

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 11/21/17 **Approx. Start Time:** 10:30 am **Approx. Length:** 45 minutes

Presentation Title: Update and Opportunity to Comment on Metro's Proposed Business Food Scraps Collection Requirement (Metro Code and Administrative Rules)

Department: Transportation and Development – Resource Conservation & Solid Waste

Presenters: Rick Winterhalter

Other Invitees: Barbara Cartmill, Dan Johnson, Scott Caufield

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Determine whether the Board wishes to approve County comments on Metro's proposed commercial food scraps requirement, as drafted or per Board guidance.

EXECUTIVE SUMMARY: Over the last year Metro has developed a proposal to require local governments to adopt ordinances that in turn require certain food-related businesses to separate food waste for recovery. Staff presented to the Board on this issue at a study session in July 2017 in which Metro's project manager summarized the policy and the work to date.

On November 7 the Metro Council met in a work session to discuss the proposed policy. Their reaction was generally favorable. Hearings on the proposed code change will be held on November 30 and December 7. If the Board desires, now is an ideal time for Clackamas County to provide comments on the policy.

While the existing Business Recycling Requirement identifies composting food as a possible element, the aforementioned policy:

- is limited to businesses that generate more than 250 pounds of food waste per week,
- would be implemented in three phases,
 - Group 1: March 2019 with businesses generating over 1000 lbs./week,
 - Group 2: March of 2020 for those businesses generating >500 lbs./week, and
 - Group 3: March of 2021 for those businesses generating >250 lbs./week.

In the upcoming hearings, Metro Council will also consider a resolution committing them to ban substantial quantities of commercial food waste from the landfill in 2023.

The Board has recognized the value of recovering this material by approving the inclusion, or bundling, of food collection in commercial service (for urban unincorporated county). This decision continues a general philosophy of providing customers the opportunity to shift their waste towards a higher and better use, without penalizing them for doing so. It also demonstrates a significant commitment on the County's part to enable businesses to participate.

As with any new line of service, collecting food waste on a voluntary or potentially mandatory basis will add to costs for commercial service, but will also capture some economic and environmental benefits. Further assessment on costs and benefits is provided below.

In stakeholder engagement, Metro surveyed 360 businesses and sent a letter inviting comments to more than 2,000 potentially affected businesses. Metro presented to each city council in

Clackamas County that would be covered by the requirement. County staff attended city and chamber presentations to provide additional information and local perspective.

Staff has drafted potential comments from the County to Metro, in Appendix B. In summary the comments would (a) convey the County's ability to adopt an implementing ordinance if Metro adopts the requirement, and (b) express the importance of steps Metro is considering to maximize the cost-effectiveness of food scraps collection and transfer, including reductions in the disposal fee, waivers for areas where distance to transfer would create unreasonably high costs, and ensuring affordable access at locations aside from Metro Central, including private transfer stations or new re-load locations, and (c) consider the potential for multiple processing locations if Metro chooses to process food scraps through a waste water treatment plant

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

What is the cost? No immediate cost or impact to County budget. The requirement would be accompanied by funds for staff to provide technical assistance to businesses. This FY, regional funds from Metro include \$80,000 for about 0.75 FTE to do additional technical assistance and outreach on food waste. If the requirement is adopted, we estimate 1.5 FTE would be dedicated to this effort (possibly an additional \$100,000 for staff time and additional equipment). Increased participation in the service may also lead to commercial solid waste fee increases in coming years, depending to some extent on the availability of transfer and the disposal fee Metro sets.

What is the funding source? Metro regional funds and County franchise fees would cover staff and resource costs to implement the policy.

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department's Strategic Business Plan goals?
Enabling customers to reduce waste and conserve resources. (RC&SW)
- How does this item align with the County's Performance Clackamas goals?
Honor, protect, and invest in natural resources.
Ensure safe, healthy and secure communities.

LEGAL/POLICY REQUIREMENTS: If Metro Council adopts the policy, Clackamas County will need to amend the recycling requirements for businesses in our code. The code already lists food waste composting as a potential covered material.

PUBLIC/GOVERNMENTAL PARTICIPATION:

Metro has conducted extensive outreach and stakeholder engagement, summarized in Appendix A below.

Clackamas County government participation has included:

- December 2016: C4 briefing.
- June 2017: Solid Waste Commission briefing
- July 2017: BCC policy session and presentation from Metro Staff.
- Participation on Metro's policy development committee

OPTIONS:

1. Do not comment to Metro on the proposal at this time.
2. Provide comments to Metro (see Appendix B for draft comments).

