



Regular Session

RS

Milwaukie City Council



MINUTES
MILWAUKIE CITY COUNCIL
 www.milwaukieoregon.gov

REGULAR SESSION
 DECEMBER 2, 2014
 City Hall Council Chambers

Council President Hedges called the 2,187th meeting of the City Council to order at 7:02 p.m.

Council Present: Councilors Scott Churchill, Mark Gamba, and Mike Miller

Excused: Mayor Ferguson

Staff Present: City Manager Bill Monahan, Assistant to the City Manager Mitch Nieman, City Recorder Pat DuVal, City Attorney Tim Ramis, Community Development Director Steve Butler, Finance Director Casey Camors, Police Chief Steve Bartol, Code Compliance Coordinator Tim Salyers, and Library Director Katie Newell

CALL TO ORDER

Pledge of Allegiance

PROCLAMATIONS, COMMENDATION, SPECIAL REPORTS AND AWARDS

A. Formal Announcement of the 2014 Ed Zumwalt Volunteer of the Year Award to Alicia Hamilton

Council President Hedges and Councilmembers congratulated Alicia Hamilton on receiving the 2014 Ed Zumwalt Volunteer of the Year Award and recognized her for her many contributions to her community.

B. Milwaukie High School (MHS) Outstanding Student Achievement Award for December 2014 to Morgan Webster

Mr. Pinder expressed appreciation to Ms. Webster for her vibrancy and school spirit. He outlined the student's many accomplishments and activities during her career at MHS.

C. Introduction of New Milwaukie Police Department Officers

Chief Bartol introduced Milwaukie Police Officers Heather Hisel and Mark Inman who were sworn in on December 1, 2014.

E. Ledding Library 50th Anniversary – Proclamation

Ms. Newell announced the December 16, 2014, event celebrating the Ledding Library's 50th Anniversary and 125 years of library service in Milwaukie.

Council President Hedges read the proclamation recognizing the 125th Anniversary of Library Services in Milwaukie and the 50th Anniversary of the Completion of the Ledding Library. He commended all citizens of the Dogwood Cities of the West to join the City Council in celebrating this important and historic community asset.

D. Metro Update

Councilor Carlotta Collette provided a District 2 Metro update highlighting current programs and projects. She took a moment to commend those who served on the City Council and those who served the community as volunteers. To help determine if the Urban Growth Boundary (UGB) needs to be adjusted, every 5 years Metro assesses the ability of the region to meet population and employment growth and the capacity in local plans to accommodate future growth. Other Metro projects included the Southwest

Corridor, the Powell-Division Learning Corridor, Climate Smart Communities, and the opening of the 100 acre Scouters Mountain Nature Park. Newell Creek Canyon near Clackamas Community College (CCC) is planned for completion in summer 2015. District 2 Nature in the Neighborhoods grants included riparian habitat improvements at Dahl Beach in Gladstone, Tryon Creek forest corridor restoration, and Erroll Creek wetlands restoration. Councilor Collette provided a brief update on the Willamette Falls Legacy Project and the solid waste roadmap project. She reported on upcoming events at the Portland's Centers for the Arts, the Expo Center, and the Oregon Zoo and announced Metro's newly elected officials training.

Councilor Gamba referred to the consent agenda item that sought adoption of a Resolution authorizing an intergovernmental agreement (IGA) between the City and Metro to collect a Construction Excise Tax (CET) that was remitted to Metro. He asked why there was a \$10 million cap on construction projects.

Councilor Collette thought one reason was that Metro did not wish to disadvantage multi-family construction. She noted most of the construction had taken place in the City of Portland, and the taxes were shared with other communities in the region.

E. 2014 60th Anniversary Christmas Ships Parade – Proclamation

Council President Hedges read the proclamation naming December 8th through 20th, 2014, as Christmas Ships Parade Days in the Dogwood City of the West and encouraged all citizens to greet the ships and their crews as they arrive at Milwaukie Bay.

CONSENT AGENDA

It was moved by Councilor Miller and seconded by Councilor Gamba to approve the consent agenda as presented.

- A. Resolution 85-2014: Certifying the Election Results of the November 4, 2014, General Election.**
- B. Resolution 86-2014: Authorizing the City Manager to sign an Intergovernmental Agreement with Metro to collect a Construction Excise Tax (CET) and remit funding to Metro on a quarterly basis.**

Motion passed with the following vote: Councilors Miller, Churchill, and Gamba and Council President Hedges voting "aye." [4:0]

AUDIENCE PARTICIPATION

Mr. Monahan reported there was no audience participation follow up from the previous City Council meeting.

Council President Hedges said there were no testimony forms related to audience participation submitted this evening.

PUBLIC HEARING

None scheduled.

OTHER BUSINESS

A. Vehicle Tags Code Amendment – Ordinance

Mr. Salyers provided background on the proposed Ordinance amending Milwaukie Municipal Code (MMC) §10.20.060B, Prohibited Parking. The proposed amendment would prohibit a vehicle from parking on or within a public right of way while having expired registration or displaying expired registration stickers that have been expired by 30 days or more. This action addressed one of the goals adopted by the City Council on February 18, 2014. This was both an active and reactive program, and enforcement was not necessarily complaint driven only. He believed a citation was about \$80. The Police Department handled abandoned vehicles in the right of way. By statute a car was considered abandoned after 24 hours.

Councilors Churchill and Miller appreciated fixing the gap in the MMC along with the more proactive style of enforcement.

Councilor Gamba noted some jurisdictions did not cite until the stickers had been expired for 90 days and asked why Milwaukie had opted for 30 days.

Mr. Salyers said 30 days from the date the tags expired was the consensus at the City Council study session. If a person had the new stickers but had not put them on, the defendant could appear in court where it was the judge's decision,

It was moved by Councilor Churchill and seconded by Councilor Miller to approve the first and second readings by title only and adoption of the Ordinance amending Section 10.20.060B Prohibited Parking, prohibiting a vehicle from parking on or within a public right-of-way while having expired registration or displaying expired registration stickers that have been expired by thirty (30) days or more. Motion passed with the following vote: Councilors Miller, Churchill, and Gamba and Council President Hedges voting "aye." [4:0]

Mr. Monahan read the Ordinance two times by title only.

Ms. DuVal polled the Council: Councilors Miller, Churchill, and Gamba and Council President Hedges voting "aye". [4:0]

ORDINANCE NO. 2088:

AMENDING SECTION 10.20.060B PROHIBITED PARKING, PROHIBITING A VEHICLE FROM PARKING ON OR WITHIN A PUBLIC RIGHT-OF-WAY WHILE HAVING EXPIRED REGISTRATION OR DISPLAYING EXPIRED REGISTRATION STICKERS THAT HAVE BEEN EXPIRED BY THIRTY (30) DAYS OR MORE.

B. Council Reports

Council President Hedges updated the public on upcoming events including the Umbrella Parade and City Hall Tree Lighting, the Winter Solstice, the Monroe Street Greenway Project open house, the Kronberg Park Master Plan, the final free leaf drop for the year, and the Ledding Library Celebration.

