

Metro | Agenda

Meeting: Metro Council
Date: Thursday, July 24, 2014
Time: 2 p.m.
Place: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. **INTRODUCTIONS**
2. **CITIZEN COMMUNICATION**
3. **CONSIDERATION OF COUNCIL MEETING MINUTES FOR JULY 17, 2014**
4. **RESOLUTIONS**
 - 4.1 **Resolution No. 14-4544**, Amending the FY 2014-15 Budget and Appropriations Schedule to Provide for a Change in Operations. **Kathy Rutkowski, Metro**
5. **ORDINANCES – FIRST READ**
 - 5.1 **Ordinance No. 14-1336**, For the Purpose of Amending Maps in Titles 4 and 14 of the Urban Growth Management Functional Plan to Conform with Changes Enacted by the Oregon Legislature in House Bill 4078.
6. **ORDINANCES – SECOND READ**
 - 6.1 **Ordinance No. 14-1331**, For the Purpose of Amending Metro Code Title V to Add Metro Code Chapter 5.00, Solid Waste Definitions, and to Repeal Sections 5.01.010, 5.02.015, 5.04.005, 5.05.010, 5.09.020, and 5.10.010; and Modify Certain Definitions in Section 7.01.010. **Roy Brower, Metro**
 - 6.1.1 **Public Hearing on Ordinance No. 14-1331**
 - 6.2 **Ordinance No. 14-1332**, For the purpose of Amending Metro Code Title V, Solid Waste, to Revise Chapter 5.01 and to Repeal Chapter 5.03. **Roy Brower, Metro**
 - 6.2.1 **Public Hearing on Ordinance No. 14-1332**
 - 6.3 **Ordinance No. 14-1333**, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Lakeside Reclamation from the List of Metro Designated Facilities. **Roy Brower, Metro**
 - 6.3.1 **Public Hearing on Ordinance No. 14-1333**
 - 6.4 **Ordinance No. 14-1334**, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Cedar Grove Composting, Inc. from the List of Metro Designated Facilities. **Roy Brower, Metro**
 - 6.4.1 **Public Hearing on Ordinance No. 14-1334**
 - 6.5 **Ordinance No. 14-1335**, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Weyerhaeuser Regional Landfill from the List of Metro Designated Facilities Effective January 1, 2015. **Roy Brower, Metro**

- 6.5.1 **Public Hearing on Ordinance No. 14-1335**
 - 6.6 **Ordinance No. 14-1337**, For the Purpose of Amending Metro Code Title V, Solid Waste, to Revise Chapter 5.05. **Roy Brower, Metro**
 - 6.6.1 **Public Hearing on Ordinance No. 14-1337**
 - 6.7 **Ordinance No. 14-1338**, For the Purpose of Amending Metro Code Title V, Solid Waste, to Revise Chapter 5.02. **Roy Brower, Metro**
 - 6.7.1 **Public Hearing on Ordinance No. 14-1338**
 - 6.8 **Ordinance 14-1342**, For the Purpose of Amending Metro Code Section 2.19.130 to Change the Name of the Solid Waste Advisory Committee. **Matt Korot, Metro**
 - 6.8.1 **Public Hearing on Ordinance No. 14-1342**
 - 7. **CHIEF OPERATING OFFICER COMMUNICATION** **Martha Bennett, Metro**
 - 8. **COUNCILOR COMMUNICATION**
- ADJOURN**

Television schedule for July 24, 2014 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Thursday, July 24</p>	<p>Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmvtv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> Sunday, July 27, 7:30 p.m. <i>Date:</i> Monday, July 28, 9 a.m.</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> Monday, July 28, 2 p.m.</p>	<p>Washington County and West Linn Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Saturday, July 26, 11 p.m. <i>Date:</i> Sunday, July 27, 11 p.m. <i>Date:</i> Tuesday, July 29, 6 a.m. <i>Date:</i> Wednesday, July 30, 4 p.m.</p>
<p>Oregon City and Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>	

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times. Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities.

Metro’s nondiscrimination notice

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Agenda Item No. 3

**CONSIDERATION OF COUNCIL MEETING MINUTES FOR JULY
17, 2014**

Minutes

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

Agenda Item No. 4.1

Resolution No. 14-4544, Amending the FY 2014-15 Budget
and Appropriations Schedule to Provide for a Change in
Operations.

Resolutions

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2014-15 BUDGET AND)
APPROPRIATIONS SCHEDULE TO PROVIDE FOR)
A CHANGE IN OPERATIONS)

RESOLUTION NO 14-4544

) Introduced by Martha Bennett, Chief
) Operating Officer, with the concurrence of
) Council President Tom Hughes

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2014-15 Budget; and

WHEREAS, Metro Code chapter 2.02.040 requires Metro Council approval to add any new position to the budget; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; and

WHEREAS, ORS 294.463(1) provides for transfers of appropriations within a fund, including transfers from contingency that do not exceed 15 percent of a fund's appropriations, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction, and

WHEREAS, ORS 294.463(3) provides for transfers of appropriations or of appropriations and a like amount of budget resources between funds of the municipal corporation when authorized by an official resolution or ordinance of the governing body stating the need for the transfer, now, therefore,

BE IT RESOLVED,

That the FY 2014-15 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring appropriations to provide for a change in operations and authorizing the addition of two part-time 0.50 FTE Animal Keeper positions.

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

Tom Hughes, Council President

APPROVED AS TO FORM:

Alison Kean, Metro Attorney

Exhibit A
Resolution No. 14-4544

ACCT	DESCRIPTION	Current Budget	Revision	Amended Budget
General Fund				
General Fund - Oregon Zoo				
Expenditures				
<i>Personnel Services</i>				
501000	Reg Employees-Full Time-Exempt	4,676,831	-	4,676,831
501500	Reg Empl-Full Time-Non-Exempt	4,652,019	-	4,652,019
502000	Reg Employees-Part Time-Exempt	63,668	-	63,668
502500	Reg Empl-Part Time-Non-Exempt	1,037,218	46,012	1,083,230
503000	Temporary Employees - Hourly	1,621,092	(58,372)	1,562,720
503100	Temporary Employees - Salaried	-	-	-
504000	Seasonal Employees	1,138,493	-	1,138,493
508000	Overtime	275,786	-	275,786
508500	Premium Pay	-	-	-
508600	Mobile Comm Allowance	-	-	-
510000	Fringe Benefits-Inactive	-	-	-
511000	Fringe - Payroll Taxes	1,139,705	(1,702)	1,138,003
512000	Fringe - Retirement PERS	1,241,473	(1,014)	1,240,459
513000	Fringe - Health & Welfare	2,555,832	14,408	2,570,240
514000	Fringe - Unemployment	93,664	-	93,664
515000	Fringe - Other Benefits	43,814	668	44,482
519000	Pension Oblig Bonds Contrib	104,315	-	104,315
519500	Fringe - Insurance - Opt Out	-	-	-
Total Personnel Services		18,643,910	-	18,643,910
Total Materials and Services		12,136,665	-	12,136,665
TOTAL REQUIREMENTS		\$30,780,575	\$0	\$30,780,575
TOTAL FTE		173.60	1.00	174.60

