

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING A	)	ORDINANCE NO. 19-1440
NEW METRO CODE CHAPTER 5.03 THAT	)	
GOVERNS SOLID WASTE FEES AT METRO	)	Introduced by Acting Chief Operating Officer
TRANSFER STATIONS	)	Andrew Scott in concurrence with Council
	)	President Lynn Peterson

WHEREAS, the Metro solid waste code is set forth in Title V of the Metro Code; and

WHEREAS, Metro Code Chapter 5.02 contains the requirements for Metro’s transfer station fees as well as the regional system fee; and

WHEREAS, moving all provisions and sections related to Metro transfer station fees from Chapter 5.02 to a new “Solid Waste Fees at Metro Transfer Stations” chapter would improve clarity, consistency and make the code easier to understand by the public; and

WHEREAS, updating the code to remove the requirement that Metro transfer station fees be set by ordinance would enable greater flexibility for Metro to protect the public’s interest and better respond to changing conditions; and

WHEREAS allowing Metro’s Chief Operating Officer to temporarily establish or change Metro transfer station fees when necessary for a new waste stream or when emergency circumstances exist would likewise enable greater flexibility to respond to changing conditions; and

WHEREAS, moving certain sections of code into administrative rules, removing unnecessary and outdated provisions, clarifying terms, and making other housekeeping revisions would improve its readability and make it easier to understand; and

WHEREAS, staff solicited input from the public on establishing new Metro Code Chapter 5.03 by providing a 30-day public comment period during August and September 2019 and hosting a public informational meeting on September 9, 2019; and

WHEREAS, the Metro Council finds that establishing a new Metro Code Chapter 5.03 to govern Metro transfer station fees will provide greater clarity for the public; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Title V, Solid Waste, is amended to add a new Metro Code Chapter 5.03, (“Solid Waste Fees at Metro Transfer Stations”), as set forth in the attached Exhibit A.
2. All Metro transfer station fees in effect as of the date this ordinance becomes effective will remain in effect until the Metro Council adopts a new fee schedule.

ADOPTED by the Metro Council this 21<sup>st</sup> day of November 2019.



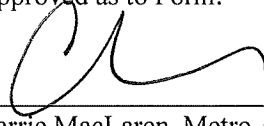
\_\_\_\_\_  
Lynn Peterson, Council President

Attest:



\_\_\_\_\_  
Sara Farrokhzadian, Recording Secretary

Approved as to Form:



\_\_\_\_\_  
Carrie MacLaren, Metro Attorney

# EXHIBIT A TO ORDINANCE NO. 19-1440

## CHAPTER 5.03

### SOLID WASTE FEES AT METRO TRANSFER STATIONS

5.03.010	Purpose
5.03.020	Metro Transfer Station Fees
5.03.030	Source-Separated Recyclable Materials Credit
5.03.040	Metro Transfer Station Operating Authority
5.03.050	Metro Transfer Station Fees Adopted Annually
5.03.060	Fee Setting Requirements; Provisional Fees
5.03.070	Independent Review of Fee Setting Process; Written Report
5.03.080	Council Adoption of Metro Transfer Station Fees; Emergency Fee
5.03.090	Posting Metro Transfer Station Fees
5.03.100	Solid Waste Fees at Metro Transfer Stations
5.03.110	Transaction Fee
5.03.120	Minimum Fee
5.03.130	Waiver of Metro Transfer Station Fees
5.03.140	Review of Metro Transfer Station Fee Criteria and Policies
5.03.150	Account Policy at Metro Transfer Stations
5.03.160	Administrative Rules to Implement Chapter

#### **5.03.010 Purpose**

The purpose of this chapter is to establish a consistent, predictable and transparent framework when Metro adopts solid waste fees for its transfer stations.

#### **5.03.020 Metro Transfer Station Fees**

- (a) Metro assesses the following fees at its transfer stations and household hazardous waste facilities:
  - (1.) Disposal fee
  - (2.) Transaction fee
  - (3.) Household hazardous waste management fee
  - (4.) Conditionally exempt generator waste fee
  - (5.) Recoverable solid waste fee
  - (6.) Special waste fee
  - (7.) Litter control fee
- (b) In addition to the fees listed in subsection (a), Metro may also assess any applicable Metro “pass through” fees (such as the regional system fee, Metro excise tax and community enhancement fee) as well as any applicable DEQ fees.

## EXHIBIT A TO ORDINANCE NO. 19-1440

### 5.03.030 Source-Separated Recyclable Materials Credit

- (a) A non-commercial customer at Metro Central Station or Metro South Station who delivers certain source-separated recyclable materials (except yard debris) that are generated by a household may receive a disposal charge credit. The Chief Operating Officer will establish by administrative rule the circumstances under which the credit is available.
- (b) Notwithstanding subsection (a), the Chief Operating Officer may also designate source-separated recyclable materials that Metro will accept from customers at no charge.

### 5.03.040 Metro Transfer Station Operating Authority

- (a) The Chief Operating Officer has authority to operate and manage the Metro transfer stations. The Chief Operating Officer may delegate that authority.
- (b) In addition to the Chief Operating Officer's authority to operate and manage the Metro transfer stations, the Chief Operating Officer may also establish by administrative rule the circumstances and conditions under which Metro transfer station fees apply.
- (c) The Chief Operating Officer may establish an additional fee as necessary for a waste stream not specifically listed in Section 5.03.020. If the Chief Operating Officer establishes a fee not listed in Section 5.03.020, that fee is only effective for not more than 120 days unless the Metro Council affirms or modifies it.

### 5.03.050 Metro Transfer Station Fees Adopted Annually

Each year the Metro Council will determine Metro transfer station fees. In doing so, the Council will use the procedures and criteria set forth in this chapter. The Council may adopt changes to the fees as it deems necessary and may update the fee amount more frequently than annually.

### 5.03.060 Fee Setting Requirements; Provisional Fees

Each year the Chief Operating Officer will propose fee amounts to the Council. The Chief Operating Officer's proposed fees are provisional until adopted by Council pursuant to Section 5.03.080. In preparing provisional fee amounts the Chief Operating Officer will:

- (a) Consider all sources and uses of funds that affect the solid waste revenue fund budget during the next fiscal year;
- (b) Follow generally accepted practices for selection of methodologies, assumptions, requirements, and other technical factors that determine the fees;
- (c) Consider any solid waste fee criteria and fee setting policies adopted by Council;
- (d) Consider operational needs for each transfer station, including customer demand; and

## EXHIBIT A TO ORDINANCE NO. 19-1440

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

### **5.03.070 Independent Review of Fee Setting Process; Written Report**

- (a) Before the Council can adopt the provisional Metro transfer station fees, the Chief Operating Officer must submit the provisional fees to at least one independent reviewer. The Chief Operating Officer will provide the reviewer with the fee model, data, assumptions, criteria, and any other information that the Chief Operating Officer used to calculate the provisional fees.
- (b) The independent reviewer will test the provisional fees using criteria set forth in this chapter, any fee criteria adopted by Council, and any other criteria the Chief Operating Officer specifies or which the reviewer recommends based on generally accepted best practices for fee review.
- (c) After the review is complete, the independent reviewer will submit a written report to the Chief Operating Officer documenting the reviewer's findings, exceptions and recommendations. The Chief Operating Officer must include this written report in the materials submitted for review during Council consideration.

### **5.03.080 Council Adoption of Metro Transfer Station Fees; Emergency Fee**

- (a) After the independent reviewer has submitted the required written report, the Council may adopt the Chief Operating Officer's provisional fee amounts by resolution. In adopting the fee amounts, Council will consider all materials the Chief Operating Officer provided to the independent reviewer under section 5.03.070(a) as well as the independent reviewer's written report.
- (b) The fees adopted by Council will take effect 30 days after adoption unless Council chooses a later date.
- (c) Notwithstanding subsection (a), the Chief Operating Officer may establish a Metro transfer station fee under an emergency circumstance. Any fee established under this authority is effective for not more than 120 days unless either the Council affirms or modifies the fee or unless the circumstance giving rise to the emergency ceases to exist.

### **5.03.090 Posting Metro Transfer Station Fees**

Upon the effective date of any transfer station fee amount, Metro will post the fees at Metro Central Station and Metro South Station. Metro will also post a list of all current Metro transfer station fees on the Metro website and otherwise publicize the fees to its customers and the public generally.

## EXHIBIT A TO ORDINANCE NO. 19-1440

### 5.03.100 Solid Waste Fees at Metro Transfer Stations

The solid waste fees at the Metro Central Station and Metro South Station consist of:

- (a) A fee for each ton of solid waste comprised of:
  - (1.) A disposal fee;
  - (2.) The regional system fee as set forth in Chapter 5.02;
  - (3.) The community enhancement fee as set forth in Chapter 5.06; and
  - (4.) All applicable DEQ fees established in Oregon Revised Statutes Chapters 459 and 459A, as implemented in Chapter 340 Division 90 of Oregon Administrative Rules.
- (b) All applicable solid waste excise taxes as set forth in Chapter 7.01, stated separately; and
- (c) A transaction fee.

### 5.03.110 Transaction Fee

There is a fee for every transaction at a Metro transfer station. A transaction may occur at a staffed scale or at an automated scale.

### 5.03.120 Minimum Fee

Notwithstanding Section 5.03.100, there is a minimum fee to accept solid waste at Metro Central Station and Metro South Station. The minimum fee consists of the transaction fee as set forth in Section 5.03.110 plus a fee based on a minimum load weight.

### 5.03.130 Waiver of Metro Transfer Station Fees

- (a) The Chief Operating Officer may waive the disposal fee for solid waste accepted from a non-commercial customer at the Metro Central Station or Metro South Station under extraordinary, emergency conditions or circumstances.
- (b) The Chief Operating Officer may waive the regional system fee for solid waste accepted at the Metro Central Station or Metro South Station if the waste is generated outside of the Metro jurisdictional boundary and collected by a hauler that is regulated by a local government.

