

Council meeting agenda

Thursday, February 20, 2025

10:30 AM

**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> Webinar ID:
615 079 992 or 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. It will also be heard by electronic communication (video conference or telephone). Written comments should be submitted electronically by emailing legislativecoordinator@oregonmetro.gov. Written comments received by 4:00 p.m. the day before the meeting will be provided to the council prior to the meeting. Testimony on non-agenda items will be taken at the beginning of the meeting. Testimony on agenda items generally will take place during that item, after staff presents, but also may be taken at the beginning of the meeting.

Those wishing to testify orally are encouraged to sign up in advance by either: (a) contacting the legislative coordinator by phone at 503-813-7591 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 virtually during the meeting can do so by joining the meeting using this link: <https://zoom.us/j/615079992> (Webinar ID: 615079992) or 888-475-4499 (toll free) and 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 Consideration of the January 16, 2025 Council Meeting Minutes
Attachments: [011625c Minutes](#)

[25-6211](#)

- 3.2 Resolution No. 25-5467 For the Purpose of Approving the Transfer of Certain Real Property

[RES 25-5467](#)

Attachments: [Resolution No. 25-5467](#)
[Staff Report](#)
[Attachment 1 - 1909 Burlington Plat](#)
[Attachment 2 - Area Map](#)

4. Ordinances (First Reading and Public Hearing)

- 4.1 Ordinance No. 25-1528 For the Purpose of Amending Metro Code Section 9.02 (Ballot Measures, Initiative, and Referendum) to Improve Clarity and Incorporate Plain Language Best Practices and Declaring an Emergency

[ORD 25-1528](#)

Presenter(s): Shane Abma, Senior Attorney

Attachments: [Ordinance No. 25-1528](#)
[Exhibit A to Ordinance No. 25-1528](#)
[Staff Report](#)

- 4.1.1 Public Hearing for Ordinance 25-1528

5. Chief Operating Officer Communication

6. Councilor Communication

7. Adjourn

Metro respects civil rights

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Thông báo về sự Metro không kỳ thị của

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Metro 的不歧视公告

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Ogeysiiska takooris la'aanta ee Metro

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

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សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

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

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

Notificación de no discriminación de Metro

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

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Metro txoj kev ntxub ntxaug daim ntawv ceeb toom

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

3.1 Consideration of the January 16, 2025 Council Meeting Minutes
Consent Agenda

Metro Council Meeting
Thursday, February 20, 2025

Metro

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



Metro

Minutes

Thursday, January 16, 2025

10:30 AM

**Metro Regional Center, Council chamber,
<https://zoom.us/j/615079992> (Webinar ID: 615079992) or
888-475-4499 (toll free)**

Council meeting

1. Call to Order and Roll Call

Council President Peterson called the Metro Council Meeting to order at 10:31 a.m.

Present: 7 - Council President Lynn Peterson, Councilor Duncan Hwang, Councilor Ashton Simpson, Councilor Mary Nolan, Councilor Gerritt Rosenthal, Councilor Juan Carlos Gonzalez, and Councilor Christine Lewis

2. Public Communication

Dorian Russell and Lucy Simmons, HomePlate Youth Services, supported stronger protections for homeless populations before reducing revenues.

Carol Greenough, local advocate, opposed cutting the tax rate.

Myra Mendoza, Family Promise, opposed funding cuts for services.

Kim Marshall, Project Homeless Connect, supported a pause on policy proposals until partners have more time to come to agreement.

3. Ordinances (Second Reading and Vote)

- 3.1 Ordinance No. 25-1522** For the Purpose of Amending the Industrial and Other Employment Areas Map of Title 4 of the Urban Growth Management Functional Plan for the Montgomery Park area of the City of Portland

Attachments: [Ordinance No. 25-1522](#)
[Staff Report](#)
[Exhibit A](#)
[Exhibit B](#)
[Attachment 1](#)
[Attachment 2](#)
[Attachment 3](#)
[Attachment 4](#)
[Attachment 5](#)

There was no discussion.

A motion was made by Councilor Nolan and seconded by Councilor Rosenthal.

The motion was carried by the following vote:

Aye: 7 - Council President Peterson, Councilor Hwang, Councilor Simpson, Councilor Nolan, Councilor Rosenthal, Councilor Gonzalez, and Councilor Lewis

4. Work Session

4.1 Integrated and Expanded Regional SHS/Affordable Housing Program: Proposed Policy Package

Attachments: [Staff Report](#)
[Attachment 1](#)
[Attachment 2](#)
[Attachment 3](#)
[Attachment 4](#)

President Peterson reminded Council of past actions and direction related to the draft ordinance before Council, and Metro staff presented an overview of a draft of Ordinance 25-1525, a measure to refer changes to the Supportive Housing Services tax to voters, and companion legislation, Ordinance 25-1526, that would further detail programmatic changes.

