

A G E N D A

600 NORTHEAST GRAND AVENUE PORTLAND, OREGON 97232-2736



METRO

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MEETING: METRO POLICY ADVISORY COMMITTEE

DATE: June 13, 2007

DAY: Wednesday, 5:00-7:00 p.m.

PLACE: Metro Council Chamber/Annex

REVISED

NO	AGENDA ITEM	PRESENTER	ACTION	TIME
	CALL TO ORDER	Fuller		
1	SELF INTRODUCTIONS & COMMUNICATIONS	All		5 min.
2	CITIZEN COMMUNICATIONS FOR NON-AGENDA ITEMS			5 min.
3	CONSENT AGENDA <ul style="list-style-type: none">• April 25, 2007	Fuller	Action	5 min.
4	COUNCIL UPDATE	Harrington	Update	5 min.
5	JPACT UPDATE <ul style="list-style-type: none">• Report of Joint MPAC/JPACT May 24, 2007 meeting	Cotugno	Update	10 min.
6	LEGISLATIVE UPDATE & ROUNDTABLE	Newman	Update	20 min.
7	SOLID WASTE ENHANCED DRY WASTE RECOVERY (EDWRP)	Hoglund	Review Action	5 min. 5 min.
8	RESOLUTION 07-3804 FOR THE PURPOSE OF ENTERING AN ORDER TO WAIVE THE DEADLINE FOR FILING AN APPLICATION FOR A MAJOR AMENDMENT TO THE URBAN GROWTH BOUNDARY BY THE CITY OF CORNELIUS	Harrington/Benner/ O'Brien	Presentation Discussion Action	5 min. 8 min. 2 min.
9	REGIONAL PLANNING & COLLABORATION OF CITIES IN THE UPPER RHINE REGION OF GERMANY, FRANCE & SWITZERLAND	Liberty/Dr. Sven von Ungern-Sternberg	Presentation Discussion	30 min. 10 min.

UPCOMING MEETINGS:

MPAC: June 27, 2007 & July 11

MPAC Coordinating Committee, Room 270: June 27, 2007 half hour check-in

For agenda and schedule information, call Kim Bardes at 503-797-1537. e-mail: bardes@metro.dst.or.us

MPAC normally meets the second and fourth Wednesday of the month.

To receive assistance per the Americans with Disabilities Act,
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Metro Policy Advisory Committee

June 13, 2007

Item 3 – Consent Agenda Meeting Summary for April 25, 2007

METRO POLICY ADVISORY COMMITTEE MEETING RECORD

April 25, 2007 – 5:00 p.m.

Metro Regional Center, Council Chambers

Committee Members Present: Richard Burke, Nathalie Darcy, Rob Drake, Andy Duyck, Dave Fuller, Bernie Giusto, John Hartsock, Richard Kidd, Alice Norris, Tom Potter, Lane Shetterly, Chris Smith

Committee Members Absent: Ken Allen, Jeff Cogen, Larry Cooper, Judie Hammerstad, Tom Hughes, Charlotte Lehan, Wilda Parks, Larry Smith, Erik Sten, Steve Stuart, (Governing Body of School District – Bob Sherwin)

Alternates Present: Shirley Craddick, Lynn Peterson

Also Present: Bill Bash, City of Cornelius; Carol Chesarek, Citizen; Bob Clay, City of Portland; Larry Davidson, Graghorn/Lakside; Kay Durtschi, MTAC; Felisa Hagins, SEIU; Dean Kampfer, Waste Management of Oregon; Irene Marvich, League of Women Voters; Leeanne MacColl, League of Women Voters; Pat Ribellia, City of Hillsboro; Paul Savas, Clackamas County Special Districts Alternative; Alonzo Wertz, TriMet; Veronica Valenzuela, City of Portland

Metro Elected Officials Present: Liaisons – Kathryn Harrington, Council District 4; others in audience: David Bragdon, Council President; Rod Park, Council District 1

Metro Staff Present: Lee Barrett, Dan Cooper, Andy Cotugno, Mike Hoglund, Janet Matthews

1. SELF-INTRODUCTIONS & COMMUNICATIONS

Chair Dave Fuller, called the meeting to order at 5:06 p.m. Chair Fuller asked those present to introduce themselves.

2. CITIZEN COMMUNICATIONS FOR NON-AGENDA ITEMS

Susan Kolibaba, SEIU Local 49 & Kaiser Member; Sharon Candioto, Oregon Nurses Association; Maribeth Healey, Oregonians for Health Security; Amanda Fritz & Jill Fuglister, Coalition for Livable Future; and Alice Dall, SEIU Local 49 spoke to the MPAC members about their concerns for health care in the region and their desire to see MPAC as a group have a discussion regarding this important issue. They each had a packet of postcards signed by individuals from each Metro Councilor’s district which they asked to be given to the corresponding Councilors.

Chair Fuller said that health care was an issue that was listed as a possible topic of discussion for MPAC.

3. CONSENT AGENDA

Meeting Summary for April 11, 2007:

Motion:	John Hartsock, Clackamas County Special Districts, with a second from Mayor Richard Kidd, City of Forest Grove, moved to adopt the consent agenda without revisions.
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Vote:	The motion passed with one abstention (Richard Burke).
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4. COUNCIL UPDATE

Councilor Kathryn Harrington informed the MPAC members that there would be a Get Centered event in Vancouver B.C. June 7-9, 2007. She gave details on that trip and distributed a flyer for the members. That flyer will be attached for the permanent record.

Andy Cotugno, Planning Director, referred to the Metro 101 program held in February for some of the newer MPAC members and how successful and informative that had been. He then distributed disks of a presentation Metro made in Lake Oswego, Metro Land Use Summit, on February 28, 2007. One of those disks will be included in the permanent record.

Councilor Harrington gave a brief update of the recent items before the Metro Council.

5. LEGISLATIVE UPDATE

Councilor Harrington gave an update on the regional legislative agenda.

6. MPAC PLANNING

Chair Fuller reviewed the previous discussions regarding the MPAC Bylaws for the members. He referred to the two letters before the members regarding the proposed changes to the MPAC bylaws. One letter from Bob Sherwin regarding voting rights for the Governing Body of School District position, and another letter from Andy Duyck regarding staff filling in and voting in lieu of the City of Portland's two members. Both those letters will be included in the permanent record.

Bernie Giusto, Tri-Met Board of Directors, asked about the process for voting on these two items.

Dan Cooper, Metro Attorney, explained the process for the members.

Motion:	Richard Burke, Washington County Special Districts, with a second from, Lynn Peterson, Clackamas County Commission, moved to divide the question of the proposed bylaw packet and the two questions before the membership regarding voting for the school position and senior staff alternate membership representation for the City of Portland.
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Chris Smith, Multnomah County Citizen Representative, said that there were two different goals: 1) a robust conversation that required good participation, and 2) a core procedure where the rules should protect both the majority and the minority. He said the problem was that the absent minority disrupted the majority doing business by preventing a quorum. He said that the senior staff option could apply to all jurisdictions. On the issue of some of the seats that have not been filled, those seats could perhaps become non-voting after a period of non-attendance, and then have some remedy mechanism to making them voting again so that they were not permanently locking those representatives out.

Vote:	The motion passed with one nay vote (Chris Smith).
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Chair Fuller asked the members if they were prepared to vote on the rest of the bylaw amendment minus the two items under discussion.

Motion:	Bernie Giusto, TriMet Board of Directors, with a second from John Hartsock, Clackamas County Special Districts, moved to recommend to Metro Council the adoption of the bylaw amendment minus the question of the school board voting rights and allowing staff representation and voting rights for the alternate position for the City of Portland.
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Vote:	The motion passed unanimously (13 votes).
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Mayor Alice Norris, City of Oregon City, said that she had talked with Mayor Hammerstad and Mayor Hammerstad had said that the Governing Body of School District position had rarely been filled over the years. Mayor Hammerstad also suggested many of the land use issues discussed at MPAC were not always relevant to the school districts. One person represented multiple districts and vast numbers of citizens, and how was that done? Mayor Norris said that there was value for them to remain at the table in an advisory capacity.

Motion:	John Hartsock, Clackamas County Special Districts, with a second from Mayor Richard Kidd, City of Forest Grove, moved to have the Governing Body of School District changed from a voting position to ex officio.
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Mayor Tom Potter, City of Portland, said school districts played a valuable part in many areas of government including land use issues. He said that Portland was trying to create a stronger sense of community around their schools. He said it would require changes in zoning and housing to do that. He said he thought that particular voice should be allowed to vote.

Mr. Smith seconded Mayor Potter's comments. He suggested that if attendance was the issue then make it performance based.

Chair Fuller asked if it would be reasonable to put the position on probation for a designated time and then revisit it.

Mr. Smith suggested that if there were three unexcused absences then they would lose their voting privileges.

There was discussion about the possibility of a probationary period or set amount of absences affecting voting rights.

Mr. Burke, Washington County Special Districts, suggested that they table the vote on this indefinitely. He said that he did not think that the main motion would have 13 votes to pass. He said that they were trying to compose the motion on the fly.

Motion:	Richard Burke, Washington County Special Districts, with a second from Mayor Richard Kidd, City of Forest Grove, moved to table the question of the school board vote indefinitely.
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Vote:	The motion failed. Nay: Darcy, Fuller, Giusto, Hartsock, Kidd, Norris, and Peterson. Aye: Burke, Craddick, Drake, Duyck, Potter, and Smith Abstain: none
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Chair Fuller repeated the motion regarding voting rights for the school districts, since tabling the vote indefinitely had failed.

