

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 957

Conforming Amendments to Multnomah County Code Chapter Sections 11.300, 11.304, 11.400 and 11.401
Relating to Visitor Facilities, and Declaring an Emergency

(Stricken language is deleted; double- underlined language is new.)

Multnomah County ordains as follows:

Section 1. MCC § 11.300- is amended to read as follows

§ 11.300- Definitions.

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

CAR SHARING ORGANIZATION. A profit or non-profit organization with membership requirements that provides the use of motor vehicles exclusively to its members for a fee.

COMMERCIAL ESTABLISHMENT. Any person or other entity, any part of whose business consists of providing the use of motor vehicles for a rental fee.

DIRECTOR. The Finance Director of the county.

DOING BUSINESS IN THE COUNTY. Any of the following conduct by a commercial establishment whose business address is within or outside the county:

- (1) Delivery of a rented vehicle to a location within the county for use by a person within the county; or
- (2) Presenting for execution within the county by any person a car rental agreement.

EXEMPTION AREA. Multnomah, Washington and Clackamas Counties.

MOTOR VEHICLE. Without limitation, automobiles, trucks having a manufacturer's gross vehicle weight not exceeding 24,000 pounds, motor homes, motorcycles, pickup campers and any motorized passenger vehicles designed to carry fewer than ten persons, which are capable of being used on the highways of the state.

~~***PARITY OBLIGATIONS.*** County bonds or obligations up to \$8,500,000 in aggregate principal amount that pledge motor vehicle rental tax on a parity with the Regional Children's Campus Bonds, and any bonds or obligations issued to the refund Regional Children's Campus Bonds.~~

REGIONAL CHILDREN'S CAMPUS (RCC) BONDS AND PARITY OBLIGATIONS. (a) County Revenue Bonds, Series 1998 (Regional Children's Campus, Inc.) that are dated October 1, 1998, (b) Motor Vehicle Rental Tax Revenue Bonds, Series 2000A and 2000B dated November 1, 2000, (c) any obligations issued to refund obligations described in clause (a) or (b) of this definition.

RENTAL FEE. The gross fee and charges, whatever the basis of their calculation, paid to a commercial establishment by any person for the rental of a motor vehicle.

RENTAL or RENTING. Obtaining in the county the use of a motor vehicle from a commercial establishment in the county for a rental fee, and includes all services, supplies and commodities furnished by the commercial establishment in connection with providing the use of the vehicle, but does not include leasing or other transactions where title of a motor vehicle is permanently or temporarily transferred from the commercial establishment to any other person or entity.

YEAR ONE. Fiscal Year 2000-2001.

Section 2. MCC § 11.304 is amended to read as follows

§ 11.304 Use Of Taxes.

(A) The 10% base taxes collected under this subchapter are general fund revenues of the county, except that the portion of taxes attributable to gasoline sales are subject to the limitations on use prescribed by the constitution and laws of the state.

(B) The base taxes, and to the extent necessary also surcharge taxes, will be used by the County to pay any debt service on the RCC Bonds and ~~any~~ Parity Obligations. All 2.5% surcharge taxes collected under this subchapter not needed for that purpose will be deposited in the Visitors Facilities Trust Account (VFTA) created by 11.401(E) and allocated as provided by 11.401(E)(4). The Board is authorized under Home Rule authority to enter an intergovernmental agreement with the City of Portland to pledge the County to maintain this surcharge to pay the bonds and other obligations identified in 11.401(E). Such pledge is binding under ORS 288.594 from April 1, 2000 as long as the 11.401(E) bonds are outstanding.

Section 3. MCC § 11.400- is amended to read as follows

§ 11.400- Definitions.

For the purpose of this subchapter, the following definitions apply unless the context requires a different meaning.

ACCRUAL ACCOUNTING. An accounting method where the operator enters the rent due from a transient on the records when the rent is earned, whether or not it is paid.

ADMINISTRATIVE FEE. The County Trust Account Fee that is the Indirect Flow-Through Rate that is published annually in the County Indirect Cost Rates and Countywide Cost Allocation Plan and charged to internal accounts.