Councilors Gonzalez and Hwang urged stronger support for coalition building prior to referral.

Councilor Nolan advocated for greater specificity in data collection, a representative HHPAC that addresses tensions about regional representation in Metro policymaking, and for shifting focus from how dollars are spent to strategies that reduce homelessness to zero.

Councilor Lewis and Hwang reiterated the need for a

regional, transparent system.

Councilor Simpson spoke to the importance of regionalism and the importance of collaborating, including the need for a data sharing agreement and clear metrics.

Councilor Lewis emphasized the need for additional housing, particularly permanent supportive housing, to ensure improving outcomes for affected residents. Requested an addition to the ordinance that specifies continued funding is contingent on Metro having access to data.

President Peterson described the ordinances as striking a balance between improving outcomes and ensuring transparency.

Councilor Lewis asked to consider Department of Revenue as the tax collector in the future, and which entity or entities would have the authority to make a decision to change collectors.

Councilor Rosenthal expressed concern about designing HHPAC in the spirit of JPACT, which receives and programs federal funds, and suggested that Council adopt a more creative approach.

Councilor Simpson asked for clarification about the ways that local jurisdictions may collaborate in the future, and Councilor Gonzalez asked for more information about funding for city programs and preferred a collaborative process over a direct allocation to cities.

Councilor Hwang asked how the proposed process could help foster trust between parties and help break patterns of limiting services within county or city lines. President Peterson added that the process of receiving services

should be streamlined regardless of location within in the region.

Councilor Nolan pointed to a lack of transparent goals and data and expressed support for changes to the program only under four standards: 1) a census of all individuals experiencing homelessness, with a plan designed for each individual and an identified implementing partner; 2) funds mandated based where residents are living based on that data; 3) significant improvement toward achieving functional zero chronic homelessness; and 4) not changing the tax rate and providing the services voters expected.

5. Chief Operating Officer Communication

COO Madrigal shared free parking information and educational opportunities at Metro parks for MLK Jr. Day.

6. Councilor Communication

Councilor Rosenthal acknowledged the contributions of retiring Commissioner Roy Rogers to transportation policy in the region.

Councilor Gonzalez reported out on the January JPACT meeting, including new members and the cooling corridors and Regional Flexible Funds presentations and discussions. He also highlighted a TV Highway legislators' breakfast.

Councilor Simpson invited Councilors to the East Metro Housing Summit.

7. Adjourn

There being no further business, Council President Peterson adjourned the Metro Council Meeting at 12:34 p.m.

Respectfully submitted,

Emma McIntosh

Emma McIntosh, Legislative Assistant

**3.2 Resolution No. 25-5467 For the Purpose of Approving
the Transfer of Certain Real Property**
Consent Agenda

Metro Council Meeting
Thursday, February 20, 2025

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE)	RESOLUTION NO. 25-5467
TRANSFER OF CERTAIN REAL PROPERTY)	
)	Introduced by Chief Operating Officer
)	Marissa Madrigal in concurrence with
)	Council President Lynn Peterson

WHEREAS, Metro owns real property described as Lot 14 and Lot 16, Block 15, BURLINGTON, in the County of Multnomah and State of Oregon ("Metro Property"); and

WHEREAS, the Metro Property is currently not actively managed or used by the public; and

WHEREAS, Seth Lowe ("Lowe") owns real property located adjacent to and in between Metro Property commonly known as 16605 NW Wapato Drive, Portland, OR 97231 and described as, Lot 15, Block 15, BURLINGTON, in the County of Multnomah and State of Oregon ("Lowe Property"); and

WHEREAS, Lowe asserts a legal right to maintain the improvements and occupy the Metro Property; and

WHEREAS, Metro is currently engaged in negotiations with Lowe to settle the real property boundary dispute; and

WHEREAS, the transfer and conveyance of the Metro Property may be necessary to effect such settlement; now therefore,

BE IT RESOLVED that the Metro Council finds that the public interest may be furthered by transferring the Metro Property to facilitate settlement of potential litigation.

BE IT FURTHER RESOLVED that the Metro Council authorizes the Metro Attorney and the Metro Chief Operating Officer to (a) execute a settlement of the boundary dispute; and (b) transfer the Metro Property as part of such settlement, provided the form of such settlement and property transfer agreements are in forms approved by the Metro Attorney.

ADOPTED by the Metro Council this 20th day of February, 2025.

Lynn Peterson, Council President

Approved as to Form:

Carrie MacLaren, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 25-5467 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO SELL CERTAIN REAL PROPERTY

Date: February 11, 2025
Department: COO, OMA, Parks and Nature
Meeting Date: February 20, 2025

Prepared by: Gary Shepherd, Senior Attorney, Office of Metro Attorney, (503) 797-1600
Presenter(s), (if applicable): n/a
Length: n/a

ISSUE STATEMENT

The Office of Metro Attorney requests approval from Council to resolve a boundary dispute through the disposition of real property.