### 5.03.140 Review of Metro Transfer Station Fee Criteria and Policies

The Council may undertake a review of the Metro transfer station fee criteria and policies at any time to ensure that they reflect the purpose of this chapter, meet Metro's needs, support Metro's management of the regional solid waste system, and address any Council findings that result from the periodic review.

## **EXHIBIT A TO ORDINANCE NO. 19-1440**

### **5.03.150 Account Policy at Metro Transfer Stations**

By administrative rule the Chief Operating Officer will establish appropriate account policy requirements for Metro's transfer stations. The account policy requirements will be designed to diminish Metro's risk of loss due to non-payment for new and existing accounts, and to establish payment methods, due dates and prudent credit practices.

### **5.03.160 Administrative Rules to Implement Chapter**

The Chief Operating Officer may adopt administrative rules under the provisions set forth in Chapter 5.08 to govern the obligations under this chapter and implement all provisions of this chapter.

IN CONSIDERATION OF ORDINANCE NO. 19-1440 FOR THE PURPOSE OF ESTABLISHING A NEW METRO CODE CHAPTER 5.03 THAT GOVERNS SOLID WASTE FEES AT METRO TRANSFER STATIONS

---

Date: October 24, 2019

Prepared by: Warren Johnson  
(503) 797-1836  
[warren.johnson@oregonmetro.gov](mailto:warren.johnson@oregonmetro.gov)

Department: PES

Presenter(s): Warren Johnson

Meeting date: November 7, 2019

Length: 5 minutes

---

### **ISSUE STATEMENT**

Metro staff seeks to update and improve Metro's solid waste code (Metro Code Title V) and administrative rules to provide greater clarity and predictability for the public and those that are directly involved in the region's solid waste system.

### **ACTION REQUESTED**

Adopt Ordinance No. 19-1440 to establish a new Metro Code Chapter 5.03 (Solid Waste Fees at Metro Transfer Stations) and move the Metro transfer station fee provisions from current Chapter 5.02 to this new chapter to clarify that the regional system fee applies to *all users* of the regional waste system, whereas Metro's transfer station fees apply *only* at Metro's own transfer stations. In addition, move some current code sections into administrative rules to allow Metro to more quickly address changing market conditions when those conditions may affect the circumstances applicable to those fees. The proposed ordinance also includes various other housekeeping revisions to improve clarity and consistency and to conform to other proposed code amendments. This ordinance is a companion to Ordinance Nos. 19-1438 and 19-1439 that Metro Council will consider collectively at its meetings on November 7 and November 21, 2019.

### **IDENTIFIED POLICY OUTCOMES**

The proposed ordinance will establish a new Chapter 5.03 to govern Metro transfer station fees to update and improve Metro's solid waste code. This ordinance is a companion to Ordinance Nos. 19-1438 and 19-1439 that collectively remove unnecessary and outdated provisions, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to sudden changes in markets for various types of materials.



## **POLICY QUESTION(S)**

1. Should the current Chapter 5.02 (Disposal Charges and User Fees) be split into two separate chapters to clarify that the regional system fee applies to *all users* of the regional waste system, whereas Metro's transfer station fees apply *only* at Metro's own transfer stations?
2. If yes, should the regional system fee and Metro's transfer station fees be set by resolution versus ordinance?
3. Should Metro's account policies be moved from code to administrative rules?

## **POLICY OPTIONS FOR COUNCIL TO CONSIDER**

1. Approve the ordinance as proposed to establish Metro Code Chapter 5.03 and move the Metro transfer station fee provisions from current Chapter 5.02 to this new chapter as described in this staff report. This option will result in making the code easier to read and understand. There are no known financial implications associated with the option.
2. Amend the ordinance to adopt other changes to Metro's solid waste code that are different than those described in this staff report. The potential effects and financial implications of this option are unknown at this time because they would be dependent on the extent of the alternate proposal. In addition, such revisions may require similar changes to the code chapters proposed in Ordinance Nos. 19-1438 and 19-1439 for consistency.
3. Do not approve the ordinance. This option will result in maintaining status quo. If the Council does not approve this ordinance, then the decision may require a similar action for the code changes proposed in Ordinance No. 19-1439 for consistency. There are no known financial implications associated with the option.

## **STAFF RECOMMENDATIONS**

Staff recommends approval of Ordinance No. 19-1440 to establish Metro Code Chapter 5.03 and move the Metro transfer station fee provisions from current Chapter 5.02 to this new chapter. Staff also recommends moving certain sections of code into administrative rules and making other housekeeping improvements as described in this staff report.

## **STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION**

Approval of this ordinance would result in establishing a new Metro Code Chapter 5.03 (Solid Waste Fees at Metro Transfer Stations) and moving the Metro transfer station fee provisions from current Chapter 5.02 to this new chapter. The proposed ordinance also includes moving certain sections of code into administrative rules and making other housekeeping improvements to improve clarity and consistency as described below and provided in Exhibit A. These revisions are associated with the other updates and housekeeping improvements proposed under companion Ordinance Nos. 19-1438 and 19-1439.

Staff recommends establishing Metro Code Chapter 5.03 and other housekeeping improvements as described below:

1. Remove all provisions related to Metro transfer station fees from current Metro Code Chapter 5.02 and move to new Chapter 5.03.
2. Authorize Metro's Chief Operating Officer to temporarily establish or change Metro transfer station fees when necessary for a new waste stream or when emergency circumstances exist.
3. Update language throughout the chapter to remove legalese, passive voice, nominalizations and lengthy sentences.
4. Break up lengthy code sections into shorter, separate sections for ease of reading.
5. Establish the uniform term "fee" to describe all of Metro's fees, user fees, charges, surcharges and rates.
6. Remove the requirement that Metro transfer station fees be set by ordinance. If approved, the Council could establish Metro transfer station fees by resolution and it could take effect 30 days after adoption. This avoids the need to wait 90 days for fees to take effect and allows the Metro Council to be more responsive to changing conditions.
7. Remove transfer station fee amounts from Metro Code and establish an annual fee schedule.
8. Move the "Account Policies at Metro Transfer Stations" code section into administrative rule to better reflect that *internal* account policies for Metro's transfer stations should not be housed in the Metro Code.
9. Move code sections that are applicable to certain Metro transfer station fees to administrative rules so that Metro can be more nimble in establishing the circumstances for when these fees should apply. These include:
  - a. Litter Control Fee
  - b. Household Hazardous Waste Management Fee
  - c. Recoverable Solid Waste Fee
  - d. Special Waste Fee
  - e. Christmas Tree Fee

In addition to the above, this staff report includes a draft set of administrative rules to illustrate which code sections would be moved to rule under the proposed ordinance (Attachment 2, AR 5.03-1000 through 1080). If Metro Council adopts Ordinance No. 19-1440, then the Chief Operating Officer will consider whether to adopt a final version of these administrative rules as provided in code. Metro Code requires a 30-day public comment period and an oral hearing before any proposed rule can be adopted by the Chief Operating Officer.

## **KNOWN OPPOSITION**

There is no known opposition to establishing a new Metro Code Chapter 5.03 and moving the Metro transfer station fee provisions from current Chapter 5.02 to this new chapter. However, Metro received several comments expressing concern about changing the timing of Metro's transfer station fee-setting process. Staff understands that it is important for local governments to have timely disposal rate information to inform their annual solid waste rate review process. As it has always done, Metro will continue to provide its local government partners with the most complete and accurate fee information available by March 31 each year.

Metro also received several other comments that were outside the scope of these proposed code updates and housekeeping improvements. For example, one person submitted written comments about Metro's longstanding practice of charging a "blended" rate for putrescible and non-putrescible waste at its transfer stations. Another commenter requested that Metro establish rate-setting requirements for privately-owned transfer stations. A fuller description of those comments and Metro staff's response to those comments are provided as Attachment 1 to this report.

Staff does not recommend any additional changes to Chapter 5.03 other than those described in Exhibit A. These proposed updates are not intended to alter current policy or make substantive changes to the code unless the Metro Council directs otherwise.

## **PUBLIC OUTREACH**

Metro staff notified interested parties via email of the proposed updates and housekeeping improvements to Metro Code Title V. The proposed code chapters, draft administrative rules, and a summary of the proposed changes were also posted on Metro's website.

Metro provided an opportunity for the public to review and submit comments on the proposed updates and housekeeping improvements. The public comment period was open from August 12 through September 13, 2019. Metro staff also held an informational meeting for the public on September 9, 2019, to present more information about the proposed code changes, answer questions, and solicit input. The meeting was attended by four industry representatives and four representatives of government organizations.

As previously mentioned, during the comment period Metro received several comments about various aspects of the proposed code updates and housekeeping improvements. A fuller description of those comments and Metro staff's response to those comments are provided as Attachment 1 to this report.

## **LEGAL ANTECEDENTS**

Metro Charter, Title V of the Metro Code and ORS Chapters 268 and 459.

## **ANTICIPATED EFFECTS**

Approval of this ordinance would establish Metro Code Chapter 5.03 to govern Metro transfer station fees as provided in Exhibit A to improve clarity and consistency and to conform to other proposed code amendments.

## **BUDGET IMPACTS**

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

## **BACKGROUND**

Over the past few years and at the direction of the Metro Council, Metro staff has been working to update Metro's solid waste code and administrative rules to provide greater clarity and predictability for the public and for those directly involved in the region's garbage and recycling system. These efforts have sought to remove unnecessary and outdated provisions, improve readability, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to sudden changes in markets for various types of materials. Metro staff seeks to continue these efforts by establishing a new Metro Code Chapter 5.03 to make the code easier to read and understand.

