

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO )  
CODE CHAPTER 5.01 TO REPEAL )  
PROVISIONS RELATED TO TRANSFER )  
STATION SERVICE AREAS )  
ORDINANCE NO. 12-1272  
Introduced by Martha J. Bennett, Chief  
Operating Officer with the concurrence of  
Tom Hughes, Council President

WHEREAS, on October 25, 2001, the Council adopted Ordinance No. 01-916C, for the purpose of amending Metro Code Chapter 5.01 related to local transfer stations, and revising existing local transfer station franchises to be consistent with the Code amendments, which established a framework based on a geographical service area concept as the way to calculate putrescible waste tonnage caps for local transfer stations; and

WHEREAS, the Metro Council establishes the limits on inbound putrescible waste tonnage when approving an application for a local transfer station; and

WHEREAS, when establishing franchise tonnage limits, the Metro Council does not rely on the code provisions for transfer station service areas and instead has established uniform tonnage limits based on balancing several factors including available disposal tonnage and impacts to ratepayers; and

WHEREAS, the Solid Waste Roadmap project identified the need to conduct a transfer station study that will evaluate alternatives and make recommendations to Council regarding the best approach for allocating wet waste and Metro regulatory oversight at all private transfer stations; and

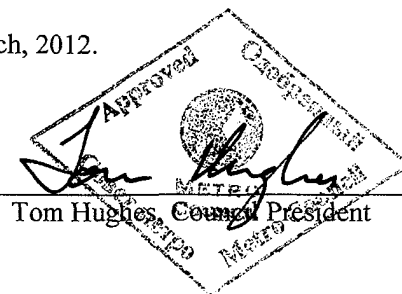
WHEREAS, the Chief Operating Officer proposes these amendments to Metro Code Chapter 5.01 to align the code provisions with policy; and

WHEREAS, the Metro Council finds that the amendments to Metro Code Chapter 5.01 furthers the goals of the agency; now therefore,

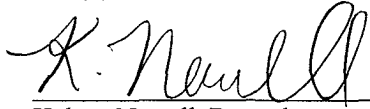
THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Subsection 5.01.010(ss) is repealed in the form attached hereto as Exhibit A, and the remaining subsections of Section 5.01.010 shall be renumbered accordingly.
2. Metro Code Subsection 5.01.010(x) and 5.01.010(nn) are amended in the form attached hereto as Exhibit B and all other Subsections of Metro Code Section 5.01.010 shall remain unchanged.
3. Metro Code Section 5.01.125 is amended in the form attached hereto as Exhibit C.
4. Metro Code Section 5.01.131 is repealed in the form attached hereto as Exhibit D.
5. Metro Code Section 5.01.132 is amended in the form attached hereto as Exhibit E and all other Subsections of Metro Code Section 5.01.132 shall remain unchanged.

ADOPTED by the Metro Council this 22 day of March, 2012.

  
Tom Hughes, Council President

Attest:



Kelsey Newell, Recorder

Approved as to Form:



Alison Kean Campbell, Metro Attorney

BM:bjl  
S:\REM\metzlerb\Transfer Station Service Area 2012\Ordinance\Ord No 12-1272.docx

**Exhibit A to Ordinance No. 12-1272**

METRO CODE – TITLE V SOLID WASTE  
CHAPTER 5.01 SOLID WASTE FACILITY REGULATION  
Section 5.01.010. Definitions

~~(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.~~

**Exhibit B to Ordinance No. 12-1272**

METRO CODE – TITLE V SOLID WASTE  
CHAPTER 5.01 SOLID WASTE FACILITY REGULATION  
Section 5.01.010. Definitions

(x) "Local Transfer Station" means a Transfer Station that is subject to limits on the quantity of inbound tonnage as established by the Metro Council ~~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.

