

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
METRO CODE SECTION 5.02.060)
RELATING TO THE CREDIT POLICY)
AT METRO SOLID WASTE FACILITIES)

ORDINANCE NO. 93-504A
Introduced by Rena Cusma,
Executive Officer

Whereas, Code Section 5.02.060 is the basis for credit policy at Metro solid waste disposal facilities; and

Whereas, Current Metro credit policy allows payments to be made substantially past due without penalty; and

Whereas, Current Metro credit policy allows companies to routinely pay charges late, thus obtaining from Metro an interest free loan; and

Whereas, Because many of Metro's credit accounts are quite large, it is important to discourage routine late payments and decrease Metro's exposure to loss due to eventual nonpayment of charges due; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Metro Code Section 5.02.060 is repealed, and the following section is adopted in lieu thereof:

"5.02.060 Credit Policy at Metro Solid Waste Disposal Facilities:

(a) Disposal charges, including all fees and taxes, may be paid at the time of disposal in cash, by credit card, or by guaranteed check, or may be paid under Metro's credit policy. No credit shall be granted to any Person prior to approval of a credit application in a form or forms provided by Metro.

(b) The Executive Officer shall establish and maintain appropriate credit requirements for new and existing accounts, designed to diminish Metro's risk of loss due to nonpayment. Existing account holders may be required to make new application for credit or provide additional guarantees, as deemed necessary or prudent by the Executive Officer.

(c) Account charges shall accrue on a monthly basis. Statements will be mailed on or about the tenth day of the month, for disposal services rendered in the prior month. A statement must be paid no later than the last business day of the month in which it is mailed, and is considered past due thereafter. A payment shall under no circumstances be considered

received by Metro unless it is delivered personally to the Metro Department of Finance and Management Information during business hours or, if delivered by mail, is received in Metro's mail room.

(d) A finance charge of one and one-half percent shall be assessed on all past due charges on the fifteenth day of the month following the month in which a statement is mailed, and on the fifteenth day of each month thereafter. Finance charges will be assessed only on unpaid past due balances, and not on previously assessed finance charges. Finance charges will continue to be assessed on negotiated repayment schedules. Payments will be applied first to finance charges and then to the oldest amount past due.

(e) An account that is fifteen days past due may be placed on a cash only basis, until all past due disposal and finance charges are paid. Facility access may be denied to a Person whose account is past due and unpaid for 30 days. A decision to place an account on a cash only basis or deny facility access shall be at the discretion of the Director of the Department of Finance and Management Information.

(f) A credit customer that sells, terminates, or makes a substantial change in the scope of its business after its application for credit has been approved, must notify Metro immediately. Failure to provide the notice required by this subsection may result in termination of credit at Metro facilities pending reapplication for credit.

(g) The Department of Finance and Management Information may adjust accounts receivable and reverse finance charges in accordance with prudent credit practices. Adjustments over \$500 shall be reported to the Council in writing on a monthly basis, and adjustments over \$10,000 shall require Council approval.

(h) The Executive Officer may end pursuit of an account receivable, consistent with prudent credit practices, when the likelihood of collecting does not justify further collection costs. Such action shall be reported to the Council in writing on a monthly basis when the amount exceeds \$500, and amounts over \$10,000 shall require Council approval."

ADOPTED by the Metro Council this 22nd day of July, 1993.