Council President Hedges announced the executive session pursuant to ORS 192.660(2)(e) to deliberate with persons designated by the governing body to negotiate real property transactions and 192.660(2)(h) to consult with legal counsel concerning current litigation or litigation likely to be filed. The Council would not reconvene in regular session.

ADJOURNMENT

It was moved by Councilor Gamba and seconded by Councilor Churchill to adjourn the regular session. Motion passed with the following vote: Councilors Miller, Churchill, and Gamba and Council President Hedges voting "aye."

Council President Hedges adjourned the meeting at 8:19 p.m.

Respectfully submitted,



Pat DuVal, Recorder

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**MILWAUKIE CITY COUNCIL
REGULAR SESSION**

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

**AGENDA
DECEMBER 2, 2014**

2,187th Meeting

- | | Page # |
|--|---------------|
| 1. CALL TO ORDER | |
| Pledge of Allegiance | |
| 2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS | |
| A. Formal Announcement of the 2014 Ed Zumwalt Volunteer of the Year Award to Alicia Hamilton | |
| Council President Hedges | |
| B. Milwaukie High School Outstanding Student Award for December 2014 to Morgan Webster | |
| Mark Pinder, Milwaukie High School Principal | |
| C. Introduction of New Milwaukie Police Department Officers | |
| Staff: Police Chief Steve Bartol | |
| D. Metro Update | |
| Carlotta Collette, Metro Council District #2 | |
| E. Ledding Library 50th Anniversary – Proclamation | 2 |
| Staff: Katie Newell, Library Director | |
| F. 2014 60th Anniversary Christmas Ships Parade – Proclamation | 3 |
| Council President Hedges | |
| 3. CONSENT AGENDA | |
| These items are considered routine, and therefore, will not be allotted discussion time on the agenda; these items may be passed by the Council in one blanket motion; any Councilor may remove an item from the "Consent" agenda for discussion by requesting such action prior to consideration of that part of the agenda. | |
| A. Certification of General Election Results – Resolution | 5 |
| B. Metro Construction Excise Tax Collections Intergovernmental Agreement | 14 |
| 4. AUDIENCE PARTICIPATION | |
| The presiding officer will call for citizen statements regarding City business. Pursuant to Milwaukie Municipal Code (MMC) Section 2.04.140, only issues that are "not on the agenda" may be raised. In addition, issues that await a Council decision and for which the record is closed may not be discussed. Persons wishing to address the Council shall first complete a comment card and submit it to the City Recorder. Pursuant to MMC Section 2.04.360, "all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition if the remarks become irrelevant, repetitious, personal, impertinent, or slanderous." The presiding officer may limit the time permitted for presentations and may request that a spokesperson be selected for a group of persons wishing to speak. | |

5. PUBLIC HEARING

Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony.

A. None scheduled.

6. OTHER BUSINESS

These items will be presented individually by staff or other appropriate individuals. A synopsis of each item together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.

A. Vehicle Tags Code Amendment – Ordinance

31

Staff: Steve Bartol, Police Chief

B. Council Reports

7. INFORMATION

8. ADJOURNMENT

Public Notice

Executive Sessions: The Milwaukie City Council may meet in Executive Session immediately following adjournment pursuant to ORS 192.660(2). All Executive Session discussions are confidential and those present may disclose nothing; representatives of the news media may attend as provided by ORS 192.660(3) but must not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and they are closed to the public.

The Council requests that mobile devices be set on silent or turned off during the meeting.

The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities Act. For special accommodations, please call 503-786-7502 or email ocr@milwaukieoregon.gov at least 48 hours prior to the meeting.



**Regular Session
Agenda Item No.**

2

**Proclamations,
Commendations,
Special Reports,
& Awards**



CITY OF MILWAUKIE
"Dogwood City of the West"

PROCLAMATION

WHEREAS, public libraries provide valuable services that enrich our society and enhance the wellbeing of the communities they serve through the pursuit of creativity and knowledge; and

WHEREAS, the City of Milwaukie has been faithfully served by the volunteers who initiated a circulating library in 1889 and have since maintained their unyielding support of the professional librarians who worked to expand the collection into a public institution in 1934; and

WHEREAS, the City of Milwaukie’s library has been tirelessly promoted and served by the many dedicated Friends of the Library since before their formal organization in 1952; and

WHEREAS, the generosity of Florence Ledding, a civic leader in this State and City, who upon her passing in 1961 bestowed upon this community a public library facility “for the uses, objects and purposes of the furtherance and advancement of education, learning, literature and science, for the use of all people regardless of race, age, station in life, color, sex or religious faith”; and

WHEREAS, 2014 marks the **125th anniversary** of the efforts of Alfred Lewelling and other volunteers to commence the circulation of library materials for the benefit of this community; and

WHEREAS, 2014 marks the **50th anniversary** of the fulfilment of Florence Ledding’s bequest to the people of this City through the construction of the public library still in operation today.

NOW, THEREFORE, I, David A. Hedges, Council President of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim and recognize the **125th Anniversary of Library Services in Milwaukie** and the **50th Anniversary of the Completion of the Ledding Library**, and do hereby commend all citizens of *The Dogwood City of the West* to join with the City Council in celebrating this important and historic community asset.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 2nd day of December, 2014.

David A. Hedges, Council President

ATTEST:

Pat DuVal, City Recorder





CITY OF MILWAUKIE
"Dogwood City of the West"

RS 2. F.
12/2/14

PROCLAMATION

WHEREAS, the Christmas Ships Parade is a grand holiday tradition featuring as many as sixty boats and their volunteer crews sailing the waters of the Columbia and Willamette rivers; and

WHEREAS, the Columbia and Willamette Fleets of the Christmas Ships Parade will be sailing to destinations around the region between December 5th and December 21st, 2014; and

WHEREAS, the City of Milwaukie is honored to be a scheduled destination and welcomes the Willamette Fleet of the Christmas Ships Parade on December 8th, 10th, 12th, 17th, and 18th, 2014; and

WHEREAS, the City of Milwaukie is pleased to invite all to view the Christmas Ships Parade as it sails past Milwaukie Bay on the Willamette River on Saturday December 20th, 2014, while also enjoying the festivities of the Annual Winter Solstice Event; and

WHEREAS, 2014 marks the **60th Anniversary** of the Portland Christmas Ships Parade.

NOW, THEREFORE, I, David A. Hedges, Council President of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim December 8th through 20th, 2014 as **Christmas Ships Parade Days** in the *Dogwood City of the West* and do encourage all citizens to greet the ships and their crews as they arrive at Milwaukie Bay and to express our community's appreciation for their generous sharing of their nautical holiday spirit.

IN WITNESS WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 4th day of December, 2014.

David A. Hedges, Council President

ATTEST:

Pat DuVal, City Recorder





**Regular Session
Agenda Item No.**

3

Consent Agenda



**MILWAUKIE CITY COUNCIL
AGENDA ITEM SUMMARY**

Agenda Item: **RS 3. A.**
Meeting Date: **12/2/2014**

Title: **Certification of General Election Results**

Prepared By: Scott Stauffer, Administrative Specialist II

Department Approval: Pat DuVal, City Recorder

City Manager Approval: Bill Monahan

Approval Date: November 24, 2014

ISSUES BEFORE COUNCIL

To acknowledge and certify the official results of the General Election held on Tuesday November 4, 2014, as reported by the Office of the Clackamas County Clerk and the Multnomah County Elections Division.

