

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)	ORDINANCE NO. 14-1337
CODE TITLE V, SOLID WASTE, TO REVISE)	
CHAPTER 5.05.)	Introduced by Chief Operating Officer Martha
)	Bennett in concurrence with Council
)	President Tom Hughes

WHEREAS, the Metro Solid Waste Code is set forth in Title V of the Metro Code; and

WHEREAS, Metro Solid Waste Code Chapter 5.05 contains the requirements for Solid Waste Flow Control; and

WHEREAS, Metro Code Section 5.05.030 identifies the designated facilities of the system and identifies individual designated facilities; and

WHEREAS, Metro Code Section 5.05.030 provides a seven-element analysis for the Council when designating a facility or when amending or deleting an existing designation; and

WHEREAS, the Chief Operating Officer recommends revisions to the Metro Code to remove references to individual facilities and to provide for a different analysis when the Council considers amending or deleting a facility designation; and

WHEREAS, portions of Metro Code Chapter 5.05 must be revised to update the code to reflect these changes and other necessary changes; and

WHEREAS, to achieve these objectives, the Metro Council must amend Metro Code Chapter 5.05; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Metro Code Chapter 5.05 is amended as set forth in the attached Exhibit A.

ADOPTED by the Metro Council this 24th day of July, 2014.



[Signature]

 For Tom Hughes, Council President

Attest:
[Signature]

 Troy Rayburn, Recording Secretary

Approved as to Form:
[Signature]

 Alison R. Kean, Metro Attorney

Exhibit "A" to Ordinance 14-1337

CHAPTER 5.05

SOLID WASTE FLOW CONTROL

SECTIONS	TITLE
5.05.010	Definitions <u>(repealed Ord. 14-1331</u>
5.05.015	Special Findings for Solid Waste Flow Control
5.05.020	Authority, Jurisdiction, and Application
5.05.025	Prohibited Activities
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5.05.030	Designated Facilities of the System
5.05.035 <u>5.05.031</u>	<u>Addition to the List of Designated Facilities</u>
<u>5.05.032</u>	<u>Deletions and Amendments to the List of Designated Facilities</u>
<u>5.05.033</u>	<u>Contents of Designated Facility List and Council Adoption Every Five Years</u>
<u>5.05.034</u>	<u>Agreements with Designated Facilities</u>
<u>5.05.040</u>	<u>License to Use Non-System Facility</u>
5.05.038	Limitations on Treatment or Disposal of Petroleum Contaminated Soil (repealed Ord. 01 917 §10)
<u>5.05.041</u>	<u>Application for License</u>
5.05.040 <u>5.05.042</u>	<u>License Application Fees</u>
<u>5.05.043</u>	<u>Factors to Consider to Determine whether to issue License</u>
<u>5.05.044</u>	<u>Timetables to Determine whether to issue License</u>
<u>5.05.045</u>	<u>Issuance of Non-System License; Contents</u>
<u>5.05.046</u>	<u>Requirements to be met by License Holder</u>
<u>5.05.047</u>	<u>Failure to Comply with License</u>
<u>5.05.050</u>	<u>Issuance of Required Use Orders</u>
5.05.050 <u>5.05.055</u>	<u>Content of Required Use Orders; Notice</u>
5.05.052 <u>5.05.060</u>	<u>Requests for Reconsideration</u>
5.05.054 <u>5.05.065</u>	<u>Appeals to the Chief Operating <u>Hearings</u> Officer</u>
5.05.060 <u>5.05.070</u>	<u>Solid Waste Tracking System to be Developed</u>
5.05.070 <u>5.05.080</u>	<u>Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations</u>
5.05.080 <u>5.05.090</u>	<u>Administrative Rules</u>
5.05.090 <u>5.05.100</u>	<u>Contested Case Proceedings</u>

5.05.015 Special Findings for Solid Waste Flow Control

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

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

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

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

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

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

(f) The provisions of this chapter 5.05 are intended to be, and they shall constitute, the exercise by Metro of the powers and authority granted to it under ORS 268.317 and 268.360, as amended, and the regional solid waste management plan to require the persons and classes of persons specified herein who generate, pickup, collect or transport solid or

liquid wastes to make use of the disposal, transfer or resource recovery sites of the system or disposal, transfer or resource recovery sites or facilities designated by Metro.

(Ordinance No. 89-319. Amended by Ordinance No. 01-917, Sec. 2; Ordinance No. 02-974, Sec. 1.)

5.05.020 Authority, Jurisdiction, and Application

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

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

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

(Ordinance No. 89-319. Amended by Ordinance No. 01-917, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1019, Sec. 2.)

5.05.025 Prohibited Activities

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

(b) It shall be unlawful for any solid waste generator, hauler, contractor, or other person to state falsely, or to direct another person to state falsely, to the operator of a System facility that solid waste delivered to the facility for disposal was generated outside the District when, in fact, such solid waste was generated within the District. A solid waste generator, hauler, or contractor shall be deemed to have directed another person to make false statements regarding the origin of solid waste under this section if the solid waste generator, hauler, or contractor knew or should have known that the person that transported the solid waste to the System facility would state falsely to the operator of a System facility that the solid waste delivered to the facility for disposal or other processing was generated outside the District when, in fact, such solid waste was generated within the District.

(Ordinance No. 01-917, Secs. 4-5. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 06-1104, Sec. 1.)

