

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO ) ORDINANCE NO. 10-1239  
CODE CHAPTER 7.01 TO MODIFY THE )  
AMOUNT OF NET SOLID WASTE EXCISE ) Introduced by Chief Operating Officer  
TAX GENERATED AND TO REPEAL THE ) Michael J. Jordan with the concurrence of  
ADDITIONAL SOLID WASTE EXCISE TAX ) Council President David Bragdon

WHEREAS, Metro Code establishes two different solid waste excise taxes; and

WHEREAS, Metro code sets forth different methodologies for calculating each tax rate; and

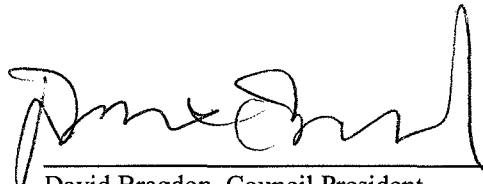
WHEREAS, Over time, the Solid Waste Excise Tax for which provision is made in Metro Code Section 7.01.020 (c)-(e) provides for greater revenue stability than the Additional Excise Tax in Metro Code Section 7.01.023; now therefore,


THE METRO COUNCIL ORDAINS AS FOLLOWS:

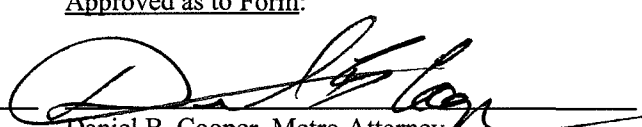
Section 1. Metro Code Amendment. Metro Code Section 7.01.020 is amended in the form attached hereto as Exhibit "A".

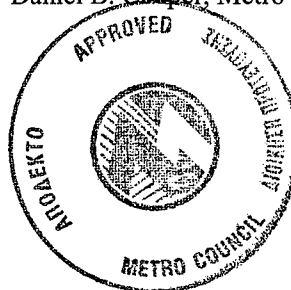
Section 2. Metro Code Amendment. Metro Code section 7.01.023 is repealed.

ADOPTED by the Metro Council this 29<sup>th</sup> day of April, 2010.

  
\_\_\_\_\_  
David Bragdon, Council President

Attest:   
\_\_\_\_\_  
Anthony Andersen, Recording Secretary

Approved as to Form:  
  
\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney



**Exhibit "A" to Ordinance No. 10-1239**

**METRO CODE – TITLE VII FINANCE  
CHAPTER 7.01 EXCISE TAXES  
Sections 7.01.020**

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by Metro, each user, ~~except users of solid waste system facilities~~ persons subject to the tax provided in subsection 7.01.020(c), shall pay a tax of 7.5 percent of the payment charged by the operator or Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

(c) ~~For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements owned, operated, licensed, franchised, or provided by Metro, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste~~ Except as provided in Metro Code Section 7.01.050, each person who disposes of solid waste at a solid waste system facility shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste disposed exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. ~~In addition, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste shall also pay the additional tax in the amount set forth under Section 7.01.023 for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities.~~ The tax constitutes a debt owed by the user-person to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user-person shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user-person to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, ~~2002~~ 2010, the tax rate imposed and calculated under subsections (c) through (f) of this section shall be sufficient to generate net excise tax revenue of ~~\$6,050,000~~ \$11,370,000 after allowing for any tax credit or tax rebate for which provision

is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.

(e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year 2006-07, and each fiscal year thereafter, the rate determined by this subsection shall be effective as of September 1st unless another effective date is adopted by the Metro Council.

(2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By March 1st of each year, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:

(1) For the twelve (12) month period ending the previous December 31, the

amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and

- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if ~~the~~ a Regional Recovery Rates of 58 percent had been met. ~~corresponding to each calendar year set forth on the following schedule had been achieved:~~

<b>Year</b>	<b>Regional Recovery Rate</b>
2005	56%
2006	56.5%
2007	57%
2008	57.5%
2009	58%

The result of such calculation by the Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1).

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 10-1239, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 7.01 TO MODIFY THE AMOUNT OF NET SOLID WASTE EXCISE TAX GENERATED AND TO REPEAL THE ADDITIONAL SOLID WASTE EXCISE TAX

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Date: April 15, 2010

Prepared by: Margo Norton, 503 797-1934  
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Karen Feher, 503-797-1868

## BACKGROUND

In an effort to stabilize future revenue, this ordinance would change the method by which the Additional Tax on solid waste is calculated. Adoption of this ordinance would increase the maximum solid waste tax yield established in Metro Code by the amount of revenue projected from the “buck a ton” Additional Tax in the current fiscal year. The calculation of the combined Base and Additional Tax would use the same method as is currently used for the base solid waste excise tax. The Additional Tax would be repealed. The results of this action would result in:

- Simplification of the Per-Ton Excise Tax Code
- Stabilization of future revenues

The current method of calculating the Additional Tax results in the revenue production fluctuating significantly with changes in tonnage. In periods of high increases in disposed tonnage, the revenue production increases significantly; likewise, in periods of large decreases in tonnage the revenue production decreases significantly. By combining the two separate taxes and creating a single way of calculating taxes on solid waste everyone involved will have greater certainty about the amount of taxes that will be collected. In its first year the change will have a rate impact of less than two tenths of one percent on a typical residential customer’s bill and an overall increase of less than eight tenths of one percent of the total solid waste tip fee, raising less than \$650,000 overall. Expenditure of excise tax continues to be limited by Metro’s Charter. The revenue generated by this action will stay beneath that limit.

In a housekeeping sub-amendment, this ordinance also updates the aspirational Regional Recovery Rate that is used in the annual rate calculation. The current rate schedule ends in 2009; this ordinance converts the schedule to a fixed 58 percent rate. This is the current goal set for the wasteshed in state law and the Regional Solid Waste Management Plan (that is, 64 percent less the two percentage points each for waste prevention, reuse and home composting).

In addition, this ordinance clarifies that the tax imposed by Metro Code section 7.01.020(c) is an excise tax on disposal of solid waste generated inside the district and also on solid waste generated outside the region if it is disposed at an in-region system facility. Because Metro has no authority over waste generated outside the region and disposed at a system facility outside the region, the new language cannot make, and is not intended to make, a taxable event out of such out-of-district to out-of-district transactions.

During several meetings in March and early April, local government staff and interested members of the solid waste industry reviewed this proposal.

## **ANALYSIS/INFORMATION**

1. **Known Opposition:** None known.
2. **Legal Antecedents:** A change to the solid waste excise tax requires amendment of Metro Code Chapter 7.01 by an ordinance of the council..
3. **Anticipated Effects:** Increases the FY 2010-11 expected excise tax revenue by an estimated \$650,000 and stabilizes revenues subsequent to that fiscal year. The FY 2010-11 rate impact is 62 cents per ton. The statutory yield of solid waste excise tax in Metro Code will increase from the current level of approximately \$7.2 million by about \$4.2 million, to \$11.37 million—offset by the repeal of the Additional Tax. Also fixes a 58 percent recovery rate for the tax rate calculation and clarifies that the tax imposed is an excise tax on all disposal.
4. **Budget Impacts:** The net increase in FY 2010-11 is an estimated \$650,000 over a “no action” scenario. This increase is included in the Proposed FY 2010-11 budget.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends that council adopt Ordinance No. 10-1239.