BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF INCORPORATING	)	RESOLUTION NO. 22-5293
INCLUSIVE AND PLAIN LANGUAGE BEST	)	
PRACTICES IN METRO CODE AND	)	Introduced by Chief Operating Officer
ESTABLISHING CODE UPDATES AS	)	Marissa Madrigal in concurrence with
APPROPRIATE	)	Council President Lynn Peterson

WHEREAS, in recent years many local, state, and federal agencies have adopted "plain language" policies when drafting legal documents and legislation, including the federal "Plain Writing Act" of 2010 and Oregon's requirement that state agencies "prepare public writings in readable form" (ORS 183.750); and

WHEREAS, plain language policies apply to contracts, ordinances, resolutions, and administrative rules among other documents and public writings; and

WHEREAS, "plain language" emphasizes clarity and brevity, avoids technical language, focuses on the intended audience, and improves accessibility and readability; and

WHEREAS, code language is inaccessible to readers when it includes things such as long sentences and paragraphs, passive voice, nominalizations, legal jargon, and overly technical language because these things make it more difficult for readers to understand and follow the law, potentially creating barriers for people or limiting their access to information and services; and

WHEREAS, recognizing the need to "ensure our words show respect, nurture trust and reflect ever-evolving language to reduce harm," Metro's Communications Department published Metro's "Inclusive Language Style Guide" in October 2021, and

WHEREAS, by using inclusive language, Metro seeks to put people first and reduce the harm caused by prior, less inclusive language; and

WHEREAS, these same inclusive language principles should likewise apply to the Metro Code; and

WHEREAS, staff should consult plain language guides adopted by federal and state governments for guidance, including the federal *Plain Writing Act of 2010* and various plain language guides offered by the state of Oregon when drafting Metro Code language; and

WHEREAS, staff should consult Metro's *Inclusive Language Style Guide* for inclusive language guidance when drafting Metro Code language; and

WHEREAS, to ensure that these regulatory code chapters continue to use best practices for ease of readability, clarity, and inclusive language, Metro seeks to establish an annual schedule for adopting updates to its Code to advance these principles; and

WHEREAS, the solid waste regulatory code chapters in Title V "Solid Waste" and the income tax chapters in Title VII "Finance" require frequent housekeeping updates to reflect changes in state law and ongoing regulatory clarity; and

WHEREAS, Metro is dedicated to communicating in a clear, accessible, and inclusive way with all communities, businesses, and local government partners within the region; now therefore,

BE IT RESOLVED that the Metro Council:

1. Directs staff to use inclusive and plain language best practices when drafting Metro Code language.
2. When staff seeks Council adoption of a code change for a particular chapter, Council directs staff to review the remainder of that code chapter for opportunities to also incorporate inclusive and plain language best practices.
3. Directs the Chief Operating Officer to establish a Metro Code housekeeping update schedule for Metro departments, with annual updates for Metro's solid waste and finance regulatory code chapters when appropriate.

ADOPTED by the Metro Council this 8th day of December 2022.

_____
Lynn Peterson, Council President

Approved as to Form:

_____
Carrie MacLaren, Metro Attorney

IN CONSIDERATION OF RESOLUTION NO. 22-5293, FOR THE PURPOSE OF INCORPORATING INCLUSIVE AND PLAIN LANGUAGE BEST PRACTICES IN METRO CODE AND ESTABLISHING CODE UPDATES AS APPROPRIATE

Date: November 17, 2022
Department: OMA
Meeting Date: December 8, 2022

Prepared by: Shane Abma, 503-797-1533, shane.abma@oregonmetro.gov
Presenter(s) (if applicable): Shane Abma
Length: 15 minutes

ISSUE STATEMENT
Metro should seek a Metro Code that is easy to read and understand, and which does not harm, offend or exclude people it serves and employs. To achieve this, Metro should use inclusive and plain language in the Metro Code.

ACTION REQUESTED

The Office of Metro Attorney (OMA) requests that Metro Council adopt Resolution No. 22-5293 to use inclusive and plain language in the Metro Code and set scheduled code updates as appropriate.

IDENTIFIED POLICY OUTCOMES

- Ensure the Metro Code is easy to read and understand the first time people read it. This can be achieved by using plain language best practices that include:
    - avoiding jargon;
    - writing short sentences and paragraphs; and
    - using common, every-day words.
- Use language that resonates with more people. In other words, avoid language that harms, offends, excludes, and discriminates people by using inclusive language.

