

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING TITLE V SOLID WASTE OF THE METRO CODE (CHAPTER 5.01 through CHAPTER 5.09), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY) ORDINANCE NO. 02-974
)
)
) Introduced by the Council
) Governmental Affairs Committee

WHEREAS, on November 7, 2000, the electors of Metro approved Ballot Measure 26-10 amending the Metro Charter; and

WHEREAS, the Metro Charter Amendments, created the Office of Council President and abolished the Office of the Executive Officer; and

WHEREAS, the Metro Council amended Metro Code Chapter 2.01 to reflect the creation of the office of Metro Council President pursuant to Ordinance No. 02-954A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Metro Council to create the Office of the Chief Operating Officer; and

WHEREAS, the Metro Charter Amendments, added Metro Code Chapter 2.20 to create the office of Chief Operating Officer and to define the duties and responsibilities of the Chief Operating Officer, pursuant to Ordinance No. 02-942A on June 27, 2002; and

WHEREAS, the Metro Charter Amendments required the Council to create the Office of the Metro Attorney; and

WHEREAS, the Metro Council amended Chapter 2.08 of the Metro Code to create the office of the Metro Attorney and to define the duties and responsibilities of the Metro Attorney, pursuant to Ordinance No. 02-953A on June 27, 2002; and

WHEREAS, it is necessary to amend the following Chapters of Title V Solid Waste of the Metro Code to conform to the Metro Charter Amendments adopted on November 7, 2000:

Exhibit	Chapter	Title V Solid Waste
A	5.01	Solid Waste Facility Regulation
B	5.02	Disposal Charges and User Fees
C	5.03	Disposal Site Franchise Fees
D	5.04	Recycling Business Assistance Program
E	5.05	Solid Waste Flow Control
F	5.06	Community Enhancement Programs
G	5.07	Recycling Credits
H	5.09	Illegal Dumping

THE METRO COUNCIL ORDAINS AS FOLLOWS:

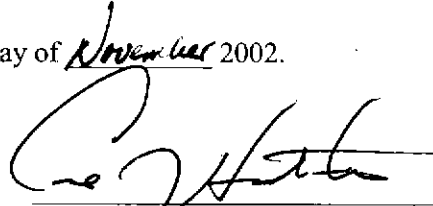
1. The Metro Code Chapters are amended as provided for and is attached as follows:

Exhibit	Chapter	Title V Solid Waste
A	5.01	Solid Waste Facility Regulation
B	5.02	Disposal Charges and User Fees
C	5.03	Disposal Site Franchise Fees
D	5.04	Recycling Business Assistance Program
E	5.05	Solid Waste Flow Control
F	5.06	Community Enhancement Programs
G	5.07	Recycling Credits
H	5.09	Illegal Dumping

2. The Metro Charter Amendments to the Metro Code Title V Solid Waste, adopted by this ordinance shall take effect on January 6, 2003.

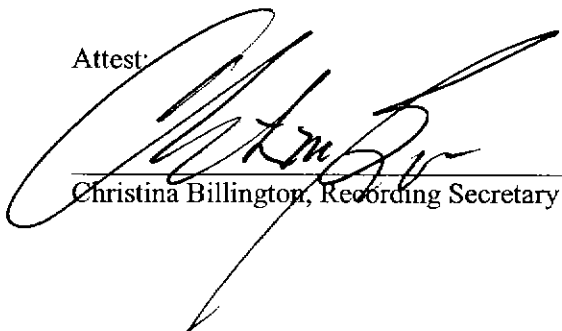
3. Effective January 6, 2003, any reference to the Executive Officer in any existing franchise, license, contract, permit or agreement authorized by this Title shall be deemed to be a reference to the Chief Operating Officer and the Chief Operating Officer has the authority to take any action that can be taken by the Executive Officer.

ADOPTED by the Metro Council this 21st day of November 2002.



Carl Hosticka, Presiding Officer

Attest:



Christina Billington, Recording Secretary

Approved as to Form:



Daniel B. Cooper, General Counsel

Exhibit A
Metro Charter 2003 Amendments to Metro Code

Chapter 5.01 Solid Waste Facility Regulation

TITLE V

SOLID WASTE

CHAPTERS	TITLE
5.01	Solid Waste Facility Regulation*
5.02	Disposal Charges and User Fees
5.03	Disposal Site Franchise Fees
5.04	Recycling Business Assistance Program**
5.05	Solid Waste Flow Control
5.06	Community Enhancement Programs
5.07	Recycling Credits
5.08	Rate Review Committee (repealed Ord. 00-860A §2)
5.09	Illegal Dumping

* Formerly "Disposal Site Franchising"; renamed by Ordinance No. 95-621A, Sec. 1.

** Formerly "One Percent for Recycling Program"; renamed by Ordinance No. 02-937A, Sec. 2.

CHAPTER 5.01

SOLID WASTE FACILITY REGULATION

SECTIONS TITLE

GENERAL PROVISIONS

- 5.01.010 Definitions
- 5.01.020 Purpose
- 5.01.025 Authority and Jurisdiction
- 5.01.030 Prohibited Activities
- 5.01.040 Exemptions
- 5.01.045 Certificate, License and Franchise Requirements
- 5.01.050 Administration (repealed Ord. 98-762C §10)

APPLICATIONS FOR SOLID WASTE FACILITY CERTIFICATES, LICENSES & FRANCHISES

- 5.01.055 Pre-Application Conference
- 5.01.060 Applications for Certificates, Licenses or Franchises
- 5.01.062 Application Fees
- 5.01.065 Issuance and Contents of Certificates
- 5.01.067 Issuance and Contents of Licenses
- 5.01.070 Issuance of Franchise
- 5.01.075 Contents of Franchise
- 5.01.080 Term of Franchise (repealed Ord. 98-762C §21)
- 5.01.085 Franchises for Major Disposal System Components (repealed Ord. 98-762C §21)
- 5.01.087 Renewal of Licenses and Franchises
- 5.01.090 Transfer of Ownership or Control
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- 5.01.100 Appeals
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OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

- 5.01.120 General Obligations of All Regulated Parties
- 5.01.125 Obligations and Limits for Selected Types of Activities
- 5.01.127 Direct Haul of Putrescible Waste

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

- 5.01.130 Administrative Procedures for Franchisees (repealed Ord. 98-762C §29)
- 5.01.131 Designation and Review of Service Areas and of Demand
- 5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards
- 5.01.135 ~~Executive Officer~~ Chief Operating Officer's Inspections and Audits of Solid Waste Facilities
- 5.01.137 Record-keeping and Reporting
- 5.01.140 License and Franchise Fees
- 5.01.150 User Fees

- 5.01.160 Reports from Collection Services
(repealed Ord. 98-762C §42)
- 5.01.170 Determination of Rates

ENFORCEMENT AND APPEALS

- 5.01.180 Enforcement of Franchise or License Provisions
- 5.01.190 Right to Purchase (repealed Ord. 98-762C §46)
- 5.01.200 Penalties
- 5.01.210 Acceptance of Tires at a Disposal Site
(repealed Ord. 98-762C §48)
- 5.01.220 Additional Provisions Relating to Issuance of a Franchise for a Facility Processing
Petroleum Contaminated Soil (repealed Ord. 98-762C §48)

**ADDITIONAL PROVISIONS RELATING TO THE LICENSING OF YARD DEBRIS PROCESSING
FACILITIES AND YARD DEBRIS RELOAD FACILITIES**

- 5.01.230-.380 (repealed Ord. 98-762C §49)

MISCELLANEOUS PROVISIONS

- 5.01.400 Treatment of Existing Licenses and Franchises
- 5.01.410 Miscellaneous Provisions

GENERAL PROVISIONS

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) "Certificate" means the permission given by the ~~Executive Officer~~Chief Operating Officer to operate certain solid waste Activities.

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

~~(ed)~~ "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.

~~(fe)~~ "Code" means the Metro Code.

~~(gf)~~ "Compost" means the stabilized product of composting.

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

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

~~(ji)~~ "Council" means the Metro Council.

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

~~(lk)~~ "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.

~~(ml)~~ "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.

~~(nm)~~ "District" has the same meaning as in Code Section 1.01.040.

(on) "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.

~~(o) "Executive officer" means the Metro Executive Officer or the Executive Officer's designee.~~

(p) "Franchise" means the grant of authority or privilege given by the Council to operate a Disposal Site, a Transfer Station or a Resource Recovery facility.

(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 ~~the district~~ 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 ~~Executive Officer~~ Chief Operating Officer to operate a Solid Waste Facility not exempted or requiring a Certificate or 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 ~~Executive Officer~~ 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, demolition debris, and land clearing debris; but excludes Cleanup Materials Contaminated by Hazardous Substances and Source-Separated Recyclable Material whether or not sorted into individual material categories by the generator.

(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 ~~the district~~ 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) "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 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 a Solid Waste facility or a disposal site.

(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 wastes; 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 that has been Source Separated for the purpose of Reuse, Recycling, or Composting. This term includes Recyclable Materials that are Source Separated by material type (i.e., source-sorted) and Recyclable Materials that are mixed together in one container (i.e., commingled).

(xx) "System cost" means the sum of the dollar amounts expended for collection, hauling, processing, transfer and disposal of all Solid Waste generated within the ~~District~~ Metro.

(yy) "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.

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

(aaa) "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.

~~(bbb) "User fee" means a user fee established by the district under ORS 268.515.~~

(bbbeee) "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.

(cccded) "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.

(~~dddeee~~) "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.

(~~eeefff~~) "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.

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

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

(Ordinance No. 81-111, Sec. 2. Amended by Ordinance No. 91-422B, Sec. 1; Ordinance No. 95-621A, Sec. 2; Ordinance No. 98-762C, Sec. 1; Ordinance No. 00-866, Sec. 1; Ordinance No. 01-914, Sec. 1; Ordinance No. 01-916C, Sec. 1.)

5.01.020 Purpose

This chapter governs the regulation of Solid Waste Disposal Sites and Solid Waste Facilities within ~~the DistrictMetro~~. The purposes of this chapter are to protect and preserve the health, safety and welfare of the ~~DistrictMetro~~'s residents; to implement cooperatively with federal, state and local agencies the Regional Solid Waste Management Plan; to provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of ~~the DistrictMetro~~; and to reduce the volume of Solid Waste disposal through source reduction, recycling, reuse and resource recovery. The provisions of this chapter shall be liberally construed to accomplish these purposes.

(Ordinance No. 81-111, Sec. 3. Amended by Ordinance No. 95-621A, Sec. 2. Repealed by Ordinance No. 98-762C, Sec. 2; replaced by Ordinance No. 98-762C, Sec. 3.)

5.01.025 Authority and Jurisdiction

(a) Metro's Solid Waste regulatory authority is established under the Constitution of the State of Oregon, ORS Chapter 268 for Solid Waste and the 1992-Metro Charter and includes authority to regulate Solid Waste generated or disposed within ~~the DistrictMetro~~ and all Solid Waste Facilities located within ~~the DistrictMetro~~.

(b) All Solid Waste regulation shall be subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance.

(Ordinance No. 98-762C, Secs. 4-5.)

5.01.030 Prohibited Activities

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

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

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

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

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

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

(Ordinance No. 81-111, Sec. 4. Amended by Ordinance No. 87-217, Sec. 1; Ordinance No. 95-621A, Sec. 3; Ordinance No. 98-762C, Sec. 6.)

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

(b) Notwithstanding Section 5.01.040(a)(2) of this chapter, ~~the District~~Metro shall comply with Section 5.01.150, User Fees.

(Ordinance No. 81-111, Sec. 5. Amended by Ordinance No. 82-136, Sec. 1; Ordinance No. 91-422B, Sec. 2; Ordinance No. 95-621A, Sec. 4; Ordinance No. 98-762C, Sec. 7; Ordinance No. 00-866, Sec. 2; Ordinance No. 02-933, Sec. 1.)

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.

(Ordinance No. 98-762C, Secs. 8-9. Amended by Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2.)

APPLICATIONS FOR SOLID WASTE FACILITY CERTIFICATES, LICENSES & FRANCHISES

5.01.055 Pre-Application Conference

(a) All prospective applicants for a Franchise or License shall participate in a pre-application conference ~~with the Executive Officer~~. The purpose of such conference shall be to provide the prospective applicant with information regarding the applicable requirements for the proposed facility and to obtain from the prospective applicant a description of the location, site conditions and operations of the proposed facility.

(b) If a prospective applicant for a License or Franchise does not file an application for a License or Franchise within one year from the date of the pre-application conference, such applicant shall participate in a subsequent pre-application conference prior to filing any License or Franchise application.

(Ordinance No. 98-762C, Secs. 11-12.)

5.01.060 Applications for Certificates, Licenses or Franchises

(a) Applications for a Certificate, Franchise or License or for renewal of an existing Certificate, Franchise or License shall be filed on forms or in the format provided by the ~~Executive Officer~~ Chief Operating Officer.

(b) In addition to any information required on the forms or in the format provided by the ~~Executive Officer~~ Chief Operating Officer, all applications shall include a description of the Activities proposed to be conducted and a description of Wastes sought to be accepted.

(c) In addition to the information required on the forms or in the format provided by the ~~Executive Officer~~ Chief Operating Officer, applications for a License or Franchise shall include the following information to the ~~Executive Officer~~ Chief Operating Officer:

- (1) Proof that the applicant can obtain the types of insurance specified by the ~~Executive Officer~~ Chief Operating Officer during the term of the Franchise or License;
- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any closure plan required to be submitted to DEQ, or if DEQ does not require a closure plan, a closure document describing closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of closure, or if DEQ does not require such documents, proof of financial assurance for the costs of closure of the facility;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this

chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;

- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application, and any permit that has been granted shall be provided.

(d) An application for a Transfer Station or Disposal Site shall be accompanied by an analysis showing that the proposed facility is consistent with the Regional Solid Waste Management Plan.

(e) A person holding or making application for a Solid Waste Facility License or Franchise from Metro authorizing receipt of Putrescible Waste may make application to deliver Putrescible Waste directly to Metro's contract operator for disposal of Putrescible Waste. Said application must be accompanied by: (A) a showing that the proposed Direct Haul authorization is consistent with the Regional Solid Waste Management Plan, and (B) an analysis of the System Costs with and without the authorization for Direct Haul from the Solid Waste Facility.

(Ordinance No. 81-111, Sec. 7. Amended by Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4.)

5.01.062 Application Fees

(a) Upon the filing of an application, every applicant for a Certificate, License or Franchise shall submit an application fee as provided in this section.

(b) Application fees shall be as follows:

- (1) For a Solid Waste Facility Certificate, one hundred dollars (\$100).
- (2) For a Solid Waste Facility License, three hundred dollars (\$300).
- (3) For a Solid Waste Facility Franchise, five hundred dollars (\$500).

(Ordinance No. 98-767, Secs. 1-2.)

5.01.065 Issuance and Contents of Certificates

(a) Applications for Certificates are subject to approval or denial by the ~~Executive Officer~~Chief Operating Officer, with such conditions as the ~~Executive Officer~~Chief Operating Officer may deem appropriate.

(b) The ~~Executive Officer~~Chief Operating Officer shall approve or deny the application for a Certificate within 45 days of accepting the application. If the ~~Executive Officer~~Chief Operating Officer does not act to grant, or deny, a Certificate application within 45 days after accepting the application, a Certificate shall be deemed granted.

(c) Certificates approved by the ~~Executive Officer~~Chief Operating Officer shall specify the Activities authorized to be performed and the Wastes authorized to be accepted at the Solid Waste Facility.

(Ordinance No. 98-762C, Secs. 14-15.)

5.01.067 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be reviewed by the ~~Executive Officer~~Chief Operating Officer and are subject to approval or denial by Metro Council.

(b) The ~~Executive Officer~~Chief Operating Officer shall make such investigation concerning the application as the ~~Executive Officer~~Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed site.

(c) On the basis of the application submitted and the ~~Executive Officer~~Chief Operating Officer's investigation concerning the application, the ~~Executive Officer~~Chief Operating Officer shall formulate recommendations regarding whether the proposed License meets the requirements of Section 5.01.060.

(d) The ~~Executive Officer~~Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the ~~Executive Officer~~Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the ~~Executive Officer~~Chief Operating Officer recommends that the application be granted, the ~~Executive Officer~~Chief Operating Officer shall recommend to the Council specific conditions of the License

(e) Subsequent to receiving the recommendation of the ~~Executive Officer~~Chief Operating Officer, the Council shall issue an order granting, or denying the application. The Council may attach conditions to the order. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) If the Council does not act to grant, or deny, a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application.

(g) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six months from the date of denial.

(h) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Council.

(i) Licenses shall be for a term of five years.

(Ordinance No. 98-762C, Secs. 16-17.)

5.01.070 Issuance of Franchise

(a) Applications for Franchises filed in accordance with Section 5.01.060 shall be reviewed by the ~~Executive Officer~~Chief Operating Officer and are subject to approval or denial by the Metro Council.

(b) The ~~Executive Officer~~Chief Operating Officer shall make such investigation concerning the application as the ~~Executive Officer~~Chief Operating Officer deems appropriate, including the right of entry onto the applicant's proposed Franchise site.

(c) Upon the basis of the application, evidence submitted and results of the investigation, the ~~Executive Officer~~Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

(d) The ~~Executive Officer~~Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the ~~Executive Officer~~Chief Operating Officer's recommendation regarding whether the application should be granted or denied. If the ~~Executive Officer~~Chief Operating Officer recommends that the application be granted, the ~~Executive Officer~~Chief Operating Officer shall recommend to the Council specific conditions of the Franchise.

(e) Subsequent to receiving the recommendation of the ~~Executive Officer~~Chief Operating Officer, the Council shall issue an order granting, or denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.

(f) In determining whether to authorize the issuance of a Franchise, the Council shall consider, but not be limited by, whether:

- (1) The applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;
- (2) The applicant has demonstrated that the proposed Activity will result in lower net System Costs, if such a showing is required by Section 5.01.060;

- (3) Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of ~~the District~~ Metro's residents;
- (4) Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;
- (5) The applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

(g) If the Council does not act to grant, or deny, a Franchise application within 120 days after the filing of a complete application, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application.

(h) If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six months from the date of denial.

(i) The term of a new or renewed Franchise shall be five years.

(Ordinance No. 81-111, Sec. 8. Amended by Ordinance No. 82-136, Sec. 3; Ordinance No. 98-762C, Sec. 18.)

5.01.075 Contents of Franchise

(a) The Franchise shall constitute a grant of authority from the Council to accept the Waste(s) and perform the Activity(s) described therein, the conditions under which these Activities may take place and the conditions under which the authority may be revoked.

