

NOT ADOPTED

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
METRO CODE SECTION 5.01.150)
AND CHAPTER 5.02, TO ESTABLISH)
SOLID WASTE DISPOSAL FEES,)
INCLUDING A SYSTEM MANAGEMENT)
FEE)

ORDINANCE NO. 93-485

Introduced by
Rena Cusma,
Executive Officer

Whereas, Pursuant to state law and the 1992 Metro Charter, Metro is responsible for regional solid waste planning and disposal; and

Whereas, Increased fees for disposal of solid waste have led to a proliferation of alternatives for disposal of waste within and outside of Metro boundaries; and

Whereas, Metro currently collects revenue only on waste disposed of at certain designated facilities, and exempts from payment of fees inert waste disposal sites as well as waste processed into new products or useable resources; and

Whereas, As the waste stream is diverted into alternative disposal or processing, Metro's revenue to fund the system decreases, while costs related to recycling, waste reduction promotion, and solid waste planning, monitoring and enforcement continue to rise; and

Whereas, All generators of waste in the region, all persons disposing of waste in the region and all waste processors, benefit directly from the recycling, waste reduction, data collection and solid waste planning activities of Metro, and should properly contribute to the funding of the Metro solid waste planning and disposal system; and

Whereas, For these reasons it is necessary that revenue be collected on all waste generated, processed, or disposed of within the District; and

Whereas, Imposition of a fee of \$3.50 per ton or ton equivalent on all waste generated, processed or disposed of within the District, including waste on which user fees are not now collected, will help defray costs for Metro waste reduction promotion and planning activities, and other costs of administering the regional solid waste disposal system; and

Whereas, Additional amendments to Code Chapter 5.02 are necessary to correct the recyclable material credit and conform solid waste disposal charges to the 1993-94 Fiscal Year budget; and

Whereas, The Metro Code amendments described in this Ordinance are necessary to further the health, safety and welfare of District residents; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.01.150 is amended to read:

5.01.150 User Fees:

(a) Notwithstanding Section 5.01.040(a)(2) of this chapter, the Council will set User Fees annually, and more frequently if necessary, which fees shall apply to processing facilities, transfer stations, resource recovery facilities or disposal sites which are owned, operated, or franchised by the District or which are liable for payment of User Fees pursuant to a special agreement with the District. ~~User Fees shall not apply to wastes received at franchised facilities that accomplish materials recovery and recycling as a primary operation. User fees shall not apply to wastes received at franchised facilities that treat petroleum contaminated soil to applicable DEQ standards. Notwithstanding any other provision of this Code, user fees shall apply to petroleum contaminated soils disposed of by landfilling all waste generated, processed, or disposed of within Metro boundaries, as specified in Chapter 5.02.~~

(b) User Fees shall be in addition to any other fee, tax or charge imposed upon a processing facility, transfer station, resource recovery facility or disposal site.

(c) User Fees shall be separately stated upon records of the processing facility, transfer station, resource recovery facility or disposal site.

(d) User Fees shall be paid to the District on or before the 20th day of each month following each preceding month of operation.

(e) There is no liability for User Fees on charge accounts that are worthless and charged off as uncollectible provided that an affidavit is filed with the District stating the name and amount of each uncollectible charge account. If the fees have previously been paid, a deduction may be taken from the next payment due to the District for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

(f) All User Fees shall be paid in the form of a remittance payable to the District. All User Fees received by the District shall be deposited in the Solid Waste Operating Revenue Fund and used only for the administration, implementation, operation and enforcement of the Solid Waste Management Plan.

Section 2. Metro Code Section 5.02.015 is amended to read:

5.02.015 Definitions: As used in this chapter, unless the context requires otherwise:

(a) "Acceptable Special Wastes" means those special wastes which are approved by the Metro Solid Waste Department in the form of a special waste permit. "Unacceptable

Waste," as defined in this section, is expressly excluded.