The current Metro Code Chapter 5.02 (*Disposal Charges and User Fees*) sets forth Metro's transfer station fees as well as the regional system fee. The chapter is confusing because it contains the regional system fee (which is for the use of the region's waste system and is typically assessed at the time of disposal) along with Metro's own transfer station fees (which are only applicable to garbage transferred at Metro's transfer stations).

To provide more clarity regarding the relationship between the regional system fee and Metro's own transfer station fees, Metro staff proposes to split the existing Chapter 5.02 into the following two chapters:

1. Chapter 5.02 (Regional System Fee) will continue to govern the regional system fee.
2. Chapter 5.03 (Solid Waste Fees at Metro Transfer Stations) will govern Metro's own transfer station fees.

In addition to the proposed revisions and new chapter described above, some current code sections would be transferred into administrative rules to allow Metro to more quickly address changing market conditions when those conditions may affect the circumstances applicable to those fees. In particular, the proposed administrative rules would authorize Metro's Chief Operating Officer to establish a temporary fee for a waste material (such as wood, polystyrene, and plastics) if necessary to address a significant change in market conditions or an emergency circumstance.

The proposed administrative rules would be posted for public comment and an oral hearing if the Metro Council were to adopt the proposed changes to Chapter 5.02 and establish a new Chapter 5.03.

## **ATTACHMENTS**

- Exhibit A
- Attachment 1
- Attachment 2

# ATTACHMENT 1 TO STAFF REPORT FOR ORDINANCE NO. 19-1440

## Metro's Response to Comments on Proposed Changes to Metro Code Title V

October 24, 2019

Over the past few years and at the direction of the Metro Council, Metro staff has been working to update Metro's solid waste code and administrative rules to provide greater clarity and predictability for the public and for those directly involved in our region's solid waste system. To provide more clarity regarding the relationship between the regional system fee and Metro's own transfer station fees, Metro staff proposed a series of updates to four new or revised chapters of Metro Code.

On August 12, 2019, Metro opened a 30-day public review and comment period to solicit input on a series of proposed updates and housekeeping improvements to Metro Code Chapters 5.00, 5.02, 5.03 and 5.08. The public comment period was open from August 12 through September 13, 2019. Metro staff also held a public informational meeting on September 9, 2019, to present more information about the proposed code changes, answer questions, and solicit input. The comments received from the public during that time and Metro's responses are summarized below.

### **1) Terrell Garrett – Greenway Recycling (letter dated August 12, 2019):**

- Mr. Garret's Comment #1: *Our primary comment is focused on the concept of bringing formal Administrative Rulemaking to Metro. This is a great idea and should have happened years ago. Well formed, it needs a couple of additions to make it workable for the public, industry, government, and Metro. There is no defined "Board" of decision makers to speak to. As presented, the Chief Operating Officer may have a "designee" oversee a hearing and then others not in attendance may make the decision. I want to talk to the decision maker(s). Anything short of that is just lip service and will denigrate the process. Next, there is no provision for oversight. No oversight board nor appeal to Council. This places too much power in the hands of one person and leaves room for capricious behavior and is not indicative of a proper participatory public process that balances the needs of local governments, the public, industry, and regional government.*

Metro's Response to Mr. Garrett's Comment #1: The addition of a new Chapter 5.08 (Administrative Rulemaking) simply moves Metro's *current* administrative rulemaking sections to a new chapter and does not alter Metro's current rulemaking process, which has been in effect for several years. Currently, Metro Code has chapter-specific administrative rulemaking procedures in Chapters 5.01, 5.02, 5.05, 5.06, 5.09, and 5.10. The proposed code updates are housekeeping measures that would standardize and consolidate Metro's current administrative rulemaking procedures for Metro Code Title V in a central location.

In practice, administrative rules do not create new “policy” but merely interprets and implements the Metro Council’s policy decisions as reflected in Code. Metro’s administrative rulemaking process is modeled after Oregon’s Administrative Procedures Act, but it has been tailored to better address the needs and practices of the regional government.

Although there is an opportunity for public comment before a proposed rule is adopted, there is generally not an “appeal” right if a particular individual or business is dissatisfied with the proposed rule, unless there is an allegation that the rule violates law or was adopted without following the proper process. The appropriate appeal venue for those types of allegations would be in circuit court because they are legal challenges and not simply policy disagreements. Metro’s current administrative rulemaking process provides that same opportunity in those situations. With the exception of a minor change to clarify the timing of when an oral hearing is to be held, the current administrative rulemaking process is completely unchanged from that which Metro has had for several years.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment. The proposed updates and housekeeping improvements are not intended to alter current policy or make substantive changes to the code unless the Metro Council directs otherwise.

- Mr. Garrett’s Comment #2: Solid Waste Fees at Metro Transfer Stations, proposed Chapter 5.03 continue to ignore the “discrete” services offered by Metro and Chapter III, Section 15 of the Metro Charter by providing a “blended” rate which is in violation of these parameters.

Metro’s Response to Garrett’s Comment #2: The fees that Metro charges for solid waste disposal services at its transfer stations comply with the Metro Charter.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment. The proposed updates and housekeeping improvements are not intended to alter current policy or make substantive changes to the code unless the Metro Council directs otherwise.

- Mr. Garrett’s Comment #3: Since this is an opportunity to clean up and change Code, we would like to comment on existing parts of the Code which have not been addressed by Staff. Within Definitions, term such as “Recoverable Solid Waste,” “Recyclable Material,” and “Recycling” seem to muddle together and wander somewhat from State law which requires Metro to utilize DEQ definitions. This needs to be cleaned up.

Metro’s Response to Mr. Garrett’s Comment #3: Metro is a home rule local government that has independent charter and statutory authority to manage the

region's solid waste system. Metro's definitions for solid waste, including recyclable materials, may differ from the state's definitions because of Metro's independent authority to regulate solid waste.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment. The proposed updates and housekeeping improvements are not intended to alter current policy or make substantive changes to the code unless the Metro Council directs otherwise.

- Mr. Garrett's Comment #4: *Second, 5.02.030(d)(2) utilizes the concept of a "zero" tip fee. We all know that curbside recycling markets today demand a negative revenue price, in fact, quite close to that of disposal. In today's Wall Street Journal, certain bonds have dipped into negative returns. In other words, even the bond market recognizes negative pricing. This Code section is archaic and out of date. Similar to curbside recycling, this Code section should be changed to reflect "accepted at the disposal site at a fee lesser than that of disposal." This mirrors concepts presented in ORS 459 and ORS 459a and recognizes the current state of markets.*

Metro's Response to Mr. Garrett's Comment #4: Metro is a home rule local government that has independent charter and statutory authority to manage the region's solid waste system. Metro's definition of source-separated recyclables does not completely align with the state's definition because of Metro's independent authority to regulate solid waste. Oregon's statutory definition differs from Metro's by inclusion of a criterion that essentially states that a recyclable material is only defined as recyclable if it costs less to recycle it than it does to landfill it. In effect that means that if it costs more to collect, process and sell a recyclable than it would to collect, transfer and dispose of that material in a landfill, it is no longer a recyclable.

Metro's definition reflects a belief that the statute is overly narrow because it does not take into account externalities associated with the value of recyclables and the costs associated with disposal. There are quantifiable values associated with the environmental benefits from recycling and quantifiable environmental costs associated with burying recyclables in a landfill that are not reflected in hauling, transfer, processing and landfilling fees and rates. Metro's definition allows for consideration of these factors when developing policies, programs and regulations related to recycling.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment. The proposed updates and housekeeping improvements are not intended to alter current policy or make substantive changes to the code unless the Metro Council directs otherwise.



- Mr. Garrett's Comment #5: ...final comment regarding changes that should be made to existing Code is both in the Definitions and 5.02.110 regarding the use of Regional System Fees. *McCann v. Rosenblum* stated "A tax is any contribution imposed by government upon individuals, for the use and service of the state. A fee, by contrast is imposed on persons who apply for and receive a government service that directly benefits them." Further, *Qwest Corp. v. City of Surprise* said "the distinction between a tax and a fee is whether the "charge is expended for general public purposes, or used for the regulation and benefit of the parties upon whom the assessment is imposed." *Rogue Valley Sewer Services v. City of Phoenix* stated "A fee, then, is imposed on particular parties and is used to regulate or benefit those parties rather than being used for general public purposes or to raise revenue for such purposes." This regional system fee is not due from the public, but rather from those who present the material for landfill disposal. Metro, as a governmental entity, collects and manages this fee and the regulation of those who pay it. Based upon the case law above, we fail to understand how our money paid for regional system fees benefits us when used to regulate or subsidize an unrelated entity such as a compost operation, clean MRF, or other entity that does not pay these fees. Further, we fail to understand how Metro's use of these fees to pay for its own facilities that compete against us is beneficial to us.

*Granted, Metro is entitled to the benefit of these fees as Metro pays them just as we do. However, if Metro is to benefit from the fees for its own plant, property, and equipment, all others who pay the fees should receive their proportional share.*

Metro's Response to Mr. Garrett's Comment #5: Metro agrees with the general concept regarding the distinction between a fee and a tax. However, Metro believes the commenter is interpreting the law too narrowly. The law does not require that only those that pay a fee may benefit from the fee, but rather that those funds be used to pay for program (or system) costs. As an example, a fishing permit fee may be used in part to fund fish conservation efforts or educational classes that benefit the environment and public at large, in addition to benefitting those paying the actual fishing permit fee.

Per state statute, Metro's regional system fee may be used to fund a broad array of services and activities related to solid waste management. ORS 459.335 provides that Metro may use its regional system fee for activities "related to solid waste, including activities of regional concern that are directly related to reducing the environmental impact from the generation, collection, transportation, processing and disposal of solid waste" as well as the "planning, administrative and overhead costs for activities related to solid waste." Thus, the legislature has provided explicit authority for Metro to use regional system fees for various solid waste related activities that benefit the public at large in addition to those paying the fee directly.