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

**Exhibit C to Ordinance No. 12-1272**

METRO CODE – TITLE V SOLID WASTE  
CHAPTER 5.01 SOLID WASTE FACILITY REGULATION  
Section 5.01.125 Obligations and Limits for Selected Types of Activities

5.01.125 Obligations and Limits for Selected Types of Activities

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

(b) A licensee or franchisee subject to subsection (a) of this section shall recover at least 25% by weight of Non-Putrescible waste accepted at the facility and waste delivered by public customers. For the purposes of calculating the amount of recovery required by this subsection, recovered waste shall exclude both waste from industrial processes and ash, inert rock, concrete, concrete block, foundry brick, asphalt, dirt, and sand. Failure to maintain the minimum recovery rate specified in this section shall constitute a violation enforceable under Metro Code Sections 5.01.180 and 5.01.200. After December 31, 2008, the requirements of this subsection will not be applicable to licensees or franchisees unless Metro Council determines that this standard should be reinstated to replace the processing residual standard established in 5.01.125(c).

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

- (1) Process non-putrescible waste accepted at the facility and delivered in drop boxes and self-tipping trucks to recover cardboard, wood, and metals, including aluminum. Processing residual from such a facility shall not contain more than 15 percent, by total combined weight, of cardboard or wood pieces of greater than 12 inches in size in any dimension and metal pieces greater than eight inches in size in any dimension.
- (2) Take quarterly samples of processing residual that are statistically valid and representative of the facility's residual (not less than a 300-pound sample) and provide results of such sampling to Metro in the monthly report due the month following the end of that quarter.
- (3) Based on observation, audits, inspections and reports, Metro inspectors shall conduct or require additional

analysis of waste residual at the facility in accordance with Section 5.01.135(c). Failure to maintain the recovery level specified in subsection (c)(1) of this section shall constitute a violation enforceable under Metro Code. The first two violations of this subsection by a single licensee or franchisee shall not result in the imposition of a civil penalty.

- (4) Failure to meet the reporting requirements in subsection (c)(2) of this section shall constitute a violation enforceable under Metro Code after June 30, 2009.
- (d) A holder of a Franchise for a Local Transfer Station:
  - (1) Shall accept Putrescible Waste originating within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul Putrescible Waste.
  - (2) Shall not accept hazardous waste.
  - (3) Shall be limited in accepting Putrescible Waste during any fiscal year to an amount of Putrescible Waste as established by the Metro Council in approving the Local Transfer Station Franchise application~~equal to the demand for disposal of Putrescible Waste generated within a Service Area as specified in accordance with this chapter.~~
  - (4) The Chief Operating Officer may authorize an increase in a tonnage authorization established pursuant to subsection 5.01.125(d)(3) of this chapter upon the Chief Operating Officer's finding that growth or other conditions affecting demand for disposal of Putrescible Waste 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~~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.~~
- (e) A holder of a Franchise for a Regional Transfer Station, in accordance with its franchise:
  - (1) Shall accept authorized Solid Waste originating within the Metro boundary from any person who delivers authorized waste to the facility, on the days and at

the times established by Metro in approving the Franchise application.

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

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

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

**Exhibit D to Ordinance No. 12-1272**

METRO CODE – TITLE V SOLID WASTE  
CHAPTER 5.01 SOLID WASTE FACILITY REGULATION

~~Section 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 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.~~



**Exhibit E to Ordinance No. 12-1272**

METRO CODE – TITLE V SOLID WASTE  
CHAPTER 5.01 SOLID WASTE FACILITY REGULATION  
Section 5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards

5.01.132 Adoption & Amendment of Administrative Procedures and Performance Standards

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

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

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

(d) The Chief Operating Officer may hold a public hearing on any proposed new administrative procedure and performance standard or on any proposed amendment to any administrative procedure and performance standard, if the Chief Operating Officer determines that there is sufficient public interest in any such proposal.