(b) Franchises approved by the Council shall be in writing and shall include the following:

- (1) The term of the Franchise;
- (2) Franchises approved by the Council shall specify the Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility;
- (3) Such other conditions as the Council deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and
- (4) Indemnification of Metro in a form acceptable to ~~Metro's General Counsel~~ the Metro Attorney.

(Ordinance No. 98-762C, Secs. 19-20.)

5.01.087 Renewal of Licenses and Franchises

(a) Solid Waste Facility Licenses shall be renewed unless the ~~Executive Officer~~Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300) not less than 60 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the ~~Executive Officer~~Chief Operating Officer. The ~~Executive Officer~~Chief Operating Officer may attach conditions or limitations to any renewed License.

(b) Solid Waste Facility Franchises shall be renewed unless the ~~Executive Officer~~Chief Operating Officer determines that the proposed renewal does not meet the criteria contained in Section 5.01.070 of this chapter, provided that the Franchisee files a completed application for renewal accompanied by payment of an application fee of five hundred dollars (\$500) not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the Franchise and any other information required by the ~~Executive Officer~~Chief Operating Officer or by the Council. The ~~Executive Officer~~Chief Operating Officer may attach conditions or limitations to the renewed Franchise.

(Ordinance No. 98-762C, Secs. 22-23. Amended by Ordinance No. 98-767, Sec. 3.)

5.01.090 Transfer of Ownership or Control

(a) The ~~Executive Officer~~Chief Operating Officer shall transfer a Certificate upon receipt in writing of any transfer of ownership or change in control, provided that the Persons seeking to be certified are not requesting authorization to accept additional Wastes or to perform additional Activities at the Solid Waste Facility.

(b) A new License application shall be submitted when a Licensee proposes to transfer Control or ownership of the Solid Waste Facility to any other Person.

- (c) (1) Any Person in control of a Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, the Franchise to another person unless an application therefor has been filed in accordance with Section 5.01.060 and has been granted. The proposed transferee of a Franchise must meet the requirements of this chapter.
- (2) The Council shall not unreasonably deny an application for transfer of a Franchise or Franchisee. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.
- (3) The term for any transferred Franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.

(Ordinance No. 81-111, Sec. 10. Amended by Ordinance No. 98-762C, Sec. 24.)

5.01.095 Change of Authorizations

(a) A Person holding a Certificate, License or Franchise shall submit an application pursuant to Section 5.01.060 when said Person seeks authorization to:

- (1) Accept Wastes other than those authorized by the applicant's Certificate, License or Franchise, or
- (2) Perform Activities other than those authorized by the applicant's Certificate, License or Franchise, or
- (3) Modify other limiting conditions of the applicant's Certificate, License or Franchise.

(b) Applications for a change in authorization or limits shall be filed on forms or in the format provided by the ~~Executive Officer~~Chief Operating Officer.

(c) An application for a change in authorizations or limits to the applicant's Certificate, License or Franchise shall not substitute for an application that would otherwise be required under Section 5.01.045 of this chapter.

(d) A Person holding a Certificate, License or Franchise shall notify Metro in writing when said Person proposes to cease accepting authorized Wastes or cease performing authorized Activities at the Solid Waste Facility or Disposal Site.

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars (\$100).

(Ordinance No. 98-762C, Secs. 25-26. Amended by Ordinance No. 98-767, Sec. 4.)

5.01.100 Appeals

Any applicant, Franchisee or Licensee is entitled to a contested case hearing pursuant to Code ~~Chapter 2.05~~ upon the suspension, modification, revocation or refusal by the Council or ~~Executive Officer~~Chief Operating Officer, as appropriate, to issue, renew or transfer a Franchise or License or to grant a variance, as follows:

(a) Except as provided in subsection (c) of this section, refusal to renew a Franchise or License by the Council or ~~Executive Officer~~Chief Operating Officer, as appropriate, shall not become effective until the Franchisee or Licensee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(b) The refusal by the Council or ~~Executive Officer~~Chief Operating Officer, as appropriate, to grant a variance, or to issue or transfer a Franchise or License shall be effective immediately. The Franchisee, Licensee or applicant may request a hearing on such refusal within 30 days of notice of such refusal.

(c) Upon a finding of serious danger to the public health or safety, the ~~Executive Officer~~Chief Operating Officer may suspend a Franchise or License or the Council or ~~Executive Officer~~Chief Operating Officer

Officer, as appropriate, may refuse to renew a Franchise or License and such action shall be effective immediately. If a Franchise or License renewal is refused effective immediately, the Franchisee or Licensee shall have 30 days from the date of such action to request a contested case hearing.

(Ordinance No. 81-111, Sec. 11. Amended by Ordinance No. 95-621A, Sec. 6)

5.01.110 Variances

(a) The Council, upon recommendation of the ~~Executive Officer~~ Chief Operating Officer, may grant specific variances from particular requirements of this chapter to applicants for Licenses or Franchises or to Licensees or Franchisees upon such conditions as the Council may deem necessary to protect public health, safety and welfare, if the Council finds that the purpose and intent of the particular License or Franchise requirement can be achieved without compliance and that compliance with the particular requirement:

- (1) Is inappropriate because of conditions beyond the control of the applicant, Licensee, or Franchisee requesting the variance; or
- (2) Due to special physical conditions or causes, will be rendered extremely burdensome or highly impractical.

(b) A variance must be requested by a License or Franchise applicant, or a Licensee or Franchisee, in writing and state in a concise manner facts to show cause why such variance should be granted. The ~~Executive Officer~~ Chief Operating Officer may make such investigation as the ~~Executive Officer~~ Chief Operating Officer deems necessary and shall make a recommendation to the Council to approve or deny the variance coincident with any recommendation made on approval or denial of any License or Franchise application; or, upon a request for variance from an existing Licensee or Franchisee, within 60 days after receipt of the variance request.

(c) A request for a variance shall not substitute for an application that would otherwise be required under Section 5.01.045 of this chapter.

(d) If the Council denies a variance request, the ~~Executive Officer~~ Chief Operating Officer shall notify the person requesting the variance of the right to a contested case hearing pursuant to Code Chapter 2.05.

(e) If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six months from the date of denial.

(Ordinance No. 81-111, Sec. 12. Amended by Ordinance No. 98-762C, Sec. 27.)

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

5.01.120 General Obligations of All Regulated Parties

All Persons regulated by this chapter shall:

(a) Allow the ~~Executive Officer~~ Chief Operating Officer to have reasonable access to the premises for purposes of inspection and audit to determine compliance with this chapter, the Code, the Certificate, License or Franchise agreement, and the performance standards and administrative procedures adopted pursuant to Section 5.01.132 of this chapter.

(b) Ensure that Solid Waste transferred from the facility goes to the appropriate destination under Section 5.01.132(a) of this chapter, under Metro Code Chapter 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;

(c) Maintain during the term of the License or Franchise the types of insurance in the amounts specified in the License or Franchise Agreement or such other amounts as may be required by state law for public contracts and shall give 30 days written notice to the ~~Executive Officer~~ Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

(d) Shall indemnify ~~the District~~ Metro, the Council, the ~~Executive Officer~~ Chief Operating Officer, and any of their employees or agents and save them harmless from any and all loss, damage, claim, expense including attorney's fees, or liability related to or arising out of the Certificate holder's, Licensee's or Franchisee's performance of or failure to perform any of its obligations under the Certificate, License, Franchise or this chapter.

(e) Shall have no recourse whatsoever against ~~the District~~ Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of the Certificate, License or Franchise or because of the enforcement of the Certificate, License or Franchise or in the event the Certificate, License or Franchise or any part thereof is determined to be invalid.

(Ordinance No. 81-111, Sec. 13. Amended by Ordinance No. 98-762C, Sec. 28.)

5.01.125 Obligations and Limits for Selected Types of Activities

(a) A holder of a Certificate, 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, or shall deliver Non-Putrescible Waste to a Solid Waste facility whose primary purpose is to recover useful materials from Solid Waste.

(b) A holder of a Certificate, 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, 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.

(c) In addition to the requirements of (a) and (b) in this section, holders of a License or 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) In addition to the requirements of (a) and (b) in this section, holders of a Franchise for a Regional Transfer Station 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.

(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.)

5.01.127 Direct Haul of Putrescible Waste

Franchisees authorized by Metro to deliver Putrescible Waste directly to a Disposal Site shall:

(a) Deliver said Putrescible Waste to Metro's contract operator for disposal of Putrescible Waste; and

(b) Comply with the performance standards for management of unacceptable waste adopted by the ~~Executive Officer~~ Chief Operating Officer pursuant to Section 5.01.132 of this chapter; and

(c) Provide transportation or arrange for transportation by a transportation service provider complying with the following performance standards for long-haul transportation by highway:

- (1) All solid waste transported through the city limits of Arlington, Oregon, shall be subject to any routing, timing, parking or other operational requirements established by the city of Arlington.
- (2) All equipment shall fulfill all federal, state, and local regulations. In addition, the use of exhaust brakes shall be prohibited altogether.
- (3) All solid waste shall be transported in completely sealed containers with leak-proof design considered wind-, water-, and odor-tight, and shall be capable of withstanding arduous, heavy-duty, repetitive service associated with the long-haul transport of solid waste. Containers using tarps or flip-tops are prohibited. Any spillage from the transport vehicles is prohibited.
- (4) The average weight of solid waste payloads transported during each calendar month shall be no less than 25 tons.
- (5) Any staging areas used shall be located in areas outside or excluded from the Columbia River Gorge National Scenic Area (NSA).
- (6) All transport vehicles shall use only designated stopping points outside the Columbia River Gorge NSA except in cases of emergency.
- (7) Use of rest areas, turnouts, scenic vista points, and state parks shall be limited to cases of emergency.
- (8) Transportation shall not be conducted in the Columbia River Gorge NSA during the following times:
 - (A) 4:00 p.m. to 10:00 p.m. Friday afternoons in June, July, August, and September.
 - (B) Daylight hours on Saturdays in June, July, August, and September.
 - (C) All hours on Sunday in June, July, August, and September.
- (9) All solid waste shall be transported by use of vehicles utilizing splash and spray suppressant devices behind each wheel, and utilizing rain suppressant side flaps on all non-turning axles.
- (10) All solid waste shall be transported by use of vehicles and equipment that shall be suitably painted and present an acceptable appearance.

- (11) A representative of Franchisee and its transportation carrier shall annually meet with the gorge communities and interested parties to receive input and discuss issues related to transportation of solid waste.
- (12) The Franchisee shall report to Metro any accidents, citations, and vehicle inspections involving vehicles of their transportation carrier during the transporting of solid waste on behalf of the Franchisee.
- (13) A representative of Franchisee and its transportation carrier shall meet monthly with Metro to discuss operational problems, complaints and any extraordinary occurrences.
- (14) The Franchisee shall immediately report any violations of this subsection to Metro.

(Ordinance No. 98-762C, Secs. 32-33.)

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

5.01.131 Designation and Review of Service Areas and of Demand

(a) ~~By March 31, 2002, the Executive Officer~~The Chief Operating Officer shall designate Service Areas and shall calculate demand for disposal of Putrescible Waste generated within each Service Area. Demand shall be determined by calculating the approximate tonnage of putrescible waste for each service area.

(b) ~~By October 15, 2002 and by March 15 of each even-numbered year thereafter,~~ the Director of the Regional Environmental Management Department shall provide a written report to the Metro Council that includes:

- (1) A quantitative review of the demand for disposal of Putrescible Waste within all Service Areas;
- (2) A review of the performance of the obligations and limits authorized pursuant to Section 5.01.125(c) of this chapter in achieving the policies stated by Council in adopting this chapter; and
- (3) A recommendation on any revisions of Service Area boundaries, change in the need for disposal capacity within any Service Area, or changes of obligations or limits imposed on any Local Transfer Station.
- (4) The ~~Executive Officer~~Chief Operating Officer shall consider the relationship between demand and disposal capacity located within each Service Area to insure that all Service Areas are treated equally and equitably concerning the availability of disposal capacity to meet the calculated demand.

(c) Notwithstanding subsection (b), the ~~Executive Officer~~Chief Operating Officer may authorize an increase in a tonnage authorization established pursuant to subsection 5.01.125(c)(3) of this chapter upon the ~~Executive Officer~~Chief Operating Officer's finding that growth or other conditions affecting demand for disposal of Putrescible Waste within the Service Area cannot be served by said tonnage authorization. Any such increase in tonnage authorized pursuant to this subsection shall be limited to a maximum of five percent (5%) of any tonnage authorization or disposal limit approved by the Council, and shall be valid for a period not exceeding 24 months.

(Ordinance No. 01-916C, Secs. 2-3.)

5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards

(a) The ~~Executive Officer~~Chief Operating Officer shall issue administrative procedures and performance standards governing the obligations of Licensees and Franchisees under this chapter, including but not limited to procedures and performance standards for nuisance control, public notification of facility operations, management of unacceptable wastes, facility record keeping and reporting, yard debris composting operations, transportation of Putrescible Waste, and designation and review of Service Areas and demand pursuant to Section 5.01.131 of this chapter.

(b) The ~~Executive Officer~~Chief Operating Officer may issue administrative procedures and performance standards to implement all provisions of this chapter.

(c) The ~~Executive Officer~~Chief Operating Officer shall substantially amend the administrative procedures and performance standards issued under subsections (a) or (b) of this section only after providing public notice and the opportunity to comment and a public hearing on the proposed amendment.

(Ordinance No. 98-762C, Secs. 34-35. Amended by Ordinance No. 01-916C, Sec. 5.)

5.01.135 ~~Executive Officer~~Chief Operating Officer's Inspections and Audits of Solid Waste Facilities

(a) The ~~Executive Officer~~Chief Operating Officer shall be authorized to make such inspection or audit as the ~~Executive Officer~~Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a Licensed or Franchised facility 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, Franchise or License agreement, 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 ~~Executive Officer~~Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the ~~Executive Officer~~Chief Operating Officer.

(c) The ~~Executive Officer~~Chief Operating Officer shall have access to and may examine during such inspections or audits any records pertinent in the opinion of the ~~Executive Officer~~Chief Operating Officer to the License or Franchise, 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 or Franchisee.

(d) Nothing in this section precludes Metro from inspecting a certified or exempted operation to verify that the operation is being conducted in a manner that qualifies as a certified or exempted Activity or from taking any appropriate enforcement action.

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

(Ordinance No. 98-762C, Secs. 36-37.)

5.01.137 Record-keeping and Reporting

(a) Franchisees and licensees shall maintain accurate records of the information required by the ~~Executive Officer~~Chief Operating Officer and shall report such required information on the forms or in the format and within the reporting periods and deadlines established by the ~~Executive Officer~~Chief Operating Officer. Reports shall be signed and certified as accurate by an authorized representative of the Licensee or Franchisee.

(b) Licensees or Franchisees shall maintain evidence of all financial assurance mechanisms unless or until the Licensee or Franchisee is released from the financial assurance requirements as specified in this chapter.

(c) Licensees or Franchisees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the regulation of a Solid Waste facility within five days of the receipt or provision of the correspondence or information.

(d) Licensees or Franchisees shall maintain records of any written complaints received from the public or a customer, including but not limited to, information on the nature of the complaint, name, address and phone number of the complainant, date the complaint was received and any action taken to respond to the complaint.

(e) All records required by this chapter shall be retained by the Licensee, Franchisee or its operator for three years and shall be available for inspection by the ~~Executive Officer~~Chief Operating Officer.

(f) All information submitted by the Licensee or Franchisee shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portion of the records and reports for which the Licensee or Franchisee requests exception from disclosure consistent with Oregon Law.

(Ordinance No. 98-762C, Secs. 38-39.)

5.01.140 License and Franchise Fees

(a) The annual fee for a solid waste License shall not exceed three hundred dollars (\$300), and the annual fee for a solid waste Franchise shall not exceed five hundred dollars (\$500). The Council may revise these fees upon 90 days written notice to each Licensee or Franchisee and an opportunity to be heard.

(b) The License or Franchise fee shall be in addition to any other fee, tax or charge imposed upon a Licensee or Franchisee.

(c) The Licensee or Franchisee shall pay the License or Franchise fee in the manner and at the time required by the ~~Executive Officer~~Chief Operating Officer.

(Ordinance No. 81-111, Sec. 15. Amended by Ordinance No. 98-762C, Sec. 40; Ordinance No. 98-767, Sec. 5.)

5.01.150 User Fees

(a) Notwithstanding ~~Section~~ Section 5.01.040(a)(2) of this chapter, the Council shall set user fees annually, and more frequently if necessary, which fees shall apply to Solid Waste Facilities or Disposal Sites which are owned, operated, Certified, Licensed, or Franchised by ~~the district~~Metro or which are liable for payment of user fees pursuant to a special agreement with ~~the district~~Metro.

(b) User fees shall not apply to:

- (1) Solid waste received at facilities that are certified, licensed, franchised or exempt from regulation under this Chapter, other than any Disposal Sites or Transfer Stations that are not subject to the requirements of Section 5.01.125(a);
- (2) Cleanup Material Contaminated By Hazardous Substances accepted at facilities that treat said Cleanup Material Contaminated By Hazardous Substances to applicable DEQ standards;
- (3) Source-separated yard debris accepted at Licensed yard debris processing facilities or yard debris reload facilities;
- (4) Useful Material that is accepted at a Disposal Site that is listed as a Metro Designated Facility in Chapter 5.05 or accepted at a Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05, provided that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of the Disposal Site such as for roadbeds or alternative daily cover; and (B) is accepted at the Disposal Site at no charge; or
- (5) Processing Residual produced by any tire processor that is regulated pursuant to this chapter and that sorts, classifies or processes used tires into fuel or other products, provided said Processing Residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.

(c) Notwithstanding any other provisions of this Code, user fees shall apply to 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. Such Cleanup Materials Contaminated By Hazardous Substances may be subject to credits against user fees pursuant to Sections 5.02.047(c) and (d) of this Code.

(d) User fees shall be in addition to any other fee, tax or charge imposed upon a Solid Waste Facility or Disposal Site.

(e) User fees shall be separately stated upon records of the Solid Waste Facility or Disposal Site.

(f) User fees and finance charges on user fees shall be paid as specified in Metro Code Section 5.02.055.

(g) There is no liability for user fees on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with ~~the district~~ Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. User fees may not be deemed uncollectible unless the underlying account is also uncollectible. If the fees have previously been paid, a deduction may be taken from the next payment due to ~~the district~~ Metro for the amount found worthless and charged off. If any such account is thereafter collected,

in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

(h) All user fees shall be paid in the form of a remittance payable to ~~the district~~ Metro. All user fees received by ~~the district~~ Metro shall be deposited in the solid waste operating fund and used only for the administration, implementation, operation and enforcement of the Regional Solid Waste Management Plan.

(i) Certificate, License or Franchise holders are eligible to apply for and receive Regional System Fee Credits pursuant to ~~S~~section 5.02.047 of the Metro Code.

