

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 04-1036
CODE CHAPTER 5.02 TO ESTABLISH THE)	
INITIAL DISPOSAL CHARGE FOR)	Introduced by Michael Jordan, Chief
COMPOSTABLE ORGANIC WASTE AT)	Operating Officer, with the concurrence of
METRO TRANSFER STATIONS)	David Bragdon, Council President

WHEREAS, Metro Code section 5.02.037, “Disposal charge for compostable organic waste,” establishes a methodology for a Compostable Organic Waste Disposal Charge at Metro-owned transfer stations; and,

WHEREAS, Solid Waste and Recycling staff have calculated a Compostable Organic Waste Disposal Charge pursuant to the methodology set forth in Metro Code section 5.02.037(c); and,

WHEREAS, on October 1, 2003, pursuant to Metro Code Section 2.19.170, “Rate Review Committee,” the Rate Review Committee reviewed the initial Compostable Organic Waste Disposal Charge and found that staff’s methodology is consistent with the requirements set forth in Metro Code section 5.02.037; and,

WHEREAS, the Rate Review Committee further recommended that Council approve the initial Compostable Organic Waste Disposal Charge based on this methodology, once staff had finalized all of the costs required under Metro Code section 5.02.037(c); and,

WHEREAS, the initial Compostable Organic Waste Disposal Charge set forth in Section 1 of this Ordinance is based on the costs required under Metro Code section 5.02.037(c); and,

WHEREAS, Metro Code section 5.02.037(f) requires Council approval prior to the collection of a Compostable Organic Waste Disposal Charge; and,

WHEREAS, Metro Code Section 5.02.037 requires certain amendments to update the provisions for disposal charges for Compostable Organic Waste and to conform such provisions to other amendments to the Metro Solid Waste Code; and,

WHEREAS, this ordinance was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Council Approval of Initial Disposal Charge for Compostable Organic Waste.

Pursuant to Metro Code Section 5.02.037(f), the Metro Council hereby approves a Compostable Organic Waste Disposal Charge of \$47.50 per ton on all Compostable Organic Waste accepted at the Metro Central Station or Metro South Station.

Section 2. Metro Code Section 5.02.037 is amended to read as follows:

5.02.037 Disposal Charge for Compostable Organic Waste

(a) There is hereby established a Compostable Organic Waste Disposal Charge for Compostable Organic Waste that shall be collected on all Compostable Organic Waste accepted at the Metro South Station or Metro Central Station.

(b) The Compostable Organic Waste Disposal Charge shall be Metro's actual costs for managing Compostable Organic Waste, based on the contractual price expressed on a per-ton basis paid by Metro to any contract operator of Metro South Station and Metro Central Station for managing Compostable Organic Waste.

(c) In the event that no agreement is reached between Metro and its contract operator for managing Compostable Organic Waste pursuant to subsection (b) above, the Compostable Organic Waste Disposal Charge shall be the sum of the following costs:

- (1) The price per ton for accepting, reloading and managing Compostable Organic Waste between Metro and its contract operator; or in the event there is no such contractual rate, the sum of the amount of the average per-ton rate for accepting, managing and reloading municipal solid waste between Metro and its contract operator, plus \$0.75 per ton; and
- (2) The transport, processing and composting charges for Compostable Organic Waste paid by Metro or its contract operator to a composting facility operator, expressed on a per-ton basis; and
- (3) The cost of materials utilized at Metro Central Station and Metro South Station for managing the Compostable Organic Waste, expressed on a per-ton basis.

(d) Notwithstanding the Compostable Organic Waste Disposal Charge as calculated in subsection (c) of this section, there may be established a reduced disposal charge for Compostable Organic Waste. This reduced disposal charge shall not differ by more than ten percent from any rate established by Metro Ordinance. Prior to implementing any reduced Compostable Organic Waste Disposal Charge, the Director of the Solid Waste and Recycling Department shall notify the Metro Council prior to implementing any reduced Compostable Organic Waste Disposal Charge. The provisions of this subsection are repealed December 30, 2006.

(e) The Compostable Organic Waste Disposal Charge shall be in lieu of all other base disposal charges, transaction fees, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by this chapter.

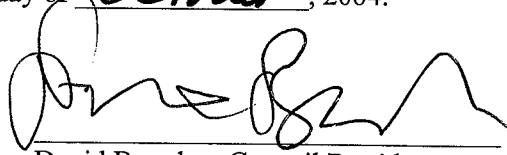
(f) ~~Before the initial collection of the Compostable Organic Waste Disposal Charge, the amount of such charge shall be subject to review under Metro Code Section 2.19.170 and also shall be approved by the Metro Council. Thereafter, any~~ Any proposed increase of the Compostable Organic Waste Disposal Charge that would result in a charge that exceeds the amount which the Council approved by more than 10 percent shall be subject to review under Metro Code Section 2.19.170 and shall require the approval of the Metro Council.