ACTION REQUESTED

To resolve a real property boundary dispute, OMA and the Parks and Nature Department seek Council authorization to sell Lots 14 and 16, Block 15, BURLINGTON to Seth Lowe on terms and conditions negotiated by the Office of Metro Attorney.

IDENTIFIED OUTCOMES

This decision supports the amicable resolution of real property disputes.

POLICY QUESTION(S)

n/a

POLICY OPTIONS FOR COUNCIL TO CONSIDER

n/a

STAFF RECOMMENDATIONS

Staff recommends approving the disposition of real property to enable Metro to negotiate and resolve the boundary dispute.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Metro Code 2.04.050 requires Council approval to sell or transfer Metro real property. Metro staff are seeking approval to negotiate and resolve a real property boundary dispute. Approval will support and further the dispute resolution efforts of the Office of Metro Attorney.

There are no negative financial implications.

BACKGROUND

Metro owns a large land holding in the Burlington Forest, west of Hwy. 30 and north of Linnton. The area was platted as an urban density subdivision in 1909. *See Attachment 1, 1909 Burlington Plat.* Metro's property was purchased in 2000 from the Agency Creek Timber Company.

Public railroad right of way divides Metro's holdings. West of the rail line, the property is forested and managed as natural area. East of the rail line, the property is defined by privately owned and residentially developed lots, with Metro owned lots scattered about. *See Attachment 2, area map.* The platted lots east of the rail line are small, generally 3,333 square feet in size.

In the Fall of 2024, Metro was contacted by Seth Lowe, the owner of Lot 15, Block 15, BURLINGTON located at 16605 NW Wapato Drive, east of the rail line. Metro is the title holder of Lot 14 and Lot 16, Block 15, BURLINGTON located on either side of Mr. Lowe's Lot 15. Lot 15 is east of the rail line, away from the forested areas managed as part of the Burlington Forest Natural Area.

Mr. Lowe, represented by legal counsel, claims that improvements associated with his residential use extend beyond the boundaries of Lot 15 and are located on Metro property. Mr. Lowe asserts the improvements have served the Lowe residence since the 1940's; accordingly, Mr. Lowe claims he has a legal right to maintain the improvements.

Rather than litigate the claim, Metro and Mr. Lowe engaged in negotiations to find an amicable resolution. Subject to Metro Council approval, in addition to other terms and conditions, the parties have agreed that Metro would quitclaim its interest in Lot 14 and Lot 16 to Mr. Lowe in exchange for fair market consideration. The consideration was determined in consultation with Metro Parks and Nature's real estate team.

Before Metro may sell the subject property, Metro Council must first find that the public interest may be furthered by such transfer. Necessary notices have been given. Lot 15 is not actively managed, contains no sensitive resources, and is not used by the public. The property does not provide conservation value. Given its location near residential uses and away from the forested areas, the property is identified by Parks and Nature staff as not necessary for the successful management of the Burlington Forest Natural Area.

ATTACHMENTS

Attachment 1- 1909 Burlington Plat

Attachment 2- Area map

ATTACHMENT 1

BURLINGTON.

BLOCKS 1-29 & 36-44 INCLUSIVE
Ruth Trust Co., Owners.

Situated in
SEC. 20, T. 2 N. R. 1 W.

