge.

5.15 - 2040 Multifamily Residential Service Standards

For all multifamily residential customers, a local government must:

1. **Provide/Implement** a minimum service volume of 20 gallons per unit per week for garbage collection service.
2. **Provide/Implement** a minimum service volume of 20 gallons per unit per week for acceptable recyclable materials and a minimum service volume of one gallon per unit per week for source-separated glass.
3. Ensure all material streams are collected at least weekly. On call services are exempt from collection frequency and minimum service volume requirements.
4. Ensure provision of regularly-occurring bulky waste collection service by July 1, 2025.

Commented [SK4]: Clackamas County suggested this wording to increase clarity.

5.15 - 2045 Multifamily Receptacle Colors; Signage; Informational Materials

For all multifamily residential customers, a local government must comply with the regional standards for collection receptacles by the dates below.

1. All receptacles ordered after July 1, 2021 must comply with the color standard below and must be labeled with the correct Metro-approved regional signage.
2. All plastic receptacles for garbage, mixed recyclable materials, and yard debris and/or food scraps ordered after July 1, 2021 must contain at least 30% post-consumer recycled content.
3. Garbage receptacles must be gray, mixed recyclable materials receptacles must be blue, yard debris and/or food scraps receptacles must be green and source-separated glass receptacles must be orange by July 1, 2028. Metro will provide a list of approved receptacle colors by vendor.
4. Color standards do not apply to compactors and drop boxes.
5. As of December 31, 2023, all receptacles must be labeled with the correct Metro-approved regional decals for acceptable recyclable materials, glass, yard debris, and garbage. All previous garbage and

recycling instructional decals must be completely removed from each receptacle and replaced with correct and approved regional decals.

5.15 - 2050 Exemptions to Multifamily Standards

Notwithstanding administrative rule 5.15-2045, a local government may:

1. Exempt used motor oil from collection.
2. Exempt yard debris from collection if no yard debris is generated on-site, or the customer meets one of the following conditions:
 - a. Uses a landscape maintenance firm that transports yard debris to a Metro-authorized facility;
 - b. Manages its yard debris on-site such as composting or mulching;
 - c. Self-hauls its yard debris to a Metro-authorized facility;
 - d. Uses another method approved by Metro.

5.15 - 2055 Compliance and Enforcement

A local government must comply with the requirements of the Regional Waste Plan’s residential service standard. If a local government does not comply, Metro will withhold funding associated with the implementation of the Regional Waste Plan. Metro may also withhold discretionary funding associated with other programs and seek any remedy under its Charter, Code or applicable state law.

5.15 - 2060 Reporting

As part of regular annual reporting requirements, a local government must provide the information necessary for Metro to determine compliance with the residential service standard.

5.15 - 2065 Funding Guidelines

In order to receive funding associated with the Regional Waste Plan, a local government or its designated agency must comply with the requirements of Metro Code Chapter 5.15 and these rules. The local government or its designated agency must also enter into an intergovernmental agreement with Metro.

Commented [SK5]: Clackamas County suggested this wording to increase clarity.

Administrative Rule of Metro Code Chapter 5.15
Administrative Rule Adoption Record and Findings

**AR 5.15-3000 through 3055
Business Service Standard and Recycling Requirement**

These administrative rules are adopted under the authority of Metro Code, which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code Chapter 5.08, the COO provided an opportunity for public comment and held a public hearing on these rules before their adoption.

The COO finds that these administrative rules are necessary to implement certain provisions of Metro Code Chapter 5.15 and hereby adopts Administrative Rules Nos. 5.15-3000 through 3055. The requirements of these administrative rules are in addition to all other requirements and provisions in Metro Code Chapter 5.15. These rules have the same force and effect as any other provision of Metro Code Chapter 5.15.

It is so ordered:

Marissa Madrigal
Metro Chief Operating Officer

Date

**SOLID WASTE
ADMINISTRATIVE RULES**

AR 5.15-3000 through 3055

Business Service Standard and Business Recycling Requirement

Effective: XXXXX

Table of Contents

5.15 - 3000	Purpose
5.15 - 3005	Legal Authority
5.15 - 3010	Definitions
5.15 - 3015	Applicability of Rules
5.15 - 3020	Glass Separation Requirement
5.15 - 3025	Business Service Standard
5.15 - 3030	Business Recycling Requirement
5.15 - 3035	Business Recycling Requirement Performance Standard
5.15 - 3040	Business Recycling Requirement Compliance
5.15 - 3045	Local Government Enforcement of the Business Recycling Requirement
5.15 - 3050	Metro Enforcement of the Business Recycling Requirement
5.15 - 3055	Reporting Requirements

5.15 – 3000 Purpose

To implement the business service standard and the business recycling requirement as set forth in Metro Code 5.15 and as required by the Regional Waste Plan to ensure a comprehensive and consistent level of recycling service for the region.

5.15 – 3005 Legal Authority

1. Metro’s solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.
2. These rules are issued under the authority of Metro Code. These rules are in addition to all other requirements and provisions in Metro Code Chapters 5.10 and 5.15.

5.15 – 3010 Definitions

Unless otherwise specifically defined below, all terms used are as defined in Metro Code Chapter 5.00 and administrative rule 5.15-2010.

5.15 – 3015 Applicability of Rules

The requirements of the Regional Waste Plan’s business service standard and business recycling requirement apply to all portions of Clackamas, Washington, and Multnomah Counties within Metro’s jurisdictional boundary. For areas of Clackamas, Multnomah and Washington Counties outside of Metro’s jurisdictional boundary, the performance standard is a recommendation.

5.15 - 3020 Glass Separation Requirement

For all business customers, a local government must require that glass is kept separate from all other acceptable recyclable materials in collection receptacles and on collection vehicles.

5.15 – 3025 Business Service Standard

A local government must provide garbage and recycling collection services to meet the needs of all business customers.

5.15 – 3030 Business Recycling Requirement

To implement the business recycling requirement a local government must:

1. Adopt the Metro model ordinance or demonstrate code complies with the business recycling requirement.
2. Send notice to businesses that outlines the recycling requirements and how to receive assistance.
3. Establish a local compliance program or enter into an intergovernmental agreement with Metro to perform the compliance function.
4. Report to Metro on information related to program adoption, implementation and performance as outlined in administrative rules 5.15 – 3055.

5.15 – 3035 Business Recycling Requirement Performance Standard

A local government must ensure implementation of the business recycling requirement performance standard:

1. Businesses must source separate acceptable recyclable materials with the exception of motor oil and yard debris for reuse or recycling.
2. Businesses must provide recycling containers for internal maintenance or work areas where acceptable recyclable materials may be collected and stored.
3. Businesses must post accurate instructional signs where acceptable recyclable materials are collected and stored that identify the materials that the business must collect for reuse or recycling.
4. A local government must establish a method for ensuring compliance with the business recycling requirement.
5. A local government may exempt a business from some or all of the business recycling requirement if the business provides access to the local government for a site visit and the local government determines that the business cannot comply with the business recycling requirement, or compliance results in a violation of other government ordinance, health or safety code.

5.15 – 3040 Business Recycling Requirement Compliance

A businesses is considered in compliance if the business has implemented the following:

1. Regularly scheduled recycling collection provided by the franchised or licensed garbage and recycling hauler, a private recycling service or self-haul.
2. A two-container sort system: acceptable recyclable materials and glass.
3. Internal recycling containers located as conveniently as garbage containers; generally a recycling collection container at each employee work station and/or work area.
4. All interior and exterior recycling containers are correctly labeled and accurate signs and instructions are posted that identify the acceptable recyclable materials the business must recycle, and how to prepare items for recycling.
5. All employees and tenants receive information about recycling and waste prevention at least once annually and all new employees and tenants receive training about waste prevention and recycling.

6. Property management and janitorial/maintenance agreements enable businesses to meet waste prevention and recycling program goals and requirements.

5.15 – 3045 Local Government Enforcement of the Business Recycling Requirement

1. A local government must use enforcement authority to ensure business compliance with the business recycling requirement and use education and technical assistance as the primary tools to achieve compliance.
2. A local government must establish a method for ensuring business compliance with the business recycling requirement in one of the following ways:
 - a. Adopt the compliance program as defined in the business recycling requirement model ordinance.
 - b. Enter into an intergovernmental agreement with Metro to enforce the business recycling requirement or contract with another local government to conduct enforcement.
 - c. Implement a locally-designed compliance method that follows one of the following models:
 - i. Compliance is determined from information provided by franchised or licensed haulers or other recycling service providers. The local government has a clear and complete process for: notifying businesses of non-compliance; providing technical assistance to support compliance; and enforcing against continuing non-compliance.
 - ii. Compliance is determined from local government inspection of businesses. The local government has a clear and complete process for: notifying businesses of non-compliance; providing technical assistance to support compliance; and enforcing against continuing non-compliance.
 - iii. Compliance is determined from self-reporting by businesses, coupled with verification measures. The local government has a clear and complete process for: notifying businesses of non-compliance; providing technical assistance to support compliance; and enforcing against continuing non-compliance.
 - iv. Design an alternative compliance method and seek approval by Metro.

5.15 – 3050 Metro Enforcement of Business Recycling Requirement

Upon establishment of an intergovernmental agreement with a local government, Metro will perform the local government function to ensure compliance with the business recycling requirement.

1. A local Government will identify non-compliant businesses through recycling service reports, complaints or other means.
2. A local government will offer assistance to the non-compliant businesses.
3. Businesses that remain non-compliant after local government attempts to assist them will be referred to Metro for enforcement action.
4. Metro will provide a written non-compliance letter to the business upon receipt of the local government referral. The letter will describe the business recycling requirement, offer the business an opportunity to verify compliance within 30 days with the local government, and offer recycling assistance.
5. A local government will report back to Metro to indicate whether or not the violation has been corrected. If the business has not complied, Metro will issue a notice of violation with an

opportunity to cure. The notice must provide an additional opportunity to cure the violation within the time specified in the notice and must notify the business that it may be subject to a fine. Local governments will provide assistance to businesses seeking an opportunity to cure and report back to Metro to indicate whether or not the violation has been corrected.

6. If the business does not comply with the notice of violation, Metro will provide a written notice of violation and assess a fine to the business within the time specified in the notice. The notice of assessment of fine must include the information required by Metro Code Section 5.09.090. Metro must serve the notice personally or by registered or certified mail. A business may contest an assessment by following the procedures set forth in Metro Code Section 5.09.130 and 5.09.150. Metro must notify the local government of the assessment of fine. A local government representative must be available upon request to provide testimony for a contested case hearing.

5.15 – 3055 Reporting Requirements

A local government must provide the following documentation to Metro:

1. A copy of the adopted ordinance or current code that is consistent with the performance standard in Metro Code.
2. A written description of the local government compliance method consistent with these administrative rules or signed intergovernmental agreement with Metro.
3. An outreach plan that describes how businesses will be notified of the requirement and a local government's compliance approach.
4. A year-end report with the results, including number of businesses notified and number of compliance actions. In cases where there is a city/city or city/county cooperative relationship, the designated jurisdiction may report on behalf of the other jurisdictions.
5. Metro will provide appropriate reporting forms.

**Solid Waste
Administrative Rule**

AR 5.15-5000 through 5020

**Administrative Rule of Metro Code Chapter 5.15
Administrative Rule Adoption Record and Findings**

**AR 5.15-5000 through 5020
General Education Standard Administrative Rules**

These administrative rules are adopted under the authority of Metro Code, which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code Chapter 5.08, the COO provided an opportunity for public comment and held a public hearing on these rules before their adoption.

The COO finds that these administrative rules are necessary to implement certain provisions of Metro Code Chapter 5.15 and hereby adopts Administrative Rules Nos. 5.15-5000 through 5020. The requirements of these administrative rules are in addition to all other requirements and provisions in Metro Code Chapter 5.15. These rules have the same force and effect as any other provision of Metro Code Chapter 5.15.

It is so ordered:

Marissa Madrigal
Metro Chief Operating Officer

Date

SOLID WASTE ADMINISTRATIVE RULES General Education

AR 5.15-5000 through 5020

Effective: XXXXX

Table of Contents

5.15 - 5000	Purpose
5.15 - 5005	Legal Authority
5.15 - 5010	Definitions
5.15 - 5015	Applicability of Rules
5.15 - 5020	General Education Performance Standard

5.15 – 5000 Purpose

To implement the general education standard as set forth in Metro Code Chapter 5.15 and as required by the Regional Waste Plan to ensure a comprehensive and consistent level of education and assistance for garbage, recycling, composting, waste prevention, and reuse education and assistance for all customers in the region.

5.15 – 5005 Legal Authority

1. Metro’s solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.
2. These rules are issued under the authority of Metro Code. These rules are in addition to all other requirements and provisions in Metro Code Chapters 5.10 and 5.15.

5.15 – 5010 Definitions

Unless otherwise specifically defined below, all terms used are as defined in Metro Code Chapter 5.00 and administrative rule 5.15-2010.

Culturally-responsive means adapted to maximize the respect and relevance to the beliefs, practices, culture and linguistic needs of diverse consumer populations and communities.

5.15 – 5015 Applicability of Rules

The requirements of the Regional Waste Plan’s general education standard apply to all portions of Clackamas, Washington, and Multnomah Counties within Metro’s jurisdictional boundary. For areas of Clackamas, Multnomah and Washington Counties outside of Metro’s jurisdictional boundary, the standard is a recommendation.

5.15 -5020 General Education Performance Standard

A local government must:

1. Provide comprehensive education and assistance for waste, recycling and reuse services to all customers. Education and assistance must be provided at least annually and contain the following:
 - a. Information about waste prevention, reuse, recycling, yard debris and food waste.
 - b. Instructions about the proper preparation of materials for recycling, composting and disposal.
 - c. Contact information for customers to receive additional information or assistance.
2. Provide education and outreach resources that are accurate, culturally-responsive, and reflect local conditions. Ensure that all information provided by collection service providers meets this standard.
3. Ensure collection service providers give direct performance feedback to individual customers regarding any contamination of acceptable recyclable materials.
4. Provide timely inclement weather notifications to customers in multiple languages and through a variety of media.

A local government should:

5. Use regional education and outreach resources, campaigns and programs as developed by Metro including, but not limited to:
 - a. Implement regionally-consistent contamination reduction efforts to improve material quality, including education, sorting instructions, and customer feedback methods.
 - b. Utilize Metro's Recycling Information Center to serve all residents in the region as a clearinghouse for prevention, reuse, recycling and disposal information.

Public Comment Report Proposed Updates to Metro Code Chapter 5.10 and Associated Administrative Rules



October 20, 2020

BACKGROUND

In March 2019, Metro adopted the 2030 Regional Waste Plan which sets the policy direction for the region's solid waste and recycling system. The plan is implemented in many ways; through collaborative programs with local government partners and community organizations, and through required actions that bring minimum standards and consistency to a large and complex system. Metro Code and Administrative Rules are the mechanism used to implement the required elements of the plan. The Metro Code and Rules need to be updated and re-written to reflect the goals, policies and programs of the new plan.

Between September 15 and October 15, 2020 Metro conducted a public comment period for proposed updates to the Metro Code Chapter 5.10 and associated administrative rules pertaining to the regional service standard¹. Local government elected officials, city and county managers, residential property managers and owners, community-based organizations and tenant organizations and garbage and recycling companies were notified via email about the opportunity to comment. The email messages included audience-specific fact sheets and a Frequently Asked Questions document. A call for comments paired with an infographic was posted on Metro's three social media platforms Facebook (www.facebook.com/oregonmetro), Twitter (@oregonmetro) and Instagram (@oregonmetro). Some local governments also publicized the comment period through their communication channels. Examples of the email message and social media posts are included as Attachment A.

In addition, the Metro web page dedicated to the service standards project (www.oregonmetro.gov/servicestandards) provided information about the proposed changes, and anticipated impacts, as well as the full text of proposed code and rules.

Comments were accepted in writing for inclusion in this report. The comments were received through an email address established for the comment period (servicestandards@oregonmetro.gov). As well as through a web form, accessible by a single click, designed to reduce barriers to participation. Comments were also able to be received via U.S. mail.

The web form appears to be successful in reducing barriers to submitting comments. All comments received from residents and property managers and owners were received through the web form. Four comments were received through the web form from multifamily residents within hours of the social media infographic posting.

¹ Metro Code Chapters 5.00 definitions, 5.10 Regional Waste Plan, 5.15 Local Government Requirements under the Regional Waste Plan. Administrative Rules 5.15-1000 Request for Compliance Date Extension, 5.15-2000 Residential Service, 5.15-3000 Business Service Standard and Recycling Requirement, 5.15-5000 General Education. Current proposed drafts are posted at www.oregonmetro.gov/servicestandards.

Comments were received from individuals living in multifamily homes, property managers, local governments, hauler associations and individual haulers.

COMMENT SUMMARY

At the close of the comment period, 19 comments were received:

- Nine were clearly supportive.
- None were opposed to the proposed code.
- Six expressed concerns about economic and environmental costs of the proposed multifamily color standard administrative rule.
- Eight were interested in additional detail on the bulky waste standard; six of the eight comments were supportive of the regularly occurring bulky waste requirement.
- Five requested specific edits to the policy or had general concerns and suggestions for changes.
- Six had general suggestions to improve multifamily services.
- Four had questions related to expanding every other week collection of single-family mixed recycling and compost.
- All comments wholly or partially addressed the multifamily service standard administrative rules.

The majority of those **in favor** of the policy indicated:

- Improvements for multifamily customers are overdue and they look forward to seeing the future improvements.
- An interest in access to food scrap service for people living in multifamily homes.
- An interest in additional detail for bulky waste collection.

The **concerns** expressed by eight of the comments included the following:

- Concerns from haulers on increased costs related to implementing the multifamily color standard.
- Questions regarding additional detail on how bulky waste items would be handled.
- Concerns about how standards may be enforced.

All of the comments received, as well as the comment log with staff response, are included with this report as Attachment B.

AMENDMENTS MADE TO DRAFT POLICY

All comments received during the comment period were reviewed by the Metro Policy and Compliance division. Those comments that requested **specific changes** to the code or administrative rules were discussed by the team and in some cases, reviewed by the Office of the Metro Attorney. The team then determined which comments necessitated changes or clarifications to the draft code and administrative rules documents and what those specific changes should be. Three comments, one from a hauler, one from a property manager and one from a local government, resulted in changes to the proposed administrative rules to improve clarity. The revised draft of the Administrative Rule 5.15-2000 Residential Service Standards, dated October 20, 2020, shows changes based on the comments during this period, and is included as Attachment C. No changes to the proposed Metro Code were made based on comments received.

CONCLUSION

The public comments indicated general support for the policy with concerns regarding costs and requests for additional details from some groups.

- People living in multifamily homes want better signage and labeling, and better access to more organized bins.
- There is interest from multifamily residents living in the City of Portland to add food scraps collection.
- Support was expressed, but questions remain from property managers, haulers and hauler associations and a local government on details or specific standards for rules around regularly occurring bulky waste collection. Metro will work closely with local governments and other stakeholders to develop and pilot approaches and revise the rules over time.
- Haulers and hauler associations and one local government expressed concerns on environmental and economic costs to implement the multifamily color standard.

The administrative rules will have an additional 30-day comment period in January 2021 prior to adoption by the Metro COO. The complete report, including all attachments can be viewed on the Metro website: www.oregonmetro.gov/servicestandards

Attachment A: Example outreach materials

Example email with infographic

Hello,

I'm following up on an email I sent at the end of August.

Metro is proposing changes to Metro Code and rule, specifically changes to improve garbage and recycling collection for people living in multifamily homes.

Attached is a fact sheet and FAQ describing the changes.

Full text of the code and rule will be available on September 14.

Between September 15 and October 15, visit www.oregonmetro.gov/servicestandards to share your thoughts via a quick form. You can also email us at ServiceStandards@oregonmetro.gov or mail written comments to:

Metro
Attn: Service Standards WPES
600 NE Grand Avenue
Portland, OR 97230

Garbage and recycling changes for apartments and condos

		
More service Bins won't get overloaded	New bins Color-coded	Stickers and signs Easier to understand

Tell us what you think by October 15.
We heard you need better service. Share this information and encourage others to let us know if these proposed changes meet their needs.

 **Metro**

If you have any questions please contact me, Sara Kirby sara.kirby@oregonmetro.gov.

Example social media post



Metro

September 22 at 11:00 AM · 🌐



Metro is proposing changes to improve garbage and recycling collection at apartments and condos. From now until October 15, visit www.oregonmetro.gov/servicestandards to learn what this means for you and share your thoughts.

Garbage and recycling changes for apartments and condos



More service

Bins won't get overloaded

New bins

Color-coded

Stickers and signs

Easier to understand

Tell us what you think by October 15.

We heard you need better service. Share this information and encourage others to let us know if these proposed changes meet their needs.



Attachment B - 2020 Regional Service Standard Formal Comments Log

Comment #	Date	Time	Channel	Name	Email Address	Zip Code	Category	Comment Summary	Response
1	9/22/2020	11:51	web form	Francesca Cameron	francesca747@gmail.com	97205	Multifamily	I do not have time to read the drafts, but have one issue that really matters to me. I want to have access to a compostable bin in my building where I can recycle kitchen waste.	Thank you for your input. With regard to food scraps recovery, Metro has chosen to focus regional programs and policies on food scraps generated from the business sector and agreed with our local government partners that decisions about residential food scraps programs will be made at the city and county level. We have forwarded your comment to the appropriate city or county so they are aware of your request.
2	9/22/2020	12:27	web form	Justin Gilchrist	jgilchristccla@gmail.com	97219	Multifamily	I would appreciate more organized bins. Currently we just have two dumpsters with poor labeling and everyone doesn't know which one is which and ruins all our recyclables. I would also hope it makes for a more sanitary area if the service would come more often. Thank you.	Thank you for your input.
3	9/22/2020	13:08	web form	Neel Patel	neelpatelslc@gmail.com	97209	Multifamily	This is a great idea! I would love more options for composting in apartment buildings. I tried to lobby my building for compost but it didn't go anywhere. Also the signs are helpful, but I feel that most people put whatever they want in the recycling. One solution my be to severely reduce recycling to what can actually be meaningfully recycled? Also maybe for signs, stressing the importance of flattening cardboard boxes?? Thanks for all your hard work!	Thank you for your input. With regard to food scraps recovery, Metro has chosen to focus regional programs and policies on food scraps generated from the business sector and agreed with our local government partners that decisions about residential food scraps programs will be made at the city and county level. We have forwarded your comment to the appropriate city or county so they are aware of your request.
4	9/22/2020	13:42	web form	Jacob Metcalf	8bitjoystick@gmail.com	97213	Multifamily	I am a essential healthcare worker currently fighting the covet 19 epidemic. I'm also a condo owner in Portland off NE 68th. It is long overdue that we expand and reform recycling and garbage services for multi-person Portland	Thank you for your input.
5	9/23/2020	8:47	web form	Alyson Berman	emmash@gmail.com	97210	Multifamily	It still leaves out composting for apartment users. If the city can't pick up yard debris and compost from apartment residents, it would be great if there were drop off stations so we could minimize our waste and increase our composting.	Thank you for your input. With regard to food scraps recovery, Metro has chosen to focus regional programs and policies on food scraps generated from the business sector and agreed with our local government partners that decisions about residential food scraps programs will be made at the city and county level. We have forwarded your comment to the appropriate city or county so they are aware of your request.
6	9/23/2020 9/28/2020	11:56 10:55	web form web form	Lisa Chin Carolyn Overby	lisasenchin@gmail.com carolynoverby@frontier.com	97214 97008	Multifamily Multifamily	I'd like to have composting as an option. My apartment does not offer this. If this is not the channel for this request, I'd really like to know what would be the best resources. Thank you!	Thank you for your input. With regard to food scraps recovery, Metro has chosen to focus regional programs and policies on food scraps generated from the business sector and agreed with our local government partners that decisions about residential food scraps programs will be made at the city and county level. We have forwarded your comment to the appropriate city or county so they are aware of your request.
7								I question how bulk items will be picked up. Where will residents place them, when will they be picked up and who will pay for this extra service. Currently our residents contact us for pickup. We then schedule a day with Waste Management so property doesn't load up with trashy looking items showing on the property. The residents are informed that they will pay whatever fees Waste Management charges for the pickup. I sincerely think it would be a fiasco to just allow the residents to discard their unwanted large items on the property. Many would not bother taking them to a charity group or having one pick them up. I believe the charge is what motivates them to take action. Move-outs would be disastrous! Our residents don't pay for the water, sewer or garbage. I can foresee a lot of resentment if we started implementing that. I can also foresee the home owner's around the area taking advantage of the situation, as we already combat that to some degree. I don't think it is always a misunderstanding concerning the contamination in recycling. There is no lid they have to lift for recycling whereas they must lift the lid for garbage. We do our very best to inform and work with our residents and for the most part they are compliant. I sincerely wish whoever is making these decisions had some experience managing a multi-family complex.	Thank you for your input. Metro anticipates working closely with local governments and stakeholders on the future development of bulky waste collection service standards.
8	9/28/2020	13:59	web form	Carolyn Overby	carolynoverby@frontier.com	97008	Multifamily	Company or organization (if applicable): Sussex Village LLC Zip code: 97008 Provide your feedback: I have a question. Will it be answered? Will Waste Management have the authority to take over a slice of my property to use as a large item recycling area. They have closed the recycling center that was on Denny Road in Beaverton. Is this a way for them to use small slices of other people's land which they do not pay taxes on?	Thank you for your input. Metro anticipates working closely with local governments and stakeholders on the future development of bulky waste collection service standards.

9	10/5/2020	9:34 Email	Kristin Lechner	kristini@pridedisposal.com	97140 Commercial	<p>see full text of comment in PDF Interest in expanding every other week mixed recycling and yard debris service. Concerns economic and environmental costs related to MF color standard implementation.</p>	<p>Thank you for your input. AR 5.15-2025: Single-Family Residential Service Standards</p> <p>3. Existing every-other-week single-family collection programs including yard debris (AR 5.15-2035) meet the service standard. Metro did not want to make significant changes to single-family curbside collection program standards ahead of the statewide Recycling Steering Committee process, therefore the proposed service standard maintains the status-quo.</p> <p>5. Thank you for suggesting wording for the rule that increases clarity, Metro will amend the rules based on this suggestion.</p> <p>AR 5.15-2040 Multifamily Residential Service Standards</p> <p>4. Thank you for your input. Metro anticipates working closely with local governments on the future development of bulky waste collection service standards.</p> <p>AR 5.15-2045 Multifamily Receptacle Colors; Signage; Informational Materials</p> <ul style="list-style-type: none"> • Analysis shows minimal costs to commercial ratepayers as a result of establishing a multifamily color standard over a 7-year schedule. The analysis of costs showed a lid-only replacement to be almost as costly as replacing the entire cart, and cost savings depend on the cart body being in good condition. Replacing only the lids does not create regional consistency and would increase confusion for people living in multifamily homes. Additionally, lids of carts and containers are often left open in shared service situations rendering a lid-only color signal ineffective. • Orange has been used as the standard glass decal and sign color in the Metro region for commercial collection for over a decade. In addition, yellow is widely accepted as the color for hazardous waste and red indicates biomedical waste. Orange is also used by Recycle Across America, a national non-profit organization working to standardize garbage and recycling labels, to indicate a glass-only stream. • Metro is currently only proposing a color standard for multifamily carts and containers. There is no timeline established to set a color standard for other lines of service and likely no timeline will be established in the foreseeable future.
10	10/9/2020	10:43 Web form	Ashley George	ashleygeorge@gmail.com	97225 Multifamily	<p>Some multi-family housing units use a valet service where the residents just place their garbage and recycling outside of their door certain days of the week. It would be nice if it was required by Metro to provide residents yearly with a reminder of recycling guidelines. I frequently see my neighbors incorrectly recycling items so a reminder would be good!</p>	<p>Thank you for your input. Annual education for all customers has been a part of previous standards and is included in the proposed standards.</p>
11	10/10/2020	17:10 web form	Annee Ashton Goldfeld	goldfeld@aya.yale.edu	97006 Multifamily	<p>RE: 5.15 - 2040 Multifamily Residential Service Standards & 5.15 - 2045 Multifamily Receptacle Colors; Signage; Informational Materials</p> <p>Regarding apartment complexes, much work needs to be done to educate both residents and staff about recycling. I speak from experience as a renter in Washington County for the last 12 years. 1) If residents perceive that recycling containers are too far from the nearest trash, they throw away their recycling in the trash. Several neighbors at The Lakes have said this as they see me walking with my recycling bucket to the collection area. 2) Bins are not always clearly labeled. I have suggested larger recycling posters to leasing office staff, but there has been no action so far. The yard waste bin used to collect glass is not labeled at all. 3) Mailboxes are a prime location to collect recyclable paper. Residents prefer to sort and dispose than carry home junk mail, etc. Clearly labeled recycling bins with slotted lids (like a mail drop slot) seem to work best. 4) Besides curbside recyclables, apartment complexes generate a lot of other "trash" when residents move out. These items include furniture, kitchen items, toys, electronics, clothes, and more that are still in good to excellent condition, just no longer wanted. My own home includes like new furniture and a fully functional computer monitor reclaimed from a dumpster area. Additionally I have sold reclaimed items on Craigslist. 5) Deposit return cans and bottles are sought in dumpsters by local neighbors struggling with poverty and/or homelessness. It would be great to have some type of compassionate alternative collection bin for returnables so that already at-risk individuals are not further endangered by biohazards and physical hazards in the dumpsters. 6) Leasing office staff needs to be engaged by local recycling authorities in regard to resident education that can happen via mass email to their residents.</p>	<p>Thank you for your input. New larger signs and clear labels for all bins are part of the proposed standards for multifamily collection system standards. Metro anticipates working closely with local governments on the future development of bulky waste collection service standards.</p>

The standards seem fairly reasonable. Weekly pickup for glass seems unnecessary. I have multiple properties with maybe 1.5 gallons glass per unit that usually aren't half full when picked up monthly. How will the standard of no bags of garbage on the ground be enforced? Most multifamily properties have people put bags of trash on the ground every day even though the dumpster is empty. I have multiple locations that find stacks of garbage on the ground in the garbage area almost every morning despite the dumpster being empty. We can clean it up regularly, but clearly marking bins and providing enough capacity is unfortunately not enough to get residents to place garbage in the bins. How about finding ways to provide bins that are accessible?

Thank you for your input. Your comments revealed some confusing language in the rules with regard to "adequate service" in section 5.15-2025; that section has been amended to improve clarity. Metro is committed to working with our local government partners to improve garbage and recycling services for multifamily customers. In future years we will be looking at how garbage and recycling areas are designed so that services are more accessible and user-friendly.

So happy you are making it easier for recycling in multi family housing. I live in an active senior adult community, and am co chair of the Green Team. There are many residents who care very much and strive to recycle correctly. There are a few residents who just don't care, and there are others who are unable. Anything you propose to make this process easier will be very welcome here. Thank you

Thank you for your input.

Thank you for your input.

5.10 and 5.15 Code The requirements for local governments under the Regional Waste Plan, referenced by the proposed code, are outlined on pages 113-115 of the Plan. The vast majority of actions in the Regional Waste Plan represent guidance to Metro and local governments, rather than requirements. The language, as drafted by the Metro Attorney, will remain.

5.15 – 2030 Exemption to Single-Family Yard Debris Service Standard

1. The language for this rule has been in place for a number of years and Metro believes it is important for rural customers to receive this annual notification.

5.15 - 2040 Multifamily Residential Service Standards

1. and 2. Metro agrees with this suggestion to increase clarity and will revise the rules based on this suggestion.

5.15 – 2045 Multifamily Receptacle Colors; Signage; Informational Materials

1. Metro's intent is to ensure that receptacles purchased after July 1, 2021 for multifamily customers meets the proposed color and signage standard. Wording suggestions to increase clarity are welcome.

2. Yes all proposed colors covered under this standard are available at 30 percent recycled content.

5.15-2050 Exemptions to Multifamily Standards

2. Metro believes the exemption conditions are important to maintain to ensure multifamily customers are receiving comprehensive collection services and to keep yard debris out of the garbage stream.

5.15 – 2065 Funding Guidelines

Thank you for your input. Metro will add "or it's designated agency" to the second sentence to increase clarity.

Clackamas County Sustainability & Solid Waste -- See PDF for full text. Questions about referring to "code" rather than "Regional Waste Plan" in code chapter 5.10 and 5.15. Additional questions related to yard debris language for residential customers. Questions around implementation of the multifamily color standard.