Motion:	John Hartsock, Clackamas County Special Districts, with a second from Mayor Richard Kidd, City of Forest Grove, moved to have the Governing Body of School District changed from a voting position to ex officio.
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Vote:	<p>The motion failed because there had to be a full quorum of 13 aye votes to change this.</p> <p>Nay: Burke, Giusto, Potter and Smith.</p> <p>Aye: Craddick, Darcy, Drake, Duyck, Fuller, Hartsock, Kidd, Norris, and Peterson.</p> <p>Abstain: none</p>
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Mr. Hartsock, Clackamas County Special Districts, suggested that they add an amendment to the bylaws that once a year they review attendance and create language to address the issue instead of letting it linger. There was discussion about this possibility.

Chair Fuller asked to move on to the next issue of allowing the City of Portland to have senior staff serve as their alternate and retain voting status.

Mayor Rob Drake, City of Beaverton, said he liked that the City of Portland had two elected seats at the table. He said that he was happy to see them more often this year. He said that elected officials were the final policy makers. He said he thought it was important to hear from the elected officials in Portland. He said that he thought that Gil Kelley was brilliant and outstanding, but that he had great concern if they started opening this question up for staff representation. He said that there was value in having elected officials at the table. Policy makers worked in the public venue, along with citizen representation, but he thought it was critical to keep the elected voice at the table. MPAC was one of the most important discussion points for the region.

Mayor Potter said he appreciated what Mayor Drake had said. He agreed that they were all busy. He said he didn't want to diminish the fact that they all had a busy schedule too. He acknowledged that the City of Portland did not always have a representative at MPAC. He said he felt that folks like Gil Kelley could provide tremendous input. He said that allowing Mr. Kelley to serve as the alternate would not diminish his sense of responsibility to attend and participate. He said he thought it was important to have a quorum and representation. He supported allowing staff to have a vote for the City of Portland, and he respectfully requested that MPAC support this motion.

Mr. Smith said that he supported the City of Portland having staff representation in the alternate position.

Motion:	John Hartsock, Clackamas County Special Districts, with a second from Chris Smith, Multnomah County Citizen Representative, moved to allow the City of Portland to appoint a senior staff person as their alternate and to have that alternate have voting rights.
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Vote:	<p>The motion failed because there had to be a full quorum of 13 aye votes to change this.</p> <p>Nay: Burke, Craddick, Darcy, Drake, and Duyck.</p> <p>Aye: Fuller, Giusto, Hartsock, Kidd, Norris, Peterson, Potter, and Smith.</p> <p>Abstain: none</p>
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Councilor Harrington reviewed the MPAC Worksheet User Guide and explained why it had been created.

Mayor Norris reviewed the MPAC Agenda Issue Responsibility List explaining how the subcommittee had discussed these items.

Mr. Hartsock asked about the Metro workload relating to the New Look and Regional Transportation Plan (RTP) and how it affected the yearlong agenda for MPAC.

Councilor Harrington said that there was room on the yearlong schedule for those other topics listed under the MPAC portion of the responsibility list, but that someone on MPAC would have to step up and sponsor those topics.

There was discussion about one or two of the MPAC responsibility topics and what the original question and intention had been regarding them.

Mr. Hartsock said he would sponsor the special districts item on that list.

Mayor Norris said that some of the topics under MPAC responsibility could spill over into the next year.

Mr. Cotugno reminded the chair and members that MTAC worked for MPAC and they could be utilized to work on some of these topics as well.

Councilor Shirley Craddick, City of Gresham, asked what the role of sponsor entailed.

Mayor Norris said that Metro could not staff those topics and the sponsor would be responsible for finding staff to help design the presentation. She thanked Councilor Harrington for working on the worksheet and list of responsibilities.

Ms. Nathalie Darcy, Washington County Citizen Representative, said she would like to see the health care item discussed at MPAC, and she offered to help with it, though not take the lead.

7. SOLID WASTE ENHANCED DRY WASTE RECOVERY (EDWRP)

Mike Hogle, Solid Waste & Recycling Director, reviewed the highlights of the material included in the packet, with emphasis on the new material.

Mayor Kidd asked about surcharge implementation and a transition time frame relating to Lakeside.

Larry Davidson, Grabhorn, Inc., said that he wished Lakeside shared the optimism of the program. He said that there was concern over the proposed ordinance. He said that they thought the ordinance would shut them down in 2009. He said that they were not ready to shut down.

Mayor Drake suggested approving the program with the exception of Lakeside. He said he wanted to see a good program that made sense move forward, but that he did not want to see an operation shut down as a result.

Mr. Hogle said that the meeting yesterday with Lakeside had included Grabhorn, who was the owner of that operation. He said that some of Mr. Davidson's comments had actually been discussed at that meeting. He said they were doing waste comp sorts at their landfill to determine whether or not they already met the standard. If it were true that they only had 9% recycling in their residual they put in the landfill then Metro would not have an issue with Lakeside landfill. He said that Metro would continue to

monitor their residual and make sure they continued to meet the standard. If they continued to meet the standard then there would be no reason for them to shut down in 2009. He said he thought they had a good meeting yesterday and he felt optimistic that something could get done in the next two months. He said that the five representatives from Lakeside that were at the meeting yesterday had agreed. He said that if things broke down with Lakeside landfill in June then there would be a report, both from the landfill and Metro, as to what had happened and why things had not worked out. At that time, the Metro Council could make a recommendation to push this back to MPAC for more discussion, or they could take a vote to move on with it.

Councilor Harrington said that there was a group working on issues with Lakeside. She reviewed milestones ahead on the process for this ordinance. She said she was interested in gaining advice from MPAC on this proposal. She asked Chair Fuller how they wanted to proceed.

Chair Fuller said that they had lost the quorum and therefore couldn't take a vote.

Commissioner Andy Duyck, Washington County, asked if they could hold off on the recommendation. He said he had come to the meeting thinking there were no concerns, but now there seemed to be concerns. He wanted to ask some questions before moving forward. He said it was a Washington County issue.

Chair Fuller said it was thought that the current proposal would address those concerns.

Commissioner Duyck suggested that since there wasn't a quorum, they should hold off the vote for another meeting.

Chair Fuller said it would be put on the agenda for May 9th.

There being no further business, Chair Fuller adjourned the meeting at 6:47 p.m.

Respectfully submitted,



Kim Bardes
MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR APRIL 25, 2007

The following have been included as part of the official public record:

AGENDA ITEM	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NO.
#2 Citizen Communication	4/25/07	Testimony cards for: Susan Kolibab, Sharon Candioto, Maribeth Healey, Amanda Fritz & Jill Fuglister, and Alice Dall speaking about health care issues in the region.	042507-MPAC-01
#4 Council Update	April 2007	Get Centered Vancouver B.C. flyer with details on a Get Centered trip to Vancouver B.C. June 7-9, 2007	042507-MPAC-02
#6 MPAC Bylaws	April 2007	The revised text of the proposed amendments to the MPAC Bylaws.	042507-MPAC-03
#6 MPAC Bylaws	4/23/07	Letter to Chair Fuller from Robert Sherwin, Gresham-Barlow School Board re: retaining voting rights for the MPAC school board position	042507-MPAC-04
#6 MPAC Bylaws	4/25/07	Email letter to MPAC members from Andy Duyck, Washington County, re: his objection to allowing senior staff to serve as a voting alternate to the City of Portland	042507-MPAC-05
#4 Council Update	2/28/07	Disc for the Metro Land Use Summit	042507-MPAC-06
Misc.	4/15/07	Letter of support for Senate Bill 891 to Senators: Avakian, Atkinson, Bates, Beyer, Prozanski, and Senate Environment & Natural Resources Cmte – distributed to MPAC members from Chris Smith	042507-MPAC-07
Misc.	4/19/07	Letter from Metro Policy Advisory Committee to Senators: Avakian, Atkinson, Bates, Beyer, and Prozanski and the Senate Environmental & Natural Resources Cmte	042507-MPAC-08
Misc.	4/18/07	Letter from Johnson Creek Watershed Council, Jeff Uebel, Michelle Bussard to Senators: Prozanski, George and Representatives: Garrard and MacPherson re: Measure 37	042507-MPAC-09

Metro Policy Advisory Committee

June 13, 2007

Item 7 – Solid Waste Enhanced Dry Waste Recovery (EDWRP)

MPAC Worksheet

Agenda Item Title: Enhanced Dry Waste Recovery Program (EDWRP):

Presenter: Mike Hogle (Metro)

Council Liaison Sponsor: Councilor Harrington

MPAC Meeting Date: June 13, 2007

Amount of time needed at meeting:

Presentation: Five Minutes

Discussion: Ten Minutes

Action required: MPAC Discussion and Vote

Purpose/Objective: Seek support for the Enhanced Dry Waste Recovery Program (EDWRP); address program schedule and implementation issues raised by MPAC at their April 11 meeting.

Action Requested/Outcome:

Question: At the April 11 MPAC meeting, Metro Solid Waste and Recycling staff introduced a program intended to maximize recovery from dry waste, in particular from the Westside of the region, home to two dry-waste landfills. There was general MPAC support for the program, although it was requested that Metro extend program adoption up to 60 days in order to develop transition plans for the two Westside landfills affected by this program. Attached is a timeline incorporating 60 days for those transition plans to be developed in coordination with the landfill operators.

- 1. Does the timeline adequately respond to MPAC's April 11 request?*
- 2. With the schedule adjustments, should the Metro Council proceed with the program implementation over the next 2 years?*

Background and context:

The region has a 64% state-mandated waste reduction goal for 2009. New programs, particularly those targeting the commercial sector, must be implemented to reach the goal.

A region-wide system to ensure more waste from the building industry is reused or recovered is a key part of efforts to achieve the 2009 goal.