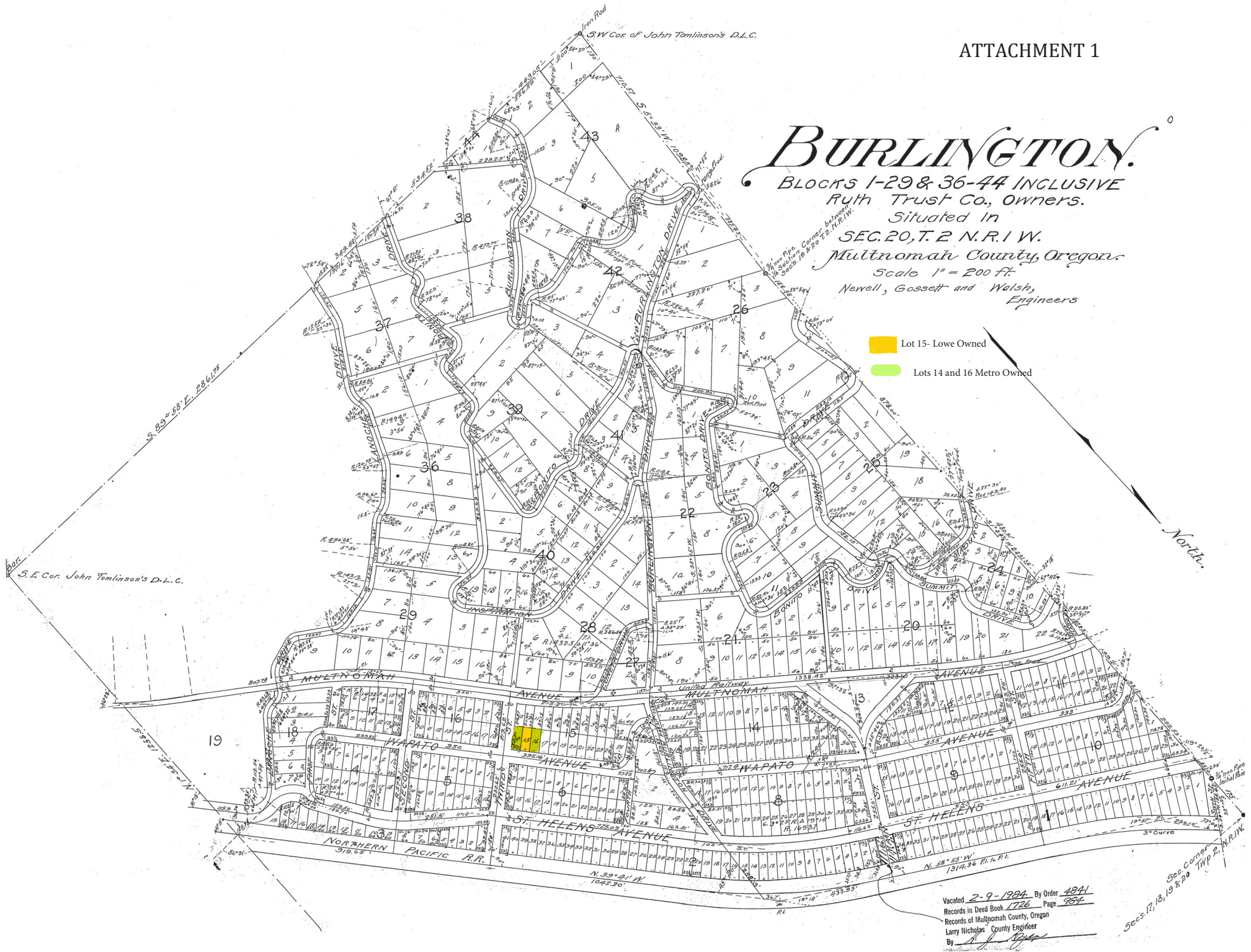
Multnomah County, Oregon.

Scale 1" = 200 ft.