Exhibit A
Resolution No. 14-4544

ACCT	DESCRIPTION	Current Budget	Revision	Amended Budget
MERC Fund				
MERC Fund				
Expenditures				
	<i>Materials and Services</i>			
520100	Office Supplies	50,990	-	50,990
520110	Computer Equipment	61,950	-	61,950
520120	Meetings Expenditures	29,479	-	29,479
520130	Postage	12,151	-	12,151
520140	Promotion/Consulting Supplies	62,300	-	62,300
520500	Operating Supplies	86,856	-	86,856
520510	Operating Supplies - Small Tools, Equip	21,315	-	21,315
520520	Operating Supplies - Audio Visual	24,000	-	24,000
520530	Operating Supplies - Coat Check	2,500	-	2,500
520540	Operating Supplies - Medical & Veterinary	3,250	-	3,250
520550	Operating Supplies - Telecommunications	11,865	-	11,865
520560	Operating Supplies - Tickets	17,657	-	17,657
520570	Operating Supplies - Production	9,250	-	9,250
520571	Operating Supplies - Show and Stage	35,700	-	35,700
520580	Operating Supplies - Uniforms	50,615	-	50,615
520590	Operating Supplies - Sustainability	12,000	-	12,000
521000	Subscriptions and Dues	500	-	500
521100	Membership & Professional Dues	52,942	-	52,942
521200	Publicaitons and Subscriptions	3,950	-	3,950
521400	Fuels and Lubricants - General	19,900	-	19,900
521500	Maintenance & Repairs Supplies	22,000	-	22,000
521510	Maintenance & Repairs Supplies - Technology	7,389	-	7,389
521520	Maintenance & Repairs Supplies - Building	93,250	-	93,250
521521	Maintenance & Repairs Supplies - HVAC	63,800	-	63,800
521522	Maintenance & Repairs Supplies - Lightbulbs & Ballasts	47,700	-	47,700
521530	Maintenance & Repairs Supplies - Custodial	151,000	-	151,000
521540	Maintenance & Repairs Supplies - Electrical	76,150	-	76,150
521550	Maintenance & Repairs Supplies - Grounds/Landscape	8,150	-	8,150
521560	Maintenance & Repairs Supplies - Equipment	98,150	-	98,150
521570	Maintenance & Repairs Supplies - Vehicles	1,860	-	1,860
521590	Maintenance & Repairs Supplies - Disposabe Protective Gear	1,900	-	1,900
522500	Retail	12,000	-	12,000
524000	Contracted Professional Svcs	121,000	-	121,000
524010	Contracted Prof Svcs - Accounting & Auditing	20,000	-	20,000
524020	Contracted Prof Svcs - Attorney & Legal	200,824	-	200,824
524040	Contracted Prof Svcs - Promotion & Public Relations	27,700	-	27,700
524050	Contracted Prof Svcs - Advertising	129,130	-	129,130
524060	Contracted Prof Svcs - Information Technology Services	25,500	-	25,500
524070	Contracted Prof Svcs - Management, Consulting & Communication Services	617,300	-	617,300
524075	Contracted Prof Svcs - Recruiting Services	6,850	-	6,850
524080	Contracted Prof Svcs - Architectural and Design (non-cap)	-	600,000	600,000
524510	Sales and Marketing Contract	3,100,000	-	3,100,000
524600	Sponsorship Expenditures	32,500	-	32,500
524700	Visitor Develop Marketing	463,702	-	463,702
525110	Utility Services - Internet	86,000	-	86,000
525120	Utility Services - Telecommunications	120,309	-	120,309
525130	Utility Services - Electricity	1,450,840	-	1,450,840
525140	Utility Services - Natural Gas	340,250	-	340,250
525150	Utility Services - Sanitation & Refuse Removal	100,775	-	100,775

Exhibit A
Resolution No. 14-4544

ACCT	DESCRIPTION	Current Budget	Revision	Amended Budget
MERC Fund				
MERC Fund				
Expenditures				
525160	Utility Services - Water & Sewer	399,324	-	399,324
525500	Cleaning Services	37,300	-	37,300
526000	Maintenance & Repair Services	6,515	-	6,515
526010	Maintenance & Repair Services - Building	421,600	-	421,600
526011	Maintenance & Repair Services - Painting	46,375	-	46,375
526012	Maintenance & Repair Services - Electricity	7,300	-	7,300
526013	Maintenance & Repair Services - Elevator & Escalator	233,100	-	233,100
526014	Maintenance & Repair Services - HVAC	105,400	-	105,400
526020	Maintenance & Repair Services - Equipment	108,990	-	108,990
526030	Maintenance & Repair Services - Grounds	77,570	-	77,570
526040	Maintenance & Repair Services - Technology	58,347	-	58,347
526050	Maintenance & Repair Services - Vehicles	3,560	-	3,560
526060	Maintenance & Repair Services - Safety	48,720	-	48,720
526100	Capital Maintenance - CIP	266,500	-	266,500
526300	Software Maintenance	172,877	-	172,877
526520	Rentals - Equipment	19,265	-	19,265
526530	Rentals - Office Equipment	41,870	-	41,870
526540	Rentals - Vehicle	13,070	-	13,070
526550	Rentals - Production	7,500	-	7,500
526555	Rentals - Air Space	217,174	-	217,174
526560	Rentals - Parking Space	11,620	-	11,620
526580	Rentals - Audio Visual	290,250	-	290,250
527000	Insurance	-	-	-
528000	Other Purchased Services	41,000	-	41,000
528030	Other Purchased Services - Delivery, Shipping & Courier	38,000	-	38,000
528060	Other Purchased Services - EMT & Medical	4,928	-	4,928
528070	Other Purchased Services - Trade Shows	15,000	-	15,000
528080	Other Purchased Services - Agency Fees	399,000	-	399,000
528091	Other Purchased Services - City Police	50,870	-	50,870
528092	Other Purchased Services - Traffic Control	14,671	-	14,671
528093	Other Purchased Services - Piano Tuning	3,000	-	3,000
528094	Other Purchased Services - Linens	16,500	-	16,500
528095	Other Purchased Services - Physical Capacity Testing	2,555	-	2,555
528099	Other Purchased Services - Sustainability	9,900	-	9,900
528110	Other Purch Services - Reimb - Show Services	3,500	-	3,500
528120	Other Purch Services - Reimb - Security	91,620	-	91,620
528130	Other Purch Services - Reimb - Stagehand	330,000	-	330,000
528140	Other Purch Services - Reimb - Talent & Entertainment	14,420	-	14,420
528150	Other Purch Services - Reimb - Audio Visual	39,500	-	39,500
528160	Other Purch Services - Reimb - Stage Equipment	-	-	-
528200	Banking Services	16,059	-	16,059
528210	Credit Card Fees	469,065	-	469,065
528220	ATM Fees and Services	515	-	515
528300	Other Purchased Services - Temporary Help Services	56,200	-	56,200
528400	Other Purchased Services - Printing & Graphics	53,895	-	53,895
529101	Food & Beverage Services - Advertising & Promotion	3,400	-	3,400
529102	Food & Beverage Services - Banking Fees	549	-	549
529104	Food & Beverage Services - Postage	800	-	800
529106	Food & Beverage Services - General Insurance	430,936	-	430,936
529107	Food & Beverage Services - Cash Over/Short	2,291	-	2,291
529108	Food & Beverage Services - Rental Exp - Vehicle	500	-	500