(Ordinance No. 81-111, Sec. 16. Amended by Ordinance No. 86-214, Sec. 1; Ordinance No. 91-422B, Sec. 4; Ordinance No. 93-509, Sec. 2; Ordinance No. 95-621A, Sec. 7; Ordinance No. 98-762C, Sec. 41; Ordinance No. 00-866, Sec. 6.)

5.01.170 Determination of Rates

(a) The Metro Council may establish facility Rates upon finding that setting such rates is in the public interest as a matter of metropolitan concern.

(b) Notwithstanding any other provision of this section,

- (1) Holders of Certificates or Licensees shall be exempt from all rate setting; and
- (2) Franchisees shall be exempt from rate setting unless rate setting is required as a condition of their Franchise.

(Ordinance No. 81-111, Sec. 19. Amended by Ordinance No. 82-136, Sec. 4. Renumbered by Ordinance No. 91-436A, Sec. 2, which repealed former section 5.01.170, "Rate Review Committee." Repealed by Ordinance No. 98-762C, Sec. 43; replaced by Ordinance No. 98-762C, Sec. 44.)

ENFORCEMENT AND APPEALS

5.01.180 Enforcement of Franchise or License Provisions

(a) The ~~Executive Officer~~ Chief Operating Officer may, at any time, make an investigation to determine if there is sufficient reason and cause to suspend, modify or revoke a Certificate, Franchise or License as provided in this section. If, in the opinion of the ~~Executive Officer~~ Chief Operating Officer, there is sufficient evidence to suspend, modify, or to revoke a Certificate, Franchise or License, the ~~Executive Officer~~ Chief Operating Officer shall notify the Certificate holder, Franchisee or Licensee in writing of the alleged violation, and the steps necessary to be taken to cure the violation. Upon a finding that violation exists and that the Certificate holder, Franchisee or Licensee is unable to or refuses to cure the violation within a reasonable time after receiving written notice thereof, the ~~Executive Officer~~ Chief Operating Officer may provide notice to the Certificate holder, Franchisee or Licensee that penalties pursuant to Section 5.01.200 of this chapter shall be imposed or that the Certificate, Franchise or License is suspended, modified or revoked.

(b) The notice authorized by this subsection shall be based upon the ~~Executive Officer~~ Chief Operating Officer's finding that the Certificate holder, Franchisee or Licensee has:

- (1) Violated the Certificate, Franchise or License agreement, the administrative procedures or performance standards issued by the ~~Executive Officer~~ Chief Operating Officer, this chapter, the Code, state law, local ordinance or the rules promulgated thereunder or any other applicable law or regulation; or
- (2) Misrepresented material facts or information in the Certificate, Franchise or License application, or other information required to be submitted to ~~the district~~ Metro;
- (3) Refused to provide adequate service at a Licensed or Franchised site, facility or station, after written notification and reasonable opportunity to do so;
- (4) Misrepresented the gross receipts from the operation of the Licensed or Franchised site, facility or station;
- (5) Failed to pay when due the fees required to be paid under this chapter; or
- (6) Been found to be in violation of a city or county ordinance if such ordinances require Licensees or Franchisees to comply with the Metro solid waste facility regulation code.

(c) Except as provided in subsection (d) of this section, the ~~Executive Officer~~ Chief Operating Officer's revocation, modification or suspension of a Franchise shall not become effective until the Franchisee has been afforded an opportunity to request a contested case hearing and an opportunity for a contested case hearing if one is requested.

(d) Upon a finding of serious danger to the public health or safety as a result of the actions or inactions of a Franchisee or Licensee under this chapter, the ~~Executive Officer~~ Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the Franchise or License and may take whatever steps may be necessary to abate the danger. In addition, in the case of a Franchise, the ~~Executive~~

~~Officer~~Chief Operating Officer may authorize another Franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected Franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a Franchise is immediately suspended, the Franchisee shall have 90 days from the date of such action to request a contested case hearing in accordance with Code ~~C~~chapter 2.05.

(e) Upon revocation or refusal to renew the Franchise or License, all rights of the Franchisee or Licensee in the Franchise or License shall immediately be divested.

(Ordinance No. 81-111, Sec. 20. Amended by Ordinance No. 82-136, Sec. 5; Ordinance No. 95-621A, Sec. 8. Renumbered by Ordinance No. 91-436A, Sec. 2. Amended by Ordinance No. 98-762C, Sec. 45.)

5.01.200 Penalties

(a) Each violation of this chapter shall be punishable by a fine of not more than \$500. Each day a violation continues constitutes a separate violation. Separate offenses may be joined in one indictment or complaint or information in several counts.

(b) Upon a finding that a Certificate holder, Licensee or Franchisee is in violation of this chapter, the Code, the Certificate, License or Franchise agreement, or the administrative procedures or performance standards adopted pursuant to ~~S~~section 5.01.132 of this chapter during an inspection or audit conducted pursuant to ~~S~~section 5.01.135 of this chapter, the ~~Executive Officer~~Chief Operating Officer shall provide written notice to the Certificate holder, Licensee or Franchisee describing the violation at the time of the inspection, and requiring the licensee to correct the violation within the time specified on the notice.

(c) Upon a finding that the Certificate holder, Licensee or Franchisee has failed to abate the violation within the specified time period, the ~~Executive Officer~~Chief Operating Officer shall issue a citation, indicating the continuing violation, the date of reinspection and imposing a fine as specified in subsection (a) of this section on Licensees or Franchisees.

(d) If after re-inspection, the ~~Executive Officer~~Chief Operating Officer finds the Licensee or Franchisee has failed to abate the violation, such violation shall be punishable by a fine of \$1,000.00. Notice of a final deadline for abating the violation shall be given at the time of re-inspection.

(e) Upon a finding that the Certificate holder, Licensee or Franchisee has failed to abate the violation after the final deadline, the Licensee or Franchisee shall be required to cease performing the Activity resulting in the violation.

(f) Further inspections shall be conducted to ensure suspension of the offending Activity. If the Certificate holder, Licensee or Franchisee has failed to suspend the offending Activity, the ~~Executive Officer~~Chief Operating Officer shall conduct an investigation which may result in the:

- (1) Imposition of a remedy suitable to the ~~District~~Metro to be implemented by and at the expense of the Certificate holder, Licensee or Franchisee;
- (2) Suspension of all solid waste Activities on site;
- (3) Imposition of a lien on the property for the amount of the fines; or

(4) Suspension, modification or revocation of the Certificate, License or Franchise pursuant to Section 5.01.180.

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by ~~the district~~ Metro upon suit in a court of competent jurisdiction and shall also be subject to a civil penalty not to exceed \$500 per day for each day of violation.

(Ordinance No. 81-111, Sec. 22. Renumbered by Ordinance No. 91-436A, Sec. 2. Amended by Ordinance No. 98-762C, Sec. 47; Ordinance No. 98-767, Sec. 6.)

MISCELLANEOUS PROVISIONS

5.01.400 Treatment of Existing Licenses and Franchises

(a) Licenses and Franchises issued prior to the effective date of this chapter will be governed by the prior version of this chapter until the term of the Franchise has expired.

(b) Licenses and Franchises issued prior to the effective date of this chapter may be exchanged for a new License or Franchise to be governed by this chapter. ~~The Executive Officer~~Chief Operating Officer may waive the License or Franchise application requirements for Licenses or Franchises issued prior to the effective date of this chapter.

(c) Subsection (b) of this section is repealed January 1, 1999.

(Ordinance No. 98-762C, Secs. 50-51.)

5.01.410 Miscellaneous Provisions

(a) ~~The Executive Officer~~Chief Operating Officer shall be responsible for the administration and enforcement of this chapter.

(b) The granting of a Certificate, License or Franchise shall not vest any right or privilege in the Licensee or Franchisee to receive specific quantities of Solid Waste during the term of the License or Franchise.

(c) The power and right to regulate, in the public interest, the exercise of the privileges granted by a License or Franchise shall at all times be vested in ~~the DistrictMetro~~. ~~The DistrictMetro~~ reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against holders of Certificates, Licenses or Franchises.

(d) To be effective, a waiver of any term or condition of a Certificate, License or Franchise must be in writing, signed by the ~~Executive Officer~~Chief Operating Officer. Waiver of a term or conditions of a Certificate, License or Franchise shall not waive nor prejudice ~~the DistrictMetro's~~ right of ~~the DistrictMetro~~ otherwise to require performance of the same term or conditions or any other term or condition.

(e) A Certificate, License or Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon.

(f) If any provision of a Certificate, License or Franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in the Certificate, License or Franchise shall not be affected.

(g) Nothing in this chapter is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to any Solid Waste Facility or Disposal Site that it is authorized or required to enforce or administer.

(h) Nothing in this chapter shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

(i) Nothing in this chapter is intended to establish standards or other regulatory requirements for inadvertent composting resulting from the storage of organic materials.

(Ordinance No. 98-762C, Secs. 52-53.)

Exhibit B
Metro Charter 2003 Amendments to Metro Code
Chapter 5.02 Disposal Charges and User Fees

CHAPTER 5.02

DISPOSAL CHARGES AND USER FEES

SECTIONS	TITLE
5.02.010	Purpose
5.02.015	Definitions
5.02.016	Scale Weights Required
5.02.025	Disposal Charges at Metro South Station, Metro Central Station, and the Metro Hazardous Waste Facilities
5.02.026	Source Separated Recyclable Disposal Charge Credit
5.02.027	Charges for Management of Household Hazardous Wastes
5.02.028	Charges for Conditionally Exempt Generator Waste
5.02.029	Disposal Charge for Recoverable Solid Waste
5.02.030	Charges for Direct-haul Disposal
5.02.031	Special Waste Surcharge and Special Waste Permit Application Fees
5.02.035	Litter Control Surcharge
5.02.037	Disposal Charge for Compostable Organic Waste
5.02.040	Disposal Fees (repealed Ord. 94-531 §5)
5.02.045	System Fees
5.02.046	Special Findings for Regional System Fee Credits
5.02.047	Regional System Fee Credits
5.02.050	Regional Transfer Charge (repealed Ord. 94-531 §7)
5.02.055	Remittance to Metro of Fees and Other Charges by Franchisees and Other Designated Facilities
5.02.060	Account Policy at Metro Solid Waste Disposal Facilities
5.02.065	Special Waste Surcharge and Special Waste Permit Application Fees; Conditionally Exempt Generator Waste (repealed Ord. 98-720A §25)
5.02.070	Source Separated Yard Debris Disposal Charge (repealed Ord. 98-720A §25)
5.02.075	Special Exemption from Disposal Fees
5.02.085	Out-of-District Waste (repealed Ord. 98-720A §25)

5.02.010 Purpose

The purpose of this chapter is to establish solid waste disposal rates, charges and credit policies for the Metro South Station and the Metro Central Station and to establish the method for setting and administering appropriate fees and charges assessed on solid waste generated within ~~district~~ Metro or delivered to solid waste facilities regulated by or contracting with Metro.

(Ordinance No. 82-146, Sec. 1. Amended by Ordinance No. 88-257, Sec. 1; Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 1; Ordinance No. 91-386C, Sec. 1; Ordinance No. 92-455B, Sec. 1; Ordinance No. 94-531, Sec. 1; Ordinance No. 98-720A, Sec. 1.)

5.02.015 Definitions

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

(a) "Acceptable special wastes" means those special wastes that are approved for disposal at Metro South Station or Metro Central Station by the Metro Regional Environmental Management Department in the form of a special waste permit. Unacceptable waste, as defined in this section, is expressly excluded.

(b) "Cash account customer" means a person who pays cash for disposal of solid waste at Metro South Station or Metro Central Station.

(c) "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.

(d) "Commercial customer" means a person primarily engaged in the business of collection or transportation of solid waste who is authorized by any federal, state or local government to perform such collection or transportation.

(e) "Compost" shall have the meaning set forth in Section 5.01.010 of this Code.

(f) "Compostable Organic Waste" means organic wastes delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for making Compost, notwithstanding the presence of incidental amounts or types of non-compostable materials.

(g) "Conditionally exempt generator (CEG)" means a Conditionally Exempt Small Quantity Generator as defined in 40 CFR 261.5 (2002)4(b)(1).

(h) "Credit account customer" means a person who pays for disposal of solid waste through a charge account at Metro South Station or Metro Central Station.

(i) "Direct-haul disposal charge" means that fee which pays for the direct unit costs of disposal of solid waste under the disposal contract between Metro and Oregon Waste Systems, Inc. The Direct-haul Disposal Charge is levied on solid waste that is generated or originates within the Metro boundary and is delivered directly to Columbia Ridge Landfill under Metro's disposal contract with Oregon Waste Systems, Inc. by persons other than Metro. The Direct-haul Disposal Charge is equal to the disposal component of the Disposal Fee.

(j) "Disposal fee" means those fees which pay the direct unit costs of transportation and disposal of general purpose solid waste. Major cost components are the long haul transport contract and the Oregon Waste Systems, Inc., disposal contract.

(k) "Enhancement fees" means those fees collected in addition to general disposal rates that are used to pay for rehabilitation and enhancement projects in the areas immediately surrounding landfills and other solid waste facilities.

(l) "Facility Recovery Rate" means the percentage expressed by dividing the amount of tonnage recovered at a solid waste facility by the sum of the tonnage recovered at such facility plus the Processing Residual from such facility. As used in this subsection "tonnage recovered at solid waste facilities" excludes Source Separated Recyclable Materials; Waste from industrial processes; and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand.

(m) "Facility Retrieval Rate" means the percentage expressed by dividing the sum of all tonnage recovered at a solid waste facility, including all Source-Separated Recyclable Materials, by the sum of the tonnage recovered at such facility, including all Source-Separated Recyclable Materials, and the total solid waste destined for disposal from the facility.

(n) "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 generated by households which may include, but is not limited to, some cleaners, solvents, pesticides, and automotive and paint products.

(o) "Limited purpose solid waste" means construction, demolition, process residue, land clearing waste and non-hazardous industrial dust.

(p) "Metro Central Station" is the Metro solid waste transfer and recycling station located at 6161 NW 61st Avenue, Portland, Oregon 97210.

(q) "Metro disposal system" means Metro South Station, Metro Central Station, Columbia Ridge Landfill and such other facilities, or contracts for service with Metro which transfer or cause solid waste to be disposed at the Columbia Ridge Landfill or other disposal facility.

(r) "Metro Facility Fee" means those fees which pay for direct management costs of the Metro disposal system and for capital items directly related to such facilities. This fee is imposed upon all solid waste delivered to Metro Central Station or the Metro South Station.

(s) "Metro South Station" is the solid waste transfer station owned and operated by Metro and located at 2001 Washington, Oregon City, Oregon 97045.

(t) "Metro waste management system" means all associated Metro solid waste services related to management of the whole recycling, processing and disposal system

(u) "Non-commercial Customer" means a person who is not primarily engaged in the business of collection or transportation of solid waste and who is not authorized by any federal, state or local government to perform such collection or transportation.

(v) "Person" means any individual, partnership, association, corporation, trust, firm, estate, joint venture or any other private entity or any public agency.

(w) "Processing Residual" means the non-putrescible solid waste destined for disposal which remains after recyclable materials have been removed from such non-putrescible solid waste.

(x) "Recoverable Solid Waste" means wood waste, yard debris, or tires, whether Source-Separated or commingled, and delivered in a single transaction at Metro Central Station or at Metro South Station in a form suitable for mechanical extraction of useful materials, notwithstanding the presence of incidental amounts or types of other contaminants.

(y) "Recyclable Material" has the meaning specified in ORS 459.005(19).

(z) "Regional System Fee" means those fees which pay the cost of the Metro Waste Management System.

(aa) "Regional transfer charge" means those fees which pay the direct unit operating costs of the Metro transfer stations. This fee is imposed upon all solid waste delivered to Metro disposal system facilities.

(bb) "Regional transfer station" is a transfer facility that accepts putrescible and non-putrescible wastes from a wide variety of commercial and public users; and includes as ancillary activities: collection of household and conditionally exempt generator hazardous waste, recycling drop center, and resource recovery.

(cc) "Solid waste" means all putrescible and nonputrescible wastes, including garbage, rubbish, refuse, paper and cardboard, commercial, industrial, demolition and construction waste, home and industrial appliances.

(dd) "Solid Waste Disposal Transaction" means the usage of Metro transfer station disposal facilities, hazardous waste facilities, or household hazardous waste collection events, by a customer for the purpose of delivering for disposal a single load of solid or hazardous waste during a single visit from a single vehicle (whether or not accompanied by, or transporting, one or more trailers), and shall be determined to occur upon a customer's entrance to Metro transfer station facilities, hazardous waste facilities, or household hazardous waste collection event.

(ee) "Solid Waste System Facility" shall have the meaning assigned thereto in Metro Code Section 7.01.010.

(ff) "Source-Separate" has the meaning specified in ORS 459.005(26).

(gg) "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.

(hh) "Transaction Charge" means that fee which, for each transaction, serves to pay for related scalehouse costs at the Metro transfer stations.

(ii) "Transfer Facility" means a solid waste disposal facility that receives solid waste primarily for reloading into different vehicles for transport to Metro South Transfer Station, Metro Central Transfer Station, a Metro licensed or franchised facility, or a Metro Designated Facility.

(jj) "Unacceptable waste" means waste that is either:

- (1) Prohibited from disposal at a sanitary landfill by state or federal law, regulation, rule, code, permit or permit condition;
- (2) Special waste without an approved special waste permit. The ~~executive officer~~ Chief Operating Officer may deny a special waste application if the special waste poses an unacceptable health and safety risk, or is likely to damage transfer station equipment.

(kk) "Waste" shall have the meaning set forth in Section 5.01.010 of this Code.

(Ordinance No. 82-146, Sec. 2. Amended by Ordinance No. 86-210, Sec. 1; Ordinance No. 88-257, Sec. 2; Ordinance No. 88-278, Sec. 1; Ordinance No. 89-269, Sec. 2; Ordinance No. 89-295, Sec. 1; Ordinance No. 90-337, Sec. 2; Ordinance No. 90-372, Sec. 1; Ordinance No. 91-386C, Sec. 2; Ordinance No. 92-455B, Sec. 1; Ordinance No. 92-473A, Sec. 1; Ordinance No. 93-482, Sec. 1; Ordinance No. 94-531, Sec. 2; Ordinance No. 95-597, Sec. 1; Ordinance No. 97-681B, Sec. 1; Ordinance No. 98-720A, Sec. 2; Ordinance No. 98-762C, Sec. 54; Ordinance No. 00-867, Secs. 1-2; Ordinance No. 00-873, Sec. 1; Ordinance No. 00-876A, Sec. 1; Ordinance No. 01-907A, Sec. 1; Ordinance No. 02-951B, Sec. 1.)

