

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO ) ORDINANCE NO. 03-1018A )  
CODE CHAPTER 5.01 REGARDING SOLID )  
WASTE FACILITY REGULATION; AND ) Introduced by David Bragdon, Metro Council  
DECLARING AN EMERGENCY ) President

WHEREAS, the Metro Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01, was last revised in a comprehensive way in 1998; and

WHEREAS, the solid waste industry has continued to evolve since that time; and

WHEREAS, Metro's regulation of solid waste facilities has expanded over the last five years; and

WHEREAS, the Metro Solid Waste Code requires updating to adequately address current solid waste regulatory issues; and

WHEREAS, Metro's day-to-day affairs are now managed and directed by the Chief Operating Officer; and

WHEREAS, the primary objectives of this ordinance are to reserve policy-related solid waste facility operating authorization decisions for the Council; to delegate non-policy operating authorization decisions to the COO; to make agency legislative and administrative review more efficient; and to continue to protect public health and safety; and

WHEREAS, it is necessary to amend the Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01 to accomplish these objectives and to improve the clarity and flexibility of the Metro solid waste regulatory system; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.010 is amended to read:

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 Chief Operating Officer to operate certain solid waste Activities.

(dc) "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.

(k) "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.

(~~po~~) "Franchise" means the grant of authority or privilege given by the Council to operate a Disposal Site, a Transfer Station, or an ~~Resource~~ Energy Recovery facility, or to conduct any activity specified in ~~s~~Section 5.01.045(b) of this chapter.

(~~qp~~) "Franchisee" means the person to whom a Franchise is granted by the Council under this chapter.

(~~rq~~) "Franchise fee" means the fee charged by Metro to the Franchisee for the administration of the Franchise.

(~~sr~~) "Hazardous waste" has the meaning provided in ORS 466.005.

(~~ts~~) "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.

(~~ut~~) "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.

(~~vu~~) "License" means the permission given by the Council or 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.

(~~wv~~) "Licensee" means the person to whom a License is granted by the Council or Chief Operating Officer under this chapter.

(~~xw~~) "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.

(~~yx~~) "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.

(~~zy~~) "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.

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

(~~ebb~~) "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.

(~~dcc~~) "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.

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

(~~gg~~ff) "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~~gg) "Putrescible waste" means Waste containing Putrescible material.

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

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

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

(~~mm~~mm) "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.

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

(~~qq~~pp) "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~~qq) "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.

~~(ssrr)~~ "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.

~~(tss)~~ "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.

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

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

~~(wvvv)~~ "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 Metro.

~~(yyww)~~ "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.

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

~~(aaayy)~~ "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.

(bbbzz) "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.

(eeecaa) "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.

(dddabb) "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.

(eeeccc) "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.

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

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

SECTION 2. Metro Code Section 5.01.030 is amended to read:

5.01.030 Prohibited Activities

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

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

(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.

SECTION 3. Metro Code Section 5.01.040 is amended to read:

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, the Metro Council declares the provisions of this chapter shall not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge;
- (2) Disposal Sites, Transfer Stations, or Solid Waste Facilities owned or operated by Metro.
- (3) Facilities that (A) exclusively receive non-Putrescible Source-Separated Recyclable Materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.
- (4) Facilities that exclusively receive, process, transfer or dispose of Inert Wastes;
- (5) The following operations, which do not constitute Yard dDebris fFacilities:
  - (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 Metro finds an emergency situation exists.
- (7) Any Reload facility that:
  - (A) Accepts Solid Waste collected under the authority of a single franchise granted by a local government unit, or from multiple franchises so long as the area encompassed by the franchises is geographically contiguous; and
  - (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and

- (C) Delivers any Putrescible Waste accepted at the facility to a Transfer Station owned, operated, Licensed or Franchised by Metro; and
- (D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another facility or Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05.
- (8) Persons who own or operate a mobile facility that processes Petroleum Contaminated Soil at the site of origin and retains any treated Petroleum Contaminated Soil on the site of origin.

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

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

SECTION 4. Metro Code Section 5.01.045 is amended to read:

5.01.045 Certificate, License and Franchise Requirements

~~(a)~~ A Metro Solid Waste Certificate shall be required of the Person owning or controlling a facility which:

- (1) Processes Non-Putrescible Waste if such processing results in Processing Residual of less than ten percent; or
- (2) Processes Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that either destroys or removes and contains such petroleum contamination from the soil.

(ba) 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 of Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that destroys or removes such petroleum contamination from the soil.
- (23) Processing or Reloading of Yard Debris. A local government that owns or operates a ~~y~~Yard ~~d~~Debris ~~f~~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~~Operating a Reload ~~unless exempt under Section 5.01.040(a)(7) of this chapter.~~
- (5) ~~Operations or facilities that chip or grind~~Chipping or grinding wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 of this chapter.

(eb) 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) Processing of Putrescible Waste other than Yard Debris.
- ~~(2) Operating on of a Regional Transfer Station.~~
- (23) ~~Operation of~~Operating a Disposal Site or of an Energy Recovery Facility.
- (34) 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.

SECTION 5. Metro Code Section 5.01.060 is amended to read:

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 Chief Operating Officer.

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

- (1) Proof that the applicant can obtain the types of insurance specified by the 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 Franchise Transfer Station or Disposal Site shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter 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.

SECTION 6. Metro Code Section 5.01.062 is amended to read:

5.01.062 Application Fees

(a) Upon the filing of an application, every applicant for a Certificate, License or Franchise, or for renewal of an existing 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).

(32) For a Solid Waste Facility Franchise, five hundred dollars (\$500).

