

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTER 5.01 TO) ORDINANCE NO. 06-1102
PROHIBIT THE DISPOSAL OF SOURCE-)
SEPARATED RECYCLABLE MATERIALS) Introduced by Michael Jordan,
) Chief Operating Officer, with the
) concurrence of David Bragdon,
) Council President

WHEREAS, Metro Code Chapter 5.01 governs the regulation of solid waste disposal sites and solid waste facilities within Metro; and

WHEREAS, Section 5.01.030 of the Metro Code describes prohibited activities, but does not contain a specific prohibition on the disposal of source-separated recyclable materials; and

WHEREAS, Oregon Revised Statute (ORS) 459A.080(3) and Oregon Administrative Rules (OAR) 340-090-0090(2) prohibit the disposal of source-separated recyclable materials; and

WHEREAS, it is appropriate that the Code prohibit solid waste facilities from disposing of source-separated recyclable materials, regardless of whether such facilities are licensed or franchised by Metro; and

WHEREAS, the Chief Operating Officer recommends approval of this Ordinance; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.01.030 is amended as follows:

5.01.030 Prohibited Activities

Except as otherwise provided in this chapter, or in Metro Code Chapter 5.05, it shall be unlawful:

(a) For any person to establish, operate, maintain or expand a Solid Waste Facility or Disposal Site within Metro without an appropriate License or Franchise from Metro.

(b) For any person or Solid Waste Facility to either (1) mix source separated recyclable material with other solid waste in any vehicle, box, container or receptacle used in solid waste collection or disposal, or (2) to dispose of Source-Separated Recyclable Materials by any method other than reuse or recycling. As used in this subsection, "reuse or recycling" includes the transfer, transport or delivery of such materials to a person or facility that will reuse or recycle them.

(bc) For a recipient of a License or Franchise to receive, process or dispose of any Solid Waste not authorized under the recipient's License or Franchise.

(ed) For any person to deliver or transport any Solid Waste to or to dispose of any Solid Waste at any place other than a Solid Waste Facility or Disposal Site that is operated by a holder of a License or Franchise or is exempt under Section 5.01.040 of this chapter.

(de) For a holder of a License or Franchise to fail to comply with the administrative procedures or fail to meet the performance standards adopted pursuant to Section 5.01.132 of this chapter.

(ef) For any person to treat or dispose of petroleum contaminated soil by ventilation or aeration except at the site of origin.

Section 2. Metro Code Section 5.01.040 is amended as follows:

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, except as provided in Sections 5.01.040(b) through (d), below, the Metro Council declares the provisions of this chapter shall not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.
- (2) Disposal Sites, Transfer Stations, or Solid Waste Facilities owned or operated by Metro.
- (3) Facilities that (A) exclusively receive Non-Putrescible Source-Separated Recyclable Materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.
- (4) Facilities that exclusively receive, process, transfer or dispose of Inert Wastes.
- (5) The following operations, which do not constitute Yard Debris Facilities:
 - (A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
 - (B) Residences, parks, community gardens and homeowner associations.
 - (C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
 - (D) Operations or facilities that chip or grind wood wastes, unless:
 - (i) such chipped or ground wood wastes are processed for composting; or
 - (ii) such operations or facilities are otherwise regulated under Metro Code Section 5.01.045.
- (6) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process Solid Waste if Metro finds an emergency situation exists.
- (7) Any Reload facility that:


- (A) Accepts Solid Waste collected under the authority of a single franchise granted by a local government unit, or from multiple franchises so long as the area encompassed by the franchises is geographically contiguous; and
 - (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and
 - (C) Delivers any Putrescible Waste accepted at the facility to a Transfer Station owned, operated, Licensed or Franchised by Metro; and
 - (D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another facility or Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05.
- (8) Persons who own or operate a mobile facility that processes Petroleum Contaminated Soil at the site of origin and retains any treated Petroleum Contaminated Soil on the site of origin.