5.02.016 Scale Weights Required

All user fees or other fees submitted to Metro from any facility receiving solid waste generated within the district Metro shall be calculated on a tonnage basis using certified scale weights.

(Ordinance No. 82-146, Sec. 2. Amended by Ordinance No. 86-210, Sec. 1; Ordinance No. 88-257, Sec. 2; Ordinance No. 88-278, Sec. 1; Ordinance No. 89-269, Sec. 2; Ordinance No. 89-295, Sec. 1; Ordinance No. 90-337, Sec. 2; Ordinance No. 90-372, Sec. 1; Ordinance No. 91-386C, Sec. 2; Ordinance No. 91-404, Sec. 1)

5.02.025 Disposal Charges at Metro South & Metro Central Station

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of:

- (1) A Tonnage Charge as provided in subsection (b) for each ton of solid waste delivered for disposal;
- (2) All applicable solid waste taxes as established in Metro Code Chapter 7.01, which excise taxes shall be stated separately; and
- (3) A Transaction Charge of \$6.00 for each Solid Waste Disposal Transaction.

(b) The Tonnage Charge specified in subsection (a) of this section shall consist of:

- (1) A disposal charge of \$33.02 per ton;
- (2) A regional transfer charge of \$7.53 per ton;
- (3) The fees specified in Section 5.02.045;
- (4) An enhancement fee of \$.50 per ton; and
- (5) DEQ fees totaling \$1.24 per ton.

(c) Notwithstanding subsection (a) of this section, there shall be a minimum solid waste disposal charge at the Metro South Station and at the Metro Central Station for loads of solid waste weighing 340 pounds or less of \$17, which shall consist of a minimum Tonnage Charge of \$11.00 plus a Transaction Charge of \$6.00 per Transaction.

(d) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any \$0.50 charge rounded down.

(e) The Director of the Regional Environmental Management Department may waive disposal fees created in this section for Non-commercial Customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

(Ordinance No. 82-146. Amended by Ordinance No. 83-163, Sec. 2; Ordinance No. 85-191, Sec. 3; Ordinance No. 86-214, Sec. 3; Ordinance No. 88-257, Sec. 4; Ordinance No. 88-278, Sec. 3; Ordinance No. 89-269, Sec. 2; Ordinance No. 89-295, Sec. 3.; Ordinance No. 90-337, Sec. 4; Ordinance No. 90-372, Sec. 2; Ordinance No. 91-386C, Sec. 4; Ordinance No. 91-405A, Sec. 1; Ordinance No. 92-455B, Sec. 1; Ordinance No. 93-482, Sec. 2; Ordinance No. 94-531, Sec. 3; Ordinance No. 95-597, Sec. 2; Ordinance No. 97-681B, Sec. 2. Repealed by Ordinance No. 98-720A, Sec. 3; replaced by Ordinance No. 98-720A, Sec. 4. Amended by Ordinance No. 99-825A, Sec. 1; Ordinance No. 01-918A, Sec. 1.)

5.02.026 Source Separated Recyclable Disposal Charge Credit

Notwithstanding Metro Code Section 5.02.025, Non-commercial customers at Metro South Station or Metro Central Station who dispose of source-separated recyclable material as defined in ORS 459.005 shall receive a disposal charge credit in the amount of \$3 for disposing of fewer than 100 pounds of recyclables and in the amount of \$6 for 100 pounds or more of recyclables.

(Ordinance No. 98-720A, Secs. 5-6.)

5.02.027 Charges for Management of Household Hazardous Wastes

(a) There is hereby established a Household Hazardous Waste Management Charge that shall be collected on all household hazardous waste accepted at Metro Hazardous Waste Facilities and at household hazardous waste collection events. Such Household Hazardous Waste Management Charge shall be in lieu of all other base disposal charges, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by this chapter.

(b) The Household Hazardous Waste Management Charge shall be \$5.00 for the first 35 gallons of household hazardous waste that is delivered in a single transaction in containers of 10 gallons capacity or less and \$5.00 for each additional 35 gallons (or portion thereof) of household hazardous waste that is delivered in the same transaction in containers of 10 gallons capacity or less.

(c) The Household Hazardous Waste Management Charge shall be \$5.00 for a quantity of household hazardous waste that is delivered in a single transaction in containers greater than 10 gallons capacity, together with an additional charge for the contents of each container as follows:

- (1) \$5.00 for up to 25 gallons of household hazardous waste;
- (2) \$10.00 for more than 25 gallons of household hazardous waste.

(d) Each of the above charges may be waived by the Director of the Regional Environmental Management Department.

(e) Notwithstanding subsections (b) and (c) of this section, there shall be no charge for household hazardous waste accepted at Metro Hazardous Waste Facilities or household hazardous waste collection events in a container of less than 10 gallons capacity. The provisions of this sub-section (e) are repealed December 31, 2004.

(Ordinance No. 98-720A, Secs. 7-8. Amended by Ordinance No. 01-907A, Sec. 2.)

5.02.028 Charges for Conditionally Exempt Generator Waste

The amount charged for acceptance of CEG waste from non-household sources shall be the actual disposal costs of such waste calculated from the current Metro contractor price schedules, Metro and/or contractor labor costs, all applicable excise taxes, and the cost of material utilized for managing the waste.

(Ordinance No. 98-720A, Secs. 9-10.)

5.02.029 Disposal Charge for Recoverable Solid Waste

(a) There is hereby established a Recoverable Solid Waste Disposal Charge that shall be collected on all Recoverable Solid Waste accepted at the Metro South Station or Metro Central Station.

(b) The Recoverable Solid Waste Disposal Charge shall be based on Metro's actual costs in managing Recoverable Solid Waste. The amount of the Recoverable Solid Waste Disposal Charge shall consist of a Recoverable Solid Waste Variable Charge as defined in this Section and a Transaction Charge as defined in Section 5.02.025. The Recoverable Solid Waste Disposal Charge shall be in lieu of all other base disposal charges, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by of this chapter.

(c) The Variable Charge for Recoverable Solid Waste shall be the greater of:

(1) The highest price charged by private solid waste operators for similar Recoverable Solid Waste as reported quarterly in the Market Price Report published by Metro Recycling Information; or

(2) The sum of:

(i) The contractual price paid by Metro to any contract operator of Metro South Station and Metro Central Station for recovering and processing Recoverable Solid Waste;

(ii) The Metro Facility Fee as defined in Section 5.02.025 of this chapter and expressed on a per-unit basis; and

(iii) An amount equal to 21.6 percent of the Regional System Fee as defined by Metro Code Section 5.02.015 and expressed on a per-unit basis.

(d) Notwithstanding subsection (b) of this section, there shall be a minimum charge for loads of Recoverable Solid Waste as established by the Director of the Regional Environmental Management Department.

(e) Notwithstanding any other provision of this section, the charge for the disposal of a single Christmas tree shall be the Transaction Charge as set forth in Metro Code Section 5.02.025.

(f) All Fees charged for disposal of Recoverable Solid Waste shall be clearly posted at Metro South Station and at Metro Central Station.

(Ordinance No. 98-720A, Secs. 11-12.)

5.02.030 Charges for Direct-haul Disposal

Each facility licensed or franchised under Metro Code Chapter 5.01 and authorized to transport solid waste directly to the Columbia Ridge Landfill shall pay to Metro a per ton charge as provided in this section for the disposal of solid waste which is generated or originates within the Metro boundary and which the facility directly transports to the Columbia Ridge Landfill.

For each ton disposed under this section during each calendar quarter, such direct haul disposal charge shall be equal to the sum of the total amount that Metro paid to its contract operator for disposal of solid waste during the previous calendar quarter divided by the sum of the number of tons of solid waste disposed by Metro at the Columbia Ridge Landfill during the previous calendar quarter and the number of tons of solid waste disposed under Direct-Haul authorization during the previous calendar quarter.

(Ordinance No. 98-720A, Secs. 13-14. Amended by Ordinance No. 99-823A, Sec. 1; Ordinance No. 01-913, Sec. 1.)

5.02.031 Special Waste Surcharge and Special Waste Permit Application Fees

(a) A special waste surcharge and a special waste permit application fee shall be collected on all special wastes disposed of at Metro facilities and on all special waste permit applications. The surcharge and fee shall be in addition to any other charge or fee established by this chapter. The purpose of the surcharge and permit application fee is to require disposers of special waste to pay the cost of services provided by Metro to manage special wastes. The surcharge and fee shall be applied to all special wastes.

(b) The special waste surcharge shall be determined by Metro's actual costs in managing special waste, which costs comprise: special handling costs, cleanup costs, and lab or testing costs. The special waste surcharge shall apply to all permitted special wastes and to all nonpermitted special wastes that Metro discovers at a Metro-operated facility that result in additional management costs not otherwise covered by, or incorporated within, any other Metro fee.

(c) The special waste permit application fee shall be \$25. This fee shall be collected at the time special waste permit applications are received for processing.

(d) The special waste surcharge and special waste permit application fee shall not apply to household hazardous waste accepted at Metro Hazardous Waste Facilities or Metro household hazardous waste collection events.

(Ordinance No. 98-720A, Secs. 15-16. Amended by Ordinance No. 01-907A, Sec. 3.)

5.02.035 Litter Control Surcharge

(a) A surcharge of \$25 per ton, up to a maximum amount of \$100, shall be levied against any customer who disposes of solid waste or a Recoverable Solid Waste at Metro Central Station or at Metro South Station if, when entering the facility, any portion of the customer's waste or Recoverable Solid Waste is unsecured and visible to Metro scalehouse personnel.

(b) No surcharge shall be levied under this section if the solid waste or Recoverable Solid Waste is only visible through a secure covering.

(c) Notwithstanding subsection (a) of this section, a surcharge of \$4 per Solid Waste Disposal Transaction shall be levied against any customer who disposes of a single load of solid waste or recoverable solid waste that weighs 340 pounds or less and that is unsecured and visible to Metro scalehouse personnel.

(d) The surcharge provided for in this section shall be collected in the same manner as Metro collects all other disposal fees and charges at the facility.

(Ordinance No. 82-146, Sec. 6. Amended by Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 5; Ordinance No. 91-397, Sec. 1; Ordinance No. 94-531, Sec. 4; Ordinance No. 97-681B, Sec. 3. Repealed by Ordinance No. 98-720A, Sec. 17; replaced by Ordinance No. 98-720A, Sec. 18; amended by Ordinance No. 01-898, Sec. 1; Ordinance No. 01-918A, Sec. 2.)

5.02.037 Disposal Charge for Compostable Organic Waste

(a) There is hereby established a Compostable Organic Waste Disposal Charge for Compostable Organic Waste that shall be collected on all Compostable Organic Waste accepted at the Metro South Station or Metro Central Station.

(b) The Compostable Organic Waste Disposal Charge shall be Metro's actual costs for managing Compostable Organic Waste, based on the contractual price expressed on a per-ton basis paid by Metro to any contract operator of Metro South Station and Metro Central Station for recovering and processing Compostable Organic Waste.

(c) In the event that no agreement is reached between Metro and its contract operator for recovering and processing Compostable Organic Waste, the Compostable Organic Waste Disposal Charge shall be the sum of the following costs:

- (1) The sum of the amount of the Regional Transfer Fee as defined in Section 5.02.025 (b) (2) of this chapter, plus \$0.75 per ton; and
- (2) The transport and processing charges for Compostable Organic Waste paid by Metro or its contract operator, expressed on a per-ton basis; and
- (3) The cost of materials utilized at Metro Central Station and Metro South Station for managing the Compostable Organic Waste, expressed on a per-ton basis.

(d) Notwithstanding the Compostable Organic Waste Disposal Charge as calculated in subsection (c) of this section, there may be established a reduced disposal charge for Compostable Organic Waste. This reduced disposal charge shall be based on an estimate of what the sum of the costs set forth in subsection (c) would be on July 1, 2003. Prior to implementing any reduced Compostable Organic Waste Disposal Charge, the Director of the Regional Environmental Management Department shall prepare a report for Metro Council stating the costs that are expected to prevail on July 1, 2003 for managing Compostable Organic Waste. The provisions of this subsection are repealed June 30, 2003.

(e) The Compostable Organic Waste Disposal Charge shall be in lieu of all other base disposal charges, transaction fees, user fees, regional transfer charges, rehabilitation and enhancement fees, and certification non-compliance fees that may be required by this chapter.

(f) Before the initial collection of the Compostable Organic Waste Disposal Charge, the amount of such charge shall be subject to review under Metro Code Section 2.19.170 and also shall be approved by the Metro Council. Thereafter, any proposed increase of the Compostable Organic Waste Disposal Charge that would result in a charge that exceeds the amount which the Council approved by more than 10 percent shall be subject to review under Metro Code Section 2.19.170 and shall require the approval of the Metro Council.

(g) Notwithstanding subsections (b) and (c) of this section, the Director of the Regional Environmental Management Department may establish a minimum charge for loads of Compostable Organic Waste.

(Ordinance No. 00-876A, Secs. 2-3.)

5.02.045 System Fees

(a) Regional System Fee: Solid waste system facility operators shall collect and pay to Metro a Regional System Fee of \$24.00 per ton for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with Metro Code Section 5.01.150.

(b) Metro Facility Fee: Metro shall collect a Metro Facility Fee of \$2.55 per ton for all solid waste delivered to Metro Central Station or Metro South Station.

(c) System fees described in paragraph (a) shall not apply to exemptions listed in Section 5.01.150(b) of this Code.

(Ordinance No. 82-146, Sec. 8. Amended by Ordinance No. 85-191, Sec. 4; Ordinance No. 86-214, Sec. 4; Ordinance No. 88-257, Sec. 6; Ordinance No. 88-278, Sec. 4; Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 6; Ordinance No. 90-351, Sec. 1; Ordinance No. 90-372, Sec. 3; Ordinance No. 91-386C, Sec. 6; Ordinance No. 92-455B, Sec. 1; Ordinance No. 94-531, Sec. 6; Ordinance No. 97-681B, Sec. 4. Repealed by Ordinance No. 98-720A, Sec. 19; replaced by Ordinance No. 98-720A, Sec. 20. Amended by Ordinance No. 99-823A, Sec. 2; Ordinance No. 00-867, Sec. 3; Ordinance No. 01-918A, Sec. 3.)

5.02.046 Special Findings for Regional System Fee Credits

In connection with the enactment of the provisions of this chapter 5.02 of the Metro Code, the council of Metro hereby finds and determines the following:

(a) The primary goal of the Regional System Fee credit program shall be to improve material recovery in the Metro region and to boost the region's recovery rate.

(b) To achieve the primary goal, the program will target the recovery of high-priority materials identified in the Regional Environmental Management Waste Reduction Initiatives, for

example, construction and demolition debris, including wood, drywall, and roofing. Furthermore, the program will de-emphasize materials that do not count towards Metro's recovery goals.

(c) Focusing the program on targeted materials will align the program with the Regional Solid Waste Management Plan and the Regional Environmental Management Department strategic plan.

(Ordinance No. 01-919B, Secs. 1-2.)

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 six-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 ~~Executive Officer~~ 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) The following users of Metro solid waste system facilities shall be allowed a credit in the amount of \$9 per ton against the Regional System Fee otherwise due under Section 5.02.045(a):

- (1) Users of Metro Central and Metro South Transfer Stations;

- (2) Any Person delivering authorized waste:
 - (A) to any landfill or other solid waste facility that is authorized to receive such waste through a Metro license, certificate, franchise or Designated Facility Agreement; or
 - (B) under the authority of a Metro Non-System License.

(d) 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 \$12.50 against the Regional System Fee otherwise due under Section 5.02.045(a) of this Chapter.

(e) 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.

(f) The Director of the Regional Environmental Management 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.

(Ordinance No. 98-720A, Secs. 21-22. Amended by Ordinance No. 98-762C, Sec. 55; Ordinance No. 99-805, Sec. 1; Ordinance No. 99-823A, Sec. 3; Ordinance No. 00-858, Sec. 1; Ordinance No. 00-867, Sec. 4; Ordinance No. 00-873, Sec. 2; Ordinance No. 01-897, Sec. 1; Ordinance No. 01-919B, Sec. 4; Ordinance No. 02-951B, Sec. 2.)

5.02.055 Remittance to Metro of Fees and Other Charges by Franchisees and Other Designated Facilities

(a) Franchisees and other operators of facilities designated to receive waste under Metro Code Section 5.05.030 shall remit fees and charges other than excise taxes to Metro as specified in this section.

(b) Fees shall accrue on a monthly basis, and shall be remitted to Metro by the 15th day of the month for waste disposed of in the preceding month. Fees and other charges will be delinquent if not received by Metro on or before the due date, either by personal delivery to the Metro Department of Administrative Services during business hours or, if delivered by mail, by receipt in Metro's mail room on or before the due date. If the due date falls on a holiday or weekend, amounts are delinquent at the end of the first business day that follows.

(Ordinance No. 93-509, Sec. 3. Amended by Ordinance No. 94-533, Sec. 1; Ordinance No. 97-681B, Sec. 5; Ordinance No. 98-720A, Sec. 23.)

5.02.060 Account Policy at Metro Solid Waste Disposal Facilities

(a) Disposal charges, including all fees and taxes, may be paid at the time of disposal in cash, by credit card, or by check, or may be paid under Metro's credit policy. No credit shall be granted to any person prior to approval of a credit application in a form or forms provided by Metro.

(b) Metro's ~~executive officer~~ Chief Operating Officer shall establish and maintain appropriate account requirements for new and existing accounts, which requirements shall be designed to diminish Metro's risk of loss due to nonpayment. Existing account holders may be required to make new application for credit or provide additional guarantees, as deemed necessary or prudent by the ~~executive officer~~ Chief Operating Officer.

(c) Account charges shall accrue on a monthly basis. Metro will mail statements on or about the 10th day of the month for disposal services rendered in the prior month. A statement must be paid no later than the last business day of the month in which it is mailed; the statement will be considered past due thereafter. A payment shall under no circumstances be considered received by Metro unless it is delivered personally to the Metro Department of Administrative Services during business hours or, if delivered by mail, received in Metro's mail room on or before the due date.

(d) A finance charge of 1.5 percent shall be assessed on all past due charges on the 15th day of the month following the month in which a statement is mailed, and on the 15th day of each month thereafter. Finance charges will be assessed only on unpaid past due balances, and not on previously assessed finance charges. Finance charges will continue to be assessed on negotiated repayment schedules. Payments will be applied first to finance charges and then to the oldest amount past due.

(e) An account that is 15 days past due may be placed on a cash only basis, until all past due disposal and finance charges are paid. Facility access may be denied to a person whose account is past due and unpaid for 30 days. A decision to place an account on a cash only basis or deny facility access shall be at the discretion of the Director of the Department of Administrative Services.