STAFF RECOMMENDATION

To accept the official results of the General Election.

KEY FACTS & INFORMATION SUMMARY

Please refer to the Canvass Reports attached to this Agenda Summary.

OTHER ALTERNATIVES CONSIDERED

None.

CITY COUNCIL GOALS

Not applicable.

FISCAL NOTES

None.

ATTACHMENTS

1. Proposed Resolution
2. Election Canvass Reports

Attachment 1



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, Certifying the Election Results of the November 4, 2014, General Election.

WHEREAS, Section 13 of the Milwaukie City Charter requires the certified election results be made a part of the record of proceedings of the City Council; and

WHEREAS, the election results from the November 4, 2014, General Election have been certified by the offices of the Clackamas County Clerk and Multnomah County Elections Division.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie that:

Section 1: The certified election results, attached hereto as "Exhibit A" and incorporated herein, are hereby made a part of the record of proceedings of the City Council.

Section 2: This Council Resolution is effective immediately upon adoption.

Introduced and adopted by the City Council on December 2, 2014.

This resolution is effective on immediately.

David A. Hedges, Council President

ATTEST:

APPROVED AS TO FORM:

Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Exhibit A (Attachment 2)



**CLACKAMAS
COUNTY**

Office of County Clerk

SHERRY HALL
CLERK

1710 Red Soils Ct. Ste 100
OREGON CITY, OR 97045
503.722.6086

November 24, 2014

City of Milwaukie – Pat DuVal
10722 Main Street
Milwaukie, OR 97222

Dear Pat:

Attached please find the certified results of the November, 2014 General Election.

Let us know if any additional information is needed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Steve".

Steve Kindred
Deputy Clerk, Elections Manager

Board of Property Tax Appeals
1710 Red Soils Court, Ste 100
Oregon City, OR 97045
503.655.8662
FAX 503.650.5687

Elections Division
1710 Red Soils Court, Ste 100
Oregon City, OR 97045
503.655.8510
FAX 503.655.8461

Recording Division
1710 Red Soils Court Ste 110
Oregon City, OR 97045
503.655.8551
FAX 503.650.5688

Records Management Division
1810 Red Soils Court, Ste 120
Oregon City, OR 97045
503.655.8323
FAX 503.655.8195

**Canvass Report — Election Voters — Official
Clackamas County, Oregon — General Election — November 04, 2014**

Total Number of Voters : 161,652 of 229,859 = 70.33

Precincts Reporting 118 of 118 = 100.00%

City of Milwaukie Mayor

Precinct	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Jeremy A Ferguson	Write-in	Totals
051	1808	1808	2597	69.62%	1095	73	1168
052	1918	1918	2745	69.87%	1118	66	1184
053	1492	1492	2333	63.95%	885	60	945
054	1602	1602	2224	72.03%	921	66	987
055	1679	1679	2476	67.81%	977	60	1037
Totals	8499	8499	12375		4996	325	5321

CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK

BY:



**Canvass Report — Election Voters — Official
Clackamas County, Oregon — General Election — November 04, 2014**

Total Number of Voters : 161,652 of 229,859 = 70.33

Precincts Reporting 118 of 118 = 100.00%

City of Milwaukie City Councilor Position 2

Precinct	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Dave Hedges	Lisa Batey	Write-in	Totals
051	1808	1808	2597	69.62%	494	824	20	1338
052	1918	1918	2745	69.87%	533	837	17	1387
053	1492	1492	2333	63.95%	487	566	9	1062
054	1602	1602	2224	72.03%	485	674	4	1163
055	1679	1679	2476	67.81%	475	661	15	1151
Totals	8499	8499	12375		2474	3562	65	6101

CERTIFIED COPY OF THE ORIGINAL
SHERRY HALL, COUNTY CLERK

BY: _____

Sherry Hall

Canvass Report — Election Voters — Official
Clackamas County, Oregon — General Election — November 04, 2014

Total Number of Voters : 161,652 of 229,859 = 70.33

Precincts Reporting 118 of 118 = 100.00%

City of Milwaukie City Councilor Position 4

Precinct	Election Ballots Cast	Total Ballots Cast	Registered Voters	Percent Turnout	Brian J Henderson	Karin Power	Scott Barbur	Write-in	Totals
051	1808	1808	2597	69.62%	93	790	434	14	1331
052	1918	1918	2745	69.87%	109	751	486	14	1360
053	1492	1492	2333	63.95%	118	527	372	12	1029
054	1602	1602	2224	72.03%	93	614	428	10	1145
055	1679	1679	2476	67.81%	110	564	433	13	1120
Totals	8499	8499	12375		523	3246	2153	63	5985

CERTIFIED COPY OF THE ORIGINAL
 SHERRY HALL, COUNTY CLERK

BY: *Sherry Hall*

NUMBERED KEY CANVASS

RUN DATE:11/21/14 10:25 AM

Multnomah County, Oregon
General Election
November 4, 2014

FINAL OFFICIAL RESULTS

REPORT-EL52 PAGE 0058

Mayor CITY OF MILWAUKIE (JT)
Vote for 1
01 = Jeremy A Ferguson
02 = WRITE-IN

VOTES PERCENT

VOTES PERCENT

0
0

03 = OVER VOTES
04 = UNDER VOTES

0
0

01 02 03 04

0 0 0 0

4102

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon

NUMBERED KEY CANVASS
RUN DATE:11/21/14 10:25 AM

Multnomah County, Oregon
General Election
November 4, 2014

FINAL OFFICIAL RESULTS
REPORT-EL52 PAGE 0059

	VOTES	PERCENT		VOTES	PERCENT
City Councilor Position 2 CITY OF MILWAUKIE (JT)					
Vote for 1					
01 = Dave Hedges	0		04 = OVER VOTES	0	
02 = Lisa Batey	0		05 = UNDER VOTES	0	
03 = WRITE-IN	0				
	01	02	03	04	05
	0	0	0	0	0

4102

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon

NUMBERED KEY CANVASS
RUN DATE:11/21/14 10:25 AM

Multnomah County, Oregon
General Election
November 4, 2014

FINAL OFFICIAL RESULTS
REPORT-EL52 PAGE 0060

		VOTES	PERCENT			VOTES	PERCENT
City Councilor Position 4 CITY OF MILWAUKIE (JT)							
Vote for 1							
01 = Brian J Henderson		0		04 = WRITE-IN		0	
02 = Karin Power		0		05 = OVER VOTES		0	
03 = Scott Barbur		0		06 = UNDER VOTES		0	

	01	02	03	04	05	06	

4102	0	0	0	0	0	0	

Certificate

I certify that the votes recorded on this abstract correctly summarize the tally of votes cast at the election indicated.