Building industry waste or "dry waste" consists primarily of six types of material: wood, metal, corrugated cardboard, concrete, drywall and roofing. On a typical construction or demolition project, over 90% of the waste materials generated are reusable or recoverable with current technology and markets.

In 2003, a public/private stakeholder study group examined options for increasing recovery from this sector and recommended that Metro should require processing of all dry waste loads before disposal. After receiving the study group's recommendation, the Metro Council directed staff to develop a mandatory dry waste recovery program. Metro staff then convened additional work groups comprised of local governments, businesses, construction industry representatives, haulers, dry waste recovery facilities and landfill operators to discuss and provide comment on the details of a proposal that has become known as the Enhanced Dry Waste Recovery Program or "EDWRP."

By requiring all dry waste generated in the region to be processed for material recovery prior to landfill disposal, the region would increase recovery of wood, cardboard and metal from mixed dry waste loads and estimated 33,000 tons per year. The program would also help establish a level playing field throughout the region in terms of maximizing material recovery and equalizing gate fees charged for mixed dry waste.




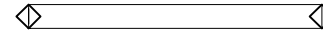



What has changed since MPAC last considered this issue/item?

MPAC was presented with an overview of the program, with supporting legislation at the April 11 meeting. While generally supportive of the program, MPAC requested up to 60 days in order to develop transition plans for the two Westside landfills affected by this program. Attached is a timeline incorporating 60 days for those transition plans to be developed in coordination with the landfill operators.

The legislation will be effective January 2009 and has not been revised.

Metro Enhanced Dry Waste Implementation Schedule*

Updated April 16, 2007

Task Name	2007												2008												2009							
	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug		
Westside Transition																																
Council Action (EDWRP)																																
Disposal Surcharge Formation**																																
Disposal Surcharge Implementation***																																
EDWRP Effective																																
End System Fee Credit Program																																
Full Enforcement of EDWRP																																

* Implementation of this timeline will ensure that by July 1, 2009, all dry waste from the metro region will either be reused, source-separated, processed at a material recovery facility, or be subject to a new disposal surcharge prior to being landfilled.

** Disposal Surcharge Formation: The Metro COO will evaluate the need, amount, use of revenue and effective date of a potential surcharge on dry waste leaving the Metro region. The surcharge is intended to: 1) provide an economic incentive for facilities to process dry waste; 2) would allow a possible phase-out of landfill activities for regional dry waste landfills that may not be able to process dry waste, and 3) is intended to be set at a level so as to ensure dry waste flows to regional material recovery facilities at or above their anticipated level as of January 1, 2009.

*** Disposal Surcharge Implementation: Denotes that the potential surcharge would most likely take affect between January 1 and July 1, 2009. Any surcharge subject to Metro Council action.

BEFORE THE METRO COUNCIL

AMENDING METRO CODE CHAPTERS)	ORDINANCE NO. 07-1147
5.01, 5.02, 5.05, AND 7.01 TO ENSURE)	
THAT ALL OF THE REGION’S NON-)	Introduced by Michael Jordan, Chief
PUTRESCIBLE WASTE UNDERGOES)	Operating Officer, with the concurrence of
MATERIAL RECOVERY PRIOR TO)	David Bragdon, Council President
DISPOSAL, TO ELIMINATE THE)	
REGIONAL SYSTEM FEE AND EXCISE)	
TAX CREDIT PROGRAM, AND TO MAKE)	
RELATED CHANGES)	

WHEREAS, Metro is accountable for meeting the state-mandated 2009 waste reduction goal for the tri-county region, and the recovery of additional “dry waste” material generated by the building industry is a key component of reaching the 64% goal; and

WHEREAS, dry waste consists primarily of wood, metal, corrugated cardboard, concrete, drywall and roofing; and

WHEREAS, over 90% of this material is reusable or recoverable with current technology and markets; and

WHEREAS, a minimum of 33,000 additional tons of dry waste per year could be recovered by a regional program to require the processing of all dry waste before disposal; and

WHEREAS, such a program was recommended by a stakeholder group in 2003 as the option most likely to help the region attain its recovery goal for the building industry sector; and

WHEREAS, this recommendation was subsequently incorporated in the region’s interim waste reduction plan approved by Council in 2006; and

WHEREAS, by July 1, 2009 it is the intent of the Metro Council that all dry waste originating from the Metro region be subject to processing for material recovery or subject to a landfill surcharge intended to discourage unprocessed dry waste from going directly to a landfill; and

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

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code section 5.01.010 is amended as follows:

5.01.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Activity" means a primary operation or function that is performed in a Solid Waste Facility or at a Disposal Site, including but not limited to Resource Recovery, Composting, Energy Recovery, and other types of Processing; Recycling; Transfer; incineration; and disposal of Solid Waste; but excluding operations or functions such as Segregation that serve to support the primary Activity.

(b) "Agronomic application rate" has the meaning provided in OAR 340-093-0030(4).

(c) "Chief Operating Officer" means the Metro Chief Operating Officer or the Chief Operating Officer's designee.

(d) "Cleanup Material Contaminated By Hazardous Substances" means solid waste resulting from the cleanup of releases of hazardous substances into the environment, including petroleum contaminated soils and sandbags from chemical spills. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.

(e) "Closure" means the restoration of a Solid Waste Facility or a Disposal Site to its condition prior to the commencement of licensed or franchised Solid Waste activities at the site. Closure includes, but is not limited to, the removal of all accumulations of Solid Waste and Recyclable Materials from the site.

(f) "Code" means the Metro Code.

(g) "Compost" means the stabilized product of composting.

(h) "Composting" means the controlled biological decomposition of organic material.

(i) "Composting Facility" means a site or facility which utilizes organic material to produce a useful product through the process of composting.

(j) "Council" means the Metro Council.

(k) "DEQ" means the Department of Environmental Quality of the State of Oregon.

(l) "Direct haul" means the delivery of Putrescible Waste from a Solid Waste Facility directly to Metro's contract operator for disposal of Putrescible Waste. Direct Haul is an Activity under this chapter.

(m) "Disposal site" means the land and facilities used for the disposal of Solid Wastes whether or not open to the public, but does not include transfer stations or processing facilities.

- (n) "District" has the same meaning as in Code Section 1.01.040.
- (o) "Energy recovery" means a type of Resource Recovery that is limited to methods in which all or a part of Solid Waste materials are processed to use the heat content, or other forms of energy, of or from the material.
- (p) "Franchise" means the grant of authority or privilege given by the Council to operate a Disposal Site, Transfer Station, or an Energy Recovery facility, or to conduct any activity specified in Section 5.01.045(b) of this chapter.
- (q) "Franchisee" means the person to whom a Franchise is granted by the Council under this chapter.
- (r) "Franchise fee" means the fee charged by Metro to the Franchisee for the administration of the Franchise.
- (s) "Hazardous waste" has the meaning provided in ORS 466.005.
- (t) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. "Household hazardous waste" may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.
- (u) "Inert" means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.
- (v) "License" means the permission given by the Council or Chief Operating Officer to operate a Solid Waste Facility not exempted or requiring a Franchise under this chapter that Transfers, and Processes Solid Waste, and may perform other authorized Activities.
- (w) "Licensee" means the person to whom a License is granted by the Council or Chief Operating Officer under this chapter.
- (x) "Local Transfer Station" means a Transfer Station that serves the demand for disposal of Putrescible Waste that is generated within a single Service Area, and may provide fewer disposal services than are provided by a Regional Transfer Station.
- (y) "Material recovery" means a type of Resource Recovery that is limited to mechanical methods of obtaining from Solid Waste materials which still have useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material Recovery includes obtaining from Solid Waste materials used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

(z) "Metro Designated Facility" means a facility in the system of transfer stations, Metro Franchised facilities and landfills authorized under Chapter 5.05 of this Title to accept waste generated in the area within the jurisdiction of Metro.

(aa) "Non-putrescible waste" means any Waste that contains no more than trivial amounts of Putrescible materials or minor amounts of Putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This category includes construction waste, and demolition waste debris, and land clearing debris; but excludes Cleanup Materials Contaminated by Hazardous Substances, and SS Source-Separated Recyclable Material, whether or not sorted into individual material categories by the generator special waste, land clearing debris and yard debris.

(bb) "Person" has the same meaning as in Code Section 1.01.040.

(cc) "Petroleum contaminated soil" means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.

(dd) "Process," "Processing" or "Processed" means a method or system of altering the form, condition or content of Wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping; but excluding incineration or mechanical volume reduction techniques such as baling and compaction.

(ee) "Processing facility" means a place or piece of equipment where or by which Solid Wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

(ff) "Processing residual" means the Solid Waste destined for disposal which remains after Resource Recovery has taken place.

(gg) "Putrescible" means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(hh) "Putrescible waste" means Waste containing Putrescible material.

(ii) "Rate" means the amount approved by Metro and charged by the Franchisee, excluding the Regional System Fee as established in Chapter 5.02 of this Title and franchise fee.

(jj) “Recyclable material” means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled, or composted for the same or other purpose(s).

(kk) “Recycle” or “Recycling” means any process by which Waste materials are transformed into new products in such a manner that the original products may lose their identity.

(ll) "Recycling drop center" means a facility that receives and temporarily stores multiple source separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale.

(mm) "Regional Solid Waste Management Plan" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and approved by DEQ.

(nn) “Regional Transfer Station” means a Transfer Station that may serve the disposal needs of more than one Service Area and is required to accept solid waste from any person who delivers authorized solid waste to the Regional Transfer Station.