(b) "Cash Account Customer" means those persons who pay cash for disposal of solid waste at Metro South Station, Metro Central Station, or the MSW Compost Facility.

(c) "Credit Account Customer" means those persons who pay for disposal of solid waste through a charge account at Metro South Station, Metro Central Station, or the MSW Compost Facility.

(d) "Disposal Fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are: The long haul transport contract and the Oregon Waste Systems, Inc. disposal contract.

(e) "Enhancement Fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(f) "Limited Purpose Solid Waste" means construction, demolition, process residue, land clearing waste and non-hazardous industrial dust.

(g) "Metro Central Station" is that Metro solid waste transfer and recycling station located at 6161 N.W. 61st Avenue, Portland, Oregon, 97210.

(h) "Metro Disposal System" means Metro South Station, Metro Central Station, MSW Compost Facility, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

(i) "MSW Compost Facility" is that solid waste mass compost facility located at 5611 N.E. Columbia Boulevard, Portland, Oregon, 97232.

(j) "Metro South Station" is that solid waste transfer station owned and operated by Metro and located at 2001 Washington, Oregon City, Oregon 97045.

(k) "Metro User Fee (~~Fier-Two~~)" means those fees which pay for fixed costs of the Metro Disposal System. This fee is imposed upon all solid waste delivered to any Metro Disposal System facility which delivery will affect Metro's reserved space capacity at the Columbia Ridge Landfill. Fixed costs of the Oregon Waste Systems disposal contract, the long haul transport contract, debt service and capital items directly related to the facilities are paid through this fee.

(l) "Metro Waste Management System" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system, including administrative, planning, financial, engineering and waste reduction activities.

(m) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or any other private entity or any public agency.

(n) "Regional Transfer Charge" means those fees which pay the direct unit operating costs of the Metro transfer stations and compost facility. This fee is imposed upon all solid waste delivered to Metro Disposal System facilities.

(o) "Regional User Fee (Tier One)" means those fees which pay for fixed costs associated with administrative, financial and engineering services and waste reduction activities of the Metro Waste Management System. Contingency fees on all costs and general transfers to solid waste funds and other departments for direct services are included in this fee. This fee is collected on all solid waste originating or disposed within the region, except waste that is only subject to the System Management Fee. The Regional User Fee shall be collected on residual solid waste generated by processing facilities.

(p) "St. Johns Landfill" is that landfill owned and managed by Metro and located at 9363 N. Columbia Boulevard, Portland, Oregon 97203, which is closed to all commercial activities and is now undergoing active closure.

(q) "Solid Waste" means all putrescible and nonputrescible wastes, including garbage, rubbish, refuse, paper and cardboard, commercial, industrial, demolition and construction waste, home and industrial appliances.

(r) "Source Separated Yard Debris" means twigs, branches, grass clippings, leaves, and tree limbs in a form appropriate for mechanical processing for reuse or sale. Source separated yard debris does not include yard or construction debris that is not appropriate for mechanical processing for reuse or sale or that has unacceptable types or amounts of contaminants mixed with it. The operator or person in charge of accepting this waste shall make the final determination of what is source separated yard debris based on the capability of available machinery to process it. The Director of Solid Waste may establish guidelines for determining what is source separated yard debris within the meaning of this chapter.

(s) "Special Waste" means any waste (even though it may be part of a delivered load of waste) which is:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below; or
- (2) Waste transported in a bulk tanker; or
- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or is 25 gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals are included unless the container is empty. A container is empty when:

- (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
- (B) The ends have been removed (for containers in excess of 25 gallons); and
- (C) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
- (D) No more than 1% by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or
- (E) No more than 0.3% by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.