Sherwood, City of -- Thank you for providing an opportunity to comment on these proposed amendments - it is appreciated. Most of the changes that are proposed are administrative and minor in nature. The one important point that I would raise is to please be cautious in implementing new recycling equipment standards in terms of the effect on rates for our customers. Our franchised hauler, Pride Disposal, raised a number of these concerns to Metro in a letter that was submitted by Kristin Leichner. We echo their concerns, especially in these difficult economic times for many of our businesses and residents in these "Covid" times. Thank you again!

Thank you for your input. Independent analysis shows minimal costs to commercial ratepayers as a result of establishing a multifamily color standard over a 7-year schedule.

16	10/15/2020	3:08 PM	Email	KJ Lewis	kjlewis@republicservices.com	Multifamily	Concerned about economic and environmental costs related to MF color standard implementation. See PDF for full text	<p>Thank you for your input.</p> <p>5.15 – 2040 Multifamily Residential Service Standards Metro anticipates working closely with local governments and stakeholders on the future development of bulky waste collection service standards and will update and revise the rules over time.</p> <p>5.15 -2045 Multifamily Receptacle Colors; signage; Information Materials</p> <ul style="list-style-type: none"> • Analysis shows minimal costs to commercial ratepayers as a result of establishing a multifamily color standard over a seven year schedule. • Receptacles may be replaced over a seven year period. Receptacles with useful life remaining could be used in other lines of business and are not required to be disposed. The analysis of costs showed a lid-only replacement to be almost as costly as replacing the entire cart, and cost savings depend on the cart body being in good condition. Replacing only the lids does not create regional consistency and would increase confusion for people living in multifamily homes. Additionally, lids of carts and containers are often left open in shared service situations rendering a lid-only color signal ineffective. • Orange has been used as the standard glass decal and sign color in the Metro region for commercial collection for over a decade. Orange is also used by Recycle Across America, a national non-profit organization working to standardize garbage and recycling labels, to indicate a glass-only stream. Metro is currently only proposing a color standard for multifamily carts and containers. There is no timeline established to set a color standard for other lines of service and likely no timeline will be established in the foreseeable future.
17	10/15/2020	4:31 PM	Email	Beth Vargas Duncan	bethvd@orra.net	Multifamily	From the CCRRA - See PDF for full text. Interest in expanding every other week mixed recycling and yard debris service. Concerns economic and environmental costs related to MF color standard implementation.	<p>Thank you for your input. 5.15 – 2025 Single-Family Residential Service Standards 3. Existing every-other-week single-family collection programs including yard debris (AR 5.15-2035) meet the service standard. Metro did not want to make significant changes to single-family curbside collection program standards ahead of the statewide Recycling Steering Committee process, therefore the proposed service standard maintains the status-quo.</p> <p>5. Metro is amending the rule based on this suggestion.</p> <p>5.15 -2045 Multifamily Receptacle Colors; signage; Information Materials</p> <ul style="list-style-type: none"> • Analysis shows minimal costs to commercial ratepayers as a result of establishing a multifamily color standard over a seven year schedule. • Receptacles may be replaced over a seven year period. Receptacles with useful life remaining could be used in other lines of business and are not required to be disposed. The analysis of costs showed a lid-only replacement to be almost as costly as replacing the entire cart, and cost savings depend on the cart body being in good condition. Replacing only the lids does not create regional consistency and would increase confusion for people living in multifamily homes. Additionally, lids of carts and containers are often left open in shared service situations rendering a lid-only color signal ineffective. • Metro heard overwhelmingly from people living in multifamily homes that they want color consistency to reduce confusion in their collection services. Color consistency between decals and receptacles reinforce the message. • Orange has been used as the standard glass decal and sign color in the Metro region for commercial collection for over a decade. Orange is also used by Recycle Across America, a national non-profit organization working to standardize garbage and recycling labels, to indicate a glass-only stream. Metro is currently only proposing a color standard for multifamily carts and containers. There is no timeline established to set a color standard for other lines of service and likely no timeline will be established in the foreseeable future.
18	10/16/2020	5:31 PM	Email	Beth Vargas Duncan	bethvd@orra.net	Multifamily	From the PHA - See PDF for full text. Interest in expanding every other week mixed recycling and yard debris service. Concerns economic and environmental costs related to MF color standard implementation.	Three hauler associations submitted identical letters. See response above.
19	10/17/2020	6:31 PM	Email	Beth Vargas Duncan	bethvd@orra.net	Multifamily	From the WCHA - See PDF for full text. Interest in expanding every other week mixed recycling and yard debris service. Concerns economic and environmental costs related to MF color standard implementation.	Three hauler associations submitted identical letters. See response above.

From: [Francesca via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Tuesday, September 22, 2020 11:51:30 AM

Submitted on Tuesday, September 22, 2020 - 11:51am

Submitted by anonymous user: 172.68.174.134

Submitted values are:

First name: Francesca

Last name: Cameron

Email: francesca747@gmail.com

Company or organization (if applicable):

Zip code: 97205

Provide your feedback: I do not have time to read the drafts, but have one issue that really matters to me. I want to have access to a compostable bin in my building where I can recycle kitchen waste.

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106606>

From: [Justin via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Tuesday, September 22, 2020 12:27:40 PM

Submitted on Tuesday, September 22, 2020 - 12:27pm

Submitted by anonymous user: 162.158.107.213

Submitted values are:

First name: Justin

Last name: Gilchrist

Email: jgilchristfccla@gmail.com

Company or organization (if applicable):

Zip code: 97219

Provide your feedback: I would appreciate more organized bins. Currently we just have two dumpsters with poor labeling and everyone doesn't know which one is which and ruins all our recyclables. I would also hope it makes for a more sanitary area if the service would come more often. Thank you.

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106611>

From: [Neel via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Tuesday, September 22, 2020 1:07:52 PM

Submitted on Tuesday, September 22, 2020 - 1:08pm

Submitted by anonymous user: 172.68.174.44

Submitted values are:

First name: Neel

Last name: Patel

Email: neelpatelslc@gmail.com

Company or organization (if applicable):

Zip code: 97209

Provide your feedback:

This is a great idea!

I would love more options for composting in apartment buildings. I tried to lobby my building for compost but it didn't go anywhere. Also the signs are helpful, but I feel that most people put whatever they want in the recycling. One solution may be to severely reduce recycling to what can actually be meaningfully recycled?

Also maybe for signs, stressing the importance of flattening cardboard boxes?? Thanks for all your hard work!

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106616>

From: [Jacob via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Tuesday, September 22, 2020 1:42:16 PM

Submitted on Tuesday, September 22, 2020 - 1:42pm

Submitted by anonymous user: 172.68.174.68

Submitted values are:

First name: Jacob

Last name: Metcalf

Email: 8bitjoystick@gmail.com

Company or organization (if applicable):

Zip code: 97213

Provide your feedback: I am a essential healthcare worker currently fighting the covet 19 epidemic. I'm also a condo owner in Portland off NE 68th. It is long overdue that we expand and reform recycling and garbage services for multi-person Portland

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106621>

From: [Alyson via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Wednesday, September 23, 2020 8:47:00 AM

Submitted on Wednesday, September 23, 2020 - 8:47am

Submitted by anonymous user: 162.158.106.82

Submitted values are:

First name: Alyson

Last name: Berman

Email: emmash@gmail.com

Company or organization (if applicable):

Zip code: 97210

Provide your feedback: It still leaves out composting for apartment users. If the city can't pick up yard debris and compost from apartment residents, it would be great if there were drop off stations so we could minimize our waste and increase our composting.

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106651>

From: [Lisa via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Wednesday, September 23, 2020 11:56:21 AM

Submitted on Wednesday, September 23, 2020 - 11:56am

Submitted by anonymous user: 172.68.174.80

Submitted values are:

First name: Lisa

Last name: Chin

Email: lisasenchin@gmail.com

Company or organization (if applicable):

Zip code: 97214

Provide your feedback: I'd like to have composting as an option. My apartment does not offer this. If this is not the channel for this request, I'd really like to know what would be the best resources. Thank you!

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106666>

From: [Carolyn via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Monday, September 28, 2020 10:53:14 AM

Submitted on Monday, September 28, 2020 - 10:55am

Submitted by anonymous user: 172.68.174.80

Submitted values are:

First name: Carolyn

Last name: Overby

Email: carolynoverby@frontier.com

Company or organization (if applicable): Sussex Village LLC

Zip code: 97008

Provide your feedback:

I question how bulk items will be picked up. Where will residents place them, when will they be picked up and who will pay for this extra service. Currently our residents contact us for pickup. We then schedule a day with Waste Management so property doesn't load up with trashy looking items showing on the property. The residents are informed that they will pay whatever fees Waste Management charges for the pickup. I sincerely think it would be a fiasco to just allow the residents to discard their unwanted large items on the property. Many would not bother taking them to a charity group or having one pick them up. I believe the charge is what motivates them to take action. Move-outs would be disastrous! Our residents don't pay for the water, sewer or garbage. I can foresee a lot of resentment if we started implementing that. I can also foresee the home owner's around the area taking advantage of the situation, as we already combat that to some degree.

I don't think it is always a misunderstanding concerning the contamination in recycling. There is no lid they have to lift for recycling whereas they must lift the lid for garbage. We do our very best to inform and work with our residents and for the most part they are compliant. I sincerely wish whoever is making these decisions had some experience managing a multi-family complex.

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106771>

From: [Carolyn via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Monday, September 28, 2020 1:56:52 PM

Submitted on Monday, September 28, 2020 - 1:59pm

Submitted by anonymous user: 172.68.174.44

Submitted values are:

First name: Carolyn

Last name: Overby

Email: carolynoverby@frontier.com

Company or organization (if applicable): Sussex Village LLC

Zip code: 97008

Provide your feedback: I have a question. Will it be answered? Will Waste Management have the authority to take over a slice of my property to use as a large item recycling area. They have closed the recycling center that was on Denny Road in Beaverton. Is this a way for them to use small slices of other people's land which they do not pay taxes on?

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/106776>



October 5, 2020

Re: Comments on Proposed Revisions to Metro Code Chapter 5.10

Thank you for the opportunity to provide comments on the proposed changes. Our comments, questions, and concerns are addressed below.

Administrative Rule 5.15 – 2025:

#3: This service standard rule requires weekly collection of yard debris. Four of the jurisdictions that Pride Disposal services have every other week yard debris collection and always have. And I know that many other jurisdictions across the region have the same service level. This rule should be modified so that can continue, and so other jurisdictions can consider that service level in the future. Related to #5 in this section, if every other week yard debris with food scraps is allowed, there is no reason that every other week yard debris without food scraps should not also be allowed. I understand that 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but there is no reason that a jurisdiction should be prevented from moving to an every other week yard debris program if that local jurisdiction chooses to do so.

#3: This service standard rule requires weekly collection of recycling. Five of the jurisdictions that Pride Disposal services have every other week recycling collection. Metro recently did a study finding that every other week recycling had similar outcomes to weekly recycling in terms of effectiveness. One less weekly pick-up also results in reduced GHG, neighborhood and arterial truck traffic, and reduced costs to ratepayers. I understand that 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but there is no reason that a jurisdiction should be prevented from moving to an every other week program if that local jurisdiction chooses to do so.

#5: As at least 1 jurisdiction in the region is currently providing every other week yard debris with food scraps collection, I propose this rule be changed to read as follows: “Residential food scraps with yard debris can be offered at weekly or every other week frequency. Every other week collection of residential food scraps mixed with yard debris is only allowed if approved by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health, or safety code.”

Administrative Rule 5.15 – 2040:

#4: I am supportive of the requirement for regularly occurring bulky waste collection at multi-family properties. My concern is that while other areas of this section have volume and frequency clearly defined, this item is not clearly defined. There should be consistency across all material types if a minimum standard is present. Does regularly occurring mean annually, weekly, monthly? I would propose a minimum frequency be established based on number of units.

Administrative Rule 5.15 – 2045: I understand and appreciate the desire for color coding throughout the system for better clarity for customers, but I do have several concerns about this path forward:

- There will be a large cost on the system to color code containers across the region. For metal containers, this will involve repainting all recycling containers. For plastic roll carts, this will involve replacement of carts that typically last for 20+ years. We even have some carts that have been in use for 30 years. This equipment has already been paid for by rate payers and Metro would be requiring rate payers to pay for refurbishment and/or replacement of containers on an accelerated schedule, which will cause rates to increase. While I understand the receptacles can be recycled, the recycling mantra of “Reduce, Reuse, Recycle” is a hierarchy with “Recycle” being the lowest priority in terms of importance. You are asking haulers across the region to prematurely discard thousands of receptacles across the region. Additionally, recycling of plastic roll carts has a cost associated with it, which will be borne by the rate payers. We have proposed on multiple occasions that a better path forward would involve color coding of lids, rather than color coding the entire receptacle. This is a more cost effective and far less wasteful change that would still achieve the color coding that is desired.
- I also have concerns about color coding instructional stickers to have the sticker color match the intended receptacle color. For example, the recycling stickers that have been designed are blue and are intended to be placed on containers that are also blue. Even with contrast within the sticker, the stickers will not stand out enough for customers to clearly see the sticker. I believe this will not achieve the goal of reducing customer confusion and therefore reducing recycling contamination.
- I believe that choosing orange for the glass bin color is a mistake. Across the region, glass is primarily put in yellow bins or red bins. It would be far more logical, environmentally friendly and cost effective to choose one of these 2 colors so not every bin across the entire region has to be changed. I would propose analysis be done on how many color-coded red bins vs. color coded yellow bins there are across the region and then the color that is more prevalent can be chosen.
- While I understand the current proposal is only regarding color coding of multi-family receptacles, I also understand that the intent within the Regional Waste Plan is to eventually color code receptacles across all lines of business in the region. With that in mind, I would like to again strongly emphasize the need to consider color coding of lids only and not color coding of entire receptacles. Our company has always provided blue lids on recycling carts and have, in the last few years, begun providing yard debris carts with green lids. If we are mandated in the future to replace all these carts, it would involve purchasing and disposing of approximately 70,000 carts.

Thank you,

Kristin Lechner
President
Pride Disposal & Recycling Company

From: [Ashley via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Friday, October 9, 2020 10:44:44 AM

Submitted on Friday, October 9, 2020 - 10:43am
Submitted by anonymous user: 108.162.245.96
Submitted values are:

First name: Ashley
Last name: George
Email: ashleyhgeorge@gmail.com
Company or organization (if applicable):
Zip code: 97225

Provide your feedback: Some multi-family housing units use a valet service where the residents just place their garbage and recycling outside of their door certain days of the week. It would be nice if it was required by Metro to provide residents yearly with a reminder of recycling guidelines. I frequently see my neighbors incorrectly recycling items so a reminder would be good!

The results of this submission may be viewed at:
<https://www.oregonmetro.gov/node/31841/submission/107051>

From: [Annee via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Saturday, October 10, 2020 5:11:03 PM

Submitted on Saturday, October 10, 2020 - 5:10pm
Submitted by anonymous user: 172.68.174.68
Submitted values are:

First name: Annee
Last name: Ashton Goldfeld
Email: goldfeld@aya.yale.edu
Company or organization (if applicable):
Zip code: 97006
Provide your feedback:

RE:

5.15 - 2040 Multifamily Residential Service Standards

5.15 - 2045 Multifamily Receptacle Colors; Signage; Informational Materials

Regarding apartment complexes, much work needs to be done to educate both residents and staff about recycling. I speak from experience as a renter in Washington County for the last 12 years. 1) If residents perceive that recycling containers are too far from the nearest trash, they throw away their recycling in the trash. Several neighbors at The Lakes have said this as they see me walking with my recycling bucket to the collection area. 2) Bins are not always clearly labeled. I have suggested larger recycling posters to leasing office staff, but there has been no action so far. The yard waste bin used to collect glass is not labeled at all. 3) Mailboxes are a prime location to collect recyclable paper. Residents prefer to sort and dispose than carry home junk mail, etc. Clearly labeled recycling bins with slotted lids (like a mail drop slot) seem to work best. 4) Besides curbside recyclables, apartment complexes generate a lot of other "trash" when residents move out. These items include furniture, kitchen items, toys, electronics, clothes, and more that are still in good to excellent condition, just no longer wanted. My own home includes like new furniture and a fully functional computer monitor reclaimed from a dumpster area. Additionally I have sold reclaimed items on Craigslist. 5) Deposit return cans and bottles are sought in dumpsters by local neighbors struggling with poverty and/or homelessness. It would be great to have some type of compassionate alternative collection bin for returnables so that already at-risk individuals are not further endangered by biohazards and physical hazards in the dumpsters. 6) Leasing office staff needs to be engaged by local recycling authorities in regard to resident education that can happen via mass email to their residents. Thank you.

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/107106>

From: [Sam via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Wednesday, October 7, 2020 2:41:52 PM

Submitted on Wednesday, October 7, 2020 - 2:40pm

Submitted by anonymous user: 172.68.174.44

Submitted values are:

First name: Sam

Last name: Wisner

Email: swisner@tokolaproperties.com

Company or organization (if applicable): Tokola Properties

Zip code: 97030

Provide your feedback:

The standards seem fairly reasonable. Weekly pickup for glass seems unnecessary. I have multiple properties with maybe 1.5 gallons glass per unit that usually aren't half full when picked up monthly.

How will the standard of no bags of garbage on the ground be enforced? Most multifamily properties have people put bags of trash on the ground every day even though the dumpster is empty. I have multiple locations that find stacks of garbage on the ground in the garbage area almost every morning despite the dumpster being empty. We can clean it up regularly, but clearly marking bins and providing enough capacity is unfortunately not enough to get residents to place garbage in the bins.

How about finding ways to provide bins that are accessible?

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/107006>

From: [Katherine via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Wednesday, October 14, 2020 9:01:40 PM

Submitted on Wednesday, October 14, 2020 - 9:02pm
Submitted by anonymous user: 172.68.174.68
Submitted values are:

First name: Katherine
Last name: Suri
Email: ksuri@sbcglobal.net
Company or organization (if applicable): Master Recycler
Zip code: 97239

Provide your feedback:

So happy you are making it easier for recycling in multi family housing. I live in an active senior adult community, and am co chair of the Green Team. There are many residents who care fery much and strive to recycle correctly. There are a few residents who just don't care, and there are others fwwho are unable. Anything you propose to make this process easier will be very welcome here.
Thank you

The results of this submission may be viewed at:
<https://www.oregonmetro.gov/node/31841/submission/107311>

From: [Eben via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Thursday, October 15, 2020 1:32:15 PM

Submitted on Thursday, October 15, 2020 - 1:33pm
Submitted by anonymous user: 108.162.215.70
Submitted values are:

First name: Eben
Last name: Polk
Email: epolk@clackamas.us
Company or organization (if applicable): Clackamas County Sustainability & Solid Waste
Zip code: 97045
Provide your feedback:

We are in support of the 2030 Regional Waste Plan (RWP) actions and enhancing multifamily service to make it more equitable for multifamily residents, and we are committed to doing our part and working with our cities and collectors to realize this goal. We support the updating of Code and Rules for clarity and to incorporate the 2030 RWP.

While we recognize the benefits of moving some of the items that have a significant impact on collection programs from Code to Rules, more substantive pieces should remain in Code (even though we don't have specific recommendations at this time).

Additionally, we have some feedback to specific content:

- Throughout various sections of the proposed Code (including, but not limited to, 5.15.020, 5.10.030, 5.15.060, 5.15.310) and proposed Rules (5.15-1000, 5.15-2000, 5.15-5000), the RWP is codified and binding; however, some items in the RWP are aspirational. As the requirements of the RWP are incorporated into Code/Rule, we recommend the following modifications to reference the binding nature of Code/Rule, not the RWP:

o 5.15.020 Application

The Code applies to all portions of Clackamas, Washington, and Multnomah Counties within Metro's jurisdictional boundary.

o 5.10.030 Regional Waste Plan Requirements

(a) The Code contains requirements and performance standards from the Regional Waste Plan that are binding on a local government within Metro's jurisdictional boundary. The requirements and performance standards that are binding on a local government are set forth in Chapter 5.15 and associated administrative rules.

(b) The Code contains requirements and performance standards from the Regional Waste Plan that may result in changes to other sections of Metro Code including, but not limited to, all chapters in Title V and other code sections related to solid waste matters.

o 5.15.060 Local Government Conformity to the Code

A local government may not adopt any ordinance, order, regulation, or contract affecting solid waste management that conflicts with the Code.

o 5.15.310 Purpose and Intent (General Education)

A local government must adopt and implement the general education standard as required by the Code and as specified in this chapter and administrative rules. The education standard ensures a comprehensive and consistent level of garbage, recycling, composting, waste prevention and reuse education and assistance for all customers in the region.

o The same recommendations pertain to the similar references throughout the proposed Rules.

- 5.15 – 2015 Applicability of Rules (proposed Rules 5.15-2000, pg 3)

o Thank you for stating that this is a recommendation for the watershed areas outside of Metro's boundary.

o Thanks again for the same in 5.15 - 5000 General Education (proposed Rules 5.15-5000, pg 2).

- 5.15 – 2025 Single-Family Residential Service Standards (proposed Rules 5.15-2000, pg 3)

o 7. "Ensure that property owners and managers provide access to adequate on-site recycling collection service

to renters of single-family residential properties.”

We acknowledge that many scenarios can exist in this setting. We support ensuring access to recycling for all residents. We want to make sure that “provide access to recycling collection service” does not mean that the landlord must be the account holder.

- 5.15 – 2030 Exemption to Single-Family Yard Debris Service Standard

o 1. “A local government may exempt rural service areas from regular on-route collection of yard debris provided that the local government distributes informational material to rural customers at least annually that provides options for proper management of yard debris, including instructions to not place yard debris in solid waste receptacles destined for disposal.”

We do not have any data indicating that yard debris in rural garbage containers is a problem.

We currently do not have a ban on placing yard debris in garbage.

We believe this is an opportunity to simplify Metro Rules and recommend eliminating the last portion of the sentence, “...including instructions to not place yard debris in solid waste receptacles destined for disposal.”

- 5.15 - 2040 Multifamily Residential Service Standards (proposed Rules 5.15-2000, pg 4)

o We support the per unit per week minimums to use as a tool to help ensure adequate service (no overflow, snow-coning, etc.).

o We also recognize that minimum service may not be adequate service.

o 1.&2. Our literal read of – “a local government must;” in combination with “provide,” suggests the local government is performing the collection service.

We suggest: A local government must: Implement a minimum service volume standard...

o 4. “Ensure provision of regularly-occurring bulky waste collection service by July 1, 2025.”

We acknowledge that bulky waste is problematic at some communities, and we support the adoption of language to improve bulky waste collection at multifamily communities. However, we think the region would be better served by postponing this rule until we can implement pilot projects to study the situation and explore potential solutions.

- 5.15 – 2045 Multifamily Receptacle Colors; Signage; Informational Materials (proposed Rules 5.15-2000, pg 4)

o We support regional color consistency and signage to help multifamily residents better identify and understand their bins.

o 1. “All receptacles ordered after July 1, 2021 must comply with the color standard below and must be labeled with the correct Metro-approved regional signage.”

Since the proposed rules state that the deadline for multifamily receptacle colors is 2028, we would like to understand why this provision is necessary.

Is Metro’s intent to influence the color of receptacles provided at a property in situations where the franchised collector may be swapping out receptacles? “Ordering” could be interpreted in a number of ways. “Providing” can be done without ordering.

o 2. “All plastic receptacles for garbage, mixed recyclable materials, and yard debris and/or food scraps ordered after July 1, 2021 must contain at least 30% post-consumer recycled content.”

Is it known that all proposed colors are available (at a reasonable cost) at 30% post-consumer recycled content?

o 3. We recommend that garbage containers be gray or black

o 3. We observe that the financial implications of this color change are not cost-neutral in seven years. There are likely additional costs associated with a seven-year timeline, though these costs may be reasonable given our outreach and consistency objectives. We would like to see some discussion about how to manage the disposition of carts that are in good condition, acknowledging that these are sunk costs.

o 5. We support the deployment of a region-wide re-stickering taskforce in order to meet this deadline.

- 5.15-2050 Exemptions to Multifamily Standards (proposed Rules 5.15-2000, pg 5)

o 2. Exempt yard debris from collection.

We believe this is an opportunity to simplify Metro’s Rules. We acknowledge that conditions are listed in the current rules; however, we believe, moving forward, these conditions should not be included, because:

There is no ban on yard debris in garbage.

There has been no indication there is significant amount of yard debris in multifamily garbage.

It is difficult to enforce.

- 5.15 – 2065 Funding Guidelines (proposed Rules 5.15-2000, pg 5)
 - o The local government must also enter into an intergovernmental agreement with Metro. In the first sentence it says, "...a local government or its designated agency," that should be repeated in the second sentence.
 - o While we do not recommend withholding of funds, we recommend that any withholding of funds should be limited to the funds earmarked for the implementation of specific provision of the Regional Waste Plan or Code. For example, this would be consistent with Metro's decision to withhold funding for business technical assistance in the City of Estacada.

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/107351>

From: [Joseph via Metro](#) on behalf of [Metro](#)
To: [ServiceStandards](#)
Subject: Form submission from: Comment on the draft Regional Service Standard
Date: Thursday, October 15, 2020 2:05:41 PM

Submitted on Thursday, October 15, 2020 - 2:06pm

Submitted by anonymous user: 172.68.174.134

Submitted values are:

First name: Joseph

Last name: Gall

Email: gallj@sherwoodoregon.gov

Company or organization (if applicable): Sherwood, City of (OR)

Zip code: 97140

Provide your feedback: Thank you for providing an opportunity to comment on these proposed amendments - it is appreciated. Most of the changes that are proposed are administrative and minor in nature. The one important point that I would raise is to please be cautious in implementing new recycling equipment standards in terms of the effect on rates for our customers. Our franchised hauler, Pride Disposal, raised a number of these concerns to Metro in a letter that was submitted by Kristin Leichner. We echo their concerns, especially in these difficult economic times for many of our businesses and residents in these "Covid" times. Thank you again!

The results of this submission may be viewed at:

<https://www.oregonmetro.gov/node/31841/submission/107361>



Re: Comments on Proposed Revisions to Metro Code Chapter 5.10

Thank you for allowing comment on Metro's proposed code changes and changes to the regional service standards.

While reviewing proposed administrative rule changes, several concerns surfaced. We would advise staff to let Council know that many of the proposed changes will increase ratepayer/constituent costs. These cost increases are particularly impactful during this time, when many people are already struggling.

Regarding Administrative Rule 5.15 – 2040 (Multifamily Residential Service Standards), we agree that regularly occurring bulky waste collection at multifamily properties is a laudable goal. However, we ask that service volume and frequency be further defined. Does regularly occurring mean annually, monthly, weekly? This section is ambiguous.

Most concerning is Administrative Rule 5.15 -2045 (Multifamily Receptacle Colors; signage; Information Materials). While we agree that color coding would like increase clarity for ratepayers/constituents there are many things to consider:

- There will be significant cost to color code receptacles, which will increase ratepayer/constituent costs. Metal containers have to be repainted, plastic roll carts will have to be replaced. Ratepayers/constituents as well as the company have already paid for this equipment.. Metro would be requiring ratepayers/constituents to refurbish/replace equipment that may still have many years of use.
- While receptacles may be recycled, replacing all receptacles at once will have significant environmental impact. Metro would be requiring us to prematurely discard thousands of receptacles. We recommend that Metro instead require color coding of lids instead of color coding the entire receptacle. This would both achieve Metro's goal to color code, and reduce waste.
- Requiring changing the glass bin color to orange is again wasteful. It would be more environmentally friendly and cost effective to conduct an audit of what color bins are currently being used across the region and then chose the most ubiquitous color(s).

We acknowledge that current proposed changes are regarding color coding of multifamily properties, but we also understand that the intent of the Regional Waste Plan is to eventually color code receptacles across all lines of business in the region. We ask that Metro consider all the environmental impacts, costs that would be incurred related to color coding receptacles versus lids only, and the impact that will have on ratepayers/constituents. In our case, we would have to dispose of more than 35,500 carts and containers, excluding glass bins.

We believe industry has provided some realistic solutions to help more forward the Regional Waste Plan in a responsible and effective way to continue to align the Metro Region with strong service standards for the Solid Waste and Recycling Services. Thank you for your consideration of these comments.

Sincerely,

Jason Jordan – General Manager of Republic Services
Portland Metro

October 15, 2020

Metro Council
600 NE Grand Avenue
Portland, OR 97232- 2736

Re: Comments on Proposed Revisions to Metro Code Chapter 5.10

This letter represents the Clackamas County Refuse and Recycling Association's (CCRRA) comments regarding Metro's proposed code changes and regional service standards. PHA appreciates this opportunity provide these comments. We are committed to working cooperatively with our regulatory local governments to provide safe, modern, and efficient waste collection services that include garbage, recycling, and organics collection at reasonable rates.

With these changes, we understand Metro proposes dividing code 5.10, creating one section for the Regional Waste Plan (5.10) and another for local government requirements (5.15). Some details currently in Metro's code will be moved to administrative rule. Code changes require Metro Council action and require a 90 days prior to implementation. Administrative rule changes do not require Council action; rules may be adopted by Metro's COO and require only 30 days for implementation.

In reviewing the proposed administrative rule changes, we have identified several concerns. Many of Metro's proposed service standards require added costs from ratepayers and consumers. We submit these comments with great consideration of the impact Metro's proposed system requirements may have on persons of color, low-income and marginalized community members.

Administrative Rule 5.15 – 2025 Single-Family Residential Service Standards:

#3: Requires weekly collection of yard debris. Several jurisdictions across the region provide every other week yard debris collection and have done so successfully for many years. This standard #3 relates to #5 in this section. If every other week yard debris with food scraps is allowed, then every other week yard debris without food scraps should be allowed. We understand Metro rule 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but jurisdictions should be allowed to transition to an every other week yard debris program if that local jurisdiction so chooses.

#3: Requires weekly collection of recycling. Several jurisdictions in the region provide every other week recycling collection. Metro recently did a study finding that every other week recycling had similar outcomes to weekly recycling in terms of effectiveness. One less weekly pick-up also results in reduced GHG, neighborhood and arterial truck traffic, and reduced costs to ratepayers. We understand that 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but jurisdictions should be allowed to transition to an every other week recycling program if that local jurisdiction so chooses.

#5: Allows every other week yard debris with food scraps. At least one jurisdiction in the region currently provides every other week yard debris with food scraps collection. We propose this rule be changed to read as follows: "Residential food scraps with yard debris can be offered at weekly or every other week frequency. Every other week collection of residential food scraps mixed with yard debris is only allowed if approved by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health, or safety code."

Recommendation: These sections #3 and #5 should be modified so that every other week yard debris, yard debris with food scraps, and recycling collection can continue, and other jurisdictions can consider such service levels in the future. And #5 rule language be changed as noted in the preceding paragraph.

Administrative Rule 5.15 – 2040 Multifamily Residential Service Standards:

#4: Requires regularly occurring bulky waste service by July 1, 2025. We support ensuring regularly occurring bulky waste collection at multifamily properties. However, the service volume and frequency is not clearly defined as in other sections. There should be consistency across all material types if a minimum standard is present. Does regularly occurring mean annually, weekly, monthly?

Recommendation: A minimum frequency should be established based on number of units such as monthly or every other month.

Administrative Rule 5.15 – 2045 Multifamily Receptacle Colors; Signage; Information Materials: While color coding throughout the system could increase clarity for customers, we have several concerns.

- Significant cost to color code receptacles. All metal recycling containers will have to be repainted. Plastic roll carts that typically last 20+ years will be replaced. This equipment has already been paid for by rate payers and Metro would be requiring rate payers to pay for refurbishment and/or replacement of metal and plastic containers on an accelerated schedule, which will cause rates to increase.
- Waste creation by replacing receptacles. While receptacles may be recycled, the recycling mantra of “Reduce, Reuse, Recycle” is a hierarchy with “Recycle” being the lowest priority in terms of importance and arguably the highest environmental impact. Metro would be requiring haulers across the region to prematurely discard thousands of receptacles. Additionally, recycling of plastic roll carts has a cost associated with it, which will be borne by the rate payers. Recommendation: As we have proposed repeatedly to Metro staff, a better path forward would involve color coding of lids, rather than color coding the entire receptacle. This is a more cost effective and far less wasteful change that would still achieve the color coding that is desired. Alternative Recommendation: Require color coding upon replacement or maintenance of carts and containers. While this option may take longer to achieve color coding, there would be no added system costs or transportation impact in trading out large quantities of receptacles in a compressed time period.
- Decal Colors. We have concerns about color coding instructional stickers when the sticker color matches the intended receptacle color. For example, the recycling stickers that have been designed are blue and are intended to be placed on containers that are also blue. Even with contrast within the sticker, the stickers will not stand out enough for customers to clearly see the sticker. We believe this will not achieve the goal of reducing customer confusion and therefore reducing recycling contamination. Recommendation: Design stickers with a contrasting color so they visually stand out against the background of the receptacle.
- Glass Bins We believe that choosing orange for the glass bin color is a mistake. Across the region, glass is primarily put in yellow bins or red bins. It would be far more logical, environmentally friendly and cost effective to choose one of these 2 colors so not every bin across the entire region has to be changed. Recommendation: Quantify the number of red bins versus yellow bins across the region and choose the color that is more prevalent. Alternative Recommendation: Require color coding upon natural bin replacement. While this option may take longer to achieve color coding, there would be no added system costs.