(g) Notwithstanding subsections (b) and (c) of this section, the Director of the Regional Environmental Management Solid Waste & Recycling Department may establish a minimum charge for loads of Compostable Organic Waste.

Section 3. Effective date of ordinance.

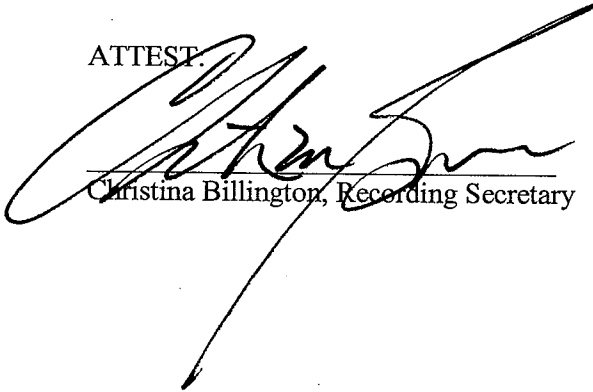
This ordinance is effective on the later of January 1, 2005 or 90 days after its adoption by Metro Council.

ADOPTED by the Metro Council this 7th day of October, 2004.



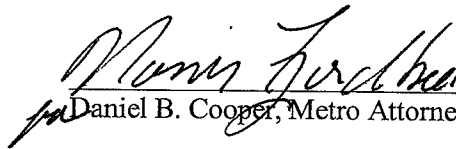
David Bragdon, Council President

ATTEST.



Christina Billington, Recording Secretary

Approved as to Form:



Daniel B. Cooper, Metro Attorney



STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1036 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 TO ESTABLISH THE INITIAL DISPOSAL CHARGE FOR COMPOSTABLE ORGANIC WASTE AT METRO TRANSFER STATIONS

August 2004

Prepared by: Jennifer Erickson

BACKGROUND

In December 1999, the Organic Waste Management Work Plan, developed by an intergovernmental team, was adopted by the Metro Council via Resolution No. 99-2856. This plan provides for a three-track approach to the recovery and diversion of the region's organic wastes. The plan emphasizes waste prevention and recovery of food for human use, diversion of food for animal feed and the development of processing infrastructure for organic materials not suitable for other uses.

The collection and processing of organics and the development of infrastructure to handle such materials are key elements of the Organics Plan and are critical in the region's efforts to reach its state-mandated 62% recovery goal. The largest single category of disposed waste in Oregon is food. The Metro transfer stations will play a critical role in the development of the region's ability to recover and manage organic wastes. The use of Metro transfer stations for staging, inspection and reloading of these materials is an integral part of the organic waste collection and processing system under development. A rate for receipt of organic material will be necessary to accommodate these activities.

Metro issued a Request For Proposals in April 2004 for transportation, processing and composting services for organic wastes from the Metro region. Metro is negotiating an agreement with Cedar Grove Composting to provide these services for 5 years at a cost of \$39 per ton. Cedar Grove Composting requested none of the \$500,000 in Organic Waste Infrastructure Development Funds offered by Metro and has committed to making a good faith effort to site a local facility to serve the region during the term of the agreement.

In implementing the new Organics Plan, it becomes necessary to accept organic material from the region's solid waste haulers. This requires that Metro post a fee and manage organics separately from mixed solid waste at the transfer stations. The Metro Code currently has provisions for establishing a rate for "compostable organic waste," Metro Code section 5.02.037. A cost-driven rate for compostable organic waste would be established by this Ordinance pursuant to and consistent with the methodology set forth in Metro Code Section 5.02.037. Also, consistent with Metro's fee policies toward recoverable materials and the methodology of Section 5.02.037(e), the rate does not include the regional system fee, rehabilitation & enhancement fee, transaction fee, or Metro excise tax.

The rate methodology established by this ordinance (as illustrated in Table 1) was reviewed and recommended for Council approval by the Rate Review Committee on October 1, 2003. The RRC also recommended that the Metro Council revisit Metro Code section 5.02.037(e), specifically the exemption of the transaction fee for compostable organic waste. If upheld, then Metro should state explicitly the per-ton and total dollar amounts of the transaction fee exemption and any other subsidy of the compostable organics rate (see Attachment 1).

Table 1
Initial Disposal Charge for Compostable Organic Waste
by
Rate Component

Rate Component	Metro Code Formula	Cost per Ton
Transaction fee	none	\$0.00
Facility charge	none	\$0.00
Transfer & Management Reloading	5.02.037(c)	\$8.50 /1
Transport & Processing	contractual rate	\$39.00 /2
Regional System Fee	exempt	-
Metro excise tax	exempt	-
Host (R&E) Fee	exempt	-
DEQ fees	N/A	\$0.00
Total Rate		\$47.50

NOTES

1. Metro Code specifies that the disposal charge shall be based on the contractual price expressed on a per-ton basis paid by Metro to any contract operator of Metro South or Metro Central Stations. Metro is in the process of negotiating an agreement with its potential new operator. The \$8.50 per ton represents the initial negotiated price with the potential operator for the acceptance, management and reload of Compostable Organic Waste.
2. Contractual price with Cedar Grove Composting. Includes transport, processing and composting.