Tim Scott, Director of Elections
Multnomah County, Oregon



MILWAUKIE CITY COUNCIL
STAFF REPORT

Agenda Item:
Meeting Date:

RS 3. B.
12/2/14

To: Mayor and City Council
Through: Bill Monahan, City Manager

Subject: **Metro CET Collections IGA**

From: Casey Camors, Finance Director

Date: November 19, 2014 for December 2nd

ACTION REQUESTED

Adopt resolution authorizing the City Manager to sign an updated Intergovernmental Agreement with Metro to collect a Construction Excise Tax (CET) and remit funds to Metro on a quarterly basis.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

On March 23, 2006 Metro adopted an ordinance establishing a Construction Excise Tax ("CET") throughout the Metro Regional jurisdiction for the purpose of funding local government efforts toward completing the planning requirements for areas brought into the Metro Urban Growth Boundary.

On June 20, 2006 Metro and the City of Milwaukie entered into a CET Collection IGA, providing that the City would collect and remit Construction Excise Taxes pursuant to the CET ordinance until a sunset date that occurred in 2009. At that time, the City of Milwaukie began collecting the taxes on behalf of Metro and retaining 5% of the taxes collected as an administrative fee for processing.

The CET Ordinance and CET Collection IGA were extended in 2009 with a new sunset date of September 30, 2014.

In 2014 Metro engaged an advisory group consisting of a broad based stakeholder group, including many local jurisdictions, to determine whether to extend the Construction Excise Tax, and extension of the CET was supported by the advisory group and MPAC. On June 19, 2014, the Metro Council extended the CET Ordinance again via Ordinance No. 14-1328, with a new sunset date of December 31, 2020. For the City to continue to collect the Construction Excise Tax on Metro's behalf, an updated IGA is required.

BACKGROUND

The CET Collection IGA allows the City to collect Metro CET funds, retain an administrative fee and remit the difference to Metro.

The tax amounts to 0.12 percent of the value of construction permits issued throughout the region. Permits for construction projects valued at \$100,000 or less are exempt from the tax, as well as permits issued for affordable housing and other buildings constructed to serve low - income populations. For permits over \$10 million in value, the tax is capped at \$12,000 (0.12

percent of \$10 million).

The CET Collection IGA allows the City to retain up to 5% of the taxes received as an administrative fee. The collection of the CET and administrative fee over the past 4 years was as follows:

	<u>FY 2014</u>	<u>FY 2013</u>	<u>FY 2012</u>	<u>FY 2011</u>	<u>Total</u>
Collected	5,506.44	6,657.37	8,295.52	21,201.80	41,661.13
Admin Fee	289.80	343.92	2,178.19	11,703.05	14,514.96

In 2013, the City of Milwaukie received a grant from the Metro CET grant program to fund the City's Commercial Core Enhancement Program in the amount of \$224,000. The City's Commercial Core Enhancement program has changed to Moving Forward Milwaukie and in FY 2014 the City began using these grant funds. As of June 30, 2014 \$144,630 had been received from Metro CET funds.

As this program has been in place for 8 years, the City's Building Inspections Department has the resources to continue to collect and remit the tax and retaining the 5% has helped to cover related costs of this program.

CONCURRENCE

The City Building Official agrees with this IGA.

FISCAL IMPACTS

Adoption of the resolution would allow the City to continue to receive the 5% administration fee.

WORK LOAD IMPACTS

City Staff workload attributable to this program should remain consistent with prior years.

ALTERNATIVES

Reject resolution.

ATTACHMENTS

1. Draft 2014 CET Collection IGA
2. Draft Resolution authorizing City Manager to sign IGA
3. 2006 CET Collection IGA

Attachment 1

CONSTRUCTION EXCISE TAX INTERGOVERNMENTAL AGREEMENT TO COLLECT AND REMIT TAX BETWEEN METRO AND THE CITY OF MILWAUKIE

This Construction Excise Tax Intergovernmental Agreement to Collect and Remit Tax (“CET Collection IGA”) is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland, OR, 97232-2736 (“Metro”), and the City of Milwaukie (“City”), located at 10722 SE Main Street, Milwaukie, OR 97222, collectively referred to as “Parties.”

WHEREAS, on March 23, 2006 Metro adopted Ordinance No. 06-1115, establishing a Construction Excise Tax (“CET”) throughout the Metro regional jurisdiction for the purpose of funding local government efforts toward completing the planning requirements for areas brought into the Metro urban growth boundary; and

WHEREAS, on June 20, 2006 Metro and the City entered into a CET Collection IGA, which provides that the City will collect and remit Construction Excise Taxes pursuant to the CET ordinance until a sunset date that occurred in 2009; and

WHEREAS, the CET Ordinance and CET Collection IGA were extended in 2009, with a September 30, 2014 sunset; and

WHEREAS, on June 19, 2014, the Metro Council extended the CET Ordinance again via Ordinance No. 14-1328, with a new CET sunset date of December 31, 2020; and

WHEREAS, the Parties desire to enter into this new CET Collection IGA to replace their existing CET Collection IGA and to reflect the new sunset date of December 31, 2020;

NOW THEREFORE, the Parties agree as follows:

1. Information and Forms. Metro shall provide to the City information, forms, and assistance explaining the Construction Excise Tax.
2. Staffing. The City shall provide sufficient staff to calculate and collect the Construction Excise Tax along with the collection of other permit fees. Metro shall provide sufficient staff to implement the CET program including grant distribution.
3. Collection and Distribution of Funds. The City agrees to collect the Construction Excise Tax on behalf of Metro as provided in Metro Ordinance No. 14-1328. The City shall begin collecting the CET on September 17, 2014 and shall continue collection until the expiration of the CET as set forth below. Metro agrees to use and distribute the CET funds collected by the City as described in Ordinance No. 14-1328 and in applicable administrative rules adopted by Metro.
4. Exemptions. Metro shall provide the City with forms for CET exemptions, rebates, and refunds, and any other forms or information necessary for implementation of the CET. If a person claims to be exempt from the CET and files a Metro CET Exemption Form at the time the CET would otherwise be due, the City shall grant the exemption. It shall be Metro’s responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the person was not entitled to the exemption.

5. Remittance. The City shall remit the collected CET to Metro. Remittance shall be quarterly, unless the City prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.

6. CET Reports. Along with the CET remittance, the City shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by Jurisdiction pursuant to this CET Collection IGA.

7. Failure to Pay CET. Upon a person's refusal to or failure to pay the CET when due, the jurisdiction administering that person's building permit shall notify Metro in writing within five business days of such failure, with information adequate for Metro to begin collection procedures against that person, including the person's name, address, phone numbers, construction project, value of new construction, and building permit number. Upon a person's refusal or failure to pay the CET, it shall be Metro's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy Metro may have under law.

8. Records. The City shall make all records related to building permit activity, Construction Excise Tax collections, and CET exemptions available to Metro, or its designated auditors, as necessary for Metro to audit Construction Excise Tax collections.

