

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 790

An ordinance amending Multnomah County Code Chapter 5.50 (transient lodging tax) to authorize transfers of certain tax revenues to the Portland Center for the Performing Arts and the Metropolitan Arts Commission, and updating other provisions of the Code.

(Redlined language in brackets [] is to be deleted; underlined> language is new).

MULTNOMAH COUNTY ORDAINS AS FOLLOWS:

**SECTION I. Findings and Purpose**

(A) Arts Plan 2000+ and the Metro Regional Arts Funding Task Force, with Multnomah County representation, documented the financial crisis of arts organizations and facilities and the benefits of increased public and private investment in arts programs.

(B) The Portland Center for the Performing Arts is in dire need of new, outside financial resources to assist in paying for operational costs or the center will face closure.

(C) Under Measure 5 constraints, Multnomah County has found it difficult to maintain its historic funding support through the

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1 Metropolitan Arts Commission, and it has decreased by 30% from  
2 \$378,605 in FY 90/91 to \$267,059 in FY 93/94.

3 (D) The Metro Regional Arts Funding Task Force recommended  
4 short and long term solutions to the arts funding crisis, noting  
5 the critical need for stable, dedicated funding for arts programs  
6 and facilities to keep them functioning during a transition to  
7 broad based regional support. Metro accepted this report on March  
8 24, 1994 and committed funding for fiscal 94/95 to begin  
9 implementation.

10 (E) The Chair of the Metropolitan Exposition and Recreation  
11 Commission (MERC) and other Commissioners have met 3 times with  
12 members of the Tri County Lodging Association and have discussed  
13 the financial needs of both the Oregon Convention Center and  
14 Portland Center for the Performing Arts (PCPA).

15 (F) Metro passed resolution #94-1948A on April 14, 1994 in  
16 support of allocating funds from the Oregon Convention Center  
17 reserves to operating support for the Portland Center for the  
18 Performing Arts.

19 (G) Multnomah County supports the Arts Plan recommendation  
20 for the transition of the Metropolitan Arts Commission into a  
21 regional non-profit organization and wishes to provide "jumpstart"  
22 funding to support vital youth, education and cultural tourism  
23 programs.

24 (H) The Tri County Lodging Association, other interested  
25 parties, and the public have the right to review later actions  
26 implementing this ordinance and may petition Multnomah County to

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1 make further amendments deemed necessary.

2 (I) The Tri County Lodging Association has recognized the  
3 value of the Arts to the greater community and has agreed to  
4 support the allocation of \$600,000 a year for 3 years to the  
5 Performing Arts Center and \$100,000 a year for 3 years to the  
6 Metropolitan Arts Commission from the current hotel tax designated  
7 for the Oregon Convention Center, subject to the following:

8 (1) That Multnomah County Code Section 5.50.050(5) be amended  
9 to authorize the transfers;

10 (2) That this authorization be limited to three years  
11 starting with the 1994/95 fiscal year and at the end of  
12 this three year period, the last being fiscal year  
13 1996/97, this authorization shall automatically expire,  
14 without the necessity of any further action;

15 (3) That the use of these funds for PCPA operations and  
16 Metropolitan Arts Commission programs is subject to  
17 cancellation in any year if an emergency need is  
18 identified at the Oregon Convention Center. Metro must  
19 report such an emergency and its cause, in writing, to  
20 the Chair of the Multnomah County Commission by June 1 to  
21 cancel a transfer for the following fiscal year,  
22 beginning July 1. Metro is the body charged with  
23 identifying such emergencies including, but not limited  
24 to:

25 (a) Current Resources except beginning fund balance do  
26 not meet current expenditures less renewal and

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1 replacement fund transfer and unappropriated  
2 balance.

3 (b) Revenues from the hotel/motel tax drop by more than  
4 25% in any year when measured against the prior  
5 year.

6 (c) A major structural failure (not otherwise insured)  
7 such that total reserves are insufficient to repair  
8 the damage without the use of all or part of the 3  
9 year \$2,100,000 commitment.

10 (d) Or any other situation that threatens the normal  
11 operation of the convention center.

12 (4) That Multnomah County agree that it will not initiate any  
13 new hotel tax or any increase to the existing tax during  
14 the time this reallocation is in effect.