Exhibit A
Resolution No. 14-4544

ACCT	DESCRIPTION	Current Budget	Revision	Amended Budget
MERC Fund				
MERC Fund				
Expenditures				
529109	Food & Beverage Services - Services - Vehicles	1,587	-	1,587
529110	Food & Beverage Services - Freight Chargeouts	1,087	-	1,087
529111	Food & Beverage Services - Recruiting	3,287	-	3,287
529112	Food & Beverage Services - Other	20,154	-	20,154
529120	Food & Beverage Services - Food Cost	2,697,104	-	2,697,104
529121	Food & Beverage Services - Beverage Cost	302,710	-	302,710
529122	Food & Beverage Services - Liquor Cost	65,789	-	65,789
529123	Food & Beverage Services - Wine Cost	95,453	-	95,453
529124	Food & Beverage Services - Beer Cost	126,961	-	126,961
529127	Food & Beverage Services - National Vendor Rebate (contra)	(141,000)	-	(141,000)
529129	Food & Beverage Services - Other	2,800	-	2,800
529130	Food & Beverage Services - Direct Salary & Wage - Mgmt	1,618,280	-	1,618,280
529131	Food & Beverage Services - Direct Salary & Wage - Hourly	3,857,988	-	3,857,988
529132	Food & Beverage Services - Payroll Laundry	2,500	-	2,500
529133	Food & Beverage Services - Subcontractor Payout	222,086	-	222,086
529134	Food & Beverage Services - Rental Exp - Equipment	45,700	-	45,700
529135	Food & Beverage Services - Replacements	10,397	-	10,397
529136	Food & Beverage Services - Travel - Meals & Entertainment	3,200	-	3,200
529137	Food & Beverage Services - Travel - Lodging	3,500	-	3,500
529139	Food & Beverage Services - Other Labor & Related	1,643,316	-	1,643,316
529140	Food & Beverage Services - Employee Welfare	2,500	-	2,500
529150	Food & Beverage Services - Services - Software License Fees	3,000	-	3,000
529151	Food & Beverage Services - Services - Contract Cleaning	49,426	-	49,426
529152	Food & Beverage Services - Services - Consulting	1,800	-	1,800
529153	Food & Beverage Services - Services - Legal	5,600	-	5,600
529154	Food & Beverage Services - Services - Repair & Maintenance	10,600	-	10,600
529155	Food & Beverage Services - Services - Professional	15,500	-	15,500
529156	Food & Beverage Services - Services - Talent & Entertainment	-	-	-
529157	Food & Beverage Services - Services - Security	29,500	-	29,500
529158	Food & Beverage Services - Services - Technology R & M	11,500	-	11,500
529159	Food & Beverage Services - Services - Telecommunications	11,760	-	11,760
529160	Food & Beverage Services - Supplies- Custodial & Janitorial	7,700	-	7,700
529161	Food & Beverage Services - Supplies - Equipment	8,000	-	8,000
529169	Food & Beverage Services - Services - Other	600	-	600
529170	Food & Beverage Services - Supplies - Cafeteria	66,239	-	66,239
529171	Food & Beverage Services - Supplies - Flowers & Decoration	2,600	-	2,600
529172	Food & Beverage Services - Supplies - Linen, Uniform & Laundry	166,000	-	166,000
529173	Food & Beverage Services - Supplies - Misc.	2,708	-	2,708
529174	Food & Beverage Services - Supplies - Office	20,550	-	20,550
529179	Food & Beverage Services - Services - Other	409	-	409
529186	Food & Bev Svcs Spent Mktg Res/F&B S M R	(55,482)	-	(55,482)
529190	Food & Beverage Services - Reserve Capital 2%	380,162	-	380,162
529191	Food & Beverage Services - Spent Capital Reserve 2%	(106,963)	-	(106,963)
529192	Food & Beverage Services - Reserve Maintenance 1%	194,082	-	194,082
529193	Food & Beverage Services - Spent Maintenance Reserve 1%	(55,482)	-	(55,482)
529194	Food & Beverage Services - Reserve Utilities 1%	194,082	-	194,082
529195	Food & Beverage Services - Spent Utility Reserve 1%	(55,482)	-	(55,482)
529196	Food & Beverage Services - Reserve Marketing 1%	194,082	-	194,082
529198	Food & Beverage Services - Net Gross Receipts Percent	494,096	-	494,096
529199	Food & Beverage Services - Percent of Net Profit	251,340	-	251,340
529210	Parking Services - Parking Lot Management	238,017	-	238,017

Exhibit A
Resolution No. 14-4544

ACCT	DESCRIPTION	Current Budget	Revision	Amended Budget
MERC Fund				
MERC Fund				
Expenditures				
530010	License & Permit Fees	119,395	-	119,395
531000	Taxes (Non-Payroll)	33,313	-	33,313
532000	Government Assessments	3,500	-	3,500
545100	Travel and Lodging	126,679	-	126,679
545200	Mileage, Taxi and Parking	13,111	-	13,111
545300	Meals & Entertainment	50,348	-	50,348
545500	Staff Development	85,350	-	85,350
545520	Conference Fees	44,325	-	44,325
549000	Miscellaneous Expenditures	62,679	-	62,679
549010	Tri-Met Transit Pass	77,837	-	77,837
Total Materials and Services		25,985,980	600,000	26,585,980
Total Capital Outlay		7,419,300	-	7,419,300
Total Interfund Transfers		5,680,018	-	5,680,018
<i>Contingency</i>				
701002	Contingency - Operating	2,645,000	-	2,645,000
701003	Contingency - New Capital-Business Strategy Reserve	6,152,144	(600,000)	5,552,144
706000	Contingency - Renew & Replacement	20,020,079	-	20,020,079
Total Contingency		28,817,223	(600,000)	28,217,223
TOTAL REQUIREMENTS		\$86,334,573	\$0	\$86,334,573
TOTAL FTE		182.35	0.00	182.35

Exhibit A
Resolution No. 14-4544

ACCT	DESCRIPTION	Current Budget	Revision	Amended Budget
Smith and Bybee Wetlands Fund				
Expenditures				
<i>Materials and Services</i>				
525000	Contracted Property Services	65,000	140,075	205,075
Total Materials and Services		65,000	140,075	205,075
<i>Interfund Transfers</i>				
582000	Transfer for Direct Costs	107,596	-	107,596
Total Interfund Transfers		107,596	-	107,596
<i>Contingency</i>				
700000	Contingency	1,200,000	(140,075)	1,059,925
Total Contingency		1,200,000	(140,075)	1,059,925
<i>Unappropriated Fund Balance</i>				
805000	Unapp FB - Reserves	2,077,372	-	2,077,372
Total Unappropriated Fund Balance		2,077,372	-	2,077,372
TOTAL REQUIREMENTS		\$3,449,968	\$0	\$3,449,968

Exhibit B
Resolution 14-4544
Schedule of Appropriations

	Current Appropriation	Revision	Revised Appropriation
MERC FUND			
MERC	51,837,332	600,000	52,437,332
Non-Departmental			
Interfund Transfers	5,680,018	-	5,680,018
Contingency	28,817,223	(600,000)	28,217,223
<i>Total Appropriations</i>	86,334,573	-	86,334,573
Unappropriated Balance	-	-	-
Total Fund Requirements	\$86,334,573	\$0	\$86,334,573
SMITH AND BYBEE WETLANDS FUND			
Parks and Environmental Services	65,000	140,075	205,075
Non-Departmental			
Interfund Transfers	107,596	-	107,596
Contingency	1,200,000	(140,075)	1,059,925
<i>Total Appropriations</i>	1,372,596	-	1,372,596
Unappropriated Balance	2,077,372	-	2,077,372
Total Fund Requirements	\$3,449,968	\$0	\$3,449,968

All Other Appropriations Remain as Previously Adopted

STAFF REPORT

FOR THE PURPOSE OF AMENDING THE FY 2014-15 BUDGET AND APPROPRIATIONS SCHEDULE TO PROVIDE FOR A CHANGE IN OPERATIONS

Date: July 5, 2014

Prepared by: Kathy Rutkowski 503-797-1630

BACKGROUND

Several items have been identified that necessitate amendment to the budget.