SECTION 7. Metro Code Section 5.01.065 is hereby repealed.

SECTION 8. Metro Code Section 5.01.067 is amended to read:

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 Chief Operating Officer and are subject to approval or denial by Metro Council subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

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

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

(d) On the basis of the application submitted, and the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall formulate recommendations regarding determine whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

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

(e) Subsequent to receiving the recommendation of the 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.

(e) Notwithstanding the authority to approve or deny any application for a solid waste license set forth in subsection (d), if the Chief Operating Officer (i) decides to approve an application for a new license for any facility whose operations will have a substantial effect on any adjacent residential neighborhood, or (ii) decides to approve an amendment to an existing solid waste license to allow for a substantial change in the configuration used at a site for processing solid waste or to allow for a substantial change in the type or quantity of solid waste processed at the facility, the Chief Operating Officer shall inform the Council President in writing no fewer than ten (10) days before the Chief Operating Officer approves any such solid waste license application. The Council President shall immediately cause copies of the notice to be furnished to all members of the Council. Thereafter, the majority of the Council may determine whether to review and consider the license application within 10 days of receipt of the notice from the Chief Operating Officer. If the Council determines to review and consider the application for the license, execution by the Chief Operating Officer shall be subject to the Council's authorization. If the Council determines not to review and consider the application, the Chief Operating Officer may execute the license.

For the purpose of this subsection (e), a “substantial effect” shall include any occurrence that arises from the solid waste operational conditions that are regulated under the license and affects the residents’ quiet enjoyment of the property on which they reside.

(f) If the Council Chief Operating Officer 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, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

(g) If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer’s decision and may submit a new application at any time thereafter.

(gh) 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.

(hi) 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 Chief Operating Officer.

(ij) Licenses shall be for a \_\_\_\_\_ years The term of a new or renewed License shall be not more than five years.

SECTION 9. Metro Code Section 5.01.070 is amended to read:

5.01.070 Issuance of Franchise

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

(b) The Chief Operating Officer shall make such investigation concerning the application as the 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 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 Chief Operating Officer shall provide the recommendations required by subsection (c) of this section to the Council together with the Chief Operating Officer’s recommendation regarding whether the application should be granted or denied. If the Chief Operating Officer recommends that the application be granted, the Chief Operating Officer shall recommend to the Council specific conditions of the Franchise.

(e) Subsequent to receiving the recommendation of the 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 the following factors:

- (1) Whether Tthe 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 5.01.060The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;~~
- (3) Whether Ggranting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;
- (4) Whether Ggranting 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) Whether Tthe 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) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this Section. If the Council does not act to grant, or deny, an Franchise application by the deadline for such action 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, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

(h) At any time after the filing of a complete Franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

- (1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application;
- (2) The applicant substantially modifies the application during the course of the review, in which case the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter

(hj) 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.

(ik) The term of a new or renewed Franchise shall be not more than five years.

SECTION 10. Metro Code Section 5.01.075 is amended to read:

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~~ The specific 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 the Metro Attorney.

SECTION 11. Metro Code Section 5.01.087 is amended to read:

5.01.087 Renewal of Licenses and Franchises

(a) The Chief Operating Officer shall renew a Solid Waste Facility Licenses shall be renewed unless the 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~~ 120 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 Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.

(b) The Council shall approve or deny renewals of Solid Waste Facility Franchises. shall be renewed unless the 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 A Franchisee seeking renewal of a Franchise shall 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 Chief Operating Officer or by the Council. The Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section

5.01.070 of this chapter. The Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. The Chief Operating Officer Council may attach conditions or limitations to the renewed Franchise.

SECTION 12. Metro Code Section 5.01.090 is amended to read:

5.01.090 Transfer of Ownership or Control

(a) The 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.~~

(ea) (1) ~~Any Person in control of a License or Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the License or 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 License or Franchise must meet the requirements of this chapter.~~

(2b) 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.

(c) The Chief Operating Officer shall not unreasonably deny an application for transfer of a License. If the Chief Operating Officer does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

(3d) 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.

(e) The term for any transferred License shall be for the remainder of the original term unless the Chief Operating Officer establishes a different term based on the facts and circumstances at the time of transfer.

SECTION 13. Metro Code Section 5.01.095 is amended to read:

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 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).

SECTION 14. Metro Code Section 5.01.100 is amended to read:

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 Chief Operating Officer, as appropriate, to issue, renew, modify 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 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 Chief Operating Officer, as appropriate, to grant a variance, or to issue, modify 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 Chief Operating Officer may suspend a Franchise or License or the Council or Chief Operating 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.

SECTION 15. Metro Code Section 5.01.120 is amended to read:

5.01.120 General Obligations of All Regulated Parties

All Persons regulated by this chapter shall:

(a) Allow the 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 Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

(d) Shall indemnify Metro, the Council, the 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, or Franchise or this chapter.

(e) Shall have no recourse whatsoever against 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.

SECTION 16. Metro Code Section 5.01.125 is amended to read:

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.

SECTION 17. Metro Code Section 5.01.131 is amended to read:

5.01.131 Designation and Review of Service Areas and of Demand

(a) 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 March 15 of each even-numbered year, the ~~Director of the Regional Environmental Management Department~~ Chief Operating Officer 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 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 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 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.

SECTION 18. Metro Code Section 5.01.135 is amended to read:

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

(a) The Chief Operating Officer shall be authorized to make such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a ~~Licensed or Franchised facility, and all other Solid Waste Facilities,~~ at all reasonable times during business hours with or without notice or at such other times with 24 hours notice after the Franchise or License is granted to assure compliance with this chapter, the Code, ~~the Franchise or License 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 Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the Chief Operating Officer.