5.05.027 Exemptions

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

(b) A license is not required for a government agency to transport solid wastes to the Covanta Waste-to-Energy facility located in Brooks, Oregon, for the primary purpose of destroying such wastes in order to assure public safety or for the public good. Solid wastes exempted under this subsection include, but are not limited to, contraband, postage stamps, expired pharmaceuticals, and lottery tickets.

(Ordinance No. 01-917, Secs. 6-7. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 06-1106.)

5.05.030 Designated Facilities of the System

(a) Designated Facilities. The following described facilities constitute the designated facilities of the system,

the Metro Council having found that said facilities meet the criteria set forth in Metro Code ~~Section~~Chapter 5.05-030(b)::

(1) Disposal sites or solid waste facilities owned or operated by Metro.

(2) Disposal sites or solid waste facilities within Metro's boundary that are subject to Metro regulatory authority under Chapter 5.01.

(3) Disposal sites or solid waste facilities located outside Metro's boundary that the Metro Council has designated as part of the system and are authorized to accept waste generated from inside the Metro boundary as specified by and subject to:

(A) An agreement between Metro and the owner of the disposal site or solid waste facility; or

(B) A non-system license issued to the waste generator or the person transporting the waste to the disposal site or solid waste facility.

(b) The Metro Council will consider for adoption a list of designated facilities by resolution (1) every five years beginning in 2015 as set forth in Metro Code Section 5.05.033; or (2) any time there is a proposed change to the list under Metro Code Sections 5.05.031 or 5.05.032.

(c) A disposal site or solid waste facility located outside the Metro boundary may (1) apply to Metro to become a designated facility of the system; or (2) request to be removed from the list of designated facilities. The Chief Operating Officer will provide a form of application and will consider the factors set forth in Metro Code Sections 5.05.031 when determining whether to recommend to the Council addition to the designated facility list.

~~(1) Metro South Station. The Metro South Station located at 2001 Washington, Oregon City, Oregon 97045.~~

~~(2) Metro Central Station. The Metro Central Station located at 6161 N.W. 61st Avenue, Portland, Oregon 97210.~~

~~(3) Facilities Subject to Metro Regulatory Authority. All disposal sites and solid waste facilities within Metro which are subject to Metro regulatory authority under Chapter 5.01 of the Metro Code.~~

~~(4) Lakeside Reclamation (limited purpose landfill). The Lakeside Reclamation limited purpose landfill, Route 1, Box 849, Beaverton, Oregon 97005, subject to the terms of an agreement between Metro and the owner of Lakeside Reclamation authorizing receipt of solid waste generated within Metro only as follows:~~

~~(A) As specified in an agreement entered into between Metro and the owner of the Lakeside Reclamation Landfill authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to the facility solid waste not specified in the agreement.~~

~~(5) Hillsboro Landfill (limited purpose landfill). The Hillsboro Landfill, 3205 S.E. Minter Bridge Road, Hillsboro, Oregon 97123, subject to the terms of an agreement between Metro and the owner of Hillsboro Landfill authorizing receipt of solid waste generated within Metro only as follows:~~

~~(A) As specified in an agreement entered into between Metro and the owner of the Hillsboro Landfill authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to the facility solid waste not specified in the agreement.~~

~~(6) Columbia Ridge Landfill. The Columbia Ridge Landfill owned and operated by Waste Management Disposal Services of Oregon, Inc. (dba Oregon Waste Systems, Inc.), subject to the terms of the agreements in existence on November 14, 1989, between Metro and Oregon Waste Systems, Inc., and between Metro and Jack Gray Transport, Inc.,~~

~~including any subsequent amendments thereto. In addition, Columbia Ridge Landfill may accept solid waste generated within Metro:~~

~~(A) As specified in an agreement entered into between Metro and Waste Management Disposal Services of Oregon, Inc., authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to the facility solid waste not specified in the agreement.~~

~~(7) Roosevelt Regional Landfill. The Roosevelt Regional Landfill, located in Klickitat County, Washington. Roosevelt Regional Landfill may accept solid waste generated within Metro only as follows:~~

~~(A) As specified in an agreement entered into between Metro and Regional Disposal Company authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to the facility solid waste not specified in the agreement.~~

~~(8) Finley Buttes Regional Landfill. The Finley Buttes Regional Landfill, located in Morrow County, Oregon. Finley Buttes Regional Landfill may accept solid waste generated within Metro only as follows:~~

~~(A) As specified in an agreement entered into between Metro and Finley Buttes Landfill Company authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to the facility solid waste not specified in the agreement.~~

~~(9) Coffin Butte Landfill. The Coffin Butte Landfill, located in Benton County, Oregon, which may accept solid waste generated within Metro only as follows:~~

~~(A) As specified in an agreement entered into between Metro and the owner of the Coffin Butte Landfill authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to the facility solid waste not specified in the agreement.~~

~~(10) Wasco County Landfill. The Wasco County Landfill, located in The Dalles, Oregon, which may accept solid waste generated within Metro only as follows:~~

~~(A) As specified in an agreement entered into between Metro and the owner of the Wasco County Landfill authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to the facility solid waste not specified in the agreement.~~

~~(11) Cedar Grove Composting, Inc. The Cedar Grove Composting, Inc., facilities located in Maple Valley, Washington, and Everett, Washington. Cedar Grove Composting, Inc., may accept solid waste generated within Metro only as follows:~~