BONDS. Collectively, the Convention Center Completion Bonds, the Civic Stadium Bonds and the Portland Center for Performing Arts (PCPA) Bonds.

CASH ACCOUNTING. An accounting method where the operator does not enter the rent due from a transient on the records until rent is paid.

CIVIC STADIUM BONDS. Bonds or other obligations issued by the City of Portland (City) to fund Civic Stadium improvements in an amount not to exceed ~~\$33,000,000~~\$35,000,000 and any bonds issued to refund those bonds.

CONVENTION CENTER COMPLETION BONDS. Bonds or other obligations issued by the City to fund the Convention Center Completion Project in an amount not to exceed \$100,000,000 and any bonds issued to refund those bonds.

CONVENTION CENTER COMPLETION PROJECT. The expansion of the Oregon Convention Center (OCC) facilities to include approximately ~~115,000~~105,000 square feet of exhibit space, a 35,000 square foot ballroom, a total of 40 meeting rooms, 35,000 square feet of lobby space, a ~~1,350~~825 space parking garage and 10 loading docks.

CPI. The annual average percent change in the Portland Salem OR-WA CPI-U as issued by the U.S. Department of Labor, Bureau of Labor Statistics for the most recent 12-month calendar year period, or a comparable measure of price change if this index is not available.

CULTURAL TOURISM. A program or programs to attract visitors to the Portland area to attend cultural and recreational events and exhibits.

FACILITIES. The Oregon Convention Center, the Portland Center for the Performing Arts, the Exposition Center, and neighborhood arts programs.

HOTEL. Any structure, or any portion of any structure that is occupied or intended or designed for transient occupancy for 30 days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, lodginghouse, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, and also includes space in mobile home or trailer parks, or similar structure or space if occupancy is for less than a 30-day period.

NEIGHBORHOOD ARTS. Arts programs aimed at increased community and educational exposure to arts and involvement in artistic endeavors to enhance the quality of life in the region thus increasing tourism and increasing support for cultural programs.

NET REVENUES. The collections (including delinquent interest and penalties) from the 2.5% surcharge transient lodging tax (MCC § 11.401(E)), the collections (including delinquent interest and penalties) from the 2.5% surcharge vehicle rental tax (MCC § 11.301(C)), and earnings on amounts in the Visitors Fund Trust Account, less the Administrative Fee. Net revenues does not include any amounts required to pay refunds of surcharge taxes, interest, or other charges required by state law, debt service on the Regional Children's Campus Bonds and Parity Obligations.

OCCUPANCY. The use or possession, or the right to use or possess for lodging or sleeping purposes any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

OPERATING EXPENSES. The total cost of all labor, benefits, overhead, maintenance, materials and services incurred by the operator or operators of the facilities in encouraging attendance, administering, and operating events held in the facilities and in obtaining events to be held there or as part of the neighborhood arts programs.

OPERATOR. The person who is proprietor of the hotel in any capacity. Where the operator performs functions through a managing agent of any type or character other than an employee, the managing agent will also be considered an operator for the purposes of this subchapter and will have the

same duties and liabilities as the principal. Compliance with the provisions of this subchapter by either the principal or the managing agent is compliance by both.

PCPA BONDS. Bonds or other obligations issued by the City to fund capital improvements to the PCPA in an amount not to exceed \$2,100,000, and any bonds issued to refund those bonds.

RENT. The consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

RENT PACKAGE PLAN. The consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under this subchapter is the same charge made for rent when not a part of a package plan.

TAX. Either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which the operator is required to report collections.

TAX ADMINISTRATOR. The Finance Director of the county.

TRANSIENT. Any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel will not be included in determining the 30-day period if the transient is not charged rent for that day by the operator. Any such individual occupying space in a hotel will be considered to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. A person who pays for lodging on a monthly basis, irrespective of the number of days in any month, is not considered transient.

VISITORS FACILITIES TRUST ACCOUNT (VFTA). The excise tax account created by MCC § 11.401(E) to receive and disburse Net Revenues as provided in the Visitor Facilities Intergovernmental Agreement.

