

- (i) are not putrescible;
- (ii) have been source separated;
- (iii) are not and will not be mixed by type with other solid wastes; and
- (iv) [will be] are reused or recycled.

For the purpose of this section, putrescible does not include wood, dry cardboard or paper uncontaminated by food wastes or petroleum products.

- (f) Person or persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
- (g) Temporary transfer stations or processing centers established and operated by a local government for sixty (60) days or less to temporarily receive, store or process solid waste if the District finds an emergency situation exists."

Section 2. Subsection 2 of Section 7 of Ordinance No. 81-111 is hereby amended to read as follows:

- "(2) In addition to the information required on the forms, applicants must submit the following to the Executive Officer:
 - (a) Proof that the applicant can obtain and will be covered during the term of the franchise by a corporate surety bond guaranteeing full and faithful performance by the applicant of the duties and obligations of the franchise agreement. In determining the amount of bond to be required, the Executive Officer may consider the size of the site, facility or station, the population to be served, adjacent or nearby land uses, the potential danger of failure of service, and any other factor material to the operation of the franchise.
 - (b) In the case of an application for a franchise transfer, a letter of proposed transfer from the existing franchisee.
 - (c) Proof that the applicant can obtain public liability insurance, including automotive

coverage, in the amounts of not less than [\$500,000] \$300,000 for [each occurrence] any number of claims arising out of a single accident or occurrence [\$300,000 for bodily injury or death for each person], \$50,000 to any claimant for any number of claims for damage to or destruction of property and [property damage insurance in the amount of not less than \$300,000 per occurrence], \$100,000 to any claimant for all other claims arising out of a single accident or occurrence or such other amounts as may be required by State law for public contracts.

- (d) If the applicant is not an individual, a list of stockholders holding more than five (5) percent of a corporation or similar entity, or of the partners of a partnership. Any subsequent changes in excess of five (5) percent of ownership thereof must be reported within ten (10) days of such changes of ownership to the Executive Officer.
- (e) A duplicate copy of the DEQ disposal site permit application and any other information required by or submitted to DEQ pursuant to chapter 459, Oregon Revised Statutes.
- (f) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 20(5) of this ordinance if the franchise is revoked or franchise renewal is refused.
- (g) Proof that the applicant has received proper land use approval.
- (h) Such other information as the Executive Officer deems necessary to determine an applicant's qualifications."

Section 3. Subsection 5 of Section 8 of Ordinance No. 81-111 is hereby amended to read as follows:

- "(5) Within ten (10) days after receipt of an order granting a franchise, the applicant shall:

- (a) Enter into a written franchise agreement with the District,
- (b) Obtain a corporate surety bond guaranteeing full and faithful performance during the term of the franchise of the duties and obligations of the franchisee under the franchise agreement, and
- (c) Proof that the applicant can obtain public liability insurance, including automotive coverage, in the amounts of not less than [\$500,000] \$300,000 for [each occurrence] any number of claims arising out of a single accident or occurrence [\$300,000 for bodily injury or death for each person], \$50,000 to any claimant for any number of claims for damage to or destruction of property and [property damage insurance in the amount of not less than \$300,000 per occurrence], \$100,000 to any claimant for all other claims arising out of a single accident or occurrence or such other amounts as may be required by State law for public contracts.
- (d) Name the District as an additional insured in the insurance policy required by Section 7(2)(c)."

Section 4. Subsection 2 of Section 19 of Ordinance No. 81-111 is hereby amended to read as follows:

- "(2) [When] At the time the Council grants a franchise, or after the Council grants a franchise it shall establish the rate(s) to be charged by the franchisee. The Council may establish uniform rates for all franchisees or varying rates based on the factors specified in this Section."

Section 5. Subsection 2 of Section 20 of Ordinance No. 81-111 is hereby amended to read as follows:

- "(2) The Council may direct the Executive Officer to give the franchisee notice that the franchise is, or on a specified date shall be, suspended, modified or revoked. The notice authorized by this subsection shall be based upon the Council's finding that the franchisee has:

- (a) Violated this Ordinance, the Code, ORS Chapter 459 or the rules promulgated thereunder or any other applicable law or regulation; or
- (b) Misrepresented material facts or information in the franchise application, annual operating report, or other information required to be submitted to the District;
- (c) Refused to provide adequate service at the franchised site, facility or station, after written notification and reasonable opportunity to do so.
- (d) Misrepresented the gross receipts from the operation of the franchised site, facility or station; or
- (e) Failed to pay when due the fees required to be paid under this Ordinance.
- (f) Been found to be in violation of a city or county solid waste management ordinance if such ordinances require licensees or franchisees to comply with the Metro Disposal Franchise Ordinance."