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

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

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

SECTION 19. Metro Code Section 5.01.150 is amended to read:

5.01.150 User Fees

(a) Notwithstanding 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 and~~ Disposal

Sites which are owned, operated, Certified, Licensed, or Franchised by Metro or which are liable for payment of user fees pursuant to a special agreement with 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;~~
- (43) 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
- (54) 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 of this Title ~~(e) 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 of this Title.

(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 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 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 Metro. All user fees received by 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 Section 5.02.047 of this Title ~~the Metro Code~~.

SECTION 20. Metro Code Section 5.01.170 is amended to read:

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.

SECTION 21. Metro Code Section 5.01.180 is amended to read:

5.01.180 Enforcement of Franchise or License Provisions

(a) The 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 Chief Operating Officer, there is sufficient evidence to suspend, modify, or to revoke a Certificate, Franchise or License, the 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 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 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 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 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 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 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 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 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.

SECTION 22. Metro Code Section 5.01.200 is amended to read:

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 Section 5.01.132 of this chapter during an inspection or audit conducted pursuant to Section 5.01.135 of this chapter, the 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 or Franchisee 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 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 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 Chief Operating Officer shall conduct an investigation which may result in the:

- (1) Imposition of a remedy suitable to 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 of this chapter.

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by 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.

SECTION 23. Metro Code Section 5.01.400 is hereby repealed.

SECTION 24. Metro Code Section 5.01.410 is amended to read:

5.01.410. Miscellaneous Provisions

(a) The 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 Metro. Metro 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 Chief Operating Officer. Waiver of a term or conditions of a Certificate,

License or Franchise shall not waive nor prejudice Metro's right of Metro 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.

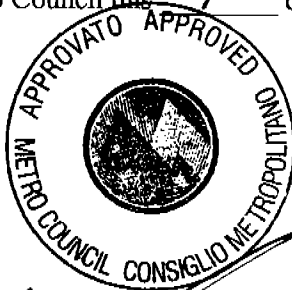
(g) Nothing in this chapter is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to any Solid Waste Facility or Disposal Site that it is authorized or required to enforce or administer.

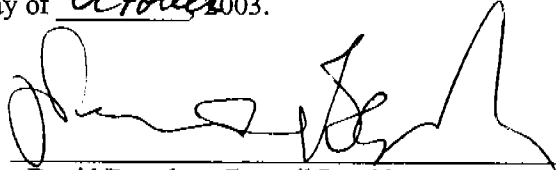
(h) Nothing in this chapter shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies, including but 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.

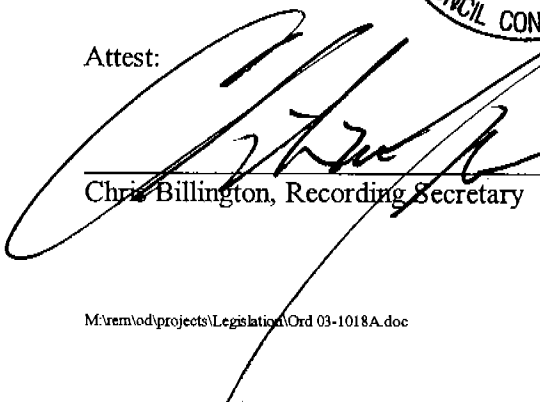
**SECTION 25.** This ordinance is immediately necessary for the health, safety and welfare of the Metro region in order to ensure the efficient operation of the region's solid waste management system. An emergency is therefore declared to exist. This ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 9<sup>th</sup> day of October 2003.

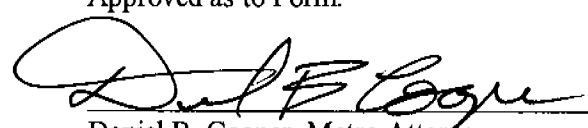


  
David Bragdon, Council President

Attest:

  
Chris Billington, Recording Secretary

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney

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## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 03-1018 REGARDING SOLID WASTE FACILITY REGULATION; AND DECLARING AN EMERGENCY\*

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Date: August 11, 2003

Prepared by Bill Metzler and Janet Matthews

#### BACKGROUND

As the region's solid waste system has grown in size and complexity over the past ten years, Metro's regulatory and enforcement capabilities have evolved in response – ensuring that existing and proposed private solid waste facilities and transporters comply with Metro Code, administrative procedures, and performance standards.

There are currently forty Metro regulated facilities and haulers operating in and out of the region; approximately twelve new applications for operating authorization are, or soon will be, in the pipeline. Decisions on license and franchise renewals will have to be made this year, and several of these have important implications for the solid waste system.

Most operating authorization decisions that continue to come before the Metro Council, however, are not about policy-setting or system impacts. These are administrative in nature, and are more appropriately administered by the Chief Operating Officer (COO). In addition, several regulatory decisions currently reserved for the COO are policy-related, have system impacts, and more appropriately belong in the jurisdiction of the Council.

Current operating authorization responsibilities in Code were developed during the era when the Executive Officer (EO) was an independently-elected official, not responsible to the Council. During this time, the agency staff worked for the EO, and the only way for the Council to influence regulatory decisions such as operating authorizations was by mandating in the Code that such decisions were reserved for the Council. Since January 2003, however, there has been a new institutional arrangement. Agency staff now work for the Council through a COO, who is responsible to the Council, and can be assumed to be more responsive to Council direction than under the previous structure. It is, therefore, now appropriate to update Chapters 5.01 and 5.05 of the Code, to reflect a new division of responsibilities.

