

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO ) ORDINANCE NO. 03-1020  
CODE CHAPTER 7.01 REGARDING SOLID )  
WASTE FACILITY REGULATION ) Introduced by David Bragdon, Metro Council  
 ) President

WHEREAS, the Council is considering amendments to the Metro Solid Waste Facility Regulation Code, codified as Metro Code Chapter 5.01, at the same time it is considering this ordinance; and,

WHEREAS, the primary objectives of Ordinance No. 03-1018 and 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, if Ordinance No. 03-1018 is approved, then it is necessary to make related amendments to Metro Code Chapter 7.01; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 7.01.020 is amended as follows:

7.01.020 Tax Imposed

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

(b) The Council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) or in subsections 7.01.020(c)-(e) by so providing in an ordinance adopted by Metro. If the Council so establishes a lower rate of tax, the Chief Operating Officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the Council as provided for herein.

(c) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, ~~certified~~, licensed, franchised, or provided by Metro, each user of solid waste system facilities and each solid waste facility licensed or franchised under Chapter 5.01 of this Code to deliver putrescible waste directly to Metro's contractor for disposal of putrescible waste shall pay a tax in the amount calculated under subsection (e)(1) for each ton of solid

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

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

- (e) (1) The excise tax rate for each ton of solid waste, exclusive of (i) source separate recyclable materials accepted at the solid waste system facilities, (ii) inert materials, (iii) Cleanup Materials Contaminated by Hazardous Substances, and (iv) compostable organic waste delivered to Metro Central or Metro South stations, shall be the amount that results from dividing the net excise tax revenue amount set forth in sub-section (d) by the amount of solid waste tonnage which the Chief Operating Officer reports to the Council under sub-section (f)(2). Subject to the provisions of subsection 7.01.020(b), the rate so determined shall be Metro's excise tax rate on solid waste during the subsequent Metro fiscal year.
- (2) The excise tax rate for each ton of solid waste constituting Cleanup Materials Contaminated by Hazardous Substances shall be \$1.00.

(f) By December 1, 2000, and by March 1st of each year thereafter, the Chief Operating Officer shall provide a written report to the Metro Council stating the following:

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

<u>Year</u>	<u>Regional Recovery Rate</u>
1999	43%
2000	46%
2001	48%
2002	50%
2003	52%
2004	54%
2005	56%

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

(g) (1) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(e)(1) for disposal of Processing Residuals from such facility. The Facility Recovery Rate shall be calculated for each six (6) month period before the month in which the credit is claimed. Such credit shall be dependent upon the Facility Recovery Rate achieved by such facility and shall be equal to the amount resulting from reducing the Excise Tax due by the amount corresponding with the Facility Recovery Rates provided on the following table:

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

(2) During any Fiscal Year, the total aggregate amount of excise tax credits granted under the provisions of this subsection shall not exceed the dollar amount budgeted for such purpose without the prior review and authorization of the Metro Council.

SECTION 26. Metro Code Section 7.01.050 is amended as follows:

7.01.050 Exemptions

(a) The following persons, users and operators are exempt from the requirements of this chapter:

(1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.

- (2) Persons who are users and operators of the Portland Civic Stadium or the Portland Center for the Performing Arts.
- (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
- (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.
- (6) Users of the following facilities:
  - (A) Facilities that are certified, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) as amended by Metro Ord. 00-866;
  - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
  - ~~(C) Licensed yard debris processing facilities or yard debris reload facilities;~~
  - (D) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to Metro on behalf of the Oregon Zoo for the following purposes:
  - (A) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
  - (B) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects conducted at the Oregon Zoo;
  - (C) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
  - (D) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conduct-

ed by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;

(E) Notwithstanding the provisions of subsection (A) through (D) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.

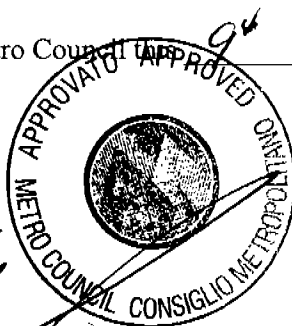
(8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.

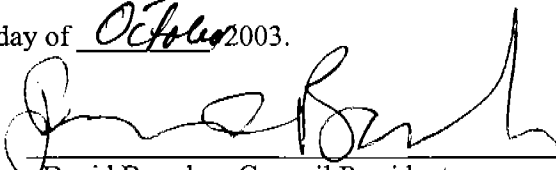
(9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual 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.

(10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

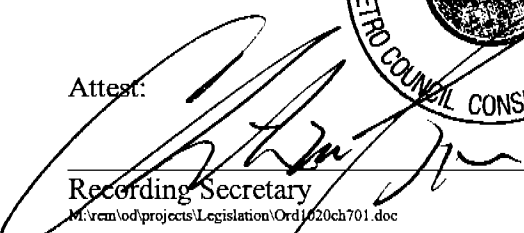
(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a Metro facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

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



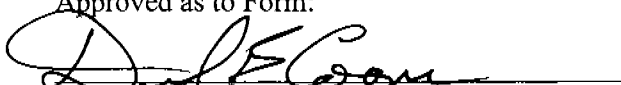
  
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David Bragdon, Council President

Attest:

  
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Recording Secretary

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Approved as to Form:

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

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 03-1020 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.