(oo) “Reload” or “Reload facility” means a facility that performs only Transfer and delivers all solid waste received at the facility to by means of a fixed or mobile facilities including but not limited to drop boxes and gondola cars, but excluding solid waste collection vehicles, normally used as an adjunct of a solid waste collection and disposal system, between a collection route and another Solid Waste facility or a disposal site after it receives such solid waste, generally within 24 hours of receipt.

(pp) "Resource recovery " means a process by which useful material or energy resources are obtained from Solid Waste.

(qq) “Reuse” means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(rr) “Segregation” means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the Transfer of Solid Waste. Segregation does not include Resource Recovery or other Processing of Solid Waste. The sole intent of segregation is not to separate Useful Material from the Solid Waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

(ss) “Service Area” means the geographic locale around a solid waste facility that is defined by the characteristic that every point within such area is closer in distance to the solid waste facility contained in such area than to any other solid waste facility or disposal site. As used in this definition, “distance” shall be measured over improved roads in public rights-of-way.

(tt) "Solid waste" means all Putrescible and Non-Putrescible Wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-Solid Wastes, dead animals; infectious waste as defined in ORS 459.386; ~~petroleum contaminated soils~~ and other such wastes, including without limitation, cleanup materials contaminated with hazardous substances, commingled recyclable material, petroleum contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris; but the term does not include:

- (1) Hazardous wastes as defined in ORS 466.005;
- (2) Radioactive wastes as defined in ORS 469.300;
- (3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
- (4) Explosives.

(uu) "Solid waste facility" means the land and buildings at which Solid Waste is received for Transfer, Resource Recovery, and/or Processing but excludes disposal.

(vv) "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste.

(ww) "Source-separated recyclable material" or "Source-separated recyclables" means ~~material- solid waste~~ that has been Source Separated by the waste generator for the purpose of Reuse, Recycling, or Composting. This term includes (1) all homogenous loads of Recyclable Materials that are has been Source Separated by material type for the purpose of recycling (i.e., source-sorted) and (2) Residential and commercial commingled Recyclable Materials, which includes only those recyclable material types that the local jurisdiction, where the materials were collected, permits to be mixed together in a single container as part of its residential curbside recyclable material collection program. This term does not include any other commingled recyclable materials. that are mixed together in one container (i.e., commingled).

(xx) "Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

- 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.
- (2) Waste transported in a bulk tanker.

- (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 includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are 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) One end has been removed (for containers in excess of 25 gallons); and
 - (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
 - (ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or
 - (iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.
 - (C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that 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 gallons that hold any regulated waste must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse.
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.
- (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.

(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.

(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).

(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.

(12) Any waste that requires extraordinary management or special handling.

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.

(13) Radioactive waste.

(14) Medical waste.

(xxyy) "Transfer" means the Activity of receiving Solid Waste for purposes of transferring the Solid Waste from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of Solid Waste from more than one vehicle, and compaction, but does not include Resource Recovery or other Processing of Solid Waste.

(yyzz) "Transfer station" means a Solid Waste Facility whose primary Activities include, but are not limited to, the Transfer of Solid Waste.

(zzaaa) "Useful material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from Solid Waste, is suitable for use in the same or other purpose(s). Types of Useful Materials are: material that can be Reused; Recyclable Material; organic material(s) suitable for controlled biological decomposition such as for making Compost; material used in the preparation of fuel; material intended to be used, and which is in fact used, for construction or land reclamation such as Inert material for fill; and material intended to be used, and which is in fact used, productively in the operation of landfills such as roadbeds or alternative daily cover. For purposes of this Code, Cleanup Material Contaminated By Hazardous Substances are not Useful Materials.

(aaabbb) "Vermiprocessing" means a controlled method or system of biological Processing that utilizes worms to consume and digest organic materials, and that produces worm castings for productive uses.

(bbbcc) "Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose.

(eeedd) "Waste hauler" means any person who is franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul Solid Waste.

(dddee) "Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. "Yard debris" includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other vegetative waste having similar properties, but does not include demolition debris, painted or treated wood.

(eeeff) "Yard debris facility" means a yard debris processing facility or a yard debris reload facility.

(fffgg) "Yard debris reload facility" means an operation or facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

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 solid waste collection franchise granted by a local government unit, or from multiple solid waste collection franchises so long as the area encompassed by the franchises is
 - (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 operation or 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 solid waste 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).

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

(d) Notwithstanding Sections 5.01.040(a)(3) through 5.01.040(a)(8) of this chapter, the provisions of 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.

SECTION 3. Metro Code section 5.01.125 is amended as follows:

5.01.125 Obligations and Limits for Selected Types of Activities

(a) A holder of a License or Franchise for a Material Recovery facility, ~~Reload or Local Transfer Station, or a holder of a Franchise~~ issued after July 1, 2000, ~~for a Regional Transfer Station~~ shall perform Material Recovery from Non-Putrescible Waste accepted at the facility as specified in this section or as otherwise specified in its license or franchise, or shall deliver such Non-Putrescible Waste to a Solid Waste facility ~~whose primary purpose is authorized by Metro~~ to recover useful materials from Solid Waste.

(b) ~~A holder of a License or Franchise for a Material Recovery facility or Local Transfer Station, or a holder of a Franchise issued after July 1, 2000 for a Regional Transfer Station,~~ A licensee or franchisee subject to subsection (a) of this section shall recover at least 25% by weight of Non-Putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste shall exclude both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section shall constitute a violation enforceable under Metro Code Sections 5.01.180 and 5.01.200. After January 1, 2009, the requirements of this subsection will not be applicable to licensees or franchisees unless Metro Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.125(c).

~~(c)~~ (e) — Effective January 1, 2009, a licensee or franchisee subject to subsection (a) of this section shall:

- (1) At a minimum, process non-putrescible waste accepted at the facility to recover cardboard, wood, and metals (including aluminum). Processing residual from such a facility shall not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight inches in size in any dimension.
- (2) Take quarterly samples of processing residual that are statistically valid and representative of the facility's residual (not less than a 300-

pound sample) and provide results of such sampling to Metro in the monthly report due the month following the end of that quarter.

(3) Based on observation, audits, inspections and reports, Metro inspectors shall conduct or require additional analysis of waste residual at the facility in accordance with section 5.01.135(c). Failure to maintain the recovery level specified in subsection (c)(1) of this section shall constitute a violation enforceable under Metro Code. The first two violations of this subsection by a single licensee or franchisee shall not result in the imposition of a civil penalty.

(4) Failure to meet the reporting requirements in subsection (c)(2) of this section shall constitute a violation enforceable under Metro Code after July 1, 2009.

(d) In addition to the requirements of (a) and (b) in this section, A holders of a Franchise for a Local Transfer Station:

- (1) Shall accept Putrescible Waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul Putrescible Waste.
- (2) Shall not accept hazardous waste.
- (3) Shall be limited in accepting Putrescible Waste during any fiscal year to an amount of Putrescible Waste equal to the demand for disposal of Putrescible Waste generated within a Service Area as specified in accordance with this chapter.
- (4) Shall accept Solid Waste from any Waste Hauler who operates to serve a substantial portion of the demand for disposal of Solid Waste within the Service Area of the Local Transfer Station.

(d)(c) In addition to the requirements of (a) and (b) in this section, A holders of a Franchise for a Regional Transfer Station, in accordance with its franchise issued after July 1, 2000:

- (1) Shall accept authorized Solid Waste originating within the Metro boundary from any person who delivers authorized waste to the facility, on the days and at the times established by Metro in approving the Franchise application.
- (2) Shall provide an area for collecting Household Hazardous Waste from residential generators at the Franchised Solid Waste Facility, or at another location more convenient to the population being served by the franchised

Solid Waste Facility, on the days and at the times established by Metro in approving the Franchise application.

- (3) Shall provide an area for collecting source separated recyclable materials without charge at the Franchised Solid Waste Facility, or at another location more convenient to the population being served by the franchised Solid Waste Facility, on the days and at the times established by Metro in approving the Franchise application.

(f) A holder of a license for a reload facility shall deliver all non-putrescible waste received at the facility to a solid waste facility authorized by Metro to recover useful materials from solid waste.

(g) A holder of a license or franchise for a solid waste facility shall not crush, grind or otherwise reduce the size of non-putrescible waste except when such size reduction constitutes a specific step in the facility's material recovery operations, reload operations, or processing residual consolidation or loading operations, and such size reduction is described and approved by Metro in an operating plan.

(Ordinance No. 98-762C, Secs. 30-31. Amended by Ordinance No. 00-866, Sec. 5; Ordinance No. 01-916C, Sec. 4; Ordinance No. 02-952A, Sec. 1; Ordinance No. 03-1018A, Sec 16.)

SECTION 4. Metro Code section is amended as follows:

5.01.135 Inspections and Audits of Solid Waste Facilities

(a) The Chief Operating Officer shall be authorized to make such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a licensed or franchised facility, and all other Solid Waste Facilities, at all reasonable times during business hours with or without notice or at such other times with 24 hours notice after the Franchise or License is granted to assure compliance with this chapter, the Code, the Franchise or License, and administrative procedures and performance standards adopted pursuant to Section 5.01.132 of this chapter.

(b) Inspections or audits authorized under subsection (a) of this section shall occur regularly and as determined necessary by the Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the Chief Operating Officer.

(c) The Chief Operating Officer shall have access to and may examine during such inspections or audits any records pertinent in the opinion of the Chief Operating Officer to the License or Franchise, or to the provisions of this chapter, including but not limited to the books, papers, records, equipment, blueprints, operation and maintenance records and logs and operating rules and procedures of the Licensee, Franchisee or Solid Waste Facility operator.

Such inspections or audits may include taking samples and conducting analysis of any waste or other material, including storm water runoff, water treatment or holding facilities, leachate, soil

and solid waste. The Chief Operating Officer shall coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to prevent the imposition of redundant requirements on operations.