The proposed code amendments are intended to:

1. reserve policy-related operating authorization decisions for Council;
2. delegate non-policy operating authorization decisions to the COO;
3. produce efficiencies for agency legislative and administrative review; and
4. continue to protect public health and safety.

In order to accomplish these objectives, a decision factors framework has been developed for consideration by the Council and COO.

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\* This staff report is identical in all but title for Ordinances No. 03-1018, 03-1019 and 03-1020 to amend Metro Code Chapters 5.01, 5.05 and 7.01, respectively.

## Decision Factors Framework

The proposed amendments are intended to streamline the decision-making process for operating authorization through Metro Code Chapter 5.01 (facilities inside the region) and Chapter 5.05 (waste taken outside the region.) Under this proposal, issuing a license would become an administrative action, while issuing a franchise would continue to be subject to Council action.

**Council.** A legislative review and decision process would continue to be employed when any facility processing putrescible (i.e., “wet”) waste seeks authority to operate by applying for a franchise. Wet waste involves policy decisions regarding market entry due to the potential for impacts on the solid waste system (e.g., contracts, rates, public investment.) It is proposed that the following factors be considered for Council operating authorization decisions:

- Whether all standards have been met, including local land use approval.
- Potential impact on major Metro contracts (transfer, transportation and disposal.)
- Potential impact on existing infrastructure, rates or operating efficiency of Metro facilities.

Examples: local transfer stations, regional transfer stations, landfills, hauling or disposing of wet waste outside the region, and food waste composting and reloading facilities.

**Chief Operating Officer.** A COO review and decision process is proposed for facilities processing yard debris or non-putrescible (i.e., “dry”) waste. Under current Code, dry waste and yard debris have a lower barrier to market entry due to their lower risk for potential impact on the solid waste system. Therefore, operating authorization should be an administrative decision. It is proposed that the following factors be considered for COO operating authorization decisions:

- Whether local land use approval has been granted, and DEQ permits have been obtained.
- Whether entry standards can be met (e.g., can applicant operate safely and responsibly, ability to pay fees and taxes, obtain financial assurance, liability insurance.)
- Whether standards or conditions specific to an activity or facility can be met (e.g., effective odor minimization plan, appropriate operating plan, meet material recovery requirements.)

Examples: reload facilities, material recovery facilities, yard debris composting facilities, and hauling or disposing of dry waste outside the region.

In summary, the Council would continue to have authority over policy-related operating authorization decisions that include franchise applications and wet waste Designated Facility Agreements (DFAs.) In addition, the Council would assume authority over wet waste Non-System Licenses (NSLs) – which are currently an administrative action. The responsibility for approving or denying licenses would shift from the Council to the COO. Dry waste DFA’s would be a joint decision with Council deciding to list a facility and the COO negotiating/executing the agreement. This would help accomplish the intended goals for producing efficiencies for both legislative and administrative functions in the agency, improve the efficiency of the solid waste authorization process, and continue to protect public health and safety.

For a more detailed comparison of the current Code and proposed changes to solid waste operating authorizations, see Table 1 on the next page.

**Table 1 - Solid Waste Operating Authorizations: Existing and Proposed Framework**

<u>Existing</u>	Certificate	License	Franchise	Non-System License <sup>1</sup>	Designated Facility Agreement
<b>COO Action</b>					
(1) Processing petroleum contaminated soil	X				
(2) Material recovery <10% residual	X				
(3) Hauling <u>dry</u> waste <i>outside the region</i> .				X	
(4) Hauling <u>wet</u> waste <i>outside the region</i> .				X	
<b>Council Action</b>					
(5) Reload (solid waste, yard debris, soil, food)		X			
(6) Yard debris composting		X			
(7) Food waste composting			X		
(8) Material recovery >10% residual		X			
(9) Local Transfer Station <sup>2</sup>		X	X		
(10) Regional Transfer Station			X		
(11) Landfill or energy recovery (in-region)			X		
(12) A facility <i>located outside region</i> that takes <u>dry</u> or special waste from the region					X
(13) A facility <i>outside the region</i> accepting <u>wet</u> waste from the region.					X

<sup>1</sup> Hauling to a facility without a Designated Facility Agreement with Metro.

<sup>2</sup> A Local Transfer Station is franchised only if direct hauling putrescible waste to Columbia Ridge, otherwise Licensed.

<u>Proposed</u>	License <sup>3</sup>	Franchise	Non-System License	Designated Facility Agreement
<b>COO Action</b>				
(1) Processing petroleum contaminated soil	X			
(2) (8) Material recovery	X			
(3) Hauling <u>dry</u> waste <i>outside the region</i>			X	
(5) Reload (solid waste, yard debris, soil)	X			
(6) Yard Debris Composting	X			
(12) A facility <i>located outside region</i> that takes <u>dry</u> or special waste from the region				X
<b>Council Action</b>				
(4) Hauling <u>wet</u> waste <i>outside the region</i> .			X	
(7) Putrescible waste processing (e.g., food waste composting)		X		
(9) Local Transfer Station		X		
(10) Regional Transfer Station		X		
(11) Landfill or energy recovery (in-region)		X		
(13) A facility <i>outside the region</i> accepting <u>wet</u> waste from the region.				X

<sup>3</sup> The proposal combines Certificates with Licenses and eliminates the Certificate as a regulatory category.

## Overview of Changes to Metro Code Chapters 5.01, 5.05 and 7.01

Key amendments are outlined below. The first section addresses Chapter 5.01, the second addresses Chapter 5.05 and the third discusses Chapter 7.01.