Contrary to the assertion that Metro uses regional system fees "to pay for its own facilities," Metro in fact uses its transfer station fees (and not regional system

fees) to primarily fund the direct costs of operations at Metro facilities. Regional system fees would only be used in a manner allowed by state statute. Finally, Metro disagrees with the underlying premise that the public transfer stations “compete” with private solid waste facilities. The public transfer stations serve all customers and the public stations provide an array of services to the public that are not provided by privately-owned solid waste facilities. Metro’s public facilities are not comparable to private facilities.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment.

**2) Bruce Walker - City of Portland (email dated September 11, 2019):**

- Mr. Walker’s Comment: *The City of Portland is supportive of changing the requirement that Metro fees and the regional system fee can be established by resolution:*

*Remove the requirement that Metro fees and the regional system fee be set by ordinance. Council can now establish these amounts by resolution and they can take effect 30 days after adoption. This avoids the need to wait 90 days for rates to take effect and allows the Metro Council to be more responsive to changing market conditions that may require modified or new rates.*

*However, Portland does have concerns regarding the timing of Metro Council approval of the fees. Metro fees are an important component of the solid waste ratemaking process and Portland develops rates that haulers charge customers during March and April of each year. Portland City Council needs to approve rates in May for implementation on July 1st. Therefore, the current schedule where Metro approves fees in March works very well for our rate review. Delaying provision of Metro fees until late spring would pose significant problems for our process. Portland supports the change for Metro adopting fees by resolution and requests that Metro establish in administrative rules that notice of the new fee schedule be provided to local governments in March of each year.*

Metro’s Response to Mr. Walker’s Comment: Metro understands that it is important for local governments to have timely disposal rate information to inform their annual solid waste rate review process. However, staff is not recommending any changes to the timing or process of Metro’s annual fee-setting that generally occurs in March. As it has always done, Metro will continue to provide its local government partners with the most complete and accurate fee information available by March 31 each year.

It should be noted that current code language does not require that the Metro Council set fees in March. The Metro Council can set fees at any time and the proposed code changes do not alter that. However, having fees adopted by resolution rather than by ordinance allows the Metro Council to be more flexible and responsive if fees need to be changed quickly to address rapidly changing

market conditions, system disruptions or the addition of a new waste stream. Again, the proposed changes do not affect the process or timing for setting fees; they merely provide flexibility for when those fees can legally become effective.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment.

**3) Shannon Martin - City of Gresham (email dated September 11, 2019):**

- Mr. Martin's Comment: *Thank you for the opportunity to comment on Metro's proposed solid waste code changes. Gresham is in support of Metro adopting fees by resolution. However, it is important for local governments to receive fee changes in advance of our rate review process. Having Metro commit to providing local governments with fee change information no later than March 31st is necessary for us to have in order to complete our rate review process.*

*Gresham Council needs to approve rates by May in order for us to notify customers 30 days in advance before a July 1st adjustment.*

Metro's Response to Mr. Martin's Comment: Refer to Metro's response to Mr. Walker's comment above.

**4) Theresa Koppang - Washington County (email dated September 11, 2019):**

- Ms. Koppang's Comment: *Thank you for sharing information regarding proposed changes to Metro's solid waste code at the last local government solid waste directors meeting. Washington County supports the changes you outlined regarding the requirement that Metro fees and the regional system fee be established by resolution.*

*And while the timing of Metro Council approval of the fees is not as critical to Washington County's rate-making process, it is a concern to other jurisdictions. Therefore, I'm requesting that notice of the new fee schedule be made available to local governments by March 31 of each year.*

Metro's Response to Ms. Koppang's Comment: Refer to Metro's response to Mr. Walker's comment above.

**5) Rick Winterhalter - Clackamas County (email dated September 13, 2019):**

- Mr. Winterhalter's Comment: *I believe you heard from Clackamas in the August 29<sup>th</sup> meeting regarding the importance of ensuring we have the disposal rate information from Metro early in our annual review process. This note is to support the comments provided by our regional partners. Please explicitly state in the Rules that Metro will provide the other local governments transfer station fee information no later than March 31 of each year.*

Metro's Response to Mr. Winterhalter's Comment: Refer to Metro's response to Mr. Walker's comment above.

**6) Peter Brandom – City of Hillsboro (email dated September 13, 2019):**

- Mr. Brandom's Comment #1: *Expanding on the comment below, the revised Administrative Rules are severely deficient without either a chapter dedicated to Solid Waste Rates at Private Transfer Stations or inclusion of specific rate setting rules for private stations in the proposed chapters (5.03, AR 5.03-1000 through 1080), and any needed adjustments to other chapters, Rules or Definitions. This should include specific descriptions and justifications for all fees charged at private stations (5.02 or separate chapter with the same scope for private facilities). The lack of a chapter to regulate rate setting at facilities that are authorized by Metro to operate within the regional system presents a big void in the system, and we've seen how the private operators have taken advantage of this void. Just like cities and counties regulate collection rates of private companies operating within the system, private facilities should be regulated just like the public facilities. There should be no distinction between public and private facilities in this regard.*

Metro's Response to Mr. Brandom's Comment #1: Metro does not currently exercise its authority to regulate rates at privately-owned transfer stations. However, Metro is taking steps to establish greater rate transparency and help its local government partners better understand the rates charged at transfer stations. As part of this effort, Metro has prepared estimates of the costs of service offered at publically and privately-owned facilities and shared that information with local governments. Later this year the Metro Council will consider whether to perform a more detailed rate review or implement other measures with respect to rates at privately-owned facilities.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment. The proposed updates and housekeeping improvements are not intended to alter current policy or make substantive changes to the code unless the Metro Council directs otherwise.

- Mr. Brandom's Comment #2: *Please explicitly state in the Rules that Metro will provide the other local governments transfer station fee information no later than March 31 of each year.*

Metro's Response to Mr. Brandom's Comment #2: Refer to Metro's response to Mr. Walker's comment above.

- Mr. Brandom's Comment #3: *Not seeing it explicitly in 5.03.060 or elsewhere, does Metro rate setting process include a review of "...all sources and uses of funds that affect the solid waste revenue fund budget..." for the prior calendar year? If not, and if that is part of the rate review process, that should be explicit. A clear and*

*transparent picture of year-to-year budget requirements (i.e., specifically how revenues are used by Metro) has not been as apparent as it should be.*

Metro's Response to Mr. Brandom's Comment #3: Metro already considers "...all sources and uses of funds that affect the solid waste revenue fund budget..." as part of its annual budget process. Metro's budget is developed through a public process and readily accessible on Metro's website. The Metro Council determines Metro's transfer station fees based on budget considerations.

Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment.

- Mr. Brandom's Comment #4: *Consider defining "Mixed Waste Loads" in 5.00 (reference in 5.02.050) to clarify meaning.*

Metro's Response to Mr. Brandom's Comment #4: Staff finds it unnecessary to add "mixed waste loads" as a defined term in Metro Code Chapter 5.00. Staff does not recommend any additional changes to the proposed code updates in response to the above-referenced comment.

- Mr. Brandom's Comment #5: *Note existing typo in 5.03.040(c).*

Metro's Response to Mr. Brandom's Comment #5: The typo has been corrected.

**7) The following comment is an excerpt from a letter submitted by the Clackamas Refuse and Recycling Association, Portland Haulers' Association and Washington County Haulers' Association (letter dated September 13, 2019):**

- Hauler Associations' Comment: *While we understand the need for Metro staff to have independent authority and flexibility to change Metro's fees, we do have concerns. Specifically we are concerned that:*
  - *Cutting two months off the public process –from the current 90 days to 30 days – provides less time and arguably less opportunity for full public input and participation and*
  - *Shortening the time may create added challenges to align Metro's fee increases so those added costs can be included as part of the local government rate setting process.*

*As a result, the Clackamas Refuse and Recycling Association, Portland Haulers' Association and Washington County Haulers' Association ask that Metro continue to provide a required 90 day public process before adjusting Metro fees.*

Metro's Response to Hauler Associations' Comment: The proposed code changes do not shorten the time or opportunity for public input and participation during Metro's fee-setting process. Metro is not proposing any change to the fee-setting process itself. Interested parties, local governments and regulated entities will

still have the same amount of time and a full opportunity for public input and participation before the Metro Council sets fees. The only change is that the effective date of those fees will no longer require a mandatory 90-day waiting period as is required when Metro Council takes action by ordinance rather than by resolution.

As previously explained in Metro's response to Mr. Walker above, staff is not recommending any changes to the timing or process of Metro's annual fee-setting that generally occurs in March. The proposed changes merely provide flexibility for when those fees can legally become effective.

**TERRELL GARRETT  
GREENWAY RECYCLING, LLC  
15204 SE RIVER FOREST DR.  
MILWAUKIE, OR 97267  
(503) 793-9238  
12 August 2019**

Metro Council  
600 NE Grand Ave.  
Portland, OR 97232

Re: Comments on proposed changes to Chapter 5

Dear Council President Peterson and Councilors:

Remarkably, GreenWay Recycling has only a few comments on the proposed changes to Chapter 5. Conceptually and mostly in practice, this is a piece of legislation that we support.

Our primary comment is focused on the concept of bringing formal Administrative Rulemaking to Metro. This is a great idea and should have happened years ago. Well formed, it needs a couple of additions to make it workable for the public, industry, government, and Metro. There is no defined "Board" of decisionmakers to speak to. As presented, the Chief Operating Officer may have a "designee" oversee a hearing and then others not in attendance may make the decision. I want to talk to the decisionmaker(s). Anything short of that is just lip service and will denigrate the process. Next, there is no provision for oversight. No oversight board nor appeal to Council. This places too much power in the hands of one person and leaves room for capricious behavior and is not indicative of a proper participatory public process that balances the needs of local governments, the public, industry, and regional government.