(d) Any violations discovered by the inspection or audit shall be subject to the penalties provided in Section 5.01.200.

SECTION 5. The definition of “special waste” in Metro Code section 5.02.015(hh) shall be amended as follows:

(hh) "Special waste" ~~means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes; shall have the meaning assigned thereto in Metro Code section 5.01.010.~~

~~(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.~~

~~(2) Waste transported in a bulk tanker.~~

~~(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 includes 25 or more gallons of free liquid per load, whichever is more restrictive.~~

~~(4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are 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) One end has been removed (for containers in excess of 25 gallons); and~~

~~(i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or~~

~~(ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or~~

~~(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.~~

- ~~(C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that 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 gallons that hold any regulated waste must be cut in half or punctured, and be dry and free of contamination to be accepted as refuse.~~
- ~~(5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.~~
- ~~(6) Waste from an industrial process.~~
- ~~(7) Waste from a pollution control process.~~
- ~~(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.~~
- ~~(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.~~
- ~~(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).~~
- ~~(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.~~
- ~~(12) Any waste that requires extraordinary management or special handling.~~

~~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.~~
- ~~(13) Radioactive waste.~~
- ~~(14) Medical waste.~~

SECTION 6. Metro Code Section 5.02.046 is repealed.

SECTION 7. Metro Code Section 5.02.047 as amended by Ordinance No. 07-1146 is amended to read:

5.02.047 Regional System Fee Credits

~~(a) — A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 or a Designated Facility regulated by Metro under the terms of an intergovernmental agreement shall be allowed a credit against the Regional System Fee otherwise due each month under Section 5.02.045 for disposal of Processing Residuals from the facility. The Facility Recovery Rate shall be calculated for each twelve-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:~~

~~System Fee Credit Schedule~~

Facility Recovery Rate		
From Above	Up To & Including	System Fee Credit of no more than
0%	30%	0.00
30%	35%	9.92
35%	40%	11.46
40%	45%	13.28
45%	100%	14.00

~~(b) — The Chief Operating Officer:~~

~~(1) — Shall establish administrative procedures to implement subsections (b) and (c) of Metro Code Section 5.02.046; and~~

~~(2) — May establish additional administrative procedures regarding the Regional System Fee Credits, including, but not limited to establishing eligibility requirements for such credits and establishing incremental System Fee Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (a) of this section.~~

~~(c) — Any person delivering Cleanup Material Contaminated By Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System Facility authorized to accept such substances shall be allowed a credit in the amount of \$11.58 against the Regional System Fee otherwise due under Section 5.02.045(a) of this Chapter.~~

~~(d) — During any Fiscal Year, the total aggregate amount of credits granted under the Regional System Fee credit program shall not exceed the dollar amount budget without the prior review and authorization of the Metro Council.~~

~~(e) The Director of the Solid Waste and Recycling Department shall make a semi-annual report to the Council on the status of the credit program. The report shall include that aggregate amount of all credits paid during the preceding six months and the amount paid to each facility eligible for the credit program. The report shall also project whether the appropriation for the credit program will be sufficient to meet anticipated credit payment requests and maintain existing contingency funding.~~

SECTION 8. The definition of “Special waste” in Metro Code section 5.05.010 shall be amended as follows:

(v) “Special waste” shall have the meaning assigned thereto in Metro Code Section 5.02.0155.01.010.

SECTION 9. The following definitions of “Material Recovery,” “Processing Residual,” and “Recyclable Material,” shall be added to Metro Code section 5.05.010, other Code subsections in that section shall be renumbered accordingly, and other Code references to such subsection shall be amended accordingly:

“Material recovery “ shall have the meaning assigned thereto in Metro Code section 5.01.010.

“Processing residual” shall have the meaning assigned thereto in Metro Code section 5.01.010.

“Recyclable material” shall have the meaning assigned thereto in Metro Code section 5.01.010.

SECTION 10. Metro Code section 5.05.030 shall be amended as follows:

5.05.030 Designated Facilities of the System

(a) Designated Facilities. The following described facilities constitute the designated facilities of the system, the Metro Council having found that said facilities meet the criteria set forth in Metro Code Section 5.05.030(b):

- (1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.
- (2) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.
- (3) Facilities Subject to Metro Regulatory Authority. All disposal sites and solid waste facilities within Metro which are subject to Metro regulatory authority under Chapter 5.01 of the Metro Code.

~~(4)~~ ~~_____~~ ~~(4)~~ Lakeside Reclamation (limited purpose landfill).
The Lakeside Reclamation limited purpose landfill, Route 1, Box 849,

Beaverton, Oregon 97005, subject to the terms of an agreement between Metro and the owner of Lakeside Reclamation authorizing receipt of solid waste generated within Metro only as follows:

(A) As specified in an agreement entered into between Metro and the owner of the Lakeside Reclamation Landfill authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility solid waste not specified in the agreement.

(5) (5) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of an agreement between Metro and the owner of Hillsboro Landfill authorizing receipt of solid waste generated within Metro only as follows:\

(C) As specified in an agreement entered into between Metro and the owner of the Hillsboro Landfill authorizing receipt of such waste; or

(D) Subject to a non-system license issued to a person transporting to the facility solid waste not specified in the agreement.-

(6) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Waste Management Disposal Services of Oregon, Inc. (dba Oregon Waste Systems, Inc.) subject to the terms of the agreements in existence on November 14, 1989, between Metro and Oregon Waste Systems, Inc. and between Metro and Jack Gray Transport, Inc., including any subsequent amendments thereto. In addition, Columbia Ridge Landfill may accept ~~solid special~~ waste generated within Metro:

(A) As specified in an agreement entered into between Metro and Waste Management Disposal Services of Oregon, Inc. Waste Systems authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the facility ~~solidspecial~~ waste not specified in the agreement.

(7) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, located in Klickitat County, Washington. Roosevelt Regional Landfill may accept ~~special~~ solid waste generated within Metro only as follows:

- (A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility ~~special-solid~~ waste not specified in the agreement.
- (8) Finley Buttes Regional Landfill. The Finley Buttes Regional Landfill, located in Morrow County, Oregon. Finley Buttes Regional Landfill may accept ~~special-solid~~ waste generated within Metro only as follows:
- (A) As specified in an agreement entered into between Metro and Finley Buttes Landfill Company authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility ~~special-solid~~ waste not specified in the agreement.
- (9) Coffin Butte Landfill. The Coffin Butte Landfill, located in Benton County, Oregon, which may accept solid waste generated within ~~the District-Metro~~ only as follows:
- (A) As specified in an agreement entered into between Metro and the owner of the Coffin Butte Landfill authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility ~~solid~~~~special~~ wastes not specified in the agreement.
- (10) Wasco County Landfill. The Wasco County Landfill, located in The Dalles, Oregon, which may accept solid waste generated within ~~the District-Metro~~ only as follows:
- (A) As specified in an agreement entered into between Metro and the owner of the Wasco County Landfill authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility solid wastes not specified in the agreement.
- (11) Cedar Grove Composting, Inc. The Cedar Grove Composting, Inc., facilities located in Maple Valley, Washington, and Everett, Washington. Cedar Grove Composting, Inc., may accept solid waste generated within ~~the District-Metro~~ only as follows:
- (A) As specified in an agreement entered into between Metro and Cedar Grove composting, Inc., authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to Cedar Grove Composting, Inc., solid wastes not specified in the agreement.

(12) Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill, located in Castle Rock, Washington, and the Weyerhaeuser Material Recovery Facility, located in Longview, Washington. The Weyerhaeuser Material Recovery Facility is hereby designated only for the purpose of accepting solid waste for transfer to the Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill and the Weyerhaeuser Material Recovery Facility may accept solid waste generated within ~~the District~~Metro only as follows:

(A) As specified in an agreement entered into between Metro and Weyerhaeuser, Inc., authorizing receipt of such waste; or

(B) Subject to a non-system license issued to a person transporting to the Weyerhaeuser Regional Landfill or the Weyerhaeuser Material Recovery Facility solid wastes not specified in the agreement.

(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting pursuant to a duly enacted ordinance, may remove from the list of designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to or delete a facility from the list of designated facilities. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and

- (7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility, or amending or deleting an existing designation.

(c) The Chief Operating Officer is authorized to execute an agreement, or an amendment to an agreement, between Metro and a designated facility for Non-putrescible waste. Effective, July 1, 2008, an existing designated facility authorized to receive non-putrescible waste shall notify Metro of their intent to seek an agreement to recover non-putrescible waste from the Metro region in accordance with subsection (g) or to only take processed non-putrescible waste from authorized facilities included in subsection (f). No later than December 31, 2008, the Chief Operating Officer shall modify existing agreements to assure substantial compliance with either subsection (f) or (g) of this section as appropriate. If the Chief Operating Officer and a designated facility are not able to establish an agreement by November 1, 2008, then the Chief Operating Officer shall terminate the existing agreement following termination procedures described in the existing agreement but no later than December 31, 2008.

(d) An agreement, or amendment to an agreement between Metro and a designated facility for Putrescible waste shall be subject to approval by the Metro Council prior to execution by the Chief Operating Officer.

~~(d)~~(e) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

(f) ~~(e)~~ An agreement between Metro and a designated facility ~~that authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall demonstrate substantial compliance with facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities.~~ shall not authorize the facility to accept non-putrescible waste originating or generated within Metro boundaries after December 31, 2008, unless:

- (1) Such non-putrescible waste is received from a facility that has been issued a license or franchise pursuant to Chapter 5.01 authorizing such facility to perform material recovery on non-putrescible waste;
- (2) Such non-putrescible waste is received from a designated facility that has entered into an agreement with Metro, in accordance with subsection (f) of this section, authorizing such designated facility to perform material recovery on non-putrescible waste; or
- (3) The facility has entered into an agreement with Metro, in accordance with subsection (f) of this section, authorizing the

facility to perform material recovery on non-putrescible waste that has not yet undergone material recovery.

