

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )  
CODE TITLE V, SOLID WASTE, TO REVISE )  
CHAPTER 5.02. )  
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 )

ORDINANCE NO. 14-1338  
Introduced by Chief Operating Officer Martha  
Bennett in concurrence with Council  
President Tom Hughes

WHEREAS, the Metro Solid Waste Code is set forth in Title V of the Metro Code; and

WHEREAS, Metro Solid Waste Code Chapter 5.02 contains the requirements for Disposal Charges and User Fees; and

WHEREAS, the Chief Operating Officer recommends organizational changes to Chapter 5.02 to improve access and readability of the Metro Code, including incorporating certain provisions pertaining to the payment of regional system fees; and

WHEREAS, Metro revised Chapter 5.01 in July 2014 pursuant to Ordinance No. 14-1332 to repeal certain regional system fee exemptions and requirements for relocation to Chapter 5.02;

WHEREAS, portions of Metro Code Chapter 5.02 must be revised to update the code to reflect these changes and other necessary changes; and

WHEREAS, to achieve the above-referenced objectives, it is necessary to revise Metro Code Chapter 5.02, Disposal Charges and User Fees; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

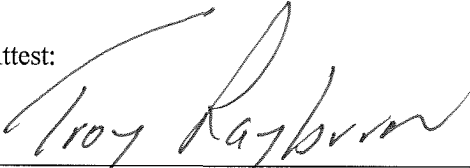
1. Metro Code Amendment. Metro Code Section 5.02.045 is amended as set forth in the attached Exhibit A.
2. Metro Code Amendment. Metro Code Section 5.02.055 is amended as set forth in the attached Exhibit B.
3. Metro Code Amendment. The term "Community Enhancement Fee" shall replace the term "Community Rehabilitation and Enhancement Fee" in Metro Code subsection 5.02.025(a)(1)(C), and all other subsections of Metro Code Section 5.02.025 shall remain unchanged.

ADOPTED by the Metro Council this 24th day of July, 2014.



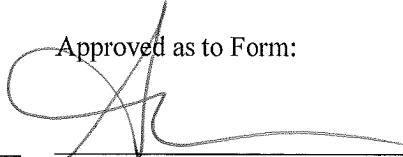
  
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Tom Hughes, Council President

Attest:



Troy Rayburn, Recording Secretary

Approved as to Form:



Alison R. Kean, Metro Attorney

**Exhibit "A" to Ordinance 14-1338**

CHAPTER 5.02

DISPOSAL CHARGES AND USER FEES

5.02.045 Regional System Fees

(a) The Regional System Fee shall be the dollar amount per ton of solid waste adopted by an ordinance of the Metro Council, prorated based on the actual weight of solid waste at issue rounded to the nearest one-hundredth of a ton.

(b) Any waste hauler or other person transporting solid waste generated, originating, or collected from inside the Metro region shall pay Regional System Fees to Metro for the disposal of such solid waste. Payment of applicable system fees to the operator of a Designated Facility shall satisfy the obligation to pay system fees, provided that, if such solid waste is transported to a Designated Facility outside of the Metro region, then such waste hauler or other person must have informed the operator of the Designated Facility that the solid waste was generated, originated or collected inside the Metro region. In any dispute regarding whether such waste hauler or other person informed such operator that the solid waste was generated, originated, or collected inside the Metro region, such waste hauler or other person shall have the burden of proving that such information was communicated.

~~——(e)(c)~~ Regional system fees shall not apply to:

- (1) Solid waste received at solid waste facilities that are licensed, franchised or exempt from regulation under Chapter 5.01;
- (2) Cleanup material contaminated by hazardous substances accepted at facilities that treat said cleanup material contaminated by hazardous substances to applicable DEQ standards;
- (3) Useful material that is accepted at a disposal site that is listed as a Metro Designated Facility in Chapter 5.05 or accepted at a disposal site under authority of a Metro Non-System License issued pursuant to Chapter 5.05, provided that the useful material: (A) is intended to be used, and is in fact used, productively in the operation of the disposal site such as for roadbeds or alternative

daily cover; and (B) is accepted at the disposal site at no charge; or

- (4) Processing residual produced by any tire processor that is regulated pursuant to Chapter 5.01 and that sorts, classifies or processes used tires into fuel or other products, provided said processing residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro license or franchise.

(d) Designated Facility operators shall collect and pay to Metro the Regional System Fee for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with ~~Metro Code Section 5.01.150~~this chapter. There is no liability for regional system fees on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. Regional system fees may not be deemed uncollectible unless the underlying account is also uncollectible. If the fees have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

(d)(e) All regional system fees shall be paid in the form of a remittance payable to Metro. All regional system fees received by Metro shall be deposited in the solid waste operating fund and used only for the administration, implementation, operation and enforcement of the Regional Solid Waste Management Plan.

(f) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated from outside the Metro boundary, the load in its entirety shall be reported at the disposal site by the generator or hauler as having been generated within the Metro boundary, and the Regional System Fee shall be paid on the entire load unless the generator or hauler provides the disposal site operator with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary and the disposal site operator

forwards such documentation to Metro, or unless Metro has agreed in writing to another method of reporting.

