

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
METRO CODE CHAPTER 5.01 TO)
PROVIDE FOR THE REGULATION OF)
CHIPPING OR GRINDING OF WOOD)
WASTE AT A FACILITY THAT IS)
OTHERWISE REGULATED BY METRO)

ORDINANCE NO. 02-933
INTRODUCED BY COUNCILOR
ATHERTON

WHEREAS, the Oregon Department of Environmental Quality has delegated its regulatory authority related to yard debris processing and composting facilities within Metro's boundaries to Metro through an intergovernmental agreement, and

WHEREAS, the region's local governments have encouraged and supported Metro's efforts to establish a regional regulatory system for yard debris processing, reload and composting facilities, and

WHEREAS, many of the yard debris processing, reload and composting facilities that are currently licensed by Metro also have hog fuel processing operations at the same facility which are not regulated, and

WHEREAS, the processing of yard debris and wood waste into hog fuel or other energy sources can result in the creation of odors, dust and noise, and

WHEREAS, it can be difficult to distinguish the origin of odors, dust and noise between regulated and non-regulated activities at yard debris processing, reload and composting facilities, therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.01.040 is amended to read:

5.01.040 Exemptions

- (a) In furtherance of the purposes set forth in this chapter, 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 the District.
 - (3) Facilities that exclusively receive non-Putrescible Source Separated Recyclable Materials
 - (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 ~~(e.g., untreated lumber, wood pallets)~~, unless ~~such chipped materials are composted at the site following chipping or grinding except as specified in 5.01.045(b).~~
 - (1) such chipped or ground wood wastes are processed for composting; or
 - (2) 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 the District finds an emergency situation exists.
- (7) Any reload facility that:
- (A) Accepts Solid Waste collected under the authority of a single franchise granted by a local government unit, or from multiple franchises so long as the area encompassed by the franchises is geographically contiguous: and
 - (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and
 - (C) Delivers any Putrescible Waste accepted at the facility to a Transfer Station owned, operated, Licensed or franchised by the District; and
 - (D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another facility or Disposal Site under authority of a Metro Non-System License issued pursuant to chapter 5.05.

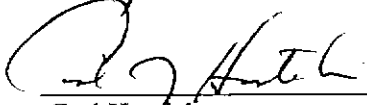
Section 2. Metro Code Section 5.01.045(b) is amended to read:

5.01.045 Certificate, License and Franchise Requirements

- (a) A Metro Solid Waste Certificate shall be required of the Person owning or controlling a facility which:
- (1) Processes Non-Putrescible Waste if such processing results in Processing Residual of less than ten percent; or
 - (2) Processes Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that either destroys or removes and contains such petroleum contamination from the soil.
- (b) A Metro Solid Waste License shall be required of the Person owning or controlling a facility at which any of the following Activities are performed:
- (1) Processing of Non-Putrescible Waste that results in Processing Residual of more than ten percent.
 - (2) Processing or Reloading of Yard Debris. A local government that owns or operates a yard debris facility may enter into an intergovernmental agreement with Metro under which the local government will administer and enforce yard debris standards at the facility in lieu of compliance with this chapter.
 - (3) Operation of a Local Transfer Station.
 - (4) Operation of a Reload unless exempt under section 5.01.040(a)(7) of this chapter.
 - (5) Operations or facilities that chip or grind wood waste for use as an industrial fuel if such facility is otherwise regulated under this section 5.01.045.
- (c) A Metro Solid Waste Franchise shall be required for the Person owning or controlling a facility at which any of the following Activities are performed:
- (1) Operation of a Regional Transfer Station.
 - (2) Operation of a Disposal Site or of an Energy Recovery Facility.
 - (3) Any process using chemical or biological methods whose primary purpose is reduction of Solid Waste weight or volumes.
 - (4) Delivery of Putrescible Waste directly from the facility to any Disposal Site.

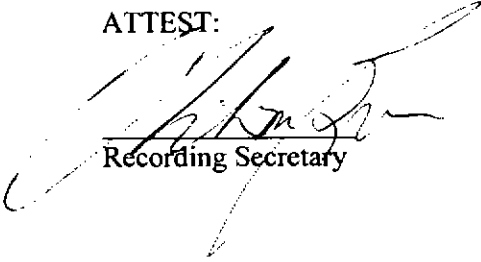
(5) Any other Activity not listed in this section, or exempted by Metro Code section 5.01.040.

ADOPTED by the Metro Council this 28th day of February 2002.



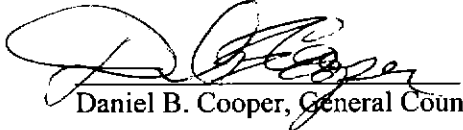
Carl Hosticka
Presiding Officer

ATTEST:



Recording Secretary

Approved as to Form:



Daniel B. Cooper, General Counsel

SOLID WASTE AND RECYCLING COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 02-933, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 501 TO PROVIDE FOR THE REGULATION OF THE CHIPPING OR GRINDING OF WOOD WASTE AT A FACILITY THAT IS OTHERWISE REGULATED BY METRO

Date: February 21, 2002

Presented by: Councilor Atherton

Committee Recommendation: At its February 14 meeting, the committee considered Ordinance No. 02-933 and voted unanimously to send the resolution to the Council for adoption. Voting in favor: Councilors McLain, Monroe and Park, and Chair Atherton. Councilor Bragdon was absent.