Solid Waste Fees at Metro Transfer Stations, proposed Chapter 5.03 continue to ignore the "discrete" services offered by Metro and Chapter III, Section 15 of the Metro Charter by providing a "blended" rate which is in violation of these parameters.

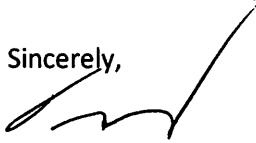
Since this is an opportunity to clean up and change Code, we would like to comment on existing parts of the Code which have not been addressed by Staff. Within Definitions, terms such as "Recoverable Solid Waste", "Recyclable Material", and "Recycling" seem to muddle together and wander somewhat from State law which requires Metro to utilize DEQ definitions. This needs to be cleaned up.

Second, 5.02.030 (d) (2) utilizes the concept of a "zero" tip fee. We all know that curbside recycling markets today demand a negative revenue price, in fact, quite close to that of disposal. In today's Wall Street Journal, certain bonds have dipped into negative returns. In other words, even the bond market recognizes negative pricing. This Code section is archaic and out of date. Similar to curbside recycling, this Code section should be changed to reflect "Accepted at the disposal site at a fee lesser than that of disposal." This mirrors concepts presented in ORS 459 and ORS 459a and recognizes the current state of markets.

The third and final comment regarding changes that should be made to existing Code is both in the Definitions and 5.02.110 regarding the use of Regional System Fees. *McCann v. Rosenblum* stated “A tax is any contribution imposed by government upon individuals, for the use and service of the state. A fee, by contrast is imposed on persons who apply for and receive a government service that directly benefits them.” Further, *Qwest Corp. v. City of Surprise* said “the distinction between a tax and a fee is whether the “charge is expended for general public purposes, or used for the regulation and benefit of the parties upon whom the assessment is imposed.”” *Rogue Valley Sewer Services v. City of Phoenix* stated “A fee, then, is imposed on particular parties and is used to regulate or benefit those parties rather than being used for general public purposes or to raise revenue for such purposes.” This regional system fee is not due from the public, but rather from those who present the material for landfill disposal. Metro, as a governmental entity, collects and manages this fee and the regulation of those who pay it. Based upon the case law above, we fail to understand how our money paid for regional system fees benefits us when used to regulate or subsidize an unrelated entity such as a compost operation, clean mrf, or other entity that does not pay these fees. Further, we fail to understand how Metro’s use of these fees to pay for its own facilities that compete against us is beneficial to us.

Granted, Metro is entitled to the benefit of these fees as Metro pays them just as we do. However, if Metro is to benefit from the fees for its own plant, property, and equipment, all others who pay the fees should receive their proportionate share.

Sincerely,

A handwritten signature in black ink, appearing to read 'Terrell Garrett', with a long, sweeping flourish extending upwards and to the right.

Terrell Garrett



## Warren Johnson

---

**From:** Walker, Bruce [Bruce.Walker@portlandoregon.gov]  
**Sent:** Wednesday, September 11, 2019 9:47 AM  
**To:** Warren Johnson  
**Subject:** [External sender] RE: Requesting your comments on proposed changes to Metro's solid waste code

**Categories:** CODE COMMENTS

**CAUTION:** This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Warren –

I'm resubmitting my comments with a clarification that Metro include in their administrative rules a commitment to sending fee info to local govts. by March 31.

Thanks!

Bruce

Warren –

Thank you for sharing information regarding proposed changes to Metro's solid waste code at yesterday's local government solid waste directors meeting.

The City of Portland is supportive of changing the requirement that Metro fees and the regional system fee can be established by resolution:

Remove the requirement that Metro fees and the regional system fee be set by ordinance. Council can now establish these amounts by resolution and they can take effect 30 days after adoption. This avoids the need to wait 90 days for rates to take effect and allows the Metro Council to be more responsive to changing market conditions that may require modified or new rates.

However, Portland does have concerns regarding the timing of Metro Council approval of the fees. Metro fees are an important component of the solid waste ratemaking process and Portland develops rates that haulers charge customers during March and April of each year. Portland City Council needs to approve rates in May for implementation on July 1<sup>st</sup>. Therefore, the current schedule where Metro approves fees in March works very well for our rate review. Delaying provision of Metro fees until late spring would pose significant problems for our process.

Portland supports the change for Metro adopting fees by resolution **and requests that Metro establish in administrative rules** that notice of the new fee schedule be provided **to local governments** in March of each year.

Thank you and please let me know if you have any questions.

Bruce

---

**From:** Warren Johnson <Warren.Johnson@oregonmetro.gov>  
**Sent:** Friday, August 23, 2019 3:56 PM  
**To:** Walker, Bruce <Bruce.Walker@portlandoregon.gov>  
**Subject:** RE: Requesting your comments on proposed changes to Metro's solid waste code

Thanks for the comment Bruce. I'll include it in the record.

Warren Johnson  
Metro  
(503) 797-1836

---

**From:** Walker, Bruce [<mailto:Bruce.Walker@portlandoregon.gov>]  
**Sent:** Friday, August 23, 2019 12:46 PM  
**To:** Warren Johnson  
**Subject:** RE: Requesting your comments on proposed changes to Metro's solid waste code

Warren –

Thank you for sharing information regarding proposed changes to Metro's solid waste code at yesterday's local government solid waste directors meeting.

The City of Portland is supportive of changing the requirement that Metro fees and the regional system fee can be established by resolution:

Remove the requirement that Metro fees and the regional system fee be set by ordinance. Council can now establish these amounts by resolution and they can take effect 30 days after adoption. This avoids the need to wait 90 days for rates to take effect and allows the Metro Council to be more responsive to changing market conditions that may require modified or new rates.

However, Portland does have concerns regarding the timing of Metro Council approval of the fees. Metro fees are an important component of the solid waste ratemaking process and Portland develops rates that haulers charge customers during March and April of each year. Portland City Council needs to approve rates in May for implementation on July 1<sup>st</sup>. Therefore, the current schedule where Metro approves fees in March works very well for our rate review. Delaying provision of Metro fees until late spring would pose significant problems for our process.

Portland supports the change for Metro adopting fees by resolution but requests that notice of the new fee schedule be provided in March of each year.

Thank you and please let me know if you have any questions.

Bruce

*Include The Food - Be Cart Smart*

**Bruce Walker**

City of Portland Bureau of Planning & Sustainability  
Solid Waste & Recycling Program Manager  
1900 SW 4th Avenue, Room 7100  
Portland, OR 97201  
503.823.7772  
(he/him)  
[www.portlandoregon.gov/bps](http://www.portlandoregon.gov/bps)

The City of Portland is committed to providing meaningful access. For accommodations, modifications, translation, interpretation or other services, please contact 503-823-7700 or use City TTY 503-823-6868.

---

**From:** Warren Johnson <[Warren.Johnson@oregonmetro.gov](mailto:Warren.Johnson@oregonmetro.gov)>  
**Sent:** Monday, August 12, 2019 11:36 AM  
**To:** Warren Johnson <[Warren.Johnson@oregonmetro.gov](mailto:Warren.Johnson@oregonmetro.gov)>  
**Subject:** Requesting your comments on proposed changes to Metro's solid waste code

I want to make you aware of some proposed changes to Metro's solid waste code and invite you to provide Metro with your comments and feedback.

As you know, over the past few years and at the direction of the Metro Council, Metro's solid waste staff has been working to update Metro's solid waste code and administrative rules to provide greater clarity and predictability for the public and for those directly involved in our region's solid waste system. Our efforts have sought to remove unnecessary and outdated provisions, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to sudden changes in markets for various types of materials.

In 2017 the Metro Council adopted requirements to guide the operations of material recovery and conversion technology facilities. It also made necessary housekeeping changes to terms and definitions in Metro's solid waste code. With the recent adoption of the 2030 Regional Waste Plan and the initiation of Metro's new disposal contract in January 2020, it is time to update the solid waste code again.

We have now made available on [Metro's website](#), for public comment over the next five weeks, four new or revised chapters of Metro code and new administrative rules to clarify the relationship between the regional system fee and Metro's transfer station fees. Metro staff proposes the following updates to Metro's solid waste code:

- Chapter 5.00 (Solid Waste Definitions) – Update current chapter to ensure that definitions conform with proposed changes to Chapters 5.02 and 5.03.
- Chapter 5.02 (Regional System Fee) – Update current Chapter 5.02 and move Metro transfer station fees and administrative rulemaking provisions to new separate chapters (Chapters 5.03 and 5.08 respectively). Chapter 5.02 will continue to govern the regional system fee.
- Chapter 5.03 (Solid Waste Fees at Metro Transfer Stations) – Establish a new chapter that will govern Metro's own transfer station fees.
- Chapter 5.08 (Administrative Rulemaking Authority for Title V) – Establish a new chapter that will govern Metro's administrative rulemaking process for the entire solid waste code.

We are also proposing to move some provisions out of Metro code and into administrative rules to enable more flexibility for both Metro and the solid waste industry to respond to emergencies and disruptions. Those administrative rules would only be implemented, following another public comment period, if the Metro Council adopts the proposed changes to the four chapters of the Metro code described above. However, we are including the draft administrative rule language and an example of a Metro transfer station fee schedule on the Metro website so you can see how Metro proposes to implement the code amendments.

I invite you to submit written comments on any of the proposed policy changes, including preliminary comments on the draft administrative rules, between now and 5 p.m. on Friday, Sept. 13. You are also welcome to attend a meeting at which Metro staff will present more information about these proposed code changes, answer questions and solicit input. This [meeting](#) will be held on Monday, Sept. 9, from 1 to 3 p.m. in rooms 370A and B at Metro Regional Center (600 NE Grand Ave., Portland). Comments received at that meeting and during the public comment period will inform the final code amendments that will come before the Metro Council for its consideration later this year or in early 2020.