Oregon Convention Center Hotel Pre-Development Costs

Due to continued opposition to the Oregon Convention Center Hotel project and the additional risk that it brings to the project, Metro has agreed to share pre-development costs with Mortenson. This contribution to pre-development costs is in an amount not to exceed \$600,000, made available as a reimbursement to Mortenson for select pre-development costs on a 40/60 pro-rata basis. These funds will be an advance on the Metro Grant of \$4.0 million. Sharing these costs provides a path for the project to move forth despite the opposition. These funds were not budgeted as a line item for the 2014-15 budget, as we were waiting for Council to approve the Development and Financing Agreement, which they did with Resolution 14-4520 on June 26, 2014. This budget amendment requests the transfer of \$600,000 from the Oregon Convention Center contingency to contracted professional services.

Oregon Zoo Staffing Needs

The Oregon Zoo continues its on-going analysis of temporary and seasonal staff usage and has identified additional work that should be shifted to regular staffing in two areas. This amendment proposes an additional 1.0 FTE of regular staff, consisting of one 0.5 FTE Animal Keeper to support the Condor program and one 0.5 FTE late-routine keeper. These positions will perform duties previously handled by temporary employees and will be funded by an equivalent reduction in temporary staff budget. Adding consistent, year-round staff to these areas will provide better animal care and further a culture of organizational excellence.

Smith & Bybee Restoration Projects

Three natural area restoration projects were identified for FY 2014-15 in the Smith & Bybee Wetlands Fund after the budget was approved. These projects are:

1. Smith & Bybee St. Johns Prairie LR400 (\$7,000) - This project is restoring regionally rare prairie habitat on the former St. Johns Landfill site, including habitat for the federally threatened Streaked Horned Lark and regionally rare Western Meadowlark.
2. Smith & Bybee Emergent Wetland LR401 (\$35,875) - This project aims to enhance regional rare Columbia sedge meadows. Tasks include a variety of vegetation management and adaptive management effectiveness monitoring. The Smith & Bybee Conservation and Natural Resources Plan (CNRP) specifically calls for monitoring to occur 2 out of every 5 years and 2014 is one of the years the monitoring is required. The work is contingent on drawdown in Smith Lake.
3. Smith & Bybee Forested Wetland LR402 (\$97,200) - This project protects and enhances Oregon Ash Wetlands bottomland hardwood forest. Project goals include protecting "old-growth" ash

trees by caging, suppressing invasive species and planting natives in order to increase the acres of forest habitat.

This action requests a transfer of \$140,075 from the Smith and Bybee Wetlands Fund contingency to material and services to fund these projects.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.463(1) provides for transfers of appropriations within a fund, including transfers from contingency that do not exceed 15 percent of a fund's appropriation, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction. ORS 294.463(3) provides for transfers of appropriations or of appropriations and a like amount of budget resources between funds of the municipal corporation when authorized by an official resolution or ordinance of the governing body stating the need for the transfer. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget. Metro's adopted financial policies require any project exceeding \$100,000 or an existing CIP project increasing greater than 20 percent to receive Council approval.
3. **Anticipated Effects:** This action provides for changes in operations as described above – providing for a cost sharing of Oregon Convention Center hotel pre-development costs in an amount not to exceed \$600,000; converting temporary staffing to regular positions at the Oregon Zoo; and funding three restoration projects at Smith & Bybee Wetlands.
4. **Budget Impacts:** This action has the following impact on the FY 2014-15 budget:
 - Transfers \$600,000 from the Oregon Convention Center contingency to provide for pre-development costs associated with the hotel project. Pre-development costs will be shared with the developer on a 40/60 pro-rata basis, will not exceed \$600,000, and will be an advance on the Metro Grant of \$4.0 million.
 - Converts temporary staffing to regular positions requesting the addition of two 0.50 FTE Animal Keepers.
 - Transfers \$140,075 from the Smith and Bybee Wetlands Fund contingency to fund several projects identified after the budget was approved.

RECOMMENDED ACTION

The Chief Operating Office recommends adoption of this Resolution.

Agenda Item No. 5.1

Ordinance No. 14-1336, For the Purpose of Amending Maps in
Titles 4 and 14 of the Urban Growth Management Functional
Plan to Conform with Changes Enacted by the Oregon
Legislature in House Bill 4078.

Ordinances – First Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO. 14-1336
MAPS IN TITLES 4 AND 14 OF THE)	
URBAN GROWTH MANAGEMENT	)	Introduced by Martha J. Bennett, Chief
FUNCTIONAL PLAN TO CONFORM WITH	)	Operating Officer, with the concurrence of
CHANGES ENACTED BY THE OREGON	)	Tom Hughes, Council President
LEGISLATURE IN HOUSE BILL 4078)	

WHEREAS, in 2010 and 2011 Metro, Washington County, Multnomah County and Clackamas County entered into agreements regarding the designation of urban reserves and rural reserves in the Metro region pursuant to ORS 195.141, and those reserve areas were formally adopted and mapped on April 21, 2011 via Metro Ordinance No. 11-1255; and

WHEREAS, the Land Conservation and Development Commission (LCDC) reviewed the urban and rural reserve designations and voted to approve those designations at the close of its public hearing on August 19, 2011; and

WHEREAS, relying on LCDC’s vote of approval regarding the urban reserve areas, Metro proceeded with its 2011 growth management decision and expanded the Urban Growth Boundary (UGB) to include four areas in Washington County on October 20, 2011 via Ordinance No. 11-1264B; and

WHEREAS, LCDC issued its written decision approving the urban and rural reserve designations on August 14, 2012 via Order No. 12-ACK-001819, and issued its written decision approving the UGB expansion on December 21, 2012 via Order No. 12-UGB-001826; and

WHEREAS the LCDC order approving the urban and rural reserve designations was reversed and remanded by the Oregon Court of Appeals on February 20, 2014; and

WHEREAS, in response to the decision issued by the Court of Appeals, the Oregon Legislative Assembly enacted House Bill 4078 on April 1, 2014, which: (a) legislatively enacted Metro’s 2011 UGB expansion, (b) added approximately 1,178 acres of land formerly designated as urban reserve to the UGB in Washington County, (c) made changes in the designation of certain urban and rural reserve areas in Washington County, and (d) identified certain land being brought into the UGB as being specifically designated for employment and industrial purposes; and

WHEREAS, the UGB and reserves map revisions enacted by House Bill 4078 became effective immediately and create discrepancies with the maps adopted by Metro in 2011 and 2012; and

WHEREAS, Metro is obligated to revise its maps under Title 4 and Title 14 of the Urban Growth Management Functional Plan in order to make the mapped UGB and reserves locations correspond with the locations adopted by the legislature; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro Title 14 map of the UGB and urban and rural reserves is hereby amended, as indicated in Exhibit A, attached and incorporated into this Ordinance, to revise the location of urban and rural reserves and the UGB as required by House Bill 4078.