Judy Wyers, Presiding Officer

ATTEST:



Clerk of the Council

ds 1116b

"EXHIBIT A"

BILLING/PAST DUE TIMELINE

Code Definitions	Code Dates	Actual Days after billing/last monthly charge	Proposed Change
FEBRUARY CHARGES MADE	Month of February		
Billing Mailed	March 10th		
Billing Due	March 31st	20 days/30 days	
"30 Days Past Due"	April 1st	1 day after billing due date/31 days	"Past Due"
"45 Days Past Due"	April 15th	Can place cash only. 15 days after billing due date/45 days	Can place cash only. Finance Charge "15 Days Past Due"
"60 Days Past Due"	May 1st	Can deny access. Max. 31 days after billing due date/61 days	Can deny access. "30 Days Past Due"

AGING EXAMPLE

PAST DUE CATAGORY	Under 30	31-59	60-89	OVER 90
CHARGE ORIG. DUE	3/31/93	2/28/93	1/31/93	12/31/93
CHARGE ORIG. INCURRED	Feb-93	Jan-93	Dec-93	Nov-93 and before

5.02.060 Payment of Disposal Charges and Surcharges; Credit Policy:

(a) Disposal charges and out-of-state surcharges established pursuant to Sections 5.02.020, 5.02.025 and 5.02.055 of this chapter may be paid in cash, by credit card, or guaranteed check at the time of disposal, or may be paid pursuant to the credit policy established in this section.

(b) For purposes of this section, the following definitions shall apply:

- (1) Account charges are "due" on or before the last day of the month billed and are "past due" thereafter.
- (2) Account charges are "30 days past due" on the first day of the month following billing.
- (3) Account charges are "45 days past due" on the fifteenth day of the month following billing.
- (4) Account charges are "60 days past due" on the first day of the second month following billing.

(c) Persons wishing to dispose of solid waste at Metro disposal facilities on a credit basis shall be required to first submit and have approved an application for credit on a form provided by Metro. That application shall include such provisions as the Metro Executive Officer deems necessary to secure prompt payment. Approval shall be consistent with prudent credit practices.

(d) A finance charge of one and one-half (1-1/2) percent per month (18 percent per annum), computed from the date an account becomes thirty (30) days past due, will be assessed on all accounts which become sixty (60) days past due and will be added to the oldest months charges past due. Finance charges will continue to be assessed on negotiated repayment schedules.

(e) Accounts 45 days past due may be placed on a "cash only" basis until the account is paid in full or brought to within 30 days past due. If an account is allowed to become 60 days past due, permission to dispose of waste at the facility may be denied until the account and finance charges are paid in full.

(f) If, pursuant to subsection (e) of this section, an account is placed on a "cash only" basis more than once during any consecutive 12-month period, or if service is denied because the account is allowed to become 60 days past due, the account may be required to submit a new application for credit. Such new application must be accompanied by a satisfactory payment

guarantee bond, or other payment guarantee acceptable to the Executive Officer, which is:

- (1) Effective for one year; and
- (2) Collectable if the account again becomes 60 days overdue during the period of the bond; and
- (3) In an amount equal to 150 percent of the amount due when credit was last suspended or service was denied, whichever is greater.

(g) If a credit customer sells, terminates or makes substantial changes in the scope of their business after their application for credit was approved, they must notify Metro of this sale, termination or substantial change immediately. Credit may be discontinued until and unless an application containing the new information is approved.

(h) Adjustment of accounts receivable and reversing of finance charges will follow prudent credit practices; adjustments over \$500 will be reported to the Council in writing on a monthly basis, and adjustments over \$10,000 will require Council approval.

(i) The Executive Officer may end pursuit of accounts receivable, consistent with prudent credit practices, when the likelihood of collecting does not justify further collection costs. Such actions will be reported to the Council in writing on a monthly basis when the amount exceeds \$500, and amounts over \$10,000 will require Council approval.

(Ordinance No. 82-146, Sec. 11; amended by Ordinance No. 90-350; Ordinance No. 91-386C, Sec. 8; and Ordinance No. 92-455, Sec. 1)

DRAFT

Credit Application Package

Thank you for your interest in a Credit Account with the Metro. Attached is the documentation necessary to apply for a credit account. The application must be completely filled out and signed by an authorized signer of your company.

If your company is a Corporation, all stockholders owning 10% or more of the Company's stock must sign a personal guaranty form.