~~(A) As specified in an agreement entered into between Metro and Cedar Grove composting, Inc., authorizing receipt of such waste; or~~

~~(B) Subject to a non system license issued to a person transporting to Cedar Grove Composting, Inc., solid waste not specified in the agreement.~~

~~(12) Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill, located in Castle Rock, Washington, and the Weyerhaeuser Material Recovery Facility, located in Longview, Washington. The Weyerhaeuser Material Recovery Facility is hereby designated only for the purpose of accepting solid waste for transfer to the Weyerhaeuser Regional Landfill. The Weyerhaeuser Regional Landfill and the~~

~~Weyerhaeuser Material Recovery Facility may accept solid waste generated within Metro only as follows:~~

- ~~(A) As specified in an agreement entered into between Metro and Weyerhaeuser, Inc., authorizing receipt of such waste; or~~
- ~~(B) Subject to a non system license issued to a person transporting to the Weyerhaeuser Regional Landfill or the Weyerhaeuser Material Recovery Facility solid waste not specified in the agreement.~~

~~(13) Tualatin Valley Waste Recovery. The Tualatin Valley Recovery facility, located at 3205 SE Minter Bridge Road, Hillsboro, Oregon, authorizing receipt of solid waste generated within Metro only as follows:~~

- ~~(A) As specified in an agreement entered into between Metro and the owner of the Tualatin Valley Waste Recovery facility authorizing receipt of such waste; or~~
- ~~(B) Subject to a non system license issued to a person transporting to the facility solid wastes not specified in the agreement.~~

~~(14) Riverbend Landfill. Riverbend Landfill, 13469 SW Highway 18, McMinnville, Oregon, subject to the terms of an agreement between Metro and the owner of Riverbend Landfill authorizing receipt of solid waste generated within Metro only as follows:~~

- ~~(A) As specified in an agreement entered into between Metro and the owner of Riverbend Landfill authorizing receipt of such waste; or~~
- ~~(B) Subject to a non system license issued to a person transporting to the facility solid wastes not specified in the agreement.~~

~~(b) Changes to Designated Facilities to be Made by Council. From time to time, the Council, acting~~

~~pursuant to a duly enacted ordinance, may remove from the list of designated facilities any one or more of the facilities described in Metro Code Section 5.05.030(a). In addition, from time to time, the Council, acting pursuant to a duly enacted ordinance, may add to or delete a facility from the list of designated facilities.~~

5.05.031 Addition to the List of Designated Facilities

The Council may add a facility to the list of designated facilities on its own motion, by recommendation of the Chief Operating Officer, or upon application by a facility under Metro Code Section 5.05.030(c). In deciding whether to ~~designate an additional facility, or amend or delete an existing designation,~~add a facility to the list of designated facilities the Council shall consider:

- (1) The degree to which prior users of the facility and waste types accepted at the facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the facility's owner and operator with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;
- (3) The adequacy of operational practices and management controls at the facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of the designation with Metro's existing contractual arrangements;
- (6) The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement; and
- (7) Other benefits or detriments accruing to residents of the region from Council action in designating a facility,~~or amending or deleting an existing designation.~~

5.05.032 Deletions from and Amendments to the List of Designated Facilities

(a) The Council may delete a facility from the list of designated facilities on its own motion, by recommendation of the Chief Operating Officer, or upon request by a facility under Metro Code Section 5.05.030(c). In deciding whether to delete a facility from the list of designated facilities, the Council shall consider:

- (1) Changes in facility operations, including without limitation whether the facility is not operating or whether the facility has changed the type of waste it accepts or the method for accepting the waste;
- (2) Changes in legal requirements that apply to the facility;
- (3) The facility's record of regulatory compliance, including but not limited to public health and safety and environmental rules and regulations;
- (4) Changes in ownership of the facility; and
- (5) Other benefits or detriments accruing to residents of the region from Council action to delete the facility from the list of designated facilities.

(b) Council may delete a facility from the list of designated facilities upon request by the facility under Metro Code Section 5.05.030(c) without considering the factors set forth in (a).

(c) The Chief Operating Officer may change the name or the address of a facility on the list of designated facilities without Council approval of a resolution so long as no substantive change, as set forth above in (a), has occurred.

5.05.033 Contents of Designated Facility List and Council Adoption Every Five Years

(a) The designated facility list will include (1) the name and address of the designated facilities located outside the Metro region; and (2) the name and address of Metro-owned facilities. Disposal sites or solid waste facilities within

Metro's boundary that are subject to Metro regulatory authority are designated facilities of the system but will not be included on the list.

(b) In addition to any resolution adopted under Metro Code Sections 5.05.031 and 5.05.032, no later than July 2015 and every five years thereafter, the Metro Council will adopt by resolution a list of designated facilities.

5.05.034 Agreements with Designated Facilities

(a) The Chief Operating Officer is authorized to execute an agreement, or an amendment to an agreement, between Metro and a designated facility ~~for Non-~~located outside the region for any solid wastes other than putrescible waste.—Effective July 1, 2008, an existing designated facility authorized to receive non-putrescible waste shall notify Metro of its intent to seek an agreement to recover non putrescible waste from the Metro region in accordance with subsection (g), or to only take processed non putrescible waste from authorized facilities included in subsection (f). No later than December 31, 2008, the Chief Operating Officer shall modify existing agreements to ensure substantial compliance with either subsection (f) or (g) of this section as appropriate. If the Chief Operating Officer and a designated facility are not able to establish an agreement by November 1, 2008, then the Chief Operating Officer shall terminate the existing agreement following termination procedures described in the existing agreement, but no later than December 31, 2008.