2. The Metro Title 4 map of industrial and other employment areas is hereby amended, as indicated in Exhibit B, attached and incorporated into this Ordinance, to reflect new industrial and employment designations required by House Bill 4078.

ADOPTED by the Metro Council this _____ day of July 2014.

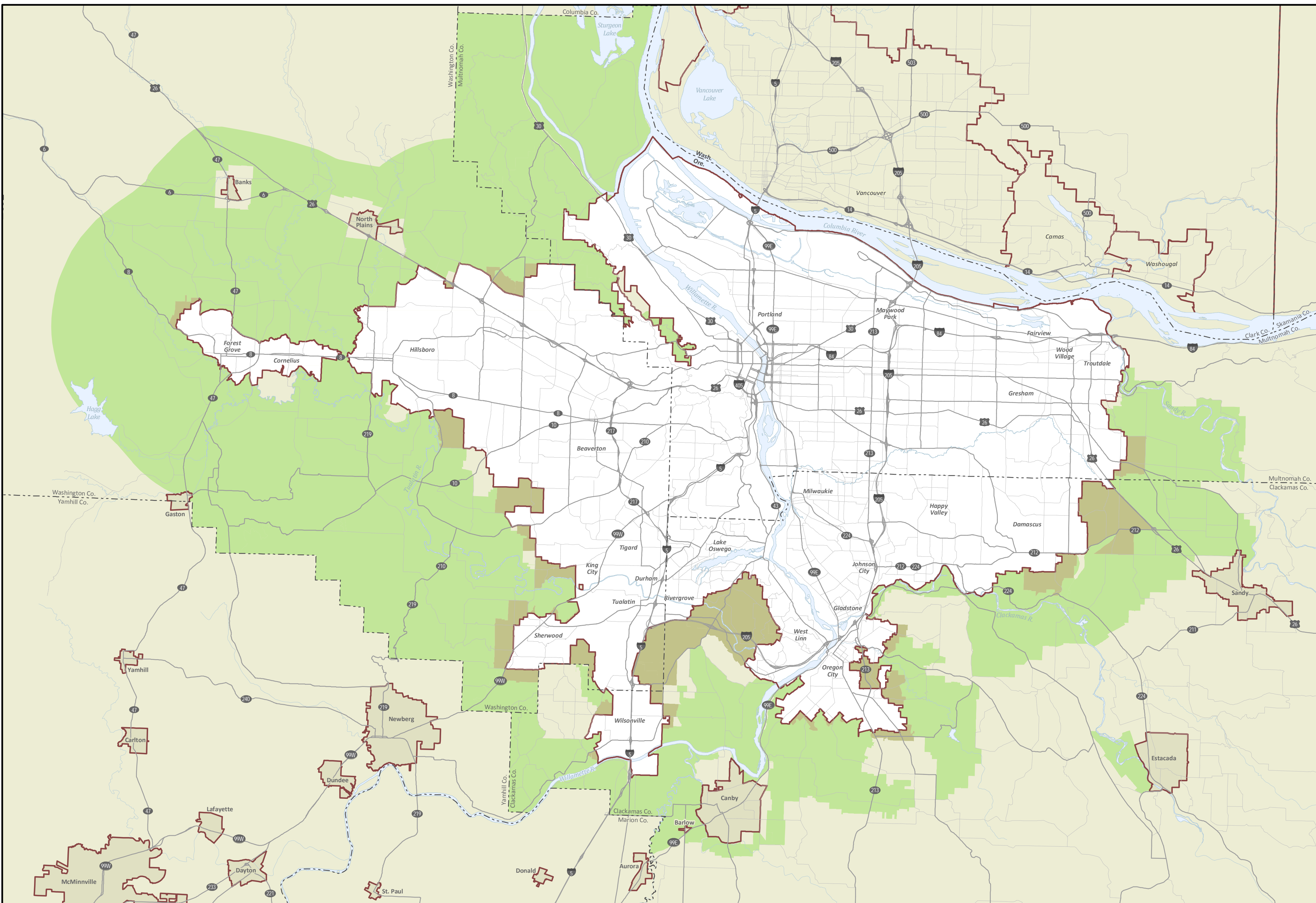
Tom Hughes, Council President

Attest:

Approved as to Form:

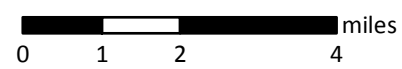
Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney



Title 14, Urban Growth Boundary - Exhibit A

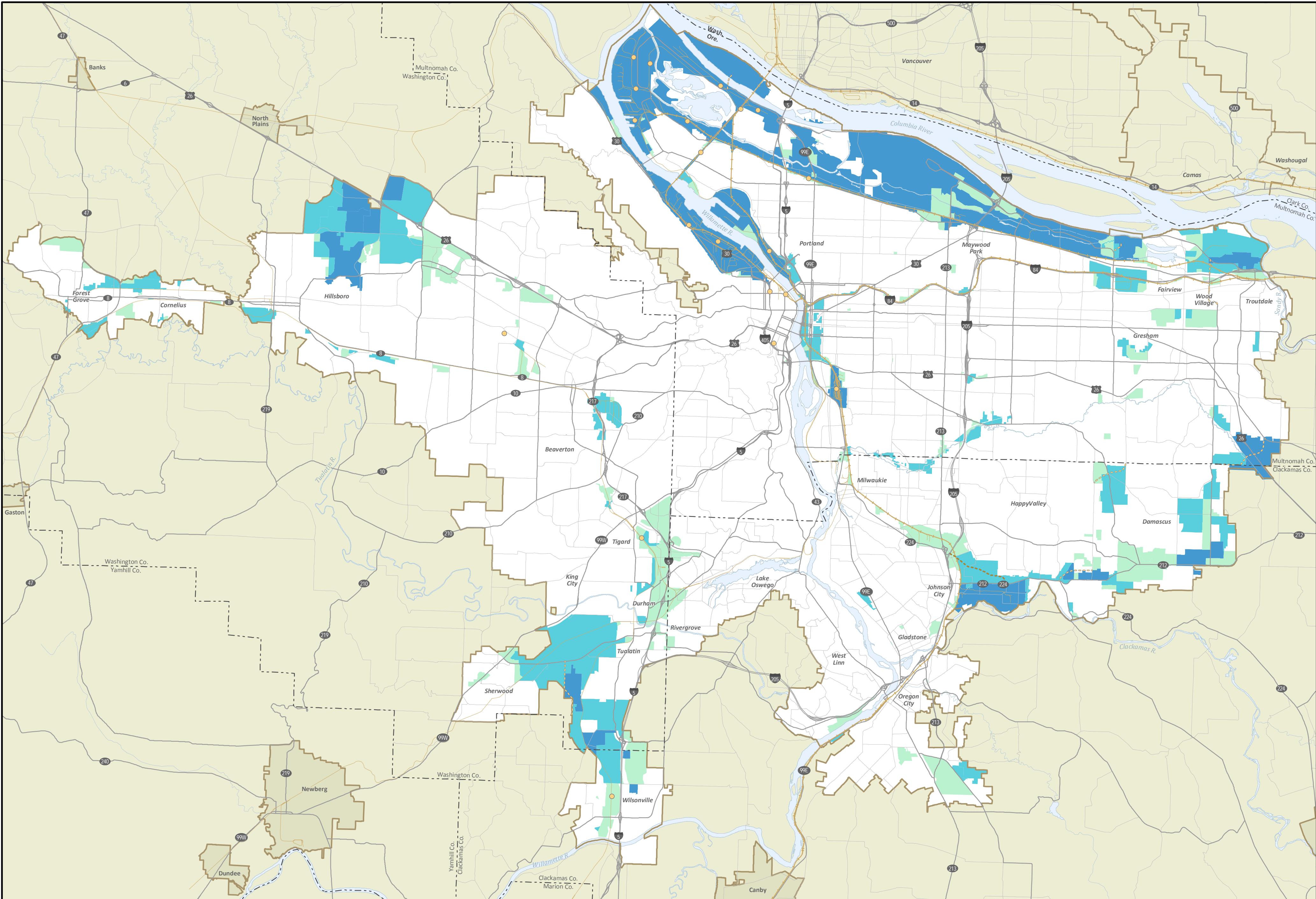
April 2014



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- - - County boundaries
- ▬ Urban growth boundaries
- Neighbor cities
- Rural reserve
- Urban reserve





Title 4, Industrial and Other Employment Areas - Exhibit B

April 2014

- Employment areas
- Industrial areas
- Regionally significant industrial areas
- Proposed main roadway routes
- Proposed road connectors
- Mainline freight
- Branch line freight
- Rail yards
- County boundaries
- Urban growth boundaries
- Neighbor cities



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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1336, FOR THE PURPOSE OF AMENDING MAPS IN TITLES 4 AND 14 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN TO CONFORM WITH CHANGES ENACTED BY THE OREGON LEGISLATURE IN HOUSE BILL 4078

Date: July 3, 2014

Prepared by: Tim O'Brien
Principal Regional Planner

BACKGROUND

In 2007 the Oregon Legislature enacted Senate Bill 1011, codified at ORS 195.137 to 195.145, to establish a new method to designate urban and rural reserves at the request of Metro, Multnomah, Washington and Clackamas Counties, and numerous stakeholders in the region. Pursuant to rules adopted by the Land Conservation and Development Commission (LCDC) implementing the new urban and rural reserve statute, Metro and the three counties engaged in a three year process culminating in the adoption of Metro Ordinance No. 11-1255 on April 21, 2011, which identified and mapped urban and rural reserves in the Metro region.

On review of Metro's urban and rural reserves submittal, LCDC held public hearings and voted to approve the reserves decision in its entirety on August 19, 2011. However, the Commission's written acknowledgement order was not issued until almost a year later on August 14, 2012. Twenty-two petitioners, including property owners, non-profit and citizen groups and municipalities appealed the Commission's approval of urban and rural reserves to the Oregon Court of Appeals.

Based on LCDC's August 19, 2011 vote to acknowledge the region's urban and rural reserves, the Metro Council proceeded with its 2011 growth management decision. On October 20, 2011, the Metro Council adopted Ordinance No. 11-1264B adding four areas in Washington County to the urban growth boundary (UGB) to meet a residential and large lot industrial need. These four areas, Roy Rogers West, South Cooper Mountain, South Hillsboro and North Hillsboro were included in the UGB based on their urban reserve status as a result of LCDC's August 19, 2011 vote for acknowledgement.

On February 20, 2014, the Oregon Court of Appeals issued a decision reversing and remanding LCDC's order for further action consistent with the principles expressed in its opinion. The Court determined that LCDC erred in four respects (1) approving Washington County's misapplication of the rural reserve factors pertaining to agricultural land; (2) concluding that Multnomah County had adequately "considered" the rural reserve factors pertaining to Area 9D; (3) concluding that it has authority to affirm a local government's decision where its findings are inadequate if the evidence "clearly supports" the decision; and (4) failing to meaningfully explain why – even in light of countervailing evidence – Metro and the counties' designation of Areas 4A to 4D (commonly referred to as Stafford) as urban reserves is supported by substantial evidence.

In response to the Court of Appeals decision, the 2014 Oregon Legislature passed House Bill 4078, which directly impacted both the Court of Appeals decision regarding LCDC's approval of urban and rural reserves and the Metro Council's UGB decision of 2011. House Bill 4078 made significant changes to the designation of urban and rural reserves in Washington County, made final Metro's 2011 UGB expansion including the conditions of approval adopted by the Council, and added additional land to the UGB near

Cornelius, Forest Grove and Hillsboro. The Governor signed HB 4078 on April 1, 2014 and it became effective immediately.

PROPOSAL

Urban Growth Management Functional Plan (Functional Plan) Title 14: Urban Growth Boundary contains Metro’s code requirements related to expansion of the UGB. The Urban Growth Boundary and Urban and Rural Reserves Map contained in Title 14 is the official depiction of the UGB and the urban and rural reserves. Thus, the Title 14 map needs to be amended to represent the changes to the urban and rural reserves as well as the new areas that were added to the UGB as a result of House Bill 4078. A summary of the changes is outlined in the table below and represented on Attachment 1. Attachment 2 represents these changes on the Title 14 Map.

Additions to the Urban Growth Boundary and changes to the Urban and Rural Reserves	
UGB Additions	Acreage
Urban Reserve 7B Forest Grove	240
Urban Reserve 7C Cornelius	137
Urban Reserve 7D Cornelius	211
Urban Reserve 7E Forest Grove	38
Urban Reserve 8A Hillsboro	552
Urban Reserve to Rural Reserve	
Urban Reserve 7B Forest Grove	240
Urban Reserve 8A Hillsboro	1,769
Urban Reserve 8B Hillsboro	354
Undesignated to Rural Reserve	
Cornelius (north side)	360
North Plains (south side)	275
Forest Grove (Hwy 47)	28
Hillsboro (north of Hwy 26)	220
New Urban Reserve Area	
Hillsboro (Bendemeer Area)	417
New Undesignated Area	
Rural Reserve 5C (Scholls Ferry)	28
Urban Reserve 8B Hillsboro	86
Rural Reserve 8F (West Union)	25

Functional Plan Title 4: Industrial and other Employment Areas seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIA), Industrial and Employment Areas as depicted on the Title 4 Map. House Bill 4078 added land to the UGB with the intent that it be used for employment uses, thus the Title 4 Map needs to be amended to reflect these new employment areas that were added to the UGB. The land added to the UGB on the north side of Forest Grove is designated as Employment land and the land added to the UGB on the south side of Forest Grove is designated as Industrial land. The land added to the UGB on the north side of Hillsboro is designated as Industrial land. Attachment 3 represents these changes on the Title 4 Map.

The 2040 Growth Concept Map will be updated to reflect the changes adopted on the Title 4 and 14 Maps upon effective date of this ordinance. The UGB additions adjacent to Cornelius will be designated for residential use on the 2040 Growth Concept Map.

ANALYSIS/INFORMATION

Known Opposition: There is no known opposition to this application.