(b) Notwithstanding Section 5.01.040(a), all persons shall comply with Sections 5.01.030(a), (b), (d) and (f).

(bc) Notwithstanding Section 5.01.040(a)(2) of this chapter, Metro shall comply with Section 5.01.150 of this chapter.

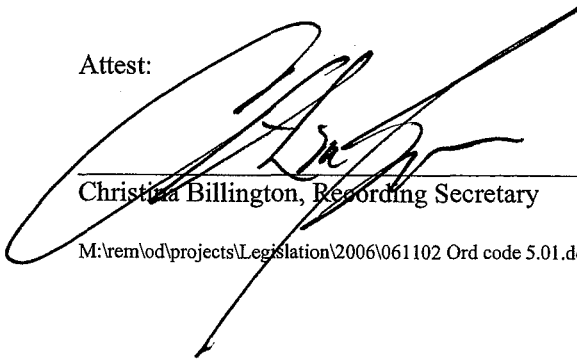
(ed) Notwithstanding Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter, the provisions of ~~Section 5.01.030(b) and~~ Section 5.01.135 of this chapter shall apply to operations and facilities described in Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter.

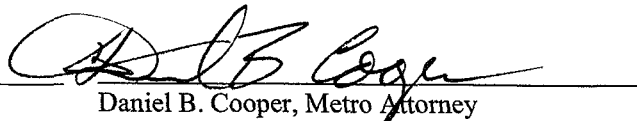
ADOPTED by the Metro Council this 9th day of February, 2006.

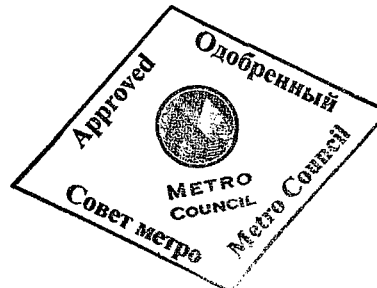

 David Bragdon, Council President

Attest:

Approved as to Form:


 Christina Billington, Recording Secretary


 Daniel B. Cooper, Metro Attorney



STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 06-1102 AMENDING METRO CODE CHAPTER 5.01 TO PROHIBIT THE DISPOSAL OF SOURCE-SEPARATED RECYCLABLE MATERIALS

January 3, 2006

Prepared by: Bill Metzler

BACKGROUND

Description of the Ordinance

The proposed ordinance would amend Chapter 5.01 of the Metro Code to prohibit the disposal of source-separated recyclable materials. This prohibition would provide consistency between Metro Code and state laws that prohibit the disposal of source-separated recyclable materials. Oregon Revised Statute (ORS) 450A.080(3) provides: "A person may not mix source separated recyclable material with solid waste in any vehicle, box, container or receptacle used in solid waste collection or disposal." While Oregon Administrative Rule (OAR) 340-090-0090(2) states: "In addition to the provisions set forth in ORS 459A.080, no person shall dispose of source separated recyclable material which has been collected or received from the generator by any method other than reuse or recycling except for used oil and wood waste which may be collected and burned for energy recovery."

This issue has arisen as the result of Metro identifying problems with some solid waste facilities that have accepted source-separated recyclables and mixed them with solid waste that is destined for disposal. The proposed ordinance would make it clear that if a solid waste facility were to mix source-separated recyclable material with other solid waste that is intended for disposal, it would be a violation of the Metro Code. As a result, Metro's enforcement action would be more efficient and likely to result in less costly prosecution of enforcement actions and the recovery of additional Regional System Fees and Excise Taxes.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed ordinance.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01

3. Anticipated Effects

The anticipated effect of the proposed ordinance is to prohibit the disposal of source-separated recyclable material.

4. Budget Impacts

The proposed ordinance is not anticipated to have a budget impact, but could result in the more efficient and less costly prosecution of enforcement actions and the recovery of additional Regional System Fees and Excise Taxes.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 06-1102.

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