RECOMMENDATION: Staff respectfully recommends that the Board of County Commissioners, or Don Krupp as delegate, provide comments as drafted, with any additions or amendments as discussed in the policy session.

ATTACHMENTS:

- Appendix A. Summary of the Proposed Food Scraps Recovery Requirement
- Appendix B. Draft Recommended Comments for Metro
- Appendix C. Draft Metro Code
- Appendix D. Draft Metro Administrative Rules

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval _____
County Administrator Approval _____

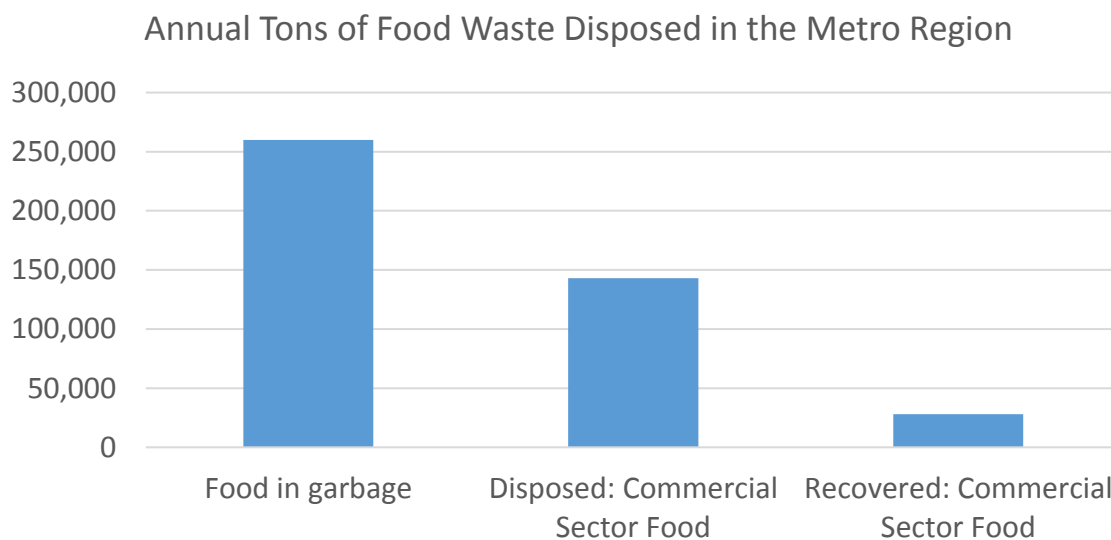
For information on this issue or copies of attachments, please contact Eben Polk @ 503-742-4470

Appendix A. Summary of the Proposed Food Scraps Recovery Requirement

Background

Diverting more food waste away from landfills has become a state and regional priority. Food is the largest component of the material our region sends to the landfill—approximately 18 percent. When deposited in a landfill, the nutrients in food are locked away and it becomes a significant source of methane, which is many times more potent a greenhouse gas than carbon dioxide.¹ When collected separately from garbage, food waste can instead be processed to generate clean energy and/or agricultural amendments, making the nutrients and energy in the material available for another life-cycle.

In recent years the Oregon legislature set a state goal to recover 25 percent of food waste by 2020, and included commercial food collection programs as an option to meet local requirements for recycling programs. In our region, of 140,000 tons of food scraps discarded by businesses each year, about 28,000 tons are currently diverted from the landfill under the current patchwork of collection programs—less than the amount needed to attract a local processor (approximately 50,000 tons).



Metro has been studying requirements for food waste recovery initiated in other communities in the US. In October 2016 the Metro Council directed their staff to (a) develop a draft policy requiring businesses keep food scraps out of the garbage, (b) determine how to aggregate and transfer collected food scraps, and (c) issue an RFP for a local food scraps processor. It is intended that the additional tons diverted under this requirement would be sufficient to support a local processor.

¹ Over a period of 20 years in the atmosphere methane is 84-87 times more potent a greenhouse gas than carbon dioxide. Over 100 years, methane is 28-36 times more potent.

Process-to-Date

Metro convened a policy stakeholder committee to meet regularly over the last year to develop a code proposal and draft administrative rules, including representatives from Beaverton, Clackamas County, Gresham, Portland, and Washington County.

In the policy committee, County staff underscored the importance of (a) engagement with local elected leaders and businesses, (b) adequate lead time, and (c) convenient transfer options to minimize collection costs.

