

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 09-1223
CODE CHAPTER 5.02 TO ADOPT SOLID)	
WASTE RATE SETTING PROCEDURES, AND)	
AMENDING METRO CODE CHAPTER 2.19 TO)	
REPEAL THE SOLID WASTE RATE REVIEW)	Introduced by Council President David
COMMITTEE)	Bragdon

WHEREAS, The public interest is served by setting forth in specific form the processes by which Metro develops, reviews and adopts solid waste fees and charges; and

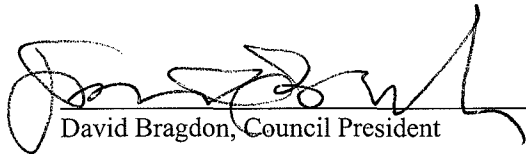
WHEREAS, The authority, responsibilities and membership of the Rate Review Committee as adopted by Metro Ordinance No. 91-436A no longer meet Metro's needs; now therefore,

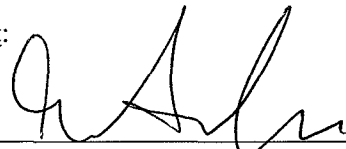
THE METRO COUNCIL ORDAINS AS FOLLOWS:


Section 1. Metro Code Amendment. Metro Code Chapter 5.02 shall be amended in the form attached hereto as Exhibit "A."

Section 2. Metro Code Amendment. Metro Code Section 2.19.170, "Rate Review Committee (RRC)," is repealed.

ADOPTED by the Metro Council this 12th day of November, 2009.


 David Bragdon, Council President

Attest:

 Anthony Andersen, Recording Secretary

Approved as to Form:

 Daniel B. Cooper, Metro Attorney

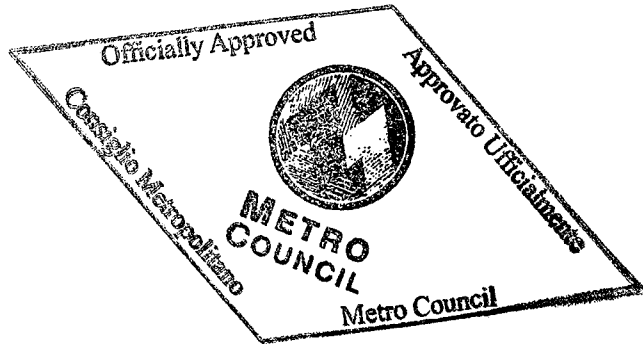


Exhibit "A" to Ordinance No. 09-1223

METRO CODE - TITLE V SOLID WASTE
CHAPTER 5.02 DISPOSAL CHARGES AND USER FEES

5.02.020 Establishment of Disposal Fees and Charges; Procedures

(a) Purpose. The purpose of this section is to establish a consistent, predictable, open and transparent framework for the adoption of solid waste disposal fees and charges by Metro.

(b) Definitions. As used in this subsection, "rates" means any of Metro's solid waste fees or charges as set forth in Metro Code section 5.02.025 or 5.02.045. "Rate year" means a period of 365 consecutive days (366 leap year days) commencing from the date on which a rate becomes effective.

(c) Frequency. The Council shall consider rates annually and adopt changes as needed.

(d) Rate-Making Requirements; Independent Review. Each year the Chief Operating Officer shall prepare rates for consideration by the Council. Rates shall be regarded as provisional until transmitted to the Council pursuant to paragraph (e) of this section. In preparing provisional rates the Chief Operating Officer shall:

- (1) Consider all sources and uses of funds that affect the Solid Waste Revenue Fund budget during the next rate year.
- (2) Follow generally accepted practices for selection of methodologies, assumptions, requirements, and other technical factors that determine the rates.
- (3) Incorporate rate criteria and policies adopted by resolution of the Council pursuant to paragraph (g) of this section.
- (4) Submit the provisional rates to review by at least one independent expert. The reviewer shall test the provisional rates for accuracy, adequacy, the reasonableness of underlying assumptions, compliance with applicable law and requirements, consistency with adopted criteria of the Council, and any other criteria specified by the Chief Operating Officer or recommended by the reviewer under generally accepted professional or best practices for rate review. The Chief Operating Officer shall provide the reviewer with access to the rate model, data, assumptions, criteria, and any other information that the Chief

Operating Officer used to calculate the provisional rates. At the conclusion of his work, the reviewer shall deliver a written report to the Council and the Chief Operating Officer documenting the reviewer's findings, exceptions and recommendations.

- (5) Perform any other forms of due diligence that the Chief Operating Officer finds necessary to meet the purpose of this section.

(e) Transmittal of Proposed Rates to the Council. Each year the Chief Operating Officer shall transmit to the Metro Council in ordinance form a set of proposed rates for consideration. Transmittal of the rates shall coincide with transmittal of the proposed budget by the Budget Officer. At the same time that he transmits the rates, the Chief Operating Officer shall transmit to the Metro Council:

- (1) A report that documents the methodologies, data, assumptions, adopted criteria and the other factors that the Chief Operating Officer used to calculate the proposed rates including his response to the recommendations of the independent review; and
- (2) The report of the independent review prepared pursuant to paragraph (d)(3) of this section.

(f) Public Review and Comment. The Council shall open public hearings on the proposed rates on a time line designed to coincide with public hearings on the proposed annual budget.