I look forward to receiving your comments on this matter. Thank you.

**Warren Johnson**

## Warren Johnson

---

**From:** Shannon Martin [shannon.martin@greshamoregon.gov]  
**Sent:** Wednesday, September 11, 2019 10:07 AM  
**To:** Warren Johnson  
**Cc:** Steve Fancher  
**Subject:** [External sender] RE: Requesting your comments on proposed changes to Metro's solid waste code

**Categories:** CODE COMMENTS

**CAUTION:** This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Hello Warren,

Thank you for the opportunity to comment on Metro's proposed solid waste code changes. Gresham is in support of Metro adopting fees by resolution. However, it is important for local governments to receive fee changes in advance of our rate review process. Having Metro commit to providing local governments fee change information no later than March 31<sup>st</sup> is necessary for us to have in order to complete our rate review process.

Gresham Council needs to approve rates by May in order for us to notify customers 30 days in advance before a July 1<sup>st</sup> adjustment.

Thank you,

Shannon Martin  
Program Manager | Recycling & Solid Waste  
City of Gresham | 503-618-2624

CITY OF  
GRESHAM

---

**From:** Warren Johnson <Warren.Johnson@oregonmetro.gov>  
**Sent:** Monday, August 12, 2019 11:36 AM  
**To:** Warren Johnson <Warren.Johnson@oregonmetro.gov>  
**Subject:** Requesting your comments on proposed changes to Metro's solid waste code

**CAUTION:** External Email

I want to make you aware of some proposed changes to Metro's solid waste code and invite you to provide Metro with your comments and feedback.

As you know, over the past few years and at the direction of the Metro Council, Metro's solid waste staff has been working to update Metro's solid waste code and administrative rules to provide greater clarity and predictability for the public and for those directly involved in our region's solid waste system. Our efforts have sought to remove unnecessary and outdated provisions, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to sudden changes in markets for various types of materials.

In 2017 the Metro Council adopted requirements to guide the operations of material recovery and conversion technology facilities. It also made necessary housekeeping changes to terms and definitions in Metro's solid waste code. With the recent adoption of the 2030 Regional Waste Plan and the initiation of Metro's new disposal contract in January 2020, it is time to update the solid waste code again.

We have now made available on [Metro's website](#), for public comment over the next five weeks, four new or revised chapters of Metro code and new administrative rules to clarify the relationship between the regional system fee and Metro's transfer station fees. Metro staff proposes the following updates to Metro's solid waste code:

- Chapter 5.00 (Solid Waste Definitions) – Update current chapter to ensure that definitions conform with proposed changes to Chapters 5.02 and 5.03.
- Chapter 5.02 (Regional System Fee) – Update current Chapter 5.02 and move Metro transfer station fees and administrative rulemaking provisions to new separate chapters (Chapters 5.03 and 5.08 respectively). Chapter 5.02 will continue to govern the regional system fee.
- Chapter 5.03 (Solid Waste Fees at Metro Transfer Stations) – Establish a new chapter that will govern Metro's own transfer station fees.
- Chapter 5.08 (Administrative Rulemaking Authority for Title V) – Establish a new chapter that will govern Metro's administrative rulemaking process for the entire solid waste code.

We are also proposing to move some provisions out of Metro code and into administrative rules to enable more flexibility for both Metro and the solid waste industry to respond to emergencies and disruptions. Those administrative rules would only be implemented, following another public comment period, if the Metro Council adopts the proposed changes to the four chapters of the Metro code described above. However, we are including the draft administrative rule language and an example of a Metro transfer station fee schedule on the Metro website so you can see how Metro proposes to implement the code amendments.

I invite you to submit written comments on any of the proposed policy changes, including preliminary comments on the draft administrative rules, between now and 5 p.m. on Friday, Sept. 13. You are also welcome to attend a meeting at which Metro staff will present more information about these proposed code changes, answer questions and solicit input. This [meeting](#) will be held on Monday, Sept. 9, from 1 to 3 p.m. in rooms 370A and B at Metro Regional Center (600 NE Grand Ave., Portland). Comments received at that meeting and during the public comment period will inform the final code amendments that will come before the Metro Council for its consideration later this year or in early 2020.

I look forward to receiving your comments on this matter. Thank you.

**Warren Johnson**

Interim Program Director  
Solid Waste Information, Compliance, and Cleanup

Metro | [oregonmetro.gov](http://oregonmetro.gov)  
600 NE Grand Ave.  
Portland, OR 97232-2736  
503-797-1836

## Warren Johnson

---

**From:** Theresa Koppang [Theresa\_Koppang@co.washington.or.us]  
**Sent:** Wednesday, September 11, 2019 10:08 AM  
**To:** Warren Johnson  
**Subject:** [External sender]Metro Code Changes/Admin Rules

**Categories:** CODE COMMENTS

**CAUTION:** This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Hi Warren,

Thank you for sharing information regarding proposed changes to Metro's solid waste code at the last local government solid waste directors meeting. Washington County supports the changes you outlined regarding the requirement that Metro fees and the regional system fee be established by resolution.

And while the timing of Metro Council approval of the fees is not as critical to Washington County's rate-making process, it is a concern to other jurisdictions. Therefore, I'm requesting that notice of the new fee schedule be made available to local governments by March 31 of each year.

Thank you and please let me know if you have any questions.

**Theresa Koppang | Manager**

Washington County Department of Health and Human Services | Solid Waste & Recycling | Code Enforcement  
155 N. First Ave. MS 5A, Hillsboro OR 97124

[Theresa\\_koppang@co.washington.or.us](mailto:Theresa_koppang@co.washington.or.us)

[Website](#) | [Facebook](#) | [Sign Up](#) for e-news and alerts

direct: 503-846-3663 main: 503-846-3605

## Warren Johnson

---

**From:** Winterhalter, Rick [rickw@clackamas.us]  
**Sent:** Friday, September 13, 2019 9:12 AM  
**To:** Warren Johnson  
**Cc:** Polk, Eben  
**Subject:** [External sender]comments on rule changes

**Categories:** CODE COMMENTS

**CAUTION:** This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Warren:

I believe you heard from Clackamas in the August 29<sup>th</sup> meeting regarding the importance of ensuring we have the disposal rate information from Metro early in our annual review process. This note is to support the comments provided by our regional partners:

- Please explicitly state in the Rules that Metro will provide the other local governments transfer station fee information no later than March 31 of each year.

Regards,  
Rick

Rick Winterhalter  
Sustainability & Solid Waste Program  
Clackamas County  
150 Beaver Creek Rd.  
Oregon City, OR 97045  
503.742.4466

**I have one share in corporate Earth, and I am nervous about the management.**

-E.B. White, writer (1899-1985)

***Oregon's 2050 Vision:***

*Oregonians in 2050 produce and use materials responsibly  
conserving resources •protecting the environment •living well*

## Warren Johnson

---

**From:** Peter Brandom [Peter.Brandom@hillsboro-oregon.gov]  
**Sent:** Friday, September 13, 2019 8:55 AM  
**To:** Warren Johnson  
**Cc:** Theresa Koppang (theresa\_koppang@co.washington.or.us); Walker, Bruce; Eben Polk; Winterhalter, Rick; Kathy Folsom; Martin, Shannon (Shannon.Martin@greshamoregon.gov)  
**Subject:** [External sender]RE: Requesting your comments on proposed changes to Metro's solid waste code  
**Categories:** CODE COMMENTS

**CAUTION:** This email originated from an **External source**. Do not open links or attachments unless you know the content is safe.

Warren,

Below are our comments on the proposed regulatory changes, not in order of importance. Thank you for the opportunity to comment, and for the time and effort to provide clarification at the meeting this week.

- Expanding on the comment below, the revised Administrative Rules are severely deficient without either a chapter dedicated to Solid Waste Rates at Private Transfer Stations or inclusion of specific rate setting rules for private stations in the proposed chapters (5.03, AR 5.03-1000 through 1080), and any needed adjustments to other chapters, Rules or Definitions. This should include specific descriptions and justifications for all fees charged at private stations (5.02 or separate chapter with the same scope for private facilities). The lack of a chapter to regulate rate setting at facilities that are authorized by Metro to operate within the regional system presents a big void in the system, and we've seen how the private operators have taken advantage of this void. Just like cities and counties regulate collection rates of private companies operating within the system, private facilities should be regulated just like the public facilities. There should be no distinction between public and private facilities in this regard.
- Please explicitly state in the Rules that Metro will provide the other local governments transfer station fee information no later than March 31 of each year.
- Not seeing it explicitly in 5.03.060 or elsewhere, does Metro rate setting process include a review of "...all sources and uses of funds that affect the solid waste revenue fund budget..." for the prior calendar year? If not, and if that is part of the rate review process, that should be explicit. A clear and transparent picture of year-to-year budget requirements (i.e., specifically how revenues are used by Metro) has not been as apparent as it should be.
- Consider defining "Mixed Waste Loads" in 5.00 (reference in 5.02.050) to clarify meaning.
- Note existing typo in 5.03.040(c).

Thank you,  
Peter

Peter Brandom | *Senior Project Manager*  
City of Hillsboro, Oregon  
phone 503-681-6191  
email [peter.brandom@hillsboro-oregon.gov](mailto:peter.brandom@hillsboro-oregon.gov)  
web [www.hillsboro-oregon.gov](http://www.hillsboro-oregon.gov) | Twitter [@cityofhillsboro](https://twitter.com/cityofhillsboro)



---

**From:** Warren Johnson [<mailto:Warren.Johnson@oregonmetro.gov>]  
**Sent:** Thursday, August 22, 2019 11:27 AM  
**To:** Peter Brandom <[Peter.Brandom@hillsboro-oregon.gov](mailto:Peter.Brandom@hillsboro-oregon.gov)>  
**Subject:** RE: Requesting your comments on proposed changes to Metro's solid waste code

Thanks for the comment. I'll include this in the record.