County staff briefed the C4 Metro committee on this proposal in December 2016, and a BCC study session, with Metro staff co-presenting on the policy, was held July 2017. In our capacity as the county-wide providers of technical assistance to businesses, County staff also attended Metro's presentations to Gladstone, Lake Oswego, Milwaukie, Oregon City, West Linn, and Wilsonville, to provide a local perspective and information about businesses potentially covered by the policy.

Summary of Stakeholder Engagement

In addition to presentations to cities in the Metro boundary, Metro has engaged directly with a number of businesses and business associations such as the Oregon Restaurant and Lodging Association (ORLA), the Oregon Food Bank, Oregon Health Authority, and the Oregon Department of Agriculture.

- Stakeholder engagement has included:
- Surveys of 360 businesses
- Letters inviting public comment sent to more than 2,000 potentially affected businesses
- 20 city councils and county commissions
- 8 industry professional associations, organizations or committees (such as ORLA)
- 8 Chambers of Commerce
- 12 food rescue agencies
- Regional city managers
- Regional mayors and chairs meeting
- MPAC
- SWAAC (Solid Waste Alternatives Advisory Commission)

The letter send to more than 2,000 businesses for the October 2017 public comment period yielded 38 comments, summarized as follows:

- 21 in support of a requirement
- 1 opposed
- 5 with questions
- 8 with some concerns or suggesting clarifying edits
- 3 neutral or not applicable

Coverage and Timeline

Of the nearly 67,000 businesses in our region, about 7,000 are food-oriented. The policy is intended to increase recovery of food from approximately 3,000 of those businesses that generate an estimate 100,000 tons of food waste a year.

We estimate based on state employee and environmental health data that 60 to 70 businesses in unincorporated County would be included in Group 1, with another 140 to 250 in Groups 2 and 3.

As drafted, the policy would be applied in three phases to businesses such as food processors, food product manufacturers, restaurants, grocery stores, cafeterias in colleges, hospitals, corporations or correctional facilities. (See the Timeline below.) In unincorporated urban areas of the County, businesses may already participate voluntarily, and that will not change if they generate less food waste than the threshold.

Food set aside and accepted for donation for human consumption, or set aside and destined for animal consumption is not subject to the requirement. Businesses who donate or who provide their food waste to farmers for animal feed would not be subject to the requirement if, as a result, they are under the threshold.

Food sold to customers and under their control is also not subject to the requirement. The policy focuses on food waste controlled by the business or their agents, or students or employees. For example, a fast-casual or fast-food restaurant with counter service may choose not to collect food scraps from partially eaten meals in the seating area that are disposed of by customers, but would need to recover food scraps generated in the kitchen.

Timeline

July 2018	Before this date local governments must pass an enforceable implementing mechanism such as a code amendment to the Business Recycling Requirement.
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Implementation of the requirement begins at these dates:

March 2019	Businesses generating 1,000 pounds or more of food scraps per week.
March 2020	500 pounds or more per week.
September 2021	Businesses <i>and schools</i> generating 250 pounds or more per week.
2023 or after	Metro may ban substantial quantities of food from disposal to the landfill, a policy they would enforce at transfer stations, based on an assessment of the food scrap collection requirement on businesses.

Funding

Metro’s policy commits to providing additional regional funding to be used to assist local governments and businesses with implementation. The funds would be used to ensure sufficient staff and material resources to provide free technical assistance, training, and resources to businesses.

Waivers and Exemptions

Local governments with 5 or fewer covered businesses are exempt from the policy. This exempts small cities such as Johnson City, Rivergrove, and possibly in the first phase, Gladstone.

Local governments may request a waiver from the collection requirement if the distance to a transfer or processing facility exceeds some reasonable amount (yet to be determined). When transfer or processing becomes available, the waiver would expire.

Local governments may grant waivers to businesses who it finds are unable to comply (for example if there is a safety issue or if there is a contradiction with another ordinance), subject to review by Metro.

Enforcement

There are two levels to enforcement:

- 1) Metro's enforcement of local government compliance with the ordinance. Metro has stated in a prior legal opinion that they have the authority to require local governments to adopt a requirement like this. Historically Metro has shied away from an enforcement process on local governments on solid waste issues. For example, after 10 years of delay Metro recently notified Troutdale it was preparing to enforce on their lack of compliance with the Business Recycling Requirement.

Prior to any legal enforcement processes, Metro intends to encourage adoption initially by making regional funding for technical assistance to businesses contingent on adoption. Because the county provides technical assistance on behalf of cities, and funds earmarked for the cities are passed to the county, part of our funding is contingent upon cities' adoption of the ordinance. In 17-18, Clackamas County is projected to receive \$133,689 for technical assistance to businesses throughout the county and \$80,000 specifically for food-related technical assistance.