### Ordinance No. 03-1018 Amending Metro Code Chapter 5.01 – Solid Waste Facilities Inside the Metro Region

#### 1. Adds COO Authority

- Allows new facility license applications and existing facility license renewals to be reviewed and approved through an administrative action by the COO (Section 5.01.067(a)).

Purpose: Streamlines the decision-making process and increases efficiency through an administrative review and approval process for license applications and renewals. This gives the COO authority to approve or deny licenses based on whether the application meets the requirements of the Metro Code Section 5.01.060, 5.01.067, and 5.01.087 (i.e., the same criteria that the COO currently uses to recommend to Council whether to grant or deny a license application or renewal.) This would free the Council to focus on critical policy issues and system decisions.

#### 2. Eliminates Certificates as a Regulatory Category

- Certificates are eliminated as a regulatory category (primarily Sections 5.01.045 and 5.01.065.)

Purpose: Consolidates similar regulatory categories, makes certificates a licensable activity. Currently, the COO may approve or deny an application for a certificate through an administrative process. Since the proposed Code amendments would now provide the COO with the authority to approve or deny licenses through an administrative process, there is no longer any need for the certificate category. Currently there are two types of facilities that must get a Metro certificate to operate: (1) facilities that process non-putrescible waste with less than ten percent processing residual, and (2) petroleum contaminated soil processors. These amendments would make both of those activities licensable.

#### 3. Simplifies Material Recovery Facility Classifications

- There are currently two separate categories of material recovery facilities (i.e., facilities that recover non-putrescible waste.) As noted in #2 above, a certificate is required with less than ten percent processing residual and a license is required with more than ten percent processing residual. Because the certificate is eliminated as a regulatory category, both activities would be merged into a single category that requires a license (Section 5.01.045(a)(1)).

Purpose: Simplifies regulation for material recovery facilities. Currently, a certificate is required for the activity of processing non-putrescible waste if the processing results in residual of less than ten percent. However, a license is required for processing non-putrescible waste if the processing results in residual of more than ten percent. The proposed Code amendment removes the distinction for processing residual, eliminates the certificate requirement, and maintains the license requirement for processing non-putrescible waste.

**4. Clarifies Which Activities Require a Franchise**

- ❑ Local Transfer Stations. A franchise would be required to operate a Local Transfer Station (currently a licensable activity, but all existing Local Transfer Stations have franchises because they all have “direct haul” authority, which requires a franchise - Section 5.01.045(b)(2)).

Purpose: Ensures Council review and approval of all transfer stations (Local Transfer Stations and Regional Transfer Stations) - consistent with the decision factors for streamlining the regulatory review process.

- ❑ Putrescible Waste Processing (e.g., food waste composting.) Specifies that a franchise would be required to operate a putrescible waste processing facility. This would include food waste composting (Section 5.01.045(b)(1)).

Purpose: Identifies that processing of putrescible waste (other than yard debris) would be a franchised activity, clearly distinct from yard debris composting, which is a licensable activity.

**5. Clarifies Exempt Facilities.**

- ❑ Clarify the exemptions for specified activities (Section 5.01.040).

Purpose: To ensure consistency with existing Code provisions in Section 5.01.135(d) that allows Metro to inspect an exempt operation to verify that it is conducted in a manner that qualifies it as exempt.

- ❑ Clarify what types of non-putrescible source-separated recyclable materials are exempt from regulation: 5.01.040(a)(3).

Purpose: Currently, facilities that exclusively receive non-putrescible source-separated recyclable materials are exempt from obtaining Metro operating authorization. The proposed amendment would clarify that the exemption applies to operations that receive and reuse or recycle the source-separated recyclable material. This ensures that the regulatory exemption for traditional source-separated recyclable materials is not unintentionally extended to other waste streams that could be received for a tip fee, and then stockpiled indefinitely creating a health and safety hazard (e.g., drywall, tires, carpet, roofing.)

**6. Adds Flexibility to Application Review**

- ❑ Improves the flexibility of the application review period for licenses and franchises (Sections 5.01.060, 5.01.067 and 5.01.070.)

Purpose: The amendments would permit: (1) the license and franchise review period to be extended by mutual agreement of the applicant and the COO; (2) license and franchise applicants to withdraw an application at any time prior to a decision and to resubmit a new application at any time thereafter; (3) the application review period to be restarted if the applicant substantially modifies its application after submission; and (4) the Council to extend their review period for franchises for up to 60 days.

**7. Adds Flexibility to Duration of Licenses and Franchises.**

- ❑ Permits licenses and franchises to be issued for periods of less than five years (current Code permits only five-year terms.)

Purpose: There may be a few instances where it is in the public interest to issue a license or franchise for a period less than five years, based on operator experience, nature of materials, markets and proposed operations.

**8. Clarifies Cost as a Factor in Franchise Applications.**

- Makes clear that a Franchise application must include consideration of the likely effect of the proposed operation on the cost of solid waste disposal and recycling services for the citizens of the region - Section 5.01.060(d). In addition, this amendment identifies such costs as a factor for Council in determining issuance of a Franchise – Section 5.01.070(f).

Purpose: These provisions would replace the outdated “System Cost” analysis that is only required for direct haul (revised Sections 5.01.045(b)(4) and 5.01.060(e)). The replacement text makes clear that Council will still consider cost as a factor in making decisions about Franchises.

Ordinance No. 03-1019 Amending Metro Code Chapter 5.05 – Solid Waste Leaving the Metro Region

**1. Clarifies Source-Separated Recyclable Material Exemption.**

- The existing regulatory exemption for “source-separated recyclable material” is amended to read “non-putrescible source-separated recyclable materials that are reused or recycled or are transferred, transported or delivered to a person or facility that will reuse or recycle them” consistent with the amended exemptions in Chapter 5.01.