Containers which once held acutely hazardous wastes must be triple rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers which once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five (5) gallons that hold any regulated waste must be cut in half or punctured, dry and free of contamination to be accepted as refuse; or

- (5) Sludge waste from septic tanks, food service, grease traps, wastewater from commercial laundries, laundromats or car washes; or
- (6) Waste from an industrial process; or
- (7) Waste from a pollution control process; or
- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition; or
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition; or
- (10) Chemical containing equipment removed from service (for example - filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks,

CFC tanks, refrigeration units or any other chemical containing equipment); or

- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4 but not empty containers so marked; or
- (12) Any waste that requires extraordinary management.

Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.

(t) "System Management Fee" means a user fee imposed per ton or ton equivalent of waste generated, processed, or disposed of within the District if the waste is:

- (1) Deposited in a facility designated under Metro Code Section 5.05.030;
- (2) Deposited in a fill in which the owner or operator of the fill has charged a fee, if the fill is not a designated facility under Metro Code Section 5.05.030; or
- (3) Processed at a facility or site that has charged a fee, regardless of whether the facility is a designated facility.

The System Management Fee pays costs associated with waste reduction planning, budgeting, accounting, grants, and information services, and partially offsets costs otherwise covered by the Regional User Fee.

(+)(u) "Total Fees" means the total per transaction of all tip and special fees.

(+)(v) "Unacceptable Waste" means any and all waste that is either:

- (1) Waste which is prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition; or
- (2) A hazardous waste; or
- (3) Special waste without an approved special waste permit; or
- (4) Infectious Medical Waste.

Section 3. Metro Code Section 5.02.016 is amended to read:

Section 7. Metro Code Section 5.02.045 is amended to read:

5.02.045 User Fees:

The following user fees are established and shall be collected and paid to Metro by the operators of solid waste disposal facilities, whether within or without the boundaries of Metro, for the disposal of solid waste generated, originating, collected or disposed within Metro boundaries in accordance with Metro Code Section 5.01.150:

(a) Regional User Fee (Tier One):

For compacted or noncompacted solid waste, ~~\$19.00~~ \$15.50 per ton delivered.

(b) Metro User Fee (Tier Two):

~~\$7.00~~ \$9.00 per ton for all solid waste delivered to Metro-owned or operated facilities.

(c) System Management Fee:

~~\$3.50 per ton or ton equivalent to be paid on all waste disposed of in a facility specified in Section 5.02.055.~~

~~(e)~~(d) Inert material, including but not limited to earth, sand, stone, crushed stone, crushed concrete, broken asphaltic concrete and wood chips used at the St. Johns Landfill for cover, diking, road base or other internal use shall be exempt from the above user fees.

(d) ~~(e)~~ User fees ~~Neither the Regional User Fee nor the Metro User Fee~~ shall not apply to wastes received ~~recovered~~ at franchised processing centers that accomplish materials recovery and recycling as a primary operation.

(e) ~~(f)~~ Notwithstanding the provisions of (a) and (b) above, Metro User Fees may be assessed as may be appropriate for solid waste which is the subject of a Non-System License under Chapter 5.05 of the Metro Code.

Section 8. Metro Code Section 5.02.050 is amended to read:

5.02.050 Regional Transfer Charge:

(a) There is hereby established a regional transfer charge which shall be a charge to the users of Metro South Station, Metro Central Station and the MSW Compost Facility. Such charge shall be collected and paid in the form of an add-on in addition to user fees established by Section 5.02.045 of this chapter.

**METRO SOUTH STATION
METRO CENTRAL STATION
MSW COMPOST FACILITY**

| Fee Component | \$/Ton | Tonnage Rate |
|-----------------------------------|----------------|-----------------|
| Disposal Fee | \$38.25 | 38.35 |
| Regional User Fee (Tier One) | \$19.00 | 15.50 |
| System Management Fee | | 3.50 |
| Metro User Fee (Tier Two) | 7.00 | 9.00 |
| Regional Transfer Charge | 9.00 | 7.00 |
| Total Rate | \$73.25 | 73.35 |
| Minimum Charge per Vehicle | | \$19.00 |

| Tires | Type of Tire | Per Unit |
|-------|--|----------|
| | Car tires off rim | \$1.00 |
| | Car tires on rim | \$3.00 |
| | Truck tires off rim | \$5.00 |
| | Truck tires on rim | \$8.00 |
| | Any tire 21 inches or larger diameter off or on rim | \$12.00 |