(g) An agreement between Metro and a designated facility that, after December 31, 2008, authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not comprised of processing residual, and originated or was generated within Metro boundaries shall:

- (1) Require such designated facility to perform material recovery on such waste; and
- (2) Demonstrate, in a manner that can be verified and audited, that such processing achieves material recovery substantially comparable to that required of in-region material recovery facilities by Metro Code subsections 5.01.125(a) and (b) by either:
 - (A) Meeting such material recovery requirements for all non-putrescible waste received at the facility, whether or not from within Metro boundaries; or
 - (B) Keeping all non-putrescible waste received from within Metro boundaries segregated from other waste throughout processing, keeping processing residual from such processing segregated from other solid waste after processing, and meeting such material recovery requirements for all such non-putrescible waste.
- (3) Demonstrate, in a manner that can be verified and audited, that such facility substantially complies with (A) the performance goals described in Metro Code sections 5.01.067(i) (as amended by Section 1 of Metro Ordinance No. 07-1138) and 5.01.075(c) (as amended by Section 2 of Metro Ordinance No. 07-1138), and (B) the performance standards, design requirements, and operating requirements applicable to licensed and franchised material recovery facilities operating within the Metro region and adopted by Metro as administrative procedures pursuant to Metro Code section 5.01.132 (as amended by Section 3 of Metro Ordinance No. 07-1138).

SECTION 11. Not later than March 1, 2008, the Chief Operating Officer shall provide the Metro Council with a recommendation for a form of additional solid waste fee or surcharge to be imposed on designated facilities seeking to dispose of unprocessed, non-putrescible waste from within the Metro region. The recommended fee or surcharge shall be applied as to provide substantially

equivalent disposal rates among material recovery facilities and designated facilities for disposal of unprocessed non-putrescible wastes. The recommendation of the Chief Operating Officer shall also include an amount for the proposed additional solid waste fee or surcharge, a proposal for the administrative procedures required to implement the imposition and collection of such fee or surcharge, the effective dates, and a recommendation on the uses to which the revenues generated by such fee or surcharge may be put.

SECTION 12. Metro Code section 5.05.035(a) as amended by Ordinance No. 07-1138 shall be further amended as follows:

5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section 5.05.035. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;
- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
 - (A) The total tonnage if the application is for a limited duration non-system license; or
 - (B) The annual tonnage if the application is for any other non-system license;

- (5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;
- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

An applicant for a non-system license that authorizes the licensee to transport non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall provide documentation that the non-system facility is in substantial compliance with the facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01.132 for non-putrescible waste material recovery facilities. Any applicant or licensee that is authorized or seeks to deliver non-putrescible waste to a non-system facility after January 1, 2009, must demonstrate that the non-system facility will be in substantial compliance with the material recovery requirements in Metro Code section 5.01.125.

SECTION 13. Metro Code section 7.01.020 shall be amended as follows:

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by Metro, each user except users of solid waste system facilities shall pay a tax of 7.5 percent of the payment charged by the operator or Metro for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an

ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, licensed, franchised, or provided by Metro, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. In addition, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste shall also pay the additional tax in the amount set forth under Section 7.01.023 for each ton of solid waste exclusive of compostable organic waste accepted at Metro Central or Metro South stations and source separated recyclable materials accepted at the solid waste system facilities. The tax constitutes a debt owed by the user to Metro which is extinguished only by payment of the tax directly to Metro or by the operator to Metro. The user shall pay the tax to Metro or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(d) For the Metro fiscal year beginning July 1, 2002, the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue of \$6,050,000 after allowing for any tax credit or tax rebate for which provision is made in this chapter. For each Metro fiscal year thereafter the tax rate imposed and calculated under this section shall be sufficient to generate net excise tax revenue equal to the net excise tax revenue authorization in the previous fiscal year as adjusted in accordance with Section 7.01.022.

(e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in subsection (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under subsection (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax rate on solid waste during the subsequent Metro fiscal year. Commencing with Metro fiscal year 2006-07, and each fiscal year thereafter, the rate

determined by this subsection shall be effective as of September 1st unless another effective date is adopted by the Metro Council.

- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By March 1st of each year, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:

- (1) For the twelve (12) month period ending the previous December 31; the amount of solid wastes, exclusive of inert materials, delivered for disposal to any Solid Waste System Facility that is not exempt pursuant to Section 7.01.050(a) of this chapter, and
- (2) The amount of such solid wastes that would have been delivered for disposal to any such non-exempt Solid Waste System Facility if the Regional Recovery Rates corresponding to each calendar year set forth on the following schedule had been achieved:

Year	Regional Recovery Rate
2005	56%
2006	56.5%
2007	57%
2008	57.5%
2009	58%

The result of such calculation by the Chief Operating Officer shall be used to determine the excise tax rate under sub-section (e)(1).

~~(g) (1) A solid waste facility which is licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each twelve (12) month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be no greater than as provided on the following table:~~

Excise Tax Credit Schedule		
Facility Recovery Rate		Excise Tax
From	Up To & Including	Credit of no more than
0%	30%	0.00
30%	35%	1.92
35%	40%	2.75
40%	100%	3.51

- ~~(2) — During any Fiscal Year, the total aggregate amount of excise tax credits granted under the provisions of this subsection shall not exceed the dollar amount budgeted for such purpose without the prior review and authorization of the Metro Council.~~
- ~~(3) — The Chief Operating Officer may establish procedures for administering the Excise Tax Credits set forth in subsection (g)(1), including, but not limited to, establishing eligibility requirements for such credits and establishing incremental Excise Tax Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (g)(1).~~

SECTION 14. Metro Code section 7.01.028 shall be amended as follows:

7.01.028 Budgeting of Excess Revenue

Commencing with the Metro fiscal year beginning July 1, 2000, and each year thereafter, if the tax revenues collected under the tax rate imposed by Section 7.01.020(e) exceed the net excise tax revenue amount set forth in Section 7.01.020(d) as adjusted by Section 7.01.022, such ~~additional revenue shall be apportioned as follows:~~

- ~~(a) — Such excess net excise tax revenue shall first be placed in a Recovery Rate Stabilization Reserve established in the Metro General fund. The amount of excess net excise tax revenues in such account shall not exceed an amount equal to 10 percent of the total amount of excise tax collected under Metro Code Chapter 7.01 during the period of the two (2) most recent Metro fiscal years. The budgeting or expenditure of all such funds within this account shall be subject to review and approval by the Metro Council.~~
- ~~(b) — If at the end of any fiscal year the maximum permitted balance for the Recovery Rate Stabilization Account has been reached, during the following fiscal year any additional excess net excise tax revenues shall be used to increase the tax credit provided under Metro Code Section 7.01.020(g) for any solid waste facility that has achieved a Facility Recovery Rate greater than 45%. Such excess revenue shall be used on a dollar for dollar basis to reduce the tax liability of all such qualifying facilities. The amount of the additional tax credit shall not exceed the total excise tax otherwise due from the facility under this chapter.~~
- ~~(c) — Any remaining excess revenue over the amounts apportioned in subsections (a) and (b) of this section shall be placed in the account established in subsection(a).~~

SECTION 15. Metro Code sections 7.01.160 and 7.01.170, and Section 4 of Metro Ordinance No. 07-1138 (Metro Code section 5.05.030(e)) are repealed.

SECTION 16. Metro Code sections 7.01.180 and 7.01.190 are repealed.

SECTION 17. Sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12 and 15 of this ordinance shall be effective 90 days after the adoption of this ordinance. Sections 6, 7, 13, 14, and 16 of this ordinance shall be effective on January 1, 2009.

ADOPTED by the Metro Council this _____ day of _____, 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Council Clerk Recording Secretary

Daniel B. Cooper, Metro Attorney

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1147, FOR THE PURPOSE OF ADOPTING LEGISLATION TO ENSURE THAT ALL OF THE REGION'S NON-PUTRESCIBLE WASTE UNDERGOES MATERIAL RECOVERY PRIOR TO DISPOSAL, TO ELIMINATE THE REGIONAL SYSTEM FEE AND EXCISE TAX CREDIT PROGRAM, AND TO MAKE RELATED CHANGES

Date: April 26, 2007

Prepared by: Bryce Jacobson

BACKGROUND

Higher levels of material recovery from commercial sources are essential to achieving the region's 64% state-mandated waste reduction goal. Greater recovery of building industry waste is a key component of the region's efforts.

In 2003, a stakeholder study group examining options for increasing recovery from this sector recommended that Metro should require processing of all construction and demolition debris loads before landfilling. Metro Council then directed staff to develop a program that would require all dry waste to be processed prior to landfill disposal.

C&D (also referred to as dry waste) consists primarily of six types of material: wood, metal, corrugated cardboard, concrete, drywall and roofing. On a typical construction or demolition project, over 90% of the waste materials are reusable or recoverable with current technology and markets.

The region's building industry has a well-developed system of over 90 source-separated recyclers and salvagers, seven facilities that recover recyclable material from mixed dry waste, and two dry waste landfills.