Concern of color coding expansion. We recognize the current proposal is only regarding color coding of multi-family receptacles, but we also understand that the intent within the Regional Waste Plan is to eventually color code receptacles across all lines of business in the region.

Recommendation: Carefully consider all costs related to color coding all receptacles versus only the lids. For example, expanding this mandate across all lines of business would require one member hauler to purchase and dispose of approximately 70,000 carts.

In conclusion, while we hope our recommendations will be adopted, we could support the changes provided local governments will support the added cost in their rate setting processes and that there is adequate lead time (i.e. seven years) for implementation of color coding multifamily recycling containers.

We look forward to the opportunity to continue serving as a resource, imparting experience from our own challenges as large and many small, family and women-owned companies, in navigating the business of waste management while promoting our common values advancing equity in waste management. Please don't hesitate to contact Beth Vargas Duncan at 971-707-1683 or bethvd@orra.net with any questions.

Sincerely,

Josh Brown, President
Clackamas County Refuse and Recycling Association

October 15, 2020

Metro Council
600 NE Grand Avenue
Portland, OR 97232- 2736

Re: Comments on Proposed Revisions to Metro Code Chapter 5.10

This letter represents the Portland Haulers' Association (PHA) comments regarding Metro's proposed code changes and regional service standards. PHA appreciates this opportunity provide these comments. We are committed to working cooperatively with our regulatory local governments to provide safe, modern, and efficient waste collection services that include garbage, recycling, and organics collection at reasonable rates.

With these changes, we understand Metro proposes dividing code 5.10, creating one section for the Regional Waste Plan (5.10) and another for local government requirements (5.15). Some details currently in Metro's code will be moved to administrative rule. Code changes require Metro Council action and require a 90 days prior to implementation. Administrative rule changes do not require Council action; rules may be adopted by Metro's COO and require only 30 days for implementation.

In reviewing the proposed administrative rule changes, we have identified several concerns. Many of Metro's proposed service standards require added costs from ratepayers and consumers. We submit these comments with great consideration of the impact Metro's proposed system requirements may have on persons of color, low-income and marginalized community members.

Administrative Rule 5.15 – 2025 Single-Family Residential Service Standards:

#3: Requires weekly collection of yard debris. Several jurisdictions across the region provide every other week yard debris collection and have done so successfully for many years. This standard #3 relates to #5 in this section. If every other week yard debris with food scraps is allowed, then every other week yard debris without food scraps should be allowed. We understand Metro rule 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but jurisdictions should be allowed to transition to an every other week yard debris program if that local jurisdiction so chooses.

#3: Requires weekly collection of recycling. Several jurisdictions in the region provide every other week recycling collection. Metro recently did a study finding that every other week recycling had similar outcomes to weekly recycling in terms of effectiveness. One less weekly pick-up also results in reduced GHG, neighborhood and arterial truck traffic, and reduced costs to ratepayers. We understand that 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but jurisdictions should be allowed to transition to an every other week recycling program if that local jurisdiction so chooses.

#5: Allows every other week yard debris with food scraps. At least one jurisdiction in the region currently provides every other week yard debris with food scraps collection. We propose this rule be changed to read as follows: "Residential food scraps with yard debris can be offered at weekly or every other week frequency. Every other week collection of residential food scraps mixed with yard debris is only allowed if approved by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health, or safety code."

Recommendation: These sections #3 and #5 should be modified so that every other week yard debris, yard debris with food scraps, and recycling collection can continue, and other jurisdictions can consider such service levels in the future. And #5 rule language be changed as noted in the preceding paragraph.

Administrative Rule 5.15 – 2040 Multifamily Residential Service Standards:

#4: Requires regularly occurring bulky waste service by July 1, 2025. We support ensuring regularly occurring bulky waste collection at multifamily properties. However, the service volume and frequency is not clearly defined as in other sections. There should be consistency across all material types if a minimum standard is present. Does regularly occurring mean annually, weekly, monthly?

Recommendation: A minimum frequency should be established based on number of units such as monthly or every other month.

Administrative Rule 5.15 – 2045 Multifamily Receptacle Colors; Signage; Information Materials: While color coding throughout the system could increase clarity for customers, we have several concerns.

- Significant cost to color code receptacles. All metal recycling containers will have to be repainted. Plastic roll carts that typically last 20+ years will be replaced. This equipment has already been paid for by rate payers and Metro would be requiring rate payers to pay for refurbishment and/or replacement of metal and plastic containers on an accelerated schedule, which will cause rates to increase.
- Waste creation by replacing receptacles. While receptacles may be recycled, the recycling mantra of “Reduce, Reuse, Recycle” is a hierarchy with “Recycle” being the lowest priority in terms of importance and arguably the highest environmental impact. Metro would be requiring haulers across the region to prematurely discard thousands of receptacles. Additionally, recycling of plastic roll carts has a cost associated with it, which will be borne by the rate payers. Recommendation: As we have proposed repeatedly to Metro staff, a better path forward would involve color coding of lids, rather than color coding the entire receptacle. This is a more cost effective and far less wasteful change that would still achieve the color coding that is desired. Alternative Recommendation: Require color coding upon replacement or maintenance of carts and containers. While this option may take longer to achieve color coding, there would be no added system costs or transportation impact in trading out large quantities of receptacles in a compressed time period.
- Decal Colors. We have concerns about color coding instructional stickers when the sticker color matches the intended receptacle color. For example, the recycling stickers that have been designed are blue and are intended to be placed on containers that are also blue. Even with contrast within the sticker, the stickers will not stand out enough for customers to clearly see the sticker. We believe this will not achieve the goal of reducing customer confusion and therefore reducing recycling contamination. Recommendation: Design stickers with a contrasting color so they visually stand out against the background of the receptacle.
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Concern of color coding expansion. We recognize the current proposal is only regarding color coding of multi-family receptacles, but we also understand that the intent within the Regional Waste Plan is to eventually color code receptacles across all lines of business in the region.

Recommendation: Carefully consider all costs related to color coding all receptacles versus only the lids. For example, expanding this mandate across all lines of business would require one member hauler to purchase and dispose of approximately 70,000 carts.

In conclusion, while we hope our recommendations will be adopted, we could support the changes provided local governments will support the added cost in their rate setting processes and that there is adequate lead time (i.e. seven years) for implementation of color coding multifamily recycling containers.

We look forward to the opportunity to continue serving as a resource, imparting experience from our own challenges as large and many small, family and women-owned companies, in navigating the business of waste management while promoting our common values advancing equity in waste management. Please don't hesitate to contact Beth Vargas Duncan at 971-707-1683 or bethvd@orra.net with any questions.

Sincerely,

Vallerie Gruetter Hill, President
Portland Haulers' Association

October 15, 2020

Metro Council
600 NE Grand Avenue
Portland, OR 97232- 2736

Re: Comments on Proposed Revisions to Metro Code Chapter 5.10

This letter represents the Washington County Haulers' Association (WCHA) comments regarding Metro's proposed code changes and regional service standards. PHA appreciates this opportunity provide these comments. We are committed to working cooperatively with our regulatory local governments to provide safe, modern, and efficient waste collection services that include garbage, recycling, and organics collection at reasonable rates.

With these changes, we understand Metro proposes dividing code 5.10, creating one section for the Regional Waste Plan (5.10) and another for local government requirements (5.15). Some details currently in Metro's code will be moved to administrative rule. Code changes require Metro Council action and require a 90 days prior to implementation. Administrative rule changes do not require Council action; rules may be adopted by Metro's COO and require only 30 days for implementation.

In reviewing the proposed administrative rule changes, we have identified several concerns. Many of Metro's proposed service standards require added costs from ratepayers and consumers. We submit these comments with great consideration of the impact Metro's proposed system requirements may have on persons of color, low-income and marginalized community members.

Administrative Rule 5.15 – 2025 Single-Family Residential Service Standards:

#3: Requires weekly collection of yard debris. Several jurisdictions across the region provide every other week yard debris collection and have done so successfully for many years. This standard #3 relates to #5 in this section. If every other week yard debris with food scraps is allowed, then every other week yard debris without food scraps should be allowed. We understand Metro rule 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but jurisdictions should be allowed to transition to an every other week yard debris program if that local jurisdiction so chooses.

#3: Requires weekly collection of recycling. Several jurisdictions in the region provide every other week recycling collection. Metro recently did a study finding that every other week recycling had similar outcomes to weekly recycling in terms of effectiveness. One less weekly pick-up also results in reduced GHG, neighborhood and arterial truck traffic, and reduced costs to ratepayers. We understand that 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but jurisdictions should be allowed to transition to an every other week recycling program if that local jurisdiction so chooses.

#5: Allows every other week yard debris with food scraps. At least one jurisdiction in the region currently provides every other week yard debris with food scraps collection. We propose this rule be changed to read as follows: "Residential food scraps with yard debris can be offered at weekly or every other week frequency. Every other week collection of residential food scraps mixed with yard debris is only allowed if approved by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health, or safety code."

Recommendation: These sections #3 and #5 should be modified so that every other week yard debris, yard debris with food scraps, and recycling collection can continue, and other jurisdictions can consider such service levels in the future. And #5 rule language be changed as noted in the preceding paragraph.

Administrative Rule 5.15 – 2040 Multifamily Residential Service Standards:

#4: Requires regularly occurring bulky waste service by July 1, 2025. We support ensuring regularly occurring bulky waste collection at multifamily properties. However, the service volume and frequency is not clearly defined as in other sections. There should be consistency across all material types if a minimum standard is present. Does regularly occurring mean annually, weekly, monthly?

Recommendation: A minimum frequency should be established based on number of units such as monthly or every other month.

Administrative Rule 5.15 – 2045 Multifamily Receptacle Colors; Signage; Information Materials: While color coding throughout the system could increase clarity for customers, we have several concerns.

- Significant cost to color code receptacles. All metal recycling containers will have to be repainted. Plastic roll carts that typically last 20+ years will be replaced. This equipment has already been paid for by rate payers and Metro would be requiring rate payers to pay for refurbishment and/or replacement of metal and plastic containers on an accelerated schedule, which will cause rates to increase.
- Waste creation by replacing receptacles. While receptacles may be recycled, the recycling mantra of “Reduce, Reuse, Recycle” is a hierarchy with “Recycle” being the lowest priority in terms of importance and arguably the highest environmental impact. Metro would be requiring haulers across the region to prematurely discard thousands of receptacles. Additionally, recycling of plastic roll carts has a cost associated with it, which will be borne by the rate payers. Recommendation: As we have proposed repeatedly to Metro staff, a better path forward would involve color coding of lids, rather than color coding the entire receptacle. This is a more cost effective and far less wasteful change that would still achieve the color coding that is desired. Alternative Recommendation: Require color coding upon replacement or maintenance of carts and containers. While this option may take longer to achieve color coding, there would be no added system costs or transportation impact in trading out large quantities of receptacles in a compressed time period.
- Decal Colors. We have concerns about color coding instructional stickers when the sticker color matches the intended receptacle color. For example, the recycling stickers that have been designed are blue and are intended to be placed on containers that are also blue. Even with contrast within the sticker, the stickers will not stand out enough for customers to clearly see the sticker. We believe this will not achieve the goal of reducing customer confusion and therefore reducing recycling contamination. Recommendation: Design stickers with a contrasting color so they visually stand out against the background of the receptacle.
- Glass Bins We believe that choosing orange for the glass bin color is a mistake. Across the region, glass is primarily put in yellow bins or red bins. It would be far more logical, environmentally friendly and cost effective to choose one of these 2 colors so not every bin across the entire region has to be changed. Recommendation: Quantify the number of red bins versus yellow bins across the region and choose the color that is more prevalent. Alternative Recommendation: Require color coding upon natural bin replacement. While this option may take longer to achieve color coding, there would be no added system costs.

Concern of color coding expansion. We recognize the current proposal is only regarding color coding of multi-family receptacles, but we also understand that the intent within the Regional Waste Plan is to eventually color code receptacles across all lines of business in the region.

Recommendation: Carefully consider all costs related to color coding all receptacles versus only the lids. For example, expanding this mandate across all lines of business would require one member hauler to purchase and dispose of approximately 70,000 carts.

In conclusion, while we hope our recommendations will be adopted, we could support the changes provided local governments will support the added cost in their rate setting processes and that there is adequate lead time (i.e. seven years) for implementation of color coding multifamily recycling containers.

We look forward to the opportunity to continue serving as a resource, imparting experience from our own challenges as large and many small, family and women-owned companies, in navigating the business of waste management while promoting our common values advancing equity in waste management. Please don't hesitate to contact Beth Vargas Duncan at 971-707-1683 or bethvd@orra.net with any questions.

Sincerely,

Mike Leichner, President
Washington County Haulers' Association

Attachment C: Solid Waste Administrative Rules

Solid Waste Administrative Rule

AR 5.15-2000 through 2065

Administrative Rule of Metro Code Chapter 5.15
Administrative Rule Adoption Record and Findings

AR 5.15-2000 through 2065 Residential Service Administrative Rules

These administrative rules are adopted under the authority of Metro Code, which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code Chapter 5.08, the COO provided an opportunity for public comment and held a public hearing on these rules before their adoption.

The COO finds that these administrative rules are necessary to implement certain provisions of Metro Code Chapter 5.15 and hereby adopts Administrative Rules Nos. 5.15-2000 through 2065. The requirements of these administrative rules are in addition to all other requirements and provisions in Metro Code Chapter 5.15. These rules have the same force and effect as any other provision of Metro Code Chapter 5.15.

It is so ordered:

Marissa Madrigal
Metro Chief Operating Officer

Date

**SOLID WASTE
ADMINISTRATIVE RULES**
Residential Service

AR 5.15-2000 through 2065

Effective: XXXXX

Table of Contents

5.15 - 2000	Purpose
5.15 - 2005	Legal Authority
5.15 - 2010	Definitions
5.15 - 2015	Applicability of Rules
5.15 - 2020	Glass Separation Requirement
5.15 - 2025	Single-Family Residential Service Standards
5.15 - 2030	Exemption to Single-Family Yard Debris Service Standard
5.15 - 2035	Exemption for Single-Family Every Other Week Programs
5.15 - 2040	Multifamily Residential Service Standards
5.15 - 2045	Multifamily Receptacle Colors; Signage; Information Materials
5.15 - 2050	Exemptions to Multifamily Standards
5.15 - 2055	Compliance and Enforcement
5.15 - 2060	Reporting
5.15 - 2065	Funding Guidelines

5.15 – 2000 Purpose

To implement the residential service standard as set forth in Metro Code Chapter 5.15 and as required by the Regional Waste Plan to ensure a comprehensive and consistent level of recycling service for the region.

5.15 – 2005 Legal Authority

1. Metro’s solid waste planning and implementing authority is established under the Metro Charter, the Constitution of the State of Oregon, and ORS Chapters 268 and 459.
2. These rules are issued under the authority of Metro Code. These rules are in addition to all other requirements and provisions in Metro Code Chapters 5.10 and 5.15.

5.15 – 2010 Definitions

Unless otherwise specifically defined below, all terms used are as defined in Metro Code Chapter 5.00.

Acceptable recyclable materials are a type of source-separated recyclable as-defined in Metro Code Chapter 5.00. For the purposes of these administrative rules, acceptable recyclable materials include the following:

Mixed waste paper	Steel cans
Newspaper	Aluminum
Magazines	Scrap metal
Corrugated cardboard	Plastic bottles and jars

Kraft paper
Aseptic containers
Yard debris

Round plastic containers/tubs
Glass bottles and jars
Motor oil

~~Adequate service means no overflow of garbage or recycling; receptacle lids must close. Bulky waste should not accumulate for more than seven days or impede access to service area. No bagged or overflow garbage present in recycling receptacles.~~

Minimum service means the lowest amount of acceptable recyclable material, glass, yard debris, and garbage collection service volume to be in compliance with residential service standard.

Commented [SK1]: A comment received by Sam Wisner showed that the adequate service definition added confusion to understanding the Multifamily Residential Service Standards. The definition was removed from rule and will be added to a guidance document.

5.15 – 2015 Applicability of Rules

The requirements of the Regional Waste Plan’s residential service standard apply to all portions of Clackamas, Washington, and Multnomah Counties within Metro’s jurisdictional boundary. For areas of Clackamas, Multnomah and Washington Counties outside of Metro’s jurisdictional boundary, the performance standards are recommendations.

5.15 - 2020 Glass Separation Requirement

For all residential customers, a local government must require that glass is kept separate from all other acceptable recyclable materials in collection receptacles and on collection vehicles.

5.15 - 2025 Single-Family Residential Service Standards

For all single-family residential customers, a local government must:

1. Provide at least one receptacle, with capacity of at least 60 gallons, for the collection of all acceptable recyclable materials except glass and motor oil.
2. Provide at least one receptacle for source-separated glass collection. The receptacle must have a capacity of at least five gallons.
3. Provide weekly collection of acceptable recyclable materials, glass, motor oil, and yard debris on the same day of the week as garbage, unless exempted under administrative rule 5.15-2030 or administrative rule 5.15-2035.
4. Provide at least one receptacle for yard debris collection. The receptacle must have a capacity of at least 60 gallons.

~~If food scraps service is offered, provide weekly collection of residential food scraps mixed with yard debris. Every other week collection of residential food scraps mixed with yard debris is allowed if approved by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health or safety code.~~

5. ~~Residential food scraps with yard debris can be offered at weekly or every other week frequency. Every other week collection of residential food scraps mixed with yard debris is allowed only if approved in advance by the processing facility receiving the material and acceptance does not violate any other government ordinance, regulation, permit, health, or safety code.~~

6. Provide bulky waste collection service.

7. Ensure that property owners and managers provide access to ~~adequate on-site garbage and~~ recycling collection service to renters of single-family residential properties.

Commented [SK2]: A comment submitted by Kristen Lechner provided wording that increased clarity. The wording has been changed to reflect her suggestion.

Commented [SK3]: This edit is related to comment submitted by Sam Wisner. The term adequate is being removed.

5.15 - 2030 Exemption to Single-Family Yard Debris Service Standard

1. A local government may exempt rural service areas from regular on-route collection of yard debris provided that the local government distributes informational material to rural customers at least annually that provides options for proper management of yard debris, including instructions to not place yard debris in solid waste receptacles destined for disposal.
2. A local government may define “rural service areas” for purposes of solid waste collection and must provide its definition to Metro. A local government must notify Metro of any changes to that definition.

5.15 - 2035 Exemption for Single-Family Every Other Week Recycling and Yard Debris Collection Programs

A local government with an every-other-week recycling and/or yard debris collection program in place as of January 1, 2019 meets the residential service standard. A second recycling collection receptacle of at least 60 gallons capacity must be provided to every-other-week customers upon request and at no additional charge.

5.15 - 2040 Multifamily Residential Service Standards

For all multifamily residential customers, a local government must:

1. ~~Provide/Implement~~ a minimum service volume of 20 gallons per unit per week for garbage collection service.
2. ~~Provide/Implement~~ a minimum service volume of 20 gallons per unit per week for acceptable recyclable materials and a minimum service volume of one gallon per unit per week for source-separated glass.
3. Ensure all material streams are collected at least weekly. On call services are exempt from collection frequency and minimum service volume requirements.
4. Ensure provision of regularly-occurring bulky waste collection service by July 1, 2025.

Commented [SK4]: Clackamas County suggested provided this wording to increase clarity.

5.15 - 2045 Multifamily Receptacle Colors; Signage; Informational Materials

For all multifamily residential customers, a local government must comply with the regional standards for collection receptacles by the dates below.

1. All receptacles ordered after July 1, 2021 must comply with the color standard below and must be labeled with the correct Metro-approved regional signage.
2. All plastic receptacles for garbage, mixed recyclable materials, and yard debris and/or food scraps ordered after July 1, 2021 must contain at least 30% post-consumer recycled content.
3. Garbage receptacles must be gray, mixed recyclable materials receptacles must be blue, yard debris and/or food scraps receptacles must be green and source-separated glass receptacles must be orange by July 1, 2028. Metro will provide a list of approved receptacle colors by vendor.
4. Color standards do not apply to compactors and drop boxes.
5. As of December 31, 2023, all receptacles must be labeled with the correct Metro-approved regional decals for acceptable recyclable materials, glass, yard debris, and garbage. All previous garbage and

recycling instructional decals must be completely removed from each receptacle and replaced with correct and approved regional decals.

5.15 - 2050 Exemptions to Multifamily Standards

Notwithstanding administrative rule 5.15-2045, a local government may:

1. Exempt used motor oil from collection.
2. Exempt yard debris from collection if no yard debris is generated on-site, or the customer meets one of the following conditions:
 - a. Uses a landscape maintenance firm that transports yard debris to a Metro-authorized facility;
 - b. Manages its yard debris on-site such as composting or mulching;
 - c. Self-hauls its yard debris to a Metro-authorized facility;
 - d. Uses another method approved by Metro.

5.15 - 2055 Compliance and Enforcement

A local government must comply with the requirements of the Regional Waste Plan’s residential service standard. If a local government does not comply, Metro will withhold funding associated with the implementation of the Regional Waste Plan. Metro may also withhold discretionary funding associated with other programs and seek any remedy under its Charter, Code or applicable state law.

5.15 - 2060 Reporting

As part of regular annual reporting requirements, a local government must provide the information necessary for Metro to determine compliance with the residential service standard.

5.15 - 2065 Funding Guidelines

In order to receive funding associated with the Regional Waste Plan, a local government or its designated agency must comply with the requirements of Metro Code Chapter 5.15 and these rules. The local government or its designated agency must also enter into an intergovernmental agreement with Metro.

Commented [SK5]: Clackamas County suggested provided this wording to increase clarity.

Overview of Proposed Revisions to Metro Code Chapter 5.10

November 2020

Why are changes being made?

It is out of date. Metro Code Chapter 5.10 implements the requirements of the former Regional Solid Waste Management Plan, not the new Regional Waste Plan adopted in March 2019. In addition, the Oregon Department of Environmental Quality updated recycling statute and rules in 2018 and much of Chapter 5.10 contains state requirements that are no longer in place.

It does not fit the new format for Code. Current code is challenging to read and interpret, contains obsolete terms and does not reflect the wording in the new Regional Waste Plan. Obsolete references, lengthy sentences and legalese are removed. Some implementation detail is being moved to administrative rules to follow format changes being made to the Metro Code overall.

It is not well organized. Currently overall Regional Waste Plan requirements, those for local governments and service provision standards are scattered throughout Chapter 5.10. To better organize the chapter and provide more clarity, the existing Chapter 5.10 is being split into two chapters.

It does not reflect the Regional Waste Plan. Code and rule in place now was designed for the 2008 Plan. In addition, existing code and rule contains both regional plan requirements as well as state requirements, which is confusing. These revisions clarify that the code and rule implement the Regional Waste Plan, not state law.

What are the specific changes being considered?

- Split the current Chapter 5.10 into two chapters. Chapter 5.10 will cover the overall Regional Waste Plan and a new Chapter 5.15 has been created to focus on requirements specific to local governments, including establishing new multifamily residential requirements.
- Reorganize confusing sections. Rather than have several separate code sections dealing with single-family and multifamily residential requirements, code sections have been grouped by sector:
 - Residential Service (includes all types of residential dwellings)
 - Business Service and Recycling Requirement
 - Business Food Waste Requirement
 - General Education
- Move and reword some detailed information to administrative rules so that all local government requirements are in a single location and are communicated more clearly. These include:

- Specific service standards for single-family, multifamily and business customers
- Education and outreach standards
- Materials required for collection
- Add residential food scraps collection as a named material to the service standards:
 - Residential food scraps collection is an optional service
 - Weekly or every-other-week collection frequency
- Add a general education section that applies to all customers:
 - Reflects the Regional Waste Plan rather than obsolete state requirements
 - Focuses on regional consistency as well as requiring that education provided by local governments and service providers be accurate, culturally-responsive and reflect local conditions
- Add new standards for multifamily services to implement new and high-priority Regional Waste Plan actions. These will be the most significant substantive changes to the code and include:
 - Per unit service volume minimums for garbage, mixed recycling and glass streams
 - Weekly minimum collection frequency for all streams
 - Collection container color standard for all material streams
 - Required use of regional signage on bins and in collection areas
- Combine all standards and requirements with regard to the business sector into one section for ease of reading and to increase understanding. No substantive changes have been made.
 - Obsolete or outdated standards have been eliminated including past implementation deadlines, and past funding requirements
 - Commercial food scraps requirement is unchanged
- Eliminate the Regional Service Standard Alternative Program. Elements of local government alternative programs showing the same outcome as the Regional Service Standard (weekly collection) have been incorporated into the new standard. Elements of local government programs that showed worse outcomes than the Regional Service Standard will be required to change.
 - Every-other-week mixed recycling collection has been incorporated into the proposed standard for every-other-week programs in place as of January 1, 2019
- Remove obsolete state requirements and update wording and terms to reflect those used in the new Regional Waste Plan and to remove legalese, outdated references, and lengthy sentences.

Current Code sections	New Code sections	Explanation of Changes
<p>5.10.010-080 Regional Solid waste Management Plan</p> <p>5.10.110-160 Compliance Procedures</p>	<p>5.10.010-060 Regional Waste Plan</p>	<p>Chapter 5.10 has been shortened to focus on the overall applicability of the Regional Waste Plan (RWP), Metro’s authority to implement it, and plan amendment procedures.</p> <p>The majority of the Compliance Procedures section (110-160) in the current code applies to local governments and has been moved to the new Chapter 5.15 which is specific to local government requirements under the RWP. Outdated references, language and long sentences have been removed.</p>
<p>5.10.210-240 Regional Service Standard</p>	<p>5.15.010-070 General Provisions</p> <p>5.15.110-130 Residential Service</p>	<p>As noted above, the majority of the Compliance Procedures from existing code have been moved to a new chapter 5.15 (<i>Local Government Requirements Under the Regional Waste Plan</i>). Sections 010-060 pertain to compliance, extensions, technical and financial assistance and local government conformity to the plan. The Exception from Compliance section has been removed, and the wording in the other sections has been amended to reflect current terminology and procedures and to improve readability.</p> <p>The Regional Service Standard has been reorganized by sector and renamed. Section 5.15.110-130 focuses solely on the residential (single family and multifamily) sector. Obsolete or outdated standards and references to state statute no longer in effect have been eliminated. Lengthy detail has been removed from Code, updated, and placed in new Administrative Rules for Chapter 5.15. The Alternative Program and Performance Standard has been eliminated--elements of local government alternative programs showing the same outcome as weekly collection have been incorporated into the new standard. Every-other-week recycling collection programs in place as of January 1, 2019 meet the residential standard.</p>
<p>5.10.310-350 Business Recycling Requirement</p>	<p>5.15.210-260 Business Service and Recycling Requirement</p>	<p>All standards and requirements with regard to the business sector have been combined into one section for ease of reading and to increase understanding. Obsolete or outdated standards have been eliminated and lengthy detail has been removed from Code, updated, and placed in revised Administrative Rules for Chapter 5.15. Aside from updates to language and improvements for readability, no substantive changes have been made to the Business Recycling Requirement in code or rule. Irrelevant implementation deadlines (dates are past and all jurisdictions are in compliance</p>

		with the requirement) and the funding requirements (additional funding was only applicable to the first four years of the program) were removed.
5.10.410-470 Business Food Waste Requirement	5.15.410-470	No substantive changes have been made. Implementation dates in administrative rule were postponed by one year due to COVID-19 under a separate process completed in September 2020.
5.10.230 (d) Education and outreach section of the Regional Service Standard Elements	5.15.310-330 General Education	The education and outreach requirements have been moved to a new section that now represents a General Education Standard applicable to all solid waste customers. References to requirements under obsolete state law have been eliminated and detailed information moved to Administrative Rule. Although this standard applies to all customers, there are additional notification, education and outreach requirements specific to the Business Recycling Requirement and the Business Food Waste Requirement. Those specific requirements remain with those performance standards.

Agenda Item No. 5.2

Resolution No. 20-5148, For the Purpose of Adopting the Supportive Housing Services Work Plan

Resolution

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE) RESOLUTION NO. 20-5148
METRO SUPPORTIVE HOUSING SERVICES)
WORK PLAN)
) Introduced by Chief Operating Officer
) Marissa Madrigal in concurrence with
) Council President Lynn Peterson

WHEREAS, on February 25, 2020, the Metro Council adopted Ordinance 20-1442 which, among other things, imposed business and personal income taxes to fund a Supportive Housing Services Program; and

WHEREAS, as part of that Ordinance adoption, the Metro Council found that the greater Portland region is facing a severe housing affordability and homelessness crisis, which endangers the health and safety of thousands of our unhoused neighbors. Homelessness is a deeply traumatic and dehumanizing experience that no person should have to endure, regardless of their circumstances; and

WHEREAS, the Council further found that thousands of households in the greater Portland region need supportive housing, and thousands more need housing assistance and other supports to achieve housing stability, according to the February 2020 ECONorthwest report entitled “Potential Sources and Uses of Revenue to Address the Region’s Homeless Crisis,” and

WHEREAS, the Council further found that the housing affordability and homelessness crisis in the greater Portland region impacts us all and requires collective and individual action from every person, business, elected official, and resident that calls the region home; and

WHEREAS, the Council also found that the homelessness crisis is an issue of scale and services do not yet match the scope of the crisis, and additional revenue is required to scale services to meet the needs and scope of the crisis; and

WHEREAS, Resolution 20-5083 referred Ordinance 20-1442 (Supportive Housing Services) to the voters for approval, which was designated as Measure 26-210 by Multnomah County Elections and placed on the May 2020 ballot (the “Measure”); and

WHEREAS, on May 19, 2020, the Metro area voters approved the Measure, thereby approving Ordinance 20-1442; and

WHEREAS, since the election Metro has been collaborating with its jurisdictional partners and stakeholders to develop a regional Supportive Housing Services program, incorporating the goals and outcomes set forth in the Measure; and

WHEREAS, Metro staff now proposes a Metro Supportive Housing Services Work Plan which will serve as a framework for the Metro Supportive Housing Services implementation

activities in addition to the new Metro Code Chapter 11.01 (“Supportive Housing Services Program”); now therefore,

BE IT RESOLVED, that the Metro Council hereby adopts the Metro Supportive Housing Services Work Plan, a copy of which is attached hereto as Exhibit A.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney



Metro

oregonmetro.gov

Supportive Housing Services Program Work Plan

December 2020

If you picnic at Blue Lake or take your kids to the Oregon Zoo, enjoy symphonies at the Schnitz or auto shows at the convention center, put out your trash or drive your car – we’ve already crossed paths.

So, hello. We’re Metro – nice to meet you.

In a metropolitan area as big as Portland, we can do a lot of things better together. Join us to help the region prepare for a happy, healthy future.

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Bob Stacey, District 6

Auditor

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600 NE Grand Ave.
Portland, OR 97232-2736
503-797-1700

2020 SUPPORTIVE HOUSING SERVICES PROGRAM WORK PLAN

Adopted by Resolution No. xx-xxxx on xxxx, 2020 by the Metro Council.

