

IN CONSIDERATION OF ORDINANCE NO. 19-1438 FOR THE PURPOSE OF AMENDING
METRO CODE CHAPTER 5.00 TO UPDATE CERTAIN TERMS AND DEFINITIONS

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Department: PES

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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. 19-1438 to amend Metro Code Chapter 5.00 (Solid Waste Definitions) to add and update certain terms and definitions to improve clarity and consistency and to conform with other proposed updates and improvements to Metro Code Chapter 5.02. This ordinance is a companion to Ordinance Nos. 19-1439 and 19-1440 that Metro Council will consider collectively at its meetings on November 7 and November 21, 2019.

IDENTIFIED POLICY OUTCOMES

The proposed updates to Metro's solid waste code remove unnecessary and outdated provisions, clarify terms, and enable greater flexibility for Metro to protect the public's interest and respond to sudden changes in markets for various types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)

Should the Metro Council approve of the proposed updates and improvements to Metro Code Chapter 5.00 to make the code easier to understand and more adaptive to changing conditions?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the ordinance as proposed to amend Metro Code Chapter 5.00 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 revisions to Metro Code Chapter 5.00 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 scope of the alternate proposal. In addition, such revisions may require similar changes to the other code chapters proposed in Ordinance Nos. 19-1439 and 19-1440 for consistency.
3. Do not approve the ordinance. This option will result in maintaining status quo. There are no known financial implications associated with the option.

STAFF RECOMMENDATIONS

Staff recommends approval of Ordinance No. 19-1438 to amend Metro Code Chapter 5.00.

STRATEGIC CONTEXT & FRAMING COUNCIL DISCUSSION

Approval of this ordinance would result in updates and housekeeping improvements to certain terms and definitions in Metro Code Chapter 5.00 as detailed in Exhibit A. These revisions are associated with the other updates and housekeeping improvements proposed under companion Ordinance Nos. 19-1439 and 19-1440.

Staff recommends revising the following terms and definitions in Metro Code Chapter 5.00 as described below:

- 1) Rate – Revise the definition to clarify that the term means the amount that a solid waste facility or disposal site charges to receive, process, transfer, or dispose of solid waste.
- 2) Regional system fee - Revise the definition to clarify that the term means the fee that Metro assess to recover the costs for all associated regional solid waste activities related to managing, planning and administering the entire recycling, processing and disposal system.
- 3) Solid Waste Disposal Transaction - Shorten the term to *transaction*.
- 4) Transaction Charge – Change the term to *transaction fee* for clarification and consistency.

In addition to the revisions described above, staff recommends adding a definition for “available regional tonnage” to Chapter 5.00 to clarify the tonnage allocation framework provisions in Chapter 5.01. After the public comment period closed for the proposed code revisions, Metro received a comment from a regulated entity noting that the above-referenced term was not defined and was ambiguous as it relates to the allocation methodology. Staff recommends adding the following definition to Chapter 5.00 to clarify the meaning of the term as it is used in Chapter 5.01:

- Available regional tonnage means the amount of putrescible solid waste tonnage that Metro may allocate to privately owned transfer stations after Metro has first

reserved the applicable minimum amount of putrescible tonnage for the Metro transfer stations.

KNOWN OPPOSITION

There is no known opposition to the proposed revisions to Metro Code Chapter 5.00. However, Metro received comments requesting that Metro add a new term and amend other definitions in Metro Code Chapter 5.00 as part of these proposed revisions.

Metro also received several other comments that were outside the scope of these proposed code updates and housekeeping improvements. For example, one person submitted a general comment about Metro's authority to use the regional system fee to recover system costs. A fuller description of the comments that Metro received during the comment period 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 5.00 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 amend Metro Code Chapter 5.00 as provided in Exhibit A to add, update and clarify certain solid waste definitions.

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 revise Metro Code Chapter 5.00 to improve clarity and consistency and to conform with other proposed housekeeping changes to Chapters 5.02 and 5.03. The collective changes proposed under Ordinance Nos. 19-1438, 19-1439, and 19-1440 are intended to update and improve current Metro Code Chapter 5.02.

The current 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 blends the regional system fee (which is for the use of the region's waste system and is assessed at the time of disposal) with Metro's own transfer station fees (which are only applicable to garbage transferred at Metro's transfer stations).

ATTACHMENTS

- Exhibit A
- Attachment 1