Please let me know if you have any other comments or questions about the proposed changes. Thanks again.

Warren Johnson  
Metro  
(503) 797-1836

---

**From:** Peter Brandom [<mailto:Peter.Brandom@hillsboro-oregon.gov>]  
**Sent:** Thursday, August 22, 2019 10:51 AM  
**To:** Warren Johnson  
**Subject:** RE: Requesting your comments on proposed changes to Metro's solid waste code

We would like to see a chapter that regulates rate setting and rates at private transfer stations in the same way that rates are set at the Metro stations.

---

**From:** Warren Johnson [<mailto:Warren.Johnson@oregonmetro.gov>]  
**Sent:** Monday, August 12, 2019 11:36 AM  
**To:** Warren Johnson <[Warren.Johnson@oregonmetro.gov](mailto:Warren.Johnson@oregonmetro.gov)>  
**Subject:** Requesting your comments on proposed changes to Metro's solid waste code

I want to make you aware of some proposed changes to Metro's solid waste code and invite you to provide Metro with your comments and feedback.

As you know, over the past few years and at the direction of the Metro Council, Metro's solid waste staff has been working to update Metro's solid waste code and administrative rules to provide greater clarity and predictability for the public and for those directly involved in our region's solid waste system. Our efforts have sought to remove unnecessary and outdated provisions, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to sudden changes in markets for various types of materials.

In 2017 the Metro Council adopted requirements to guide the operations of material recovery and conversion technology facilities. It also made necessary housekeeping changes to terms and definitions in Metro's solid waste code. With the recent adoption of the 2030 Regional Waste Plan and the initiation of Metro's new disposal contract in January 2020, it is time to update the solid waste code again.

We have now made available on [Metro's website](#), for public comment over the next five weeks, four new or revised chapters of Metro code and new administrative rules to clarify the relationship between the regional system fee and Metro's transfer station fees. Metro staff proposes the following updates to Metro's solid waste code:

- Chapter 5.00 (Solid Waste Definitions) – Update current chapter to ensure that definitions conform with proposed changes to Chapters 5.02 and 5.03.

- Chapter 5.02 (Regional System Fee) – Update current Chapter 5.02 and move Metro transfer station fees and administrative rulemaking provisions to new separate chapters (Chapters 5.03 and 5.08 respectively). Chapter 5.02 will continue to govern the regional system fee.
- Chapter 5.03 (Solid Waste Fees at Metro Transfer Stations) – Establish a new chapter that will govern Metro’s own transfer station fees.
- Chapter 5.08 (Administrative Rulemaking Authority for Title V) – Establish a new chapter that will govern Metro’s administrative rulemaking process for the entire solid waste code.

We are also proposing to move some provisions out of Metro code and into administrative rules to enable more flexibility for both Metro and the solid waste industry to respond to emergencies and disruptions. Those administrative rules would only be implemented, following another public comment period, if the Metro Council adopts the proposed changes to the four chapters of the Metro code described above. However, we are including the draft administrative rule language and an example of a Metro transfer station fee schedule on the Metro website so you can see how Metro proposes to implement the code amendments.

I invite you to submit written comments on any of the proposed policy changes, including preliminary comments on the draft administrative rules, between now and 5 p.m. on Friday, Sept. 13. You are also welcome to attend a meeting at which Metro staff will present more information about these proposed code changes, answer questions and solicit input. This [meeting](#) will be held on Monday, Sept. 9, from 1 to 3 p.m. in rooms 370A and B at Metro Regional Center (600 NE Grand Ave., Portland). Comments received at that meeting and during the public comment period will inform the final code amendments that will come before the Metro Council for its consideration later this year or in early 2020.

I look forward to receiving your comments on this matter. Thank you.

**Warren Johnson**

Interim Program Director  
Solid Waste Information, Compliance, and Cleanup

Metro | [oregonmetro.gov](http://oregonmetro.gov)  
600 NE Grand Ave.  
Portland, OR 97232-2736  
503-797-1836

September 13, 2019

Metro Council  
600 NE Grand Avenue  
Portland, OR 97232- 2736

RE: Metro Proposed Solid Waste Code Changes

Dear Metro Councilors,

This letter represents the Clackamas County Refuse and Recycling Association (CCRRA), Portland Haulers' Association (PHA), and Washington County Haulers' Association (WCHA) comments regarding Metro's proposed solid waste code changes. As you know, CCRRA, PHA, and WCHA members provide services across the solid waste system including hauling, resource recovery & transfer, processing and landfilling for all areas of the Metro region. Members are committed to working cooperatively with their regulatory local governments to provide safe, modern, and efficient waste collection services that include garbage, recycling, and organics collection at reasonable rates.

Members very much appreciate the opportunity to review the proposed changes to Metro's solid waste code and engage in the related public process. While we understand the need for Metro staff to have independent authority and flexibility to change Metro's fees, we do have concerns. Specifically we are concerned that:

- cutting two months off the public process -- from the current 90 days to 30 days— provides less time and arguably less opportunity for full public input and participation and
- shortening the time may create added challenges to align Metro's fee increases so those added costs can be included as a part of the local government rate setting process.

As a result, CCRRA, PHA and WCHA ask that Metro continue to provide a required 90 day public process before adjusting Metro fees.

Members are committed to working with Metro, local governments, as well as the community at large, and share our expertise in the industry. Our coordinated efforts among state, regional, local, industry and community members contribute to Oregon's position as a national leader in recycling and waste management. We look forward to the opportunity to continue serving as a resource, imparting experience from our own challenges as large and many small, family and

women-owned companies, in navigating the business of waste management while promoting our common values advancing equity in waste management. Please don't hesitate to contact Beth Vargas Duncan at 971-707-1683 or [bethvd@orra.net](mailto:bethvd@orra.net) with any questions.

Sincerely,

Josh Brown, President  
Clackamas County Refuse & Recycling Association

Vallerie Gruetter Hill, President  
Portland Haulers' Association

Mike Leichner, President  
Washington County Haulers' Association

**Solid Waste  
Administrative Rule**

**AR 5.03-1000 through 1080**

Administrative Rule of Metro Code Chapter 5.03  
Administrative Rule Adoption Record and Findings

**AR 5.03-1000 through 1080  
Solid Waste Rates at Metro Stations Administrative Rules**

These administrative rules are adopted under the authority of Metro Code Chapter 5.08, which authorizes the Chief Operating Officer (COO) to adopt and amend administrative rules. In accordance with Metro Code, the COO provided an opportunity for public comment and held a public hearing on these rules before their adoption.

The COO finds that these administrative rules are necessary to implement certain provisions of Metro Code Chapter 5.03 and adopts Administrative Rules Nos. 5.03-1000 through 1080. The requirements of these administrative rules are in addition to all other requirements and provisions in Metro Code Chapter 5.03. These rules have the same force and effect as any other provision of Metro Code Chapter 5.03.

It is so ordered:

---

Andrew Scott  
Interim Metro Chief Operating Officer

---

Date

## SOLID WASTE

### ADMINISTRATIVE RULES

AR 5.03-1000 through 1080

#### Solid Waste Rates at Metro Stations

Effective: XXX, 2020

---

#### Table of Contents

5.03 - 1000	Purpose
5.03 - 1005	Legal Authority
5.03 - 1010	Definitions
5.03 - 1015	Applicability of Rules
5.03 - 1020	Effective Date
5.03 - 1025	Metro Transfer Station Fee Setting
5.03 - 1030	Source-Separated Recyclable Materials Credit
5.03 - 1035	Household Hazardous Waste Management Fee
5.03 - 1040	Conditionally Exempt Generator Waste Fee
5.03 - 1045	Recoverable Solid Waste Fee
5.03 - 1050	Special Waste Fee and Permit Application Fee
5.03 - 1055	Litter Control Fee
5.03 - 1060	Transaction Fee During Automated Scale Malfunction
5.03 - 1065	Rounded Fees for Cash Payments
5.03 - 1070	Christmas Tree Fee
5.03 - 1075	Account Policy at Metro Transfer Stations
5.03 - 1080	Finance Charges and Past Due Accounts

#### 5.03 – 1000 Purpose

The purpose of these rules is to implement Chapter 5.03 (Solid Waste Fees at Metro Transfer Stations); to ensure that the Metro’ transfer station fees are consistent, predicable and transparent; and to establish appropriate account policy requirements to diminish Metro’s risk of loss due to non-payment.

#### 5.03 – 1005 Legal Authority

These administrative rules are issued under the authority of Metro Code Chapters 5.03 and 5.08. These rules are in addition to all other requirements and provisions in Metro Code Chapter 5.03.

#### 5.03 – 1010 Definitions

Unless otherwise specifically defined, all terms used are as defined in Metro Code Chapter 5.00.

#### 5.03 – 1015 Applicability of Rules

The Metro transfer station fees apply to Metro South Station and Metro Central Station.

#### 5.03 – 1020 Effective Date

These rules are effective on XXXX.

## ATTACHMENT 2 TO STAFF REPORT FOR ORDINANCE NO. 19-1440

### 5.03 – 1025 Metro Transfer Station Fee Setting

1. In accordance with Metro Code Chapter 5.03, each year the Chief Operating Officer will propose provisional Metro transfer station fee amounts for consideration by Metro Council. The provisional transfer station fees will include the following at Metro South Station and Metro Central Station:
  - a. Disposal fee
  - b. Transaction fee
  - c. Household hazardous waste management fee
  - d. Conditionally exempt generator waste fee
  - e. Recoverable solid waste fee
  - f. Special waste fee
  - g. Litter control fee
2. The Chief Operating Officer may establish an interim fee for an additional service or waste material not specifically listed in this section or may revise a fee amount if necessary to address a substantial change in market conditions. Any interim fee adopted pursuant to this section is only effective for not more than 120 days unless the Metro Council affirms or modifies it.