TABLE OF CONTENTS

1.	INTRODUCTION	2
2.	GUIDING PRINCIPLES AND RACIAL EQUITY	2
3.	GOVERNANCE	3
3.1	METRO COUNCIL	4
3.2	METRO CHIEF OPERATING OFFICER AND STAFF	4
3.3	LOCAL IMPLEMENTATION PARTNERS	4
3.4	REGIONAL OVERSIGHT COMMITTEE	5
4.	FUNDING DISTRIBUTION AND ELIGIBLE USES	6
4.1	ALLOCATION AND DISTRIBUTION OF SUPPORTIVE HOUSING SERVICES REVENUE	6
4.2	PRIORITIZATION OF SUPPORTIVE HOUSING SERVICES FUNDS	7
4.3	ELIGIBLE USES OF SUPPORTIVE HOUSING SERVICES FUNDS	7
4.4	REGIONAL APPROACH TO MEETING SUPPORTIVE HOUSING NEED	7
4.5	ADMINISTRATIVE COSTS	7
5.	ACCOUNTABILITY STRUCTURES AND PROCESS	8
5.1	LOCAL IMPLEMENTATION PLANS	8
5.2	REGIONAL OUTCOME METRICS	10
5.3	ANNUAL REVIEW PROCESS	11
5.4	AUDITS	12
6.	REGIONAL COORDINATION	12
6.1	TRI-COUNTY ADVISORY BODY	12
6.2	TRI-COUNTY PLANNING	13
	ADDENDUM A - BALLOT MEASURE 26-210	14
	ADDENDUM B - REGIONAL OVERSIGHT COMMITTEE CHARTER	16
	ADDENDUM C - DEFINITIONS FOR SECTIONS 4.2 AND 4.3	20
	ADDENDUM D - LOCAL IMPLEMENTATION PLAN REQUIREMENTS	22

1. INTRODUCTION

On May 19, 2020, voters in the greater Portland region approved a measure to raise money for supportive housing services for people experiencing homelessness or at risk of experiencing homelessness. Community members and leaders from around the region developed the measure to provide the much-needed housing and wraparound services to effectively and permanently elevate people out of homelessness.

The ballot measure (see Addendum A) will fund a new Supportive Housing Services Program that will provide services for as many as 5,000 people experiencing prolonged homelessness with complex disabilities, and as many as 10,000 households experiencing short-term homelessness or at risk of homelessness. The program is guided by a commitment to lead with racial equity by especially meeting the needs of Black, Indigenous and people of color (BIPOC) who are disproportionately impacted by housing instability and homelessness.

The Supportive Housing Services Program will directly fund Clackamas, Multnomah and Washington counties to invest in local strategies to meet the needs in their communities. Revenue will be distributed within the portions of Clackamas, Multnomah and Washington counties that are inside the Metro jurisdictional boundary in amounts proportionate to the tax revenue estimated to be collected from individuals in those counties.

The program is funded through a 1 percent tax on all taxable income of more than \$125,000 for individuals and \$200,000 for joint filers and a 1 percent tax on profits from businesses with gross receipts of more than \$5 million. The new tax requirements begin in January 2021. Initial revenues are expected to be available for the first phase of program implementation by July 2021. The program will be funded through December 2030, unless reauthorized by the voters on or before that date.

In February 2020, the Metro Council adopted Ordinance No. 20-1442 which provided guidelines for Supportive Housing Services Program implementation including eligible services, priority populations, governance, local implementation plans, allocation of revenue, equity and community engagement, and tri-county planning. In June to September 2020, Metro convened a stakeholder advisory table that developed recommendations for regional values to guide program implementation and outcome metrics to ensure transparent oversight and accountability.

This Supportive Housing Services Work Plan provides a comprehensive plan for implementing the program. The Work Plan incorporates and supplements the guidelines in Ordinance No. 20-1442 and the recommendations of the stakeholder advisory table. In addition to Metro Chapter 11.01, it serves as the governing document for program implementation, addressing how Supportive Housing Services revenues will be administered to achieve the goals described in the ballot measure.

2. GUIDING PRINCIPLES AND RACIAL EQUITY

Supportive Housing Services Program implementation will be guided by the following principles, which were developed by the stakeholder advisory table:

- Strive toward stable housing for all;
- Lead with racial equity and work toward racial justice;

- Fund proven solutions;
- Leverage existing capacity and resources;
- Innovate: evolve systems to improve;
- Demonstrate outcomes and impact with stable housing solutions;
- Ensure transparent oversight and accountability;
- Center people with lived experience, meet them where they are, and support their self-determination and well-being;
- Embrace regionalism: with shared learning and collaboration to support systems coordination and integration; and
- Lift up local experience: lead with the expertise of local agencies and community organizations addressing homelessness and housing insecurity.

Metro has adopted a Strategic Plan to Advance Racial Equity, Diversity and Inclusion which includes specific goals and objectives to ensure that all people who live, work and recreate in the greater Portland region have the opportunity to share in and help define a thriving, livable and prosperous region. A key objective for Supportive Housing Services Program implementation is a commitment to advance equity related to stable and affordable housing. In implementing the program, Metro will rely on the goals and objectives within the Strategic Plan to:

- Convene regional partners to advance racial equity outcomes in supportive housing services;
- Meaningfully engage with Black, Indigenous and people of color, people with low incomes, and other historically marginalized communities in establishing outcomes and implementing the program;
- Produce and provide research and information to support regional jurisdictions in advancing equity efforts;
- Increase accountability by ensuring involvement of Black, Indigenous and people of color in establishing goals, outcomes, and implementation and evaluation efforts;
- Increase participation of Black, Indigenous and people of color in decision-making; and
- Use equity criteria in resource allocation for the program.

Metro will actively work to remove barriers for organizations and communities to ensure full participation by providing stipends, scheduling events at accessible times and locations, and other inclusive engagement tactics.

3. GOVERNANCE

On February 25, 2020, the Metro Council adopted Ordinance No. 20-1442 referring to voters the ballot measure authorizing Metro to impose a tax to fund supportive housing services. The Supportive Housing Services Program and this Work Plan must comply with the promises made to the voters in the ballot measure.

3.1 METRO COUNCIL

The Metro Council provides policy direction for the Supportive Housing Services Program through:

- A. Adoption of this Work Plan;
- B. Appointment of Regional Oversight Committee members, chair and/or co-chairs, collectively charged with monitoring program implementation;
- C. Approval of Local Implementation Plans;
- D. Approval of intergovernmental agreements for implementation (each, an “Implementation IGA”) with Local Implementation Partners; and
- E. Monitoring of program outcomes, with guidance from the Regional Oversight Committee and tri-county advisory body.

3.2 METRO CHIEF OPERATING OFFICER AND STAFF

The Metro Chief Operating Officer (COO) is authorized by the Metro Council to implement this Work Plan, and the COO will direct staff to conduct all Supportive Housing Services Program administration activities referenced herein, including (without limitation) the following:

- A. Ensure program implementation upholds promises made to voters;
- B. Develop and execute Implementation IGAs with Local Implementation Partners;
- C. Implement efficient and effective collection of personal and business income taxes;
- D. Develop and coordinate systems and structures to provide robust oversight and accountability and ensure transparency of public funds;
- E. Convene meetings and provide administrative support for the Regional Oversight Committee;
- F. Provide staffing and logistical support for a tri-county advisory body to identify regional goals, strategies and outcome metrics related to addressing homelessness in the region; and
- G. Conduct an annual independent financial audit with results made publicly available.

3.3 LOCAL IMPLEMENTATION PARTNERS

Metro will partner with Clackamas, Multnomah and Washington county governments and their housing authorities to lead Supportive Housing Services Program implementation. The three county governments will serve as Metro’s Local Implementation Partners for the program. As experts in implementing programs that serve community members experiencing homelessness, the Local Implementation Partners will work with service providers and community partners to develop and implement programs that respond to the unique needs in their communities.

Local Implementation Partners must:

- A. Adopt a Local Implementation Plan, informed by community engagement, that describes local housing and homeless service needs, current programming and unmet programming capacities, proposed use of funds, and a strategy for advancing racial equity and ensuring community engagement in implementation (see Section 5.1 and Addendum D);

- B. Enter into an Implementation IGA with Metro, obligating the Local Implementation Partner to comply with this Work Plan and enter into certain covenants required to ensure compliance with the ballot measure and other applicable law; and
- C. Track and report on program outcomes annually as defined through this Work Plan.

3.4 REGIONAL OVERSIGHT COMMITTEE

In accordance with Metro Code Section 2.19.270, Metro will appoint a Regional Oversight Committee to provide policy and programmatic guidance, monitor programmatic expenditures and evaluate outcomes (see Addendum B).

The committee will be charged with the following duties:

- A. Evaluate Local Implementation Plans, recommend changes as necessary to achieve program goals and guiding principles, and make recommendations to Metro Council for approval;
- B. Accept and review annual reports for consistency with approved Local Implementation Plans and regional goals;
- C. Monitor financial aspects of program administration, including review of program expenditures; and
- D. Provide annual reports and presentations to Metro Council and Clackamas, Multnomah and Washington County Boards of Commissioners assessing performance, challenges and outcomes.

Membership

The committee will be composed of 15 voting members with 5 members each from Clackamas, Washington and Multnomah counties. Committee members will be appointed by the Metro Council.

The committee's membership will include a broad range of personal and professional experience, including people with lived experience of homelessness or housing instability. The committee will also reflect the diversity of the region. The membership will include people with the following experiences, perspectives and qualities:

- Experience overseeing, providing or delivering supportive housing services;
- Lived experience of homelessness or severe housing instability;
- Experience in the development and implementation of supportive housing and other services;
- Experience in the delivery of culturally specific services;
- Experience in the private for-profit sector;
- Experience in the philanthropic sector;
- Experience in a Continuum of Care organization; and
- People who identify as Black, Indigenous and people of color, people with low incomes, immigrants and refugees, the LGBTQ+ community, people with disabilities and other underserved and/or marginalized communities.

Stipends, childcare, technical assistance, interpretation, accessibility assistance and other supports for participation will be available.

Committee members will serve two-year terms.

Jurisdictional representation

One representative each from the Clackamas, Multnomah and Washington County Boards of Commissioners, Portland City Council and Metro Council will serve on the committee as non-voting delegates.

Accountability

All committee meetings and materials will be available and accessible to the public, and appropriate notice will be given to inform all interested parties of the time, place and agenda of each meeting.

Committee members are considered public officials under Oregon law and will be responsible for complying with provisions in Oregon law regarding public records and public meetings, disclosure of conflicts of interest, prohibitions on the use of official positions to obtain financial benefit, and restrictions on political activity.

Metro may conduct a review of the committee's role and effectiveness as appropriate.

4. FUNDING DISTRIBUTION AND ELIGIBLE USES

4.1. ALLOCATION AND DISTRIBUTION OF SUPPORTIVE HOUSING SERVICES REVENUE

Supportive Housing Services revenue will be distributed as follows:

- A. After Metro has first retained funds necessary to pay for collection of the taxes, including debt service related to the implementation costs, Metro may retain up to 5 percent of the remaining collected revenue for administration, oversight and accountability, data collection, coordination, and other costs associated with management of the regional program.
- B. After the funds have been allocated as set forth in Section 4.1.A, Metro will then allocate the remaining Supportive Housing Services revenue within the portions of Clackamas, Multnomah and Washington counties that are inside the Metro jurisdictional boundary in amounts proportionate to the tax revenue estimated to be collected from individuals in those counties. Funds will be distributed to the Local Implementation Partner within each county using the following percentages: 21 1/3 percent to Clackamas County, 45 1/3 percent to Multnomah County and 33 1/3 percent to Washington County.
- C. The percentages set forth in Section 4.1.B apply to revenue for the first two tax years. Thereafter, the percentages may be adjusted to reflect the portion of Supportive Housing Services revenue actually collected in each county.
- D. Metro's Implementation IGAs with each Local Implementation Partner will specify how Supportive Housing Services funds will be released. Agreements will include specifications for annual program budgets, financial reporting, practices for reserving funds, and redistribution of funds if a jurisdiction fails to comply with the agreement.

4.2 PRIORITIZATION OF SUPPORTIVE HOUSING SERVICES FUNDS

Each Local Implementation Partner must create a Local Implementation Plan outlining its proposed use of funds in accordance with the purposes of the program (see Section 5.1 and Addendum D). Local Implementation Plans must include a commitment that funding will be allocated as follows (see Addendum C for definitions of the terms used in Sections 4.2 and 4.3):

- A. Seventy-five percent of funds will be devoted to services for population A, defined as:

- Extremely low-income; AND
- Have one or more disabling conditions; AND
- Are experiencing or at imminent risk of experiencing long-term or frequent episodes of literal homelessness.

B. Twenty-five percent of funds will be devoted to services for population B, defined as:

- Experiencing homelessness; OR
- Have a substantial risk of experiencing homelessness.

This distribution of resources to serve priority populations may be adjusted over time as chronic and prolonged homelessness is reduced.

4.3 ELIGIBLE USES OF SUPPORTIVE HOUSING SERVICES FUNDS

The Supportive Housing Services Program is guided by regional goals and oversight, but implemented by Local Implementation Partners who are best positioned to respond to community needs. Successful implementation requires flexibility for local jurisdictions to create and implement strategies that respond to local community needs and effectively leverage local capacity and expertise. The uses of Supportive Housing Services funds will be guided by each county’s Local Implementation Plan.

Eligible uses of funds include any of the supportive housing services defined in Addendum C as well as administrative costs within applicable limits (see Section 4.5).

Funds are prioritized for ongoing service and operating costs to support implementation of supportive housing services as defined in Section 4.5. Under certain circumstances, capital costs directly related to those supportive housing services may be eligible if necessary to support ongoing implementation of the services and when consistent with Local Implementation Plans.

Programmatic success will be based on housing stability achieved by people experiencing homelessness or at risk of homelessness. An approach that effectively balances supportive services with long-term rent assistance and other housing strategies will therefore be necessary.

Funds may only be used for services provided within the portion of each recipient county that is within the Metro jurisdictional boundary.

4.4 REGIONAL APPROACH TO MEETING SUPPORTIVE HOUSING NEED

A regional approach is required to effectively address service and resource gaps to meet the needs of the Supportive Housing Services Program’s priority populations across the region. Local Implementation Partners will work together to enhance and expand local programs and services so that they share responsibility to address unmet needs across the region. Each county will develop and enhance local supportive housing services to address the needs of the portion of the region’s homeless population that is proportionate to the percentage of Supportive Housing Services revenues allocated to each county (see Section 4.1).

4.5 ADMINISTRATIVE COSTS

It is the policy of the Metro Council to maintain low administrative costs to ensure that the maximum amount possible of Supportive Housing Services revenue is used to fund supportive housing services.

Administrative costs will be restricted as follows:

- A. As described in Section 4.1.A, after Metro’s tax collection costs are paid, Metro may retain up to 5 percent of the remaining funds to pay for the costs to disburse the funds and administer and oversee the program. This includes convening and supporting the Regional Oversight Committee, establishing a regional data collection and reporting program, and supporting tri-county regional collaboration.
- B. Administrative expenses incurred by Local Implementation Partners for provision of services are recommended not to exceed five percent of total annual funds allocated for provision of services, consistent with guidelines for similar programs funded by the State.
- C. Administrative expenses incurred by Local Implementation Partners and housing authorities for administering long-term rent assistance programs are recommended not to exceed 10 percent of total annual funds allocated for long-term rent assistance, consistent with guidelines for similar programs funded by HUD and the State.
- D. Administrative expenses incurred by service providers are expected to vary based on program type, organizational capacity and other factors. The Regional Oversight Committee will include an analysis of service provider administrative costs in its annual monitoring of program expenditures. Based on this review, the committee may recommend adoption of service provider administrative cost guidelines for Metro Council consideration.

Administrative costs do not include costs directly associated with program and service delivery.

At least annually, the Regional Oversight Committee will consider whether the recommended administrative costs should be reduced or increased.

5. ACCOUNTABILITY STRUCTURES AND PROCESS

5.1 LOCAL IMPLEMENTATION PLANS

Each county will prepare a Local Implementation Plan to describe their local housing and homeless service needs, current programming and unmet programming capacities, and proposed use of funds in accordance with the purposes of the regional Supportive Housing Services Program. Plans must be created using a racial equity lens that ensures equitable participation, access and outcomes in all parts of the program and considers the best available quantitative and qualitative data.

Development and approval process

Each Local Implementation Plan must be developed using locally convened and comprehensive engagement processes that prioritize the voices of Black, Indigenous and people of color and people with lived experience. Plans must be developed in full partnership with advisory bodies that equitably reflect community expertise and experience. Each county may convene a new advisory body or use an existing body that fulfills the representation requirements.

Advisory body membership must include:

- People with lived experience of homelessness and/or extreme poverty;
- People from Black, Indigenous and people of color and other marginalized communities;
- Culturally responsive and culturally specific service providers;

- Elected officials, or their representatives, from the county and cities participating in the regional affordable housing bond;
- Representatives from the business, faith and philanthropic sectors;
- Representatives of the county/city agencies responsible for implementing housing and homelessness services, and that routinely engage with unsheltered people;
- Representatives from health and behavioral health who have expertise serving those with health conditions, mental health and/or substance use from culturally responsive and culturally specific service providers; and
- Representation ensuring geographic diversity.

Each Local Implementation Plan will be reviewed and approved by the respective county's local governing body, the Regional Oversight Committee and the Metro Council. Upon full approval, each Local Implementation Plan will be incorporated into the Intergovernmental Agreements between Metro and each respective county to govern transfer of funds, program implementation, and ongoing oversight and accountability.

Required elements

Local Implementation Plans must include the following elements, described in greater detail in Addendum D:

- A. *Analysis of inequitable outcomes*: An articulation of racial inequities in housing stability and access to current services;
- B. *Racial equity strategies*: A description of mitigation strategies and how the key objectives of Metro's Strategic Plan to Advance Racial Equity, Diversity and Inclusion have been incorporated;
- C. *Inclusive community engagement*: An articulation of how perspectives of Black, Indigenous and people of color and culturally specific groups were considered and incorporated into the development of the plan and will continue to be engaged through implementation and evaluation;
- D. *Priority population investment distribution*: A commitment that funding will be allocated as specified in Section 4.2;
- E. *Current investments*: A review of current system investments or capacity serving priority populations, an analysis of the nature and extent of gaps in services to meet the needs of the priority population, and a commitment to prohibit displacement of current local funding commitments for such services;
- F. *Distribution*: A strategy for equitable geographic distribution of services with partnering jurisdictions and service providers across the region;
- G. *Access coordination*: A plan for coordinating access to services with partnering jurisdictions and service providers across the region;
- H. *Procurement and partners*: A description of how funds will be allocated to public and nonprofit service providers;
- I. *Planned investments*: An articulation of programmatic investments planned, including the types of services to be funded to address the gap analysis;
- J. *Outcomes, reporting and evaluation*: An agreement to track and report on program outcomes annually as defined through regional coordination and with regional metrics.

Updates and amendments

Local Implementation Plans may be revised or amended only upon written agreement by the Local Implementation Partner, recommendation for approval by the Regional Oversight Committee and approval by Metro Council. Proposed changes to a Local Implementation Plan will be presented as amendments to the Regional Oversight Committee for approval and confirmed by Metro Council.

5.2 REGIONAL OUTCOME METRICS

Regional outcome metrics will be used to understand the impacts and outcomes of the Supportive Housing Services Program. The required metrics will provide clear and consistent data sets that ensure transparent accountability and regional analysis of outcomes. They will be measured consistently in each county and reported to Metro and the Regional Oversight Committee. Staff will work to create standardized definitions and methodologies to achieve the intentions of the metrics as described below.

Additional collaboration between Metro, Local Implementation Partners and community experts will further refine and ensure quality control for each metric. Metrics will be phased in over time according to the regional system's capacity to comply with the newly established regional standards.

Required regional outcome metrics will include:

A. Housing stability

Measurable goals:

- Housing equity is advanced by providing access to services and housing for Black, Indigenous and people of color at greater rates than Black, Indigenous and people of color experiencing homelessness.
- Housing equity is advanced with housing stability outcomes (retention rates) for Black, Indigenous and people of color that are equal or better than housing stability outcomes for non-Hispanic whites.
- The disparate rate of Black, Indigenous and people of color experiencing chronic homelessness is significantly reduced.

Outcome metrics:

- Number of supportive housing units created and total capacity, compared to households in need of supportive housing. This will measure change in supportive housing system capacity and need over time.
- Number of households experiencing housing instability or homelessness compared to households placed into stable housing each year. This will measure programmatic inflow and outflow.
- Number of housing placements and homelessness preventions, by housing intervention type (e.g. supportive housing, rapid rehousing) and priority population type. This will measure people being served.
- Housing retention rates. This will measure if housing stability is achieved with supportive housing.
- 'Length of homelessness' and 'returns to homelessness'. These will measure how effectively the system is meeting the need over time.

- Funds and services leveraged through coordination with capital investments and other service systems such as healthcare, employment and criminal justice. This will measure leveraged impact of funding in each county.

B. Equitable service delivery

Measurable goals:

- Increase culturally specific organization capacity with increased investments and expanded organizational reach for culturally specific organizations and programs.
- All supportive housing services providers work to build anti-racist, gender-affirming systems with regionally established, culturally responsive policies, standards and technical assistance.

Outcome metrics:

- Scale of investments made through culturally specific service providers to measure increased capacity over time.
- Rates of pay for direct service roles and distribution of pay from lowest to highest paid staff by agency to measure equitable pay and livable wages.
- Diversity of staff by race, ethnicity, sexual orientation, gender identity, disability status and lived experience.

C. Engagement and decision-making

Measurable goals:

- Black, Indigenous and people of color are overrepresented on all decision-making and advisory bodies.
- Black, Indigenous and people of color and people with lived experience are engaged disproportionately to inform program design and decision making.

Outcome metrics:

- Percent of all advisory and oversight committee members who identify as Black, Indigenous and people of color or as having lived experience of housing instability or homelessness.

Data disaggregation

In keeping with Metro’s commitment to advance racial equity, and the Supportive Housing Services Program’s overarching goal to ensure racial justice, data will be disaggregated to evaluate existing and continued disparate impacts for BIPOC communities and other impacted populations. As such, all applicable data sets will be disaggregated by regionally standardized values and methodology to understand disparate outcomes for people by race, ethnicity, disability status, sexual orientation and gender identity.

5.3 ANNUAL REVIEW PROCESS

Each Local Implementation Partner will submit an Annual Progress Report to the Metro Council and the Regional Oversight Committee summarizing its progress and outcomes under the Local Implementation Plan, including:

- A. A full program accounting of investments or a financial report;
- B. Reporting on required outcome metrics; and

- C. An equity analysis incorporated into all facets of the report, including reporting on the success or failure of racial inequity mitigation strategies and steps being taken to improve racial equity outcomes.

A template for the Annual Progress Report will be developed by Metro with input from the Local Implementation Partners.

The Regional Oversight Committee will review each Annual Progress Report and may recommend changes to the Local Implementation Plan to achieve regional goals and/or to better align the Local Implementation Plan with the Work Plan. The Local Implementation Partner will identify proposed strategies to address the Regional Oversight Committee's recommendations. The proposed strategies will be submitted to the Regional Oversight Committee for approval and confirmed by Metro Council.

As part of the annual review process, the Regional Oversight Committee will evaluate tax collection and administrative costs incurred by Metro, Local Implementation Partners and service providers and consider if any costs should be reduced or increased. The committee will present any such recommendations to the Metro Council.

5.4 AUDITS

A public accounting firm must conduct an annual financial audit of the revenue generated by the Supportive Housing Services taxes and the distribution of that revenue. Metro will make public the audit and any report to the Metro Council regarding the results of the audit. Metro may use the revenue generated by the taxes to pay for the costs of the audit.

The revenue and expenditures from the taxes are also subject to performance audits conducted by the Office of the Metro Auditor.

6. REGIONAL COORDINATION

6.1 TRI-COUNTY ADVISORY BODY

Metro will convene a tri-county advisory body to strengthen regional coordination in addressing homelessness in the region. The advisory body will identify regional goals, strategies and outcome metrics and provide guidance and recommendations to inform Supportive Housing Services Program implementation.

The advisory body will include people representing the following perspectives:

- People with lived experience of homelessness and/or extreme poverty;
- People from Black, Indigenous and people of color and other marginalized communities;
- Culturally responsive and culturally specific service providers;
- Elected officials, or their representatives, from the counties and cities participating in the regional affordable housing bond;
- Representatives from the business, faith and philanthropic sectors;
- Representatives of county/city agencies responsible for implementing housing and homelessness services, and that routinely engage with unsheltered people;

- Representatives from health and behavioral health who have expertise serving those with health conditions, mental health and/or substance use from culturally responsive and culturally specific service providers; and
- Representation ensuring geographic diversity.

Metro will work with the Local Implementation Partners to develop a proposed structure, charter and procedures for the tri-county advisory body, to be presented to Metro Council for approval.

Metro will provide ongoing staffing and logistical support to convene the advisory body and support its planning and coordination efforts. Local Implementation Partners will work to incorporate the advisory body's recommendations into their implementation strategies.

6.2 TRI-COUNTY PLANNING

The tri-county advisory body will lead a planning process to develop recommendations for regional coordination related to these and other issue areas as identified:

- *Regional capacity*: strategies to strengthen regional supportive housing capacity, including but not limited to: coordination of capital investments funded by the regional affordable housing bond and other sources, development of a regional model of long-term rent assistance, and expanded system capacity for culturally specific housing and services;
- *Systems alignment*: coordination and integration between the housing and homeless service systems, as well as other systems serving people experiencing homelessness, including the healthcare, education, workforce and criminal justice systems; and
- *Standards and metrics*: regional performance metrics to measure the impact of specific program types, regional system indicators to measure changes in the population experiencing homelessness, consistency in program evaluation standards and procedures, standards for culturally responsive services, and standardized data definitions, data collection methods and quality control.

ADDENDUM A

BALLOT MEASURE 26-210

Ballot Title:	Supports homeless services through higher earners’ tax, business profits tax.
Question:	Should Metro support homeless services, tax income over \$200,000/\$125,000(joint/single), profits on businesses with income over \$5 million?
Summary:	<p>Measure funds supportive housing services to prevent and reduce homelessness in Washington, Clackamas, and Multnomah counties within district boundaries. Prioritizes services to address needs of people experiencing, or at risk of, long-term or frequent episodes of homelessness. Services funded by a marginal income tax of 1% on households with income over \$200,000 (over \$125,000 for single filers) and a business profits tax of 1%. Income tax applies to resident income, and to non-resident income earned from sources within district. Exempts businesses with gross receipts of \$5 million per year or less.</p> <p>Declares funding for homelessness services a matter of metropolitan concern, directs regional funding to local services agencies, requires community engagement to develop localized implementation plans. Allocates funds to counties by estimated revenue collected within each county. Establishes community oversight committee to evaluate and approve local plans, monitor program outcomes and uses of funds. Requires creation of tri- county homeless services coordination plan.</p> <p>Requires performance reviews and independent financial audits. Metro administrative and oversight costs limited to 5%. Requires voter approval to continue tax after 2030.</p>
Explanatory Statement:	<p>The greater Portland region is facing a severe housing affordability and homelessness crisis. Rents and housing prices have risen faster than wages, making it especially hard for people living on fixed retirement or disability incomes to afford housing. While it is difficult to accurately estimate the number of people experiencing homelessness, or at risk of becoming homeless, according to a February 2020 report by EcoNorthwest, an estimated 38,263 people (24,260 households) experienced homelessness in 2017 in Washington, Clackamas and Multnomah counties; thousands more were at risk.</p> <p>Homelessness disproportionately impacts people with disabilities, people of color, and seniors. For people who experience homelessness, disabling conditions such as mental illness, chronic medical conditions, and addiction are made worse, and become barriers to housing placement.</p> <p>Providing supportive housing services is a widely demonstrated approach to effectively end homelessness for individuals who have experienced</p>

	<p>prolonged and repeated homelessness, and protecting families from becoming homeless with prevention assistance. Supportive housing services include case management, mental healthcare, addiction and recovery treatment, employment services, rent assistance, and other care as needed. Despite state and local efforts to increase investment in supportive housing services, the need in greater Portland exceeds local capacity.</p> <p>This measure will authorize Metro to establish a regional supportive housing funding program, providing the resources to address unmet needs of people experiencing or at risk of experiencing long-term or frequent episodes of homelessness in the greater Portland region. The measure will result in a substantial increase in the delivery of supportive housing services.</p> <p>Supportive housing services will be funded by a marginal personal income tax of 1% on households with taxable income over \$200,000 (or taxable income over \$125,000 for individual tax filers) and a business profits tax of 1% with an exemption for small businesses that have gross receipts of \$5 million or less per year. The personal income tax will be assessed on residents of the Metro district, and on non-residents who have income earned from sources within the district. Only income above \$200,000 (\$125,000 individual) is taxed.</p> <p>In each county a local implementation plan will be developed to describe how supportive housing services will be prioritized and delivered to address local needs. Local plans must be developed using comprehensive community engagement that prioritizes those most directly affected by the homelessness crisis.</p> <p>A regional oversight committee with broad geographic representation will review and evaluate each local plan, monitor local implementation, and review spending. The oversight committee will report every year to Metro Council on program outcomes and areas for improvement, and annual performance and financial audits of funding for supportive housing services will be conducted. Metro administrative costs are limited to 5% and must be reviewed annually. The measure requires voter approval to continue after 2030.</p>
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On Behalf of:

- Metro Council President Lynn Peterson
- Councilor Shirley Craddick
- Councilor Christine Lewis
- Councilor Craig Dirksen
- Councilor Juan Carlos Gonzales
- Councilor Sam Chase
- Councilor Bob Stacey

Submitted by: Carrie MacLaren, Metro Attorney

ADDENDUM B

REGIONAL OVERSIGHT COMMITTEE CHARTER

Background on the Supportive Housing Services Program

On May 19, 2020, voters in the greater Portland region approved a measure to raise money for supportive housing services for people experiencing homelessness or at risk of experiencing homelessness. Community members and leaders from around the region developed the measure to provide the much-needed housing and wraparound services to effectively and permanently elevate people out of homelessness.

The ballot measure will fund a new Supportive Housing Services Program that will provide services for as many as 5,000 people experiencing prolonged homelessness with complex disabilities, and as many as 10,000 households experiencing short-term homelessness or at risk of homelessness. The program is guided by a commitment to lead with racial equity by especially meeting the needs of Black, Indigenous and people of color who are disproportionately impacted by housing instability and homelessness.

Implementation of the program will be guided by the following principles:

- Strive toward stable housing for all;
- Lead with racial equity and work toward racial justice;
- Fund proven solutions;
- Leverage existing capacity and resources;
- Innovate: evolve systems to improve;
- Demonstrate outcomes and impact with stable housing solutions;
- Ensure transparent oversight and accountability;
- Center people with lived experience, meet them where they are and support their self-determination and well-being;
- Embrace regionalism: with shared learning and collaboration to support systems coordination and integration; and
- Lift up local experience: lead with the expertise of local agencies and community organizations addressing homelessness and housing insecurity.

The Supportive Housing Services Program is guided by regional goals and oversight but implemented by Local Implementation Partners who are best positioned to respond to community needs. The program will directly fund Clackamas, Multnomah and Washington counties to invest in local strategies to meet the supportive housing and service needs in their communities.

Regional Oversight Committee Authorizing Ordinance

The Metro Council established the Regional Oversight Committee on 11, 19, 2020 by amending Metro Code Chapter 2.19.270 via Ordinance No. 20-1453.

Regional Oversight Committee's Purpose and Authority

The purpose of the Regional Oversight Committee is to provide independent program oversight on behalf of the Metro Council to ensure that investments achieve regional goals and desired outcomes and to ensure transparency and accountability in Supportive Housing Services Program activities and outcomes.

The committee is charged with the following duties:

- Evaluate Local Implementation Plans, recommend changes as necessary to achieve program goals and guiding principles, and make recommendations to Metro Council for approval;
- Accept and review annual reports for consistency with approved Local Implementation Plans and regional goals;
- Monitor financial aspects of program administration, including review of program expenditures; and
- Provide annual reports and presentations to Metro Council and Clackamas, Multnomah and Washington County Boards of Commissioners assessing performance, challenges and outcomes.

Committee Membership

The committee is composed of 15 voting members (5 members each from Clackamas, Multnomah and Washington counties), appointed by the Metro Council President subject to Metro Council confirmation.

Committee membership represents a diversity of perspectives, geography, demographics, and personal and professional experience, including people with lived experience of homelessness or housing instability from across the region. Committee members serve as independent representatives of the community contributing their experiences and expertise to the oversight work. Members do not represent any specific organizations, jurisdictions or other entities.

The Metro Council President will designate at least one member to serve as chairperson of the committee or may elect to designate two members to serve as co-chairpersons of the committee.

- **Terms of service:** Nine of the initial committee members will be appointed to serve a one-year term and may be reappointed to serve up to two additional two-year terms. All other committee members will be appointed to serve two-year terms and may be reappointed to serve up to two additional two-year terms. The committee will be dissolved in 2031 or upon the issuance of a final report by the committee after all funds authorized by Ballot Measure 26-210 have been spent, whichever is earlier.
- **Attendance:** The committee will meet no fewer than four times a year. Meetings will be more frequent in the first year, and at least quarterly throughout program implementation. In the interest of maintaining continuity in discussions, members commit to attending all meetings unless they are prevented from doing so by reasonable excuse. Committee members will notify staff ahead of meetings if they are unable to be present, and will read materials and request briefings from staff on the information presented, deliberations and outcomes of the meeting. The committee will not use alternates or proxies.