~~(c) System fees described in this Section 5.02.045 shall not apply to exemptions listed in Section 5.01.150(b) of this Code.~~

(Ordinance No. 82-146, Sec. 8. Amended by Ordinance No. 85-191, Sec. 4; Ordinance No. 86-214, Sec. 4; Ordinance No. 88-257, Sec. 6; Ordinance No. 88-278, Sec. 4; Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 6; Ordinance No. 90-351, Sec. 1; Ordinance No. 90-372, Sec. 3; Ordinance No. 91-386C, Sec. 6; Ordinance No. 92-455B, Sec. 1; Ordinance No. 94-531, Sec. 6; Ordinance No. 97-681B, Sec. 4. Repealed by Ordinance No. 98-720A, Sec. 19; replaced by Ordinance No. 98-720A, Sec. 20. Amended by Ordinance No. 99-823A, Sec. 2; Ordinance No. 00-867, Sec. 3; Ordinance No. 01-918A, Sec. 3; Ordinance No. 03-1000A, Sec. 2; Ordinance No. 04-1042A, Sec. 2; Ordinance No. 05-1080, Sec. 3; Ordinance No. 06-1103, Sec. 2; Ordinance No. 06-1118, Sec. 4; Ordinance No. 07-1146, Sec. 3; Ordinance No. 08-1186A, Sec. 2; Ordinance No. 09-1217A, Sec. 2; Ordinance No. 10-1237, Secs. 2 and 4; Ordinance No. 11-1257A, Sec. 2; Ordinance No. 12-1277, Sec. 2 and Ordinance No. 13-1323, Sec 3.)

(5.02.046 Special Findings for Regional System Fee Credits. Repealed Ord. 07-1147B, effective 7/01/09)

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**Exhibit "B" to Ordinance 14-1338**

CHAPTER 5.02

DISPOSAL CHARGES AND USER FEES

5.02.055 Remittance to Metro of Fees and Other Charges

(a) Fees and charges owed to Metro by any person pursuant to this Chapter shall constitute a debt owed to Metro, and such debt shall be extinguished only by payment of such fees and charges to Metro as provided in this section. Franchisees and other operators of Designated Facilities shall remit fees and charges other than excise taxes to Metro as specified in this section. In addition, waste haulers and other persons liable for the payment of user fees as provided in Metro Code Section 5.02.045(b) shall remit fees and charges other than excise taxes to Metro as specified in this section.

(b) Fees shall accrue on a monthly basis and shall be remitted to Metro by the 15th day of the month for waste disposed of in the preceding month. Fees and other charges will be delinquent if not received by Metro on or before the due date, ~~either by personal delivery to the Metro Department of Administrative Services during business hours or, if delivered by mail, by receipt in Metro's mail room on or before the due date.~~ If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows.

(Ordinance No. 93-509, Sec. 3. Amended by Ordinance No. 94-533, Sec. 1; Ordinance No. 97-681B, Sec. 5; Ordinance No. 98-720A, Sec. 23; Ordinance No. 06-1103, Sec. 3.)

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## STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1338 FOR THE PURPOSE OF AMENDING METRO CODE TITLE V, SOLID WASTE, TO REVISE CHAPTER 5.02.

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July 1, 2014

Prepared by: Warren Johnson  
503-797-1836

The proposed ordinance amends Title V (Solid Waste) to revise Chapter 5.02 (Disposal Charges and User Fees) to include certain provisions related to the payment of regional systems fees and other technical corrections to improve the readability and organizational structure of the Code. There are no substantive changes to any current policies, practices, or regulatory requirements under this proposed ordinance.

### BACKGROUND

Metro Code Chapter 5.02 (Disposal Charges and Fees) governs the establishment and assessment of disposal charges and regional system fees on solid waste within the region. In order to make the Code more accessible and easier to use, the Chief Operating Officer recommends revising Chapter 5.02 to add certain provisions related to the payment of regional system fees that were repealed from Chapter 5.01 under a separate ordinance.<sup>1</sup> Such fee-related provisions are more appropriate for Chapter 5.02. The proposed ordinance also includes two minor technical corrections to update and improve the readability the Code.

This proposed ordinance is part of a package of ordinances that are intended to improve the consistency, access, and usability of Metro's solid waste Code. In addition to this action, Metro Council will also consider three similar ordinances for other housekeeping and organizational improvements to the Code at its meeting on July 24, 2014.<sup>2</sup>

### ANALYSIS/INFORMATION

#### 1. Known Opposition

Adoption of this ordinance would result in changes to the organizational structure of Title V, including relocating certain fee-related provisions from Chapter 5.01 to Chapter 5.02. The proposed ordinance also includes two minor technical corrections to Chapter 5.02. There are no substantive changes to any current policies, practices, or regulatory requirements. As such, there is no known opposition to the proposed ordinance.

#### Legal Antecedents

Any change to the Metro Code requires an ordinance of the Metro Council.

#### 2. Anticipated Effects

Adoption of this ordinance would result in the following changes to the Metro Code:

- Revisions to Metro Code Section 5.02.045 to incorporate certain fee-related provisions that were repealed from Section 5.01.150 (under separate Ordinance No. 14-1332).

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<sup>1</sup> Ordinance No. 14-1332

<sup>2</sup> Chapter 5.00 (Ord. No. 14-1331), Chapter 5.01 (Ord. No. 14-1332), and Chapter 5.05 (Ord. No. 14-1337)

- Revision of subsection 5.02.055(b) to delete certain obsolete specifications regarding fee remittance procedures.
- Minor technical correction in subsection 5.02.025(a)(1)(C).

### **3. Budget Impacts**

There are no expected budget impacts associated with the adoption of this ordinance.

### **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of Ordinance No. 14-1338. Approval of this ordinance will revise Chapter 5.02 (Disposal Charges and User Fees) to include certain provisions related to the payment of regional systems fees, as provided in Exhibit A, and other technical corrections, as provided in Exhibit B, to improve the readability and organizational structure of the Code.

WJ:bjl  
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