- 2) Local governments' potential enforcement of business compliance. Although we anticipate an enforcement process will rarely if ever be needed, Metro's policy requires local governments to clarify the enforcement pathway used to warn or cite a covered business in non-compliance. Clackamas County could do this via the same pathway for the existing Business Recycling Requirement. Thanks in part to free technical assistance we have not needed to cite a business for failure to comply. Cities would be responsible for identifying their own enforcement processes.

Costs

In urban unincorporated Clackamas County, food scrap collection service is available as part of the bundle of services for commercial customers. The decision to bundle the service earlier this year continues the general philosophy that we ensure a suite of services is available that provides customers the opportunity to shift their waste towards a higher and better use, without penalizing them for doing so. State law also supports this principle, with respect to recycling. Bundling is achieved by incorporating the cost of service into the overall commercial rate, in the same way recycling costs or revenues are handled, spreading them across the particular class of customers.

From the customer's perspective, because food collection does not presently result in an additional fee, we anticipate that more customers will continue to sign up.

With the addition of any new service we can expect costs to increase enough to warrant an increase in the fees. Metro's requirement would increase participation levels, and accordingly, increase overall collection costs.

Implementing a new collection requirement will cost more per-ton compared to garbage collection, for two reasons: First, collection is somewhat less efficient because there are fewer food scrap customers than garbage customers, so we anticipate fewer pickups per hour. Secondly, at least one convenient transfer station we use for garbage (Metro South) is not

available for food scraps due to space constraints. As a result, we anticipate that collection trucks working in areas such as Oak Grove, Clackamas and Damascus will have longer travel times to a transfer station such as Metro Central in NW Portland or perhaps WRI in Wilsonville. For example, it may cost \$95 to \$200 more for a collection truck completing a route in urban Clackamas County to transfer food at Metro Central instead of Metro South.

Offsetting the additional costs in part, are Metro's commitment to maintain a lower disposal fee for food waste than for garbage, and the potential provision for a waiver if the distance or time required for transfer is unreasonable. Cost increases will also be limited by the fact that food is, at most, 18 percent of our disposed waste, so costs for garbage collection will remain predominant.

Environmental and economic benefits

Climate change, driven by excess human-driven emission of greenhouse gases, is a known and significant concern. Understanding the potential economic benefits of reducing greenhouse gas emissions from food requires knowing the emissions from food waste, and economic estimates of the cost of potential impacts driven by climate change—effects that are already being observed.

Using evidence-based data from studies of the lifecycle emissions of food waste in landfills², and mainstream estimates of the climate-related costs of carbon pollution³, the estimated climate costs of landfilling food waste are significant. Separating a 250-pound load of food waste out of the landfill and into either a composting or anaerobic digestion facility would save \$2.47 to \$3.27 in carbon costs, or \$9.88 to \$13.08 per month. For comparison, a month of commercial garbage service for a 35-gallon roll cart currently costs \$26.10, for weekly pick-up.

Put another way, under these assumptions, getting a US ton of food waste out of a landfill and into an alternative process avoids \$20 to \$26 in carbon costs. This is not an insubstantial amount compared to what we pay to landfill waste (~\$100/ton).

² Emissions of food waste management approaches: A report commissioned by Oregon's Department of Environmental Quality in 2014 assessed the climate, energy, and soil health impacts of alternatives for managing our food waste. The report aggregated previous life-cycle analyses to compare landfilling food waste to anaerobic digestion, composting, and in-sink grinding.

The study estimated that food waste in the landfill is associated with 0.52 kg CO₂e² emissions per kg of food waste, while anaerobic digestion and composting result in -0.17 and -0.05 kg of CO₂e emissions, respectively. The negative values reflect the fact that these processes not only avoid methane emissions from the landfill, they also displace other carbon-emitting processes such as electricity generation and production of peat. *Evaluation of Climate, Energy, and Soils Impacts of Selected Food Discards Management Systems*. 2014. Morris, J (Sound Resource Management Group, Inc.). Available at <http://www.oregon.gov/deq/mmm/food/Pages/Food-Waste.aspx>

³ Value of carbon emissions: The EPA and other environmental agencies have used the best available data to estimate the range of real costs associated with excess emissions now and in the future, to inform the development of rules and regulations that impact our climate. In 2013 the EPA updated estimates of the climate-related costs of carbon emissions. A probability analysis of the ranges of costs indicated that the average cost per ton of CO₂ in 2020 is \$42 / metric ton CO₂e, in 2007 dollars. (This assumed a 3% discount rate. Acknowledging the possibility of low-probability but high-impact outcomes, the analysis also found a 5% chance that the actual cost per ton of CO₂ exceeds \$123/ton.)