- **Building material reuse facilities** accept and resell used building materials (salvage) taken out of buildings during demolition or remodeling. *Salvaged materials have a positive value, with most salvage retailers paying for materials or providing a tax-deductible receipt.*
- **Source-separated recyclers** accept loads of already sorted materials, which are essentially 100% recyclable. *These facilities pay for materials like cardboard and metal or charge between \$5/ton - \$25/ton for materials that have well-developed local markets (wood, land clearing debris and rubble).*
- **Dry waste facilities** accept mixed loads of debris that are free of food waste and that meet their particular standards for minimum recovery content. *Tip fees at dry waste recovery facilities vary, but are usually \$65-70/ton. These facilities typically achieve a 25-50% material recovery rate.*
- **Transfer stations** process mixed dry loads for recovery and achieve an 18-35% recovery rate. *The Metro tip fee for all waste is \$70/ton; private transfer stations generally charge a slightly lower rate to attract dry waste flow.*

- **Dry waste landfills** accept loads of mixed dry waste and dispose of the debris without doing any type of post collection recovery/sorting. *Landfilling of dry waste costs \$50 to \$61/ton.*

For many generators of mixed dry waste, particularly on the west side, two dry waste landfills, Hillsboro and Lakeside, are the facilities of choice because they are the lowest cost options. Landfilling waste material is simply less costly than processing it for recovery.

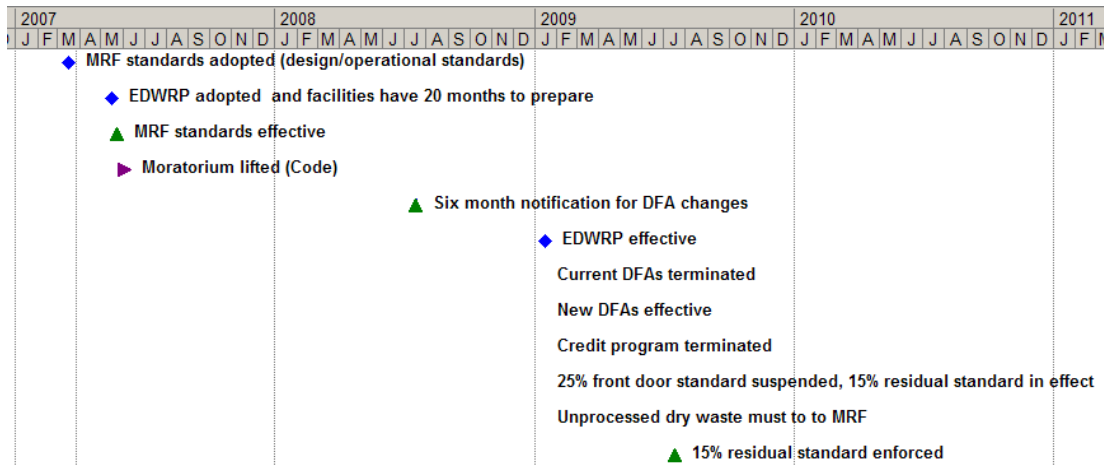
Hillsboro and Lakeside landfills collectively dispose of 125,000 tons of dry waste each year. The intent of this ordinance before Council is to spur at least 33,000 tons per year of new recovery by requiring the processing of dry waste for material recovery before landfilling.

The ordinance would affect all private facilities accepting Metro region mixed dry waste. Major provisions are as follows:

- All mixed dry waste generated in the Metro region would be required to be processed for material recovery prior to landfill disposal by January 1, 2009.
- Materials specified for recovery are those with steady markets: wood, metal and corrugated cardboard.
- The current “front door” 25% recovery requirement for dry waste facilities would be replaced by a new “back door residual” standard that would measure how effective a facility is at recovering wood, corrugated cardboard and metal. This standard would require that no more than 15% (by weight) of wood, cardboard and metal pieces (size specified) be present in the processing residual.
- The controversial Regional System Fee Credit program would end when this program takes full effect in January 2009.
- Facilities will have approximately 18 months before the required processing provision takes effect, but will have 25 months to meet the new performance requirement of this ordinance (15% “back door” residual standard) before it is enforced, beginning July 1, 2009.
- By March 1st, 2008, the Chief Operating Officer of Metro will recommend to Metro Council an additional per ton solid waste fee or surcharge that could be imposed on any designated facility (i.e., area landfill) still seeking to dispose of mixed dry waste after the program becomes effective. The recommended fee or surcharge would provide substantially equivalent disposal rates among material recovery facilities and designated facilities, eliminating current economic uncertainties for recovery and disposal facilities in Washington County.

The following timeline displays key dates in the program’s implementation and enforcement.

Figure 1
Key Dates for Dry Waste Recovery and MRF Standards



ANALYSIS/INFORMATION

1. **Known Opposition:** Lakeside landfill owner Howard Grabhorn, Washington county officials, and SWAC (most of the 9-6 majority opposing cited implementation uncertainties relative to Lakeside as the basis for their opposition).
2. **Legal Antecedents:** ORS 268.317, Metro Code Chapters 5.01, 5.05, and the Metro Charter
3. **Anticipated Effects:**

Economic Effects

EDWRP is likely to increase posted tip fees for mixed dry waste at private facilities throughout the region. The policy is to allow more operating costs to be covered by gate revenue (especially the cost of processing more material with potentially lower recovery content), and to replace revenue lost to the planned elimination of the Metro fee and tax credit programs.

The increase in recovery facility gate rate will incent additional source separated recycling as generators seek to avoid the now higher gate rate for dry waste. This increase in source separated recycling is estimated to be in the range of 5,000-10,000 additional tons per year.

Metro staff studied six types of “typical” construction projects to estimate the likely disposal cost increases for generators as a result of EDWRP:

- Residential kitchen remodel with small addition
- New single-family house
- Complete demolition of a single-family house
- Residential re-roofing job
- Commercial remodeling project

- New “big-box” commercial retail space

Cost increases in the residential sector construction projects should be well under \$100 per project; as a function of total project cost they were well under ½ of one percent increase. Residential single-family demolition costs increased more than any other project type. Total disposal costs there should increase from \$100 to over \$700 or less than 1% to almost 5% of the total job cost.

Commercial construction project costs for an office remodel should increase from \$20 to over \$200. A large “big-box” retail store should increase between \$200 and \$1,800. Because of the higher overall costs for these commercial projects, the cost increases as a percent of total project cost were small, mostly under .05%.

Environmental Effects

Enhanced Dry Waste Recovery will increase recovery in the region by a minimum of 33,000 tons of new dry waste recovery each year. This newly recovered material will serve as manufacturing feedstock in some instances, alternative fuel sources in others. In each case, the material recovered reduces the need to extract raw materials, eliminating attendant energy use and pollution associated with virgin material extraction.

As shown in Figure 2, the dry waste diverted from landfill disposal and recovered in some fashion will result in a reduction in greenhouse gases, energy consumption and airborne wastes.

Figure 2

Environmental Effects of EDWRP*

Action	Quantity	Equivalent to...
Reduce greenhouse gases by	25,931 MTCE (Metric tons of carbon equivalent)	keeping 19,567 cars off the road for a year
Reduce energy consumption by	733,971 Million BTU (British thermal units)	the energy used by 6,977 average households during a year
Reduce airborne wastes by	35,000 tons	21.8 million miles of heavy truck travel

*These benefits are projected by the National Recycling Coalition Environmental Benefits Calculator.

4. Budget impacts: Effect on the General Fund is in two parts: the base excise tax and the additional tax. The contribution to the Recovery Rate Stabilization Reserve would be reduced by about \$20,000 per year. Revenue from the additional tax (for Parks, MERC and the Zoo) would be reduced by about \$115,000 per year. Effect on the Solid Waste Fund is essentially fiscally neutral.

RECOMMENDED ACTION

The Chief Operating Officer recommends Metro Council approve Ordinance 07-1147.

Metro Policy Advisory Committee

June 13, 2007

Item 8 – Resolution 07-3804

MPAC Worksheet

Agenda Item Title Resolution # 07-3804

Presenter: Kathryn Harrington

Council Liaison Sponsor: Kathryn Harrington

MPAC Meeting Target Date: June 13, 2007

Amount of time needed at meeting: 15 minutes

Presentation: 5 minutes

Discussion: 10 minutes

Action required?: Yes: recommendation or not; if so, what is recommendation.

Purpose/Objective (what is the purpose of having the item on *this meeting's* agenda):

Seeking MPAC input on providing the City of Cornelius the opportunity to submit a major amendment to the UGB in 2007.

Action Requested/Outcome

Does MPAC wish to weigh-in on this resolution?

If so, what recommendation does MPAC have to the Metro Council (approve resolution or not?)

Background and context:

The Oregon Legislature is currently considering House Bill (HB) 2051. If HB 2051 becomes law, calendar year 2007 would no longer be a year in which Metro must complete its review of the UGB, and therefore, Metro could accept applications for major amendments.

The Metro Code establishes the annual deadline of March 15 for submission of an application for a major amendment, except for years when the Metro Council is required to conduct a review, in which case the Council will not accept any applications. Because the passage of HB 2051 would only occur after March 15, the deadline would be impossible to meet in 2007.

The City of Cornelius has submitted a request for a waiver of the deadline in order to submit a major amendment application in 2007 should HB 2051 become law, and has committed to submit an application to Metro for a major amendment to the UGB by October 1, 2007. Metro Code allows the Metro Council to waive the deadline upon a finding of good cause and an affirmative vote of five members of the Council.

In addition, the City of Cornelius believes there are immediate opportunities for industrial development on the land the city would propose for expansion of the UGB that may be lost by 2008 or December 2009.

This resolution is not the question of expanding the UGB, but rather about a one-time change to the major amendment application process (a window opening), given the potential passage of HB 2051.

What has changed since MPAC last considered this issue/item? Not applicable.