Chairperson(s) Role

Chairperson(s) may be selected by the Metro Council President to support and provide guidance on content and ideas to meet the committee goals, support decision making procedures, and help develop agendas and the work program of the committee.

Metro Council and Staff Roles

Metro Council will appoint committee members, receive committee recommendations and annual review reports to inform Local Implementation Plan approval and policy decisions. Metro staff will facilitate the work program of the committee, provide policy and program information and context as needed to the committee, and work in coordination with programmatic staff from Implementing Partner jurisdictions.

Elected Delegate Role

Elected delegates representing partnering jurisdictions will be present to the oversight and accountability work to receive feedback and direction from the committee relevant to program implementation outcomes, and transfer knowledge and communication directly to their respective jurisdictions. One representative from each of the following jurisdictions will participate on the committee as non-voting delegates:

- Metro Council
- Clackamas County Board of Commissioners
- Multnomah County Board of Commissioners
- Washington County Board of Commissioners
- Portland City Council

Accountability

All committee meetings and materials will be available and accessible to the public, and appropriate notice will be given to inform all interested parties of the time, place and agenda of each meeting.

Committee members are considered public officials under Oregon law and are responsible for complying with provisions in Oregon law, including:

- **Use of position:** Committee members are prohibited from using or attempting to use their position (including access to confidential information obtained through their position) to obtain a financial benefit for themselves, for a relative or for a business with which the member or relative is associated.
- **Conflicts of interest:** Committee members must publicly announce any potential or actual conflicts of interest on each occasion that they are met with the conflict. A conflict of interest occurs when a member's official actions on the committee could or would result in a financial benefit or detriment to themselves, a relative or a business with which the member or relative is associated. In the case of an actual conflict of interest, committee members must refrain from participating in any discussion or taking any action on the issue.

- **Restrictions on political activity:** Committee members may not engage in campaign-related political activity during committee meetings or while working in an official capacity as a committee member. Restricted activities include promoting or opposing candidates, ballot measures or political committees.
- **Public records and meetings:** Committee members are subject to the provisions of Oregon Public Records and Meetings Law. All committee meetings and records shall be open and available to the public. This includes discussions of committee business by email or in gatherings of a quorum of committee members outside of regular committee meetings.

ADDENDUM C

DEFINITIONS FOR SECTIONS 4.2 AND 4.3

Extremely low income: A household earning less than 30 percent of Area Median Income (AMI).

Extremely rent burdened: A household paying 50 percent or more of income toward rent and utilities.

Homelessness: An individual or family who lacks a fixed, regular and adequate nighttime residence including:

- Individuals or families who are sharing the housing of others due to loss of housing, economic hardship or a similar reason; are living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
- Individuals or families who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or
- Individuals or families who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations or similar settings.

Imminent risk of literal homelessness: Any circumstance that provides clear evidence that an individual or family will become literally homeless without supportive housing services within 14 days of application for assistance. This includes but is not limited to:

- Individuals or families who are involuntarily doubled up and who face literal homelessness;
- Individuals exiting an institution (including but not limited to exiting incarceration or foster care) and who face literal homelessness; and
- Individuals or families fleeing a domestic violence or abuse situation and who face literal homelessness.

Involuntarily doubled up: Individuals or families who are sharing the housing of others due to loss of housing, economic hardship or a similar reason.

Literal homelessness: An individual or family who lacks a fixed, regular and adequate nighttime residence, meaning:

- Has a primary nighttime residence that is a public or private place not meant for human habitation;
- Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state and local government programs); or
- Is exiting an institution where the individual has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.

Long-term and frequent episodes of literal homelessness: 12 or more months of literal homelessness over three years.

Substantial risk of homelessness: A circumstance that exists if a household is very low income and extremely rent burdened, or any other circumstance that would make it more likely than not that without supportive housing services the household will become literally homeless or involuntarily doubled-up.

Supportive housing services: Services for people experiencing homelessness and housing instability including, but not limited to:

- Housing services:
 - supportive housing
 - long-term rent assistance
 - short-term rent assistance
 - housing placement services
 - eviction prevention
 - transitional housing
 - shelter
- Outreach and engagement supports:
 - street outreach services
 - in-reach services
 - basic survival support services
- Health and wellness supports:
 - mental health services
 - interventions and addiction services (crisis and recovery)
 - physical health services
 - intervention services for people with physical impairments and disabilities
 - peer support services
 - discharge intervention services
- Employment and benefit supports:
 - financial literacy services
 - employment services
 - job training and retention services
 - educational services
 - workplace supports
 - benefits navigation and attainment services
- Advocacy supports:
 - landlord tenant education and legal services
 - fair housing advocacy

Very low income: A household earning less than 50 percent of AMI.

ADDENDUM D

LOCAL IMPLEMENTATION PLAN REQUIREMENTS

Each county will prepare a Local Implementation Plan to describe their local housing and homeless service needs, current programming and unmet programming capacities, and proposed use of funds in accordance with the purposes of the regional Supportive Housing Services Program.

Local Implementation Plans must include:

- A. **Analysis of inequitable outcomes.** An articulation of racial inequities in housing stability and access to current services, including:
 - An analysis of the racial disparities among people experiencing homelessness and the priority service population;
 - An analysis of the racial disparities in access to programs, and housing and services outcomes, for people experiencing homelessness and the priority service populations; and
 - An articulation of barriers to program access that contribute to the disparities identified in the above analysis.
- B. **Racial equity strategies.** A description of mitigation strategies and how the key objectives of Metro's Strategic Plan to Advance Racial Equity, Diversity and Inclusion have been incorporated. This should include a thorough racial equity analysis and strategy that includes clearly defined mitigation strategies and resource allocations intended to remedy existing disparities and ensure equitable access to funds and services.
- C. **Inclusive community engagement.** An articulation of how perspectives and recommendations of Black, Indigenous and people of color, people with lived experiences, and culturally specific groups were considered and incorporated into the development of the plan and will continue to be engaged through implementation and evaluation. Including:
 - Advisory body membership that meets the criteria listed in Section 5.1; and
 - A description of how the plan will remove barriers to participation for organizations and communities by providing stipends, scheduling events at accessible times and locations, and other supportive engagement strategies.
- D. **Priority population investment distribution.** A commitment that funding will be allocated as defined in Section 4.2.
- E. **Current investments.** A review of current system investments or capacity serving priority populations, including:
 - An analysis of the nature and extent of gaps in services to meet the needs of the priority population, broken down by service type, household types and demographic groups.
 - A commitment to maintain local funds currently provided. Supportive Housing Services revenue may not replace current funding levels, with the exception of good cause requests for a temporary waiver such as a broad economic downturn.
- F. **Distribution.** A strategy for equitable geographic distribution of services within the respective jurisdictional boundary and the Metro jurisdictional boundary.

- G. **Access coordination.** A plan for coordinating access to services with partnering jurisdictions and service providers across the region. This includes a commitment that any documentation required for determining program eligibility will be low barrier and include self-reporting options.
- H. **Procurement and partners.** A description of how funds will be allocated to public and nonprofit service providers, including:
- Transparent procurement processes and a description of the workforce equity procurement standards;
 - A commitment to partner with service providers who affirmatively ensure equitable pay and livable wages for their workers, and who will provide anti-racist, gender-affirming services consistent with regionally established, culturally responsive policies and standards; and
 - A description of how funding and technical assistance will be prioritized for providers who demonstrate a commitment to serve Black, Indigenous and people of color with culturally specific and/or linguistically specific services, including programs that have the lowest barriers to entry and actively reach out to communities screened out of other programs.
- I. **Planned investments.** An articulation of programmatic investments planned, including:
- The types of housing services to be funded to address the gap analysis, including specifically:
 - Supportive housing
 - Long-term rent assistance
 - Short-term rent assistance
 - Housing placement services
 - Eviction prevention
 - Shelter and transitional housing
 - A description of the support services to be funded in tandem with these housing services;
 - A commitment to one regional model of long-term rent assistance;
 - A description of other program models for each type of service that define expectations and best practices for service providers;
 - A description of how investments by service type will be phased to increase over the first three years of program implementation as revenues grow, and how decisions will be made to scale investments by service types with funding increases and decreases over time, including a plan to ensure housing stability for program participants; and
 - A description of programming alignment with, and plans to leverage, other investments and systems such as Continuum of Care, Medicaid, behavioral health and capital investments in affordable housing.
- J. **Outcomes, reporting and evaluation.** An agreement to track and report on program outcomes annually as defined through regional coordination and with regional metrics, including:
- A description of annual outcomes anticipated. Goals will be updated annually as programming evolves and based on anticipated annual revenue forecasts. Goals may include:
 - number of supportive housing units created
 - numbers of housing placements made
 - number of eviction preventions
 - rate of successful housing retention, etc.
 - A commitment to tracking outcomes as established and defined through regional coordination and with regionally established metrics. This includes consistency in data disaggregation using regionally standardized values and methodology to understand

- disparate outcomes for people by race, ethnicity, disability status, sexual orientation and gender identity. (See Section 5.2 for the regionally required outcome metrics.)
- A commitment to regional measurable goals to decrease racial disparities among people experiencing homelessness. (See Section 5.2 for the regional measurable goals for advancing racial equity.)
 - A commitment to evaluation standards and procedures to be established through regional coordination. Evaluation will be conducted every three years and include performance of systems coordination, housing and service program types, and services provision.

From: [Metro Supportive Housing Services](#)
To: [REDACTED]
Subject: RE: [External sender]New ideas?
Date: Monday, November 23, 2020 4:07:05 PM

Dear Jonathan,

Thank you for providing your input on the Supportive Housing Services Work Plan. Staff will be reviewing all feedback received and providing a summary and updated staff recommendations to Council in response to the combined feedback. We have recorded your response and it will be included in the Metro Council materials as an attachment to the proposed resolution to adopt the Work Plan on December 10th.

We appreciate your engagement,
Metro Housing

-----Original Message-----

From: Jonathan Blatt [REDACTED]
Sent: Wednesday, November 18, 2020 1:54 PM
To: Metro Supportive Housing Services <HousingServices@oregonmetro.gov>
Subject: [External sender]New ideas?

CAUTION: This email originated from an External source. Do not open links or attachments unless you know the content is safe.

Hi, thank you for the difficult work you are doing on an important problem.

I humbly suggest the following idea can help get more people into housing:

1. Since new privately built apartments with inclusionary zoning don't get built fast enough; 2. Since new subsidized housing buildings and a few hotel purchases can't ever get done fast enough; 3. We simply need more ideas or we'll never catch up on housing people.

So here it is:

City, county and state additional money to landlords of already existing buildings in addition to the amount they would receive from housing vouchers, this would Incentivize landlords to take in people who need help. I have been a landlord and rented to someone in need when i was reassured by their family who I knew that they would back them up if needed. Some consideration to guaranteeing landlords for damage should also be considered.

The stock of existing housing vacancies is far far bigger than the very limited number of new units coming online. This is where we can create a huge dent in the problem.

Thank you for consideration of this idea.

Please reply as to your evaluation of this idea and confirm receipt of this email.

Thanks again, respectfully submitted,
Jonathan Blatt

Sent from my iPhone

From: [Metro Supportive Housing Services](#)
To: [REDACTED]
Subject: RE: [External sender]Supportive Housing Services Program Work Plan
Date: Monday, November 23, 2020 4:08:07 PM

Dear Andy,

Thank you for providing your input on the Supportive Housing Services Work Plan. Staff will be reviewing all feedback received and providing a summary and updated staff recommendations to Council in response to the combined feedback. We have recorded your response and it will be included in the Metro Council materials as an attachment to the proposed resolution to adopt the Work Plan on December 10th.

We appreciate your engagement,
Metro Housing

From: Andy Nelson [REDACTED]
Sent: Wednesday, November 18, 2020 2:12 PM
To: Metro Supportive Housing Services <HousingServices@oregonmetro.gov>
Subject: [External sender]Supportive Housing Services Program Work Plan

CAUTION: This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Thanks for the opportunity to review the plan and offer feedback. The plan connects well to the planning work done through the HereTogether Advisory process. My one suggestion is to expand the service strategy to call out culturally-responsive service providers. Culturally-specific organizations ought to be a priority. They won't be able to do the work alone. It's important to set criteria for what is a culturally-responsive organization. The Meyer Memorial Trust's [DEI Spectrum Tool](#) provides an excellent example.

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ANDY NELSON
Executive Director [IMPACT NW](#)
[REDACTED]
He/Him/HIS

[Join the movement to prevent homelessness](#)



Metro SHS Staff:

Comments on SHS Program Work Plan, November, 2020

11/20/20

First, I concur with the comments from the Council during the 17 November Work Session to the effect that the proposed Work Plan represents a great deal of overwhelmingly solid work and forethought regarding how the region is to proceed in providing effective supportive services. I am entirely supportive of the goals and urgency to make this happen quickly and effectively.

That said, having listened to the 17 November Council presentation, and having had a bit more time to review the SHS Work Plan, I have a few comments that I feel deserve some additional thought or elaboration. Staff may already have taken these observations into account and I cannot claim to understand all the considerations that have been included.

Comment # 1:

My previous comment (e-mail - 17 November) regarding the tri-county advisory body needs some modification. On further reading I realized that, indeed, the Work Plan envisions an additional group that you have labeled the “tri-county advisory body”. My preliminary comment was the result of some misunderstanding on my part since it would seem that the Regional Oversight Committee (ROC) is also, by design, a “tri-county advisory group”. My first suggestion would be to give the second advisory body a specific name and acronym to avoid confusion. My first suggestion would be: SHS Advisory Group (SHSAG), which is catchy but not easy to pronounce, yet still better than TCSHSAG (tri-county SHS advisory group). I will use SHSAG for convenience.

Comment #2:

I found the apparent overlap between the 2 committees somewhat confusing and the role of the SHSAG somewhat lacking in clarity. The ROC is specifically constituted to “provide policy and programmatic guidance” [S. 3.4] which seems to overlap with the role of the SHSAG to “identify regional goals strategies and outcome metrics and....to inform the SHS program implementation.” [S. 6.1]. In addition, both committees seem to rely on overlapping membership criteria such as lived experiences, experience with critical homelessness issues, ethnic and geographic diversity, and having skills or expertise in such services. I understand that the ROC is largely specified by the ballot measure while the SHSAG must be created by Metro and that some overlap is unavoidable, but on a technical level, it might be clarified at the outset whether individuals may be members of both committees or only one. I assume the size of the SHSAG will be determined at a later date and note that the ROC might be asked to provide input on that matter.

Comment #3:

Perhaps I missed something but the level and type of authority and the channels of communication between the SHSAG and other groups was not very clear. The Work Plan calls for this group to be created by Metro and of course Metro can structure its

responsibilities at a later date, but it would seem valuable to provide an outline of its communication role and responsibilities vis a vis both the ROC and the Local Implementation Partners (LIPs) should be identified in the Work Plan. It would seem the benefits of an additional group (the SHSAG) would be in bringing in both more and more diverse regional “players”. It would seem that close coordination with the ROC might be a benefit to the process and help distill, for the Council, any proposed changes in policies or implementation strategies. It would seem potentially disadvantageous to have two independent groups trying to advise Metro Council on how to move forward. Since the SHSAG also envisions elected members, some formal pathways for interaction with the LIPs might also be needed.

Comment #4:

This is a comment regarding the timing and wording of the “charge” of the SHSAG as noted in 6.1. From a timing standpoint, it would seem that the current Work Plan provides much of the basis for “regional goals, strategies, and outcome metrics”, such that the real role of the SHSAG will be to suggest midcourse corrections. Since funding for full implementation will ramp up over 2021, it would seem that processes and goals (at least on an interim basis) would already be in place by the time the SHSAG has the full support it needs to function. In addition, one or two years of early implementation metrics will indubitably guide their analysis and input.

Comment #5:

Regarding metrics: Although I am by no means more than a novice in the field of SHS, it would be my hope that metrics beyond housing metrics might be developed. These might include the number of persons interacted with and response resource expenditures for services such as counseling, medical interventions, critical transportation, etc. I assume these have been considered but did not see them called out.

Comment #6:

The taxation plan seems quite thorough and well laid out, with suitable alterations to avoid double taxations. I did note one part of the verbal presentation that was not included in the written materials and that was regarding use of a basic calculation assumption based on Portland and Multnomah County vs. the method used by the State of Oregon. My only comment would be to ask for more information on how this calculatory assumption comports with the other larger cities in the region. I cannot comment further since this element does not seem to be covered in the supporting materials.

General Comments:

Overall I find the SHA Work Plan to be very good basis for moving forward and represents a great deal of excellent work. I support it and will work to make its goals into reality. I hope more detail on the structure and charge of the SHSAG will be developed in the early phases of the implementation. I hope these comments are helpful.

Gerritt Rosenthal

IN CONSIDERATION OF

- ORDINANCE 20-1452, FOR THE PURPOSE OF ADDING A NEW TITLE XI TO THE METRO CODE AND A NEW CHAPTER 11.01 “SUPPORTIVE HOUSING SERVICES PROGRAM” WITHIN THAT TITLE; and
- ORDINANCE 20-1453, FOR THE PURPOSE OF ADDING A NEW METRO CODE SECTION 2.19.270 ESTABLISHING A SUPPORTIVE HOUSING SERVICES REGIONAL OVERSIGHT COMMITTEE; and
- ORDINANCE 20-1454, FOR THE PURPOSE OF AMENDING METRO CODE TITLE VII TO ADD NEW CHAPTERS 7.05 “INCOME TAX ADMINISTRATION FOR PERSONAL AND BUSINESS TAXES,” 7.06 “PERSONAL INCOME TAX,” AND 7.07 “BUSINESS INCOME TAX”
- RESOLUTION 20-5148 TO ADOPT THE SUPPORTIVE HOUSING SERVICES WORK PLAN

Date: November 24, 2020
Department: Planning and Development
Meeting Date: December 3, 2020

Prepared and Presented by: Jes Larson
and Rachael Lembo
Length: 40 minutes

ISSUE STATEMENT

In February 2020, the Metro Council referred a ballot measure to voters that would authorize funding for regional supportive housing services and in May 2020, voters approved it. The ordinance authorizing the income taxes stated that, upon passage of the ballot measure, the “Metro Council will take further action to establish rules to enforce and implement the taxes imposed by the measure.”

Following direction given by Metro Council during the November 17, 2020 work session, these ordinances update Metro code to establish the Regional Supportive Housing Services program and oversight committee and to enact the tax collection system. The resolution approves a programmatic work plan as needed to direct implementation for the Planning and Development department.

Certain sections of the tax code have prompted discussion and comments since the November 17 work session.

- **Apportionment methodology.** Apportionment refers to the way a business allocates their net income when they also operate outside the Metro district, in this case specifically of services and other intangible items. Multnomah County and the City of Portland use a cost of performance method, and the State of Oregon uses a market based method. Metro’s charter authority to impose income taxes also provides latitude on how it structures those taxes. With respect to apportionment, Metro can choose either a cost of performance or market based methodology for

apportionment of income. At the work session, staff proposed we adopt the method consistent with Multnomah County and the City of Portland because it will result in lower collection costs. However, Metro could alternatively choose the market based method and align with the State of Oregon. The City has estimated this would increase collection costs by approximately \$500,000 per year. Metro staff do not have access to data to analyze the impact to tax revenue, however, this would result in a higher number of nonresident businesses subject to tax, which can be more challenging for enforcement.

- **Head of household filing status.** As noted at the November 17 work session, Metro has two filing statuses, single and joint, however there are five filing statuses available at the State level. Staff proposed individuals using head of household filing status on their State tax return would file a Metro single tax return, which has an income exemption of \$125,000. Alternatively, those filers could file a Metro joint tax return, which would result in an income exemption of \$200,000. The estimated maximum tax revenue impact from this change is a reduction of \$2,812,500, based on available State data.
- **Employer withholding.** At the November 17 work session, staff proposed Metro require employers to *offer* withholding, but not require mandatory withholding. This was primarily due to the challenge for employers in determining the correct withholding amount and the risk of over-withholding. Since that work session, staff have been working with Multnomah County staff as they prepare their code for the Preschool for All income tax, with the goal of aligning the codes to provide consistency to tax filers. Through those discussions Metro and Multnomah County have agreed on a revised withholding recommendation: voluntary employer withholding in calendar year 2021, and mandatory employer withholding for employees earning more than \$200,000 beginning calendar year 2022 unless an employee chooses to “opt out” of withholding. Thus, although employers would be required to withhold, employees would still have the option to opt in or out of withholding, just as with most income taxes. Requiring employer withholding at the higher threshold of \$200,000 results in less risk of over-withholding than if a lower threshold was used. The attached code proposal reflects this updated recommendation.
- **Pass-through entity taxation.** In the ordinance which referred this measure to the voters, Metro stated it would utilize, as guidance, the Multnomah County Business Income Tax rules and procedures for the business income tax. The County taxes all businesses, including pass through entities such as s-corporations and partnerships. At a State level, pass through entities do not pay business tax based on net income, instead they report net income to their owners, who then pay personal income tax on that income. As a result of this, Metro developed a solution to ensure pass through income was not taxed twice. Alternatively, Metro could exempt pass through entities from the business tax, and tax the owners via the personal income tax. Due to the income exemption on the personal income tax, this would result in lower tax revenue. The estimated maximum tax revenue impact from this change is

a reduction of \$15,000,000, based on staff analysis on double taxation. This alternative would result in a number of complex changes throughout both the business and personal income tax codes. If Metro Council directs staff to prepare this code change it may be prudent to delay adoption of the ordinance by another week in order for the technical experts on the tax table to review the proposed changes and their possible effects.

- **PBA Testimony (November 19).** The Portland Business Alliance (PBA) provided oral and written comment at the November 19 Council Meeting, asserting that the “voter-approved ordinance and proposed code may run afoul of a state law requiring any Metro income tax to be consistent with the Oregon income tax.” PBA specifically asserted that Metro’s approach to income apportionment and entity-level taxation were not “consistent” with how the state administers its business income taxes. The PBA’s “consistency” assertions rely on ORS 268.505.

However, Metro has both Charter authority (Metro Charter, Chapter III, Section 11) and statutory authority (ORS 268.505) to impose personal and business income taxes. Accordingly, Metro has two completely independent sources of authority– or options – for imposing income taxes, though both require voter approval. At the time of adoption, and in the Measure itself, Metro was clear in its intent to use the Multnomah County Business Income Tax as guidance for implementing Metro’s business income tax. This provided direction to staff developing the proposed Code. Metro’s independent charter authority to impose these taxes does not require it to “be consistent” with state law (although it may choose to do so). Rather, it provides the Metro Council with flexibility in how the Council chooses to structure these taxes.

ACTION REQUESTED

Staff requests adoption of Ordinances No. 20-1452, 20-1453, 20-1454 and Resolution 20-5148.

Ordinance No. 20-1454, for the purpose of amending Metro code title VII to add new Chapters 7.05, “Income Tax Administration for Personal and Business Taxes”, 7.06 “Personal Income Tax”, and 7.07 “Business Income Tax” contains an emergency clause and would become effective immediately upon adoption. This will allow staff to proceed with adoption of administrative rules to assist taxfilers with these new tax codes.

IDENTIFIED POLICY OUTCOMES

The establishment of the Supportive Housing Services program and the regional oversight committee in the Metro Code and programmatic work plan will define and describe the roles, responsibilities and administrative actions needed for implementation of the program.

The Metro income tax codes codify certain provisions of the Supportive Housing Services Measure approved by the voters, and the codes will also establish rules to implement the taxes imposed by the measure in an effective and efficient manner. These rules provide

details and also address tax considerations which were not addressed in the measure yet impact the tax paid by individuals and businesses and the total tax collected by Metro.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

- Adoption of these ordinances and resolution. This will allow staff to proceed with establishment of the Supportive Housing Services program, regional oversight committee and implementation of the tax system.
- Adoption of these ordinances and resolution with revisions or modifications as described by Council.
- Rejection of these ordinances and resolution with other direction to staff for development of this program and the tax system. This would delay implementation.

STAFF RECOMMENDATIONS

Staff recommend that Metro Council adopt Ordinances No. 20-1452, 20-1453, 20-1454 and Resolution 20-5148.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Implementation of the regional affordable housing bond program has been guided by a work plan developed by staff to define and develop the intentions described in the ballot measure. Staff have taken a similar approach with the Supportive Housing Services program to further develop and define the programmatic intentions of the ballot measure with a programmatic work plan.

Over the summer, a regional stakeholder advisory table was convened to provide guidance on early implementation questions. It was composed of a broad-based group of community stakeholders including culturally specific organizational leaders, housing, homeless and social service providers, behavioral health and healthcare providers and business interests. The table also included agency leadership from the three housing authorities and county homeless services agencies. The table met four times over the summer to prepare recommendations for the Metro Chief Operating Officer to inform development of the programmatic work plan and code, to be brought before Metro Council for consideration in the fall.

Development of the work plan has been further advised by Metro Council direction at the November 17th work session, and a public comment period that concluded on November 30th.

Metro staff formed a tax implementation advisory table to advise on technical aspects of tax implementation, technical issues, and provide recommendations to ensure a smooth, legal and easy tax collection process. Members included experts in taxation, tax policy, tax implementation and business stakeholders. The table met with staff five times this year and provided input on development of the tax codes.

BACKGROUND

Homelessness and housing prices have increased dramatically in the Portland area over the past decade. Estimates of homelessness in the region range between 6,000 and 12,000 people. In January 2019, officials counted 5,711 people experiencing homelessness in Clackamas, Multnomah and Washington counties. Additionally, the Oregon Department of Education counted more than 7,000 students who experienced homelessness in the 2018 school year in Metro-area school districts. These reports undercount people experiencing homelessness while staying with a friend or family, or living in vehicles.

In recent years, more people are experiencing ‘chronic’ or prolonged homelessness. Approximately 3,123 to 4,935 people in the region experience homelessness related to complex and disabling conditions.

Additionally, Black, Indigenous and People of Color (BIPOC) disproportionately experience homelessness. BIPOC make up 21% of the total population in the tri-county area but comprise 31% of the homeless population. More specifically, Black and Indigenous people make up 5% of the total population but comprise over 20% of the homeless population.

The HereTogether coalition, a broad group of service providers, business leaders and advocates worked over the course of the last two years to develop the Regional Supportive Housing Services measure. As a broad coalition they identified the regional supportive housing need, developed programmatic and taxation strategies, engaged communities and built broad consensus for their programmatic and governance framework. With the support of elected leadership in Clackamas, Multnomah and Washington counties, they approached Metro in the Fall of 2019 requesting that Metro refer a measure to the region’s voters. In February 2020, the Metro Council unanimously referred the measure to voters and the voters passed the measure with 58% support in May 2020.

ATTACHMENTS

- Ordinance 20-1452, For the Purpose of Adding a New Title XI to the Metro Code and a New Chapter 11.01 “Supportive Housing Services Program” within that Title; and
- Ordinance 20-1453, For the Purpose of Adding a New Metro Code Section 2.19.270 Establishing a Supportive Housing Services Regional Oversight Committee; and
- Ordinance 20-1454, For the Purpose of Amending Metro Code Title VII to Add New Chapters 7.05 “Income Tax Administration for Personal and Business Taxes”, 7.06 “Personal Income Tax”, and 7.07 “Business Income Tax”; and
- Resolution 20-5148 to adopt the Supportive Housing Services work plan

Agenda Item No. 5.3

Ordinance No. 20-1452, For the Purpose of Adding a New Title XI to the Metro Code and a New Chapter 11.01 “Supportive Housing Services Program” within that Title

Ordinance (First Reading and Public Hearing)

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADDING A NEW TITLE	)	ORDINANCE NO. 20-1452
XI TO THE METRO CODE AND A NEW)	
CHAPTER 11.01 “SUPPPORTIVE HOUSING	)	Introduced by Chief Operating Officer
SERVICES PROGRAM” WITHIN THAT TITLE	)	Marissa Madrigal in concurrence with
	)	Council President Lynn Peterson

WHEREAS, on February 25, 2020, the Metro Council adopted Ordinance 20-1442 which, among other things, imposed business and personal income taxes to fund a Supportive Housing Services Program and found that homeless and housing services is a matter of metropolitan concern; and

WHEREAS, as part of that Ordinance adoption, the Metro Council found that the greater Portland region is facing a severe housing affordability and homelessness crisis, which endangers the health and safety of thousands of our unhoused neighbors. Homelessness is a deeply traumatic and dehumanizing experience that no person should have to endure, regardless of their circumstances; and

WHEREAS, the Council further found that thousands of households in the greater Portland region need supportive housing, and thousands more need housing assistance and other supports to achieve housing stability, according to the February 2020 ECONorthwest report entitled “Potential Sources and Uses of Revenue to Address the Region’s Homeless Crisis,” and

WHEREAS, the Council further found that the housing affordability and homelessness crisis in the greater Portland region impacts us all and requires collective and individual action from every person, business, elected official, and resident that calls the region home; and

WHEREAS, the Council also found that the homelessness crisis is an issue of scale and services do not yet match the scope of the crisis, and additional revenue is required to scale services to meet the needs and scope of the crisis; and

WHEREAS, Resolution 20-5083 referred Ordinance 20-1442 (Supportive Housing Services) to the voters for approval, which was designated as Measure 26-210 by Multnomah County Elections and placed on the May 2020 ballot (the “Measure”); and

WHEREAS, on May 19, 2020, the Metro area voters approved the Measure, thereby approving Ordinance 20-1442; and

WHEREAS, Resolution 20-5083 authorized the Metro Attorney to assign the Measure’s sections with title, chapter and section numbers for the Metro Code as the Metro Attorney deemed appropriate based on current Metro Code titles, chapters and sections; and

WHEREAS, this ordinance codifies, amends and supplements the Measure; and

WHEREAS, the sections of the Measure regarding imposition of the personal and business income taxes are being codified in new Metro Code Chapter 7.05 (Tax Administration), Chapter 7.06 (Personal Income Tax), and Chapter 7.07 (Business Income Tax); and

WHEREAS, the sections of the Measure regarding the establishment of a Regional Oversight Committee are being codified in Metro Code Chapter 2.19 (Regional Oversight Committee); and

WHEREAS, this Ordinance codifies the sections of the Measure regarding the programmatic aspects of providing Supportive Housing Services into a new Title XI, Chapter 11.01 of the Metro Code, with certain amendments as appropriate; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. A new Metro Code Chapter 11.01 attached as Exhibit A and entitled “Supportive Housing Services Program” is added to a new Metro Code Title XI.
2. This ordinance codifies, amends and supersedes the language in Measure 26-210. To the extent that any terms or conditions in Measure 26-210 conflict with the terms and conditions in this ordinance, this ordinance prevails.

ADOPTED by the Metro Council this ____ day of December 2020.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Jaye Cromwell, Recording Secretary

Carrie MacLaren, Metro Attorney

SUPPORTIVE HOUSING SERVICES PROGRAM

Section	Title
11.01.010	Title
11.01.020	Finding of Metropolitan Concern
11.01.030	Purpose
11.01.040	Definitions
11.01.050	Services and Priorities
11.01.060	Local Implementation Plan
11.01.070	Local Implementation Plan Development; Approval Process
11.01.080	Annual Reporting by Local Implementation Partners
11.01.090	Allocation of Revenue and Program Funds
11.01.100	Failure to Comply with Local Implementation Plan
11.01.110	Equity and Community Engagement
11.01.120	Use of Revenues
11.01.130	Administrative Cost Recovery
11.01.140	Oversight Committee Review of Administrative Costs
11.01.150	Use of Funds in Metro Jurisdictional Boundary Only
11.01.160	Accountability of Funds
11.01.170	Tri-County Advisory Body
11.01.180	Tri-County Planning
11.01.190	Administrative Rulemaking Authority

11.01.010 Title

This chapter is known and may be cited as the Supportive Housing Services Program.

11.01.020 Finding of Metropolitan Concern

Homeless and housing services are matters of metropolitan concern over which Metro may exercise jurisdiction.

11.01.030 Purpose

The Supportive Housing Services Program will use revenue derived from the Metro Income Tax Laws (Chapters 7.06 and 7.07) to fund services for people experiencing homelessness and housing instability.

11.01.040 Definitions

Implementation Intergovernmental Agreement means the intergovernmental agreement between Metro and the Local Implementation Partner that governs the disbursement and uses of Program Funds.