POLICY QUESTION(S)

1. Should the Metro Council require staff to use inclusive and plain language when drafting Metro Code language?
2. Should the Metro Council direct the COO to regularly schedule housekeeping updates of the Metro Code, with annual updates for Metro's solid waste and finance regulatory code chapters?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

Metro Council has at least three policy options to consider:

1. Do not adopt Resolution 22-5293, which would maintain the status quo. Metro Council would not require staff to consider inclusive and plain language best practices when drafting code language, nor would it require regularly scheduled code updates to consider these best practices.
2. Adopt Resolution 22-5293 to require staff to consider inclusive and plain language best practices when drafting code language. This would also authorize the COO to set a schedule for regular code updates as appropriate for each department.
3. Amend proposed Resolution 22-5293 to require staff to consider inclusive and plain language best practices when drafting code language going forward, but not require regularly scheduled reviews to revise existing code language with plain and inclusive language, or vice versa.

Adopting inclusive and plain language and regularly updating Metro Code offers many advantages:

- Regular code updates with plain and inclusive language would help ensure the Metro Code remains current with clear and concise language.
- Metro code in plain language removes barriers to information people need.
- Metro Code in plain language means more people can understand it, and more likely to follow it correctly.
- Metro Code in plain language is easier to translate into other languages.
- Plain language supports Metro's efforts to be transparent.
- Inclusive language appropriately addresses all audiences for which it is intended.
- Inclusive language appeals to a wider audience. This helps Metro create and build trust.
- Inclusive language aims to remove biases and stereotypes in words and phrases that consciously or unconsciously exclude, oppress, and discriminate people.
- Inclusive language acknowledges diversity and celebrates differences.
- Inclusive language centers people's humanity and conveys dignity and respect.

The disadvantages are simply the opposite of the advantages.

There are no *direct* financial impacts if Council adopts this resolution. But code language that is easy to understand reduces the likelihood that:

- People may need to consult Metro staff to better understand the law, especially with respect to income taxes and solid waste regulations.
- People may need to consult with third-party professionals, such as lawyers and accountants, to understand Metro Code.
- Metro staff may need to answer calls or write letters to explain Metro Code to those seeking to understand it.
- Metro staff may need to write additional documents to explain Metro Code.

These examples tell us that the benefits of plain and inclusive language lower costs *indirectly*, both to individuals and businesses seeking to understand Metro's laws, and to Metro by saving time and resources.

STAFF RECOMMENDATIONS

The Office of Metro Attorney seeks a Metro Code that is easy to read and understand and does not contain language that harms, excludes or discriminates people. Accordingly, OMA recommends that the Metro Council adopt Resolution No. 22-5293 to direct staff to use inclusive and plain language when staff updates or drafts new Metro Code language.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

- Known Opposition/Support/Community Feedback
  There is no known opposition.
- Legal Antecedents
  There are no specific legal antecedents other than current Metro Code language.
- Anticipated Effects
  The Metro Code will be easier to read and understand, and, over time, it will not contain language that harms, excludes, or discriminates people.
- Financial Implications (current year and ongoing)
  There are no financial implications.

BACKGROUND

In the past few decades, governments at all levels have adopted what are known as "plain language" principles. The federal government passed the *Plain Writing Act of 2010*, a law requiring federal agencies to use clear communication. Oregon requires state agencies to "prepare public writings in readable form." (ORS 183.750). Although several states and the federal government have adopted plain language policies, they are much less common at the local government level.

"Plain language" is communication that people can understand the first time they read or hear it. This can be achieved by:

- Writing in short sentences and paragraphs.
- Using the active voice, not passive.
- Using common, everyday words.

Examples of more specific guidelines (from the Federal Plain Language Guidelines) include:

- Organize your information so that it is easy to follow.
  - Add useful headings.
  - Place the main idea before exceptions and conditions.
  - Use lists.

- Choose words carefully:
    - Avoid jargon.
    - Minimize abbreviations.
    - Minimize definitions.
    - Use the most direct verbs.
- Place words carefully:
    - Keep subjects and objects close to their verbs.
    - Keep conditionals such as "only" and "always" next to the words they modify.
    - Put long conditions after the main clause.

Mores specific examples can be found in Attachment A to this Staff Report.

Metro shares the same goals as the federal government: to make sure people it serves "find what they need, understand what they find, and use what they find to meet their needs." Writing and revising Metro Code in plain language helps ensure that individuals and businesses better understand laws and requirements so that it is easier for them to follow the law.