Purpose: The exemption for source-separated recyclable material is updated so that the exemption is not unintentionally extended to “food waste”, which is putrescible and may pose health and safety issues if not handled and processed appropriately. The current exemption was written at a time when food waste recovery was not contemplated and source-separated recyclable materials consisted of items such as paper, cardboard, metal and glass – all non-putrescible with existing markets and proven processing technologies.

**2. Defines Who Authorizes Designated Facilities.**

- Maintains Council authority to list all designated facilities in the Metro Code, and to approve or deny designated facility agreements for facilities that accept *putrescible* waste.
- Establishes new authority for the Chief Operating Officer to approve or deny designated facility agreements for facilities that accept *non-putrescible* waste, special waste, and cleanup material contaminated by hazardous substances. Dry waste DFA’s would be a joint decision with Council deciding to list a facility and the COO negotiating/executing the agreement.

Purpose: Provides consistency with the decision factors framework that determines administrative or legislative action. Ensures that Council is involved in matters where there is a policy decision due to the potential for impacts on the solid waste system by an individual facility.

**3. Defines Who Authorizes Non-System Licenses.**

- Establishes authority for the Council to approve or deny non-system licenses for *putrescible* waste (currently all Non-System Licenses are approved by the COO.)

- Maintains authority of the Chief Operating Officer to approve or deny non-system licenses for *non-putrescible* waste.

Purpose: Provides consistency with the decision factors framework that determines administrative or legislative action. Ensures that Council is involved in matters where there is a policy decision due to the potential for impacts on the solid waste system.

#### Ordinance No. 03-1020 Amending Metro Code Chapter 7.01 – Excise Taxes

- Metro Code Chapter 7.01 is amended to delete references to Certificates in several locations. This is consistent with the proposed amendments to Chapter 5.01 that would consolidate Certificates and Licenses and delete the Certificate as a regulatory category. Other technical changes to the list of facilities exempt from paying excise taxes are also made, to ensure that the exemptions provided in Chapter 7.01 are the same as the exemptions from regional system fees provided in Chapter 5.01.

### **ANALYSIS / INFORMATION**

#### **1. Known Opposition**

There is no known opposition.

#### **2. Legal Antecedents**

Current provisions of Metro Code Chapters 5.01, 5.05, and 7.01.

#### **3. Anticipated Effects**

Adoption of Ordinance Nos. 03-1018, 03-1019, and 03-1020 would revise Chapters 5.01, 5.05 and 7.01 of the Metro Code to accomplish the following: 1) help produce efficiencies for both legislative and administrative functions in the agency, 2) ensure that all policy related operating authorization decisions are in the Council's hands, 3) delegate non-policy operating authorization decisions to the COO, 4) continue to protect public health and safety. Ordinance Nos. 03-1018 and 03-1019, amending Chapters 5.01 and 5.05 of the Metro Code are necessary for the immediate preservation of public health, safety and welfare by providing for more effective and comprehensive management and regulation of the regional solid waste system through timely implementation of operating authorizations. An emergency is therefore declared to exist, and these two ordinances shall take effect immediately, pursuant to Metro Charter section 39(1). Ordinance No. 03-1020, amending Chapter 7.01 of the Metro Code, does not include an emergency clause because of the Metro Charter prohibition on emergency clauses on ordinances related to the imposition of a tax.

#### **4. Budget Impacts**

There may be savings as a result of fewer operating authorizations going through the legislative process.

### **RECOMMENDATION**

The Council President recommends adoption of Ordinances No. 03-1018, 03-1019 and 03-1020.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO ) ORDINANCE NO. 03-1018  
CODE CHAPTER 5.01 REGARDING SOLID )  
WASTE FACILITY REGULATION; AND ) Introduced by David Bragdon, Metro  
DECLARING AN EMERGENCY ) Council President

WHEREAS, the Metro Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01, was last revised in a comprehensive way in 1998; and,

WHEREAS, the solid waste industry has continued to evolve since that time; and,

WHEREAS, Metro's regulation of solid waste facilities has expanded over the last five years; and,

WHEREAS, the Metro Solid Waste Code requires updating to adequately address current solid waste regulatory issues; and,

WHEREAS, Metro's day-to-day affairs are now managed and directed by the Chief Operating Officer; and,

WHEREAS, the primary objectives of this ordinance are to reserve policy-related solid waste facility operating authorization decisions for the Council; to delegate non-policy operating authorization decisions to the COO; to make agency legislative and administrative review more efficient; and to continue to protect public health and safety; and,

WHEREAS, it is necessary to amend the Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01 to accomplish these objectives and to improve the clarity and flexibility of the Metro solid waste regulatory system; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.01.010 is amended to read:

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 Chief Operating Officer to operate certain solid waste Activities.~~



(ec) "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.

(po) "Franchise" means the grant of authority or privilege given by the Council to operate a Disposal Site, a Transfer Station, or an ~~Resource-Energy Recovery facility, or to conduct any activity~~ specified in Section 5.01.045(b) of this chapter.

(qp) "Franchisee" means the person to whom a Franchise is granted by the Council under this chapter.

(rq) "Franchise fee" means the fee charged by Metro to the Franchisee for the administration of the Franchise.

(sr) "Hazardous waste" has the meaning provided in ORS 466.005.

(ts) "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.

(ut) "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.

(vu) "License" means the permission given by the Council or 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.

(wy) "Licensee" means the person to whom a License is granted by the Council or Chief Operating Officer under this chapter.

(xw) "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.

(yx) "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.

(zy) "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.

(aaz) "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.

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

(ebb) "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.