9. Administrative Fee. As consideration for the above described services, the City shall retain five percent (5%) of the CET collected by the Jurisdiction. Prior to submitting the CET to Metro, the City shall deduct this administrative fee directly from the CET collected, and the amounts deducted and retained shall be identified on the report submitted to Metro.

10. Sunset. The City shall cease collection of the Construction Excise Tax pursuant to this CET Collection IGA on December 31, 2020.

11. Amendment. This CET Collection IGA may be amended by mutual written agreement of the Parties.

12. Other Agreements. This CET Collection IGA does not affect or alter any other agreements between Metro and the City.

Metro

City of Milwaukie

By: Martha Bennett

By: _____

Title: Metro Chief Operating Officer

Title: _____

Date: _____

Date: _____

Attachment 2



CITY OF MILWAUKIE

"Dogwood City of the West"

Resolution No.

A resolution of the City Council of the City of Milwaukie, Oregon, authorizing the City Manager to sign an Intergovernmental Agreement with Metro to collect a Construction Excise Tax and remit fund to Metro on a quarterly basis

WHEREAS, Metro adopted Ordinance No. 06-1115 requiring builders to pay an excise tax on the valuation of certain projects; and

WHEREAS, the CET Ordinance was extended in 2009 with a September 30, 2014 sunset; and

WHEREAS, on July 19, 2014 the CET program was again extended with Ordinance No. 14-1328 with a new sunset date of December 31, 2020: and

WHEREAS, the funds collected are necessary to support planning activities in areas recently brought into the Metro Urban Growth Boundary; and

WHEREAS, the City of Milwaukie Building Inspections Department has the resources to collect and remit the tax and will retain 5% of the funds to cover costs incurred;

Now, Therefore, be it Resolved that the City Council of the City of Milwaukie adopt a resolution authorizing the City Manager to sign an Intergovernmental Agreement with Metro to collect a Construction Excise Tax and remit funds to Metro on a quarterly basis.

Introduced and adopted by the City Council on _____.

This resolution is effective on _____.

David A. Hedges, Council President

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Attachment 3

**CONSTRUCTION EXCISE TAX
INTERGOVERNMENTAL AGREEMENT
TO COLLECT AND REMIT TAX BETWEEN
METRO AND City of Milwaukie**

This Construction Excise Tax Intergovernmental Agreement to Collect and Remit Tax ("CET Collection IGA") is effective on the last date of signature below, and is by and between Metro, a metropolitan service district organized under the laws of the state of Oregon and the Metro Charter, located at 600 Northeast Grand Avenue, Portland, OR, 97232-2736 ("Metro"), and City of Milwaukie ("Jurisdiction"), located at 10722 SE Main St. Milwaukie OR 97222, collectively referred to as "Parties."

WHEREAS, in October 2005 Metro convened a tax study committee comprised of representatives from local jurisdictions and the development community, to provide recommendations for funding comprehensive planning needs associated with recent inclusions into the urban growth boundary; and that tax study committee recommended that a short-term construction excise tax on building permit values was the appropriate funding mechanism; and

mf
WHEREAS, the tax study committee's recommendation was forwarded to the Metro Policy Planning Advisory Committee ("MPAC"), and on March 8, 2006 MPAC recommended approval of the tax study committee's proposal that Metro adopt a construction excise tax that would be implemented by local jurisdictions to fund comprehensive planning needs associated with new inclusions into the urban growth boundary; and

WHEREAS, on March 23, 2006 Metro adopted Ordinance No. 06-1115, establishing a Construction Excise Tax ("CET") throughout the Metro regional jurisdiction; and

WHEREAS, the ordinance provides that the Construction Excise Tax may be collected by local jurisdictions and remitted to Metro pursuant to Intergovernmental Agreements, and that Metro will distribute up-front grants to local jurisdictions, based on grant requests that set forth the expected completion of certain milestones associated with Title 11 of Metro Code Chapter 3.07, the Urban Growth Management Functional Plan; and

WHEREAS, the Construction Excise Tax established by Ordinance No. 06-1115 will expire when the total amount collected by all jurisdictions and remitted to Metro and certified by Metro as such is \$6.3 million dollars, which is estimated to take approximately three years; and

WHEREAS, the Parties desire to agree to certain procedures needed to collect the Construction Excise Tax and remit the tax to Metro.

NOW THEREFORE, the Parties hereto agree as follows:

1. Information and Forms. Metro shall provide to the Jurisdiction information, forms, and assistance explaining the Construction Excise Tax.
2. Staffing. Jurisdiction shall provide sufficient staff to calculate and collect the Construction Excise Tax along with the collection of other permit fees. Metro shall provide sufficient staff to implement the CET program including grant distribution.

3. Collection; Start date. Jurisdiction agrees to collect the Construction Excise Tax on behalf of Metro. Jurisdiction shall begin collecting the CET on July 1, 2006, and shall continue collection until the expiration of the CET as set forth below.

4. Exemptions. Metro shall also provide Jurisdiction with forms for CET exemptions, rebates, and refunds, and any other forms or information necessary for implementation of the CET. If a Person claims to be exempt from the CET and files a Metro CET Exemption Form at the time the CET would otherwise be due, Jurisdiction shall grant the exemption. It shall be Metro's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the exemption.

5. Remittance. Jurisdiction shall remit the collected CET to Metro. Remittance shall be quarterly, unless a jurisdiction prefers to remit the CET monthly, by the 30th of the month following the quarter (or month) ending. Quarters end on September 30, December 31, March 31 and June 30 of each year. CET remittance and the CET Report shall be sent to Metro, attn Construction Excise Tax Accounting Specialist, 600 NE Grand, Portland, Oregon 97232.

6. CET Reports. Along with the CET remittance, Jurisdiction shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted construction; the aggregate amount of CET paid; and the amount of CET administrative fee retained by Jurisdiction pursuant to this CET Collection IGA.

7. Failure to Pay CET. Upon a Person's refusal to or failure to pay the CET when due, the jurisdiction administering that Person's building permit shall notify Metro in writing within five (5) business days of such failure, with information adequate for Metro to begin collection procedures against that Person, including the Person's name, address, phone numbers, Construction Project, Value of New Construction, and building permit number. Upon a Person's refusal or failure to pay the CET, it shall be Metro's responsibility to institute collection procedures to obtain payment of the CET as well as any other remedy Metro may have under law.

8. Records. Jurisdiction shall make all records related to building permit activity, Construction Excise Tax collections, and CET exemptions available to Metro, or its designated auditors, as necessary for Metro to audit Construction Excise Tax collections.

9. Administrative Fee. As consideration for the above described services, Jurisdiction shall retain Five Percent (5%) of the CET collected by the Jurisdiction. Prior to submitting the CET to Metro, Jurisdiction shall deduct this administrative fee directly from the CET collected, and the amounts deducted and retained shall be identified on the report submitted to Metro.

10. Sunset. Jurisdiction shall cease collection of the Construction Excise Tax pursuant to this CET Collection IGA on the last day of the month in which Metro certifies to Jurisdiction that a total of \$6.3 million has been collected by the Metro-area local jurisdictions and has been remitted to and received by Metro. CET already collected by Jurisdiction in the CET reporting period in which it receives Metro's written certification notice shall be remitted to Metro, and shall remain a part of the CET program and shall be distributed by Metro to local jurisdictions in accordance with the CET grant program.