Potential Next Steps if Metro Adopts the Requirement

Jan – March 2018: The Solid Waste Commission and BCC would review and adopt a code amendment aligning with the regional collection requirement. Existing code anticipates the advent of food scraps collection requirements as part of our Business Recycling Requirement which notes that “all businesses within the County shall comply with waste prevention, recycling and composting requirements as set forth in this Chapter and the regulations promulgated hereunder.” (*County Code 10.03.145 Business Recycling Requirement*)

March – July 2018: The Department of Transportation and Development would develop and approve, with consultation with the Solid Waste Commission, administrative rules to implement the code. The administrative rules would formalize expectations for service provided by our collection companies.

July 2018 – March 2019: Outreach to food-generating businesses in support of voluntary early compliance.

March 2019: Implementation of the requirement for Group 1 businesses begins.

Appendix B. Potential Draft Comments for Metro:

These comments all address different aspects of the policy and may be made in parallel.

1. Clackamas County agrees that food waste is an important, priority material to recover to capture its economic and environmental value. Due in part to that understanding, we took the initiative to bundle food scraps collection in commercial service, in July 2017, making it easier for businesses to participate. Should Metro proceed with its proposed requirement, the County would amend its Business Recycling Requirement pursuant to the policy. We believe this can be implemented successfully if sufficient funds are available to assist businesses, flexibility is available where necessary for local governments, and that Metro joins us in taking steps to mitigate costs to businesses.
2. Clackamas County would like to emphasize the importance of steps Metro is considering or could consider to maximize the cost-effectiveness of food scraps recovery. As more customers participate, these steps can ensure costs remain reasonable within the constraints of providing reliable service.
 - a. We strongly support a reduced tip fee below the current level. This helps soften the marginal rate impact to food-generating customers.
 - b. We support the commitment to offer a waiver for locations where transfer is distant and expensive to access. Local governments should continue to be involved in that conversation.
 - c. We support action on the part of Metro to ensure affordable access to additional transfer stations, or, to explore the collection and transfer of food waste with yard debris. This may be the most cost-effective option. Capital investments to support cost-effective transfer or reload would be a worthy use of Metro's solid waste reserves.
3. If routing food scraps to a waste water treatment plant for processing is a possibility, then Metro should analyze the value of collaborating with multiple WWTPs across the region to lower costs of collection and provide redundancy in the system. It may be wise to preserve the option to contract with multiple local agencies.
4. Other comments as deemed appropriate by the Board.

Appendix C. Draft Metro Code

Metro Ordinance No. 17-1413 – Exhibit A

BUSINESS FOOD WASTE REQUIREMENT

<u>5.10.410</u>	<u>Purpose and Intent</u>
5.10.420	Business Food Waste and Covered Businesses
5.10.430	Business Food Waste Requirement
5.10.440	Business Food Waste Requirement Performance Standards
5.10.450	Temporary Waiver
5.10.460	Metro Enforcement of Business Food Waste Requirement
5.10.470	Metro Model Ordinance

BUSINESS FOOD WASTE REQUIREMENT

5.10.410 Purpose and Intent

The business food waste requirement provides an opportunity to increase recycling of food waste and to assist the Metro region to achieve waste reduction goals. Metro does not intend for this requirement to apply to food that is fit for human consumption and accepted for donation by a charitable organization or the use of food waste for animal consumption in compliance with applicable regulations.

5.10.420 Business Food Waste and Covered Businesses

For the purpose of this section, business food waste is solid waste consisting of food waste removed from the food supply chain that is not fit for human or animal consumption. A covered business is a business that cooks, assembles, processes, serves, or sells food.

5.10.430 Business Food Waste Requirement

Local governments must require (1) covered businesses in their jurisdiction to source separate and recover business food waste; (2) delivery of collected business food waste to a facility authorized by Metro; and (3) persons, as defined by Metro Code Section 1.01.040(h), who provide space to a covered business to allow the source separation and collection of food waste.

5.10.440 Business Food Waste Requirement Performance Standards

The Chief Operating Officer will adopt administrative rules to address the business food waste requirement performance standards. The performance standards must include, without limitation, the following elements:

- (a) Provisions requiring that local governments
 - (1) Notify covered businesses and waste haulers of the business food waste requirement;
 - (2) Require covered businesses and waste haulers to comply with the business food waste requirement;

- (3) Provide education and technical assistance to covered businesses and waste haulers regarding the business food waste requirement; and
- (4) Enforce the business food waste requirement.