(g) Periodic Review of Rate Criteria and Policies. From time to time the Council shall undertake a review of its adopted rate criteria and policies. The purpose of these reviews shall be to assure that adopted criteria and policies reflect the purpose of this section, meet Metro's needs, support Metro's management of the regional solid waste system, and address any findings of the Council that result from the periodic review. The Chief Operating Officer shall initiate the first such periodic review on a time line designed to facilitate consideration by the Council before December 31, 2010. The Chief Operating Officer shall initiate subsequent periodic reviews no less frequently than every three years thereafter. The Council may initiate, or the Chief Operating Officer may propose to initiate, a review of rate criteria or policies at any time.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 09-1223 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 TO ADOPT SOLID WASTE RATE-SETTING PROCEDURES, AND AMENDING METRO CODE CHAPTER 2.19 TO REPEAL THE SOLID WASTE RATE REVIEW COMMITTEE

Date: November 5, 2009

Prepared by: Douglas Anderson (x1788)

BACKGROUND

It has become increasingly apparent over the last few years that Metro's approach to setting solid waste rates no longer fully meets the needs of Metro, local governments, and solid waste stakeholders. It is also no longer fully aligned with best practices for setting municipal utility rates. Historically the process has focused on technical and fiscal issues almost to the exclusion of the policy environment in which the rates operate. A considerable amount of time is currently spent on technical analysis and committee review at the beginning of the process. As a result, at the end of the process the public has limited opportunities for input, and Metro Council has little time to consider options.

The changes within Ordinance No. 09-1223 are intended to get the best and most complete information before the Metro Council each year, to improve the efficiency of the process, and to implement contemporary best practices for setting solid waste rates. Adoption of the ordinance would establish for the first time a rate setting framework in Metro code (see Exhibit "A" of the ordinance). This alone will improve the transparency and consistency of the process from year to year.

There are three main changes within this framework:

1. Creating a formal process to review and develop policy objectives for the rates. This "periodic review" would provide a forum for the full range of rate-related interests to be heard and discussed. It would be managed by the Chief Operating Officer, who would bring its findings and recommendations to the Metro Council for consideration. Ideally, it would be held off the annual rate setting cycle to allow focus on the issues. A periodic review would address questions such as: the appropriate tradeoff between high rates as recycling incentives and low rates that minimize ratepayer costs; the role of Metro's rates in the economics of the public-private-disposal system; the design of rates that support long-run environmental sustainability; appropriate self haul charges; and so forth.

At the end of the review, the council would adopt by resolution the rate criteria and policies that it found to be in the public interest. These resolutions would become explicit design factors in subsequent rate setting cycles. Staff has recommended that the first review take place in late 2010, in time for development of the 2011-2012 rates; and every three years thereafter (or more frequently as needed).

2. Improving the effectiveness of the public review and comment period during each annual rate cycle. The framework requires the Chief Operating Officer to develop proposed rates in conjunction with the budget. The idea would be to streamline the technical work so the rates can be released at the same time as the proposed budget, and to hold public hearings on the same time line. This would free up at least a month for the Metro Council, interested parties and the general public to review and comment on the proposed rates. It would provide the Council with enough time to consider the

impact of rate changes on the budget, the impact of budget changes on the rates, and the time to act on either.

3. **Dissolving the Rate Review Committee.** The independent technical review function, currently assigned to the committee, would be performed by an independent expert under contract to the Chief Operating Officer. The consultant's report would be released at the same time as the proposed rates and would be available for review during the public review and comment period described above.

The Metro Council and stakeholders received a white paper on these topics, *Setting Metro's Solid Waste Rates: An Assessment* (also available on the Metro web site), that included recommendations and three specific options for the Rate Review Committee. Stakeholders were invited to comment on the recommendations, and staff offered to meet directly with any person or group. This initiative was also presented with discussion at the Quarterly Solid Waste Stakeholder Roundtable on October 19, 2009.

ANALYSIS/INFORMATION

1. **Known Opposition** Reactions to this initiative by Rate Review Committee members, local governments, and affected members of the solid waste industry have been mixed but generally positive. The mixed reaction comes from leaving the certainty of a known system for a new one. Stakeholders generally support the new process, in particular the move toward a periodic review of rate policies. The alignment of rate hearings with budget hearings, and providing more time for public review and comment each year is well-received. Some stakeholders expressed concerns whether Metro would commit to the new process and follow through, so these stakeholders saw formal adoption of the rate setting framework as a key to institutionalizing these practices.

A number of commenters suggested that, rather than do away with the committee immediately, its current members be invited back to one more session with the express purpose of extracting its collective wisdom, in advance of the first periodic review cycle that would be held in late 2010.

2. **Legal Antecedents** Metro is not required by law to adopt its rate setting framework. However, this is a best practice to support transparency, consistency and continuity of the process over time. Because the authority, responsibilities and membership of the Rate Review Committee is currently set forth in Metro Code, repeal requires an ordinance of the council.
3. **Anticipated Effects** are described in Background above.
4. **Budget Impacts** Staff estimates the net budget impact to be \$5,000 per year or less. The amount of staff time spent on the technical work will remain at about the same level. Staff time formerly spent managing the Rate Review Committee will be converted to procuring the independent consultant and managing the annual and the periodic reviews. There will be savings on materials and services from eliminating the Rate Review Committee, but this will be partly offset by the cost of running the periodic reviews. The main new expense will be the contract for independent review, which will depend on the scope of work. However, this work should not exceed \$10,000 per year, and most likely considerably less than that.

RECOMMENDED ACTION

The Council President recommends adoption of Ordinance No. 09-1223.