### 5.03 – 1030 Source-Separated Recyclable Materials Credit

1. A non-commercial customer at Metro Central Station or Metro South Station who disposes of source-separated standard recyclable materials (except yard debris) that are generated by a household will receive a disposal charge credit. The credit amount is based on whether the non-commercial customer is disposing of fewer than 100 pounds of recyclables or 100 pounds or more of recyclables.
2. Notwithstanding subsection (1), the Chief Operating Officer may designate source separated recyclable materials that Metro will accept from customers at no charge.

### 5.03 – 1035 Household Hazardous Waste Management Fee

1. Customers delivering household hazardous waste at a Metro hazardous waste facility must pay a “household hazardous waste management fee.” This fee is in lieu of any other base disposal fee, the regional system fee, and community enhancement fees that may be required under Chapters 5.02, 5.03, 5.06, and excise taxes required by Chapter 7.01.
2. The household hazardous waste management fee may differ depending on container size.
3. Depending on container size, the fee may not apply to post-consumer architectural paint under the Oregon paint stewardship system set forth in ORS 459A.820 et seq.
4. The Chief Operating Officer may waive the household hazard waste management fee in a specific instance upon a finding that a waiver is in the public interest.

### 5.03 – 1040 Conditionally Exempt Generator Waste Fee

1. For conditionally exempt generator (CEG) waste from non-household sources, a customer must pay the actual disposal costs of the waste calculated from the current Metro contractor price schedules, Metro and contractor labor costs (as applicable), all applicable excise taxes, and the cost of material used for managing the waste.
2. Notwithstanding subsection (1), Metro will not assess the conditionally exempt generator waste fee under this section for:
  - a. Post-consumer architectural paint under the Oregon paint stewardship system as set forth in ORS 459A.820 et seq; or
  - b. Hazardous waste generated at any facility operated by Metro.
3. The Chief Operating Officer may waive the conditionally exempt generator waste fee in a specific instance upon a finding that a waiver is in the public interest.

## ATTACHMENT 2 TO STAFF REPORT FOR ORDINANCE NO. 19-1440

### 5.03 – 1045 Recoverable Solid Waste Fee

1. Metro will collect a “recoverable solid waste fee” on different classes of recoverable solid wastes accepted at Metro Central Station or Metro South Station.
2. The recoverable solid waste fee is in addition to the transaction fee, community enhancement fee set forth in Metro Code Chapter 5.06, and the base disposal fee.
3. For purposes of this section, “managing” and “management” of recoverable solid waste means any of the following activities: acceptance, onsite handling and logistics, quality assurance, mixing of wastes to meet an engineering or market specification, processing such as grinding and shredding that may alter the form but does not substantially alter the content of the waste, residuals management, reloading, transport and delivery to a recycling site, and similar activities directly related to the handling and disposing of recoverable solid waste.
4. For purposes of this section, a class of recoverable solid waste is distinguished from other classes of wastes by a material difference in the management cost or by physical characteristics that require different practices to manage the waste.
5. The Chief Operating Officer may specify new classes of recoverable solid wastes, set tonnage fees for new classes of recoverable solid wastes, and change tonnage fees for existing classes of recoverable solid wastes.
6. The material management fee for each class of recoverable solid waste is equal to the sum of:
  - a. The contractual costs that Metro pays, if any, to a contract operator of Metro Central Station or Metro South Station for managing the class of recoverable solid waste, expressed on a per-ton basis;
  - b. Metro’s direct costs, if any, for personnel, materials, services and capital incurred directly by Metro for managing the class of recoverable solid waste, expressed on a per-ton basis; and
  - c. An allocation of Metro’s administrative, overhead, capital, and fixed contractual costs that is reasonably related to managing the class of recoverable solid waste, expressed on a per-ton basis.
7. Nothing in subsection (6) modifies Council’s authority to set recoverable solid waste fees at any time.
8. Notwithstanding subsections (2) and (5):
  - a. The Chief Operating Officer will establish fees for recoverable solid wastes that are typically accepted and managed on a unit or count basis rather than by scale weight. Metro will base these fees on its actual costs for managing the wastes.
  - b. The Chief Operating Officer will establish a minimum fee for loads of recoverable solid waste.
9. This section does not apply to any source-separated recyclable material that the Chief Operating Officer designates as exempt from fees.

### 5.03 – 1050 Special Waste Fee and Permit Application Fee

1. A special waste fee applies to all special wastes disposed of at a Metro transfer station. A special waste permit application fee applies to all special waste permit applications. This fee is in lieu of any other base disposal fee, the regional system fee, and community enhancement fees that may be required under Chapters 5.02, 5.03, 5.06, and excise taxes required by Chapter 7.01. The purpose of the special waste fee and permit application fee is to require a person that disposes of special waste to pay the cost of services provided by Metro to manage special wastes. These fees apply to all special wastes.
2. The special waste fee is the amount equal to Metro’s actual costs in managing special waste. These costs comprise of special handling costs, cleanup costs, and lab or testing costs. The special waste fee applies to all permitted special wastes and to all non-permitted special wastes that Metro



## ATTACHMENT 2 TO STAFF REPORT FOR ORDINANCE NO. 19-1440

discovers at a Metro-operated facility that result in additional management costs not otherwise covered by, or incorporated within, any other Metro transfer station fee.

3. The special waste permit application fee is \$25.00. Metro will collect this fee at the time it receives a special waste permit application.
4. The special waste fee and special waste permit application fee do not apply to household hazardous waste accepted at Metro hazardous waste facilities or Metro household hazardous waste collection events.

### 5.03 – 1055 Litter Control Fee

1. A customer must pay a “litter control fee” if the customer enters Metro Central Station or Metro South Station and any portion of the customer’s solid waste or recoverable solid waste is unsecured and visible to Metro scalehouse personnel.
2. The amount of the litter control fee may vary depending on the load weight.
3. Metro will not impose the litter control fee if the solid waste or recoverable solid waste is only visible through a secure covering.
4. Metro will collect the litter control fee in the same manner that Metro collects all other transfer station fees at the facility.

### 5.03 – 1060 Transaction Fee During Automated Scale Malfunction

If a customer must use the staffed scales because the automated scales are unavailable due to a physical site limitation, a limit or restriction of the computer operating system, or a malfunction of the automated scales, then the transaction fee is the amount authorized for automated scales.

### 5.03 – 1065 Rounded Fees for Cash Payments

When a non-account customer pays in cash, Metro will round total fees at the Metro South Station and the Metro Central Station to the nearest whole dollar amount, with any \$0.50 fee rounded down.

### 5.03 – 1070 Christmas Tree Fee

The fee for accepting up to three Christmas trees in one transaction will be the amount equal to the transaction fee at the Metro transfer station.

### 5.03 – 1075 Account Policy at Metro Transfer Stations

1. A person may pay Metro transfer station fees and all taxes using cash, credit card, check, or under Metro's credit policy. Metro will not grant credit to any person before it approves a credit application in a manner or on forms as required.
2. The Chief Operating Officer will establish appropriate account requirements designed to diminish Metro's risk of loss due to non-payment for new and existing accounts. Metro may require existing account holders to reapply for credit or provide additional guarantees as the Chief Operating Officer considers necessary.
3. Account charges accrue on a monthly basis. Metro will mail statements on or about the 10th day of the month for disposal services rendered in the prior month. An account holder must pay the statement no later than the last business day of the month in which Metro mails the statement. The statement is past due thereafter. A statement is not “received” unless the account holder personally delivers it to the Metro Department of Finance and Regulatory Services during business hours or unless Metro’s mail room receives it on or before the due date.
4. An account customer must immediately notify Metro if the customer sells, terminates, or makes a substantial change in the scope of its business after Metro approves its application for credit. Metro may terminate the customer’s credit if the customer does not provide the required notice.

## ATTACHMENT 2 TO STAFF REPORT FOR ORDINANCE NO. 19-1440

5. The Chief Operating Officer may adjust accounts receivable and reverse finance charges in accordance with prudent credit practices. The Chief Operating Officer will report adjustments over \$1,000.00 to the Council in writing on a monthly basis.
6. Consistent with prudent credit practices, the Chief Operating Officer may end pursuit of an account receivable when the likelihood of collecting does not justify further collection costs. The Chief Operating Officer will provide Council with a written report, at least monthly, of all accounts receivable over \$1000.00 for which Metro has ended collection efforts. Only Council may approve ending collection efforts on an account over \$10,000.00.

### 5.03 – 1080 Finance Charges and Past Due Accounts

1. Metro will assess a finance charge in the amount of the greater of \$25.00 or 1.5 percent of the sum of all past due fees on all unpaid, past due fees beginning on the 15th day of the month following the month in which Metro mails a statement, and continuing on the 15th day of each month thereafter until paid. Finance charges accrue only on unpaid past due balances, and not on previously assessed finance charges. Metro will continue to assess finance charges on negotiated repayment schedules. Metro will first apply payments to finance charges and then to the oldest amount past due. In addition to any other finance charge or fee, Metro will also assess a 30 percent collection fee on the past-due balance owing on any account that Metro forwards to a collection agency.
2. If an account is 15 days past due, then Metro may place an account on a cash only basis until the account holder pays all past due disposal and finance charges. Metro may close an account if Metro has placed it on a cash only basis more than twice during any 12 month period. Metro may deny facility access to a person whose account is past due for 30 days or more. The Chief Operating Officer has discretion to place an account on a cash only basis or deny facility access.