* Total Rate does not include state imposed fees which are currently ~~\$1.10~~ **1.00** DEQ Promotion Program Fee and \$.15 DEQ Orphan Site Program Fee and enhancement fees currently \$.50 per ton or taxes other than excise taxes. The actual fees collected after addition of all taxes and fees shall be rounded up to the closest \$.50.

Section 6. Metro Code Section 5.02.040 is amended to read:

5.02.040 Disposal Fees:

(a) There is hereby established a disposal fee which shall be a charge to the users of Metro South Station, Metro Central Station and the MSW Compost Facility.

(b) The following disposal fees shall be collected and paid to Metro by the users of Metro South Station, Metro Central Station and the MSW Compost Facility for the disposal of solid waste generated, originating, collected or disposed within Metro boundaries: For all solid waste ~~\$38.25~~ **38.35** per ton delivered.

(c) Disposal Fees shall not apply to wastes received ~~received~~ **recovered** at franchised processing centers that accomplish materials recovery and recycling as a primary operation.

5.02.016 Scale Weights Required:

(a) Except as specified in subsection (b) of this section, all User Fees or other fees submitted to Metro from any facility receiving solid waste generated within the District shall be calculated on a tonnage basis using certified scale weights.

(b) To the extent that facilities required to pay only the System Management Fee specified in Section 5.02.045 (c) do not have certified scales as of July 1, 1993, such facilities shall calculate the amount of user fee due by use of a conversion formula established by the Executive Officer.

Section 4. Metro Code Section 5.02.025 is amended to read:

5.02.025 Disposal Charges at Metro South Station, Metro Central Station and the MSW Compost Facility:

(a) Total fees for disposal shall be \$75.00 (Seventy-five dollars) per ton of solid waste delivered for disposal at the Metro South Station, Metro Central Station and the MSW Compost Facility.

(b) An enhancement fee of \$.50 per ton is established to be charged at the Metro South Station, Metro Central Station and the MSW Compost Facility.

(c) Notwithstanding the provisions of Sections 5.02.025 (a) and (b), persons using Metro South Station and Metro Central Station, other than Credit Account Customers, who have separated and included in their loads at least one half cubic yard of recyclable material (as defined in ORS 459.005) shall receive a \$3.00 credit toward their disposal charge if their load is transported inside a passenger car or in a pickup truck not greater than a 3/4 ton capacity. ~~The foregoing recyclable material credit shall not apply at Metro Central Station or the MSW Compost Facility.~~

(d) The disposal fee and enhancement fee established by this section shall be in addition to other fees, charges and surcharges established pursuant to this chapter.

(e) The following table summarizes the disposal charges to be collected by the Metropolitan Service District from all persons disposing of solid waste at the Metro South Station, Metro Central Station and the MSW Compost Facility. The minimum charge for all vehicles shall be \$19.00.

(f) Total fees assessed at Metro facilities shall be rounded to the nearest whole dollar amount (a \$.50 charge shall be rounded up) for all cash account customers.

Section 5. The table immediately following Metro Code Section 5.02.025 is amended to read:

(b) The following regional transfer charges shall be collected and paid to Metro by the users of Metro South Station, Metro Central Station and the MSW Compost Facility for the disposal of solid waste generated, originating, collected or disposed within Metro boundaries: For all solid waste ~~\$9.00~~ **7.00** per ton delivered.

(c) Regional transfer charges shall not apply to wastes ~~received~~ **recovered** at franchised processing centers that accomplish materials recovery and recycling as a primary operation.