(f) An account customer that sells, terminates, or makes a substantial change in the scope of its business after its application for credit has been approved must notify Metro immediately. Failure to provide the notice required by this subsection may result in termination of credit at Metro facilities pending reapplication for credit.

(g) The Department of Administrative Services may adjust accounts receivable and reverse finance charges in accordance with prudent credit practices. Adjustments over \$500 shall be reported to the Council in writing on a monthly basis, and adjustments over \$10,000 shall require Council approval.

(h) The ~~executive officer~~ Chief Operating Officer may end pursuit of an account receivable, consistent with prudent credit practices, when the likelihood of collecting does not justify further collection costs. Such action shall be reported to the Council in writing on a monthly basis when the amount exceeds \$500, and amounts over \$10,000 shall require Council approval.

(Ordinance No. 82-146, Sec. 11. Amended by Ordinance No. 90-350; Ordinance No. 91-386C, Sec. 8; Ordinance No. 92-455, Sec. 1. Repealed and re-established by Ordinance No. 93-504A. Amended by Ordinance No. 97-681B, Sec. 6; Ordinance No. 98-720A, Sec. 24; Ordinance No. 01-913, Sec. 2.)

5.02.075 Special Exemption from Disposal Fees

(a) The ~~executive officer~~Chief Operating Officer may issue a special exemption permit to a public agency, local government, or qualified non-profit entity that functions to waive fees for disposal of solid waste generated within the Metro region. Prior to issuing such a permit the ~~executive officer~~Chief Operating Officer shall render the following findings:

- (1) Total aggregate disposal fees to be waived for the entity requesting waiver will not exceed \$5,000 per Metro fiscal year;
- (2) The waiver of fees will address or remedy a hardship suffered by the applicant, or the public interest will be served by waiver of the disposal fees;
- (3) The waste in question is acceptable for disposal at a Metro facility;
- (4) The amount of the waiver is covered by budgeted funds; and
- (5) If the applicant for a special exemption permit is a nonprofit entity, such entity is qualified as specified in Code Section 5.07.030(a), (b), (c), (d) and (j).

(b) The ~~executive officer~~Chief Operating Officer shall notify the Metro Council 14 days in advance of the date of issuance of an exemption permit under this section by filing a written report of the proposed action, including required findings, with the Clerk of the Council. If the Council notifies the ~~executive officer~~Chief Operating Officer within the 14-day period of its intent to review the proposed waiver, the ~~executive officer~~Chief Operating Officer shall not issue the permit unless so authorized by the Council.

(Ordinance No. 94-531, Sec. 9. Amended by Ordinance No. 97-681B, Sec. 8)

Exhibit C
Metro Charter 2003 Amendments to Metro Code

Chapter 5.03 Disposal Site Franchise Fees

CHAPTER 5.03

DISPOSAL SITE FRANCHISE FEES

SECTIONS	TITLE
5.03.010	Purpose and Authority
5.03.020	Franchise Application Fees
5.03.030	Annual Franchise Fees
5.03.040	Non-Payment of Franchise Fee
5.03.050	Transfer and Renewal

5.03.010 Purpose and Authority

It is the purpose of this chapter to establish solid waste disposal franchise fees pursuant to Code Section 5.01.140.

(Ordinance No. 81-112, Sec. 1)

5.03.020 Franchise Application Fees

Each application for issuance of a solid waste disposal franchise shall include and be accompanied by a franchise application fee in the amount of \$200. Such fee shall defray ~~the district~~Metro's costs of processing each application and shall be nonrefundable. No application for issuance of a solid waste disposal franchise shall be considered without payment of said application fee. Facilities operating pursuant to Code Section 5.01.060(c) are exempt from this section.

(Ordinance No. 81-112, Sec. 2)

5.03.030 Annual Franchise Fees

(a) Franchisees, issued a solid waste disposal franchise, shall pay to ~~the district~~Metro an annual franchise fee. Such fee shall be paid on or before January 1 of each year for that calendar year.

(b) Annual solid waste disposal franchise fees shall be \$300 per site; provided, however, that said fee shall be \$100 per site for each franchised site that only receives waste from the franchisee or a company, partnership or corporation in which the franchisee has a financial interest.

(c) Franchisees who are issued franchises during a calendar year shall pay a fee computed on a pro-rated quarterly basis such that one quarter of the annual fee shall be charged for any quarter or portion of a quarter that the franchise is in effect. The franchisee shall thereafter pay the fee annually as

required by subsection (a) of this section. Franchise fees shall not for any reason be refundable in whole or in part. Annual franchise fees shall be in addition to franchise application fees.

(Ordinance No. 81-112, Sec. 3)

5.03.040 Non-Payment of Franchise Fee

(a) The issuance of any franchise shall not be effective unless and until the annual franchise fee has been paid for the calendar year for which the franchise is issued.

(b) Annual franchise fees are due and payable on January 1 of each year. Failure to remit said fee by said date shall constitute a violation of the Metro Code and of the franchise and shall subject the franchisee to enforcement pursuant to Code Section 5.01.180 in addition to any other civil or criminal remedies ~~the district~~ Metro may have.

(Ordinance No. 81-112, Sec. 4)

5.03.050 Transfer and Renewal

For purposes of this chapter, issuance of a franchise shall include renewal and transfer of a franchise; provided, however, that no additional annual franchise fee shall be paid upon transfer or renewal when the annual franchise fee for the franchise being renewed or transferred has been paid for the calendar year in which the transfer or renewal becomes effective.

(Ordinance No. 81-112, Sec. 5)

Exhibit D
Metro Charter 2003 Amendments to Metro Code
Chapter 5.04 Recycling Business Assistance Program

CHAPTER 5.04

RECYCLING BUSINESS ASSISTANCE PROGRAM

SECTIONS	TITLE
5.04.005	Definitions
5.04.010	Policy and Purpose
5.04.020	Funding and Budget
5.04.030	Application Process, Criteria and Approval of Loans and Grants
5.04.040	Recycling Advisory Committee (repealed Ord. 00-860A §2)
5.04.050	Administration
5.04.060	Staff Support

5.04.005 Definitions

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

(a) "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).

(b) "Regional Solid Waste Management Plan" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and accepted by the Oregon Department of Environmental Quality (DEQ).

(Ordinance No. 02-937A, Sec. 3.)

5.04.010 Policy and Purpose

(a) It is the policy of ~~the district~~ Metro to support the creation, expansion, preservation, and diversification of markets for recyclable materials, in partial fulfillment of waste reduction requirements set out in the Regional Solid Waste Management Plan and in Oregon law.

(b) It is further policy of ~~the district~~ Metro that support for recyclable materials shall:

- (1) Be based on the solid waste management hierarchy to first reduce, second reuse, third recycle, fourth compost, and lastly recover materials diverted from solid waste; and

- (2) Be directed toward enterprises that are ultimately self-sustaining.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 4.)

5.04.020 Funding and Budget

(a) The Metro Council shall create a separate account within the solid waste operating fund entitled "Recycling Business Assistance Account" to fund projects and proposals to further the policy expressed in this chapter. The Metro Council may from time to time appropriate funds to this account. Funds not disbursed in any one budget year shall be carried forward. Revenue accruing to the account shall be invested in accordance with Metro Code Chapter 2.06.

(b) As part of Metro's annual budget process, the ~~Executive Officer~~ Council President shall propose a budget for the Recycling Business Assistance Program for approval by the Council.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 5.)

5.04.030 Application Process, Criteria and Approval of Loans and Grants

(a) There shall be an open public process for solicitation of loan and grant applications.

(b) Any person may submit proposals for funding. Applications must be in writing and must address all criteria set forth in this section.

(c) All applications shall be reviewed and any recommendation to approve or deny an application for a loan or grant shall include the reasons for acceptance or rejection of the application.

(d) Proposals recommended for approval shall be consistent with the Regional Solid Waste Management Plan and purposes of this chapter.

(e) Loans and grants shall not be approved if the loan or grant proceeds will be used to substitute for projects or programs funded by other sources.

(f) Proposals that best enhance the waste reduction goals of the Regional Solid Waste Management Plan will receive priority consideration for approval.

(g) Proposals shall be directed to the aid of private, for-profit and nonprofit businesses and shall increase or improve one or more of the following:

- (1) The amount of locally-generated materials that are diverted from the waste stream and recycled;
- (2) The number of uses for locally-generated recyclable materials;
- (3) Use of feedstock from locally-generated recyclable materials rather than virgin materials;

- (4) Markets for locally-generated recyclable materials; and
 - (5) Technology for the use of locally-generated recyclable material.
- (h) Funds may not be provided for:
- (1) The cost of preparing loan or grant applications, proposals, stock or debt offerings, formation of partnerships, incorporations or other forms of business or other financing;
 - (2) Ongoing costs or expenses;
 - (3) Payment of fines, penalties, arrears, judgments or other such obligations; or
 - (4) Proposals that degrade the quality of air, water and land resources.

(i) The ~~Executive Officer~~Chief Operating Officer may establish additional criteria for loan or grant approval and may seek recommendations regarding such criteria from the Recycling Business Assistance Advisory Committee.

(j) Prior to approval of an application for a loan or grant, the ~~Executive Officer~~Chief Operating Officer shall provide written notification to the Metro Council of the ~~Executive Officer~~Chief Operating Officer's intent to approve the loan or grant. The ~~Executive Officer~~Chief Operating Officer's notification shall provide the loan or grant applicant's name and address, describe the project for which the loan or grant is intended, provide the amount requested, and summarize the Recycling Business Assistance Advisory Committee's recommendation, the ~~Executive Officer~~Chief Operating Officer's evaluation of the criteria for approval established in this section, and any other relevant issues considered during the ~~Executive Officer~~Chief Operating Officer's review of the application. After receiving the ~~Executive Officer~~Chief Operating Officer's notification, the Council also may review copies of the application and any contents of the application file. Within ten (10) calendar days of receiving the ~~Executive Officer~~Chief Operating Officer's notification, the Council may request to consider the application. If such request is made, the ~~Executive Officer~~Chief Operating Officer shall not approve the application or disburse any loan or grant proceeds without the Council's approval. If the Council does not request to review the application within ten (10) calendar days of receiving the ~~Executive Officer~~Chief Operating Officer's notification, the ~~Executive Officer~~Chief Operating Officer may approve the application and may disburse the approved loan or grant proceeds.

(k) It is the policy of Metro to provide equal opportunity to all applicants for the recycling business assistance loans and grants for which provision is made in this chapter. Metro shall not discriminate against any applicant on the basis of race, color, national origin, gender, sexual orientation, age, religion, physical handicap, political affiliation or marital status.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 7.)

5.04.050 Administration

(a) The ~~Executive Officer~~Chief Operating Officer shall administer the Recycling Business Assistance Program and shall:

- (1) Receive and consider the advice of the Recycling Business Assistance Advisory Committee on all aspects of program administration;
- (2) Publish the criteria for selecting projects, persons and businesses to be provided loans or grants, consistent with Section 5.04.030;
- (3) Review applications for loans and grants;
- (4) Prior to making a determination to approve or deny an application for a loan or a grant, receive and consider the recommendations of the Recycling Business Assistance Advisory Committee regarding each such application;
- (5) Approve or deny applications for loans and grants, consistent with Section 5.04.030; and
- (6) Provide a semi-annual report to the Council that includes information regarding the projects, persons and businesses that have received loans and grants, the amounts of funds disbursed for each loan or grant, and the history and current status of all outstanding loans and grants.

(b) The Recycling Business Assistance Advisory Committee shall:

- (1) Make recommendations to the ~~Executive Officer~~Chief Operating Officer regarding criteria for selecting projects, persons and businesses to be provided loans or grants;
- (2) Review applications for loans and grants;
- (3) Make recommendations to the ~~Executive Officer~~Chief Operating Officer regarding approval or denial of such loans and grants; and
- (4) Advise the ~~Executive Officer~~Chief Operating Officer on all other matters as necessary to fulfill the intent of this chapter.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 6.)

5.04.060 Staff Support

The Regional Environmental Management Department shall:

(a) Provide administrative and staff support to the Recycling Business Assistance Advisory Committee. Additional technical assistance may be acquired following Metro's contract procedures. The

Regional Environmental Management Department shall ensure that no funds shall be expended, disbursed or advanced from the Recycling Business Assistance Account for any administrative or staff support purpose or additional technical assistance. It is the intent of the Council that the entire amount set aside each year be disbursed for loans or grants promoting the purpose of this chapter and that all overhead and staff support expenses necessary for implementing this program be borne by the solid waste operating fund separate from the Recycling Business Assistance Account.

(b) Ensure compliance with all federal and state law relating to lending and the provision of loans and grants by a government entity.

(Ordinance No. 88-250, Sec. 1. Repealed by Ordinance No. 02-937A, Sec. 1; replaced by Ordinance No. 02-937A, Sec. 8.)

Exhibit E
Metro Charter 2003 Amendments to Metro Code

Chapter 5.05 Solid Waste Flow Control

CHAPTER 5.05

SOLID WASTE FLOW CONTROL

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5.05.010 Definitions

Notwithstanding anything expressed or implied in the Metro Code to the contrary, as used in this chapter 5.05, the following terms shall have the respective meanings set forth below unless the context requires otherwise:

- (a) "Act" shall mean Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the State of Oregon.
- (b) "Council" shall have the meaning assigned thereto in Metro Code Section 1.01.040(a).
- (c) "Designated facility" means one of the facilities constituting a part of the system designated from time to time pursuant to Section 5.05.030.
- (d) "Director" means the Director of the Metro Regional Environmental Management Department or the Director's designee.

(e) "Disposal site" means the land and facilities determined from time to time by Metro as constituting part of the system, whether owned by Metro or another person and whether or not open to the public, used for the disposal of solid wastes, but does not include transfer stations or processing facilities.

(f) "District" shall have the meaning assigned thereto in Metro Code Section 1.01.040(b).

~~(g) "Executive Officer" shall mean the duly elected or appointed, qualified and acting executive officer of Metro, or any officer of Metro hereafter succeeding to the powers and duties of such executive officer with respect to the system.~~

(gh) "Metro Code" means the Code of ~~the District~~Metro.

(hi) "Non-system facility" means any solid waste disposal site, transfer station, processing facility, recycling drop center, resource recovery facility or other facility for the disposal, recycling or other processing of solid waste which does not constitute part of the system.

(ij) "Non-system license" means a license issued pursuant to and in accordance with Metro Code Section 5.05.035.

(jk) "Person" shall have the meaning assigned thereto in Metro Code Section 1.01.040(f).

(kl) "Processing facility" shall mean a facility described in Metro Code Section 5.01.010 which has been designated by Metro as constituting part of the system.

(lm) "Regional Solid Waste Management Plan" means the Metro regional solid waste management plan adopted by Ordinance No. 95-624 on November 30, 1995, and as subsequently amended by the Metro Council.

(ma) "Regional system fee" shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(ne) "Required use order" means a written order issued pursuant to Metro Code Section 5.05.040 requiring a waste hauler or other person to use a designated facility pursuant to the terms of the order.

(op) "Resource recovery facility" shall mean a facility described in Metro Code Section 5.01.010 which has been designated by Metro as constituting part of the system.

(pe) "Solid waste" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(qr) "Source separated recyclable material" shall have the meaning assigned thereto in ORS 459.005.

(rs) "State" shall have the meaning assigned thereto in Metro Code Section 1.01.040(g).

(st) "System" shall mean any and all facilities now or hereafter designated by Metro as part of its system for the management and disposal of solid and liquid waste, including, but not limited to recycling and other volume reduction facilities, sanitary landfills, or other disposal means, resource

recovery facilities (including steam production and electrical generating facilities using solid waste as fuel), recycling and transfer stations, roads, water lines, wastewater lines and treatment facilities to the extent provided or operated to carry out the provisions of the Act, and all buildings, fixtures, equipment and all property, real and personal now or hereafter owned, leased, operated or used by Metro, all for the purpose of providing for solid and liquid waste disposal; said system consists of the designated facilities described in Section 5.05.030(a) of this chapter.

(tu) "Transfer station" shall mean a facility described in Metro Code Section 5.01.010 which has been designated by Metro as constituting part of the system.

(uv) "Waste hauler" means any person engaged, in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated within ~~the District~~ Metro, including any person engaged in such activities with respect to solid waste generated by such person as well as any person engaged in such activities with respect to solid waste generated by others.

(Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sections 1 and 8; Ordinance No. 01-917, Sec. 1.)

5.05.015 Special Findings for Solid Waste Flow Control

In connection with the enactment of the provisions of this chapter 5.05 of the Metro Code (as defined below), the Council of Metro hereby finds and determines the following:

(a) Metro has limited land and resources for the disposal, transfer and recovery of resources from solid and liquid waste, it is the responsibility of the Council to protect and judiciously utilize such limited land and resources.

(b) Metro has developed the system as a regional waste disposal and recovery system within the framework of a regional solid waste management plan in cooperation with federal, state and local agencies for the benefit of all citizens of ~~the District~~ Metro.

(c) The purposes of this chapter are to protect and preserve the health, safety and welfare of ~~the District~~ Metro's residents; to implement cooperatively with federal, state and local agencies the Regional Solid Waste Management Plan; to provide a coordinated regional disposal and resource recovery program and a solid waste management plan to benefit all citizens of ~~the District~~ Metro; to reduce the volume of Solid Waste disposal through source reduction, recycling, reuse and resource recovery; and to protect the citizens of the region from liability arising from the use of a disposal site subject to federal law.

(d) Pursuant to the authority granted to Metro under ORS 268.317 and 268.360, as amended, Metro may require any person or class of persons who generate solid or liquid waste to make use of disposal, transfer or resource recovery sites or facilities of the system or disposal, transfer or resource recovery sites designated by Metro.

(e) ORS 268.317 and 268.360, as amended, also provides Metro the authority to require any person or class of persons who pickup, collect, or transport solid or liquid wastes to make use of the disposal, transfer or resource recovery sites of the system or disposal, transfer or resource recovery sites or facilities designated by Metro.

(f) The provisions of this chapter 5.05 are intended to be, and they shall constitute, the exercise by Metro of the powers and authority granted to it under ORS 268.317 and 268.360, as amended, and the regional solid waste management plan to require the persons and classes of persons specified herein who generate, pickup, collect or transport solid or liquid wastes to make use of the disposal, transfer or resource recovery sites of the system or disposal, transfer or resource recovery sites or facilities designated by Metro.

(Ordinance No. 89-319. Amended by Ordinance No. 01-917, Sec. 2.)

5.05.020 Authority, Jurisdiction, and Application

(a) Metro's Solid Waste flow control authority is established under ORS Chapter 268 for Solid Waste and the Metro Charter and includes authority to regulate Solid Waste generated within ~~the District~~Metro.