Novell, Gossett and Walsh,
Engineers

Lot 15- Lowe Owned

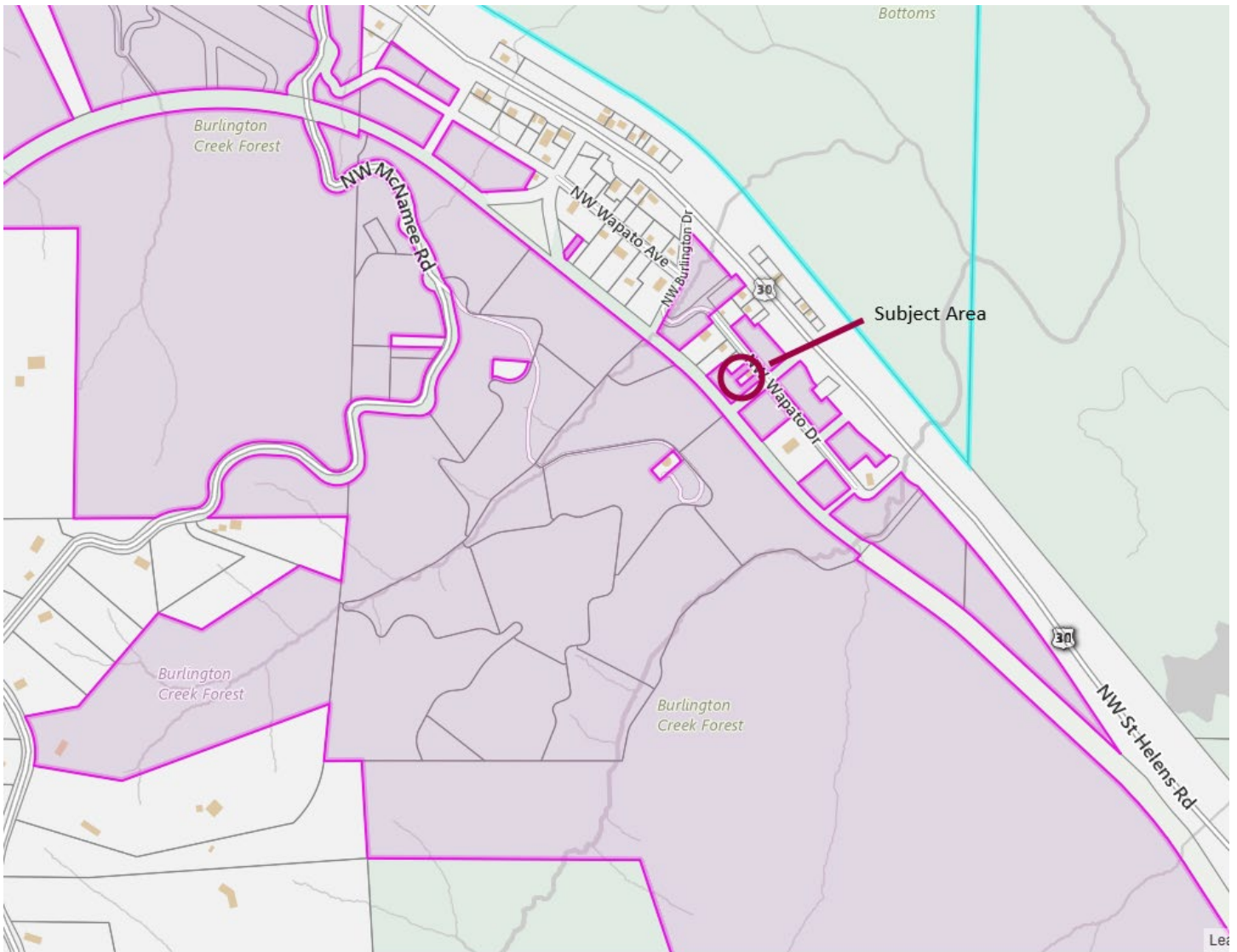
Lots 14 and 16 Metro Owned



Vacated 2-9-1924 By Order 4841
Records in Deed Book 1726 Page 284
Records of Multnomah County, Oregon
Larry Nicholas County Engineer
By 1924

Sec. 17, 18, 19 & 20 T. 2 N. R. 1 W.

AREA MAP (subject area circled in red)



**4.1 Ordinance No. 25-1528 For the Purpose of Amending Metro Code Section
9.02 Ballot Measures, Initiative, and Referendum) to Improve Clarity and
Incorporate Plain Language Best Practices and Declaring an Emergency
*Ordinances (First Reading and Public Hearing)***

Metro Council Meeting
Thursday, February 20, 2025

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 25-1528
CODE CHAPTER 9.02 (BALLOT MEASURES,)	
INITIATIVE AND REFERENDUM) TO)	Introduced by Chief Operating Officer
IMPROVE CLARITY AND INCORPORATE)	Marissa Madrigal in concurrence with
PLAIN LANGUAGE BEST PRACTICES AND)	Council President Lynn Peterson
DECLARING AN EMERGENCY)	

WHEREAS, the Office of Metro Attorney reviews Metro Code chapters when circumstances arise that require Metro to adhere to the requirements and processes outlined in Metro Code, and

WHEREAS, the Office of Metro Attorney also reviews Metro Code chapters to ensure they properly align and comport with state and constitutional law; and

WHEREAS, Metro Code Chapter 9.02 (Ballot Measures, Initiative and Referendum) supplements state law regarding special district elections, ballot measures, initiatives, and referendums; and

WHEREAS, when recently reviewing Metro Code Chapter 9.02's requirements related to Metro Council referrals, the Office of Metro Attorney determined that Metro Code Chapter 9.02 currently contains an unnecessary, potentially confusing, and constitutionally inapplicable code requirement related to Metro Council referrals and that this requirement should be removed; and

WHEREAS, in December 2022 the Metro Council adopted Resolution No. 22-5293, which, among other things, required that Metro code chapters use plain and inclusive language best practices to improve readability, transparency, and understanding of Metro's requirements and procedures, and further required that when staff brings forth a code update for Metro Council consideration staff should also conduct a review of the entire code chapter for potential plain language improvements; and

WHEREAS, the Office of Metro Attorney has conducted a review of Metro Code Chapter 9.02 in its entirety and has incorporated plain language best practices that improve readability without substantively changing Metro Council policy; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 9.02 (Ballot Measures, Initiative and Referendum) is amended as set forth in Exhibit A, with inserted text underlined and deleted text in strikethrough.
2. That this ordinance being necessary for the immediate preservation of public health, safety and welfare to ensure the Metro Council can refer measures expeditiously to the voters with clarity of Metro Code requirements, an emergency is declared to exist, and this ordinance takes effect immediately upon adoption pursuant to Metro Charter Section 38(1).

ADOPTED by the Metro Council this 27th day of February 2025.