ADOPTED by the Council of the Metropolitan Service District
this 5th day of August, 1982.


Deputy Presiding Officer

ATTEST:


Clerk of the Council

TA/srb
6210B/252
07/08/82

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Council
FROM: Regional Services Committee
SUBJECT: Proposed Revisions to the Disposal Franchise Ordinance

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Adopt the proposed language revisions to the Disposal Franchise Ordinance.
- B. POLICY IMPACT: Adopting the proposed changes to the Ordinance will:
- Clarify the language of certain sections of the Ordinance;
 - Give Metro the authority to revoke franchises if the franchisee is in violation of a city or county solid waste ordinance which requires compliance with Metro's ordinance; and
 - Change the current amount of public liability insurance to the amount required by statutory tort claims limits of liability for public agencies.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: The Regional Services Committee reviewed proposed changes to the Disposal Franchise Ordinance at its July 6, 1982 meeting. A quorum was not present, however the Committee directed staff to forward the amendments to the Council.

These amendments are shown below. The first amendment was suggested by SWPAC; the others by staff.

- Add a new subsection, 20(2)(f), which gives Metro the authority to revoke a franchise if the franchisee has been found to violate local, city or county solid waste ordinances. This change is requested so that Metro can join with local jurisdictions in strengthening enforcement of solid waste ordinances.
- Add language which requires an operator to demonstrate that allegedly recyclable material is actually being recycled in order to maintain an exemption from the franchise ordinance (see section 5(1)(e)). This change is requested so that the operator bears the burden of proving that stockpiled

material is indeed being recycled rather than being accumulated indefinitely at a gravel pit or other site.

- Revise the public liability insurance requirement so that the amount of insurance required conforms with statutory tort claim limits of liability for public agencies (section (7)(2)(c) and 8(5)(c)). This change is required to eliminate confusion which has occurred over the wording of the current language.
 - Require franchise applicants to submit DEQ permit application material to Metro when it is submitted to DEQ (section (7)(2)(e)).
 - Revise the language in 19(2) so that it is clear that the Council can grant a franchise and set the rate for the facility after it grants the franchise. This would allow private firms to obtain a franchise from Metro, obtain financing, build their facility and then have the rates set during or after construction. The rate will therefore more accurately reflect the actual cost of the facility.
- B. ALTERNATIVES CONSIDERED: Not adopting SWPAC's recommendation that Metro revoke franchises if the franchisee has been found to violate a local ordinance would prohibit a cooperative effort between Metro and local jurisdictions to strengthen enforcement of solid waste ordinances. Not adopting staff's recommended revisions would continue confusion over wording of certain sections of the Ordinance which interferes with Ordinance enforcement and administration.
- C. CONCLUSION: Adopt the proposed amendments to the Disposal Franchise Ordinance.

TA/srb
6211B/252
07/08/82

Motion to adopt Resolution No. 82-344; carried unanimously. (Williamson/Kirkpatrick)

6.1 Public Hearing on Ordinance No. 82-136, An Ordinance Relating to Solid Waste Disposal and Amending Ordinance No. 81-111. (First Reading)

Motion to adopt Ordinance No. 82-136. (Rhodes/Deines)

There was no one present who wished to speak during the public hearing.

6.2 Public Hearing on Ordinance No. 82-139, An Ordinance Relating to Personnel and Amending Ordinance No. 81-116. (First Reading)

Motion to adopt Ordinance No. 82-139. (Deines/Williamson)

There was no one present who wished to speak during the public hearing.

6.3 Public Hearing on Ordinance No. 82-140, An Ordinance Relating to the Fiscal Year 1982-83 Budget and Appropriations Schedule; and Amending Ordinance No. 82-132. (First Reading)

Motion to adopt Ordinance No. 82-140. (Deines/Kirkpatrick)

General discussion of Metro's recycling efforts by the Council, Bob Breihof, John Trout, and Pat Stryker.