## STAFF REPORT

### IN CONSIDERATION OF ORDINANCE NO. 12-1272, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.01 TO REPEAL PROVISIONS RELATED TO TRANSFER STATION SERVICE AREAS

---

Date: February 1, 2012

Prepared by: Bill Metzler 503-797-1666  
Roy Brower 503-797-1657

The proposed Ordinance will repeal certain provisions in Metro Code Chapter 5.01 related to transfer station service areas. Council will continue to establish wet waste tonnage caps for local transfer stations when approving franchise applications as reflected in both Exhibit B and C to Ordinance No. 12-1272. In addition, the Solid Waste Roadmap project will continue to lead a process for Council to consider options for transfer stations.

#### BACKGROUND

The putrescible (“wet”) waste disposal system currently consists of two classes of transfer facilities under Metro code: (1) large-scale *regional* transfer stations, of which only one is privately-owned (the other two are the Metro stations); and (2) limited-scale *local* transfer stations, of which there are currently three, all privately-owned. Both classes of privately-owned transfer stations are authorized and regulated by Metro through franchises that are approved by the Council.

One of Metro’s methods for regulating local transfer stations has been to limit tonnage that can be accepted at a local transfer station by establishing a volume cap on wet waste (“tonnage cap”). Tonnage caps have been an effective tool for balancing the benefits of travel time reductions for haulers, the investment in the public transfer stations (Metro’s fiscal and contractual integrity) and the public interest in maintaining reasonable prices for disposal services. Tonnage caps, Metro’s market share, and disposal fees at the public transfer stations have helped to establish a fairly consistent disposal fee across the region at all transfer stations.

In practice, tonnage caps for local transfer stations have been established during the franchise approval process by Council’s consideration of relevant factors at the time. Metro has been able to set tonnage caps that are functional in practice, help minimize vehicle miles travelled, and help foster competition, without directly regulating rates or setting rates at facilities. Limiting the tonnage at each facility serves as a proxy for rate regulation.

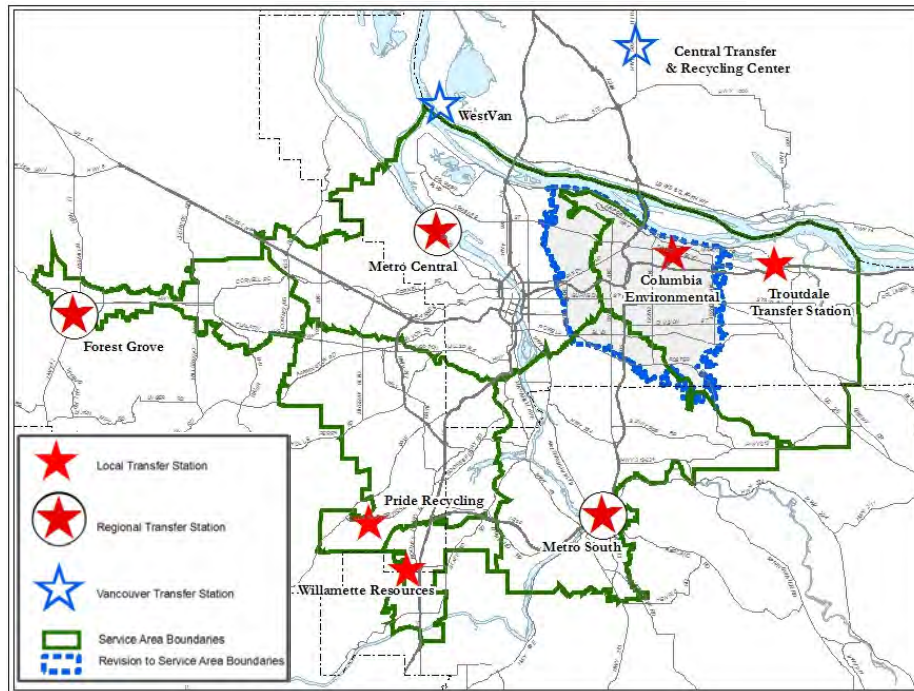
#### Service Area Model Considered but Not Implemented

In 2001, the Council adopted Ordinance No. 01-916C to establish a new theoretical framework for calculating and establishing local transfer station tonnage caps based on a geographical service area concept. In 2002, service area boundaries were initially established for each local transfer station by (1) calculating the amount of wet waste available for disposal in each service area (“calculating demand”) and (2) limiting the wet waste tons that could be delivered to local transfer stations to the calculated demand within each service area.