The terms of credit accounts are fully outlined in the attached section 5.02.060 of the Metro Code and copy of Executive Order No. _____

Thank you again for your interest in a credit account with Metro. We look forward to doing business with you.

Karen L Feher
Credit Manager

PERSONAL GUARANTY

DRAFT

Guarantor

Street

City, State, Zip

Name of Company for Which Guaranty is
Extended (herein "Company")

In consideration for the extension of credit by the Metro to the Company, Guarantor makes the following guaranty:

I personally guaranty and bind myself to pay to Metro, on demand, any sum that the Company is obligated to pay Metro and has failed to pay. I understand that regardless of the ownership of the Company, I will continue to be liable under this guaranty until Metro receives written notice from me terminating this guaranty.

Termination of this guaranty shall not extinguish my obligation to pay charges incurred prior to termination. I hereby waive notice of non-payment and default, and consent to any modification or renewal of the credit agreement hereby guaranteed.

(Type or Print Name)

(Signature)

(Witness or Notary)

(Address)



CREDIT APPLICATION

NOT VALID UNTIL SIGNED BY AUTHORIZED METRO PERSONNEL

METRO

600 NORTHEAST GRAND AVE
PORTLAND, OR 97232 2736
TEL 503 797-1700

DATE: _____

The following information is provided for the purpose of obtaining credit and, if granted, continuing to maintain credit from the Metropolitan Service District (Metro). Metro is authorized to contact the references listed below and any other source of credit information that Metro deems reasonable for the purpose of gathering credit information related to this application and disseminating credit information pursuant to credit inquiries.

THE PERSON(S) SIGNING THIS APPLICATION CERTIFY THAT ALL OF THE INFORMATION CONTAINED IN THIS APPLICATION AND ANY ATTACHMENTS IS TRUE AND CORRECT TO THE BEST OF THEIR INFORMATION, KNOWLEDGE AND BELIEF.

EXACT LEGAL NAME OF BUSINESS: _____

PHONE: (____) - _____ FAX NUMBER: (____) - _____

BILLING ADDRESS: _____ CITY _____ STATE _____ ZIP _____

STREET ADDRESS: _____ CITY _____ STATE _____ ZIP _____

DATE BUSINESS ESTABLISHED: _____

CHECK LEGAL STATUS: PROPRIETORSHIP _____ PARTNERSHIP _____ CORPORATION _____

IF INCORPORATED: STATE OF INCORPORATION: _____ REGISTERED AGENT: NAME: _____

ADDRESS: _____ PHONE: (____) - _____

<u>OWNER/OFFICERS NAME(S)</u>	<u>TITLE</u>	<u>SSN</u>	<u>HOME ADDRESS</u>	<u>HOME PHONE</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Anticipated credit usage per month \$ _____ (If over \$10,000 attach Financial Statement)

TYPE OF BUSINESS: _____ BUSINESS LICENSE NUMBER _____

Do you do business within the Portland city limits? Yes _____ No _____

LIST OF ALL FRANCHISES CURRENTLY HELD, IF ANY: _____

CREDIT/TRADE REFERENCES:

	<u>NAME</u>	<u>ADDRESS</u>	<u>CITY/STATE</u>	<u>PHONE NUMBER</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

(continued on reverse)

BANK REFERENCE:

Signing of this application authorizes the release of credit information for the purpose of obtaining commercial credit.

BANK: _____ ACCOUNT OFFICER: _____

CHECKING ACCT. # _____ SAVINGS ACCT. # _____

BANK ADDRESS: _____ PHONE # (____) - _____

BORROWING RELATIONSHIP: _____

Identify all vehicles that you request be billed to your account: (If the space provided is insufficient, please attach separate sheet)

VEHICLE DESCRIPTION

LICENSE NO.