15 (5) That the Metropolitan Arts Commission will annually issue  
16 a written report about expenditures of funds.

17 (6) That the MERC will issue annually a written "Business  
18 Plan" report as to progress made in increasing the  
19 business and income for the PCPA and lowering the costs  
20 towards minimizing the PCPA financial gap.

21 (7) That percentage guideline limits for MERC and Metro  
22 overhead/support costs be set and results reported  
23 annually.

24 (8) That Multnomah County, Metro, MERC and the Metropolitan  
25 Arts Commission will amend their Intergovernmental  
26 Agreements as necessary to implement these actions.

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1 (j) That Hotel Tax revenues transferred to the  
2 Metropolitan Arts Commission will not replace  
3 Multnomah County general fund support, but will  
4 augment and stabilize funding over the three year  
5 period.

6 (k) That Multnomah County, Metro and MERC recognize  
7 that the overall solution to the region's funding  
8 for the Arts crisis not rest with the hotel tax and  
9 that a broad regional solution needs to be found  
10 within the 3 year time frame stated here.

11 (l) That Multnomah County, MERC and MAC recognize that  
12 earned income of arts organizations and facilities  
13 may be increased by more focused marketing to  
14 visitors and agree to consider increased visitor  
15 marketing. MAC will coordinate cultural tourism  
16 initiatives with existing marketing organizations  
17 already working with MERC and the PCPA.

18 (m) That Multnomah County, MERC, Metro and MAC  
19 recognize that the Tri County Lodging Association  
20 has been creative and cooperative in helping to  
21 identify interim solutions to the problem of  
22 funding arts programs and facilities and thanks  
23 them for their efforts.

24 **SECTION II. Amendments to Definitions**

25 (A) MCC 5.50.010(D) and (L) are amended as follows:

26 (D) Committee means the Multnomah County Finance

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Committee.]

(L) Tax administrator means the director, [department of general services] Finance Division, Multnomah County, Oregon.

SECTION III. Amendment

MCC 5.50.050(B) is amended to read:

(B) Three-eighths of the proceeds of the eight percent tax imposed by this section of the Multnomah County Code shall be allocated to the convention and trade show center special fund, which is hereby created. the convention center special fund is subject to the following limitations:

(1) As used in this section of the Multnomah County Code:

(a) Convention and trade show center means The Oregon Convention Center [a new or improved facility, located in Multnomah County, capable of attracting and accommodating midsize convention and trade shows from international, national and regional markets requiring 125,000 to 250,000 square feet of pillar-free, high ceiling exhibition space and 35,000 to 70,000 square feet of meeting rooms plus associated space including but not limited to banquet facilities, loading areas, lobby and registration areas.]

(b) Operating expenses means the total cost of all labor, benefits, overhead, maintenance, materials and services incurred by the operator of the convention center in administering and operating events held in the convention and trade show center and in obtaining events to be held there.

[(c) Voters means the qualified electors of the county or district requesting authorization to issue general obligation bonds to finance or partially finance construction of the convention and trade show center.]

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1 (d) Lead agency means Metro [a governmental  
2 unit having:

3 (i) Authority to seek voter approval for  
4 issuance of general obligation bonds  
5 for construction of a convention and  
6 trade show center; and

7 (ii) A formally adopted resolution or  
8 ordinance declaring its intent to  
9 have primary responsibility for  
10 building and operation of the  
11 convention and trade show center.]

12 (2) Before paying the tax imposed by this chapter,  
13 as required by MCC 5.50.175, the operator may  
14 deduct an amount equal to five percent of that  
15 portion of the tax that is allocated to the  
16 convention and trade show center special fund.  
17 This five percent of the amount attributable  
18 to the convention and trade show center  
19 special fund may be retained by the operator  
20 as reimbursement for the operator's expenses  
21 in collecting the tax imposed by this chapter.

22 [(3) All revenues allocated to the convention and  
23 trade show center special fund during the  
24 period from April 1, 1986, through June 30,  
25 1986, shall be used exclusively for  
26 contracting with one or more private  
organizations for the promotion, solicitation,  
procurement and service of convention business  
or tourism in the county. Additionally, one-  
third of the funds allocated to the convention  
and trade show center special fund during the  
period July 1, 1986, until voters approve  
issuance of general obligation bonds to  
finance or partially finance construction of  
the convention and trade show center or  
financing for construction has been obtained  
by some other means, shall be used exclusively  
for contracting with one or more private  
organizations for the promotion, solicitation,  
procurement and service of convention business  
or tourism in the county.]

