

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

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

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

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

[(3) All revenues allocated to the convention and trade show center special fund during the period from April 1, 1986, through June 30, 1986, 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. 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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means, funds deposited in the convention and trade show center special fund and not expended pursuant to subsection (B)(3) above shall be used to assist the lead agency with activities necessary for development of the convention and trade show center including:

- (a) Obtaining soils test borings;
- (b) Obtaining topographic and boundary surveys;
- (c) Obtaining architectural/engineering designs;
- (d) Finalizing project program and budget;
- (e) Performing preliminary design studies;
- (f) Performing final design studies;
- (g) Obtaining site and landscape planning;
- (h) Preparing bid and construction documents;
- (i) Preparing detailed cost estimates;
- (j) Preparing special design/engineering evaluations, including evaluation of:

- (i) Alternate construction methods and materials;
- (ii) Electrical and mechanical systems;
- (iii) Structural;
- (iv) Equipment;

- (k) Preparation of a cash flow statement;
- (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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(5) After voters have approved 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, funds deposited in the convention and trade show center special fund shall be used to assist Metro [the lead agency] for the following purposes:

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

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

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

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

(e) Notwithstanding the limitations on spending in subparagraphs (a) through (d), an amount not to exceed \$70,000.00 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.

- (e) Notwithstanding the limitations on spending in subparagraphs (a) through (d), Metro [the lead agency] may use an amount not to exceed \$600,000 per year, for three years beginning with Metro's [the lead agency's] fiscal year 1994-1995, for operation of the Portland Center for the Performing Arts.
- (f) Notwithstanding the limitations on spending in subparagraphs (a) through (e), Multnomah County may transfer an amount not to exceed \$100,000 per year, for three years beginning with fiscal year 1994-1995, as a special appropriation to the Metropolitan Arts Commission.
- (g) The transfer of funds for operation of the Portland Center for the Performing Arts and for the Metropolitan Arts Commission pursuant to subparagraphs (f) and (g) shall not be made if, prior to June 1 of any year, the Metro Council declares that an emergency requires the funds to be used for the Oregon 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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of all or part of the 3-year
\$2,100,000 commitment.

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

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

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

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

(b) The tax levied pursuant to MCC 5.50.050
shall be automatically reduced from eight
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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special fund. The three-eighths of the eight percent tax imposed by MCC 5.50.050 that is allocated to the convention center and trade show center special fund shall be due and payable in accordance with this chapter regardless of the amount due any incorporated city or town within Multnomah County for a transient lodgings tax for the same occupancy made taxable under this chapter.

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

SECTION IV. Amendment

MCC 5.50.275(D) is amended to read:

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

SECTION V. Repeal

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

SECTION VI. Amendment

MCC 5.50.475 is amended to read:

Any person aggrieved by any decision of the [committee] tax administrator may appeal to the board of county commissioners by filing a notice of appeal with the tax administrator within ten days of the serving or mailing of the notice of the decision given by the tax administrator [committee]. The tax administrator shall 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

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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
extension of time for remittance of tax due and who fails
7 to remit any tax imposed by this chapter prior to
delinquency shall pay a penalty of ten percent of the
8 amount of the tax due in addition to the amount of the
tax.

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

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

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

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

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

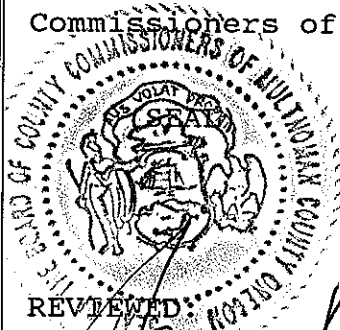
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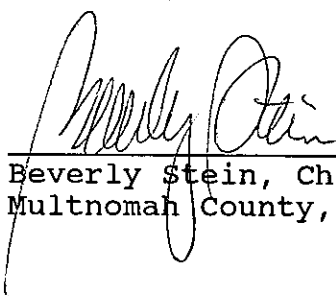
1 tax administrator may, if a good and sufficient reason is
2 shown, waive and direct a refund of the penalty or any
3 portion thereof.

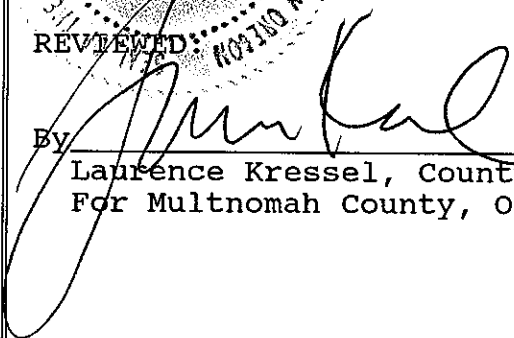
4 **SECTION VIII. Codification**

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

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18 By _____
19 Laurence Kressel, County Counsel
20 For Multnomah County, Oregon

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