Lynn Peterson, Council President

Attest:

Approved as to Form:

Georgia Langer, Acting Recording Secretary

Carrie MacLaren, Metro Attorney

Metro Code Chapter 9.02 (Ballot Measures, Initiative and Referendum) is amended as follows, with underlined text representing inserted text and ~~strikethrough~~ representing deleted text.

CHAPTER 9.02

BALLOT MEASURES~~REFERRALS~~, INITIATIVES, AND REFERENDUMS

Section	Title
9.02.010	Application of State Law; Definitions
9.02.020	Referrals by the Metro Council
9.02.030	Initiatives and Referendums
9.02.040	Election Procedures; <u>Certification; Effective Date</u>

9.02.010 Application of State Laws; Definitions

- (a) ~~The~~ This Chapter's provisions of ~~this Chapter~~ shall supplement state law regarding special district elections, including ballot measures, initiatives, and referendums. These provisions, and shall prevail over any conflicting state law provisions of state law to the maximum extent permissible under the Oregon Constitution and the laws of the State of Oregon.
- (b) Unless otherwise defined, ~~terms~~ a term used in this Chapter ~~have~~ has the definitions given to ~~them~~ it in ORS Chapter 255 or any successor statute, ~~and references to ORS Chapter 255 shall be deemed references to ORS Chapter 255 or any successor statute.~~
- (c) In determining the number of words in a ballot title or explanatory statement, any combination of characters, ~~including hyphens, abbreviations, and dollar amounts,~~ that contain no spaces but are preceded and followed by a single space ~~shall~~ count as one word, except that a bullet points shall does not count as a words. The combination of characters may include hyphens, abbreviations, and dollar amounts. [Ord. 93-517B, Sec. 1; Ord. 02-977, Sec. 1; Ord. 17-1404.]

9.02.020 Referrals by the Metro Council

- (a) The Metro Council may directly refer any measure or any proposed Metro Charter amendment ~~of the Metro Charter~~ to the electors for ~~their~~ approval or rejection.
- (b) The Metro Council ~~shall act~~ must adopt a resolution to refer any measure or Metro Charter amendment, ~~by adoption of a resolution.~~ The resolution ~~shall~~ must include ~~the full text of the measure or Charter amendment,~~ the ballot title, and any other material required by law.

- (c) The Metro Attorney ~~shall~~ must prepare the ballot title and explanatory statement for a referral by Metro Council ~~all referrals by the Metro Council. An~~ The explanatory statement ~~shall~~ must be an impartial, simple, and understandable statement of no more than 500 words, explaining the referral and its effect. The Metro Attorney ~~shall~~ must file the explanatory statement with the elections officer at the same time the Metro Attorney files ~~as~~ the ballot title.
- (d) ~~An elector who wishes to challenge the~~ The ballot title and or explanatory statement ~~may be challenged exclusively in accordance with~~ must do so in Multnomah County Circuit Court under the procedures set forth in ORS 255.155 for review of district ballot titles. ~~However, except that~~ any petition to the circuit court ~~shall~~ must name the Office of Metro Attorney as respondent, and not the Metro Attorney personally. The circuit court ~~shall~~ must give deference to the ballot title and explanatory statement prepared by the Metro Attorney. [Ord. 93-517B, Sec. 1; Ord. 02-977, Sec. 1; Ord. 17-1404.]

9.02.030 Initiatives and Referendums

- (a) A petitioner must file a prospective initiative or referendum petition with the Multnomah County elections officer. The coversheet of any prospective initiative or referendum petition ~~shall~~ must designate the name and residence address of not more than three persons as chief petitioners. No petition for initiative or referendum ~~shall be~~ is valid unless all chief petitioners are electors of the Metro area at the time of filing and remain electors of the Metro area throughout the initiative or referendum process, including the election.
- (b) The chief petitioners of any proposed referendum measure ~~shall~~ must file ~~with the prospective petition~~ a full and correct copy of the Metro ordinance proposed for referral with the prospective petition, including the title and ordinance number. An ordinance in its entirety ~~may be~~ is subject to referendum, but not any portions ~~thereof of the ordinance.~~
- (c) The chief petitioners of any proposed initiative measure ~~shall~~ must file ~~with the prospective petition~~ a full and correct copy of the ordinance to be initiated with the prospective petition.
- (d) Upon filing ~~of a~~ prospective petition for initiative or referendum with the elections officer, the elections officer ~~shall~~ must send a copy of it to the Metro Attorney (without ~~determining making any determination~~ whether it meets the requirements of the Oregon Constitution, the Metro Charter, or the Metro Code).
- (e) Not later than the tenth business day after receiving a prospective petition for an initiative or referendum from the elections officer, the Metro Attorney ~~shall~~ will notify the elections officer in writing whether the initiative or referendum complies with ~~meets~~ the applicable requirements of Section 1(2)(d) and Section 1(5), Article IV, of the Oregon Constitution, Metro Charter Sections 34, 38 and 39 ~~of the Metro Charter~~, and Metro Code Section 9.02.030(1), below. An elector dissatisfied with the Metro Attorney's decision pursuant to this subsection may only challenge that determination as set forth in ORS 255.140(4) and (5). ~~The Metro Attorney's decision~~