(dcc) "Process," "Processing" or "Processed" means a method or system of altering the form, condition or content of Wastes, including but not limited to composting, vermicomposting 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.

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

(~~gg~~ff) "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~~gg) "Putrescible waste" means Waste containing Putrescible material.

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

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

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

(~~mm~~mm) "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.

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

(~~qq~~pp) "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.

(~~qq~~qq) "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 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.

(~~aa~~) "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.

(bbbzz) "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.

(eeeeaa) "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.

(dddbbb) "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.

(eeeccc) "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.

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

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

SECTION 2. Metro Code Section 5.01.030 is amended to read:

5.01.030 Prohibited Activities

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

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

(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.

SECTION 3. Metro Code Section 5.01.040 is amended to read:

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, the Metro Council declares the provisions of this chapter shall not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge;
- (2) Disposal Sites, Transfer Stations, or Solid Waste Facilities owned or operated by Metro.
- (3) Facilities that (A) exclusively receive non-Putrescible Source-Separated Recyclable Materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.
- (4) Facilities that exclusively receive, process, transfer or dispose of Inert Wastes;
- (5) The following operations, which do not constitute ~~Yard~~ ~~Debris~~ ~~Facilities~~:
  - (A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
  - (B) Residences, parks, community gardens and homeowner associations.
  - (C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
  - (D) Operations or facilities that chip or grind wood wastes, unless:
    - (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 Metro finds an emergency situation exists.
- (7) Any Reload facility that:
  - (A) Accepts Solid Waste collected under the authority of a single franchise granted by a local government unit, or from multiple franchises so long as the area encompassed by the franchises is geographically contiguous; and
  - (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and

- (C) Delivers any Putrescible Waste accepted at the facility to a Transfer Station owned, operated, Licensed or Franchised by Metro; and
- (D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another facility or Disposal Site under authority of a Metro Non-System License issued pursuant to Chapter 5.05.

(8) Persons who own or operate a mobile facility that processes Petroleum Contaminated Soil at the site of origin and retains any treated Petroleum Contaminated Soil on the site of origin.

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

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

SECTION 4. Metro Code Section 5.01.045 is amended to read:

5.01.045 Certificate, License and Franchise Requirements

~~(a) A Metro Solid Waste Certificate shall be required of the Person owning or controlling a facility which:~~

~~(1) Processes Non Putrescible Waste if such processing results in Processing Residual of less than ten percent; or~~

~~(2) Processes Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that either destroys or removes and contains such petroleum contamination from the soil.~~

(ba) 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 of Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that destroys or removes such petroleum contamination from the soil.

(23) Processing or Reloading of Yard Debris. A local government that owns or operates a yYard dDebris fFacility 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~~ Operating a Reload ~~unless exempt under Section 5.01.040(a)(7) of this chapter.~~
- (5) ~~Operations or facilities that chip or grind~~ Chipping or grinding wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 of this chapter.

(eb) 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) Processing of Putrescible Waste other than Yard Debris.
- ~~(2) Operating~~ en of a Regional Transfer Station.
- ~~(23) Operation of~~ Operating a Disposal Site or ~~of an Energy Recovery Facility.~~
- ~~(34) 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.

SECTION 5. Metro Code Section 5.01.060 is amended to read:

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 Chief Operating Officer.

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

- (1) Proof that the applicant can obtain the types of insurance specified by the 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 ~~Franchise Transfer Station or Disposal Site~~ shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter 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.~~

**SECTION 6.** Metro Code Section 5.01.062 is amended to read:

5.01.062 Application Fees

(a) Upon the filing of an application, every applicant for a ~~Certificate, License or Franchise, or for renewal of an existing 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).~~

(32) For a Solid Waste Facility Franchise, five hundred dollars (\$500).

SECTION 7. Metro Code Section 5.01.065 is hereby repealed.

SECTION 8. Metro Code Section 5.01.067 is amended to read:

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 Chief Operating Officer and are subject to approval or denial by Metro Councils~~subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

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

(c) Prior to determining whether to approve or deny each License application, the Chief Operating Officer shall provide public notice and the opportunity for the public to comment on the License application.

~~\_\_\_\_\_ (d) \_\_\_\_\_~~ On the basis of the application submitted, and the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall formulate recommendations regarding~~determine~~ whether the proposed License meets the requirements of Section 5.01.060 and whether to approve or deny the application.

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

~~\_\_\_\_\_ (e) \_\_\_\_\_~~ Subsequent to receiving the recommendation of the 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.

(fe) If the Council ~~Chief Operating Officer~~ 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, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

~~\_\_\_\_\_ (f) \_\_\_\_\_~~ If the applicant substantially modifies the application during the course of the review, the review period for the decision shall be restarted. The review period can be extended by mutual agreement of the applicant and the Chief Operating Officer. An applicant may withdraw its application at any time prior to the Chief Operating Officer's decision and may submit a new application at any time thereafter.

(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~~ Chief Operating Officer.

(i) ~~Licenses shall be for a term of five years~~ The term of a new or renewed License shall be not more than five years.

SECTION 9. Metro Code Section 5.01.070 is amended to read:

5.01.070 Issuance of Franchise

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

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

(e) Subsequent to receiving the recommendation of the 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~~ the following factors:

(1) ~~Whether~~ Whether ~~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~~ The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;

(3) ~~Whether~~ Whether ~~granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;~~

- (4) Whether ~~G~~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) Whether ~~T~~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) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this Section. If the Council does not act to grant, or deny, an Franchise application by the deadline for such action 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, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

(h) At any time after the filing of a complete Franchise application the deadline for the Council to act to grant or deny the application shall be extended if:

- (1) The Council acts to extend the deadline for up to an additional 60 days, which the Council may do one time for any single application;
- (2) The applicant substantially modifies the application during the course of the review, in which case the 120 day review period for the Council to act shall be restarted as of the date Metro receives the applicant's modifications; or
- (3) The applicant and the Chief Operating Officer agree to extend the deadline for the Council to act for a specified period of time.