In addition to "plain language" principles, Metro should strive to use "inclusive language." In October 2021, Metro's Communications Department published an "Inclusive Language Style Guide." These guidelines help "ensure our words show respect, nurture trust and reflect ever-evolving language to reduce harm," and that Metro focuses on people's humanity.

ATTACHMENTS
Exhibit A, Examples of Plain and Inclusive Language Guidelines.

Examples of Plain Language

A. Do not use "shall."

"Shall" is considered obsolete. Code writing uses "shall" in many ways, but you can always replace "shall" with either "will," "must," "must not," "should" or "may" depending on what you mean.

will	predicts future action
must	imposes obligation, indicates a necessity to act
must not	indicates a prohibition
should	infers an obligation, but not absolute necessity
may	indicates discretion to act

DON'T SAY: The Chief Operating Officer **shall** approve it.

SAY: The Chief Operating Officer **must** approve it. [*an obligation*]
or
The Chief Operating Officer **will** approve it. [*a future action*]
or
The Chief Operating Officer **must not** approve it. [*a prohibition*]
or
The Chief Operating Officer **may** approve it. [*discretion by the manager*]
or
The Chief Operating Officer **should** approve it. [*Not absolutely required but expected*].

B. Do not use word-numeral doublets (such as "five (5)").

Many legal documents include both a written number and the Arabic numeral in parentheses. For example, Metro Code 2.19.130 regarding RWAC terms of office states:

"The local government members will serve for a term of two (2) years. A member may be reappointed for additional terms of one (1) or two (2) years."

The parenthetical Arabic numerals add no clarity and simply make the sentence more difficult to read. Better to say:

"The local government members will serve for a term of two years. A member may be reappointed for additional terms of one or two years."

In fact, if there is a typo the word-numeral doublet can create *less* clarity:

*Individuals have **five (3)** minutes to speak before Council.*

Courts will virtually always look to the *written* number if there is a discrepancy. Thus, saying it twice only makes the sentence harder to read, and it doesn't help avoid mistakes or controversy.

C. Write in the active voice, not the passive voice.

Active voice generally means that the subject of the sentence (the actor) is doing something to the object of the sentence.

> Example:
> *The child petted the dog.*
> *The child [*subject*] petted [*verb*] the dog [*object*].*

In the passive voice, the subject doesn't *do* something, it gets something *done to it* instead.

> Example:
> *The dog was petted by the child.*
> *The dog [*subject*] was petted [*verb*] by the child [*object*].*

Indeed, in a passive voice sentence, you can even drop the actor altogether:

> Example:
> *The dog was petted.*
> *The dog [*subject*] was petted [*verb*].*

Dropping the actor in a sentence is especially troublesome in regulatory and contractual writing because it doesn't make clear *who* is required to do something. By writing in active voice instead of passive voice you can reduce uncertainty because it forces you to name the actor in a sentence. This makes clear to the reader who must perform the duty.

Example from Metro Code 2.05.050 (Contested Case Rehearing):
> *Metro may grant a reconsideration petition if sufficient reason therefor is made to appear. If the petition is granted, an amended order shall be entered.*

Who "enters" the amended order? The Council? Chief Operating Officer? Hearings Officer? It's not clear and this creates uncertainty.

How to spot passive voice
Look for the verb "to be" in any form (am, is, are, was, were, be, been) + a word ending in "ed."

D. Do not use nominals. Use action verbs.

Nominals are verbs that have been made into nouns. They are hard to read and make sentences longer. They often take strong verbs (consider) and make them weak (make a consideration). Nominals usually end in "ment," "tion," "sion," "ance" or "ence."

Examples: argument, application, extension, acceptance, conference.
These are nominalizations of argue, apply, extend, accept, confer.

Examples of nominals in code language:
- The Director has authority for the enforce**ment** of this chapter.
  - The Director may **enforce** this chapter.
- Metro will perform an investiga**tion** of….
  - Metro will **investigate**…
- The Planning Director will give considera**tion** to...
  - The Planning Director will **consider**...
- A person must make a pay**ment** of
  - A person must **pay**...
- It is a viola**tion** of this chapter if....
  - A person **violates** this chapter if...