(4) Before voters approve issuance of general  
obligation bonds to finance or partially  
finance construction of the convention and  
trade show center or before financing for  
construction has been obtained by some other

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1 means, funds deposited in the convention and  
 2 trade show center special fund and not  
 3 expended pursuant to subsection (B)(3) above  
 4 shall be used to assist the lead agency with  
 5 activities necessary for development of the  
 6 convention and trade show center including:

- 7 (a) Obtaining soils test borings;  
 8 (b) Obtaining topographic and boundary  
 9 surveys;  
 10 (c) Obtaining architectural/engineering  
 11 designs;  
 12 (d) Finalizing project program and budget;  
 13 (e) Performing preliminary design studies;  
 14 (f) Performing final design studies;  
 15 (g) Obtaining site and landscape planning;  
 16 (h) Preparing bid and construction documents;  
 17 (i) Preparing detailed cost estimates;  
 18 (j) Preparing special design/engineering  
 19 evaluations, including evaluation of:  
 20 (i) Alternate construction methods and  
 21 materials,  
 22 (ii) Electrical and mechanical systems,  
 23 (iii) Structural,  
 24 (iv) Equipment;  
 25 (k) Preparation of a cash flow statement;  
 26 (l) Preparation of a marketing and operations  
 plan and cost estimate;  
 (m) Preparation of an engineering design of  
 offsite facilities including:  
 (i) An evaluation of road relocations  
 and right-of-way work,  
 (ii) Evaluation of utility relocations,  
 (iii) Evaluation of traffic and  
 transportation systems;  
 (n) Preparation of technical backup for grant  
 applications and taxing districts (LID);  
 (o) Obtaining governmental reviews and  
 approvals, including:  
 (i) Land use,  
 (ii) Design review,  
 (iii) Building code (fire, exiting,  
 electrical, etc.);  
 (p) Site acquisition.]

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1 (5) After voters have approved issuance of general  
2 obligation bonds to finance or partially  
3 finance construction of the convention and  
4 trade show center or financing for  
5 construction has been obtained by some other  
6 means, funds deposited in the convention and  
7 trade show center special fund shall be used  
8 to assist Metro [the lead agency] for the  
9 following purposes:

6 (a) First, to pay any expenses incurred or  
7 activities identified under  
8 MCC 5.50.050(B)(4);

8 (b) Second, if all expenses identified in  
9 subsection (a) above have been satisfied,  
10 to pay any unfunded annual operating  
11 expenses that may have been incurred by  
12 the convention and trade show center;

11 (c) Third, if all expenses identified by  
12 subsection (a) above have been satisfied  
13 and if no otherwise unfunded annual  
14 operating expenses exist or if funds  
15 remain after the otherwise unfunded  
16 annual operating expenses have been paid,  
17 to provide for the promotion,  
18 solicitation, procurement, and service of  
19 convention business at the convention and  
20 trade show center to the extent necessary  
21 to fully implement the annual marketing  
22 program adopted by Metro [the lead  
23 agency];

18 (d) Fourth, if the needs identified in the  
19 foregoing subsections (a) through (c)  
20 have been fully satisfied, to pay  
21 ancillary costs associated with the  
22 development, construction and operation  
23 of the convention and trade show center,  
24 including but not limited to site  
25 acquisition costs and construction costs  
26 including financing of those costs;

23 (e) Notwithstanding the limitations on  
24 spending in subparagraphs (a) through  
25 (d), an amount not to exceed \$70,000.00  
26 one time only may be used by the lead  
agency for the promotion, solicitation,  
procurement, and service of the 1988  
International Association of Chiefs of

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Police convention in Multnomah County.

1  
2 (e) Notwithstanding the limitations on  
3 spending in subparagraphs (a) through  
4 (d), Metro [the lead agency] may use an  
5 amount not to exceed \$600,000 per year,  
6 for three years beginning with Metro's  
7 [the lead agency's] fiscal year 1994-  
8 1995, for operation of the Portland  
9 Center for the Performing Arts.