(b) This chapter shall govern the transportation, transfer, disposal and other processing of all solid waste generated within ~~the District~~Metro as authorized by state law, and shall govern all waste haulers and other persons who generate solid waste within ~~the District~~Metro or who transport, transfer, dispose or otherwise deal with or process solid waste generated within ~~the District~~Metro; provided that notwithstanding the foregoing, this chapter does not apply to or govern the transportation, transfer or processing of, or other dealing with, source separated recyclable material.

(c) All Solid Waste regulation shall be subject to the authority of all other applicable laws, regulations or requirements in addition to those contained in this chapter. Nothing in this chapter is intended to abridge or alter the rights of action by the State or by a person which exist in equity, common law, or other statutes to abate pollution or to abate a nuisance. The provisions of this chapter shall be liberally construed to accomplish these purposes.

(Ordinance No. 89-319. Amended by Ordinance No. 01-917, Sec. 3.)

5.05.025 Prohibited Activities

Except as otherwise provided in this chapter it shall be unlawful for any waste hauler or other person to transport solid waste generated within ~~the District~~Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within ~~the District~~Metro, any solid waste facility or disposal site without an appropriate license from ~~the District~~Metro.

(Ordinance No. 01-917, Secs. 4-5.)

5.05.027 Exemptions

(a) A license is not required of any waste hauler or other person to transport solid waste generated within ~~the District~~Metro to, or to utilize or cause to be utilized for the disposal or other processing of solid waste generated within ~~the District~~Metro, a designated facility of the system that is in compliance with all local, state, federal and Metro regulations, including any agreement entered into between Metro and the system facility.

(b) A license is not required to transport solid wastes to a solid waste facility or disposal site for the primary purpose of destroying such wastes, including but not limited to contraband, postage stamps, expired pharmaceuticals, and certain records.

(Ordinance No. 01-917, Secs. 6-7.)

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 ~~the district~~ Metro which are subject to Metro regulatory authority under Chapter 5.01 of the Metro Code.
- (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 the ~~District~~ Metro.
- (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 the ~~District~~ Metro.
- (6) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Oregon Waste Systems, Inc. subject to the terms of the agreements in existence on November 14, 1989 between Metro and Oregon Waste Systems and between Metro and Jack Gray Transport, Inc. In addition, Columbia Ridge Landfill may accept special waste generated within the ~~District~~ Metro:
 - (A) As specified in an agreement entered into between Metro and Oregon Waste Systems authorizing receipt of such waste; or
 - (B) Subject to a non-system license issued to a person transporting to the facility special 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 waste generated within the ~~District~~ 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 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 waste generated within ~~the District~~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 waste 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) An agreement, or amendment to an agreement between Metro and a designated facility, shall be subject to approval by the Metro Council prior to execution by the ~~executive officer~~Chief Operating Officer.

(d) 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.

(Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sec. 2; Ordinance No. 92-471C, Sec. 1; Ordinance No. 93-483A, Sec. 1; Ordinance No. 01-917, Sec. 8.)

5.05.035 License to Use Non-System Facility

A waste hauler or other person may transport solid waste generated within ~~the District~~Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within the ~~District~~Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this ~~S~~section 5.05.035.

(a) Application for License. Any waste hauler or other person desiring to obtain a non-system license shall make application to the ~~executive officer~~Chief Operating Officer, which application shall be filed on forms or in the format provided by the ~~executive officer~~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; and
- (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.
- (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 ~~executive officer~~ Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the ~~executive officer~~ Chief Operating Officer deems necessary or appropriate in order to determine whether or not to issue the proposed non-system license.

(b) Every application shall be accompanied by payment of a non-refundable application fee, and an issuance fee which shall be refunded to the applicant in the event that the application is denied. Until such time as Council acts on the ~~executive officer~~ Chief Operating Officer's recommendation pursuant to Section 5.05.035(g) of this chapter, the following fees shall apply:

- (1) For a limited duration non-system license, the application fee shall be fifty dollars (\$50) and the issuance fee shall be fifty dollars (\$50) for each 30 days (or part thereof) that the license is valid;
- (2) For all other non-system licenses, the application fee shall be five hundred dollars (\$500) and the issuance fee shall be five hundred dollars (\$500).

(c) Determination Whether to Issue Non-System License. Within 60 days after receipt of a completed application for a non-system license and any additional information required by the ~~executive officer~~ Chief Operating Officer in connection therewith, the ~~executive officer~~ Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination. In making such determination, the ~~executive officer~~ Chief Operating Officer shall consider the following factors to the extent relevant to such determination:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system 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 non-system 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 non-system 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 applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations.
- (7) Such other factors as the ~~executive officer~~ Chief Operating Officer deems appropriate for purposes of making such determination.

At the discretion of the ~~executive officer~~Chief Operating Officer, the ~~executive officer~~Chief Operating Officer may impose such conditions on the issuance of a non-system license as the ~~executive officer~~Chief Operating Officer determines are necessary or appropriate under the circumstances.

(d) Issuance of Non-System License; Contents. In the event the ~~executive officer~~Chief Operating Officer determines to issue a non-system license, then such non-system license shall be issued by the ~~executive officer~~Chief Operating Officer. Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;
- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;
- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than 120 days from the date of issuance for limited-duration non-system licenses, and two years from the date of issuance for all other non-system licenses; and
- (6) Any conditions imposed by the ~~executive officer~~Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.035(c).

(e) Requirements to be met by License Holder. Each waste hauler or other person to whom a non-system license is issued shall be required to:

- (1) Maintain complete and accurate records regarding all solid waste transported, disposed of or otherwise processed pursuant to the non-system license, and make such records available to Metro or its duly designated agents for inspection, auditing and copying upon not less than three days written notice from Metro;
- (2) Report in writing to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, the number of tons of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month;
- (3) Pay to Metro, not later than the 15th day of each month, commencing the 15th day of the month following the month in which the non-system license is issued and continuing through the 15th day of the month next following the month in which the non-system license expires, a fee equal to the Regional System Fee multiplied

by the number of tons (or fractions thereof) of solid waste transported, disposed or otherwise processed pursuant to such non-system license during the preceding month.

(f) Failure to Comply with Non-System License. In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.035(e) above or any conditions of such non-system license imposed pursuant to Section 5.05.035(c), then, upon discovery of such non-compliance, the ~~executive officer~~Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the ~~executive officer~~Chief Operating Officer may determine to grant as provided below, the licensee fails to:

- (1) Demonstrate to the satisfaction of the ~~executive officer~~Chief Operating Officer either that the licensee has at all times fully and promptly complied with the foregoing requirements and the conditions of such non-system license or that the licensee has fully corrected such non-compliance; and
- (2) Paid in full, or made arrangements satisfactory to the ~~executive officer~~Chief Operating Officer for the payment in full of, all fines owing as a result of such non-compliance;

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time) on such 20th day or on the last day of such longer period as the ~~executive officer~~Chief Operating Officer may determine to grant as provided below. If, in the judgment of the ~~executive officer~~Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the ~~executive officer~~Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the ~~executive officer~~Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.

(g) Executive Officer to Recommend License Application and Issuance Fee Schedules. Prior to March 15, 2002, the executive officer shall recommend to council non-system license application and issuance fee schedules which vary for each applicant and licensee based on the type and quantity of solid waste subject to the non-system license and other appropriate factors.

(Ordinance No. 89-319. Amended by Ordinance No. 91-388; Ordinance No. 01-917, Sec. 9.)

5.05.040 Issuance of Required Use Orders

(a) The Director may issue a required use order to any waste hauler or other person within ~~the District~~Metro, requiring the recipient to deliver waste to a specific designated facility. In issuing a required use order, the Director shall comply with the provisions of this section and Section 5.05.050.

(b) The following priorities shall govern the Director in determining whether to issue required use orders:

- (1) To the extent consistent with state, Metro and local regulations, and facility obligations and facility limitations, waste haulers and other persons should be allowed to utilize the designated facility of their choice; and
- (2) It may be necessary for the Director to override the facility choice of a waste hauler or other person if the Director finds that allowing specific haulers to exercise their choice appears likely to result in:
 - (A) The overloading or under-utilization of a specific designated facility or facilities; or
 - (B) Other system inefficiencies or negative impacts on the public health, safety or welfare specified by the Director.

(c) If, after considering the priorities in subsection (b) of this section, the Director determines that it is necessary to issue or amend required use order(s), the Director may do so giving due regard to the following factors:

- (1) The location of the waste hauler or other person's route and/or facilities in relation to designated facilities, in terms of travel time and/or distance;
- (2) The equipment being utilized by the hauler at the time of issuance of the order in relation to the equipment handling capabilities of designated facilities;
- (3) The types of waste being disposed of by the waste hauler or other person, in relation to the capabilities of designated facilities to most appropriately process those wastes; and
- (4) Other considerations deemed relevant by the Director, including but not limited to other health, safety and welfare considerations.

(Ordinance No. 89-319, Sec. 5.05.040 repealed and replaced with Ordinance No. 91-388, Sec. 3; Ordinance No. 01-917, Sec. 11.)

5.05.050 Content of Required Use Orders; Notice

- (a) Required use orders issued by the Director shall set forth the following:
 - (1) The names of the waste haulers or persons to be subject to the required use order together with their addresses or places of business and telephone numbers;
 - (2) The type and quantity of solid waste subject to the required use order;
 - (3) The name and location of the designated facility that the recipient is required to use pursuant to the order;
 - (4) The effective date of the required use order, which date, in the absence of an emergency, shall not be less than 10 days from the date of the order; and a brief

description of the procedure for requesting that the Director reconsider issuance of the order, or specific details of the order; and

- (5) A brief description of the procedure for requesting that the Director reconsider issuance of the order, or specific details of the order; and
- (6) Such other information as the Director may consider necessary or appropriate.

(b) Within two days after the date of any required use order, the Director shall cause notice of such required use order to be given as follows:

- (1) By United States mail, postage prepaid, to each waste hauler and person to be subject to such required use order at the last known address thereof; and
- (2) By any other method deemed by the Director as necessary, and most likely, to ensure actual notice to the waste hauler or other person subject to the order.

(c) The failure of any waste hauler or person subject to a required use order to receive notice thereof shall not affect the validity of such required use order nor excuse such waste hauler or person from complying with the terms thereof.

(Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sec. 4)

5.05.052 Requests for Reconsideration

(a) Any waste hauler or other person receiving a required use order may request that the Director reconsider issuance of the order or specific details of the order. The request may be premised on any matter that was relevant to issuance of the order, as specified in Metro Code Section 5.05.040.

(b) A request for reconsideration must be in writing, on a form provided by Metro. To be timely, a request for reconsideration must be received by the Director within 30 days of the date of issuance of the required use order, as specified in the order.

(c) The Director shall review a request for reconsideration and, within 15 days of receipt, issue a written affirmance of the original order, or a modified order.

- (1) The affirmance or modification shall be considered timely if it is deposited in the mail within the 15-day period, with regular first class postage and addressed to the person requesting review.
- (2) The affirmance or modification shall include a brief statement of the basis for the decision, and a brief statement of the procedure for requesting review of the decision by the ~~executive officer~~ Chief Operating Officer.

(d) Review by the Director of a request for reconsideration is intended to be informal, and may include personal, written, or telephone contact between the waste hauler or other persons and the Director or solid waste department staff.

(e) If the Director fails to issue a timely decision, the waste hauler or other person receiving the order may appeal the decision to the ~~executive officer~~Chief Operating Officer as specified in Metro Code Section 5.05.054.

(f) A request for reconsideration shall not stay the order issued. A required use order shall be effective on the date issued, and shall remain in effect until modified or revoked.

(Ordinance No. 91-388, Sec. 5)

5.05.054 Appeals to the ~~Executive Officer~~Chief Operating Officer

(a) A waste hauler or other person receiving a required use order may appeal the Director's affirmance or modification of the order to the ~~executive officer~~Chief Operating Officer. The ~~executive officer~~Chief Operating Officer may be asked to review any matter that was relevant to issuance of the order, as specified in Metro Code Section 5.05.040.

(b) An appeal to the ~~executive officer~~Chief Operating Officer shall be in writing and on a form provided by Metro. To be timely, the appeal must be received by the ~~executive officer~~Chief Operating Officer within 30 days of the date of issuance of the Director's affirmed or modified order.

(c) The ~~executive officer~~Chief Operating Officer shall review a request for reconsideration and, within 15 days of receipt, issue a written order affirming or modifying the decision of the Director.

- (1) The affirmance or modification shall be considered timely if it is deposited in the mail within the 15-day period, with regular first class postage and addressed to the person requesting review.
- (2) The affirmance or modification shall include a brief statement of the basis for the decision, and a brief statement of the process for contested case review of the decision by the Metro Council.

(d) Review by the ~~executive officer~~Chief Operating Officer of the Director's decision is intended to be informal, and may include personal, written, or telephone contact between the waste hauler or other person and the ~~executive officer~~Chief Operating Officer.

(e) If a waste hauler or other person is not satisfied with the ~~executive officer~~Chief Operating Officer's decision, or if the ~~executive officer~~Chief Operating Officer fails to issue a timely decision, the waste hauler or other person receiving the Order may appeal the decision to the Metro Council as a contested case proceeding. Review in such proceedings shall be limited to the following:

- (1) Whether exceptional circumstances of the waste hauler or other person warrant revocation or modification of the order; or
- (2) Whether the order is likely to cause extreme financial hardship to the waste hauler or other person subject to the order, warranting revocation or modification of the order.

(f) A request for reconsideration shall not stay the order issued. A required use order shall be effective on the date issued, and shall remain in effect until modified or revoked.

(Ordinance No. 91-388, Sec. 5)

5.05.060 Solid Waste Tracking System to be Developed

The ~~executive officer~~Chief Operating Officer shall develop and establish a system for tracking of solid waste generated, collected, transported or disposed within ~~the district~~Metro for the purpose of ensuring compliance with the requirements of this chapter and to ensure equitable application of the requirements of this chapter. The tracking system shall be subject to other review and approval of the Council. The ~~executive officer~~Chief Operating Officer in developing the tracking system shall consider the following:

- (a) Establishment of a permit or licensing system for waste haulers or persons generating, collecting, transporting or disposing of solid waste.
- (b) Use of franchises.
- (c) Use of personnel to monitor compliance with the requirements of this chapter.
- (d) Intergovernmental agreements for exchange of information.
- (e) Equipment identification.
- (f) Reporting requirements by waste haulers or persons generating, transporting or disposing of solid waste.
- (g) Such other criteria or methods which the ~~executive officer~~Chief Operating Officer considers reasonable and appropriate.

(Ordinance No. 89-319)

5.05.070 Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations

(a) Any waste hauler or person who violates or fails to comply with any provision of this chapter 5.05 or who fails to comply with the terms and conditions of any non-system license or required use order shall be subject to the fines and penalties set forth in this section, which fines and penalties shall be assessed by the ~~executive officer~~Chief Operating Officer.

- (1) A fine in the amount of not to exceed \$500 for each violation; and
 - (2) Such waste hauler or person shall not be extended any credit by Metro for the use of any facility constituting a part of the system until such time as all fines owing under this chapter as a result of such violation or failure to comply have been paid in full.
- (b) In addition to the foregoing fines and penalties:

- (1) Any waste hauler or person who fails to comply with the terms and conditions of any non-system license shall be required to pay to Metro a fine in the amount equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste generated within ~~the District~~Metro transported, disposed of or otherwise processed in violation of the terms and conditions of such non-system license; and
- (2) Any waste hauler or person who, without having a non-system license then in effect, transports solid waste generated within ~~the District~~Metro to, or utilizes or causes to be utilized for the disposal or other processing of any solid waste generated within ~~the District~~Metro, any non-system facility shall be required to pay to Metro a fine in an amount equal to the \$500 non-system license application fee, plus the \$500 non-system license issuance fee, plus an amount equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste generated within ~~the District~~Metro transported, recycled, disposed of or otherwise processed to or at any non-system facility.

(c) If in the judgment of the ~~executive officer~~Chief Operating Officer such action is warranted, Metro shall commence an appropriate action in a state court of competent jurisdiction for the purpose of collecting the fines and penalties provided for above and/or enjoining any violations of the provisions of this chapter 5.05 or any non-compliance with the terms and conditions of any non-system license or required use order.

(d) By March 15, 2002, the ~~executive officer~~Chief Operating Officer shall recommend to ~~Ce~~ouncil a schedule of fines which impose sanctions based on the nature and extent of the violation or failure to comply.

(e) A required use order may be enforced by authorized gatehouse employees at any Metro facility, by denying facility access to a waste hauler or other person who is subject to a required use order and is attempting to deliver waste to a facility not specified in the order. This enforcement shall be in addition to the fines and penalties that may be levied pursuant to this section.

(Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sec. 6; Ordinance No. 01-917, Sec. 12.)

5.05.080 Administrative Rules

Except for the system tracking pursuant to ~~S~~section 5.05.060 hereof, the ~~executive officer~~Chief Operating Officer is hereby authorized and empowered to make such administrative rules and regulations as the ~~executive officer~~Chief Operating Officer considers proper to effectively carry out the purposes of this chapter 5.05.

Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sec. 7)

5.05.090 Contested Case Proceedings

Any waste hauler or other person desiring to contest any decision made by the ~~executive officer~~Chief Operating Officer under this chapter 5.05 shall commence a contested case proceeding pursuant to ~~C~~chapter 2.05 of the Metro Code.

(Ordinance No. 89-319)

Exhibit F
Metro Charter 2003 Amendments to Metro Code
Chapter 5.06 Community Enhancement Programs

CHAPTER 5.06

COMMUNITY ENHANCEMENT PROGRAMS

SECTIONS	TITLE
5.06.010	Policy and Purpose
5.06.020	Funding
5.06.030	Approvals
5.06.040	Composter Community Enhancement Committee
5.06.045	Metro Central Station Community Enhancement Committee (repealed Ord. 00-860A §2)
5.06.050	Administration
5.06.060	Criteria for Funding Composter Community Enhancement Projects/Programs (repealed Ord. 00-860A §2)
5.06.065	Criteria for Funding Metro Central Station Community Enhancement Projects/Programs
5.06.070	Composter Community Enhancement Boundary (repealed Ord. 00-860A §2)
5.06.075	Metro Central Station Community Enhancement Boundary
5.06.080	Staff Support (repealed Ord. 00-860A §2)

5.06.010 Policy and Purpose

(a) It is the policy of ~~the district~~ Metro to apportion an enhancement fee of \$.50 per ton on solid waste delivered to each site within ~~the district~~ Metro and dedicate and use the monies obtained for enhancement of the area in and around the site from which the fees have been collected.