(~~b~~) An agreement or amendment to an agreement between Metro and a designated facility located outside the region for Putrescible waste shall be subject to approval by the Metro Council ~~prior to~~before execution by the Chief Operating Officer.

(~~c~~) An agreement between Metro and a designated facility shall specify the types of wastes from within Metro boundaries that may be delivered to, or accepted at, the facility.

(~~d~~) An agreement between Metro and a designated facility shall not authorize the ~~facility to accept~~acceptance of non-putrescible waste, which has not yet undergone material recovery, originating or generated with Metro boundaries ~~after December 31, 2008,~~ unless:

- (1) Such non-putrescible waste is received from a facility that has been issued a license or

franchise pursuant to Chapter 5.01 authorizing such facility to perform material recovery on non-putrescible waste;

(2) Such non-putrescible waste is received from a designated facility that has entered into an agreement with Metro, ~~in accordance with subsection (f) of this section,~~ authorizing ~~such designated facility~~it to perform material recovery on non-putrescible waste; or

(3) The designated facility has entered into an agreement with Metro, ~~in accordance with subsection (f) of this section,~~ authorizing ~~the facility~~it to perform material recovery on non-putrescible waste ~~that has not yet undergone material recovery~~in accordance with subsection (e) of this section.

~~(g)~~ An agreement between Metro and a designated facility that, ~~after December 31, 2008,~~ authorizes the facility to accept non-putrescible waste that has not yet undergone material recovery, is not comprised of processing residual, and originated or ~~was~~ generated within Metro boundaries shall:

(1) Require such designated facility to perform material recovery on such waste; and

(2) Demonstrate, in a manner that can be verified and audited, that such processing achieves material recovery substantially comparable to that required of in-region material recovery facilities by Metro Code ~~subsections~~Section 5.01.125 ~~(a) and (b)~~ by either:

(A) Meeting such material recovery requirements for all non-putrescible waste received at the facility, whether or not from within Metro boundaries; or

(B) Keeping all non-putrescible waste received from within Metro boundaries segregated from other waste throughout processing, keeping processing residual from such processing segregated from other solid waste after processing, and meeting such material

recovery requirements for all such non-putrescible waste.

(3) Demonstrate, in a manner that can be verified and audited, that such facility substantially complies with-:

- (A) ~~the~~The performance goals described in Metro Code Sections 5.01.~~067053~~(i) ~~(as amended by Section 1 of Metro Ordinance No. 07 1138)~~ and 5.01.~~075(c)~~ ~~(as amended by Section 2 of Metro Ordinance No. 07 1138)~~,~~073(n)~~; and
- (B) ~~the~~The performance standards, design requirements, and operating requirements applicable to licensed and franchised material recovery facilities operating within the Metro region and adopted by Metro as administrative procedures pursuant to Metro Code Section 5.01.132 ~~(as amended by Section 3 of Metro Ordinance No. 07 1138)~~.

(Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sec. 2; Ordinance No. 92-471C, Sec. 1; Ordinance No. 93-483A, Sec. 1; Ordinance No. 01-917, Sec. 8; Ordinance No. 02-979, Sec. 1; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1019, Sec. 3; Ordinance No. 03-999; Ordinance No. 05-1081, Sec. 1; Ordinance No. 05-1083, Sec. 1; Ordinance No. 07-1138, Sec. 4; Ordinance No. 07-1147B, Sec. 10.; Ordinance No. 08-1195; and Ordinance No. 08-1197A.)

5.05.~~035040~~ License to Use Non-System Facility

_____ A waste hauler or other person may transport solid waste generated within Metro to, or to utilize or cause to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility only by obtaining a non-system license in the manner provided for in this Section ~~5.05.035~~. Applications for non-system licenses for Non-putrescible waste, Special waste and Cleanup Material Contaminated By Hazardous Substances shall be subject to approval or denial by the Chief Operating Officer. Applications for non-system licenses for Putrescible waste shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

~~(a)~~ 5.05.041 Application for License

| Any waste hauler or other person desiring to obtain a non-system license shall make application to the Chief Operating Officer, which application shall be filed on forms or in the format provided by the Chief Operating Officer. Applicants may apply for a limited-duration non-system license which has a term of not more than 120 days and is not renewable. An application for any non-system license shall set forth the following information:

- (1) The name and address of the waste hauler or person making such application;
- (2) The location of the site or sites at which the solid waste proposed to be covered by the non-system license is to be generated;
- (3) The nature of the solid waste proposed to be covered by the non-system license;
- (4) The expected tonnage of the solid waste proposed to be covered by the non-system license:
 - (A) The total tonnage if the application is for a limited duration non-system license; or
 - (B) The annual tonnage if the application is for any other non-system license;
- (5) A statement of the facts and circumstances which, in the opinion of the applicant, warrant the issuance of the proposed non-system license;
- (6) The non-system facility at which the solid waste proposed to be covered by the non-system license is proposed to be transported, disposed of or otherwise processed; and
- (7) The date the non-system license is to commence; and, for limited duration non-system licenses, the period of time the license is to remain valid not to exceed 120 days.