11. Amendment. This CET Collection IGA may be amended by mutual written agreement of the Parties.

12. Other Agreements. This CET Collection IGA does not affect or alter any other agreements between Metro and Jurisdiction.

Metro Michael Jordan [Jurisdiction Name]
By: Michael Jordan By: [Signature]
Title: Metro Chief Operating Officer Title: City Manager
Date: 6/20/06 Date: 6/12/06

State of Oregon)
County of Multnomah)
ss.



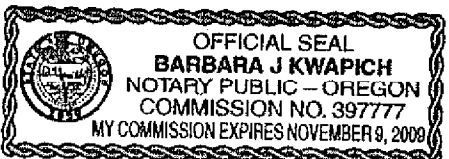
On this 20th day of June, 2006, before me Karen M. Starin, the undersigned Notary Public, personally appeared Michael Jordan, as Chief Operating Officer of Metro, a municipal corporation, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

[Signature]
My commission expires: 9-29-06

State of Oregon)
County of Clackamas)
ss.

On this 12th day of June, 2006, before me Barbara J. Kwapich the undersigned Notary Public, personally appeared Michael F. Swanson as City Manager of Milwaukie jurisdiction, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

Barbara J Kwapich
My commission expires: 11/9/09



RESOLUTION NO. 22-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING THE CITY MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT WITH METRO TO COLLECT A CONSTRUCTION EXCISE TAX AND REMIT FUNDS TO METRO ON A QUARTERLY BASIS.

WHEREAS, Metro has adopted Ordinance NO. 06-1115 requiring builders to pay an excise tax on the valuation of certain projects; and

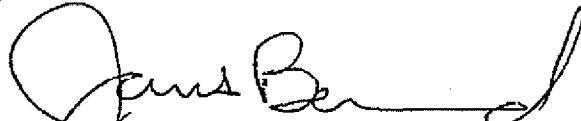
WHEREAS, The funds collected are necessary to support planning activities in areas recently brought into the Urban Growth Boundary; and

WHEREAS, The City of Milwaukie Building Department has the resources to collect and remit the tax and will retain 5% of the funds to cover costs incurred;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milwaukie adopt a resolution authorizing the City Manager to sign an Intergovernmental Agreement with Metro to collect a construction excise tax and remit funds to Metro on a quarterly basis.


Introduced and adopted by the City Council on June 6, 2006.

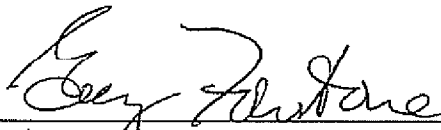
This resolution is effective on June 6, 2006.


James Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Ramis, Crew, & Corrigan, LLP


Pat DuVal, City Recorder


City Attorney

Document3 (Last revised)

ADMINISTRATIVE RULES: METRO CODE CHAPTER 7.04

Effective July 1, 2006, Metro has established as Metro Code Chapter 7.04 a Construction Excise Tax ("CET"). These Administrative Rules establish the procedures for administering this tax as mandated in Metro Code Section 7.04.050 and Metro Code Section 7.04.060. For ease of reference a copy of Metro Code Chapter 7.04 is attached to these administrative rules.

I. Metro Administrative Matters.

- A. Definitions. These administrative rules incorporate the definitions as set forth in Metro Code Section 7.04.030.
- B. Designated Representatives (Metro Code Section 7.04.060). The Metro Chief Operating Officer ("COO") is responsible for the administration and enforcement of the Metro Code Chapter 7.04 and these administrative rules.
1. The COO may delegate his authority in administration and enforcement of the Code chapter and these administrative rules as he determines and as set forth herein.
 2. The COO shall appoint a Hearings Officer(s), which appointment shall be confirmed by the Metro Council. The Hearings Officer(s) shall have the authority to order refunds or rebates of the Construction Excise Tax or waive penalties as a result of the hearings process. Upon appointing a Hearings Officer, the Chief Operating Officer shall delegate authority to the Hearings Officer to administer oaths, certify to all official acts, to subpoena and require attendance of witnesses at hearings to determine compliance with this chapter, rules and regulations, to require production of relevant documents at public hearings, to swear witnesses, to take testimony of any Person by deposition, and perform all other acts necessary to adjudicate appeals of Construction Excise Tax matters.
- C. Internal Flow of Funds. Funds will be accounted for in a Construction Excise Tax account that will be created by the effective date of Metro Code Chapter 7.04.
- D. Rate Stabilization Reserves. Metro Code Chapter 7.04.200 states that the Council will, each year, as part of the Budget process, create reserves from revenues generated by the CET. These reserves are to even out collections thereby stabilizing the funds needed to support the applicable programs despite industry building activity fluctuation. These reserves can only be drawn on to support the specific budgeted activities as discussed in Section I.E. of these administrative rules. Due to their restricted nature, these reserves shall be reported as designations of fund balance in Metro's General Fund.
- E. Dedication of Revenues. Revenues derived from the imposition of this tax, netted after deduction of authorized local jurisdiction costs of collection and administration, will be solely dedicated to grant funding of the regional and local planning that is required to make land ready for development after inclusion in the Urban Growth Boundary.

- b. The Person who would be liable for the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the Construction is used for residential purposes AND the property is restricted to being occupied by Persons with incomes less than 50 percent (50%) of the median income for a period of 30 years or longer; or
- c. The Person who would be liable for the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) AND the Construction is dedicated for use for the purpose of providing charitable services to Persons with income less than 50 percent (50%) of the median income.

2. Procedures for Establishing and Obtaining an Exemption; Exemption Certificates:

- a. For exemption (a) above, the exemption will be established at the building permit counter where the Value of New Construction as determined in the building permit is less than or equal to One Hundred Thousand Dollars (\$100,000).
- b. For exemptions (b) and (c) above, prior to applying for a building permit a Person claiming an exemption may apply to Metro for a Metro CET Exemption Certificate, by presenting the appropriate documentation for the exemption as set forth herein, and upon receiving a Metro CET Exemption Certificate the Person may present the certificate to the building permit issuer to receive an exemption from paying the CET; or
- c. For exemptions (b) and (c) above, instead of going to Metro to obtain a Metro CET Exemption Certificate, a Person claiming an exemption from the CET when applying for a building permit may submit to the building permit issuer Metro's CET Exemption Certificate application form. Upon receiving a Person's Metro CET Exemption Certificate application, the building permit issuer shall preliminarily authorize the exemption and shall not collect the CET. The building permit issuer shall forward the Person's Metro CET Exemption Certificate application to Metro along with the quarterly CET report. It shall be Metro's responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy Metro may have under law, if the Person was not entitled to the exemption;
- d. To receive a Metro CET Exemption Certificate from Metro, or to substantiate to Metro the validity of an exemption received from a local building permit issuer, an applicant must provide the following:
 - i. IRS tax status determination letter evidencing that the Person seeking the building permit is exempt from federal income taxation pursuant