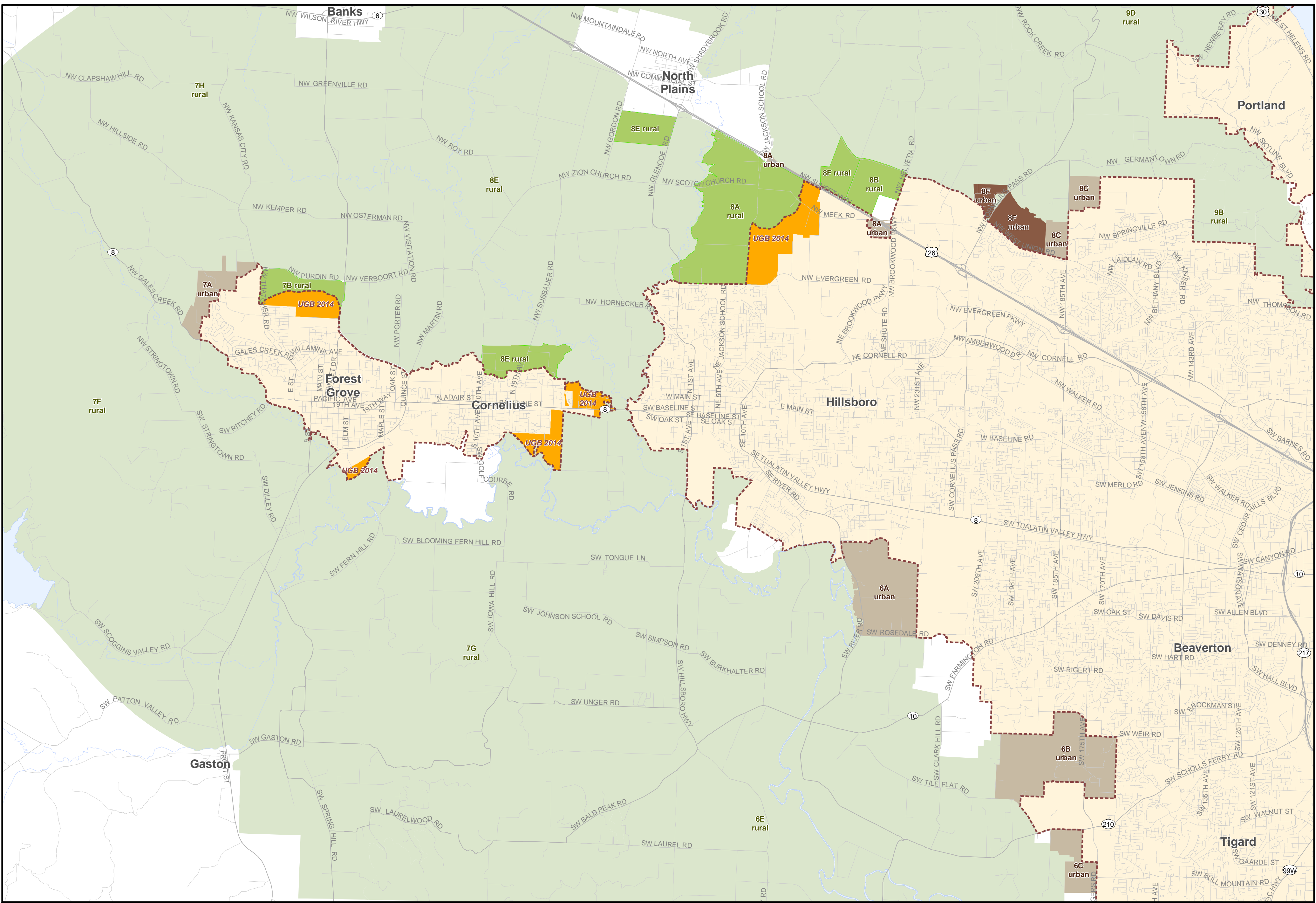
Legal Antecedents: Oregon Revised Statute (ORS) 197.298 and 197.299 and Metro Code Section 3.07.1400 provide evaluation and amendment requirements for an amendment to the urban growth boundary.

Anticipated Effects: Adoption of Ordinance No. 14-1336 will officially amend the UGB and adopt the amendments to the urban and rural reserves consistent with the provisions of House Bill 4078. These amendments will be reflected on Functional Plan Title 14 Map. Functional Plan Title 4 Map is amended to reflect the new UGB additions that are intended for employment use as directed by House Bill 4078.

Budget Impacts: There is no budget impact.

RECOMMENDED ACTION

Staff recommends adoption of Ordinance No. 14-1336.

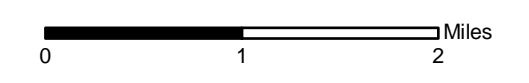


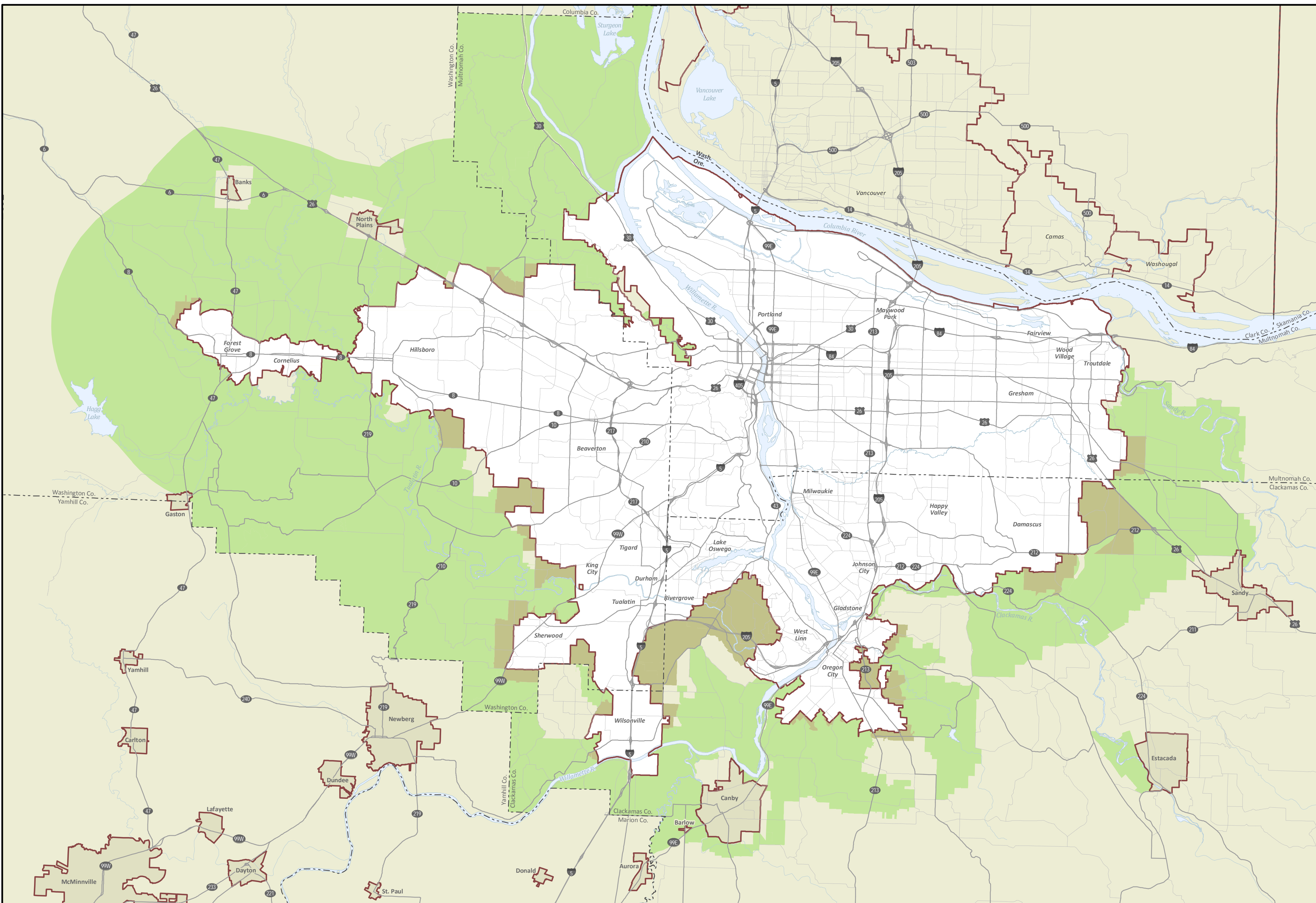
HB 4078 Reserves and Urban Growth Boundary Washington County Area - Attachment 1