Local Implementation Partner means a local government that receives Program Funds from Metro to implement the Supportive Housing Services Program and which enters into an Intergovernmental Agreement to receive those funds. Local Implementation Partners are generally Clackamas, Washington and Multnomah Counties.

Local Implementation Plan means the document that establishes the proposed use of the Supportive Housing Services Revenue and how these uses align with the purposes of the Supportive Housing Services Program.

Program Funds means funds available to a Local Implementation Partner, which generally consists of the Supportive Housing Services Revenue minus Metro’s administrative and collection costs.

Regional Oversight Committee means the committee established to oversee the Supportive Housing Services Program as more fully described in Metro Code Section 2.19.270.

Supportive Housing Services Program Work Plan or **Work Plan** means the Supportive Housing Services Program Work Plan adopted by the Metro Council on **December 10, 2020**.

Supportive Housing Services Revenue means all funds received from the taxes imposed by Metro

Code Chapters 7.06 and 7.07.

11.01.050 Services and Priorities

- (a) Supportive housing services revenue will fund supportive housing services that include housing services, outreach and engagement supports, health and wellness supports, employment and benefit supports and advocacy supports.
- (b) Supportive Housing Services Revenue and Supportive Housing Services will first address the unmet needs of people who are experiencing or at risk of experiencing long-term or frequent episodes of homelessness. Metro will prioritize the Supportive Housing Services Revenue and Supportive Housing Services in a manner that provides equitable access to people of color and other historically marginalized communities.

11.01.060 Local Implementation Plan

- (a) To receive Supportive Housing Services funds, each Local Implementation Partner must prepare a Local Implementation Plan. The Plan will describe the Local Implementation Partner's local housing and homeless service needs, current programming and unmet programming capacities, and proposed use of funds in accordance with the purposes of the regional Supportive Housing Services Program.
- (b) Each Local Implementation Partner must create its Plan using a racial equity lens that ensures equitable participation, access and outcomes in all parts of the program and considers the best available quantitative and qualitative data.
- (c) Metro recognizes that each Local Implementation Partner may approach program implementation differently depending on the unique needs of its residents and communities. Therefore, it is the policy of the Metro Council that there be sufficient flexibility in implementation to best serve the needs of residents, communities, and those receiving Supportive Housing Services from program funding.

11.01.070 Local Implementation Plan Development; Approval Process

- (a) A Local Implementation Partner must develop its Local Implementation Plan using locally convened and comprehensive engagement processes that prioritize the voices of Black, Indigenous and people of color and people with lived experience. Plans must be developed in full partnership with advisory bodies that equitably reflect community expertise and experience. Each Local Implementation Partner may convene a new advisory body or use an existing body that fulfills the representation requirements.
- (b) In order for a Local Implementation Partner to receive Supportive Housing Services funds, the

Local Implementation Plan must be recommended for approval by the Supportive Housing Services Regional Oversight Committee and then approved by the Local Implementation Partner's governing body and the Metro Council.

11.01.080 Annual Reporting by Local Implementation Partners

Each Local Implementation Partner must submit an Annual Progress Report to the Metro Council and the Regional Oversight Committee summarizing its progress and outcomes under the Local Implementation Plan.

11.01.090 Allocation of Revenue and Program Funds

- (a) After Metro has first retained funds necessary to pay for collection of the taxes, Metro may retain up to five percent of the remaining collected tax revenue for administration and oversight as more fully described in Section 11.01.130.
- (b) After funds have been allocated for collection, administration and oversight as set forth in subsection (a), Metro will then allocate the remaining Program Funds within each county using the following percentages: 21 1/3 percent to Clackamas County, 45 1/3 percent to Multnomah County and 33 1/3 percent to Washington County.
- (c) The percentages set forth in subsection (b) apply to revenue for the first two tax years. Thereafter, the percentages may be adjusted to reflect the portion of Supportive Housing Services Revenue actually collected in each county.

11.01.100 Failure to Comply with Local Implementation Plan

- (a) In coordination with the Regional Oversight Committee, Metro may adjust the allocation formula if program funds are unable to be fully spent in accordance with the regional program. Metro may also establish a regional reserve fund in order to address unanticipated expenses and cash flow needs.
- (b) Metro's Implementation Intergovernmental Agreements with each Local Implementation Partner will specify how Supportive Housing Services tax collections will be released. Agreements will include specifications for annual program budgets, financial reporting, practices for reserving funds, and redistribution of funds if a jurisdiction fails to comply with the Agreement.

11.01.110 Equity and Community Engagement

Metro has adopted a Strategic Plan to Advance Racial Equity, Diversity, and Inclusion which

includes specific goals and objectives to ensure that all people who live, work and recreate in the greater Portland region have the opportunity to share in and help define a thriving, livable and prosperous region. A key objective throughout the strategy is a commitment to advance equity related to stable and affordable housing. Metro will rely on the goals and objectives within the Strategic Plan to implement the Supporting Housing Services Program.

11.01.120 Use of Revenues

Unless expressly stated otherwise in this chapter, Supportive Housing Services Revenue may only be used for the purposes set forth in Sections 11.01.030 and 11.010.050, in addition to Metro's costs of collection and administration. Metro may establish a separate fund or funds for the purpose of receiving and distributing Supportive Housing Services Revenues.

11.01.130 Administrative Cost Recovery

After Metro's tax collection costs are paid, Metro may retain up to five percent of the remaining funds to pay for the costs to disburse the funds and administer and oversee the program. This includes convening and supporting the Regional Oversight Committee; establishing a regional homelessness data collection and reporting program; and supporting tri-county regional collaboration.

11.01.140 Oversight Committee Review of Administrative Costs

At least annually the Regional Oversight Committee will consider whether Metro's collection and administrative costs and each Local Implementation Partner's administrative costs could or should be reduced or increased. The Regional Oversight Committee will recommend to the Metro Council at least once a year as to how Metro can best limit collection and administrative costs.

11.01.150 Use of Funds in Metro Jurisdictional Boundary Only

Although some portion of each of the three recipient counties (Multnomah, Washington and Clackamas) are outside of the Metro jurisdictional boundary, Supportive Housing Services Revenue may be spent only for Supportive Housing Services provided within the Metro jurisdictional boundary.

11.01.160 Accountability of Funds

- (a) Each county or local government receiving funds must make an annual report to the Metro Council and the Regional Oversight Committee on how funds from the taxes have been spent and how those expenditures have affected established homelessness metrics.

(b) In the annual report, the Local Implementation Partner must demonstrate that County General Fund monies and other dedicated funding levels allocated for homelessness were at least as much as FY 20-21, in addition to the Supportive Housing Services program funds. A Local Implementation Partner may not displace funds committed before FY 20-21 except in extenuating circumstances and through a temporary waiver for good cause.

11.01.170 Tri-County Advisory Body

Metro will convene a tri-county advisory body to strengthen regional coordination in addressing homelessness in the region. The advisory body will identify regional goals, strategies and outcome metrics and provide guidance and recommendations to inform Supportive Housing Services Program implementation.

11.01.180 Tri-County Planning

Each county must annually contribute no less than five percent of that county's share of the Supportive Housing Services Revenue towards regional strategies as identified through Tri-County planning and approved by the Regional Oversight Committee.

11.01.190 Administrative Rulemaking Authority

- (a) The Chief Operating Officer may adopt administrative rules to further implement this chapter. This specifically includes the authority to establish representation requirements for the body that develops a Local Implementation Plan.
- (b) Until the Chief Operating Officer adopts administrative rules to further implement this chapter, the Supportive Housing Services Program Work Plan will further implement this chapter. However, if any term, requirement or condition in the Work Plan is in conflict with this chapter, the terms, requirements and conditions of this chapter prevail.

IN CONSIDERATION OF

- ORDINANCE 20-1452, FOR THE PURPOSE OF ADDING A NEW TITLE XI TO THE METRO CODE AND A NEW CHAPTER 11.01 “SUPPORTIVE HOUSING SERVICES PROGRAM” WITHIN THAT TITLE; and
- ORDINANCE 20-1453, FOR THE PURPOSE OF ADDING A NEW METRO CODE SECTION 2.19.270 ESTABLISHING A SUPPORTIVE HOUSING SERVICES REGIONAL OVERSIGHT COMMITTEE; and
- ORDINANCE 20-1454, FOR THE PURPOSE OF AMENDING METRO CODE TITLE VII TO ADD NEW CHAPTERS 7.05 “INCOME TAX ADMINISTRATION FOR PERSONAL AND BUSINESS TAXES,” 7.06 “PERSONAL INCOME TAX,” AND 7.07 “BUSINESS INCOME TAX”
- RESOLUTION 20-5148 TO ADOPT THE SUPPORTIVE HOUSING SERVICES WORK PLAN

Date: November 24, 2020
Department: Planning and Development
Meeting Date: December 3, 2020

Prepared and Presented by: Jes Larson
and Rachael Lembo
Length: 40 minutes

ISSUE STATEMENT

In February 2020, the Metro Council referred a ballot measure to voters that would authorize funding for regional supportive housing services and in May 2020, voters approved it. The ordinance authorizing the income taxes stated that, upon passage of the ballot measure, the “Metro Council will take further action to establish rules to enforce and implement the taxes imposed by the measure.”

Following direction given by Metro Council during the November 17, 2020 work session, these ordinances update Metro code to establish the Regional Supportive Housing Services program and oversight committee and to enact the tax collection system. The resolution approves a programmatic work plan as needed to direct implementation for the Planning and Development department.

Certain sections of the tax code have prompted discussion and comments since the November 17 work session.

- **Apportionment methodology.** Apportionment refers to the way a business allocates their net income when they also operate outside the Metro district, in this case specifically of services and other intangible items. Multnomah County and the City of Portland use a cost of performance method, and the State of Oregon uses a market based method. Metro’s charter authority to impose income taxes also provides latitude on how it structures those taxes. With respect to apportionment, Metro can choose either a cost of performance or market based methodology for

apportionment of income. At the work session, staff proposed we adopt the method consistent with Multnomah County and the City of Portland because it will result in lower collection costs. However, Metro could alternatively choose the market based method and align with the State of Oregon. The City has estimated this would increase collection costs by approximately \$500,000 per year. Metro staff do not have access to data to analyze the impact to tax revenue, however, this would result in a higher number of nonresident businesses subject to tax, which can be more challenging for enforcement.

- **Head of household filing status.** As noted at the November 17 work session, Metro has two filing statuses, single and joint, however there are five filing statuses available at the State level. Staff proposed individuals using head of household filing status on their State tax return would file a Metro single tax return, which has an income exemption of \$125,000. Alternatively, those filers could file a Metro joint tax return, which would result in an income exemption of \$200,000. The estimated maximum tax revenue impact from this change is a reduction of \$2,812,500, based on available State data.
- **Employer withholding.** At the November 17 work session, staff proposed Metro require employers to *offer* withholding, but not require mandatory withholding. This was primarily due to the challenge for employers in determining the correct withholding amount and the risk of over-withholding. Since that work session, staff have been working with Multnomah County staff as they prepare their code for the Preschool for All income tax, with the goal of aligning the codes to provide consistency to tax filers. Through those discussions Metro and Multnomah County have agreed on a revised withholding recommendation: voluntary employer withholding in calendar year 2021, and mandatory employer withholding for employees earning more than \$200,000 beginning calendar year 2022 unless an employee chooses to “opt out” of withholding. Thus, although employers would be required to withhold, employees would still have the option to opt in or out of withholding, just as with most income taxes. Requiring employer withholding at the higher threshold of \$200,000 results in less risk of over-withholding than if a lower threshold was used. The attached code proposal reflects this updated recommendation.
- **Pass-through entity taxation.** In the ordinance which referred this measure to the voters, Metro stated it would utilize, as guidance, the Multnomah County Business Income Tax rules and procedures for the business income tax. The County taxes all businesses, including pass through entities such as s-corporations and partnerships. At a State level, pass through entities do not pay business tax based on net income, instead they report net income to their owners, who then pay personal income tax on that income. As a result of this, Metro developed a solution to ensure pass through income was not taxed twice. Alternatively, Metro could exempt pass through entities from the business tax, and tax the owners via the personal income tax. Due to the income exemption on the personal income tax, this would result in lower tax revenue. The estimated maximum tax revenue impact from this change is

a reduction of \$15,000,000, based on staff analysis on double taxation. This alternative would result in a number of complex changes throughout both the business and personal income tax codes. If Metro Council directs staff to prepare this code change it may be prudent to delay adoption of the ordinance by another week in order for the technical experts on the tax table to review the proposed changes and their possible effects.

- **PBA Testimony (November 19).** The Portland Business Alliance (PBA) provided oral and written comment at the November 19 Council Meeting, asserting that the “voter-approved ordinance and proposed code may run afoul of a state law requiring any Metro income tax to be consistent with the Oregon income tax.” PBA specifically asserted that Metro’s approach to income apportionment and entity-level taxation were not “consistent” with how the state administers its business income taxes. The PBA’s “consistency” assertions rely on ORS 268.505.

However, Metro has both Charter authority (Metro Charter, Chapter III, Section 11) and statutory authority (ORS 268.505) to impose personal and business income taxes. Accordingly, Metro has two completely independent sources of authority– or options – for imposing income taxes, though both require voter approval. At the time of adoption, and in the Measure itself, Metro was clear in its intent to use the Multnomah County Business Income Tax as guidance for implementing Metro’s business income tax. This provided direction to staff developing the proposed Code. Metro’s independent charter authority to impose these taxes does not require it to “be consistent” with state law (although it may choose to do so). Rather, it provides the Metro Council with flexibility in how the Council chooses to structure these taxes.

ACTION REQUESTED

Staff requests adoption of Ordinances No. 20-1452, 20-1453, 20-1454 and Resolution 20-5148.

Ordinance No. 20-1454, for the purpose of amending Metro code title VII to add new Chapters 7.05, “Income Tax Administration for Personal and Business Taxes”, 7.06 “Personal Income Tax”, and 7.07 “Business Income Tax” contains an emergency clause and would become effective immediately upon adoption. This will allow staff to proceed with adoption of administrative rules to assist taxfilers with these new tax codes.

IDENTIFIED POLICY OUTCOMES

The establishment of the Supportive Housing Services program and the regional oversight committee in the Metro Code and programmatic work plan will define and describe the roles, responsibilities and administrative actions needed for implementation of the program.

The Metro income tax codes codify certain provisions of the Supportive Housing Services Measure approved by the voters, and the codes will also establish rules to implement the taxes imposed by the measure in an effective and efficient manner. These rules provide

details and also address tax considerations which were not addressed in the measure yet impact the tax paid by individuals and businesses and the total tax collected by Metro.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

- Adoption of these ordinances and resolution. This will allow staff to proceed with establishment of the Supportive Housing Services program, regional oversight committee and implementation of the tax system.
- Adoption of these ordinances and resolution with revisions or modifications as described by Council.
- Rejection of these ordinances and resolution with other direction to staff for development of this program and the tax system. This would delay implementation.

STAFF RECOMMENDATIONS

Staff recommend that Metro Council adopt Ordinances No. 20-1452, 20-1453, 20-1454 and Resolution 20-5148.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Implementation of the regional affordable housing bond program has been guided by a work plan developed by staff to define and develop the intentions described in the ballot measure. Staff have taken a similar approach with the Supportive Housing Services program to further develop and define the programmatic intentions of the ballot measure with a programmatic work plan.

Over the summer, a regional stakeholder advisory table was convened to provide guidance on early implementation questions. It was composed of a broad-based group of community stakeholders including culturally specific organizational leaders, housing, homeless and social service providers, behavioral health and healthcare providers and business interests. The table also included agency leadership from the three housing authorities and county homeless services agencies. The table met four times over the summer to prepare recommendations for the Metro Chief Operating Officer to inform development of the programmatic work plan and code, to be brought before Metro Council for consideration in the fall.

Development of the work plan has been further advised by Metro Council direction at the November 17th work session, and a public comment period that concluded on November 30th.

Metro staff formed a tax implementation advisory table to advise on technical aspects of tax implementation, technical issues, and provide recommendations to ensure a smooth, legal and easy tax collection process. Members included experts in taxation, tax policy, tax implementation and business stakeholders. The table met with staff five times this year and provided input on development of the tax codes.

BACKGROUND

Homelessness and housing prices have increased dramatically in the Portland area over the past decade. Estimates of homelessness in the region range between 6,000 and 12,000 people. In January 2019, officials counted 5,711 people experiencing homelessness in Clackamas, Multnomah and Washington counties. Additionally, the Oregon Department of Education counted more than 7,000 students who experienced homelessness in the 2018 school year in Metro-area school districts. These reports undercount people experiencing homelessness while staying with a friend or family, or living in vehicles.

In recent years, more people are experiencing ‘chronic’ or prolonged homelessness. Approximately 3,123 to 4,935 people in the region experience homelessness related to complex and disabling conditions.

Additionally, Black, Indigenous and People of Color (BIPOC) disproportionately experience homelessness. BIPOC make up 21% of the total population in the tri-county area but comprise 31% of the homeless population. More specifically, Black and Indigenous people make up 5% of the total population but comprise over 20% of the homeless population.

The HereTogether coalition, a broad group of service providers, business leaders and advocates worked over the course of the last two years to develop the Regional Supportive Housing Services measure. As a broad coalition they identified the regional supportive housing need, developed programmatic and taxation strategies, engaged communities and built broad consensus for their programmatic and governance framework. With the support of elected leadership in Clackamas, Multnomah and Washington counties, they approached Metro in the Fall of 2019 requesting that Metro refer a measure to the region’s voters. In February 2020, the Metro Council unanimously referred the measure to voters and the voters passed the measure with 58% support in May 2020.

ATTACHMENTS

- Ordinance 20-1452, For the Purpose of Adding a New Title XI to the Metro Code and a New Chapter 11.01 “Supportive Housing Services Program” within that Title; and
- Ordinance 20-1453, For the Purpose of Adding a New Metro Code Section 2.19.270 Establishing a Supportive Housing Services Regional Oversight Committee; and
- Ordinance 20-1454, For the Purpose of Amending Metro Code Title VII to Add New Chapters 7.05 “Income Tax Administration for Personal and Business Taxes”, 7.06 “Personal Income Tax”, and 7.07 “Business Income Tax”; and
- Resolution 20-5148 to adopt the Supportive Housing Services work plan

Agenda Item No. 5.4

Ordinance No. 20-1453, For the Purpose of Adding a New Metro Code Section 2.19.270
Establishing a Supportive Housing Services Regional Oversight Committee

Ordinance (First Reading and Public Hearing)

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADDING A NEW	)	ORDINANCE NO. 20-1453
METRO CODE SECTION 2.19.270)	
ESTABLISHING A SUPPORTIVE HOUSING	)	Introduced by Chief Operating Officer
SERVICES REGIONAL OVERSIGHT	)	Marissa Madrigal in concurrence with
COMMITTEE	)	Council President Lynn Peterson

WHEREAS, on February 25, 2020, the Metro Council adopted Ordinance 20-1442 which, among other things, imposed business and personal income taxes to fund a Supportive Housing Services Program; and

WHEREAS, Resolution 20-5083 referred Ordinance 20-1442 (Supportive Housing Services) to the voters for approval, which was designated as Measure 26-210 by Multnomah County Elections and placed on the May 2020 ballot (the “Measure”); and

WHEREAS, on May 19, 2020, the Metro area voters approved the Measure, thereby approving Ordinance 20-1442; and

WHEREAS, recognizing the importance of independent oversight for new Metro programs, the Measure established a Supportive Housing Services Regional Oversight Committee; and

WHEREAS, on November 19, 2020, the Metro Council appointed members to the Regional Oversight Committee in a manner and under the membership requirements as set forth in the Measure; and

WHEREAS, Resolution 20-5083 authorized the Metro Attorney to assign the Measure’s sections with title, chapter and section numbers for the Metro Code as the Metro Attorney deemed appropriate based on current Metro Code titles, chapters and sections; and

WHEREAS, this ordinance codifies, amends and supplements the Measure; and

WHEREAS, the sections of the Measure regarding imposition of the personal and business income taxes are being codified in new Metro Code Chapter 7.05 (Tax Administration), Chapter 7.06 (Personal Income Tax), and Chapter 7.07 (Business Income Tax); and

WHEREAS, the sections of the Measure regarding the programmatic aspects of providing Supportive Housing Services are being codified into a new Title XI, Chapter 11.01 of the Metro Code; and

WHEREAS, this Ordinance codifies the Measure’s Supportive Housing Services Regional Oversight Committee and its requirements, membership and responsibilities into a new Metro Code Section 2.19.270; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. A new Metro Code Section 2.19.270 attached as Exhibit A and entitled “Supportive Housing Services Regional Oversight Committee” is added to Metro Code Chapter 2.19.

2. This ordinance codifies, amends and supersedes the language in Measure 26-210. To the extent that any terms or conditions in Measure 26-210 conflict with the terms and conditions in this ordinance, this ordinance prevails.

ADOPTED by the Metro Council this ____ day of December 2020.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Jaye Cromwell, Recording Secretary

Carrie MacLaren, Metro Attorney

2.19.270 Supportive Housing Services Regional Oversight Committee

- (a) Committee Established. A 15-member regional oversight committee (hereafter, “Supportive Housing Services Regional Oversight Committee” or “Regional Oversight Committee”) will oversee the Supportive Housing Services Program.
- (b) Purpose and Authority. The purpose and authority of the Supportive Housing Services Regional Oversight Committee is to:
1. Evaluate local implementation plans, recommend changes as necessary to achieve program goals and guiding principles, and make recommendations to Metro Council for approval;
 2. Accept and review annual reports for consistency with approved local implementation plans;
 3. Monitor financial aspects of program administration, including review of program expenditures; and
 4. Provide annual reports and presentations to Metro Council and Clackamas, Multnomah, and Washington County Boards of Commissioners assessing performance, challenges, and outcomes.
- (c) Membership. The Supportive Housing Services Community Oversight Committee is composed of 15 members, as follows:
1. Five members from Clackamas County.
 2. Five members from Multnomah County.
 3. Five members from Washington County.
- (d) Jurisdictional Representation. In addition to the 15 members described in subsection (c), one representative each from the Clackamas, Multnomah and Washington County Boards of Commissioners, Portland City Council and Metro Council will serve on the committee as non-voting delegates.
- (e) Membership Attributes. The committee’s membership will include a broad range of personal and professional experience, including people with lived experience of homelessness or housing instability. The committee will also reflect the diversity of the region. The membership will include people with the following experiences, perspectives and qualities:

1. Experience overseeing, providing, or delivering supportive housing services;
2. Lived experience of homelessness or severe housing instability;
3. Experience in the development and implementation of supportive housing and other services;
4. Experience in the delivery of culturally-specific services;
5. Experience in the private-for-profit sector;
6. Experience in the philanthropic sector;
7. People who identify as Black, Indigenous and people of color, people with low incomes, immigrants and refugees, the LGBTQ+ community, people with disabilities, and other underserved and/or marginalized communities; and
8. Experience in a continuum of care organization.

A person may represent more than one of the subsections above. The membership must have broad representation and geographical diversity.

- (f) Terms. Nine of the initial Committee members will serve a one-year term, and the Council may reappoint those nine members for up to two additional two-year terms.
- (g) Meetings. The Committee will meet no less than quarterly and more frequently as necessary.
- (h) Oversight Committee Review. Metro may conduct a review of the regional oversight committee's role and effectiveness as appropriate.

Agenda Item No. 5.5

Ordinance No. 20-1454, For the Purpose of Amending Metro Code Title VII to Add New Chapters
7.05 “Income Tax Administration for Personal and Business Taxes”, 7.06 “Personal Income Tax”,
and 7.07 “Business Income Tax”

Ordinance (First Reading and Public Hearing)

Metro Council Meeting
Thursday, December 03, 2020

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 20-1454
CODE TITLE VII TO ADD NEW CHAPTERS)	
7.05 “INCOME TAX ADMINISTRATION FOR	)	Introduced by Chief Operating Officer
PERSONAL AND BUSINESS TAXES,” 7.06	)	Marissa Madrigal in concurrence with
“PERSONAL INCOME TAX,” AND 7.07	)	Council President Lynn Peterson
“BUSINESS INCOME TAX”)	

WHEREAS, on February 25, 2020, the Metro Council adopted Ordinance 20-1442.

WHEREAS, Ordinance 20-1442 imposed a tax of one percent beginning in tax year 2021 on the entire taxable income over \$200,000 if filing jointly and \$125,000 if filing singly on every resident of the district subject to tax under ORS chapter 316 and upon the taxable income over \$200,000 if filing jointly and \$125,000 if filing singly of every nonresident that is derived from sources within the district which income is subject to tax under ORS chapter 316 (the “Personal Income Tax”); and

WHEREAS, Ordinance 20-1442 also imposed a tax of one percent upon each person doing business within Metro if the gross receipts from all business income, both within and without Metro, is over \$5 million (the “Business Income Tax”); and

WHEREAS, the revenue derived from the taxes imposed by Ordinance 20-1442 will fund Supportive Housing Services; and

WHEREAS, before the taxes imposed by Ordinance 20-1442 could take effect, they required approval of the Metro area voters; and

WHEREAS, Resolution 20-5083 referred Ordinance 20-1442 (Supportive Housing Services) to the voters for approval, which was designated as Measure 26-210 by Multnomah County Elections and placed on the May 2020 ballot (the “Measure”); and

WHEREAS, on May 19, 2020, the Metro area voters approved the Measure, thereby approving the Personal Income Tax and Business Income Tax imposed in Ordinance 20-1442; and

WHEREAS, Ordinance 20-1442 stated that upon approval by the voters, the Metro Council would take further action to establish rules to enforce and implement the taxes imposed by the Measure, including: establishing rules to enforce and implement the Personal Income Tax include rules regarding penalties, interest, filing dates, required forms and documentation, residency determinations for income tax payment purposes, refunds and deficiencies, audit authority, overpayments, estimated payments, exemptions, appeals from income determinations, legal collection actions and any other provision deemed necessary to effectively and efficiently administer the taxes and achieve the purposes of the Measure; and

WHEREAS, Resolution 20-5083 stated that upon approval by the voters the Metro Attorney would assign the Measure’s sections with title, chapter and section numbers for the Metro Code as the Metro Attorney deemed appropriate based on current Metro Code titles, chapters and sections; and

WHEREAS, this ordinance codifies, amends and supplements the Measure; and

WHEREAS, the sections of the Measure establishing a Regional Oversight Committee are being codified in Metro Code Chapter 2.19 (Regional Oversight Committee); and

WHEREAS, the sections of the Measure regarding the programmatic aspects of providing Supportive Housing Services are being codified in a new Title XI, Chapter 11.01 of the Metro Code, with certain amendments as appropriate; and

WHEREAS, codifying the Measure's sections regarding tax imposition and establishing new code chapters to enforce, collect and implement the Personal Income Tax and Business Income Tax will ensure efficient and transparent enforcement and collection of the taxes; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. A new Metro Code Chapter 7.05 attached as Exhibit A and entitled "Income Tax Administration for Personal and Business Taxes" is added to Metro Code Title VII.
2. A new Metro Code Chapter 7.06 attached as Exhibit B and entitled "Personal Income Tax" is added to Metro Code Title VII.
3. A new Metro Code Chapter 7.07 attached as Exhibit C and entitled "Business Income Tax" is added to Metro Code Title VII.
4. This ordinance codifies, amends and supersedes the language in Measure 26-210. To the extent that any terms or conditions in Measure 26-210 conflict with the terms and conditions in this ordinance, this ordinance prevails.
5. Upon adoption of this ordinance, the Chief Operating Officer may adopt administrative rules to further implement any provision found in Chapters 7.05, 7.06 and 7.07. The Chief Operating Officer must provide a public comment period of not less than 30 days and notice of the public comment period in a manner reasonably calculated to reach interested parties. Any administrative rule adopted by the Chief Operating Officer pursuant to this ordinance will take effect immediately upon adoption.

6. The Metro Council finds that the homelessness crisis is an emergency that affects the health, safety and welfare of Metro area residents. The Metro Council further finds the need for this ordinance to become effective immediately upon adoption to avoid potential administrative issues that could possibly delay funding for the supportive housing services, as well as to allow the Chief Operating Officer to proceed with public comment and adoption of administrative rules to assist taxfilers and remove potential uncertainty. Finally, the Metro Council finds that because this ordinance does not impose a new tax, an emergency clause is appropriate under Metro Charter Section 38(1).

ADOPTED by the Metro Council this ____ day of December 2020.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Jaye Cromwell, Recording Secretary

Carrie MacLaren, Metro Attorney

CHAPTER 7.05

INCOME TAX ADMINISTRATION FOR PERSONAL AND BUSINESS TAXES

Section	Title
7.05.010	Purpose and Applicability
7.05.020	Definitions
7.05.030	Conformity to State Income Tax Laws; Tax Guidance
7.05.040	Nexus
7.05.050	Tax as a Debt; Collection Authority
7.05.060	Administration
7.05.070	Administrative Authority
7.05.080	Ownership of Taxfiler Information
7.05.090	Confidentiality
7.05.100	Persons to Whom Information May Be Furnished
7.05.110	Taxfiler Representation
7.05.120	Representation Restrictions
7.05.130	Information Request; Examination of Books, Records or Persons
7.05.135	Subpoena Powers
7.05.140	Taxfiler Records Retention
7.05.150	Deficiencies and Refunds
7.05.160	Protests and Appeals; Penalty Waiver
7.05.170	Return Due Date; Extensions
7.05.180	Payment of Estimated Tax
7.05.190	Schedule for Payment of Estimated Tax
7.05.200	Tax Return Payment; Minimum
7.05.210	Payment Plan; Fee
7.05.220	Settlement Offers and Agreements
7.05.230	Changes to Federal or State Tax Returns
7.05.240	Criminal Penalties
7.05.250	Civil Penalty for Unauthorized Access of Tax Information
7.05.260	Penalties for Violations of Business Income Tax Law
7.05.270	Penalties for Violations of Personal Income Tax Law
7.05.280	Interest
7.05.290	Payments Applied
7.05.300	Interest on Refunds
7.05.310	Accountability of Funds; Audits
7.05.320	Severability

7.05.010 Purpose and Applicability

The purpose of this chapter is to provide consistent, efficient and transparent administration of Metro's Business Income Tax Law and Personal Income Tax Law (collectively, "Metro's Income Tax Laws."). The provisions of this chapter apply to the administration of both the Business Income Tax Law and Personal Income Tax Law, as applicable, unless Chapter 7.06 or Chapter 7.07 specifically exempts a provision.

7.05.020 Definitions

For the purpose of this chapter and Metro Code Chapters 7.06 and 7.07, the terms used are defined as provided in this section unless the context requires otherwise.

Administrator means Metro's agent for purposes of administering and enforcing the Business and Personal Income Tax Laws.

Appeals Board means the hearings body designated by the Administrator to review taxfiler appeals from final determinations by the Administrator.

Business means an enterprise, activity, profession or undertaking of any nature, whether related or unrelated, by a person in the pursuit of profit, gain or the production of income, including services performed by an individual for remuneration, but does not include wages earned as an employee.

Business Income Tax Law means the taxes imposed on businesses under the provisions of Metro Code Chapter 7.07.

Chief Financial Officer means the Metro Chief Financial Officer and the Officer's designee(s).

Chief Operating Officer means the Metro Chief Operating Officer and the Officer's designee(s).

District means all the territory within the jurisdictional boundary of Metro as provided by law.

Doing Business means to engage in any activity in pursuit of profit or gain, including but not limited to, any transaction involving the holding, sale, rental or lease of property, the manufacture or sale of goods or the sale or rendering of services other than as an employee. Doing business includes activities carried on by a person through officers, agents or employees as well as activities carried on by a person on their own behalf.

Domicile means the place an individual considers to be the individual's true, fixed, permanent home. Domicile is the place a person intends to return to after an absence. A person can only have one domicile at a given time. A person's domicile continues as their domicile until the person demonstrates (1) an intent to abandon the current domicile and acquire a new domicile, and (2) then actually resides in the new domicile. Factors that contribute to determining domicile include family, business activities and social connections. A person is domiciled in the District if the person's domicile is located within the District.

Employee means any individual who performs services for another individual or organization and whose compensation is reported by an IRS Form W- 2.

Gross Receipts means all income from whatever source derived.

Individual means a natural person, including a natural person who reports that person's income to the State of Oregon in a joint personal State income tax return. In such case, Individual refers to the joint taxfiler.