D. Ceiling (Metro Code Section 7.04.045).

1. If the CET imposed would be greater than \$12,000.00 (Twelve Thousand Dollars) as measured by the Value of New Construction that would generate that amount of tax, then the CET imposed for that Construction is capped at a Ceiling of \$12,000.00 (Twelve Thousand Dollars).
2. The Ceiling applies on a single structure basis, and not necessarily on a single building permit basis. For example:
 - a. If a single building permit is issued where the Value of New Construction is greater than or equal to Ten Million Dollars (\$10,000,000), then the CET for that building permit is capped at Twelve Thousand Dollars (\$12,000.00).
 - b. If Construction in a single structure will require multiple building permits during the pendency of the CET program, and the total CET that would be imposed for those building permits would add up to more than Twelve Thousand Dollars (\$12,000.00), then the total CET for those building permits within the same structure during the pendency of the CET program is capped at Twelve Thousand Dollars (\$12,000.00). Once a total of \$12,000.00 has been paid in CET for a particular structure, then no additional CET will be collected for that structure during the pendency of the CET program.

E. Rebates (Metro Code Section 7.04.120). If a CET has been collected and a CET Exemption or the CET Ceiling was applicable, a rebate for the CET may be obtained from Metro.

1. Procedures for obtaining rebate are:
 - a. Within thirty (30) days of paying the CET, the Person who believes that the CET was not applicable due to a CET exemption or CET Ceiling, shall apply for a rebate in writing to Metro and provide verification that the exemption eligibility provisions of Metro Code Section 7.04.040, or that the CET Ceiling provisions of Metro Code Section 7.04.045, have been met. Failure to seek a rebate within the thirty (30) day time limit will terminate a Person's right to seek a rebate.
 - b. Applicant shall provide proof that the CET was paid, in the form of a paid receipt from the building permit issuer showing the tax was paid. All supporting documentation for the exemption or ceiling shall be submitted at the time of the rebate claim. The rebate will only be made to the name that is listed on the receipt unless the applicant has a written assignment of rebate.
 - c. A rebate or a letter of denial shall be issued by Metro within thirty (30) days of receipt of a written request for rebate provided that the request includes all required information. The rebate will be calculated based upon the paid

Person may demand such relief by writ of review.

I. CET Sunset (Metro Code Section 7.04.230).

1. The CET shall not be imposed on and no person shall be liable to pay any tax for any Construction activity that is commenced pursuant to a building permit issued on or after the last day of the month in which a total of \$6.3 million has been collected under Metro Code Chapter 7.04, received by Metro, and certified as received by Metro to the local collecting jurisdictions.
2. Local governments collecting CETs shall remit the CETs to Metro on a quarterly or monthly basis, based on the jurisdiction's CET Collection IGAs with Metro. Each quarter, within thirty days of receiving CET remittances from all collecting local jurisdictions, Metro will issue a written statement of the total CET that Metro has received that quarter and cumulatively.
3. CET remittance to Metro shall be net of the local government's administrative expenses in collecting the CET, up to 5% of the CET collected by the local government as set forth in the Metro CET Collection IGA. This net amount of CET remitted to Metro shall be the basis for Metro's calculations of CET cumulative totals and for the calculation of when the \$6.3 million CET has been reached.
4. The CET shall cease to be imposed by local governments on the last day of the month in which Metro issues written notice certifying that the previous quarter's CET remittance to Metro has caused Metro to receive a cumulative total of at least \$6.3 million in CET. CET already collected by local governments in the quarter that they receive Metro's written certification notice shall be remitted to Metro and shall remain a part of the CET program and shall be distributed to local jurisdictions in accordance with the Grant program as set forth herein. Any additional CET received by Metro in the quarter that the \$6.3 million has been certified as received shall also remain a part of the CET program and shall be distributed to local jurisdictions in accordance with the Grant program as set forth herein.

III. **CET Collection Procedures.**

A. Local Government CET Collection and Remittance Via Intergovernmental Agreements (Metro Code Section 7.04.110). For those local governments collecting the CET pursuant to Intergovernmental Agreements with Metro, the following procedures shall apply:

1. CET Report; Information Required. Each quarter (unless a local government prefers to report monthly), along with its CET remittance to Metro, the local government shall prepare and submit to the Metro Chief Operating Officer a report of the CETs and building permits issued for the previous quarter's construction activities. The report shall include: the number of building permits issued that quarter; the aggregate value of construction; the number of building permits for which CET exemptions were given; the aggregate value of construction for the exempted

2. Misdemeanor. In addition to any other civil enforcement, non-payment of the CET is a misdemeanor and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00). This fine shall be charged to any officer, director, partner or other Person having direction or control over any Person not paying the tax as due.
3. Enforcement by Civil Action. If the tax is not paid, Metro will proceed with collection procedures allowable by law to collect the unpaid tax, penalties assessed and fines due, including attorney fees.

IV. Revenue Distribution (Metro Code Section 7.04.220). The Chief Operating Officer shall distribute the revenues and expected revenues from the CET as Grants to local governments based on an analysis of Grant Request(s) submitted by a local government, in accordance with the procedures set forth below.

A. Procedures for Distribution.

1. Step One: Pre-Grant-Request Meeting. Prior to making a written request to Metro for CET grant funds, each local government that anticipates requesting CET Grant funds shall schedule a pre-Grant Request meeting with Metro. In order to receive CET Grant funding, pre-Grant-Request Meetings shall be scheduled with Metro within three (3) months of the effective date of the CET program, i.e., by October 1, 2006, unless a different date is mutually agreed upon by Metro and the local government. The purpose of the pre-Grant Request meeting is to discuss the local government's estimated scope of work and budget for planning needs for their 2002, 2004, and 2005 new urban areas, based on the requirements set forth in the Construction Excise Tax ordinance; Chapter 3.07 of the Metro Code, including Title 11, the Urban Growth Management Functional Plan ("Functional Plan"); the applicable conditions of addition for the new urban area from the Metro ordinance bringing the area into the UGB; these administrative rules; and the budget estimates provided to Metro by the local government prior to enactment of the Construction Excise Tax ordinance.
2. Step Two: Grant Request. After the pre-application meeting, local governments seeking distribution of CET expected revenues shall submit a written Grant Request to the Metro Chief Operating Officer.
 - a. Reimbursement Requests. Grant Requests to reimburse local governments for comprehensive plans already completed for new urban areas that were added to the UGB in 2002, 2004, or 2005 shall also be considered. Such requests shall follow the same procedures as those set forth herein for other CET Grant Requests
3. Proposed Scope of Work, Milestones, and Budget. The Grant Request should include a proposed scope of work and budget, setting forth the expected completion dates and costs for the following milestones:

- d. Overhead directly attributable to project;
2. If the total Grant Requests from participating local governments exceed the total CET expected revenues, Metro shall first consider awarding funds for eligible direct costs, which will have priority for funding over indirect costs.