CONDITIONS OF CREDIT:

The undersigned agree(s) as follows:

1. This application is a request to obtain solid waste disposal services on an account basis. No loans are being extended under this arrangement. All disposal charges are due and payable upon issuance of a billing statement by Metro. Finance charges are penalties for failure to pay disposal charges when due and payable.
2. If monthly credit in excess of \$10,000 is requested, a copy of the undersigned company's most recent financial statement is attached to this application. If required by Metro, a personal guaranty or guaranties are also attached.
3. Solid waste disposal on a credit basis under this agreement is controlled by the credit policy for Metro Solid Waste Disposal Facilities, which policy is subject to revision. On behalf of the individual or business entity entering this agreement, I acknowledge receipt of a current copy of that credit policy.
4. Pursuant to Metro's credit policy, failure to pay account charges when due may result in assessment of finance charges, suspension of credit, and/or denial of access to Metro disposal facilities.
5. This agreement may not be transferred or assigned without prior written approval from Metro. A successor in interest to this agreement shall be liable for all charges incurred under this agreement, including charges incurred prior to the date of transfer. In addition, any individual(s) providing a personal guaranty to obtain credit under this agreement shall continue to be liable for all charges incurred under this agreement, even charges incurred after the date of transfer, until Metro receives written notice that the transfer has occurred.
6. This agreement shall not be affected by any change in the composition, form, or legal organization of the applicant's business.
7. If litigation is instituted to enforce this agreement or collect the account established under this agreement, the prevailing party shall be entitled to costs, disbursements, and attorney fees, in trial court and on appeal. All legal actions related to this agreement shall be decided exclusively by a court of competent jurisdiction in Multnomah County, Oregon, under Oregon law.
8. Metro may terminate this agreement at any time, upon notice to the applicant or successor in interest.

The undersigned certifies as follows:

1. The information set forth in, and submitted with, this application is true and accurate.
2. I agree to provide notice to Metro of any change in the information set forth in or submitted with this application, at the time such changes occur.
3. I am the applicant or an individual authorized to make this application and bind the applicant as specified herein. I fully understand the contents of this document, and understand that once it is signed by an authorized representative of Metro, it is binding upon each party's heirs, executors, administrators, successors, assigns, parent corporation, and affiliates of whatever nature.

Submitted by: _____
(Print or type the full exact legal name of applicant)

Signature: _____
(Signature and title of person authorized to sign on behalf of the applicant)

Date: _____

Based on the information submitted by the applicant and in consideration of the above promises, credit is granted to the applicant on the terms specified herein and in Metro Code Section 5.02.060.

(Signature - Metro Credit Manager)
Date: _____



METRO

DATE: July 22, 1993
TO: Don Carlson, Council Administrator
FROM: Jennifer Sims, Director of Finance and Management Information
RE: Ordinance No. 93-504

Attached is an amendment to Ordinance No. 93-504 that is on tonight's Council agenda for second reading. The staff report presented to the Finance Committee and included in this agenda packet reflects the corrected Ordinance. The staff report's intent was to allow Metro to charge a finance charge 15 days earlier than it is presently being charged. This amendment makes the Ordinance agree with that intent.

FINANCE COMMITTEE REPORT

ORDINANCE NO. 93-504 AMENDING METRO CODE SECTION 5.02.060 RELATING TO THE CREDIT POLICY AT METRO SOLID WASTE FACILITIES

Date: July 15, 1993

Presented By: Councilor Monroe

COMMITTEE RECOMMENDATION: At its July 14, 1993 meeting the Committee voted unanimously to recommend Council adoption of Ordinance No. 93-504. All Committee members were present and voting.

COMMITTEE DISCUSSION/ISSUES: Ms. Karen Feher, Credit Manager, gave the Staff Report. Ms. Feher stated that the ordinance repeals Section 5.02.060 of the Metro Code and replaces it with entirely new language. This approach was taken because of the need to clarify the terms by which Metro extends credit to commercial disposal customers. The clarification is prudent to do because of recent litigation over the meaning of the terms. She pointed out the major changes to Metro's Credit Policy included in the ordinance are: 1) a requirement to impose a finance charge 15 days after the due date of a statement (this is 15 days sooner than the current code requirement and will likely result in more timely payment of bills); and 2) authorizing the Executive Officer to require existing and new account holders to make new applications for credit and provide additional guarantees as deemed necessary and prudent to diminish Metro's risk of loss due to nonpayment (a new application form has been prepared requiring a personal guarantee for company stockholders). Ms. Feher indicated that the personal guarantee would be required of stockholders who own more than 10% of the company requesting credit.