Presiding Officer stated that the recycling effort and waste reduction program would be discussed thoroughly at the next Council meeting, prior to the adoption of the ordinance, and requested staff to provide additional information on each.

6.4 Ordinance No. 82-133, An Ordinance Amending Ordinance No. 81-105, Establishing Procedures for Locational Adjustment of the Metropolitan Service District's Urban Growth Boundary. (Second Reading)

Geraldine Ball stated her objections to the ordinance's reference to adding or subtracting land from the UGB; she was under the impression that this would permit local governments to annex or de-annex property without notifying property owners.

General Counsel Jordan explained that this ordinance did not dictate how cities and counties conducted annexation proceedings; those procedures are established by state statute.

General discussion of the amendments.

A vote on the previous motion to adopt Ordinance No. 82-133, as amended, (Bonner/Etlinger) indicated that the motion carried unanimously.

6.1 Ordinance No. 82-136, An Ordinance Relating to Solid Waste Disposal, and Amending Ordinance No. 81-111. (Second Reading)

General discussion of the ordinance.

It was suggested that the ordinance be amended at a later date to incorporate language that would require compliance with public liability insurance statutory tort claim limits, rather than a specific dollar amount; this would eliminate amending the ordinance each time legislation changes the limit.

A vote on the previous motion (Rhodes/Deines) to adopt the ordinance indicated that the motion passed unanimously.

6.2 Ordinance No. 82-139, An Ordinance Relating to Personnel and Amending Ordinance No. 81-116. (Second Reading)

Motion to amend the ordinance to add subsection (c) under Section 56 as follows:

"(c) Hiring and termination by Metro of employees employed pursuant to this section shall only be with the approval or consent of the Council."

carried unanimously. (Deines/Rhodes)

A vote on the previous motion (Deines/Williamson) to adopt the ordinance, as amended, indicated that the motion passed unanimously.

6.3 Ordinance No. 82-140, An Ordinance Relating to the FY 1982-83 Budget and Appropriations Schedule and Amending Ordinance No. 82-132. (Second Reading)

Jennifer Sims introduced the following amendment to clarify the ordinance:

The words "amendments to the" should be added in the first paragraph between "The" and "FY 1982-83 Budget".

Motion to amend the ordinance by adding the wording; carried unanimously. (Rhodes/Schedeen)

Considerable discussion of the Waste Reduction Program and the status of the Portland Recycling Team. Pat Stryker, Mark Peterman and Richard Solomon of PRT testified in favor of Council action to continue funding for PRT.

Bob Breihof of PRROS indicated that if Council continues funding PRT, it could hurt the negotiations between private companies who are proposing to take over the operations of PRT.

August 17, 1982

Gordon Mulleneaux
Washington County Administrator
150 North First, Room 418
Hillsboro, OR 97123

Dear Mr. Mulleneaux:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District on the date(s) indicated:

Ordinances No. 82-136 and No. 82-139, adopted by the Council on August 5, 1982; and

Ordinance No. 82-140, adopted by the Council on August 10, 1982.

Please file these copies in the Metro ordinance files.

Sincerely,

Sue Haynes
Clerk of the Council

August 17, 1982

Mr. George Poppen
County Clerk
Clackamas County Courthouse
906 Main
Oregon City, OR 97045

Dear Mr. Poppen:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District on the date(s) indicated:

Ordinances No. 82-136 and No. 82-139, adopted by the Council on August 5, 1982; and

Ordinance No. 82-140, adopted by the Council on August 10, 1982.

Please file these copies in the Metro ordinance files.

Sincerely,

Sue Haynes
Clerk of the Council

August 17, 1982

Jane McGarvin
Clerk of the Board
Multnomah County Courthouse
1021 SW Fourth Avenue, Room 606
Portland, OR 97204

Dear Ms. McGarvin:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District on the date(s) indicated:

Ordinances No. 82-136 and No. 82-139, adopted by the Council on August 5, 1982; and

Ordinance No. 82-140, adopted by the Council on August 10, 1982.

Please file these copies in the Metro ordinance files.

Sincerely,

Sue Haynes
Clerk of the Council