METRO

Alison Kean Campbell
Tele: (503) 797-1511
FAX: (503) 797-1792

June 21, 2006

City of Milwaukie
c/o Timothy V. Ramis, Esq.
Ramis Crew Corrigan LLP
1727 NW Hoyt Street
Portland, Oregon 97209

Re: Metro Construction Excise Tax
Your Client: City of Milwaukie
Metro Contract No.: 927273

Dear Mr. Ramis:

Pursuant to our letter to you dated May 15, 2006, we received the City of Milwaukie's signed Construction Excise Tax Intergovernmental Agreement to Collect and Remit Tax Between Metro and the City of Milwaukie ("CET IGA") dated June 12, 2006.

We are enclosing a fully executed CET IGA for your files, which was signed by Metro on June 20, 2006, including a copy of the final CET IGA Administrative Rules: Metro Code Chapter 7.04.

Thank you for moving this CET IGA forward. Meanwhile, if you have any questions, please do not hesitate to contact me at 503/797-1511 or Reed Wagner, Metro Policy Advisor, at 503/797-1584.

Very truly yours,

Alison Kean Campbell
Senior Attorney
Office of Metro Attorney

AKC/sm
Enclosures

cc: Michael J. Jordan, Metro Chief Operating Officer (w/o Encl.)
Reed Wagner, Metro Policy Advisor (w/ Encl.)
Tom Larsen, City of Milwaukie (w/ Encl.)
Contracts (w/ Original Encl.)

cc: Barbara
K. Wagner
w/ original
CET IGA



**Regular Session
Agenda Item No.**

6

Other Business



MILWAUKIE CITY COUNCIL
STAFF REPORT

To: Mayor and City Council

Through: Bill Monahan, City Manager
Steve Bartol, Chief of Police
Mark Dye, Police Captain

Subject: **ORDINANCE- Vehicles Parked on Public Right-of-way with Expired Registration**

From: Tim Salyers, Code Compliance Coordinator

Date: October 28, 2014

ACTION REQUESTED

Adopt an ordinance amending Section 10.20.060B Prohibited Parking, prohibiting a vehicle from parking on or within a public right-of-way while having expired registration or displaying expired registration stickers that have been expired by thirty (30) days or more.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Council met on January 23, January 29 and February 4, 2014, to set goals for the upcoming year. Council categorized the list of goals into three sections: Ongoing, Tasks (Quick Fix), and Aspirational. City staff was asked to add context with respect to work plans and timelines within each category.

On February 18, 2014, City Council adopted Resolution 14-2014 approving the City Council's 2014 goals. This item was listed in the "Tasks" section of the goals.

On March 20, 2014 staff brought some preliminary ideas for consideration at a study session. The item was discussed and Council gave direction to staff to bring back an ordinance in the Fall.

BACKGROUND

Current Laws in Milwaukie Related to Expired Registrations

The Milwaukie Municipal Code 8.04.070B has a section that prohibits the parking of an inoperable vehicle on private property. The definition of inoperable vehicle means, that the vehicle is not currently licensed or is not able to be operated (flat tires or disrepair) on a public street. The inoperable vehicle has to be on the property for 15 days to be a violation. An inoperable vehicle in an approved enclosed structure is not a violation.

The Milwaukie Police Department enforces Oregon Revised Statutes 803.560 which requires vehicles being operated on a public highway to have current registration stickers properly displayed. This statute does not apply to parked vehicles.

Other Jurisdictions

The municipalities in the immediate already have an ordinance in place for vehicles parked with expired registrations. Portland and Oregon City have similar codes which prohibit parking vehicles with expired registration in the public right-of-way. Happy Valley, Gladstone, and Clackamas County have codes which prohibit parking vehicles on a public right of way that has been expired for 90 days or more. Tualatin, West Linn, Lake Oswego and Hillsboro do not appear to have codes related to parking vehicles with expired registrations on public right of way.

New Code

Based on the Council discussion in March, staff has put together a recommendation. Council appeared to prefer the Happy Valley, Gladstone, and Clackamas County model, which prohibits vehicles from parking on the street with expired registration or displaying expired registration stickers that are expired 90 days or more. Council came to a consensus to modify the code from 90 days to 30 days. Staff recommends adopting language similar to the City of Gladstone's which states, no vehicle shall be parked, "On or within a public right-of-way when the vehicle registration as indicated by registration stickers or registration card has been expired for thirty (30) days or more."

CONCURRENCE

The City Attorney, City Manager, Chief of Police and Police Captain- Operations Division all concur with this ordinance.

FISCAL IMPACTS

There are no additional costs that directly relate to the enforcement of the new code section.

The revenue generated through this new code would be minimal.

WORK LOAD IMPACTS

Staff does not anticipate a large impact on staff time to enforce this new code.

ALTERNATIVES

None

ATTACHMENTS

1. Ordinance
2. Other Jurisdictions

Attachment 1



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

An ordinance of the City Council of the City of Milwaukie, Oregon, amending Section 10.20.060B Prohibited Parking, prohibiting a vehicle from parking on or within a public right-of-way while having expired registration or displaying expired registration stickers that have been expired by thirty (30) days or more.

WHEREAS, the State of Oregon prohibits a vehicle with expired registration from operating on a public way; and

WHEREAS, the City of Milwaukie requires all vehicles stored on private property, except in an enclosed garage, to have a current registration; and

WHEREAS, the City of Milwaukie may restrict the parking of vehicles on public streets and public right-of-ways; and

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Section 10.20.060B of the Milwaukie Municipal Code is amended to add a new subsection which will read as follows:

17. On or within a public right-of-way when the vehicle registration as indicated by registration stickers or registration card has been expired for thirty (30) days or more.

Section 2. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 3. Effective Date and Publication

This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Pat DuVal, City Recorder

City Attorney

Attachment 2

Portland

16.20.120 Prohibited Parking or Stopping of a Vehicle.

Except when specifically directed by authority of this Title or when necessary to avoid conflict with other traffic, it is unlawful to park or stop a vehicle:

L. That is required by state law to be registered that is not registered, whose registration has expired or that does not have a current permit in lieu of registration, or fails to display current registration.

Oregon City

10.08.080 Storage of vehicles on street.

B. Vehicles on a public street or other public property may be issued a storage citation if any of the following conditions are present:

1. Vehicle is inoperable;
2. Vehicle has expired tags;
3. Vehicle may not be driven in the manner for which it was intended.

Happy Valley

10.28.020 Parking restrictions enforceable by citation and fine.

K. No vehicle shall be parked or operated on a highway when the vehicle registration as indicated by registration stickers or registration card has been expired for ninety (90) days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a county highway.

Gladstone

10.04.230 Prohibited—Certain vehicles and places.

(j) No vehicle shall be parked or operated on a street when the vehicle registration as indicated by registration stickers or registration card has been expired for ninety (90) days or more.

Clackamas County

7.01.020 Parking Restrictions Enforceable by Citation and Fine

K. No vehicle shall be parked or operated on a highway when the vehicle registration as indicated by registration stickers or registration card has been expired for 90 days or more, the vehicle is required to be registered when operated on a highway, and the vehicle is parked or being operated on a County highway.

West Linn, Lake Oswego, Tualatin, Hillsboro- Did not find