It became apparent immediately that implementation of the service area model would disrupt the system already in place, particularly at three local transfer stations which were already operating with established tonnage caps: Pride Recycling located in Sherwood; Troutdale Transfer Station located in Troutdale; and Willamette Resources, Inc. (WRI) located in Wilsonville. The service area model calculations would

substantially alter tonnage caps for all three local transfer stations. In September 2005 the service area boundaries were redrawn as shown in Figure A when Columbia Environmental was approved as a potentially new transfer station. This reduced the model service areas adjacent to existing transfer stations (Metro Central and South, and Troutdale). Any addition or deletion of transfer stations would similarly shift tonnage among facilities.

**Figure A -Transfer Station Service Area Map**



Findings

The theoretical tonnage shift in 2002 and the subsequent addition of Columbia Environmental, even though it was never constructed, illustrated how the service areas could be disrupted whenever new facilities came on line or were retired. Rather than encouraging competition and improving service, the service area model would have the opposite effect by destabilizing existing facilities which were operating efficiently. Several past Transfer Station Service Area reports have pointed out that the service area code provisions for setting tonnage caps were impractical for an established system and could work against the public interest. Instead, each local transfer station currently has a uniform cap (currently 70,000 tons per year) and is based on balancing several factors including the system-wide available disposal tonnage and impacts to ratepayers. For this reason, we recommend that the Metro Code provisions related to service areas including preparation of the every-other-year report be repealed. This eliminates confusion about how the Council reaches its approvals and also eliminates unnecessary staff work that does not contribute to the Council’s consideration of transfer station applications.

Looking forward

Since the transfer station franchises were last renewed in 2008, the total amount of solid waste generated and disposed in the Metro region has declined due to the economic recession, and the greening of the construction industry. For instance, when comparing the total annual disposal tons for the year 2007 and the year 2010, there was an overall decline of about nine percent (9%) in the total annual disposal tons from the Metro region. This contraction has continued through 2011. It is unlikely that regional disposal

tonnage will rebound significantly enough to trigger an increase in the existing caps for local transfer stations in the near term. Nevertheless, staff recommends that a specific code provision to allow up to a five percent (5%) increase in a tonnage cap based on growth or other conditions be retained and moved to another section of the code as reflected in Exhibit C to Ordinance No. 12-1272.

In 2011, the Solid Waste Roadmap project identified the need to conduct a transfer station study that will look at the decades ahead to evaluate a range of alternatives and make recommendations to Council regarding the best approach for allocating wet waste, establishing tonnage caps and exercising regulatory oversight at all private transfer stations in the future. The study is to be concluded in time for consideration of transfer station franchise renewals in 2013.

This staff report recommends that the code provisions for transfer station service areas be repealed, including the requirement to produce a transfer station service area report every other year. Further, due to the decline in disposal tonnage since 2008, staff recommends that the existing tonnage caps for all local transfer stations remain unchanged at 70,000 tons per year for the current franchise period through 2013, pending completion of the Solid Waste Roadmap's transfer station study.

## **ANALYSIS/INFORMATION**

- 1. Known Opposition.** There is no known opposition.
- 2. Legal Antecedents.** Metro Ordinance No. 01-916C, adopted on October 25, 2001, Metro Code Chapter 5.01.
- 3. Anticipated Effects.** Adoption of Ordinance No. 12-1272 will repeal or amend specific sections of the Metro Code Chapter 5.01 provisions related to transfer station service areas.
- 4. Budget Impacts.** There are no negative budget impacts associated with implementation of the proposed legislation.

## **RECOMMENDED ACTION**

The Chief Operating Officer recommends adoption of Ordinance No.12-1272.