Action verbs are shorter, more direct, and easier to read. For example:

DON'T SAY	SAY
give consideration to	consider
submit an application	apply
make payment	pay
give recognition to	recognize
is concerned with	concerns
conduct an examination of	examine
make accommodation for	accommodate
provide a description of	describe
is a violation of	violates

E. Use simple words and phrases.

DON'T SAY	SAY
accomplish	carry out, do
accordingly	so
accurate	correct, exact, right
additional	added, more, other
adjacent to	next to
advise	recommend, tell
allocate	divide
apparent	clear, plain
approximate	about
comprehend	understand
in accordance with	by, following, per, under
in addition	also, besides, too

in a timely manner	on time, promptly
indicate	show, write down
indication	sign
initial	first
initiate	start
in lieu of	instead
in order to	to
in regard to	about, concerning, on
in the amount of	for
in the event of	if
is applicable to	applies to
is authorized	may
is responsible for	(omit), handles
it is	(omit)
magnitude	size
maintain	keep, support
maximum	greatest, largest, most
methodology	method
minimum	least, smallest
modify	change
monitor	check, watch, keep track
necessitate	cause, need
notify	let know, tell
notwithstanding	in spite of, still
numerous	many
objective	aim, goal
obligate	bind, compel
observe	see
operate	run, use, work
optimum	best, greatest, most
option	choice, way
parameters	limits
participate	take part
perform	do
pertaining to	about, of, on
prior to	before
proceed	do, go ahead, try
promulgate	issue, publish
provide	give, offer, say
provided that	if
provides guidance for	guides
purchase	buy
pursuant to	by, following, per, under
regarding	about, of, on
remain	stay
remainder	rest

remuneration	pay, payment
render	give, make
represents	is
request	ask
require	must, need
reside	live
retain	keep
set forth in	in
solicit	ask for, request
state-of-the-art	latest
submit	give, send
subsequent	later, next
subsequently	after, later, then
sufficient	enough
terminate	end, stop
therefore	so
transmit	send
under the provisions of	under
until such time as	until
utilize, utilization	use
viable	practical, workable
warrant	call for, permit
with the exception of	except for

F. Avoid jargon.

It's okay to use special terms as a shorthand with a particular audience that's familiar with those terms. Beyond that, jargon can confuse or alienate your readers, or both.

G. Remove archaic terms.

Avoid these archaic terms:

- o above-mentioned
- o aforementioned
- o foregoing
- o henceforth
- o hereafter
- o hereby
- o heretofore
- o herewith
- o thereafter
- o thereof
- o therewith
- o whatsoever

- o wherein
- o whereof

<u>Example from Metro Code 1.01.070 (Title, Chapter, Section Headings):</u>

> *Title, chapter, and section headings contained **herein** shall not be deemed to govern, omit, modify or in any manner affect the scope, meaning, or intent of the provisions of any title, chapter, or section **hereof**.*

H. Design for reading.

Well-organized writing is easy to understand.

- Add useful headings to help people skim and scan.
- Use lists to break up your text and outline steps in a process.
- Avoid lists within lists or several levels of information.
- Use tables to make complex content easier to understand.
- Break up long sentences and long paragraphs to make information into manageable chunks.

I. Use the present tense.

Draft a regulation or contractual obligation as if it's *already* a requirement, not as though it will *become* a requirement.

> **<u>DON'T SAY</u>**: The fine for operating a solid waste facility without a license **shall be** $100.00.

> **<u>SAY</u>**: The fine for operating a solid waste facility without a license **is** $100.00.

J. Do not use "said" and "such."

Legal documents often use the words "said" and "such" when referring to something in the previous sentence. You should replace those words with "this," that," these," "the," or "those" as the context requires.

- <u>Example</u>:
  *Metro will determine whether to approve **such** application within 60 days.*
  *Metro will determine whether to approve **the** application within 60 days.*

- <u>Example</u>:
  *The mortgage payment is due on the 15th of each month. **Said** mortgage payment is $1500.00.*
  *The mortgage payment is due on the 15th of each month. **The** mortgage payment is $1500.00.*

Examples of inclusive language
(Excerpts from Metro's Inclusive Language Style Guide)

Writing *for* people

Put your audience first. Write in a way that speaks to their question, their experience, or the service they are seeking, rather than writing about how we think of ourselves and our work. Lead with calls-to-action, opportunities and resources for your audience.

Write for the person with the most barriers to the information or message. Think about who might feel excluded and why. Imagine your reader is coming to your content with anxiety, stress or bad past experiences with government organizations.

Do not position the people or communities you are writing about as "others" separate from the reader or the writer. Imagine someone with the lived experience you are writing about is reading your content – how would it sound to them?