(b) It is further policy of ~~the district~~ Metro to support community enhancement programs in the area of the mass composter facility at 54th and Columbia Boulevard, and in the area of Metro Central Station, 6161 N.W. 61st Avenue, both in Portland, Oregon.

(Ordinance No. 90-331A, Sec. 1. Amended by Ordinance No. 91-437, Sec. 1)

5.06.020 Funding

The Council shall create separate funds entitled the "Composter Community Enhancement Fund" and the "Metro Central Station Community Enhancement Fund." For each ton of waste deposited at the mass composting facility, \$.50 shall be budgeted and accounted for in the composter community enhancement fund. For each ton of waste deposited at Metro Central Station, \$.50 shall be budgeted and accounted for in the Metro Central Station community enhancement fund. Funds not expended in any one budget year shall be carried forward. Revenue accruing to each fund shall be invested in accordance with Metro's investment policies.

(Ordinance No. 90-331A, Sec. 1. Amended by Ordinance No. 91-437, Sec. 1)

5.06.030 Approvals

Contracts brought forward under this program shall be approved in accordance with Chapter 2.04. No expenditure from the composter community enhancement fund shall be made without the positive vote of a majority of the full committee created pursuant to Section 5.06.040. No expenditure from the Metro Central Station community enhancement fund shall be made without the position vote of a majority of the full committee created pursuant to Metro Code Section 5.06.045.

(Ordinance No. 90-331A, Sec. 1. Amended by Ordinance No. 91-437, Sec. 1)

~~5.06.040 Composter Community Enhancement Committee [REPEAL SECTION 5.06.040]~~

~~In order to implement the composter community enhancement program there shall be created a Composter Community Enhancement Committee consisting of 10 members to be appointed and serve terms as follows:~~

~~(a) Eight members to be appointed by the executive officer subject to confirmation by the council. The executive officer shall make appointments as follows:~~

~~(1) Three members shall be appointed from a list of nominees submitted by the Cully Association of Neighbors.~~

~~(2) One member shall be appointed from a list of nominees submitted by the Concordia Community Association.~~

~~(3) One member shall be appointed from a list of nominees submitted by the Beaumont Wilshire Neighborhood Association.~~

~~(4) One member shall be appointed from a list of nominees submitted by the Madison North Neighborhood Association.~~

~~(5) One member shall be appointed from a list of nominees submitted by the Rose City Park Neighborhood Association.~~

~~(6) All of these members shall reside within the composter community enhancement program's boundary.~~

~~(7) One member, representing the business community, shall be appointed from nominees submitted by the businesses and the business associations located within the composter community enhancement program area. This member shall reside or work within the composter community enhancement program's boundary.~~

~~_____ (b) _____ The Metro councilors representing council districts 10 and 11 shall serve on the committee. The presiding officer of the council annually shall appoint one of these members to serve as chair person.~~

~~_____ (c) _____ The effective date for all appointments of all members except the Metro councilors shall be the date of membership confirmation by the Metro council. The initial terms of service for the eight non-council members shall be four members for three years and four members for two years, designation to be determined by lot. Committee members may be reappointed for consecutive terms not to exceed two full terms. Following the initial term, terms for all non-council members shall be two years each. Appointments to fill vacancies shall be for the remainder of the vacant term.~~

~~_____ (d) _____ In the case of a vacancy in a position appointed pursuant to subsections (a)(1) through (a)(7), the executive officer shall solicit nominations from all organizations who were eligible to submit nominations for the original appointment.~~

~~(Ordinance No. 90-331A, Sec. 1. Amended by Ordinance No. 91-429B, Sec. 1; Ordinance No. 91-437, Sec. 1)~~

5.06.050 Administration

The administration of a community enhancement program shall be subject to the approval of the community enhancement committee established for that purpose.

(a) Each committee shall propose an annual budget for the community enhancement fund under its jurisdiction for approval by the Ceouncil. Each budget shall be prepared and considered in Metro's annual budget process. Each budget shall at a minimum identify general program or project areas for the fiscal year, except that a committee may recommend that no expenditures be made during a fiscal year. A committee and the Ceouncil shall endeavor to preserve each community enhancement fund principal.

(b) A committee may solicit requests for proposals or projects which may be funded from the community enhancement fund under its jurisdiction. Any project or proposal to be funded through a community enhancement fund shall be approved according to Metro contract procedures. Projects or proposals shall not be split into components when approved. No project or proposal shall be considered by Metro which has not been recommended by the committee exercising jurisdiction.

(c) The composter community enhancement committee shall publish and use the criteria in Section 5.06.060 below, and the Metro central station community enhancement committee shall publish and use the criteria in Section 5.06.065, in selecting projects/programs for funding through a Request for Proposals (RFP) process. Each committee's recommendations and approvals shall be filed with the Ceouncil. A committee may at any time request the Ceouncil to modify or change the criteria.

(d) Each committee shall annually report to the Ceouncil and the ~~executive officer~~Chief Operating Officer all projects approved and the amounts of funds expended on each project, from the fund under its jurisdiction.

(Ordinance No. 90-331A. Amended by Ordinance No. 91-437, Sec. 1)

5.06.065 Criteria for Funding Metro Central Station Community Enhancement Projects/Programs

(a) Metro central station community enhancement projects/programs will be funded within the area specified in Section 5.06.075.

(b) Only a nonprofit association, including but not limited to a neighborhood association or a charitable organization with 501(c)(3) status under the Internal Revenue Code, may submit proposals. All proposals must be in writing.

(c) The committee will provide an open public process for project/program review and recommendation which shall include the reasons for acceptance or rejection of proposals.

(d) The enhancement fund shall not substitute for projects/programs funded by other sources.

(e) Projects/Programs may funded in part or in full.

(f) Funds will not be provided in a manner that unconstitutionally promotes or inhibits a religious establishment.

(g) Projects/Programs that best enhance or rehabilitate areas most severely impacted by the facility will receive priority consideration for approval.

(h) Projects/Programs shall meet one or more of the following goals. Priority will be given to projects/programs that best meet the goals and which offer benefits to the areas most directly impacted by the facility. The order of the following listing does not imply ranking nor weighting:

- (1) Result in rehabilitation, upgrading or direct increase in the real or personal property owned or operated by a nonprofit organization having 501(c)(3) status under the Internal Revenue Code.
- (2) Result in the preservation or enhancement of wildlife, riparian zones, wetlands, forest lands and marine areas, and improve the public awareness and the opportunities to enjoy them.
- (3) Result in improvement to, or increase in, recreational areas and programs within the boundaries.
- (4) Result in improvement in the safety of the area.
- (5) Result in an improvement of the appearance or cleanliness or environmental quality of the area/neighborhood within the boundaries.
- (6) Result in projects/programs which are located within the boundaries and/or benefit youth and seniors within the boundaries.

- (7) Results in projects/programs which are located within the boundaries and/or benefit low-income persons within the boundaries.
- (8) Result in projects/programs which are located within the boundaries and/or increase recycling opportunities within the project boundaries.

(Ordinance No. 91-437, Sec. 1. Amended by Ordinance No. 93-503)

5.06.075 Metro Central Station Community Enhancement Boundary

(a) The boundary of the Metro central station community enhancement program shall begin at the intersection of Newberry Road with the shore of the west bank of the Willamette River; proceed south along the west bank to Interstate 405 at the Fremont Bridge; south on Interstate 405 to Pettygrove Street; west on Pettygrove Street to Cornell Road; west on Cornell Road to N.W. Thompson Road; north on N.W. Thompson Road to Skyline Boulevard; north on Skyline Boulevard to Newberry Road; east on Newberry Road to the shore of the west bank of the Willamette River. The program area shall also include the St. Johns Bridge, and an area bounded by the shore of the east bank of the Willamette River to Baltimore Street; east on Baltimore Street to Lombard Street; south on Lombard Street to Richmond Street; and west on Richmond Street to the shore of the East Bank of the Willamette River.

(b) In addition to the area described in this section, the program area shall include all properties outside of, and immediately adjacent to, a boundary street.

(Ordinance No. 91-437, Sec. 1)

Exhibit G
Metro Charter 2003 Amendments to Metro Code

Chapter 5.07 Recycling Credits

CHAPTER 5.07

RECYCLING CREDITS

SECTIONS	TITLE
5.07.010	Purpose
5.07.020	Program Description
5.07.030	Eligibility Criteria
5.07.040	Annual Agreements for Credits
5.07.050	Budget Authorization

5.07.010 Purpose

The purpose of this chapter is to provide disposal cost relief at Metro solid waste disposal facilities for charitable, nonprofit entities that accomplish a significant level of waste reduction and recycling in operating programs that also have significant benefits to the region.

(Ordinance No. 90-362A, Sec. 1)

5.07.020 Program Description

Recycling credits are established to provide disposal cost relief at Metro disposal facilities to organizations that qualify under the eligibility criteria listed in Section 5.07.030.

Recycling credits are based on an eligible organization's overall waste reduction level (summarized in this program as "recycling level"). The waste reduction level includes both reuse and recycling activities. The following formula establishes the amount of the recycling credit relative to the organization's recycling level. Recycling credits will be applied to total disposal costs at the time Metro bills the eligible organization:

If the recycling level is 70 percent or above, a 100 percent credit is granted;

If the recycling level is 65 percent or above, a 90 percent credit is granted;

If the recycling level is 60 percent or above, an 80 percent credit is granted;

If the recycling level is 55 percent or above, a 70 percent credit is granted;

If the recycling level is 50 percent or above, a 60 percent credit is granted;

If the recycling level is below 50 percent, no credit is granted.

The recycling level of the eligible organization will be based on documentation provided to Metro's solid waste Director on an annual basis. Recycling credits are not available at facilities where Metro does not serve as the billing entity.

(Ordinance No. 90-362A, Sec. 1)

5.07.030 Eligibility Criteria

An organization qualifies to receive a recycling credit if the following criteria have been documented during the annual application process:

(a) The organization must be classified as a nonprofit organization under Section 501(c)(3) of the United States Internal Revenue Code. Furthermore, the organization submits an annual report on Federal Form 990 (Return of Organization Exempt for Income Tax).

(b) The organization must be registered as a nonprofit organization with the Corporation Commission of the State of Oregon.

(c) The organization submits an annual report to the Oregon Department of Justice Charitable Trust Section and provides assistance to needy citizens of the region and opportunities for employment to those in need of assistance and rehabilitation.

(d) The organization does not contract with for-profit organizations to collect, process, or sell used goods.

(e) The organization must be engaged, as a primary form of revenue, in the processing of donated goods for resale or reuse.

(f) The organization facilitates the opportunity to reuse and recycle for the general public via curbside collection of donated goods or staffing of drop-off sites.

(g) The waste reduction activities of the organization divert a significant amount of material that might otherwise be landfilled. A significant amount is defined as a minimum of 250 tons per year of donated goods that are either reused or recycled.

(h) The organization is a credit customer in good standing at Metro disposal facilities.

(i) The organization submits annual waste reduction data to the Metro solid waste Director by February 15th of each year which documents the organization's recycling level for the preceding calendar year using a methodology approved by Metro.

(j) No portion of ~~the district~~ Metro funds authorized by this program will benefit any religious function of any religious organization.

(Ordinance No. 90-362A, Sec. 1)

5.07.040 Annual Agreements for Credits

The ~~executive officer~~Chief Operating Officer is hereby authorized to enter into annual agreements which may not extend beyond the end of the current fiscal year with organizations determined by the ~~executive officer~~Chief Operating Officer to be eligible and who meet the waste reduction levels established herein. Consistent with the budget authorization adopted by the ~~Ceouncil of the Metropolitan Service District~~Metro, as provided for in ~~S~~Section 5.07.050 herein, the ~~executive officer~~Chief Operating Officer shall on an annual basis enter into agreements with eligible organizations so desiring and allocate available funds for recycling credits to such organizations that continue to meet the eligibility criteria and program requirements provided for herein. In the event that sufficient funds are not available to provide the level of recycling credit established in ~~S~~Section 5.07.020 provided for herein each agreement shall provide that the organization shall only be entitled to the receipt of the credit for tonnages actually delivered until such time as the total authorized amount has been credited throughout the program. Once the annual authorized amount is exhausted by the combined efforts of the eligible organizations then recycling credits shall no longer be available during the remaining portion of that fiscal year unless a further authorization is approved.

The form of such agreements entered into by the ~~executive officer~~Chief Operating Officer shall be consistent with the terms and provisions of this chapter and shall be in a form approved by the ~~office of general counsel~~Metro Attorney.

(Ordinance No. 90-362A, Sec. 1)

5.07.050 Budget Authorization

The ~~Ceouncil~~ shall establish by ordinance, which may be the annual budget ordinance, the amount available for applying for recycling credits pursuant to this program. The ~~executive officer~~Chief Operating Officer may not enter into agreements or authorize the credits in an amount greater than that provided for by the ~~Ceouncil~~. The agreements authorized under ~~S~~Section 5.07.040 are hereby exempted from the requirements of ~~C~~hapter 2.04 but may be entered into with any eligible organization making application therefore within 30 days prior to funds being available for recycling credits as authorized by the ~~Ceouncil~~.

(Ordinance No. 90-362A, Sec. 1)

Exhibit H
Metro Charter 2003 Amendments to Metro Code

Chapter 5.09 Illegal Dumping

CHAPTER 5.09

ILLEGAL DUMPING

SECTIONS	TITLE
5.09.005	Title
5.09.010	Purpose
5.09.020	Definitions
5.09.030	Jurisdiction
5.09.040	Prohibitions
5.09.050	Penalties and Minimum Security
5.09.060	Persons Authorized to Issue Citations
5.09.070	Procedure for Service of Citation
5.09.080	Issuance of Warnings
5.09.090	Citation Form and Content
5.09.100	Metro Representation at Hearing
5.09.110	Appearance by Person Cited
5.09.120	Prehearing Discovery
5.09.130	Procedures Before Hearings Officer
5.09.140	Failure to Appear by Person Cited
5.09.150	Review of Hearings Officer Decisions
5.09.160	Collection of Fines and Costs
5.09.170	Administrative Policies and Procedures
5.09.180	Severability

5.09.005 Title

This chapter may be cited as the "Metro Illegal Dumping Ordinance."

(Ordinance No. 94-557)

5.09.010 Purpose

The purposes of this chapter are:

- (a) To carry out Metro's responsibility to control the flow of solid waste in the Portland metropolitan area;
- (b) To assist and coordinate with local governments in controlling illegal dumping throughout the Portland metropolitan area; and

(c) To carry out the provisions related to illegal dumping in the Regional Solid Waste Management Plan.

(Ordinance No. 94-557)

5.09.020 Definitions

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

(a) "Authorized official" means a person authorized to issue citations under Section 5.09.070.

(b) "Department" means the Metro Solid Waste Department.

(c) "Person" means any individual, corporation, partnership, association, firm, trust, estate, or other legal entity.

(d) "Hearings officer" means a person designated by Metro to hear and decide cases under this chapter.

(Ordinance No. 94-557)

5.09.030 Jurisdiction

This chapter shall apply to all territory within the boundaries of Metro, as well as any additional area as may be established through an intergovernmental agreement.

(Ordinance No. 94-557)

5.09.040 Prohibitions

(a) No person shall transport or carry, or direct another person to transport or carry, any solid waste, including rubbish, trash, garbage, debris or other refuse, or recyclable material, in or on a motor vehicle or trailer, upon a public road right-of-way within ~~the district~~Metro, unless such solid waste or recyclable material is:

- (1) Completely covered on all sides and on the top and bottom and such cover is either a part of or securely fastened to the body of the motor vehicle or trailer; or
- (2) Contained in the body of the motor vehicle or trailer in such a way as to prevent any part of the solid waste or recyclable material from being deposited upon any private or public property, road, right-of-way or driveway within ~~the district~~Metro.

(b) No person shall throw or place, or direct another person to throw or place, other than in receptacles provided therefor, upon the private land or waters of another person without the permission of

the owner, or upon public lands or waters, or upon any public place other than at a Metro-designated facility, any solid waste, including rubbish, trash, garbage, debris, or other refuse or recyclable material.

(Ordinance No. 94-557)

5.09.050 Penalties and Minimum Security

(a) Any person, firm, or corporation violating Section 5.09.040(a) shall be subject to a civil fine of not more than \$500 for each infraction.

(b) Any person, firm, or corporation violating Section 5.09.040(b) shall be subject to:

(1) A civil fine of not more than \$1,000 for each infraction; and

(2) An award of costs to reimburse Metro for the following actual expenses:

(A) administrative costs of investigation, adjudication, and collection; and

(B) cleanup and disposal costs incurred.

(c) The Metro Council may by order establish and modify schedules of minimum security for violations under this chapter. Until modified, minimum security shall be as follows:

(1) Seventy-five dollars (\$75) for a first offense of Section 5.09.040(a), and \$250 for a subsequent offense.

(2) One hundred fifty dollars (\$100) for a first offense of Section 5.09.040(b), and \$500 for a subsequent offense.

(3) Notwithstanding subsections (1) and (2) of this section, the minimum security for any corporation or other business entity violating Section 5.09.040(b) by illegally depositing solid waste estimated to be in excess of 10 cubic yards, shall be \$1,000.

(4) Notwithstanding subsections (1), (2), and (3) of this section, Metro may accept less than full security, but in no case less than \$25 from a person who requests a hearing by appearing in person, upon a showing by such person that he or she is financially unable to post the full security required by this section.

(d) Forfeiture of security or payment of a fine on a citation issued under this chapter does not relieve a violator of responsibility to remedy the violation.

(e) Nothing in this chapter is intended to prevent other legal action against a person alleged to have violated a provision enforceable under this chapter. Metro, or any person or governmental entity whose interest is or may be affected by violation of a provision enforceable under this chapter may take whatever legal or equitable action necessary to abate a nuisance, impose criminal sanctions or collect damages, regardless of whether an action has been commenced under this chapter. Violation of Metro

Code Section 5.09.040 is hereby declared to be a nuisance and subject to abatement or injunction as any other nuisance.

(Ordinance No. 94-557. Amended by Ordinance No. 94-581, Sec. 1)

5.09.060 Persons Authorized to Issue Citations

The following persons are authorized to issue citations under this chapter:

- (a) The Director of the Metro solid waste department or the Director's designee; or
- (b) A police officer, deputy sheriff, or other designated enforcement agent operating under cooperative arrangement or contract with Metro.

(Ordinance No. 94-557)

5.09.070 Procedure for Service of Citation

- (a) An authorized official shall serve a person cited as follows:
 - (1) Personally;
 - (2) By delivery to a member of the person's family over 14 years of age residing at the person's abode, if the person is not available at the abode for service;
 - (3) If the person to be issued a citation is a firm, corporation, or other organization, by delivery to any employee, agent or representative thereof; or
 - (4) By certified mail, return receipt requested. Service by certified mail shall not be valid unless the return receipt is signed by the person to whom the citation is issued.
- (b) An authorized official may not arrest for violation of this chapter but may detain any individual reasonably believed to have committed the infraction, or any employee, agent or representative of a firm, corporation or organization reasonably believed to have committed the infraction, only so long as is necessary to determine, for the purposes of issuing a citation, the identity of the violator and such additional information as is appropriate for law enforcement agencies in the state.