In addition, the Chief Operating Officer may require the applicant to provide, in writing, such additional information concerning the proposed non-system license as the Chief Operating Officer deems necessary or appropriate in order

to determine whether or not to issue the proposed non-system license.

An applicant for a non-system license that authorizes the licensee to transport non-putrescible waste that has not yet undergone material recovery, is not processing residual, and originated or was generated within Metro boundaries shall provide documentation that the non-system facility is in substantial compliance with the facility performance standards, design requirements and operating requirements adopted pursuant to Metro Code Chapter 5.01 ~~-.132-~~ for non-putrescible waste material recovery facilities. Any applicant or licensee that is authorized or seeks to deliver non-putrescible waste to a non-system facility ~~after December 31, 2008,~~ must demonstrate that the non-system facility will be in substantial compliance with the material recovery requirements in Metro Code Section 5.01.125.

~~(b)~~ 5.05.041 License Application Fees

Every application shall be accompanied by payment of an application fee, part of which may be refunded to the applicant in the event that the application is denied, as provided in this section. The following application fees shall apply:

- ~~(1)~~ a) For an application for a limited duration non-system license, the application fee shall be two hundred fifty dollars (\$250), no part of which shall be refunded to the applicant in the event that the application is denied.
- ~~(2)~~ b) For an application for a non-system license seeking authority to deliver no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be five hundred dollars (\$500), two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250); provided, however, that if the result of granting the application would be to give the applicant the authority to deliver more than 500 tons of solid waste per year to a non-

system facility, the application fee shall be \$500, two hundred fifty dollars (\$250) of which shall be refunded to the applicant in the event the application is denied. An application for renewal of a non-system license authorizing the delivery of no more than 500 tons of solid waste per year to a non-system facility shall be one hundred dollars (\$100).

(3c) For all applications for a non-system license seeking authority to deliver more than 500 tons of solid waste per year to a non-system facility, whether they be new applications or applications for the renewal of existing licenses, the application fee shall be one thousand dollars (\$1,000), five hundred dollars (\$500) of which shall be refunded to the applicant in the event the application is denied. For an application for a change in authorization to an existing non-system license authorizing the delivery of more than 500 tons of solid waste per year to a non-system facility, the application fee shall be two hundred fifty dollars (\$250).

(4d) For an application for a non-system license seeking to deliver solid waste that is exempt from paying the Metro fees described in Section 5.01.1502.045, the application fee shall be one hundred dollars (\$100) as well as a fifty dollar (\$50) fee to either renew or amend such licenses.

~~(e) 5.05.043~~ Factors to Consider To Determine Whether to Issue ~~Non-System~~ License

 The Chief Operating Officer or Metro Council, as applicable, shall consider the following factors to the extent relevant to determine whether or not to issue a non-system license:

- (1) The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;
- (2) The record of regulatory compliance of the non-system facility's owner and operator with

federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations;

- (3) The adequacy of operational practices and management controls at the non-system facility;
- (4) The expected impact on the region's recycling and waste reduction efforts;
- (5) The consistency of issuing the ~~designation license~~ with Metro's existing contractual arrangements;
- (6) The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements, including but not limited to public health, safety and environmental rules and regulations; and
- (7) Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.

~~(d) 5.05.044~~ Timetables To Determine Whether to Issue a Non System License

- (1) Non-system licenses for Non-putrescible waste, Special waste, Cleanup Material Contaminated By Hazardous Substances, or any other solid waste other than Putrescible waste.
 - (A) New licenses. The Chief Operating Officer shall determine whether or not to issue the non-system license and shall inform the applicant in writing of such determination within 60 days after receipt of a new completed application, including receipt of any additional information required by the Chief Operating Officer in connection therewith.
 - (B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to

waste type, quantity and destination. A holder of a non-system license shall submit a completed application to renew the license at least 60 days ~~prior to~~before the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Chief Operating Officer shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination ~~prior to~~before the expiration of the existing non-system license. The Chief Operating Officer is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 60 days before the existing license expires.

- (2) Non-system licenses for Putrescible waste. The Chief Operating Officer shall formulate and provide to the Council recommendations regarding whether or not to issue or renew a non-system license for Putrescible waste. If the Chief Operating Officer recommends that the non-system license be issued or renewed, the Chief Operating Officer shall recommend to the council specific conditions of the non-system license.
 - (A) New licenses. The Council shall determine whether or not to issue the non-system license and shall direct the Chief Operating Officer to inform the applicant in writing of such determination within 120 days after receipt of a completed application for a non-system license for Putrescible waste, including receipt of any additional information required by the Chief Operating Officer in connection therewith.
 - (B) License renewals. An application for renewal of an existing non-system license shall be substantially similar to the existing non-system license with regard to waste type, quantity and destination. A holder of a non-system license shall submit

a completed application to renew the license at least 120 days ~~prior to~~before the expiration of the existing non-system license, including receipt of any additional information required by the Chief Operating Officer in connection therewith. The Council shall determine whether or not to renew the non-system license and shall inform the applicant in writing of such determination ~~prior to~~before the expiration of the existing non-system license. The Council is not obligated to make a determination earlier than the expiration date of the existing license even if the renewal request is filed more than 120 days before the existing license expires.