Make long content scannable. Add headers. Create lists. Break up complex sentences and concepts, and long paragraphs and sentences into short ones. Keep your subjects and verbs close. Making content scannable is good for all readers. It is especially great for people using screen readers and people with a range of cognitive abilities or learning styles. It is also helpful for people experiencing stress or anxiety. In fact, these practices improve readability for everybody.

Avoid idioms. Not everyone is familiar with idioms. Many idioms carry cultural connotations. Sometimes they are rooted in stereotypes. They often do not translate well into other languages. Examples of idioms are: baby steps, best of both worlds, bottom line, state of the art, meet in the middle.

Use the active voice. Active voice clarifies who does what. It eliminates confusion about responsibilities. Passive voice obscures who is responsible for what.

- No: Indigenous people were moved from their homelands to reservations.
- Yes: The U.S. government forcibly removed Indigenous people from their homelands to reservations.

- No: New regulations were proposed.
- Yes: The Parks and Nature department proposed new regulations.

Be specific. Avoid generalizations. This is especially important in content about race and identity.

Writing *about* people

We strive to use people-first language. People are more than their characteristics or experiences. Be as precise as possible when writing about people.

Use the following preferred terms in both internal and public-facing documents when you are writing broadly about specific groups of people. These terms should be your first choice when a person or community group does not have the opportunity to identify themselves in the content you're producing.

Community

Avoid using citizens and residents. Definitions for each of these terms include, "a person who has a legal right to belong to a particular country," and "any person not a citizen of the United States who is living in the U.S. under legally recognized and lawfully recorded permanent residence as an immigrant," respectively. In many instances Metro content producers may not mean to use these words in the context of a person's immigration or residency status, but it can feel that way coming from a government organization like Metro. Even so, these terms may feel exclusive to some people who cannot legally identify as citizens or residents of the United States, and even others who are permanent residents with green cards.

- No: More than 40,000 new residents moved to the greater Portland region from 2014 to 2015.
- Yes: More than 40,000 new people moved to the greater Portland region from 2014 to 2015.

- No: We reached out to Gresham residents to help shape a proposal...
- Yes: We reached out to people who live in Gresham to help shape a proposal...

- No: Volunteers will help citizen scientists monitor butterfly populations...
- Yes: Volunteers will help community scientists monitor butterfly populations...

Use the term voter only to describe people who are voting or who have voted on policies and measures.

- Yes: Four times during the past two decades, voters across greater Portland approved funding measures to support a network of regional parks, trails, and natural areas.

Demographics

Age

Use older adults. You may use seniors or elders in political and cultural contexts. Avoid elderly. Seniors is acceptable in proper nouns. Always provide context.

- No: Toxic; may be harmful or fatal if ingested, especially by children or the elderly.
- Yes: Toxic; may be harmful or fatal if ingested, especially by children or older adults.
- Yes (in a proper pronoun): The Seniors Farmers' Market Nutrition Program provides food assistance to people who are 60 or older.
- Yes (in context): Tribal elders told traditional stories at the annual gathering.

Disabilities

Be mindful of framing. People have disabilities and health conditions. Disabilities, health conditions and diagnoses do not define people. In general, use people-first language.

- No: A disabled person; a paraplegic man; a blind woman; a special education student
- Yes: Person with a learning disability
- Yes: Student receiving special education services

Emphasize abilities, not perceived limitations.

- Yes: He uses a wheelchair.
- Yes: They use a communication device.

Emphasize the need for accessibility rather than the presence of a disability.

- Yes: The community center has accessible parking.

Gender

Use gender-neutral language. Be mindful of gendered language.

- No: Councilman
- Yes: Councilor, council member

- No: Policeman
- Yes: Police officer

- No: spokesman, spokeswoman
- Yes: spokesperson

- No: guys (to describe a group of people)
- No: ladies (to describe a group of women)
- Yes: folks, everyone, or people

Avoid language with gender binaries, such as saying men and women, when we mean everyone.

Avoid words and phrases that reflect gender bias. This includes irrelevant information about a person's appearance, or gender-based assumptions about a person's skills, temperament or qualifications.

Income

Use people with low incomes or people who earn low incomes. This is in line with our people-first language principle.

Be specific. You may need to make distinctions between a range of different incomes. Adjectives such as "low-income," "moderately low-income" or "lower-income" are vague without specific numbers.

- No: low-income families
- No: moderately low-income people

- No: lower-income tenants
- Yes: Adults who earn $12,000 a year or less are eligible for...
- Yes: People who earn less than...
- Yes: People who earn more than...
- Yes: Households that earn less or more than...