Section 4. MCC § 11.401 is amended to read as follows

§ 11.401 Tax Imposed.

(A) For the privilege of occupancy in any hotel in the county, each transient shall pay a tax of 11.5% of the rent charged by the operator. The tax constitutes a debt owed by the transient to the county that is extinguished only by payment by the operator to the county. The transient will pay the tax to the operator of the hotel at the time the rent is paid. The operator will record the tax when rent is collected if the operator keeps records on the cash accounting basis, and when earned if the operator keeps records on the accrual accounting basis. If rent is paid in installments, the transient will pay a proportionate share of the tax to the operator with each installment. In all cases the rent paid or charged for occupancy will exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations and space occupancy in mobile home parks or trailer parks. After deductions for administration costs and any refunds or credits authorized by this subchapter the proceeds of the tax will be allocated as provided for in subsections (A), (B), (C), (D) and (E) of this section.

(B) The base rate of the tax imposed by subsection (A) is equal to 5%. It will be allocated to the county general fund, and is available for general fund expenditures.

(C) A surcharge rate of the tax imposed by subsection (A) is equal to 1% and will be used exclusively for contracting with private organizations for the promotion, solicitation, procurement and service of county convention business and tourism.

(D) A surcharge rate of the tax imposed by subsection (A) is equal to 3% and will be allocated to the Excise Tax Fund.

(1) Before paying the tax imposed by subsection (D), as required by § 11.407, the operator may deduct an amount equal to 5% of that portion of the tax that is allocated to the Excise Tax Fund. This 5% may be retained by the operator as reimbursement for the operator's expenses in collecting the tax.

(2) The county will pay from the proceeds of the tax that is allocated to the Excise Tax Fund:

(a) To Metro, for the operation of the Oregon Convention Center, \$3,800,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the greater of the change in the CPI or the overall change in the proceeds of the tax. If the overall increase in the proceeds of the tax in any given year exceeds 7%, any additional funds beyond the 7% increase will be allocated as specified in subsection (e) of subsection (D). Metro may also utilize the proceeds to pay debt service on Bonds issued for the purpose of making capital improvements to the Oregon Convention Center.

(b) To the government entity responsible for the operation of the Portland Center for the Performing Arts, \$1,200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax.

(c) To the government entity responsible for operating the Portland Center for the Performing Arts for a program or programs for cultural tourism, to be administered through a contract with the Portland Oregon Visitor's Association, and in collaboration with the Regional Arts and Culture Council, \$200,000 in fiscal year 1997-98 and, in each fiscal year thereafter, that amount plus annual percentage increases equal to the lesser of the change in the CPI or the overall change in the proceeds of the tax;

(d) To the Regional Arts and Culture Council, any remaining balance up to \$200,000 of the proceeds of the tax after the payments in subsections (a) through (c) are made, to be allocated as follows:

1. \$100,000 for neighborhood arts;
2. \$100,000 to broaden participation in and visitors to the region's cultural and artistic assets by residents of outlying areas of the greater Portland metropolitan region.

(e) To Metro for any remaining balance of the proceeds from the tax after the payments in subsections (a) through (e) are made will be allocated towards replacement, renewal, expansion, and other capital needs of the facilities managed by Metro, on an as-needed basis to be determined by Metro.

(3) Earnings on proceeds allocated to the Excise Tax Fund will be credited to the Excise Tax Fund.

(4) The amounts specified in subsection (2) above are subject to review by the Board every five years.

(5) The tax imposed by subsection (D) is separate and independent of the tax imposed by subsection (C). Nothing in this subsection (D) modifies the 1% tax provided for by subsection (C).

(E) A surcharge rate of the tax imposed by subsection (A) is equal to 2.5% and will be allocated to the VFTA that is separate from the Excise Tax Fund. This 2.5% surcharge will terminate if the 2.5% motor vehicle rental tax surcharge imposed by § 11.301(C) is terminated before issuance of the Bonds.