Councilor Van Bergen pointed out the issue of Metro's credit management had come up during the past budget deliberations and he complimented the Finance and Management Information Department for the prompt action taken to improve the District's credit management program and practices.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 93-504 FOR THE PURPOSE OF AMENDING METRO CODE SECTION 5.02.060 RELATING TO THE CREDIT POLICY AT METRO SOLID WASTE FACILITIES.

DATE: June 16, 1993

Presented by: Jennifer Sims

PROPOSED ACTION

To amend the Metro Code Section 5.02.060, relating to the Credit Policy at Metro Solid Waste facilities.

FACTUAL BACKGROUND AND ANALYSIS

The Ordinance repeals existing Metro Code Section 5.02.060 and replaces it with new language.

1. Clarification of Credit Terms. Section 5.02.060 provides the terms by which Metro extends credit to commercial disposal customers. Presently the Code must be carefully read to understand the actual past due status of an account. The Code states that an account is thirty days past due as defined as the day after the due date of the present billing. Exhibit A shows the present definitions in the Code and the proposed changes. The collection agency that Metro uses recently was ruled against in an arbitration hearing while attempting to collect unpaid finance charges, due to the unclear wording in the Code. The arbitrator stated in a letter to the court, ". . . I find and hold plaintiff's case to be unproved because the meaning and application of Metro's finance charges as described in both Section 5.02.060 of its Code and in its charging documents are too vague and uncertain to be enforceable." This ruling was successfully appealed. However, the arbitrator's concerns have merit, and are properly addressed by the proposed Ordinance.
2. A major proposed change to the Code proposed by Ordinance No. 93-504 is to assess the finance charge at 15 days after the due date rather than 30 days after the due date. The new terms more closely match industry standards in relation to finance charges, offset the costs of collection on those accounts that do not pay in a timely manner, and reduce Metro's overall risk by encouraging lower balances with timely payment.

Dun and Bradstreet, a national credit reporting agency, provides "industry standard" information. Dun and Bradstreet compiles information by examining the financial statements of many like companies, usually over 200, and combining financial information on operating results. Metro's customer base has an average medium collection period of 32.8 days. This collection period is the time, from billing, it takes commercial haulers using Metro solid waste facilities to collect their accounts receivable. Metro's average collection period is 46 days, indicating more liberal terms on our accounts receivable than that of haulers using our facilities. It is anticipated that the

changes contained in Ordinance 93-504 will bring Metro's "turn days" closer to our customers' turn days.

On the 10th day of the month, Metro sends a statement to disposal customers covering all charges made through the last day of the previous month. This billing is due the last day of the month in which it is billed. Exhibit A follows a billing from charges made to the various stages of delinquency. A customer's charges in February are billed March 10th and are past due on April 1st, and a finance charge is assessed May 1st. On the 15th of the month following the billing (in this example April 15), a letter is sent to the customer indicating its account is past due. One week after the letter is sent, the customer is contacted by phone. These efforts generally bring in these past due funds; however, Metro is not compensated for the extra cost of following up on these past due accounts. The proposed credit changes will place the burden of collection costs on the past due customers who cause the extra collections. During the month of January 1993 we would have billed an additional \$13,820.76 in finance charges if the proposed credit terms were in place. (It is likely, however, that approximately \$9,000 of the finance charges would never be assessed as the customer would have paid earlier.) Fifty-seven letters were sent and approximately 40 phone calls were required to collect the funds.