10 (f) Notwithstanding the limitations on  
11 spending in subparagraphs (a) through  
12 (e), Multnomah County may transfer an  
13 amount not to exceed \$100,000 per year,  
14 for three years beginning with fiscal  
15 year 1994-1995, as a special  
16 appropriation to the Metropolitan Arts  
17 Commission.

18 (g) The transfer of funds for operation of  
19 the Portland Center for the Performing  
20 Arts and for the Metropolitan Arts  
21 Commission pursuant to subparagraphs (f)  
22 and (g) shall not be made if, prior to  
23 June 1 of any year, the Metro Council  
24 declares that an emergency requires the  
25 funds to be used for the Oregon  
26 Convention Center. Any such declaration  
shall be in writing and shall be  
transmitted from Metro to the Chair of  
Multnomah County. The circumstances  
pertaining to the Oregon Convention  
Center warranting a declaration of an  
emergency shall include, but not be  
limited to:

(i) Current resources except beginning  
fund balance do not meet current  
expenditures less renewal and  
replacement fund transfer and  
unappropriated balance;

(ii) Revenues from the tax drop by more  
than 25% in any year when measured  
against the prior year;

(iii) A major structural failure at the  
center (not otherwise insured) such  
that total reserves are insufficient  
to repair the damage without the use

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1 of all or part of the 3-year  
2 \$2,100,000 commitment.

3 (iv) Or any other situation that  
4 threatens the normal operation of  
5 the convention center.

6 (6) Earnings on proceeds allocated to the  
7 convention and trade show center special fund  
8 shall be credited to the convention and trade  
9 show center special fund.

10 [(7) If the voters have not approved the issuance  
11 of general obligation bonds to finance or  
12 partially finance construction of the  
13 convention and trade show center by September  
14 30, 1989, and if funding for construction has  
15 not been obtained by some other means by  
16 September 30, 1989, the following changes  
17 shall automatically occur:

18 (a) All funds in the convention and trade  
19 show center special fund shall be used  
20 exclusively for providing for the  
21 promotion, solicitation, procurement, and  
22 service of convention business or tourism  
23 in the county.

24 (b) The tax levied pursuant to MCC 5.50.050  
25 shall be automatically reduced from eight  
26 percent of the rent charged by the  
operator to five percent of the rent  
charged by the operator. All of the  
proceeds of the five percent tax shall be  
allocated to the Multnomah County general  
fund and may be used for any purposes for  
which expenditures from the general fund  
are authorized.]

(8) The tax imposed by MCC 4.50.050 is separate  
and independent of the tax imposed by MCC  
5.50.055. Nothing is MCC 5.50.050 is intended  
or should be construed as modifying the one  
percent tax provided for by MCC 5.50.575.

(9) Notwithstanding MCC 5.50.575, no person  
subject to the tax imposed under MCC 5.50.050  
shall be entitled to a credit against the  
payment of that portion of the tax allocated  
to the convention center and trade show

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1 special fund. The three-eighths of the eight  
2 percent tax imposed by MCC 5.50.050 that is  
3 allocated to the convention center and trade  
4 show center special fund shall be due and  
5 payable in accordance with this chapter  
6 regardless of the amount due any incorporated  
7 city or town within Multnomah County for a  
8 transient lodgings tax for the same occupancy  
9 made taxable under this chapter.

6 (C) The provision to increase the rate from five  
7 percent to eight percent under subsections (A) and  
8 (B) of this section shall take effect on April 1,  
9 1986.

8 **SECTION IV. Amendment**

9 MCC 5.50.275(D) is amended to read:

10 (D) The order or decision of the tax administrator  
11 upon a petition for redetermination of redemption and  
12 refund becomes final ten days after service upon the  
13 petitioner of notice, unless appeal of the order or  
14 decision is filed with the tax administrator [transient  
15 lodgings tax review committee] within the ten days after  
16 service of notice.

14 **SECTION V. Repeal**

15 MCC 5.50.400 (Transient Lodgings Review Committee),  
16 MCC 5.50.425 (Powers and Duties of Committee), and MCC 5.50.450  
17 (Appeal to Committee) are repealed.