Background: Metro Code Chapter 501 provides for the licensing of yard debris processing and reload facilities. Our local government partners encouraged Metro to develop and implement a uniform process for the regulation of the day-to-day operations of such facility. Land use regulation related to the siting of such facilities is still exercised by the cities and counties. The Oregon Department of Environmental Quality and Metro also have entered into an intergovernmental agreement under which the state's regulatory authority over yard debris and composting facilities within Metro's boundaries has been delegated to Metro.

Committee Discussion: John Houser, committee staff, presented the staff report. He noted that the chair, with the support of Councilors Monroe and McLain, had requested the drafting of the proposed ordinance to clarify Metro's regulation of certain aspects of the operation of yard debris composing and reload facilities. During the consideration of a recent application for a yard debris reload facility the committee was advised that the chipping or grinding of yard debris at Metro regulated facilities was subject to regulation, but the grinding or chipping of wood waste for the production of hog fuel was not regulated. Thus, the REM regulatory staff indicated that if a compliant were received concerning the chipping or grinding operation, it could be difficult to determine whether Metro could, or could not take any enforcement action. Houser indicated that intent of the proposed ordinance is to provide Metro with regulatory authority over both the chipping and grinding of yard debris and the chipping and grinding of wood waste used in the production of hog fuel at facilities that were otherwise already regulated by Metro.

Councilor Park asked several clarifying questions as to be scope of the change in regulation. He questioned whether the ordinance would affect only the facility that was that was the subject of the recent licensing action or if others would be affected. Roy Brower, REM enforcement manager, noted that about a dozen other yard debris facilities would be affected; though most of them were not in residential areas. Councilor Park asked if there were other non-Metro regulated hog fuel operations in the region. Brower responded that there are other non-regulated facilities, but that the proposed ordinance would not extend Metro regulation to such operations. Park asked if there were other facilities where Metro regulated only a portion of their operation. Brower indicated that there are such facilities, citing East County Recycling, where Metro does not regulate their retail sales operations.

Councilor Monroe spoke in favor of the ordinance, noting that it would provide regulatory consistency and completeness. Councilor Park noted that it would provide protection to both Metro and the facility operator.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 01-933, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 TO PROVIDE FOR THE REGULATION OF THE CHIPPING OR GRINDING OF WOOD WASTE AT A FACILITY THAT IS OTHERWISE REGULATED BY METRO

Date: February 4, 2002

Presented by: Councilor Atherton

Background

The proposed ordinance would expand Metro's current solid waste facility regulatory authority to include the chipping or grinding of wood waste at a facility that is otherwise regulated by Metro.

Analysis/Information

Legal Background. Metro Code Chapter 5.01 currently requires facilities that process, reload, or compost yard debris to obtain a license from Metro. The licensing program developed from discussions between Metro and our local partners concerning the need for a uniform regionwide regulatory program for this type of solid waste facility. Local governments continue to exercise their land use regulatory authority over the siting of such facilities, while Metro exercises regulatory authority over the day-to-day operation of the facilities. In addition, the Oregon Department of Environmental Quality and Metro have entered into an intergovernmental agreement under which the state's regulatory authority over yard debris processing and composting facilities within Metro's boundary has been delegated to Metro.

Anticipated Effect. Most of the yard debris processing and composting facilities that are currently licensed by Metro also process some of their material into hog fuel which is used as an energy source by certain industrial customers. The code currently exempts such processing from regulation. During recent Council consideration of a license application, it was noted that facilities often use the same type of grinding process and equipment to produce both hog fuel and raw material for composting operations. REM regulatory staff indicated that if a complaint were received concerning noise, dust or odors from such a grinding process, it would be difficult to determine if the complaint involved material being processed into hog fuel, which is not regulated, or the processing of material for composting, which is regulated.

As a result of this discussion, the Solid Waste and Recycling Committee Chair, with the concurrence of the other committee members, requested that the proposed ordinance would extend Metro's regulatory program to include the chipping and grinding of wood waste at facilities that are otherwise regulated by Metro. The ordinance would not extend Metro regulatory authority to facilities that are currently not regulated.

Known Opposition. Citizens attending the hearing at which the proposed legislation was initially discussed were supportive. REM staff has informally discussed the proposed legislation with some of the affected facility operators and none opposed the change in regulation.

Budget Impact. REM staff has indicated that any new regulatory activities resulting from the proposed ordinance could be addressed within existing resources.

Recommended Action. Council adoption of the proposed ordinance.