Besides our lack of compensation, many accounts pay late to benefit their cash flow. Approximately \$600,000 out of a total of approximately \$5,000,000 in accounts do not pay until just before a finance charge is going to accrue. This does not seem to be a matter of lack of funds, but rather cash planning on the part of these accounts. Shortening of this term will allow Metro to collect the funds in a more timely manner, increasing Metro's overall cash flow and ability to make investment earnings on collected funds. In the above example, if we would collect the \$600,000 fifteen days earlier every month, the annual additional investment potential at 4% yield would be \$11,835.62.

Other minor changes to the Code clarify the actual due date. Some accounts had been mailing their payments on the due date, assuming it is acceptable to do so and still avoid finance charges. To clear up this confusion, the proposed changes require that payments must be in the Finance and Management Information office during business hours, or, if delivered by mail, be received in Metro's mail room on the due date.

In conjunction with these changes, the Credit Manager has drafted a new credit application. Under the Executive Officer's authority to implement prudent credit policies, all Metro customers will be asked to complete and return these new credit applications if they wish to maintain a credit account with Metro. These new credit applications have clearly defined terms to ensure enforceability of all of Metro's credit policies. In addition, for the first time Metro will ask for the personal guaranty of any stockholder who owns more than 10% of the company. With the company mergers that occurred when Portland franchised, Metro has greater risk than before franchising. These new companies all appear to be organizing as corporations, limiting the liability to the stockholders. If the company goes bankrupt, without the personal guaranty of the stockholders, Metro is left with a bad debt and no recourse to the stockholder. The last major

change to Metro's credit policy was made in 1988 at which time tip fees were much smaller. Most recent credit losses experienced by Metro, including the loss from failure of Sunflower Recycling, stem from not having recourse to the company's stockholders.

The changes and modifications in the proposed Ordinance will maintain at an acceptable level the risk to Metro extending credit to commercial accounts.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 93-504.

Attachments: Exhibit A - Billing/Past Due Timeline
Proposed Ordinance 93-504
Exhibit B - Old Code Section 5.02.060
Exhibit C - Credit Application Package

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
METRO CODE SECTION 5.02.060)
RELATING TO THE CREDIT POLICY)
AT METRO SOLID WASTE FACILITIES)

ORDINANCE NO. 93-504A
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received by Metro unless it is delivered personally to the Metro Department of Finance and Management Information during business hours or, if delivered by mail, is received in Metro's mail room.

(d) Interest ~~A finance charge~~ of one and one-half percent per month ~~(18 percent per annum)~~ shall ~~begin to accrue~~ be assessed on all past due charges on the fifteenth day of the month following the month in which a statement is mailed, and on the fifteenth day of each month thereafter. Interest ~~Finance charges~~ will ~~accrue~~ be assessed only on unpaid past due balances, and not on previously ~~accrued interest~~ ~~assessed finance charges~~. Finance charges will continue to be assessed on negotiated repayment schedules. Payments will be applied first to finance charges and then to the oldest amount past due.

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ADOPTED by the Metro Council this ____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

ds 11166

ORDINANCE NO. 93-504A - Page 2

BEFORE THE METRO COUNCIL

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RELATING TO THE CREDIT POLICY) Introduced by Rena Cusma,
AT METRO SOLID WASTE FACILITIES) Executive Officer

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ADOPTED by the Metro Council this ____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

ds 1116a

ORDINANCE NO. 93-504 - Page 2



METRO

DATE: July 26, 1993
TO: Rena Cusma, Executive Officer
FROM: Paulette Allen, Clerk of the Council
RE: TRANSMITTAL OF ORDINANCE NOS. 93-503 AND 93-504A

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on July 22, 1993.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Thursday, July 29, 1993. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date stated above, these ordinances will be considered finally adopted.

I, Unette Harley, received this memo and true copies of Ordinance Nos. 93-503 and 93-504A from the Clerk of the Council on 7-26-93.