(1) Before paying the tax imposed by subsection (E) as required by § 11.407, the operator may deduct an amount equal to 5% of the portion of the tax allocated to VFTA. This 5% may be retained by the operator as reimbursement for expenses for collecting the tax.

(2) The tax imposed by subsection (E) is separate and independent of the tax imposed by subsections (C) and (D). Nothing in this subsection modifies the taxes imposed by subsections (C) and (D).

(3) In addition to imposing a tax, this subsection (E) specifically authorizes the Board under Home Rule authority to enter into an intergovernmental agreement with the City, pledging the County to maintain the tax surcharge to pay the Bonds and other obligations of this subsection (E). Any pledge of tax revenues in such an intergovernmental agreement is binding under ORS 288.594 from April 1, 2000, and as long as the Bonds set out in subsection (E) are outstanding.

(4) Taxes imposed by subsection (E) will be allocated in the following order of priority:

(a) First, to the City in the amount required to pay debt service on the Convention Center Completion Bonds;

(b) Second, to the City in the amount required to pay debt service on the PCPA Bonds;

(c) Third, to the City in the amount, if any, required to pay the remaining debt service on Civic Stadium Bonds after application of Civic Stadium Revenues;

(d) Fourth, to Metro in the amount, if any, required to pay reasonable operating, capital repair and maintenance cost of the OCC in excess of revenues collected by the OCC and the tax received by Metro from subsection (D);

(e) Fifth, to Metro for Convention Center Marketing, \$250,000 in Year One, \$350,000 in the second year, increased for each fiscal year thereafter by the CPI.

~~(ef) Fifth~~^{Sixth}, to Tri-County Metropolitan Transportation District (Tri-Met), \$300,000 in the fiscal year 2000-01, increased each subsequent fiscal year by the CPI, for costs of extending the fareless square to the Lloyd Center Max station;

~~(fg) Sixth~~^{Seventh}, to the Visitor Development Fund (VDF), \$250,000 in the fiscal year 2000-01, \$500,000 in fiscal year 2001-02, increased each subsequent fiscal year by the CPI, to attract visitors to the county and City that maximize hotel occupancy and vehicle rentals;

(gh) ~~Seventh~~Eighth, to Metro for the operator of the PCPA, \$250,000 in Year One, \$500,000 each fiscal year in the second year, increased each year thereafter by the CPI, for costs of PCPA operations;

(a) (hi) ~~Eighth~~Ninth, to Metro to pay OCC operating deficits in excess of \$8,840,000 that accumulate during the first six fiscal years (2000-01 through 2005-06) after the effective date of the tax imposed by subsection (E);

(ij) ~~Ninth~~Tenth, to a revenue stabilization subaccount sufficient to pay subsection (a) through (hi) disbursements ~~for at least one fiscal year~~, and that may be used to redeem or defease Convention Center Completion Bonds and PCPA Bonds.

(jk) ~~Tenth~~Eleventh, any subsection (E) taxes remaining after the (a) through (hi) payments including subaccounts may be spent according to budgets proposed by the Visitor Development Board.

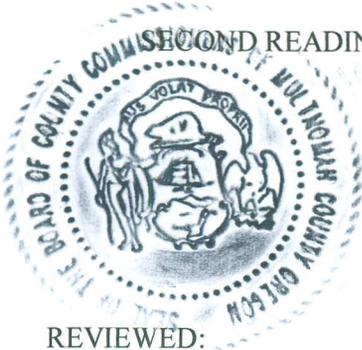
Section 5. This ordinance, being necessary to conform the code to the Visitor Facilities Intergovernmental Agreement with the City of Portland and Metro approved by the Board on January 18, 2001, and for the health, safety, and general welfare of the people of Multnomah County, an emergency is declared and this ordinance shall take effect upon its execution by the County Chair, pursuant to section 5.50 of the Charter of Multnomah County.

FIRST READING:

January 18, 2001

SECOND READING AND ADOPTION:

January 25, 2001



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Beverly Stein
Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Thomas Sponsler*
Thomas Sponsler, County Attorney