- (3) At the discretion of the Chief Operating Officer or the Council, the Chief Operating Officer or Council may impose such conditions on the issuance of a new or renewed non-system license as deemed necessary or appropriate under the circumstances.

~~(e)5.05.045~~ Issuance of Non-System License; Contents.

Each non-system license shall be in writing and shall set forth the following:

- (1) The name and address of the waste hauler or other person to whom such non-system license is issued;
- (2) The nature of the solid waste to be covered by the non-system license;
- (3) The maximum total, weekly, monthly or annual quantity of solid waste to be covered by the non-system license;
- (4) The non-system facility or facilities at which or to which the solid waste covered by the non-system license is to be transported or otherwise processed;
- (5) The expiration date of the non-system license, which date shall be not more than:

- (A) 120 days from the date of issuance for a limited-duration non-system license;
 - (B) Three years from the date of issuance for a new full-term license; and
 - (C) Two years from the date of issuance of a renewed full-term non-system license.
- (6) Any conditions imposed by the Chief Operating Officer as provided above which must be complied with by the licensee during the term of such non-system license, including but not limited to conditions that address the factors in Section 5.05.~~043035(e)~~.

~~(f)~~5.05.046 Requirements to be met by License Holder.

Each waste hauler or other person to whom a non-system license is issued shall be required to:

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

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

- (4) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated outside the Metro boundary, the load in its entirety shall be reported to Metro by the non-system licensee as having been generated within the Metro boundary and the Regional System Fee and Excise Tax shall be paid on the entire load unless the licensee provides Metro with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary, or unless Metro has agreed in writing to another method of reporting.

~~(g) 5.05.047~~ Failure to Comply with ~~Non-System License~~

 In the event that any waste hauler or other person to whom a non-system license is issued fails to fully and promptly comply with the requirements set forth in Section 5.05.~~035(e)~~045 above or any conditions of such non-system license imposed pursuant to Section 5.05.~~035(e)~~043, then, upon discovery of such non-compliance, the Chief Operating Officer shall issue to such licensee a written notice of non-compliance briefly describing such failure. If, within 20 days following the date of such notice of non-compliance or such longer period as the Chief Operating Officer may determine to grant as provided below, the licensee fails to:

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

Then, and in such event such non-system license shall automatically terminate, effective as of 5:00 p.m. (local time)

on such 20th day or on the last day of such longer period as the Chief Operating Officer may determine to grant as provided below. If, in the judgment of the Chief Operating Officer, such non-compliance cannot be corrected within such 20-day period but the licensee is capable of correcting it and within such 20-day period diligently commences such appropriate corrective action as shall be approved by the Chief Operating Officer, then and in such event such 20-day period shall be extended for such additional number of days as shall be specified by the Chief Operating Officer in writing, but in no event shall such the local period as so extended be more than 60 days from the date of the notice of non-compliance.

~~(h) Notwithstanding any other provision in this section, and unless contrary to any other applicable law, the Chief Operating Officer shall not accept any application for a new non system license for mixed putrescible solid waste until September 2, 2008. Neither the Chief Operating Officer nor the Metro Council shall issue a new non system license for mixed putrescible solid waste whose term commences before January 1, 2009.~~

(Ordinance No. 89-319. Amended by Ordinance No. 91-388; Ordinance No. 01-917, Sec. 9; Ordinance No. 02-979, Sec. 2; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-992B, Sec. 1; Ordinance No. 03-1019, Sec. 4; Ordinance No. 06-1098B, Sec. 3; Ordinance No. 06-1105; Ordinance No. 07-1138, Sec. 5; Ordinance No. 07-1139, Sec. 3; Ordinance No. 07-1161, Sec. 2; Ordinance No. 07-1147B, Sec. 11.)

5.05.040050 Issuance of Required Use Orders

(a) The ~~Director~~Chief Operating Officer may issue a required use order to any waste hauler or other person within Metro, requiring the recipient to deliver waste to a specific designated facility. In issuing a required use order, the ~~Director~~Chief Operating Officer shall comply with the provisions of this section and Section 5.05.~~050055~~.

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

- (1) To the extent consistent with state, Metro and local regulations, and facility obligations and facility limitations, waste haulers and other

persons should be allowed to utilize the designated facility of their choice; and

(2) It may be necessary for the ~~Director~~Chief Operating Officer to override the facility choice of a waste hauler or other person if the ~~Director~~Chief Operating Officer finds that allowing specific haulers to exercise their choice appears likely to result in:

(A) The overloading or under-utilization of a specific designated facility or facilities; or

(B) Other system inefficiencies or negative impacts on the public health, safety or welfare specified by the ~~Director~~Chief Operating Officer.

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

(1) The location of the waste hauler or other person's route and/or facilities in relation to designated facilities, in terms of travel time and/or distance;

(2) The equipment being utilized by the hauler at the time of issuance of the order in relation to the equipment handling capabilities of designated facilities;

(3) The types of waste being disposed of by the waste hauler or other person, in relation to the capabilities of designated facilities to most appropriately process those wastes; and

(4) Other considerations deemed relevant by the ~~Director~~Chief Operating Officer, including but not limited to other health, safety and welfare considerations.