18 **SECTION VI. Amendment**

19 MCC 5.50.475 is amended to read:

20 Any person aggrieved by any decision of the  
21 [committee] tax administrator may appeal to the board of  
22 county commissioners by filing a notice of appeal with  
23 the tax administrator within ten days of the serving or  
24 mailing of the notice of the decision given by the tax  
25 administrator [committee]. The tax administrator shall  
26 transmit the notice of appeal, together with the file of  
the appealed matter to the chair of the board of county  
commissioners, who shall fix a time and place for hearing  
the appeal from the decision of the committee. The chair  
shall give the appellant not less than ten days' prior  
written notice of the time and place of hearing on the

1 appealed matter. [Action by the board on appeals shall  
2 be decided by a majority of the members present at the  
meeting where the appeal is considered.]

3 **SECTION VII. Amendment**

4 MCC 5.50.900 is amended to read:

5 **5.50.900. Tax penalties and interest.**

6 (A) Any operator who has not been granted an  
7 extension of time for remittance of tax due and who fails  
8 to remit any tax imposed by this chapter prior to  
delinquency shall pay a penalty of ten percent of the  
9 amount of the tax due in addition to the amount of the  
tax.

10 (B) Any operator who has not been granted an  
11 extension of time for remittance of tax due and who  
12 failed to pay any delinquent remittance on or before a  
13 period of 30 days following the date on which the  
remittance first became delinquent shall pay a second  
delinquency penalty of 15 percent of the amount of the  
tax due plus the amount of the tax and the ten percent  
penalty first imposed.

14 (C) If the tax administrator determines that the  
15 nonpayment of any remittance due under this chapter is  
16 due to fraud or intent to evade its provisions, a penalty  
of 25 percent of the amount of the tax shall be added to  
the penalties stated in subsections (A) and (B) of this  
section.

17 (D) In addition to the penalties imposed, any  
18 operator who fails to remit any tax imposed by this  
19 chapter shall pay interest at the rate of [one-half of  
20 one percent per month or fraction thereof without  
proration for portions of a month, on the amount of the  
tax due, exclusive of penalties, from the date on which  
the remittance first became delinquent until paid.

21 (E) Every penalty imposed and such interest as  
22 accrues under the provisions of this section shall be  
23 merged with and become a part of the tax required to be  
paid.

24 (F) Any operator who fails to remit the tax levied  
25 within the time required by this chapter shall pay the  
26 penalties, provided, however, the operator may petition  
the [committee] tax administrator for waiver and refund  
of the penalty or any portion thereof and the [committee]

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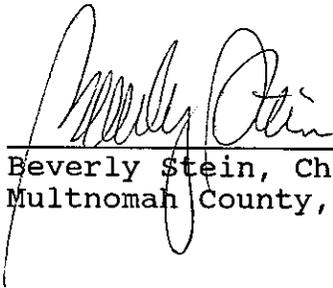
1 tax administrator may, if a good and sufficient reason is  
2 shown, waive and direct a refund of the penalty or any  
3 portion thereof.

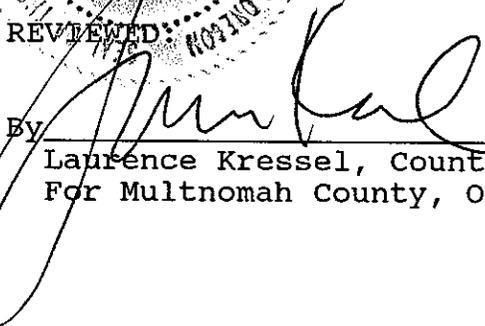
4 **SECTION VIII. Codification**

5 County Counsel is authorized to renumber sections and  
6 paragraphs in MCC 5.50 and make such other technical adjustments of  
7 form and style as are made necessary by this ordinance.

8 ADOPTED this 16th day of June, 1994, being  
9 the date of its second reading before the Board of County  
10 Commissioners of Multnomah County, Oregon.



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13 \_\_\_\_\_  
14 Beverly Stein, Chair  
15 Multnomah County, Oregon

16  
17   
18 By \_\_\_\_\_  
19 Laurence Kressel, County Counsel  
20 For Multnomah County, Oregon

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