(b) Provisions requiring local governments to compel persons providing space to a covered business to allow for the source separation and collection of business food waste.

The Chief Operating Officer may allow a local government to waive the business food waste requirement as to a specific business as provided in the administrative rules.

5.10.450 Temporary Waiver

The Chief Operating Officer may waive, for no longer than 365 days, the local government's implementation of the business food waste requirement only as provided in the administrative rules. The Chief Operating Officer may provide for an extension of the temporary waiver in the administrative rules

5.10.460 Metro Enforcement of Business Food Waste Requirement

Upon a request by a local government and as provided in an intergovernmental agreement, Metro will perform the local government function to ensure covered business compliance with the business food waste requirement.

5.10.470 Metro Model Ordinance

The Chief Operating Officer may adopt a business food waste requirement model ordinance for use by the local government. The model ordinance is advisory only.

Appendix D. Draft Metro Administrative Rules

Solid Waste

Administrative Rules

AR – FS – 5.10

Business Food Waste Requirement

REVISED DRAFT November 8, 2017

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Purpose

1. The purpose of these rules is to implement the provisions of the business food waste requirement in Metro Code Section 5.10.410-5.10.470.
2. The purpose of the business food waste requirement is to provide a region-wide standard for the separation and collection of food waste from food-waste-generating businesses. For the purposes of these rules, Covered Businesses are defined as organizations that cook, assemble, process, serve, or sell food or do so as service providers for other enterprises.
3. Food is identified as a primary material for recovery within the Regional Solid Waste Management Plan because of its prevalence in the region’s waste stream and the negative environmental impacts of disposing food in a landfill.
4. The prevention of food waste, the donation of edible food for human consumption and the use of food waste to feed animals are the region’s preferred methods for managing surplus food. Food that has been stored properly, is fit for human consumption and is accepted for

donation and food that has been set aside and is destined for animal consumption in compliance with applicable regulations is not subject to this administrative rule.

FS – 5.10 – 002

Policy

Metro Code Chapter 5.10 requires local governments to establish mandatory programs to separate and collect food waste from certain food-waste generating businesses referred to in these rules as “Covered Businesses.”

FS – 5.10 – 003

Legal Authority

These administrative rules are issued under the authority of Metro Code Section 5.10.080. These rules are in addition to all other requirements and provisions in Metro Code Chapter 5.10.

FS—5.10—004

Definitions

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

“**Covered Businesses**” means organizations that cook, assemble, process, serve, or sell food or do so as service providers for other enterprises.

“**Business Groups**” means groups of covered businesses subject to the business food waste requirement by certain effective dates as delineated in the Applicability section of these rules.

“**Food waste**” means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, coffee grounds, and other food that results from the distribution, storage, preparation, cooking, handling, selling or serving of food for human consumption. Food waste includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. Food waste does not include liquids or large amounts of oils and meats which are collected for rendering, fuel production or other non-disposal applications, or any food fit for human consumption that has been set aside, stored properly and is accepted for donation by a charitable organization and any food collected to feed animals in compliance with applicable regulations.

FS—5.10—005

Applicability of Rules

1. The business food waste requirement applies to all local governments within the Metro boundary.
2. Covered Businesses subject to the business food waste requirement include, but are not limited to:

Cafeterias & buffets

Grocery retail

	Caterers	Grocery wholesale	
	Colleges & universities*	Hospitals*	
	Correctional facilities	Hotels*	
	Drinking places*	Limited service restaurants	
	Elementary and secondary schools*	Nursing & residential care*	
Only those service or on-site preparation	Food product manufacturing	Retirement & assisted living	with full-restaurants food or service.
	Food service contractors	Specialty food markets	
	Full service restaurants	Warehouse clubs	

3. Covered Businesses shall meet the food waste requirement according to a schedule determined by the quantity of food waste they generate on average, in three phases as listed below. Implementation will begin with Business Group 1 and progress to the other groups according to the Effective Dates described in Rule 006. Covered Businesses that demonstrate they generate less than 250 pounds of food scraps per week of food waste are not subject to this requirement.

Business Group 1	Business Group 2	Business Group 3
≥0.5 ton (1,000 pounds) per week food waste generated	≥0.25 ton (500 pounds) per week food waste generated	≥0.125 ton (250 pounds) per week food waste generated

4. A person that provides space to a covered business must allow, facilitate or provide a food waste collection service for the covered business.