What is the timeline for further consideration of this agenda item (e.g., MTAC, MPAC, Council)

- MTAC (June 6)
- MPAC recommendation (June 13)
- Council action (June 21)

What packet material do you plan to include? Resolution 07-3804, Order #07-030, Staff report

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER)
TO WAIVE THE DEADLINE FOR FILING AN) Resolution No. 07-3804
APPLICATION FOR A MAJOR AMENDMENT TO)
THE URBAN GROWTH BOUNDARY BY THE) Introduced by Councilor Kathryn Harrington
CITY OF CORNELIUS)

WHEREAS, Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserves Procedures) provides for “major amendment” to the urban growth boundary (“UGB”) to add land for non-residential purposes; and

WHEREAS, section 3.01.025 of the Code provides that Metro will not accept applications for major amendments during the calendar year in which Metro is required by state law to determine the capacity of the UGB; and

WHEREAS, because calendar year 2007 is a year in which Metro must complete an analysis of UGB capacity, Metro may not accept applications for major amendments in 2007; and

WHEREAS, the Oregon Legislature is considering an extension of the time for completion of Metro’s analysis of UGB capacity from 2007 to 2009, in House Bill 2051; and

WHEREAS, if House Bill 2051 becomes law, calendar year 2007 would no longer be a year in which Metro must complete its analysis of UGB capacity, and, therefore, Metro could accept applications for major amendments; and

WHEREAS, section 3.01.025 of the Code also establishes an annual deadline of March 15 for submission of an application for a major amendment, but provides for a waiver of that deadline upon a finding of good cause and an affirmative vote of five members of the Metro Council; and

WHEREAS, the City of Cornelius has requested a waiver in order to submit an application for a major amendment to add industrial land to the UGB no later than October 1, 2007; and

WHEREAS, if House Bill 2051 becomes law, it is unlikely that the Metro Council would consider expansion of the UGB to add industrial land prior to December, 2009; and

WHEREAS, the City of Cornelius believes there are immediate opportunities for industrial development on the territory it would propose for addition to the UGB by major amendment, and that these opportunities may be lost by December, 2009; and

WHEREAS, the Metro Council considered this resolution and order at a public meeting on _____, 2007, and considered information presented at the meeting; now, therefore

BE IT RESOLVED that the Metro Council:

1. Enters Order 07-030, attached to this resolution as Exhibit "A", which approves the waiver of the March 15 deadline.
2. Directs the Chief Operating Officer to send a copy of Order No. 07-030 to the City of Cornelius and Washington County.

ADOPTED by the Metro Council this ____ day of _____, 2007

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

Exhibit A to Resolution No. 07-3804

Order No. 07-030

RELATING TO A WAIVER TO ALLOW THE CITY OF CORNELIUS TO SUBMIT AN APPLICATION FOR A MAJOR AMENDMENT TO THE UGB

The City of Cornelius has submitted a request for a waiver of the March 15 deadline for submission of an application for a major amendment to the UGB, pursuant to Metro Code section 3.01.025. Subsection (b) of section 3.01.025 allows the Metro Council to waive the deadline upon a finding of good cause and an affirmative vote of five members of the Council.

The Metro Council considered the request at a public meeting on _____, 2007. The Council determined that there is good cause to allow the city to submit an application beyond the March 15 deadline for the reasons that:

1. If legislation passes the 2007 Oregon Legislature that extends the time for completion of Metro's analysis of the capacity of the UGB from December, 2007, to December, 2009, it is unlikely that the Council would consider UGB expansion prior to December, 2009; and
2. The city believes there are opportunities for industrial development on the land the city would propose for expansion of the UGB that may be lost by December, 2009.

IT IS ORDERED THAT:

Contingent upon passage by the Oregon Legislature of legislation that extends the deadline for completion of Metro's next analysis of capacity of the UGB to at least December, 2009, and passage of no other legislation that changes Metro's obligations under ORS 197.299 and 197.296, the Metro Council waives the March 15 deadline in section 3.01.025 of the Metro Code for submission of an application for a major amendment to the UGB to allow the City of Cornelius to submit an application prior to October 1, 2007.

ENTERED this ____ day of _____, 2007.

David Bragdon, Council President

Approved as to form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3804 FOR THE PURPOSE OF ENTERING AN ORDER TO WAIVE THE DEADLINE FOR FILING AN APPLICATION FOR A MAJOR AMENDMENT TO THE URBAN GROWTH BOUNDARY BY THE CITY OF CORNELIUS

Date: May 10, 2007

Prepared by: Tim Everett and Linnea Nelson

BACKGROUND

Metro is responsible for managing the Portland metropolitan region's Urban Growth Boundary (UGB). State law requires Metro to analyze the capacity of the regional urban growth boundary every five years and to ensure that it includes sufficient capacity for the next 20 years' worth of growth. Except in those years in which Metro is conducting its capacity analysis (2002 and 2007, for example), an applicant may submit a major amendment to Metro that could expand or change the UGB. The Oregon Legislature is currently considering House Bill (HB) 2051 ("Requires Metro to complete first inventory, determination and analysis of housing capacity and need within urban growth boundary that is due on or after December 1, 2007, by December 31, 2009. Takes effect December 1, 2007.") Should HB 2051 become law, calendar year 2007 would no longer be a year in which Metro must complete its review of the UGB, and, therefore, Metro could accept applications for major amendments.

The Metro Code establishes the annual deadline of March 15 for submission of an application for a major amendment, except for years when the Metro Council is required to conduct a review, in which case the Council will not accept any applications. Because the passage of HB 2051 would only occur after March 15, the deadline would be impossible to meet in 2007. The City of Cornelius has submitted a request for a waiver of the deadline, should HB 2051 become law, and has committed to submit an application to Metro for a major amendment to the UGB by October 1, 2007. The Metro Code allows the Metro Council to waive the deadline upon a finding of good cause and an affirmative vote of five members of the Council.

In addition, the City of Cornelius believes there are immediate opportunities for industrial development on the land the city would propose for expansion of the UGB that may be lost by 2008 or December 2009.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to waiving the UGB major amendment application deadline. Some persons and groups who testified at the last UGB expansion hearings in 2005 and previous years may be opposed to expansion of the UGB. This resolution, however, is not a question of expanding the UGB, but rather about a one-time change to the major amendment application process, given the passage of HB 2051.

2. Legal Antecedents

Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserves Procedures) provides for "major amendment" to the UGB to add land for non-residential purposes, and section 3.01.025 of the Code provides that Metro will not accept applications for major amendments during the calendar year in which Metro is required by state law to determine the capacity of the UGB.

In House Bill 2051, the Oregon Legislature is considering an extension of the time from 2007 to 2009 for completion of Metro's analysis of UGB capacity. If House Bill 2051 becomes law, calendar year 2007 would no longer be a year in which Metro must complete its analysis of UGB capacity, and, therefore, Metro could accept applications for major amendments.

Section 3.01.025 of the Code also establishes an annual deadline of March 15 for submission of an application for a major amendment, but provides for a waiver of that deadline upon a finding of good cause and an affirmative vote of five members of the Metro Council.

3. Anticipated Effects

If Resolution No. 07-3804 is adopted, the Metro Council will accept the City of Cornelius' application for a major amendment to the UGB in 2007. Pursuant to section 3.01.025 of the Metro Code, the Council would waive the March 15 deadline for application for the City of Cornelius. Consideration of that application would be handled in a separate Council action.

4. Budget Impacts

Passage of this resolution would require re-prioritizing staff time in order to process an application for a major amendment to the UGB per Metro code.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 07-3804.

Metro Policy Advisory Committee

June 13, 2007

Item 9 – International Making Cities Livable

MPAC Worksheet

Agenda Item Title: Regional Planning & Collaboration of Cities in the Upper Rhine Region of Germany, France & Switzerland

Presenter: Dr. Ungern-Sternberg

Council Liaison Sponsor: David Bragdon and Robert Liberty

MPAC Meeting Target Date: June 13, 2007

Amount of time needed at meeting:

Presentation: 30 minutes (includes powerpoint)

Discussion: 10 minutes

Purpose/Objective: Dr. Ungern-Sternberg is a featured speaker at the 45th Making Cities Livable Conference (IMCL), which will be held in Portland June 10-14, 2007. He has been invited by Council President David Bragdon and Councilor Liberty to make a special presentation to MPAC on issues of regional planning, development, and coordination.

Action Requested/Outcome: The purpose of this presentation is informational; no action will be required.

Background and context: Dr. Sven von Ungern-Sternberg is a featured speaker at the 45th Annual Making Cities Livable Conference. Dr. Sven von Ungern-Sternberg, Regierungspräsident für Süd Baden, (Governor for the State of South Baden) Freiburg, GERMANY, studied Law and Business in Freiburg and Edinburgh, and received a Doctorate in International Law. In 1971 he was elected to the Freiburg City Council, and in 1973 became Leader of the Council's CDU Party. In 1978 he became First Mayor for City Planning (Erster Bürgermeister) and for 20 years in that position was responsible for Freiburg's Planning, Building and Transportation Policy. During this time he was also active in regional policy. Dr. Ungern-Sternberg is co-editor of Making Cities Livable. Wege zur menschlichen Stadt. He has served on the IMCL Board since 1994 and is Co-Chairman of the Program Committee.

Dr. Ungern-Sternberg will address the following topics in his presentation:

Through regional planning and collaboration, the Upper Rhine Region has become recognized as a model of economic, social and ecological sustainability, emulated by other regions in Europe and elsewhere. This talk will present how the cities, towns and agricultural areas work together to achieve common goals:

- Preventing sprawl and big box retail;
- Integrating regional transportation and land use;
- Accommodating growth through mixed-use new urban neighborhoods;
- Building the economic success of urban and rural areas while maintaining their beauty and identity;
- Fostering local products and regional skills;
- Preserving the region's unique identity.