Metro means the Metropolitan Service District of the Portland metropolitan area, a municipal corporation established and existing pursuant to Section 14 of Article XI of the Oregon Constitution, ORS Chapter 268 and the Metro Charter.

Metro Income Tax Laws means, collectively, the Business Income Tax Law, the Personal Income Tax Law and the code chapters and administrative rules that administer and govern those taxes.

Metro Taxable Income means income attributable to sources within the District less deductions from income attributable to sources within the District. This includes, but is not limited to:

- (a) Wages received by a nonresident taxfiler attributable to work performed within the District;
- (b) Items reported to a nonresident taxfiler attributable to the taxfiler's ownership interest in a pass-through entity that does business in the District and reports tax items attributable to that ownership interest to the taxfiler on a Schedule K-1; and
- (c) Income and expenses from a sole proprietorship or disregarded entity attributable to business in the District and reported on a nonresident taxfiler's individual return.

Net Operating Loss means the negative taxable income that may result after the deductions allowed by the Business Income Tax Law in determining net income for the tax year.

Nonbusiness Income means income not created in the course of the taxfiler's business activities.

Nonresident means an individual who is not a resident of the District.

Oregon Taxable Income means the taxable income of residents or part year residents as reported or as reportable to the State of Oregon for personal income tax purposes.

Part-year Resident means a taxfiler who changes status during a tax year from resident to nonresident or from nonresident to resident.

Person means, but is not limited to, an individual, a natural person, married couple filing jointly, proprietorship, partnership, limited partnership, family limited partnerships, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business. Each person who is not a natural person must designate a natural person in writing as its designated representative who is authorized to act and testify on behalf of such person.

Personal Income Tax Law means the personal income taxes imposed on District residents and nonresidents under the provisions of Metro Code Chapter 7.06.

Received means the postmark date affixed by the United States postal service if mailed, the date stamp if delivered by hand or sent by facsimile, or the receipt date from the online file and pay application confirmation notice.

Resident means (1) an individual whose domicile is within the District for the entire taxable year unless the individual maintains no permanent place of abode in the District, does maintain a permanent place of abode outside of the District, and spends on aggregate not more than 30 days per tax year in the District; or, (2) an individual who is not domiciled in the District but maintains a permanent place of abode in the District and spends in the aggregate more than 200 days or any part of a day of the tax year in the District unless the individual proves that the individual is in the District for only a temporary or transitory purpose. Resident does not include: an individual who is a qualified individual under section 911(d)(1) of the Internal Revenue Code for the tax year; the spouse of a qualified individual under Section 911(d)(1) of the Internal Revenue Code, if the spouse is not a resident of the District; a resident alien under section 7701(b) of the Internal Revenue Code who would be considered a qualified individual under Section 911(d)(1) of the Internal Revenue Code if the resident alien were a citizen of the United States; a member of the Armed Forces who performs active service as defined in 10 U.S.C. 101(d)(3), other than annual training duty or inactive-duty training, if the member's residency as reflected in the payroll records of the Defense Finance and Accounting Service is outside the District.

Tax Year means the taxable year of a person for Federal or State income tax purposes.

Taxfiler means any person whose income in whole or in part is subject to Metro Income Tax Laws and is required to file a return under Metro Income Tax Laws.

7.05.030 Conformity to State Income Tax Laws; Tax Guidance

- (a) The Administrator will construe the Business Income Tax Law, when applicable, in conformity with the laws and regulations that govern the Multnomah County Business Income Tax as those laws existed for that tax year. The Administrator will construe the Personal income Tax Law, when applicable, in conformity with the laws and regulations of the State of Oregon imposing taxes on or measured by net income as those laws existed for that tax year.
- (b) Any interpretation under subsection (a) may not conflict with any provision of this chapter, Chapter 7.06, or Chapter 7.07.
- (c) The Administrator has the authority by written policy to connect to or disconnect from any legislative enactment regarding income or excise taxation or the definition of income.

7.05.040 Nexus

The taxes imposed by Chapter 7.06 and Chapter 7.07 apply to all taxpayers that have substantial nexus with the District, subject only to constitutional limitation on Metro's authority.

7.05.050 Tax as a Debt; Collection Authority

- (a) The taxes imposed by Chapter 7.07 and Chapter 7.06 become a debt due to Metro at the time such liability for the tax is incurred. This includes any penalties and interest.
- (b) The Chief Financial Officer or Administrator is authorized to collect any deficient taxes, interest and penalties owed. This includes initiating and defending any civil actions and other legal proceedings.
- (c) Metro or the Administrator, as appropriate, may assign a delinquent tax account to a collection agency for collection.
- (d) Any assignment to an outside collection agency is subject to a reasonable collection fee, as allowed by law, above and beyond any amount owed to Metro.

7.05.060 Administration

- (a) The Administrator is the administrator of record and has the authority to administer and enforce the Metro Income Tax Laws including, but not limited to, administrative return processing, auditing, and determinations; collection of taxes, penalties and interest

(including instituting legal action in any court of competent jurisdiction by or on behalf of the Metro); and protests and appeals.

- (b) The Administrator has access to and maintains all tax filings and records under this chapter and the Metro Income Tax Laws on behalf of Metro. The Administrator may, upon taxfiler's written request and at the sole discretion of the Administrator, interpret how this chapter or the Metro Income Tax Laws apply to taxfiler's facts and circumstances. Nothing in this chapter or Chapters 7.06 and 7.07 preclude or is intended to preclude, the informal disposition of controversy by stipulation or agreed settlement, through correspondence or a conference with the Administrator.

7.05.070 Administrative Authority

- (a) The Administrator may implement procedures, forms, and written policies for administering the provisions of the Business Income Tax Law and Personal Income Tax Law.
- (b) The Administrator will coordinate with Metro to adopt administrative rules relating to matters within the scope of this chapter to administer compliance with the Business Income Tax Law and Personal Income Tax Law.

7.05.080 Ownership of Taxfiler Information

Metro is the sole owner of all taxfiler information under the authority of the Metro Income Tax Laws. The Chief Operating Officer, Metro Attorney, Chief Financial Officer, Administrator, and their agents have the right to access all taxfiler information for purposes of administration.

7.05.090 Confidentiality

- (a) No Metro elected official, employee, or agent, nor any person who has acquired information pursuant to the Metro Income Tax Laws, may divulge, release, or make known in any manner any financial information, social security numbers or any other elements of a tax return or tax account, including fact of filing and collection activity submitted or disclosed to Metro or the Administrator under the provisions of this chapter, the Metro Income Tax Laws, and any applicable administrative rules, unless otherwise provided in this chapter or as required by law.
- (b) Nothing in this section prohibits:
 1. The disclosure of general statistics in a form that would prevent the identification of financial information or social security numbers regarding an individual taxfiler;

2. The filing of any legal action by or on behalf of the Administrator or Metro to obtain payment on unpaid accounts or the disclosure of information necessary to do so; or
 3. The assignment to an outside collection agency of any unpaid account balance receivable provided that the Administrator notifies the taxfiler of the unpaid balance at least 60 days before the assignment of the claim.
- (c) Any person that violates this section may be subject to criminal penalties as set forth in Section 7.05.240.

7.05.100 Persons to Whom Information May Be Furnished

- (a) The Administrator and Metro Chief Operating Officer may disclose and give access to information described in Section 7.05.090 to an authorized representative of the Department of Revenue, State of Oregon, or of any local government of the State imposing taxes upon or measured by gross receipts or net income, for the following purposes:
1. To inspect the tax return of any taxfiler;
 2. To obtain an abstract or copy of the tax return;
 3. To obtain information concerning any item contained in any return;
 4. To obtain information of any financial audit of the tax returns of any taxfiler; or
 5. To maintain compliance with State or Federal Law (such as providing social security numbers to the Internal Revenue Service with 1099G filings for refunds issued).

Disclosure and access will be granted only if the laws, regulations or practices of the other jurisdiction maintain the confidentiality of this information at least to the extent provided by the Business Income Tax Law or Personal Income Tax Law, as applicable.

- (b) Upon request of a taxfiler, or authorized representative, the Administrator will provide copies of any tax return information filed by the taxfiler in the Administrator's possession to the taxfiler or authorized representative.
- (c) If a court of competent jurisdiction issues a court order requiring the disclosure of a taxfiler's tax return information, the Administrator will comply with the terms of that court order after providing written notice to the taxfiler at taxfiler's last known address.
- (d) The Administrator may also disclose and give access to information described in Section 7.05.090 to:

1. The Metro Attorney, the Attorney's assistants and employees, or other legal representatives of Metro, to the extent disclosure or access is necessary for the performance of the duties of advising or representing Metro.
 2. The Administrator's Attorney, the Attorney's assistants and employees, or other legal representatives of the Administrator, to the extent the Administrator deems disclosure or access necessary for the performance of the duties of advising or representing the Administrator, including but not limited to instituting legal actions on unpaid accounts.
 3. Other Metro employees and agents, to the extent disclosure or access is necessary for such employees or agents to perform their duties regarding or under contracts or agreements between Metro and the Administrator.
 4. The Administrator's employees, agents and officials, to the extent the Administrator deems disclosure or access necessary for such employees, agents or officials to:
 - A. Aid in any legal collection effort on unpaid accounts;
 - B. Perform their duties under contracts or agreements between the Administrator and Metro or between the Administrator and any other department, bureau, agency or subdivision of the Administrator relating to the administration of the Metro Income Tax Laws; or
 - C. Aid in determining whether a Metro Income Tax Law account is in compliance with all City, County, State and Federal laws or policies.
- (e) All employees and agents specified in Section 7.05.100(d) above, prior to the performance of duties involving access to financial information submitted to Metro or the Administrator under the terms of the Personal Income Tax Law or Business Income Tax Law, must be advised in writing of Section 7.05.240 relating to penalties for the violation of Sections 7.05.090 and 7.05.100. Such employees and agents must execute a certificate in a form prescribed by the Chief Operating Officer or Administrator, stating that the person has reviewed these provisions of law, has had them explained, and is aware of the penalties for the violation of Sections 7.05.090 and 7.05.100.
- (f) No person described in subsection (a) to whom disclosure or access to financial information has been given may make a disclosure under this section unless that person:
1. Is advised in writing of Section 7.05.240 relating to penalties for the violation of Section 7.05.090; and
 2. Executes a certificate in a form prescribed by the Chief Operating Officer or Administrator, stating these provisions of law have been reviewed and that person is aware of the penalties for the violation of Section 7.05.090. The Chief Operating

Officer's or Administrator's signature on the certificate, required by this subsection, constitutes consent to disclosure to the persons executing the certificate.

- (g) Any person that violates this section may be subject to criminal penalties as set forth in Section 7.05.240.

7.05.110 Taxfiler Representation

Third parties, such as attorneys or certified public accountants, may represent taxfilers before the Administrator. The Administrator may establish procedures for taxfilers to authorize a third party to represent the taxfiler, which may include a written authorization submitted to the Administrator. The Administrator is not required to recognize a third party who claims to represent a taxfiler if that third party does not comply with the established procedures.

7.05.120 Representation Restrictions

- (a) No employee or official of Metro, the Administrator, or any public agency authorized to collect taxes imposed by this chapter may represent any taxfiler in any matter before the Administrator. This restriction against taxfiler representation continues for two years after termination of employment or official status.
- (b) Members of the appeals board may not represent a taxfiler before the appeals board. No member of the appeals board may participate in any matter before the board if the appellant is a client of the member or the member's firm.

7.05.130 Information Request; Examination of Books, Records or Persons

- (a) The Administrator may require a taxfiler to produce documents. The Administrator may also examine any books, papers, records, or memoranda, including State and Federal income or excise tax returns, to ascertain the correctness of any tax return or to make an estimate of any tax. The Administrator has the authority, after notice, to:
1. Require the attendance of any person required to file a tax return under the Metro Income Tax Laws, or officers, agents, or other persons with knowledge of the person's business operations, at any reasonable time and place the Administrator may designate;
 2. Take testimony, with or without the power to administer oaths to any person required to be in attendance; and
 3. Require proof for the information sought, necessary to carry out the provisions of this

chapter.

- (b) The Administrator will designate the employees who have the power to administer oaths under this section.

7.05.135 Subpoena Powers

- (a) The Administrator may subpoena and examine witnesses, administer oaths, and require the production of any books or papers in the hands of any person, company or corporation, whenever necessary for the prosecution of any inquiries deemed necessary or proper.
- (b) If any person fails to comply with any subpoena of the Administrator or refuses to testify when the Administrator requires that person to testify, the Administrator may apply to a court of competent jurisdiction for an order to the person to produce the books and papers or attend and testify, or otherwise comply with the demand of the Administrator.
- (c) The Administrator will apply to the court by ex parte motion, upon which the court will make an order requiring the person against whom it is directed to comply with the Administrator's request or demand within 10 days after the service of the order, or within the additional time granted by the court, or to justify the failure within that time. The order will be served upon the person to whom it is directed in the manner required by the State of Oregon or other applicable jurisdiction for service of process, which is required to confer jurisdiction upon the court.
- (d) Upon petition of the person subpoenaed, the court will make an order determining if the evidence sought by the subpoena is relevant to the pending proceeding and, if requested by the person subpoenaed, an order as required in the interests of justice to protect the confidentiality of the information subpoenaed. Upon failure of the subpoenaed person to show cause for noncompliance, the court will make an order requiring the person to comply with the demand of the Administrator within such time as the court directs.
- (e) Failure to obey any order issued by the court under this section is contempt of court. The remedy provided by this section is in addition to other remedies, civil or criminal, that may exist.
- (f) The Administrator will designate the employees who have the power to administer oaths under this section.

7.05.140 Taxfiler Records Retention

Every person required to file a return under the Business Income Tax Law or Personal Income

Tax Law must keep and preserve for not less than seven years such documents and records, including State and Federal income and excise tax returns, accurately supporting the information reported on the taxfiler's return and calculation of tax for each year.

7.05.150 Deficiencies and Refunds

- (a) The Administrator may assess deficiencies and grant refunds any time within the periods set forth for deficiencies or refunds under ORS Chapter 314. The Administrator may by agreement with the taxfiler extend the time periods to the same extent as provided by statute.
- (b) When no tax return has been filed, there is no time limit for a notice of deficiency or the assessment of taxes, penalty and interest due.
- (c) Notwithstanding subsections (a) and (b), the Administrator is not required to accept any tax return for any tax period from a taxfiler if:
 - 1. The Administrator obtains a money judgment against the taxfiler for failure to pay an unpaid account balance due; and
 - 2. The Administrator or its designee lawfully served the taxfiler with the lawsuit pursuant to the Oregon Rules of Civil Procedure; and
 - 3. The tax return is for a taxable year that is the subject of the general money judgment; and
 - 4. The Administrator gave written notice stating that the taxfiler had an outstanding balance due at least 30 days before the Administrator (or its designee) filed a lawsuit for those particular taxable years.

7.05.160 Protests and Appeals; Penalty Waiver

- (a) A taxfiler may protest any determination by the Administrator. The Administrator must receive written notice of the protest within 30 days after the Administrator mailed or delivered the notice of determination to the taxfiler. The protest must state the name and address of the taxfiler and an explanation of the general grounds for the protest. The Administrator must respond within 30 days after the protest is filed with either a revised determination or a final determination. The Administrator's determination must include the reasons for the determination and state the time and manner for appealing the determination. The time to file a protest or the time for the Administrator's response may be extended by the Administrator for good cause. Requests for extensions of time must be

received before the original 30-day protest deadline expires. The Administrator will give written notice to the taxfiler if the Administrator's deadline is extended.

(b) A taxfiler may appeal any final determination by the Administrator to the appeals board. The Administrator must receive written notice of the appeal within 30 days after the Administrator mailed or delivered the final determination to the appellant. The notice of appeal must state the name and address of the appellant and include a copy of the final determination.

(c) Within 90 days after the Administrator mails or delivers the final determination to the appellant, the appellant must file with the appeals board a written statement containing:

1. The reasons the Administrator's determination is incorrect; and
2. What the correct determination should be.

Failure to file this a written statement within the time permitted is a waiver of any objections, and the appeal will be dismissed.

(d) Within 150 days after the Administrator mails or delivers the final determination to the appellant, the Administrator will file with the appeals board a written response to the appellant's statement. A copy of the Administrator's response must be mailed to the address provided by the appellant within 10 days after the Administrator files it with the appeals board.

(e) The Administrator must provide the appellant written notice of the hearing date and location at least 14 days before the hearing. The appellant and the Administrator may present relevant testimony, evidence, and oral argument at the hearing. The appeals board may request additional written comment and documents as the board deems appropriate.

(f) Decisions of the appeals board must be in writing, state the basis and legal authority for the decision and be signed by the appeals board chair.

(g) The decision of the appeals board is final as of the issue date and no further administrative appeal will be provided.

(h) The filing of an appeal with the appeals board temporarily suspends the obligation to pay any tax that is the subject of the appeal pending a final decision by the appeals board.

(i) Penalty waiver or reduction requests are not subject to the protest/appeal process or timeline outlined in subsections 7.05.160(a) through 160(h). The taxfiler must file a written request with the Administrator detailing why a penalty should be waived within 30 days of receipt of a billing notice that assesses a penalty. The Administrator must respond to requests to reduce or waive penalties within 60 days from the date the written request is

received. As provided in subsections 7.05.260(f) and 7.05.270(e), the Administrator may waive or reduce penalties in certain situations. If the taxfiler has requested that penalties be waived and the Administrator denies the taxfiler's request for this discretionary waiver of penalties, the taxfiler may request a conference with the Administrator (or Administrator's designee) within 30 days of the date of the Administrator's notice of denial. If the conference with the Administrator results in a denial of the penalty waiver request, that decision is final and may not be appealed to the Appeals Board.

7.05.170 Return Due Date; Extensions

- (a) Tax returns must be on forms provided or approved by the Administrator. All tax returns must be filed together with payment of the specified tax by the fifteenth day of the fourth month following the end of the tax year. If the due date falls on a weekend or Federal or State holiday, the due date is the first business day following the weekend or holiday. With respect to the Business Income Tax Law, for cooperatives and non-profit corporations that have later due dates under Oregon tax law, the due date for filing tax returns with the Administrator must conform to the due date under Oregon tax law.
- (b) The Administrator may, for good cause, grant extensions for filing returns. However, no extension may be granted for more than six months beyond the initial due date. This extension does not extend the time to pay the tax. Payments made after the due date may be subject to interest and penalties as provided in this chapter.
- (c) The tax return must contain a written declaration, verified by the taxfiler, to the effect that the statements made therein are true.
- (d) The Administrator will prepare blank tax returns and make them available upon request. Failure to receive a form does not relieve any person from the obligation to pay a tax under either the Business Income Tax Law or Personal Income Tax Law.

7.05.180 Payment of Estimated Tax

- (a) Every taxfiler expecting to have a tax liability under Chapter 7.06 or Chapter 7.07 of \$1,000 or greater must estimate and pay the taxfiler's tax liability for the current tax year as follows:
 - 1. Quarterly payments as provided in Section 7.05.190; or
 - 2. Employer provided withholding from taxfiler's wages as provided in Section 7.06.120.

- (b) If a taxfiler is required to remit estimated tax payments, such amounts remitted must total either the lesser of ninety percent of the taxfiler's current year tax liability or one hundred percent of the taxfiler's reported prior year tax liability.
- (c) The Administrator will not impose underpayment interest for failure to make quarterly estimated payments for tax year 2021 (tax year beginning on or after January 1, 2021). For tax years beginning on or after January 1, 2022, the Administrator will impose penalties and interest as provided in this chapter.

7.05.190 Schedule for Payment of Estimated Tax

- (a) A taxfiler required under Section 7.05.180 to make payments of estimated tax must make the payments in installments as follows:
 - 1. One quarter or more of the estimated tax on or before the fifteenth day of the fourth month of the tax year;
 - 2. One quarter or more of the estimated tax on or before the fifteenth day of the sixth month of the tax year;
 - 3. One quarter or more of the estimated tax on or before the fifteenth day of the ninth month of the tax year; and
 - 4. For business income taxfilers, the balance of the estimated tax must be paid on or before the fifteenth day of the twelfth month of the tax year;
 - 5. For personal income taxfilers, the balance of the estimated tax must be paid on or before the fifteenth day of the first month of the subsequent tax year.
- (b) Any payment of the estimated tax received by the Administrator for which the taxfiler has made no designation of the quarterly installment to which the payment is to be applied, will first be applied to underpayments of estimated tax due for any prior quarter of the tax year. Any excess amount will be applied to the installment that next becomes due after the payment was received.

7.05.200 Tax Return Payment; Minimum

- (a) Business Income Tax. Each business income tax return must be accompanied by a tax payment at the rate established in Metro Code Section 7.07.030, provided that each tax return must be accompanied by a minimum tax of \$100. The minimum payment may have previously been paid by quarterly payments, an extension payment, or credit available from a prior tax year.

- (b) Personal Income Tax. Each personal tax return must be accompanied by a tax payment at the rate established in Metro Code Section 7.06.040.

7.05.210 Payment Plan; Fee

If a person fails to pay the Business Income Tax or Personal Income Tax when due, the Administrator may establish a payment plan pursuant to written policy. The Administrator may charge a setup fee for each payment plan established.

7.05.220 Settlement Offers and Agreements

- (a) The Administrator may, upon good and sufficient cause, make settlement agreements with taxfilers in the recomputation of taxes payable or in the collection of those taxes. These agreements must be consistent with ORS 305.150 and 305.155 and corresponding OARs. The Administrator will provide applications for settlement offers to taxfilers proposing settlement offers.
- (b) In addition to the general power granted under this section, the Administrator may, upon a showing of good and sufficient cause, grant a taxfiler's request when the Oregon Department of Revenue has granted relief to a taxfiler under ORS 316.368 or ORS 316.369. In such case, a taxfiler who is granted relief will be treated as a single taxfiler for purposes of the tax imposed under this Chapter.

7.05.230 Changes to Federal or State Tax Returns

- (a) If a taxfiler's reported income under applicable State laws imposing a tax on or measured by income is changed by the Federal Internal Revenue Service or the State Department of Revenue, or amended by the taxfiler to correct an error in the original Federal or State return, the taxfiler must file a report of that change with the Administrator within 60 days after the date of the notice of the final determination of change or after an amended return is filed with the Federal or State agencies. The report must be accompanied by an amended tax return with respect to such income and by any additional tax, penalty, and interest due.
- (b) The Administrator may assess deficiencies and grant refunds resulting from changes to any relevant Federal, State or local income tax return within the time periods provided for in Section 7.05.150, treating the report of change in Federal, State or business income tax return as the filing of an amended tax return.
- (c) The Administrator may assess penalties and interest on the additional tax due as provided in Sections 7.05.260, 7.05.270, and 7.05.280 or may refuse to grant a refund of taxes as a

result of the amended return if the amended return is not filed with the Administrator within the time limits set forth in subsection (a).

7.05.240 Criminal Penalties

A violation of Section 7.05.090 or Section 7.05.100 is punishable, upon conviction thereof, by a fine not exceeding \$500 or by imprisonment for a period not exceeding six months, or by both fine and imprisonment. In addition, any Metro employee convicted for violation of Section 7.05.090 or Section 7.05.100 is subject to possible dismissal from employment and a possible prohibition from employment for a period of five years thereafter. Any agent of Metro who is convicted is ineligible for participation in any Metro contract for a period of five years thereafter.

7.05.250 Civil Penalty for Unauthorized Access of Tax Information

(a) Definitions. As used in this section, the following definitions apply:

Computer Database means any computer application(s) used by the Administrator to calculate or store business, personal, and financial data collected under the authority granted by Metro Income Tax Laws.

Loss means any reasonable cost incurred by Metro or the Administrator, including but not limited to the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

(b) Any individual who intentionally accesses the Computer Database without authorization will be fined:

1. \$10,000 if the individual acquires any information regarding any business or personal account found in the Computer Database;
2. \$10,000 or the cost of the loss (whichever is greater) if the individual uses or attempts to use the acquired information for financial gain of any kind; or
3. \$10,000 or the cost of the loss (whichever is greater) if the individual causes the transmission of a program, information, code, or command to the Computer Database, and, as a result of such conduct, causes damage to the Computer Database.

7.05.260 Penalties for Violations of Business Income Tax Law

(a) A penalty will be assessed if a person:

1. Fails to file a tax return or extension request at the time required under Section 7.05.170(a) or 7.05.230(a); or
2. Fails to pay a tax when due.
3. The penalty under subsection (a) is:
 - A. Five percent of the total tax liability if the failure is for a period less than four months;
 - B. An additional penalty of twenty percent of the total tax liability if the failure is for a period of four months or more; and
 - C. An additional penalty of one hundred percent of the total tax liability of all tax years if the failure to file is for three or more consecutive tax years.

(b) A penalty will be assessed if a person who has filed an extension request:

1. Fails to file a tax return by the extended due date; or
2. Fails to pay the tax liability by the extended due date.
3. The penalty under subsection (b) is:
 - A. Five percent of the total tax liability if the failure is for a period of less than four months; and
 - B. An additional penalty of twenty percent of the total tax liability if the failure is for a period of four months or more.

(c) A penalty will be assessed if a person:

1. Fails to pay at least ninety percent of the total tax liability by the original due date; or
2. Fails to pay at least one hundred percent of the prior year's total tax liability by the original due date.
3. The penalty under subsection (c) is five percent of the tax underpayment, but not less than \$5.

- (d) The Administrator may impose a civil penalty of up to \$500 for each of the following violations of this chapter:
1. Failure to file any tax return within 60 days of the Administrator's original written notice to file; or
 2. Failure to pay any tax within 60 days of the Administrator's original written notice for payment; or
 3. Failure to provide either documents or information as required by this chapter or Chapter 7.07 within 60 days of the Administrator's original written notice to provide the documents or information; or
 4. Failure to fully complete any form required under the Business Income Tax Law; or
 5. Failure to fully comply with the requirements of any section of Chapter 7.05 or Chapter 7.07 unless the section has a separate penalty calculation.
- (e) The Administrator may impose a civil penalty under subsection (d) only if the Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice.
- (f) The Administrator may waive or reduce any penalty determined under subsections (a) through (d) for good cause, according to and consistent with written policies.
- (g) Frivolous Return Position. If the Administrator determines that taxfiler has taken a frivolous position in preparing the taxfiler's tax return, the Administrator will add a \$500 penalty to the amount of tax required to be shown on the tax due under this chapter or Chapter 7.07. For purposes of this subsection, a tax return position is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316-0652(2) are adopted by direct reference, but are not a definitive list of those positions.
- (h) The provisions set forth in Metro Code Chapter 2.03 do not apply with respect to any penalty that maybe be assessed under this chapter or the Business Income Tax Law.

7.05.270 Penalties for Violations of Personal Income Tax Law

The Administrator will assess the following penalties upon personal income taxfilers:

(a) Failure to File a Return; Failure to Pay Tax When Due. If a taxfiler fails to file a return or fails to pay a tax by the date on which the filing or payment is due, the Administrator will add a delinquency penalty of:

1. Five percent of the amount of the unpaid tax if the failure is for a period less than four months;
2. An additional penalty of twenty percent of the unpaid tax if the failure is for a period of four months or more; and
3. An additional penalty of one hundred percent of the unpaid tax of all tax years if the failure to file is for three or more consecutive tax years.
4. For purposes of this section, unpaid tax is the taxfiler's tax liability reduced by payment of tax and any credit against tax that is claimed on the return.

(b) Underpayment of Tax. A penalty will be assessed if a person:

1. Fails to pay at least ninety percent of the total tax liability by the original due date; or
2. Fails to pay at least one hundred percent of the prior year's total tax liability by the original due date.
3. The penalty under subsection (b) is five percent of the tax underpayment, but not less than \$5.

(c) Intent to Evade. If a taxfiler fails to file a return with the intent to evade the tax imposed under this chapter or Chapter 7.06, or a taxfiler prepares or causes to be prepared a return and files that return with the intent to evade the tax imposed under this chapter or Chapter 7.06, the Administrator will impose a penalty in the amount of one hundred percent of any deficiency that the Administrator determines is due.

(d) Substantial Understatement of Tax. If the Administrator determines that there is a substantial understatement of tax due under this chapter or Chapter 7.06, the Administrator will add to the amount of tax required to be shown on the return a penalty equal to twenty percent of the amount of any underpayment of tax attributable to the understatement.

1. For purposes of this subsection, a substantial understatement of tax exists if the amount of the understatement exceeds \$1,000 of tax otherwise due.
2. In the case of any item attributable to an abusive tax shelter: no reduction of the amount of the understatement will be made with regard to that item regardless of the existence of substantial authority for the treatment of the item by the taxfiler; and, no

reduction of the amount of the understatement will be made with regard to that item regardless of the disclosure of the facts affecting the tax treatment of the item unless, in addition to the disclosure, the Administrator determines in the Administrator's sole discretion, that the taxfiler reasonably believed that the tax treatment of the item was more likely than not the proper treatment. This chapter expressly adopts the definitions contained in ORS 314.402 and the administrative rules thereunder.

3. The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the taxfiler that there was reasonable cause for the understatement or any portion thereof, and that the taxfiler acted in good faith.
- (e) Frivolous Return Position. If the Administrator determines that taxfiler has taken a frivolous position in preparing the taxfiler's tax return, the Administrator will add a \$500 penalty to the amount of tax required to be shown on the tax due under this chapter or Chapter 7.06. For purposes of this subsection, a tax return position is considered frivolous if a taxfiler does not provide information on which the substantial correctness of the self-assessment may be judged or if the tax return contains information that on its face indicates that the self-assessment is substantially incorrect. Examples of "frivolous positions" as provided in Oregon Administrative Rule 150-316-0652(2) are adopted by direct reference, but are not a definitive list of those positions.
- (f) Failure of Administrative Compliance. The Administrator may impose a penalty of up to \$500 for the following violations of this chapter:
1. Failure to file any tax return within 60 days of the Administrator's original written notice to file;
 2. Failure to pay any tax within 60 days of the Administrator's original written notice for payment;
 3. Failure to provide either documents or information as required by this chapter or Chapter 7.06 within 60 days of the Administrator's original written notice to provide the documents or information;
 4. Failure to fully complete any form required under the Personal Income Tax Law; or
 5. Failure to fully comply with the requirements of any section of Chapter 7.05 or Chapter 7.06 unless the section has a separate penalty calculation.

The Administrator may impose a civil penalty under this subsection only if the Administrator gave notice of the potential for assessment of civil penalties for failure to comply or respond in the original written notice. The Administrator may waive all or any part of the penalty imposed under this paragraph on a showing by the taxfiler that there was

reasonable cause for the Failure of Administrative Compliance, and that the taxfiler acted in good faith.

- (g) Penalties cumulative. Each penalty imposed under this section is in addition to any other penalty imposed under this section.
- (h) The provisions set forth in Metro Code Chapter 2.03 do not apply with respect to any penalty that maybe be assessed under this chapter or the Personal Income Tax Law.

7.05.280 Interest

- (a) Interest will be assessed on any unpaid tax at the rate in subsection (c), computed from the original due date of the tax to the fifteenth day of the month following the date of payment.
- (b) Interest will be assessed on any unpaid or underpaid quarterly estimated payment required by Section 7.05.180 and Section 7.05.190 at the rate in subsection (c), computed from the due date of each quarterly estimated payment to the original due date of the tax return to which the estimated payments apply.
- (c) Unless specifically provided otherwise by administrative rule as provided in subsection (d), the interest rate is 0.833% simple interest per month or fraction thereof (ten percent per annum).
- (d) If the Administrator determines that the interest rate provided in subsection (c) is at least one percentage point more or less than the effective interest rate on January 1 charged by the State of Oregon Department of Revenue, the Administrator may adjust the interest rate by administrative rule to match the State of Oregon Department of Revenue interest rate. The Administrator may not adjust the interest rate more than once in a calendar year. The adjusted interest rate applies to unpaid tax or underpaid estimated payments outstanding on or after the effective date of the adjusted interest rate.
- (e) Notwithstanding subsection (b), there is no interest on underpayment of quarterly estimated payments if:
 - 1. The total tax liability of the prior tax year was less than \$1,000;
 - 2. An amount equal to at least ninety percent of the total tax liability for the current tax year was paid in accordance with Section 7.05.190; or
 - 3. An amount equal to at least one hundred percent of the prior year's total tax liability was paid in accordance with Section 7.05.190.