(Ordinance No. 89-319. Sec. 5.05.040 repealed and replaced with Ordinance No. 91-388, Sec. 3. Amended by Ordinance No. 01-917, Sec. 11; Ordinance No. 02-974, Sec. 1.)

5.05.050055 Content of Required Use Orders; Notice

(a) Required use orders issued by the ~~Director~~Chief Operating Officer shall set forth the following:

- (1) The names of the waste haulers or persons to be subject to the required use order together with their addresses or places of business and telephone numbers;
- (2) The type and quantity of solid waste subject to the required use order;
- (3) The name and location of the designated facility that the recipient is required to use pursuant to the order;
- (4) The effective date of the required use order, which date, in the absence of an emergency, shall not be less than 10 days from the date of the order; and a brief description of the procedure for requesting that the ~~Director~~Chief Operating Officer reconsider issuance of the order, or specific details of the order; and
- (5) A brief description of the procedure for requesting that the ~~Director~~Chief Operating Officer reconsider issuance of the order, or specific details of the order; and
- (6) Such other information as the ~~Director~~Chief Operating Officer may consider necessary or appropriate.

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

- (1) By United States mail, postage prepaid, to each waste hauler and person to be subject to such required use order at the last known address thereof; and

- (2) By any other method deemed by the ~~Director~~Chief Operating Officer as necessary, and most likely, to ensure actual notice to the waste hauler or other person subject to the order.

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

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

5.05.~~052060~~ Requests for Reconsideration

(a) Any waste hauler or other person receiving a required use order may request that the ~~Director~~Chief Operating Officer reconsider issuance of the order or specific details of the order. The request may be premised on any matter that was relevant to issuance of the order, as specified in Metro Code Section 5.05.~~040050~~.

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

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

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

(d) Review by the ~~Director~~Chief Operating Officer of a request for reconsideration is intended to be informal, and may

include personal, written, or telephone contact between the waste hauler or other persons and the ~~Director or solid waste department~~Chief Operating Officer or Finance and Regulatory Services staff.

(e) If the ~~Director~~Chief Operating Officer fails to issue a timely decision, the waste hauler or other person receiving the order may appeal the decision to ~~the Chief Operating Officer~~a hearings officer as specified in Metro Code Section 5.05.~~054065~~.

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

(Ordinance No. 91-388, Sec. 5. Amended by Ordinance No. 02-974, Sec. 1.)

~~5.05.054065~~ Appeals to the ~~Chief Operating~~Hearings Officer

(a) A waste hauler or other person receiving a required use order may appeal the ~~Director's~~Chief Operating Officer's affirmance or modification of the order to ~~the Chief Operating Officer~~a hearings officer. The ~~Chief Operating Officer~~hearings officer may be asked to review any matter that was relevant to issuance of the order, as specified in Metro Code Section 5.05.~~040050~~.

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

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

- (1) The affirmance or modification shall be considered timely if it is deposited in the mail within the 15-day period, with regular first class postage and addressed to the person requesting review.

- (2) The affirmance or modification shall include a brief statement of the basis for the decision, and a brief statement of the process for contested case review of the decision by the Metro Council.

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

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

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

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

(Ordinance No. 91-388, Sec. 5. Amended by Ordinance No. 02-974, Sec. 1.)

5.05.06070 Solid Waste Tracking System ~~to be Developed~~

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

(a) Establishment of a permit or licensing system for waste haulers or persons generating, collecting, transporting or disposing of solid waste.

(b) Use of franchises.

(c) Use of personnel to monitor compliance with the requirements of this chapter.

(d) Intergovernmental agreements for exchange of information.

(e) Equipment identification.

(f) Reporting requirements by waste haulers or persons generating, transporting or disposing of solid waste.

(g) Such other criteria or methods which the Chief Operating Officer considers reasonable and appropriate.

(Ordinance No. 89-319. Amended by Ordinance No. 02-974, Sec. 1.)

5.05.070080 Solid Waste Flow Control Enforcement; Fines, Penalties and Damages for Violations

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

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

(b) In addition to the foregoing fines and penalties:

- (1) Any waste hauler or person who fails to comply with the terms and conditions of any non-system

license shall be required to pay to Metro a fine in the amount equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste generated within Metro transported, disposed of or otherwise processed in violation of the terms and conditions of such non-system license;

- (2) Any waste hauler or person who, without having a non-system license then in effect, transports solid waste generated within Metro to, or utilizes or causes to be utilized for the disposal or other processing of any solid waste generated within Metro, any non-system facility shall be required to pay to Metro a fine in an amount equal to the non-system license application fee that would have otherwise been required to authorize the waste disposed, plus an amount equal to the Regional System Fee and Excise Tax multiplied by the number of tons (or fractions thereof) of solid waste generated within Metro transported, recycled, disposed of or otherwise processed to or at any non-system facility; and
- (3) Any waste hauler or person who violates Metro Code Section 5.05.025(b) by falsely stating the origin of waste transported to a System facility shall be required to pay to Metro a fine in an amount equal to the Regional System Fee multiplied by the number of tons (or fractions thereof) of solid waste generated within the District transported to such System facility, plus the excise tax multiplied by the number of tons (or fractions thereof) of solid waste generated within the District transported to such System facility.

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

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

(Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sec. 6; Ordinance No. 01-917, Sec. 12; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-992B, Sec. 2; Ordinance No. 06-1104, Sec. 2.)