Section 9. The following Section 5.02.055 is added to and made a part of Metro Code Chapter 5.02:

"5.02.055 System Management Fee:

(a) The System Management Fee shall be paid for each ton or ton equivalent of waste generated, processed, or disposed of within the District if the waste is:

- (1) Deposited in a facility designated under Metro Code Section 5.05.030, for processing or disposal;
- (2) Deposited in a fill located within or outside of Metro boundaries in which the owner or operator of the fill has charged a fee, if the fill is not a designated facility under Metro Code Section 5.05.030; or
- (3) Processed at a facility or site that has charged a fee, regardless of whether the facility is located inside or outside of District boundaries. Residual solid waste generated by a processing facility is subject to the Regional User Fee at the time such waste enters a disposal facility.

(b) No later than May 1, 1993, the Executive Officer shall prepare a registry of facilities or sites that accept waste that is subject to the System Management Fee. The registry shall be updated by the Executive Officer as necessary. In establishing the registry, the Executive Officer may exclude sites or facilities that are de minimis due to small size or infrequent use. Although the fee shall be paid at the Forest Grove Transfer Station and facilities at which Metro operates the gatehouse, such facilities shall not be included in the registry.

(c) A facility or site included in the registry established under this section shall be notified, by certified mail, return receipt requested, no later than five days following inclusion. The notice shall include:

- (1) The address of the facility included in the registry;
- (2) A brief explanation of the types of waste on which the System Management Fee shall be paid, including the conversion formula (cubic yards to tons) to be applied if the facility does not have access to certified scales;

- (3) A brief explanation of the procedure for requesting that the Executive Officer reconsider either the inclusion of the site or facility in the registry, or the conversion factor to be applied to unweighed waste accepted at the site or facility that is subject to the fee;
- (4) Such other information as the Executive Officer may consider necessary or appropriate.

(d) The owner or operator of a site or facility included in the registry established under this section may appeal the decision of the Executive Officer to the Metro Council within 30 days of the mailing of notice of inclusion in the registry. Procedures for the contested case shall be as specified in Chapter 2.05. Council review in such proceedings shall be limited to the following:

- (1) Whether the site or facility accepts waste on which the System Management Fee is due; and
- (2) Whether the conversion formula imposed on waste entering the site or facility is reasonable, given the average type and weight of waste entering the facility.

In a contested case proceeding, the burden of proof shall be on Metro, unless the owner and/or operator of the site or facility has refused to grant Metro access to the site or facility and records relevant to the disposal or processing of materials therein. Filing of a contested case proceeding shall not stay the requirement that a site or facility included in the registry pay the System Management Fee at the conversion rate specified in the notice received, unless a stay is granted in writing by the Executive Officer or by action of the Metro Council."

Section 10. This Ordinance shall take effect on July 1, 1993.

ADOPTED by the Metro Council this _____ day of _____, 1993.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

ds 1115



ANDERSEN CONSTRUCTION
CO., INC.

POST OFFICE BOX 6712
PORTLAND, OR 97228

April 23, 1993

Metro Council

Re: Dump Tax - Ordinance #93-485

Metro Council:

It has recently been brought to our attention that Metro is proposing implementing a dump tax in the amount of \$3.50 per ton for the disposal of various waste materials related to construction activities. As we understand it this tax would be in effect for construction activities conducted within and possibly outside of the Metro boundaries.

We are a major contractor frequently involved in construction projects within these proposed boundaries. Obviously, if our information is correct, such a tax would have a tremendous cost impact on the projects we perform. The tax would affect not only contracts entered into post ordinance #93-485 passing, but would have a negative impact on the projects we are currently contracted for on a fixed cost basis.

Our understanding of this ordinance is second hand. We need to understand what the proposed ordinance will address. Therefore, please send us information regarding ordinance 93-485.

Thank you for your prompt response.

Sincerely,

David L. Andersen
President

DLA:mb