- (f) For purposes of subsection (b), the amount of underpayment is determined by comparing ninety percent of the current total tax liability amount to quarterly estimated payments made prior to the original due date of the tax return. However, if one hundred percent of the prior year's total tax liability is paid to the Administrator by the due date of the fourth quarterly payment, the Administrator may use the prior year's tax liability if doing so will reduce the amount of interest owed.
- (g) For purposes of subsection (a), the amount of tax due on the tax return will be reduced by the amount of any tax payment made on or before the date for payment of the tax in accordance with Section 7.05.170(a) or Section 7.05.190.
- (h) Interest at the rate specified in subsection (a) accrues from the original due date without regard to any extension of the filing date.
- (i) Any interest amounts properly assessed in accordance with this section may not be waived or reduced by the Administrator, unless specifically provided for by written policy.

7.05.290 Payments Applied

Tax payments received will be applied first to any penalty accrued, then to interest accrued, then to taxes due, unless the Administrator determines in accordance with its written policies that a more equitable method exists for a particular taxfiler's account. The Administrator will apply tax payments received without a designation for a specific period to the oldest periods first in the order set forth above.

7.05.300 Interest on Refunds

When a taxfiler is entitled to a refund of a portion or all of a tax paid to the Administrator, the taxfiler will receive simple interest on that amount at the rate specified in Section 7.05.280(c), subject to the following:

- (a) Any overpayments will be refunded with interest for each month or fraction thereof for a period beginning four months after the later of:
 - 1. The due date of the tax return;
 - 2. The date the tax return was filed or the refund was otherwise requested; or
 - 3. The date the tax was paid, to the date of the refund.
- (b) Any overpayments of taxes that are the result of an amended return being filed will be refunded with interest for each month or fraction thereof for the period beginning four

months after the date the taxfiler filed the amended return. This subsection applies to tax returns that are amended due to a change to any relevant Federal, State or local income tax return.

7.05.310 Accountability of Funds; Audits

- (a) Every year a public accounting firm must conduct a financial audit of the revenue generated by the Business Income Tax and Personal Income Tax Laws and the distribution of that revenue. Metro will make the audit public as well as any report to the Metro Council regarding the results of the audit. Metro may use the revenue generated by the taxes to pay for the costs of the audit required under this section.
- (b) The revenue and expenditures from the taxes are subject to performance audits conducted by the Office of the Metro Auditor.

7.05.320 Severability

If a court of competent jurisdiction finds that any part, section or provision of this chapter is unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the chapter and the remaining parts, sections or provisions remain in full force and effect.

CHAPTER 7.06

PERSONAL INCOME TAX

Section	Title
7.06.010	Title
7.06.020	Administration of Personal Income Tax Law
7.06.030	Definitions
7.06.040	Personal Income Tax Imposed; Filing Status
7.06.050	Effective Date and Reauthorization; Term
7.06.060	Tax Exemptions
7.06.070	Individuals Required to File a Tax Return
7.06.080	Taxfiler Identification Number
7.06.090	Deduction for Pass-through Income
7.06.100	Proration of Income for Part Year Residents
7.06.110	Overpayments of Personal Income Tax
7.06.120	Withholding Tax on Wages
7.06.130	Withholding Reconciliation by Employer for Payment of Withheld Tax
7.06.140	Final Tax Returns(s) of Deceased Taxfiler
7.06.150	Severability

7.06.010 Title

This chapter is known and may be cited as the Metro Personal Income Tax Law.

7.06.020 Administration of Personal Income Tax Law

The Personal Income Tax Law will be administered under the provisions set forth in this chapter and Metro Code Chapter 7.05, as applicable.

7.06.030 Definitions

For purposes of this chapter, the terms used are defined as provided in Chapter 7.05, unless the context requires otherwise.

7.06.040 Personal Income Tax Imposed; Filing Status

- (a) A tax of one percent is imposed on the entire Oregon Taxable Income of every resident of the District subject to tax under ORS chapter 316. Taxfilers that file a joint Metro return may exempt the first \$200,000 of taxable income; taxfilers that file a single Metro return may exempt the first \$125,000 of taxable income.
- (b) A tax of one percent is imposed upon the Metro Taxable Income of every nonresident of the District subject to tax under ORS chapter 316. Taxfilers that file a joint Metro return may exempt the first \$200,000 of taxable income; taxfilers that file a single Metro return may exempt the first \$125,000 of taxable income.
- (c) Taxfiler filing status must follow the filing status of the taxfiler's Oregon income tax return.
 - 1. Taxfilers using Oregon filing statuses married filing jointly and qualifying widow(er) must file a joint Metro return.
 - 2. Taxfilers using Oregon filing statuses single, married filing separately, and head of household must file a single Metro return.

7.06.050 Effective Date and Reauthorization; Term

- (a) The Metro Personal Income Tax takes effect in Tax Year 2021 (Tax Year beginning on or after January 1, 2021).

- (b) The Metro Personal Income Tax will remain in effect for all periods through Tax Year 2030 (Tax Year beginning on or after January 1, 2030).
- (c) After Tax Year 2030, the tax will expire unless reauthorized by Metro voters on or before that date. After the tax expires, Metro or the entity authorized to collect the Personal Income Tax may continue to take all reasonable and necessary actions to ensure that taxes still owing are paid in full.

7.06.060 Tax Exemptions

- (a) Exemptions Required by Law. A person whom Metro is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon or the Metro Charter is exempt from payment of the tax set forth in this chapter.
- (b) Notwithstanding the exemptions listed in subsection (a), the Administrator may require the filings of tax returns or other documentary verification of any exemption claimed under this section.

7.06.070 Individuals Required to File a Tax Return

- (a) Every resident of the District who is required to file an Oregon income tax return for the taxable year and who reports Oregon Taxable Income over \$200,000 using Oregon filing status married filing jointly or qualifying widow(er), or over \$125,000 using Oregon filing status single, married filing separately, or head of household, is required to file a Metro Personal Income Tax return.
- (b) Every nonresident of the District who is required to file an Oregon income tax return for the taxable year and who reports Metro Taxable Income over \$200,000 using Oregon filing status married filing jointly or qualifying widow(er), or over \$125,000 using Oregon filing status single, married filing separately, or head of household, is required to file a Metro Personal Income Tax return.
- (c) Nothing contained in this section precludes the Administrator from requiring any individual to file a return when, in the judgment of the Administrator, the individual should file a return.
- (d) The Administrator will release the form that the taxfiler must file. The Administrator may accept substitute forms (such as created by tax software) provided the forms include identical information in comparable format as provided on the Metro tax return form.
- (e) A copy of the taxfiler's Oregon tax return is required to be filed with the tax return. If the personal income tax has been withheld from wages, a copy of Form W-2 is required to be

filed with the Personal Income Tax return unless otherwise notified by the Administrator. The Administrator is authorized to require a taxfiler to submit additional information with the taxfiler's report if, in the Administrator's sole discretion, such information is necessary to effectively administer the tax imposed under this chapter.

7.06.080 Taxfiler Identification Number

- (a) A taxfiler must provide information on tax records as required on and forms established by the Administrator. This includes tax returns, refund claims, applications, registrations, records, requests for information, reports, and other items of a similar nature filed with the Administrator as required by the item being filed.
- (b) The Administrator uses Tax Identification Numbers as a part of providing expeditious and practicable processing systems in the administration of the laws by the Administrator, including (but not limited to) such matters as the issuance of tax refunds, allocation or application of incoming tax payments and other matters of a similar nature. The Administrator may require a taxfiler to provide a copy of the taxfiler's social security card.
- (c) A social security number used as a taxfiler identification number is confidential information. Disclosure of social security numbers resulting in a breach of confidentiality will result in penalties pursuant to Metro Code Section 7.05.240.

7.06.090 Deduction for Pass-through Income

- (a) A taxfiler is allowed a deduction from taxable income for pass-through income subject to tax under Metro Chapter 7.07 Business Income Tax. Pass-through income comes from a business whose net income is taxed on the owners' or partners' personal tax returns. This includes, but is not limited to, entities taxed as partnerships and S-corporations.
- (b) The deduction amount allowed in subsection (a) is the individual owners' or partners' distributive share of taxable income on the Metro Business Income Tax return, as calculated and reported to the owner or partner by the business.
- (c) If the taxable income per the Metro Business Income Tax return is zero, the taxfiler is not allowed a deduction.

7.06.100 Proration of Income for Part-Year Residents

If a taxfiler is a part-year resident of the District for the tax year at issue, the taxfiler's taxable income includes:

- (a) For the portion of the year in which the taxfiler was a resident of Metro, the taxfiler's Oregon Taxable Income;
- (b) For the portion of the year in which the taxfiler was a nonresident, the taxfiler's Metro Taxable Income.

7.06.110 Overpayments of Personal Income Tax

The Administrator will apply overpayments of the personal income tax in the following manner:

- (a) Overpayments will first be applied against any outstanding balances due from prior years (with the net overpayment, if any, to be refunded).
- (b) If the Administrator determines that prior Metro tax returns were due but have not yet been filed, overpayments will be transferred to the prior year(s) yet to be filed.
- (c) If the Administrator determines that no outstanding balances are due and no prior returns are outstanding, the Administrator will refund all overpayments.

7.06.120 Withholding Tax on Wages

(a) Employer Withholding from Employee Wages.

1. Beginning January 1, 2021 withholding will be voluntary. However, an employer must offer to its employees in writing to withhold the Metro personal income tax from the employees' wages as soon as the employer's payroll system(s) can be configured to capture and remit the taxes withheld.
2. Beginning January 1, 2022, and each year thereafter, withholding is mandatory for all employees that work in the Metro District and earn \$200,000 or more during the calendar year. This applies to residents and nonresident employees.
3. An employee below the \$200,000 earning threshold in subsection (2) may choose to "opt in" to withholding with the employer, based on the employee's tax situation. An employee who meets the mandatory withholding criteria in subsection (2) may choose to "opt out" of withholding by the employer based on the employee's tax situation. The Administrator will provide guidance to employers on the information a taxfiler (employee) must provide to taxfiler's employer to "opt in" or "opt out" of withholding. Once provided, the employer must honor the employee's withholding election until notified of a change.

4. An employer must provide all "opt out" information to the Administrator on an annual basis in such form as the Administrator prescribes or upon a withholding audit by the Administrator.

- (b) Due Date of Withheld Taxes to Administrator by Employer. An employer who withholds the Personal Income Tax from employee payroll must remit the withheld amounts to the Administrator within the time that each employer is required to remit taxes withheld for state income tax purposes for any period.

Withheld amounts remitted to the Administrator must be accounted for as part of the collections under this section. No employee has any right of action against an employer in respect of any moneys deducted from wages and remitted in compliance or intended compliance with this section.

- (c) Personal Liability of Responsible Officers, Partners, Members, or Employees. If an employer withholds amounts due under this chapter from an employee's wages with proper authorization from the employee, the employer must remit that withheld tax on the due date as set forth in subsection (b). This chapter provides no extension of time, nor can the Administrator grant an extension. The employer holds the funds involved in trust for Metro, and any use of the funds by the employer is an illegal conversion.

1. When an employer fails to remit in whole or in part any tax withheld at the time required under this section, the Administrator will assess a late payment penalty. The penalty is:
 - A. Five percent of the balance of the tax paid after the original due date if the failure to remit is for a period less than or equal to four months;
 - B. An additional 20 percent of the balance of the tax paid after the original due date if the failure to remit is for a period greater than four months; and,
 - C. An additional penalty of 100 percent of the balance of the tax paid after the original due date of all tax years if the failure to remit is for three or more consecutive tax years.

The Administrator may waive all or any part of the penalty imposed under this subsection on a showing by the employer that there was reasonable cause for the failure to remit the withheld taxes or any portion of the withheld taxes and that the employer acted in good faith.

2. If an employer fails to remit to the Administrator amounts that have been withheld under this section, any Responsible Officer, Partner, Member, or Employee of the employer is personally responsible for the amounts that were withheld but not remitted. A Responsible Officer, Partner, Member, or Employee is included in the definition of "employer." This subsection specifically adopts the criteria set forth in OAR 150-316-0243(2) and (3) to determine whether an individual is a Responsible Officer, Partner, Member, or Employee.

3. The Administrator is authorized to collect from the Employer, including any individuals who are included in the definition of employer, pursuant to subsection 2 above, or any combination thereof, up to 100 percent of the tax that was withheld but not remitted to the Administrator. In addition, the employer is subject to interest for unpaid taxes as set forth in Chapter 7.05.
- (d) Credit for Tax Withheld. If the tax has actually been withheld by an employer and reported to the Administrator, credit or refund will be made to the employee even though the employer has not paid the tax to the Administrator. When the employer has neither reported nor paid the tax required to be withheld from an employee's wages but the employee submits evidence proving to the satisfaction of the Administrator that the employer actually did withhold the tax, the Administrator will allow the employee credit or refund for the amount so proved. Ordinarily, minimum satisfactory evidence will consist of a pay statement from the employer showing the amount of tax withheld and an affidavit of the employee as to the facts upon which the claim for credit or refund is based.

7.06.130 Withholding Reconciliation by Employer for Payment of Withheld Tax

- (a) Quarterly Withholding Reconciliation. On or before the last day of the month following the quarter in which withholdings pursuant to 7.06.120(a) have been made, the employer must file a quarterly tax report.
- (b) Annual Withholding Reconciliation. On or before the last day of January following any calendar year in which withholdings pursuant to 7.06.120(a) have been made, the employer must file with the Administrator a reconciliation of taxes withheld and taxes remitted.
- (c) The Administrator will determine by administrative rule the required format and information necessary to comply with subsections (a) and (b) above.

7.06.140 Final Tax Return(s) of Deceased Taxfiler

The Administrator may grant a fiduciary's request or enter into a settlement agreement with respect to the estates of decedents that are consistent with ORS 316.387 and corresponding Oregon Administrative Rules.

7.06.150 Severability

If a court of competent jurisdiction finds that any part, section or provision of this chapter is unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the chapter and the remaining parts, sections or provisions remain in full force and effect.

CHAPTER 7.07

BUSINESS INCOME TAX

Section	Title
7.07.010	Title
7.07.015	Administration of Business Income Tax Law
7.07.020	Definitions
7.07.030	Business Income Tax Imposed
7.07.040	Effective Date and Reauthorization; Term
7.07.050	Tax Exemptions
7.07.060	Presumption of Doing Business
7.07.070	Income Determinations
7.07.080	Apportionment of Income
7.07.090	Presumptive Tax
7.07.100	Reporting for Pass-through Through Entities
7.07.110	Severability

7.07.010 Title

This chapter is known and may be cited as the Metro Business Income Tax Law.

7.07.015 Administration of Business Income Tax Law

The Business Income Tax Law will be administered under the provisions set forth in this chapter and Metro Code Chapter 7.05, as applicable.

7.07.020 Definitions

For the purpose of this chapter, the terms used are defined as provided in in Chapter 7.05, unless the context requires otherwise.

7.07.030 Business Income Tax Imposed

A tax of one percent is imposed on the net income of each person doing business within the District.

7.07.040 Effective Date and Reauthorization; Term

- (a) The Metro Business Income Tax takes effect in Tax Year 2021 (Tax Year beginning on or after January 1, 2021).
- (b) The Metro Business Income Tax will remain in effect for all periods through Tax Year 2030 (Tax Year beginning on or after January 1, 2030).
- (c) After Tax Year 2030, the tax will expire unless reauthorized by Metro voters on or before that date. After the tax expires, Metro or the entity authorized to collect the Business Income Tax may continue to take all reasonable and necessary actions to ensure that taxes still owing are paid in full.
- (d) The payment of a tax required under this chapter and the acceptance of that tax payment does not entitle a taxfiler to carry on any business not in compliance with all the requirements of this code and all other applicable laws.

7.07.050 Tax Exemptions

The following exemptions apply:

- (a) Small Business Exemption. A person whose gross receipts from all business income, both within and without the District, that is equal to or less than \$5 million is exempt from the payment and filing requirements of the tax set forth in this chapter.
- (b) Sole Proprietorships and Disregarded Entities. Sole proprietorships and disregarded entities are not subject to tax under this chapter and are subject to tax under the Personal Income Tax Law in Chapter 7.06.
- (c) Exemptions Required by Law. A person whom Metro is prohibited from taxing under the Constitution or laws of the United States, the Constitution or laws of the State of Oregon or the Metro Charter is exempt from payment of the tax set forth in this chapter.
- (d) Corporations exempt from the State of Oregon Corporation Excise Tax under ORS 317.080, provided that any such corporation subject to the tax on unrelated business income under ORS 317.920 to 317.930 must pay a tax based solely on such income.
- (e) Trusts exempt from federal income tax under Internal Revenue Code Section 501, provided that any exempt trust subject to tax on unrelated business income and certain other activities under Internal Revenue Code Section 501(b) are subject to the tax under this chapter based solely on that income.
- (f) Any person whose only business transactions are exclusively limited to operating within a permanent structure a display space, booth or table for selling or displaying merchandise by an affiliated participant at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any tax year.
- (g) Notwithstanding the exemptions listed in subsections (a)-(f), the Administrator may require the filings of tax returns or other documentary verification of any exemption claimed under this section.

7.07.060 Presumption of Doing Business

A person is presumed to be doing business in the District and subject to this chapter if engaged in any of the following activities:

1. Advertising or otherwise professing to be doing business within the District;
2. Delivering goods or providing services to customers within the District;
3. Owning, leasing or renting personal or real property within the District;

4. Engaging in any transaction involving the production of income from holding property or the gain from the sale of property, which is not otherwise exempted in this chapter. Property may be personal, including intangible, or real in nature;
5. Engaging in any activity in pursuit of gain which is not otherwise exempted in this chapter; or
6. Engaging in any activity that constitutes substantial nexus with the District.

7.07.070 Income Determinations

The net income arising from any business, as reportable to the State of Oregon (State) for corporation excise or income tax purposes, before any allocation or apportionment for operation out of state, or deduction for a net operating loss carry-forward or carry-back is subject to the Metro Business Income Tax.

- (a) Partnerships, S-corporations, limited liability companies (excluding disregarded entities), limited partnerships, limited liability partnerships, family limited partnerships, estates, and trusts are liable for the business tax and not the individual partners, shareholders, members, beneficiaries or owners. The income of these entities must include all income received by the entity including ordinary income, interest and dividend income, income from sales of business assets and other income attributable to the entity.
- (b) If one or more persons are required or elect to report their income to the State for corporation excise or income tax purposes in a consolidated, combined or joint return, a single return must be filed by the person filing such return. In such cases, net income means the net income of the consolidated, combined or joint group of taxfilers before any allocation or apportionment for operation out of the state, or deduction for a net operating loss carrying-forward or carry-back.
- (c) The absence of reporting income to the Internal Revenue Service or the State of Oregon does not limit the ability of the Administrator to determine the correct income of the taxfiler through examination under Section 7.05.130.
- (d) Estates and trusts. In determining income for estates and trusts, income is measured after distribution of profits to beneficiaries. No additional deduction is allowed.
- (e) Nonbusiness income. In determining income under this section, an allocation is allowed for nonbusiness income as reported to the State of Oregon. However, income treated as nonbusiness income for State of Oregon tax purposes may not necessarily be defined as nonbusiness income under the Business Income Tax Law. Interest and dividend income, rental income or losses from real and personal business property, and gains or losses on sales of property or investments owned by a trade or business are treated as business

income for purposes of the Business Income Tax Law. Income derived from non-unitary business functions reported at the state level may be considered nonbusiness income. Non-unitary income will not be recognized at an intra-state level. The taxfiler has the burden of showing that income is nonbusiness income.

- (f) Certain Deductions Not Allowed. In determining income, no deduction is allowed for:
1. Taxes based on or measured by net income;
 2. The federal built-in gains tax; or
 3. The City of Portland Clean Energy Surcharge.
- (g) Ordinary gain or loss. In determining income, gain or loss from the sale, exchange or involuntary conversion of real property or tangible and intangible personal property must be included as ordinary gain or loss.
- (h) Net operating loss. In determining income, a deduction is allowed equal to the aggregate of the net operating losses incurred in prior years, not to exceed 75% of the income determined for the current tax year before this deduction but after all other deductions from income allowed by this section and apportioned for business activity both within and without the District.
1. When the operations of the taxfiler from doing business both within and without the District result in a net operating loss, that loss will be apportioned in the same manner as the net income under Section 7.07.080. A net operating loss may not be carried forward from any tax year during which the taxfiler conducted no business within the District or the taxfiler was otherwise exempt from payment of the Business Income Tax unless specifically provided for by administrative rule or written policy.
 2. In computing the net operating loss for any tax year, the net operating loss of a prior tax year is not allowed as a deduction.
 3. The net operating loss of the earliest tax year available must be exhausted before a net operating loss from a later tax year may be deducted.
 4. The net operating loss in any tax year is allowed as a deduction in any of the five succeeding tax years until used or expired. Any partial tax year will be treated the same as a full tax year in determining the appropriate carry-forward period.

7.07.080 Apportionment of Income

- (a) "Jurisdiction to tax" occurs when a person engages in business activities in a jurisdiction that is not protected from taxation by Public Law 86- 272 (15 U.S.C. Section 381-384). Public Law 86-272 applies to interstate sales of tangible personal property. For purposes of the

Business Income Tax Law, the limits imposed by Public Law 86-272 for interstate jurisdiction to tax are also presumed to apply on an intrastate basis. If a taxfiler's business is based in the District, a taxfiler must have business activity outside the District that results in a jurisdiction to tax outside the District to apportion the income of the business. Without jurisdiction to tax outside the District, all income of a business is taxable by Metro.

- (b) "Business activity" means any of the elements of doing business. The income reportable as income earned from business activity within the District will include all business income from sources within the District that is taxable income under Oregon tax laws and regulations unless otherwise exempted or excluded in this chapter.
- (c) In computing the tax, taxfilers that have income from business activity both within and without the District must determine the income apportioned to the District by multiplying the total net income from the taxfiler's business by a fraction, the numerator of which is the total gross income of the taxfiler from business activity in the District during the tax year, and the denominator of which is the total gross income of the taxfiler from business activity everywhere during the tax year.
- (d) In determining the apportionment of gross income within the District under subsection (c):
 - 1. Sales of tangible personal property are deemed to take place in the District if the property is delivered or shipped to a purchaser within the District regardless of the f.o.b. point or other conditions of sale. If sales of tangible personal property are shipped from the District to a purchaser located where the taxfiler is not taxable, those sales are not apportioned to the District.
 - 2. Sales other than sales of tangible personal property are deemed to take place in the District, if the income producing activity is performed in the District.
- (e) Certain industries or incomes are subject to specific apportionment methodologies. These methodologies are described in administrative rules adopted in accordance with Section 7.05.070 or Metro ordinance. Industry specific or income specific apportionment methodologies required by Oregon Revised Statutes for apportionment of gross sales will be used in cases in which the Administrator has not adopted a rule regarding the apportionment of that industry or income. When gross sales as reported to Oregon are used for apportionment purposes, those gross sales are defined as gross income for apportionment purposes under this chapter. All apportionment methodologies directed under this subsection will be a single factor gross income apportionment as directed under subsection 7.07.080 (c) and subsection 7.07.080 (d). In those specific cases where the state has directed allocation of income, that income will be apportioned for purposes of this chapter, unless allocation is otherwise allowed in this chapter.
- (f) If the apportionment provisions of subsection (c) do not fairly represent the extent of the taxfiler's business activity in the District and result in the violation of the taxfiler's rights

under the Oregon Constitution or the United States Constitution, the taxfiler may petition the Administrator to permit the taxfiler to:

1. Use the method of apportionment used by the taxfiler under the applicable laws of the state imposing taxes upon or measured by net income; or
2. Use any other method to effectuate an equitable apportionment of the taxfiler's income.

7.07.090 Presumptive Tax

- (a) If a person fails to file a return, a rebuttable presumption exists that the tax payable amounts to \$500 for every tax year for which a return has not been filed.
- (b) Nothing in this section prevents the Administrator from assessing a tax due that is less than or greater than \$500 per tax year.
- (c) If the taxfiler filed a tax return the previous tax year, then presumptive taxes assessed under this section will be considered a tax return. Presumptive taxes assessed under this section are considered filed documents and are subject to the time limitations for deficiencies and refunds as described in Metro Code Section 7.05.150.
- (d) Taxes determined under this section are subject to penalties and interest from the date the taxes should have been paid as provided in Section 7.05.170 in accordance with Sections 7.05.260 and 7.05.280. The Administrator will send notice of the determination and assessment to the taxfiler.

7.07.100 Reporting for Pass-through Through Entities

- (a) Chapter 7.06, Personal Income Tax, allows a deduction for pass-through income subject to tax under this chapter. For purposes of this section, pass-through income subject to tax means income from a business whose net income is taxed on the owners' or partners' personal tax returns. This includes, but is not limited to, entities taxed as partnerships and S-corporations.
- (b) A business must calculate and report the amount allowed in subsection (a) to the owners or partners. The total amount of pass-through income subject to tax an entity reports to owners or partners on Schedule K-1 cannot exceed the taxable income of the business for that tax year.

7.07.110 Severability

If a court of competent jurisdiction finds that any part, section or provision of this chapter is unconstitutional, illegal or invalid, that finding affects only that part, section or provision of the chapter and the remaining parts, sections or provisions remain in full force and effect.

Materials following this page were distributed at the meeting.



November 25, 2020

Re: Comments on Proposed Revisions to Metro Code Chapter 5.10

Thank you for the opportunity to provide public comment on the proposed changes. Our comments, questions, and concerns are addressed below.

Administrative Rule 5.15 – 2025:

#3: This service standard rule requires weekly collection of recycling. Five of the jurisdictions that Pride Disposal services have every other week recycling collection. Metro recently did a study finding that every other week recycling had similar outcomes to weekly recycling in terms of effectiveness. One less weekly pick-up also results in reduced GHG, neighborhood and arterial truck traffic, and reduced costs to ratepayers. I understand that 5.15 – 2035 allows any programs existing as of January 1, 2019 to continue, but there is no reason that a jurisdiction should be prevented from moving to an every other week program if that local jurisdiction chooses to do so. As every other week recycling programs have been proven, by Metro, to be equal to weekly programs, this requirement should not be in place. Local jurisdictions should have the ability to choose the program that is best for their rate payers.

Administrative Rule 5.15 – 2045: I understand and appreciate the desire for color coding throughout the system for better clarity for customers, but I do have several concerns about this path forward:

- There will be a large cost on the system to color code containers across the region. For metal containers, this will involve repainting all recycling containers. For plastic roll carts, this will involve replacement of carts that typically last for 20+ years. We even have some carts that have been in use for 30 years. This equipment has already been paid for by rate payers and Metro would be requiring rate payers to pay for refurbishment and/or replacement of containers on an accelerated schedule, which will cause rates to increase. While I understand the receptacles can be recycled, the recycling mantra of “Reduce, Reuse, Recycle” is a hierarchy with “Recycle” being the lowest priority in terms of importance. You are asking haulers across the region to prematurely discard thousands of receptacles across the region. Additionally, recycling of plastic roll carts has a cost associated with it, which will be borne by the rate payers. We have proposed on multiple occasions that a better path forward would involve color coding of lids, rather than color coding the entire receptacle. This is a more cost effective and far less wasteful change that would still achieve the color coding that is desired.
- When I submitted this comment back in October, the response addressed the potential cost of replacing plastic carts but not metal containers. In further discussion with Metro staff it was explained to me that there was no analysis done regarding the cost of replacing or repainting

metal containers vs. replacing the lids only. This is an important piece of information that should be part of the analysis and should be made clear to Metro Council as well as local governments.

- I still maintain that choosing orange for the glass bin color is a mistake. Across the region, glass is primarily put in yellow bins or red bins. It would be far more logical, environmentally friendly and cost effective to choose one of these 2 colors so not every bin across the entire region has to be changed. I would propose analysis be done on how many color-coded red bins vs. color-coded yellow bins there are across the region and then the color that is more prevalent can be chosen.
- While I understand the current proposal is only regarding color coding of multi-family receptacles, I also understand that the intent within the Regional Waste Plan is to eventually color code receptacles across all lines of business in the region. With that in mind, I would like to again strongly emphasize the need to consider color coding of lids only and not color coding of entire receptacles. Our company has always provided blue lids on recycling carts and have, in the last few years, begun providing yard debris carts with green lids. If we are mandated in the future to replace all these carts, it would involve purchasing, replacing, and disposing of approximately 70,000 carts.

Thank you,

Kristin Lechner
President
Pride Disposal & Recycling Company



December 3, 2020

Dear, Metro Council:

Westside Economic Alliance (WEA) recognizes homelessness is an important issue across the region. Voters passed the affordable housing bond in 2018 and the supportive housing services measure this May to provide wraparound services for this vulnerable population. Now WEA is requesting attention to the recent measure's funding mechanism, specifically in terms of feasibility, taxpayer education, and understanding.

WEA is requesting Metro create a plan to educate businesses, tax preparers, and individuals. **This tax will be taking effect soon, and most taxpayers do not know it exists** – thus, they will be unprepared to pay the tax, creating significant challenges and uncertainties for these programs as well as businesses trying to comply with the new law. Our organization is suggesting Metro host a series of workshops and create an educational campaign as soon as possible to help in its public outreach efforts to taxpayers.

WEA would like to see this implementation process be simplified in terms of interest and penalties. Our organization would suggest Metro align with the State of Oregon when it comes to the interest rate charged. Given the lack of information/education currently available to businesses, individuals, or tax preparers, WEA also asks for penalty relief going into 2022.

When it comes to the actual income tax, WEA requests Metro to align with Oregon income tax law for statutory compliance. Our organization believes this will avoid costly litigation, ultimately ease administrative burdens, and allow Metro to collect revenue for services. It will also make compliance easier on taxpayers across the region, since they are already familiar with the state's income tax.

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Overall, WEA wants to see this tax measure implemented with viability and simplicity in mind and to educate the region's taxpayers as soon as possible, so our homeless population can receive the services needed.

Thank you for your consideration.

Westside Economic Alliance is a business advocacy group, representing members from both the private and public sectors in Washington County and Clackamas County. Together we work to improve the local business climate and the economic health of our region.

Sincerely,

A handwritten signature in blue ink that reads "Pamela Treece". The signature is written in a cursive style with a long, sweeping underline.

Pamela Treece
Executive Director



Metro



Supportive Housing Services Program and Tax Implementation

December 3, 2020

Presentation overview

Review of programmatic
code and work plan

Work plan draft updates

Review of tax code section

Tax policy options



Supportive Housing Services

Funding for housing assistance
and wrap around services

Goal to end chronic
homelessness in the region

5,000 supportive housing
placements

Largest local investment in the
nation



Codifying Measure 26-210

New Code Chapter:

11.01 Supportive Housing Services Program

New Code Section:

2.19.270 Supportive Housing Services Regional Oversight Committee

Programmatic work plan

1. Introduction
2. Guiding principles and racial equity
3. Governance
4. Funding distribution and eligible uses
5. Accountability structures and processes
6. Regional coordination

Work plan updates

Oversight committee charter

roles clarified

Administrative cost recommendations

annual review for service providers

Tri-County Advisory body

for future consideration

New Tax Code Chapters

- 7.05 Income Tax Administration for Personal and Business Taxes
- 7.06 Personal Income Tax
- 7.07 Business Income Tax

Apportionment: Sec 7.07.080

CURRENT – cost of performance method

- Taxes businesses when activity takes place in the district
- Aligned with Multnomah County business income tax

ALTERNATE – market based method

- Taxes businesses when customer is in the district
- Aligned with State of Oregon business income tax
- Estimated collection cost increase of \$500k/year
- More out-of-district businesses, harder to enforce

Head of household: Sec 7.06.030

CURRENT – Head of Household files Metro single return

- Metro single return exempts first \$125,000 of taxable income

ALTERNATE – Head of Household files Metro joint return

- Metro joint return exempts first \$200,000 of taxable income
- Reduction in tax collections estimated to not exceed \$2.8 million

Employer withholding: Sec 7.06.120

REVISED – Required starting 2022 for \$200,000 or more

- 2021 withholding is still voluntary
- 2022 and thereafter, withholding is mandatory for employees earning \$200,000 or more annually
- Employees may opt in or out
- Aligns with Multnomah County Preschool for All income tax

Pass through entities

CURRENT – Business pays tax, owner receives deduction

- Aligned with Multnomah County business income tax, with sole proprietorships exempted
- Double taxation concerns addressed

ALTERNATE – Business exempt, owner pays tax

- Aligned with State of Oregon business income tax
- Reduction in tax collections estimated to not exceed \$15 million
- Major change in tax code, would require delay of code adoption to implement

Taxing authority

- Testimony on November 19 asserted tax code must be consistent with Oregon income tax law
- Assertion relies on ORS 268.505, Metro's statutory authority
- Metro also has charter authority
- Charter authority does not require code to be consistent with state law

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