(i) An applicant may withdraw its application at any time prior to the Council's decision and may submit a new application at any time thereafter

(h*j*) 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*k*) The term of a new or renewed Franchise shall be not more than five years.

**SECTION 10.** Metro Code Section 5.01.075 is amended to read:

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~~The specific 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 the Metro Attorney.

SECTION 11. Metro Code Section 5.01.087 is amended to read:

5.01.087 Renewal of Licenses and Franchises

(a) ~~The Chief Operating Officer shall renew a Solid Waste Facility Licenses shall be renewed unless the 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~~120 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 Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.

(b) ~~The Council shall approve or deny renewals of Solid Waste Facility Franchises. shall be renewed unless the 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~~A Franchisee seeking renewal of a Franchise shall 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 Chief Operating Officer or by the Council. The Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070 of this chapter. The Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. ~~The Chief Operating Officer~~Council may attach conditions or limitations to the renewed Franchise.

SECTION 12. Metro Code Section 5.01.090 is amended to read:

5.01.090 Transfer of Ownership or Control

~~(a) The 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.~~

(ea) (1) Any Person in control of a License or Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the License or 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 License or Franchise must meet the requirements of this chapter.

(2b) 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.

(c) The Chief Operating Officer shall not unreasonably deny an application for transfer of a License. If the Chief Operating Officer does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

(3d) 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.

(e) The term for any transferred License shall be for the remainder of the original term unless the Chief Operating Officer establishes a different term based on the facts and circumstances at the time of transfer.

**SECTION 13.** Metro Code Section 5.01.095 is amended to read:

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 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).

SECTION 14. Metro Code Section 5.01.100 is amended to read:

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 Chief Operating Officer, as appropriate, to issue, renew, modify 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 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 Chief Operating Officer, as appropriate, to grant a variance, or to issue, modify 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 Chief Operating Officer may suspend a Franchise or License or the Council or Chief Operating 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.

SECTION 15. Metro Code Section 5.01.120 is amended to read:

5.01.120 General Obligations of All Regulated Parties

All Persons regulated by this chapter shall:

(a) Allow the 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 Chief Operating Officer of any lapse or proposed cancellation of insurance coverage or performance bond.

(d) Shall indemnify Metro, the Council, the 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, or Franchise~~ or this chapter.

(e) Shall have no recourse whatsoever against 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.

SECTION 16. Metro Code Section 5.01.125 is amended to read:

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.

SECTION 17. Metro Code Section 5.01.131 is amended to read:

5.01.131 Designation and Review of Service Areas and of Demand

(a) 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 March 15 of each even-numbered year, the ~~Director of the Regional Environmental Management Department~~ Chief Operating Officer 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 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 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 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.

SECTION 18. Metro Code Section 5.01.135 is amended to read:

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

(a) The Chief Operating Officer shall be authorized to make such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a ~~L~~icensed or ~~F~~ranchised facility, and all other Solid Waste Facilities, at all reasonable times during business hours with or without notice or at such other times with 24 hours notice after the Franchise or License is granted to assure compliance with this chapter, the Code, ~~the Franchise or License 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 Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the Chief Operating Officer.

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

~~(d) Nothing in this section precludes Metro from inspecting a certified or an exempted operation to verify that the operation is being conducted in a manner that qualifies as a certified or an 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.

SECTION 19. Metro Code Section 5.01.150 is amended to read:

5.01.150 User Fees

(a) Notwithstanding 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 and~~ Disposal Sites which are owned, operated, ~~Certified, L~~icensed, or ~~F~~ranchised by Metro or which are liable for payment of user fees pursuant to a special agreement with 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;~~

- (43) 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
- (54) 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 of this Title ~~(e) 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 of this Title.

(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 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 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 Metro. All user fees received by 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 Section 5.02.047 of this Title ~~the Metro Code~~.

SECTION 20. Metro Code Section 5.01.170 is amended to read:

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.

SECTION 21. Metro Code Section 5.01.180 is amended to read:

5.01.180 Enforcement of Franchise or License Provisions

(a) The 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 Chief Operating Officer, there is sufficient evidence to suspend, modify, or to revoke a ~~Certificate, Franchise or License~~, the 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 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 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 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 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 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 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 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 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.

SECTION 22. Metro Code Section 5.01.200 is amended to read:

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 Section 5.01.132 of this chapter during an inspection or audit conducted pursuant to Section 5.01.135 of this chapter, the 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 or Franchisee~~ 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 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 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 Chief Operating Officer shall conduct an investigation which may result in the:

- (1) Imposition of a remedy suitable to 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 of this chapter.

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by 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.

SECTION 23. Metro Code Section 5.01.400 is hereby repealed.

SECTION 24. Metro Code Section 5.01.410 is amended to read:

5.01.410 Miscellaneous Provisions

(a) The 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 Metro. Metro 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 Chief Operating Officer. Waiver of a term or conditions of a ~~Certificate, License or Franchise~~ shall not waive nor prejudice Metro's right of Metro 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.

**SECTION 25.** This ordinance is immediately necessary for the health, safety and welfare of the Metro region in order to ensure the efficient operation of the region's solid waste management system. An emergency is therefore declared to exist. This ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
David Bragdon, Council President

Attest:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper, Metro Attorney

mca  
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