Currently Metro is in the process of negotiating a new Transfer Station Operations Contract with Browning Ferris Industries (BFI). A price of \$8.50 per ton for the acceptance, management and reload of Compostable Organic Waste has been initially proposed by BFI and is still under negotiation. Metro is also in the process of negotiating a contract for transportation, processing and composting of the region's organic wastes with Cedar Grove Composting, Inc. Cedar Grove has committed to a \$39 per ton price for this service. Legislation authorizing the execution of an agreement with Cedar Grove will be brought before the Metro Council simultaneous to this Ordinance. This staff report will be updated to reflect the terms agreed to and executed with the transfer station operator.

Chapter 5.02.037 has also been updated and amended to reflect current conditions, adjust sunset dates and to remove references to Metro Code that no longer exist. The original intent of Chapter 5.02.037 remains intact.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Establishment of an initial rate for compostable organic waste requires approval by the Metro Council pursuant to Metro Code Chapter 5.02.037(f). Metro Code section 5.02.037 provides for the compostable organic waste rate methodology.

Metro Code also requires that the Solid Waste Rate Review Committee review the initial disposal charge for compostable organic waste pursuant to section 2.19.170 of the Code.

3. Anticipated Effects

This ordinance establishes the initial rate for compostable organic wastes that are delivered to Metro transfer stations in a form suitable for making compost according to the methodology set forth in Metro Code Chapter 5.02.037. This allows a rate to be posted at the transfer station for such materials, and allows them to be accepted and managed separately from other solid wastes. This would increase the region's capacity to accept, stage and recover such materials, an important goal of the Organic Waste Management Work Plan, adopted by Metro Council as Resolution No. 99-2856, "for the Purpose of Approving a FY 1999-2000 Organic Waste Management Work Plan, and Authorizing Release of Budgeted Funds" and is an important element in the region's efforts to reach its state-mandated 62% recovery goal.

By approving this Ordinance, there is little fiscal risk to Metro. Posting a rate for Compostable Organic Waste does not commit Metro to pay any costs if no wastes are received.

4. Budget Impacts

The Compostable Organic Waste Disposal Charge covers the direct and variable costs of managing such waste from acceptance and reload at the transfer stations to transport processing and composting of Compostable Organic Waste delivered to Cedar Grove Composting. End-product testing and marketing costs are being borne by Cedar Grove Composting. Any additional management, such as outreach and education are budgeted as part of the Organic Waste Management Work Plan. Metro Council has already approved both the Organics Plan and its budget, so there is no additional fiscal impact. Included in this plan is \$700,000 in Organic Waste Infrastructure Development Funds set aside by Council to help get the program off the ground. Metro offered up to \$500,000 of these development dollars in the Organics Processing RFP. However, Cedar Grove Composting requested none of the \$500,000, meaning these dollars remain available to enhance other elements of the developing commercial organics system, if needed -- such as for collection containers for generators, rolling stock to enhance handling and reload capability at the transfer stations, or a temporary subsidy of operating costs.

As noted by the Rate Review Committee, the waiver of the transaction fee (pursuant to Metro code provisions) represents a rate subsidy of \$7.50 per transaction, or an average of \$0.94 per ton.

The diversion of compostable waste from the mixed-waste stream was incorporated in this year's Tonnage Forecast, so the affected mixed-waste charges (Metro tip fee, regional system fee and

excise tax) have already been adjusted appropriately. In general, Metro does not lose revenues when anticipated amounts of recyclable, recoverable or compostable materials are exempted from the regional system fee or Metro excise tax. Rather, the fee and tax rates are raised, and revenue formerly derived from exempted materials is obtained from solid waste that continues to be disposed.

RECOMMENDATION

The Chief Operating Officer recommends approval of Ordinance No. 04-1036.

Attachment 1
Staff Report to Ordinance No. 04-1036

Motions Adopted by the Rate Review Committee
October 1, 2003

Motion 1:

The Solid Waste Rate Review Committee finds that the methodology for establishing the initial compostable organic waste disposal charge, set forth in *Establishment of a Rate for Compostable Organic Waste* (Background paper for Solid Waste Rate Review Committee, October 1, 2003), is consistent with the requirements of Metro Code section 5.02.037, "Disposal Charge for Compostable Organic Waste."

Motion 2:

The Solid Waste Rate Review Committee recommends that Council adopt the rate set forth in Table A, "Initial Disposal Charge for Compostable Organic Waste" subject to the findings by Council at the time of adoption that the "costs per ton" which are the bases for the rate have been finalized.

Motion 3:

The Solid Waste Rate Review Committee recommends that Council revisit Metro Code section 5.02.037(e), specifically the exemption of the transaction fee for compostable organic waste. If upheld, then Metro should state explicitly the per-ton and total dollar amounts of the transaction fee exemption and any other subsidy of the compostable organics rate.