~~pursuant to this Section 9.02.030(e) may be challenged exclusively in accordance with the procedures set forth in ORS 255.140(4) and (5).~~

- (f) If the Metro Attorney determines that the initiative or referendum measure does not comply with ~~fails to meet~~ the applicable requirements of the Oregon Constitution, the Metro Charter, and the Metro Code, the elections officer ~~shall~~ must immediately notify at least one of the chief petitioners, in the manner required by law.
- (g) If the Metro Attorney determines that the initiative or referendum ~~meets~~ complies with the applicable requirements of the Oregon Constitution, the Metro Charter, and the Metro Code, then the Metro Attorney will prepare and send the elections officer a ballot title not later than the fifteenth business day after providing written notice to the elections officer of this determination, ~~the Metro Attorney shall prepare and send to the elections officer a ballot title and may, at the Metro Attorney's election,~~ The Metro Attorney may, at the Metro Attorney's sole discretion, also prepare and send an explanatory statement to the county elections officer.
- (h) The elections officer ~~shall~~ must furnish a copy of the ballot title and any explanatory statement to at least one of the chief petitioners and publish notice of receipt of the ballot title as set forth ~~in accordance with~~ ORS Chapter 255. Unless the circuit court certifies a different title or explanatory statement (if any), the ballot title prepared by the Metro Attorney ~~will~~ shall be the title printed on the ballot and the explanatory statement prepared by the Metro Attorney ~~shall~~ will be the explanatory statement printed in the voter's pamphlet. The circuit court ~~shall~~ must give deference to the ballot title and any explanatory statement prepared by the Metro Attorney.
- (i) The elections officer ~~shall~~ may not accept ~~no an~~ initiative petition for signature verification more than six ~~(6)~~ months after the initial date that a petitioner filed the prospective initiative ~~was initially filed with~~ the elections officer.
- (j) If an initiative petition contains the required number of verified signatures, the election on the measure ~~shall be held~~ will occur on the first Tuesday following the first Monday of the next November for which the election deadlines set forth in ORS 255 are met.
- (k) If a referendum petition contains the required number of verified signatures, the election on the measure ~~shall be held~~ will occur at the next scheduled regular district election for which the election deadlines set forth in ORS 255 are met.
- (l) Every amendment to the Metro Charter proposed by initiative (and not by the Metro Council) must be separately stated. When two or more amendments are proposed by initiative at a single election, they must be separately voted upon, and the votes in favor and against must be cast separately. ~~The requirement in this Section 9.02.030(l) for a separate vote is to be interpreted to have the same meaning~~ The separate vote requirement of this subsection has the same meaning as the separate vote requirement set forth in the Oregon Constitution Section 1, Article XVII, and cases interpreting it. [Ord. 17-1404.]

9.02.040 Election Procedures; Certification; Effective Date

- (a) Measures referred by the Metro Council ~~shall~~will be designated on the ballot as "Referred to the People of the Metro region by the Metro Council."
- (b) Measures proposed by referendum petition ~~shall~~will be designated on the ballot as "Referred by Petition of the People."
- (c) Measures proposed by initiative petition ~~shall~~will be designated on the ballot as "Proposed by Initiative."
- (d) ~~Not more than~~ Within 30 days following any election, the elections officer ~~shall~~must certify the election results to the Metro Council. The Metro Council ~~shall~~thereafter will proclaim the results in the records of the Metro Council. If ~~the Metro Council finds that~~ two or more approved measures on the same subject contain conflicting provisions, the measure receiving the greatest number of affirmative votes becomes the adopted measure. The Metro Council ~~shall~~will proclaim ~~determine in the proclamation which of the conflicting measures~~ is effective.
- (e) A measure is ~~Measures shall be~~ effective upon the Metro Council's proclamation of the results, unless a measure expressly provides a later effective date. [Ord. 93-517B, Sec. 1; Ord. 02-977, Sec. 1; Ord. 17-1404.]

IN CONSIDERATION OF ORDINANCE NO. 25-1528, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 9.02 (BALLOT MEASURES, INITIATIVE AND REFERENDUM) TO IMPROVE CLARITY AND INCORPORATE PLAIN LANGUAGE BEST PRACTICES AND DECLARING AN EMERGENCY

Date: February 10, 2025
Department: Office of Metro Attorney
Meeting Date: February 20, 2025

Prepared by: Shane Abma
Presented by: Shane Abma
Length: 10 minutes

ISSUE STATEMENT

The Office of Metro Attorney (OMA) periodically reviews Metro Code chapters when circumstances arise that require Metro to adhere to the requirements and processes set forth in Metro Code. The Metro Council is considering referring a ballot measure to the voters related to Metro's Supportive Housing Services Program.