FS—5.10—006

Effective Dates for Implementation

Local governments must meet the following deadlines:

1. Local Government Adoption of Requirement: July 31, 2018
2. Begin Implementation of Requirement for Business Group 1: March 31, 2019
3. Begin Implementation of Requirement for Business Group 2: March 31, 2020
4. Begin Implementation of Requirement for Business Group 3: September 30, 2021

FS—5.10—007

Exemptions

1. Governments Outside Metro Boundary: Local governments outside of the Metro Boundary are exempt from this business food waste requirement.
2. No Commercial District: Local governments that do not have commercial zones or commercial districts are exempt from this business food waste requirement.

Compliance Waivers

Metro may grant compliance waivers to local governments that meet the standards below.

3. Business quantity minimum threshold: Metro will waive application of the business food waste requirement for a local government with five or fewer covered businesses within its boundary. Metro will review the number of covered businesses in each government annually. If Metro determines that a local government exceeds the minimum number of covered businesses during the review, Metro will inform the local government in writing and will require the local government to comply within 12 months of Metro notification.
4. Distance: Metro may waive temporarily application to a local government based on proximity to transfer or processing services. Metro will not require a local government that qualifies for a temporary distance waiver to implement the requirement until such time as transfer or processing services are available within a reasonable distance. For purposes of this waiver, “reasonable distance” means xxxxxxxx. Metro will grant a waiver only under the following conditions:
 - a. A local government adopts a legally-enforceable mechanism that meets the business food waste requirement and performance standard by the July 31, 2018 deadline.
 - b. Metro will develop the list of waived governments and the associated map when the location of the food waste transfer or processing services are determined.
 - c. A qualified local government sends a letter to Metro stating the intent to utilize a temporary distance waiver.
 - d. The local government’s temporary waivers will expire once transfer or processing services become available within a reasonable distance as determined by Metro. Metro will provide waived governments with a 90-day notice of waiver expiration.
 - e. A local government must implement a mandatory program within 90 days after waiver expiration date.

Metro will re-evaluate waivers annually and will automatically renew them if conditions have not changed. No action is required by waived governments in order to renew a granted waiver.

Local Government Requirements

1. Local Governments must implement one of the following:
 - a. Adopt a legally-enforceable mechanism that meets the performance standard in rule 011. A legally-enforceable mechanism includes but is not limited to local code, regulation, ordinance or law.
 - b. Adopt the Business Food Waste Requirement Model Ordinance and require business food waste be delivered to a solid waste facility authorized by Metro.
2. Local Governments must require Covered Businesses to:
 - a. Separate food waste from all other solid waste for collection.
 - b. Recover food waste that is controlled by the business, agents, and employees. This requirement does not apply to food wastes controlled by customers or public. At its discretion, a Covered Business Entity may collect food waste from customers or public but must ensure that food wastes are free of non-food items.

3. Local governments must require persons or entities that lease or provide space to a Covered Business Entity to allow or provide food waste collection service to those Covered Businesses.
4. Local governments must submit annual implementation plans to Metro according to the procedures set forth in these Administrative Rules.
5. Local governments may:
 - a. Implement the program in the manner that is most efficient and effective for local conditions, local solid waste system considerations, geography and that which best suits the covered businesses as long as the local government complies with the performance standard and deadlines.
 - b. Grant temporary waivers to a covered business according to the procedures set forth in these Administrative Rules.

FS—5.10—010

Local Government Annual Implementation Plan

Local governments are required to submit to Metro an annual implementation plan regarding the business food waste requirement. A local government may develop and implement its plan individually or through cooperative or partnership agreements between governments. A local government may implement the business food waste requirement in a manner that best suits local conditions as long as the local government meets or exceeds the performance standard. An implementation plan must meet the performance standard set forth in these Administrative Rules.

FS—5.10—011

Local Government Performance Standard

1. Business Notice of Requirement: After a local government adopts the business food waste requirement and according to the implementation schedule, the local government must send notice to covered businesses that outlines the requirement and how to comply and receive assistance. Local governments must establish a mechanism to notify new businesses of the business food waste requirement.
2. Local governments must require that businesses comply with the business food waste requirement including, but not limited to:
 - a. Adherence with the implementation schedule.
 - b. Correctly-labeled and easily-identifiable collection receptacles.
 - c. Arrange for food waste collection service as necessary.
 - d. Ensuring building owners or managers of multi-tenant buildings containing covered businesses allow or otherwise enable the provision of food waste collection service to lessees or occupants subject to the business food waste requirement.
3. Local governments must ensure appropriate collection receptacles and service is made available.