5.05.~~080090~~ Administrative Rules

____ Except for the system tracking pursuant to Section 5.05.~~060070~~ hereof, the Chief Operating Officer is hereby authorized and empowered to make such administrative rules and regulations as the Chief Operating Officer considers proper to effectively carry out the purposes of this chapter 5.05.

(Ordinance No. 89-319. Amended by Ordinance No. 91-388, Sec. 7; Ordinance No. 02-974, Sec. 1.)

5.05.~~090100~~ Contested Case Proceedings

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

(Ordinance No. 89-319. Amended by Ordinance No. 02-974, Sec. 1.)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1337 FOR THE PURPOSE OF AMENDING METRO CODE TITLE V, SOLID WASTE, TO REVISE CHAPTER 5.05.

July 1, 2014

Prepared by: Warren Johnson
503-797-1836

The proposed ordinance amends Title V (Solid Waste) to revise Chapter 5.05 (Solid Waste Flow Control) to remove references to individual designated facilities, provide for a different analysis to amend or delete facility designations, and make various technical corrections to improve the readability and organizational structure of the Code. There are no substantive changes to any current policies or regulatory requirements under this proposed ordinance.

BACKGROUND

Metro Code Chapter 5.05 (Solid Waste Flow Control) governs the transportation, transfer, disposal, and other processing of all solid waste generated within the Metro region. Metro-area waste that is transported outside of the region must be delivered to a designated facility or hauled under authority of a non-system license. Currently, disposal sites and solid waste facilities located outside the Metro region must first be listed and specifically named as designated facilities in Metro Code in order for the Chief Operating Officer to negotiate an agreement with the facility that would allow it to receive solid waste without the need of a non-system license.

Under the proposed ordinance, the Chief Operating Officer recommends a new listing approach that continues the same designation process, but eliminates the need to individually list each designated facility in Code. Specially, under this proposed ordinance, the Metro Council would consider the adoption of an official list of designated facilities by resolution every five years beginning in 2015. This provides the Council with an opportunity to periodically review the facility list on a routine and holistic basis. Furthermore, as provided in Code, the Council would also retain the ability to review and change the list of designated facilities at any other time it deems necessary.

The Metro Code also currently stipulates that in order to delete a facility from the list of designated facilities the Metro Council shall consider the same factors as those that were used when it was initially added. However, those factors are generally more pertinent to adding designated facilities and are not as relevant to considering deletions from the list. As such, the proposed ordinance also revises Chapter 5.05 to clarify and establish separate factors that Council shall consider when deciding whether to delete a facility from the list which are different than those factors considered for adding designated facilities.

In addition to the changes described above, the proposed ordinance also revises certain sections of Chapter 5.05 to clarify the roles of the Chief Operating Officer and hearings officer with respect to the issuance of required use orders and appeals of such orders. The remainder of Chapter 5.05 will also be renumbered and updated with various technical corrections and revisions to improve the readability and continuity of the Code.

This proposed ordinance is part of a package of six related ordinances that are intended to improve the consistency, access, and usability of Metro's solid waste Code. Specifically, Metro Council will

consider three similar ordinances¹ for other housekeeping and organizational improvements to the Code and three other ordinances² for the proposed deletion of certain designated facilities at its meeting on July 24, 2014.

ANALYSIS/INFORMATION

1. Known Opposition

Adoption of this ordinance would remove references to individual designated facilities, provide for a different analysis to amend or delete facility designations, and make various technical corrections to improve the readability and organizational structure of the Code. There are no substantive changes to any current policies or regulatory requirements. As such, there is no known opposition to the proposed ordinance.

Legal Antecedents

Any change to the Metro Code requires an ordinance of the Metro Council.

2. Anticipated Effects

Adoption of this ordinance would result in the following changes to the Metro Code:

- Removal of the specific listing and references to individual designated facilities in Chapter 5.05.
- Establishment of a new listing process in which the Metro Council will consider adopting an official list of designated facilities by resolution every five years beginning in 2015.
- Establishment of separate factors for the Metro Council to consider when deciding whether to delete a facility from the list of designated facilities.
- Revisions throughout Metro Code Sections 5.05.040 (Issuance of Required Use Orders), 5.05.050 (Content of Required Use Orders; Notice), and 5.05.052 (Requests for Reconsideration) to replace the term “Director” with “Chief Operating Officer.”
- Revisions throughout Metro Code Section 5.05.054 (Appeals to the Chief Operating Officer) to replace the term “Chief Operating Officer” with “Hearings Officer.”
- Minor technical corrections and renumbering of sections as necessary.

3. Budget Impacts

There are no expected budget impacts associated with the adoption of this ordinance.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 14-1337. Approval of this ordinance will revise and reorganize Chapter 5.05 (Solid Waste Flow Control) to remove references

¹ Chapter 5.00 (Ord. No. 14-1331), Chapter 5.02 (Ord. No. 14-1338), and Chapter 5.01 (Ord. No. 14-1332)

² Cedar Grove Composting, Inc. (Ord. No. 14-1334), Lakeside Reclamation (Ord. No. 14-1333), and Weyerhaeuser Regional Landfill (Ord. No. 14-1335)

to individual designated facilities, provide for a different analysis to amend or delete facility designations, and make various technical corrections to improve the readability and organizational structure of the Code, as provided in Exhibit A.

WJ:bjl

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