While reviewing Metro Code Chapter 9.02 (Ballot Measures, Initiative and Referendum) to ensure that Metro follow its applicable requirements for ballot measure referrals, OMA determined that Chapter 9.02 contains an unnecessary, potentially confusing, and constitutionally inapplicable code requirement related to Metro Council referrals. OMA recommends removing this inapplicable requirement from Code. Further, as required by Resolution No. 22-5293, OMA also conducted a review of Chapter 9.02 in its entirety for potential plain and inclusive language improvements. This ordinance therefore also includes several non-substantive updates to Chapter 9.02 to improve readability.

ACTION REQUESTED

OMA requests that Metro Council adopt Ordinance No. 25-1528 (updating Metro Code Chapter 9.02 *Ballot Measures, Initiative and Referendum*).

IDENTIFIED POLICY OUTCOMES

- 1) Remove a potentially confusing, unnecessary, and inapplicable requirement related to Metro Council measure referrals (the "full text" requirement, discussed below).
- 2) Improve the readability of Chapter 9.02 by applying plain and inclusive language best practices as required by Metro Council Resolution No. 22-5293.

POLICY OPTIONS FOR COUNCIL TO CONSIDER

- Adopt this ordinance. This will remove an unnecessary, potentially confusing, and constitutionally inapplicable code requirement related to Metro Council referrals, while also improving the readability of Chapter 9.02.
- Do not adopt this ordinance. A failure to adopt this ordinance may cause uncertainty and confusion regarding an otherwise unnecessary and constitutionally inapplicable

Metro Code requirement related to Metro Council referrals. This could potentially delay final certification of any ballot measure referral in the future.

- Direct OMA to update only those sections of current code that are confusing and not legally required for referrals, initiatives, and referendums, without also incorporating suggested plain language improvements.

STAFF RECOMMENDATIONS

OMA recommends that Metro Council adopt Ordinance No. 25-1528, which will improve the readability of Metro's Code Chapter 9.02 relating to Referrals, Initiatives, and Referendums and remove an unnecessary, potentially confusing, and constitutionally inapplicable code requirement related to Metro Council referrals.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

The Office of Metro Attorney seeks a Metro Code that is easy to read and understand with clear requirements. Regular code updates help ensure that the Metro Code remains current with plain and concise language, is consistent with state and constitutional law requirements, and provides appropriate guidance to those governed by the Code.

- *Known Opposition/Support/Community Feedback*

There is no known opposition. However, because of the administrative nature of this code chapter, OMA did not perform external outreach related to these changes.

- *Legal Antecedents*

Current Metro Code Chapter 9.02, Metro Charter, ORS Chapter 255, the Oregon Constitution, and the Oregon Secretary of State's *County, City, and District Initiative and Referendum Manual*.

- *Anticipated Effects*

The Metro Code will be easier to read and understand, and these changes will remove a potentially confusing, unnecessary, and inapplicable requirement related to Metro Council measure referrals.

- *Financial Implications (current year and ongoing)*

There are no financial implications.

BACKGROUND

Oregon law authorizes three kinds of ballot measures: citizen initiatives, citizen referendums on adopted legislation, and government referrals to voters for new legislation. The Oregon Constitution requires that ballot *initiatives* contain the "full text of the proposed law []". (Oregon Constitution Article IV, section (1)(2)(d)). Notably, Oregon's constitutional "full text" requirement does not apply to *referendums* or *referrals*; it only applies to initiatives.

Metro Code Chapter 9.02 governs Metro's procedures for referrals, initiatives, and referendums. Metro Code Section 9.02.020(b) currently states that a Metro Council *referral* must contain "the full text" of the measure. ("The [referral] resolution shall include the full text of the measure.") OMA interprets this provision to mean that Metro must include the complete text of any measure or ordinance adopted by the Metro Council and for which the Council is referring to voters for approval. For example, this means that Metro Council could not simply refer a measure by reference, such as "Metro Council refers Ordinance No. ____", without including the text of the ordinance as well.

Unfortunately, one could erroneously misinterpret Metro Code's "full text" requirement with respect to referrals to require something beyond what is constitutionally required of referrals, when in fact "full text" is a term of art that only applies to initiatives.

Thus, OMA recommends removing any reference to a "full text" requirement in Metro Code for *referrals* because that constitutional requirement does not apply to referrals. Preserving it in Metro Code could create confusion and delay final ballot title certification.

ATTACHMENTS

None.