4. Local governments must require that franchised or otherwise licensed waste haulers deliver food waste to a facility that complies with federal, state, regional and local laws and regulations.

FS – 5.10 – 012

Business Assistance

Local governments must provide educational materials and offer technical assistance to covered businesses to assist with program set-up, understanding program requirements and separation standards.

- a. Educational materials must include, at a minimum:
 - i. Labels for collection containers that clearly communicate what is allowed and not allowed in the food waste collection system.
 - ii. Signs and/or posters that provide clear and simple instructions.
 - iii. All signs and program materials must be designed to be understood by people with limited English proficiency.
 - iv. Program contact phone number for businesses to call for program assistance.
- b. Technical assistance offered must include, at a minimum:
 - i. Education and assistance with food waste prevention techniques and edible food donation programs.
 - ii. Assistance with food waste collection program set up and training on-site at the business.
 - iii. Assistance with mitigating issues arising from program participation such as odors or vectors.
 - iv. Ensure correct labeling of all food waste collection receptacles.
 - v. Serve as a facilitator between the business and solid waste hauler as needed to assist with the provision of appropriate collection receptacles and service frequency.

FS—5.10—013

Local Government Enforcement of the Business Food Waste Requirement

Local governments must establish a method for ensuring compliance with the business food waste requirement.

FS—5.10—014

Local Government Temporary Compliance Waivers to Covered Businesses

1. A local government may establish a method for granting temporary waivers to covered businesses. A local government must seek Metro approval of the waiver method and conditions.
2. Temporary waivers must meet the following minimum standard:
 - a. May not exceed 12 months, annual renewal allowed.

- b. In order to be renewed, a local government must annually review waivers to determine if conditions that warrant the waiver are still in place and cannot be remedied.
- c. Covered businesses seeking a temporary waiver must agree to periodic waiver verification site visits. Local governments are responsible for determining if one or more of the following criteria warrant a temporary waiver:
 - i. Less than 250 pounds per week of food in the disposed waste.
 - ii. Food waste produced by the covered business is not suitable for inclusion in the program, or cannot be made suitable without unreasonable expense.
 - iii. Physical barriers to compliance exist and cannot be immediately remedied.
 - iv. Compliance results in unreasonable capital expense.
 - v. Compliance results in a violation of other government ordinance, health or safety code.
 - vi.

3.

FS—5.10—015

Metro Enforcement of the Requirement

A local government may request that Metro assist with enforcement of the business food waste requirement. Metro will provide enforcement assistance after Metro and the local government establish an Intergovernmental Agreement.

FS—5.10—016

Self-Haul of Source-Separated Food Waste

The local government may allow a covered business to self-haul source-separated food waste generated by that business. The local government must require the covered business to comply with these rules, including without limitation delivery of the food waste to a facility authorized by Metro.

FS—5.10—017

Compliance Verification and Reporting

Local governments must collect and report data to Metro to demonstrate compliance and assist with program evaluation. Metro will determine reporting requirements and frequency, review data and make a determination of compliance as set forth in Annual Implementation Plans.

FS—5.10—018

Funding Guidelines

1. Metro will provide funding to support the implementation of the business food waste requirement to local governments upon adoption of the requirements by the Metro Council. Metro intends to provide funding for the first (5) fiscal years of the business food waste requirement, subject to Metro Council approval of funding amounts during the annual budget process.

2. Local governments may use funds for business assistance, infrastructure, compliance, and enforcement efforts to implement the business food waste requirement. Metro will review and approve the intended uses prior to distributing funds.
3. If a local government has designated another agency or partner to implement the program, Metro shall distribute funds to the designated agency. A designated agency is a county agency, city agency or contracted agent that is responsible for designing and implementing a waste reduction program including the business food waste requirement, on behalf of a local government.
4. In order to receive funding, a local government or its designated agency must submit documentation demonstrating compliance with the requirements of Metro Code 5.10.410-5.10.470 and these rules and enter into an Intergovernmental Agreement with Metro.

Metro will withhold funding associated with the implementation of the business food waste requirement from governments that do not comply with the business food waste requirement. If governments remain out of compliance for more than two years, funding associated with the Recycle at Work program will also be withheld. Governments that are, in the sole opinion of Metro, actively making good faith efforts to adopt the business food waste requirement will remain eligible for associated funding. Metro will determine how any withheld funds will be utilized.