(Ordinance No. 94-557)

5.09.080 Issuance of Warnings

- (a) A person authorized to issue a citation under this chapter may issue a warning of an alleged infraction under this chapter.
- (b) If issued, a warning notice shall be in writing and shall be delivered to the person alleged to have committed the infraction in person or in any other manner reasonably calculated to give notice of the violation, including posting or regular mail.

- (c) A warning notice shall include:
- (1) A brief description of the nature of the infraction;
 - (2) The legal provision or provisions alleged to be violated;
 - (3) The date and time at which the infraction is alleged to have occurred, or the date the infraction was first observed;
 - (4) The name of the person, department, or office to contact regarding the infraction;
 - (5) The name of the person issuing the warning;
 - (6) The date the warning was issued;
 - (7) A statement that failure to correct the alleged violation may result in issuance of a citation to appear before a hearings officer; and
 - (8) The maximum penalty that may be assessed if a citation is issued for the infraction and a finding of guilty is entered.

(Ordinance No. 94-557. Amended by Ordinance No. 94-581, Sec. 2)

5.09.090 Citation Form and Content

- (a) A citation substantially conforming to the requirements of this section shall be used for all infractions enforceable under this chapter.
- (b) The citation shall consist of the following four parts and any additional parts inserted for administrative use:
- (1) The complaint;
 - (2) The abstract of record;
 - (3) The department, police or sheriff's records; and
 - (4) The summons.
- (c) Each part shall contain the following information or blanks for entry of information:
- (1) Identification of Metro, as the public body in whose name the action is brought;
 - (2) Hearings officer file number;
 - (3) Name of the person cited;

- (4) The Metro ordinance or Code section violated;
- (5) The date and time at which the infraction is alleged to have occurred, or the date the infraction was first observed by the complainant;
- (6) A short and plain statement of the infraction of which the person is charged;
- (7) The place at which the infraction is alleged to have occurred;
- (8) The date on which the citation was issued;
- (9) The name of the complainant;
- (10) The time by which a person cited must post security, and the place where security must be posted;
- (11) The security fixed for the infraction; and
- (12) The method of service and certification that service has been made. If service is made by certified mail, return receipt requested, it shall be so stated on the complaint and the required certification of service may be made upon receipt of the "return receipt" and after the filing of the complaint. Service by certified mail shall be as specified in Section 5.09.070(a)(4).

(d) The complaint shall contain a certification by the complainant, under penalty of ORS 153.990, that the complainant has reasonable grounds to believe, and does believe, that the person cited committed an infraction enforceable under this chapter. A certificate conforming to this subsection shall be deemed equivalent to a sworn complaint.

(e) The reverse side of the complaint shall contain the hearings officer record.

(f) The summons shall notify the person cited that the complaint will be filed with the hearings officer.

(g) The reverse side of the summons shall contain substantially the following information:

READ CAREFULLY

You have been cited for violating the Metro Code, as stated on the front of this summons. You MUST do ONE of the following:

- (1) Request a hearing in person. Appear at Metro Regional Center, Accounting Division, 600 N.E. Grand Avenue, Portland, OR on or before the time when this summons requires you to appear, post security in the amount indicated on the other side of this summons, and request a hearing. You will be notified by mail of your hearing date and time; OR

- (2) Request a hearing by mail. Mail a check or money order in the amount of the security indicated on the other side of this summons to the Metro Accounting Division in the numbered envelope provided, and request a hearing. You will be notified by mail of your hearing date and time.
SECURITY MUST REACH METRO BEFORE THE CLOSE OF BUSINESS ON THE DATE WHEN THIS SUMMONS REQUIRES YOU TO APPEAR.
- (3) Submit an explanation by mail. If you do not want a hearing, but wish to explain your side, send your explanation with the summons and security. The hearings officer will then consider your explanation and may forfeit your security or part of it on the basis of your explanation and what the Metro official tells or shows the hearings officer. YOUR EXPLANATION AND SECURITY MUST REACH METRO BEFORE THE CLOSE OF BUSINESS ON THE DATE THIS SUMMONS REQUIRES YOU TO APPEAR. Please include the summons number (upper righthand corner on the other side) on any correspondence related to this citation; OR
- (4) Admit responsibility by mail. Sign the statement of responsibility below and send this summons to the Metro accounting division, together with check or money order in the amount of security indicated on the other side of this summons. THIS SUMMONS AND THE SECURITY MUST REACH THE METRO ACCOUNTING DIVISION BEFORE THE CLOSE OF BUSINESS ON THE DATE WHEN THIS SUMMONS REQUIRES YOU TO APPEAR.

FORFEITURE OF SECURITY OR PAYMENT OF A FINE FOR THIS CITATION DOES NOT RELIEVE A VIOLATOR OF THE RESPONSIBILITY TO REMEDY THE VIOLATION. FAILURE TO REMEDY A VIOLATION PRIOR TO THE APPEARANCE DATE STATED IN THIS CITATION MAY GIVE RISE TO ISSUANCE OF ADDITIONAL CITATIONS.

APPEARANCE, STATEMENT OF
RESPONSIBILITY, AND WAIVER

I, the undersigned, do hereby enter my appearance on the complaint of the infraction charged on the other side of this summons. I have been informed of my right to a hearing, and that my signature to this statement of responsibility will have the same force and effect as an order of the hearings officer. I HEREBY STATE THAT I AM RESPONSIBLE FOR COMMITTING THE VIOLATION AS CHARGED, WAIVE MY RIGHT TO A HEARING BY THE HEARINGS OFFICER, AND AGREE TO PAY THE PENALTY PRESCRIBED FOR MY VIOLATION. I understand that my agreement to pay a

fine or forfeit security does not relieve me of my responsibility to remedy the violation charged.

(Cited Person's Name)

(Cited Person's Address)

Mail Your Remittance to: Metro
Accounting Division
600 N.E. Grand Avenue
Portland, OR 97232-2736

NOTICE

IF YOU FAIL TO MAKE AN APPEARANCE THROUGH ONE OF THE FOUR FOREGOING PROCEDURES, OR FAIL TO APPEAR FOR A HEARING AT THE TIME SET BY THE HEARINGS OFFICER, THE HEARINGS OFFICER IS EMPOWERED TO DECLARE YOU IN DEFAULT ON THE COMPLAINT. IN THE EVENT OF A DEFAULT, OR FAILURE TO PAY A FINE PURSUANT TO ORDER OF THE HEARINGS OFFICER UPON ENTRY OF A FINDING OF A VIOLATION, METRO MAY SEEK A JUDGMENT AGAINST YOU FOR THE UNPAID FINE OR SECURITY, RECORD A LIEN IN THE COUNTY LIEN RECORD, AND OBTAIN OTHER LEGAL OR EQUITABLE RELIEF AS PROVIDED BY LAW.

(h) An error in transcribing information into the blanks provided in the citation form, when determined by the hearings officer to be non-prejudicial to the defense of the person cited, may be corrected at the time of hearing or prior to time of hearing with notice to the person cited. Except as provided in this subsection, a complaint that does not conform to the requirements of this section shall be set aside by the hearings officer upon motion of the person cited before entry of a plea. Minor variations in the form of citation, including but not limited to a change in the place or manner of posting security, shall not be a basis for setting aside a complaint.

(i) Nothing prohibits the hearings officer from amending a citation in the hearings officer's discretion.

(Ordinance No. 94-557. Amended by Ordinance No. 94-581, Sec. 3)

5.09.100 Metro Representation at Hearing

Metro shall not be represented before the hearings officer by legal counsel except in preparation of the case. A person cited with an infraction may be represented by a retained attorney provided that written

notice of such representation is received by Metro legal counsel five working days in advance. Metro may have legal counsel represent it when a person cited is represented by counsel. The hearings officer may waive this notice requirement in individual cases or reset the hearing for a later date.

(Ordinance No. 94-557)

5.09.110 Appearance by Person Cited

(a) The person cited shall either appear as specified in the summons on or before the close of business on the date indicated in the summons, or prior to such time deliver to the address noted in the summons, a check or money order in the amount of security set forth in the summons; and

- (1) A request for hearing;
- (2) A statement of explanation in mitigation of the offense charged; or
- (3) The executed appearance, waiver of hearing and statement of responsibility appearing on the summons.

(b) A written statement of explanation submitted by a cited person shall constitute a waiver of hearing and consent to judgment by the hearings officer and forfeiture of all or any part of the security as determined by the hearings officer.

(c) If the person cited requests a hearing and posts appropriate security, the hearings officer shall fix a date and time for a hearing. Unless notice is waived, the hearings officer shall mail to the person cited a notice of the date and time of the hearing at least five working days prior to the hearing. The notice shall:

- (1) Be in the form of a "Notice to Appear" and contain a warning that if the person cited fails to appear, a finding of responsibility will be entered against that person; and
- (2) Be sent to the person cited at the person's last known address by regular mail.

(Ordinance No. 94-557; amended by Ordinance No. 94-581, Sec. 4)

5.09.120 Prehearing Discovery

The pretrial discovery rules in ORS 135.805 to 135.873 shall apply to infraction cases under this chapter. As used in ORS 135.805 to 135.873, "district attorney" shall refer to a Metro attorney or authorized official, and "defendant" shall refer to a person cited under this chapter.

(Ordinance No. 94-557)

5.09.130 Procedures Before Hearings Officer

(a) An allegation of violation of Code Section 5.09.040 shall, if not admitted by the person cited or settled by the department prior to hearing, be resolved by a hearings officer.

(b) The hearings officer, and any assistant hearings officers, shall be independent of all Metro departments although, for administrative purposes, such officer or officers may be established as part of the solid waste department, ~~office of general counsel~~ Metro Attorney, or office of auditor.

(c) Metro shall have the burden of proving the alleged infraction by a preponderance of the evidence.

(d) The hearings officer shall apply the following rules of evidence:

- (1) All evidence, including hearsay evidence, of a type commonly relied upon by reasonably prudent persons in conducting their serious affairs shall be admissible;
- (2) Irrelevant, immaterial or unduly repetitious evidence shall be excluded at the discretion of the hearings officer. Erroneous rulings on evidence shall not preclude action by the hearings officer, unless shown on the record to have substantially prejudiced the rights of a party;
- (3) The hearings officer shall give effect to the rules of privilege recognized by law;
- (4) All evidence offered but not objected to shall be received, subject to the hearings officer's authority to exclude irrelevant or unduly repetitious evidence and to weigh all evidence received; and
- (5) Evidence objected to may be admitted at the discretion of the hearings officer. Rulings on the admissibility or exclusion of evidence may be made at the hearing or at the time an order is issued.

(e) A name of a person found on solid waste, rubbish, trash, garbage, debris, or other refuse, or recyclable material, in such a way that it denotes ownership of the items, constitutes rebuttable evidence that the person has violated the refuse hauling or dumping regulations. The hearings officer shall determine at the hearing whether the evidence in question is sufficient to give rise to a rebuttable presumption of responsibility against the person cited, and shall so notify the person cited following presentation of Metro's case.

(f) The hearings officer shall place on the record a statement of the substance of any written or oral *ex parte* communication made to the hearings officer on a fact in issue during the pendency of the proceedings. The hearings officer shall notify the parties of the communication and of their right to rebut such communication.

(g) The hearings officer shall have the authority to administer oaths and take testimony of witnesses. Upon the request of the person cited, or upon the hearings officer's own motion, the hearings officer may issue subpoenas in accordance with this section, and in accordance with the Oregon Rules of Civil Procedure to the extent that the matter is not otherwise addressed by this section:

- (1) If the person cited desires that witnesses be ordered to appear by subpoena, the person cited shall so request in writing at any time at least five days prior to the

scheduled hearing. A \$15 deposit for each witness shall accompany each request. The deposit will be refunded, as appropriate, if the witness cost is less than the amount deposited.

- (2) Subject to the same five-day limitation, Metro may also request that certain witnesses be ordered to appear by subpoena.
- (3) The hearings officer, for good cause, may waive the five-day limitation.
- (4) Witnesses ordered to appear by subpoena shall be allowed the same fees and mileage as allowed in civil cases.
- (5) If a fine is imposed in the final order, the order shall include an order for payment of actual costs for any witness fees attributable to the hearing.

(h) The person cited shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence.

(i) The person cited may not be required to be a witness in the hearing of any infraction under this chapter.

(j) Proof of a culpable mental state is not an element of an infraction under this chapter.

(k) After due consideration of the evidence and arguments, the hearings officer shall determine whether the infraction alleged in the complaint has been proven and enter an order as follows:

- (1) If the hearings officer determines that the infraction has not been proven, an order dismissing the complaint shall be entered.
- (2) If the hearings officer determines that the infraction has been proven, or if an answer admitting the infraction has been received, an appropriate order shall be entered, including penalty and costs.
- (3) The final order issued by the hearings officer shall set forth both findings of fact and conclusions of law and shall contain the amount of the fine and costs imposed and instructions regarding payment.
- (4) A copy of the order shall be delivered to the parties, or to their attorneys of record, personally or by mail.

(l) A tape recording shall be made of the hearing unless waived by both parties. The tape shall be retained for at least 90 days following the hearing or final judgment on appeal.

(Ordinance No. 94-557. Amended by Ordinance No. 94-581, Sec. 5)

5.09.140 Failure to Appear by Person Cited

If a person cited and notified of a hearing as provided in this chapter fails to appear at or prior to the time specified on the summons, the person cited shall forfeit to Metro the amount of security specified in the citation. In the alternative, Metro may forward the citation to the hearings officer for disposition. If a person notified of a hearing before the hearings officer fails to appear, the hearings officer shall review any evidence submitted, and if Metro has established the infraction by a preponderance of the evidence, shall enter an order including, if appropriate, imposition of a fine and/or award of expenses to Metro. If no security, or less than total security, has been posted, the amount of security not posted, or the amount of the fine and expenses specified in the hearings officer's order minus the amount of security posted, whichever is greater, shall be a debt owing to Metro that can be collected by Metro in the same manner as any other debt.

(Ordinance No. 94-557. Amended by Ordinance No. 94-581, Sec. 6)

5.09.150 Review of Hearings Officer Decisions

(a) To be considered, any motion to reconsider the final order of the hearings officer must be filed within 10 days of the original order. The hearings officer may reconsider the final order with or without further briefing or oral argument. If allowed, reconsideration shall result in reaffirmance, modification, or reversal. Filing a motion for reconsideration does not toll the period for filing an appeal in court.

(b) A person cited may appeal a final adverse ruling by Writ of Review as provided in ORS 34.010 through 34.100.

(Ordinance No. 94-557)

5.09.160 Collection of Fines and Costs

(a) Fines and costs are payable upon receipt of the written settlement or final order imposing fines and costs. Fines and costs under this chapter are a debt owing to Metro and may be collected in the same manner as any other debt.

(b) The ~~executive officer~~ Chief Operating Officer may initiate appropriate legal action, in law or equity, in any court of competent jurisdiction to enforce the provisions of any written settlement or final order of the hearings officer.

(c) In addition to other remedies available in law or equity, when an order assessing a civil penalty under this chapter becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded in the County Clerk Lien Record in any county of this state.

(Ordinance No. 94-557)

5.09.170 Administrative Policies and Procedures

The ~~executive officer~~ Chief Operating Officer or the ~~executive officer~~ Chief Operating Officer's designee may establish policies and procedures to carry out this chapter.

(Ordinance No. 94-557)

5.09.180 Severability

If any section, subsection, paragraph, sentence, clause, phrase, or other portion of this chapter is found to be invalid or unconstitutional by a court of competent jurisdiction, that portion of the chapter shall be deemed separate and distinct, and the remainder of this chapter shall continue in full force and effect.
(Ordinance No. 94-557)

STAFF REPORT

IN CONSIDERATION OF

- ORDINANCE NO. 02-966 FOR THE PURPOSE OF AMENDING CHAPTER 2.04 METRO CONTRACT POLICIES, OF THE METRO CODE TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-974 FOR THE PURPOSE OF AMENDING TITLE V SOLID WASTE, OF THE METRO CODE (CHAPTER 5.01 THROUGH CHAPTER .09), TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY
- ORDINANCE 02-976, FOR THE PURPOSE OF AMENDING TITLE VII EXCISE TAXES, TITLE VIII FINANCING POWERS AND CHAPTER 2.06 INVESTMENT POLICIES OF THE METRO CODE, TO CONFORM TO THE METRO CHARTER AMENDMENTS ADOPTED ON NOVEMBER 7, 2000, AND DECLARING AN EMERGENCY

Date: October 29, 2002

Prepared by: John Houser

BACKGROUND

As a result of the passage by the voters of Ballot Measure 26-10 on November 7, 2000, various changes to Metro's existing code are in order to conform to the approved amendments to Metro's charter. The changes proposed in these ordinances to primarily remove references to the Executive Officer and Presiding Officer, whose offices will be abolished effective January 6, 2003; and create references to the Council President and the Chief Operating Officer, consistent with code amendments adopted by Council earlier this year (see "Legal Antecedents" below), along with minor grammatical and formatting corrections. The proposed ordinances make changes to the following code sections:

- Chapter 2.04 (Metro Contract Policies) and Chapter 2.06 (Investment Policy)
- Title V Solid Waste(Chapters 5.01 through 5.09)
- Title IV Excise Taxes (Chapter 7.01)
- Title VIII Financing Powers (Chapter 8.01)

ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** Resolution 00-2929A "For the Purpose of Submitting to the Voters an Amendment to the Metro Charter Abolishing the Office of Executive Officer, Creating the Office of Council President, and Making Related Changes"; Ordinance 02-942A "For the Purpose of Adding a New Chapter 2.20 to the Metro Code Creating the Office of Chief Operating Officer"; Ordinance 02-953A "For the Purpose of Creating the Office of Metro Attorney"; Ordinance 02-954A "For the Purpose of Reflecting the Creation of the Office of Metro Council President"; and Ordinance 02-

955A "For the Purpose of Amending Chapter 2.19 of the Metro Code to Conform to Charter Amendments Adopted on November 7, 2000".

3. **Anticipated Effects** These ordinances will amend Chapters 2.04, 2.06, 5.01 through 5.09, 7.01, and 8.01 of the Metro Code to conform to approved Charter amendments.
4. **Budget Impacts** None

RECOMMENDED ACTION

That Council approve adoption of Ordinances 02-966, 02-974 and 02-976.