June 2014

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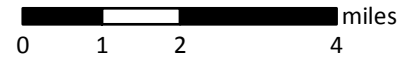
- New Rural Reserves Added
- Existing Rural Reserve
- New Urban Reserve Added (Formerly Rural Reserve)
- Existing Urban Reserve
- New Urban Growth Boundary Areas Added (Formerly Urban Reserve)
- Existing Urban Growth Boundary
- New Urban Growth Boundary





Title 14, Urban Growth Boundary - Attachment 2

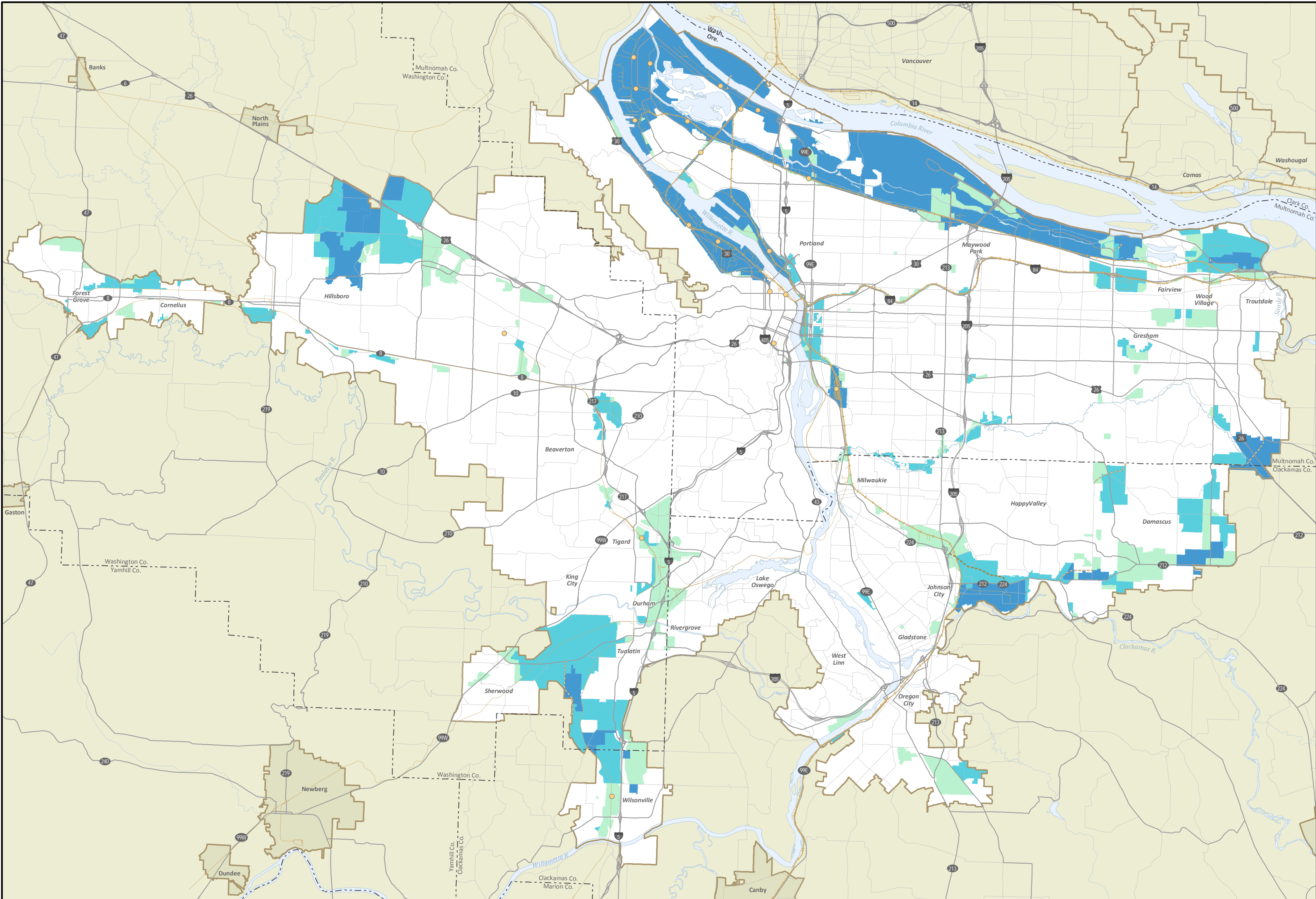
June 2014



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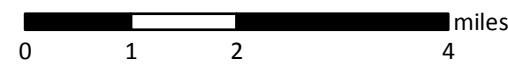
- - - County boundaries
- ⊕ Urban growth boundaries
- ⊕ Neighbor cities
- ⊕ Rural reserve
- ⊕ Urban reserve





Title 4, Industrial and Other Employment Areas - Attachment 3

April 2014



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- Employment areas
- Industrial areas
- Regionally significant industrial areas
- Proposed main roadway routes
- Proposed road connectors
- Mainline freight
- Branch line freight
- Rail yards
- County boundaries
- Urban growth boundaries
- Neighbor cities



Agenda Item No. 6.1

Ordinance No. 14-1331, For the Purpose of Amending Metro Code Title V to Add Metro Code Chapter 5.00, Solid Waste Definitions, and to Repeal Sections 5.01.010, 5.02.015, 5.04.005, 5.05.010, 5.09.020, and 5.10.010; and Modify Certain Definitions in Section 7.01.010.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 14-1331
CODE TITLE V TO ADD METRO CODE)	
CHAPTER 5.00, SOLID WASTE DEFINITIONS,	)	Introduced by Chief Operating Officer Martha
AND TO REPEAL SECTIONS 5.01.010, 5.02.015,	)	Bennett in concurrence with Council
5.04.005, 5.05.010, 5.09.020, AND 5.10.010; AND	)	President Tom Hughes
MODIFY CERTAIN DEFINITIONS IN SECTION)	
7.01.010)	

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

WHEREAS, the Metro Solid Waste Code requires updating to consolidate solid waste related definitions and to ensure the definitions are uniform throughout Title V of the Metro Code; and

WHEREAS, to achieve these objectives, the Metro Council must amend Title V to add Chapter 5.00 and to delete solid waste definitions from Chapters 5.01, 5.02, 5.04, 5.05, 5.09, and 5.10; and modify certain definitions in Chapter 7.01 now covered by this new chapter; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Title V, Solid Waste, is amended to add Metro Code Chapter 5.00, Solid Waste Definitions, as set forth in the attached Exhibit A;
2. Metro Code Section 5.01.010 is repealed.
3. Metro Code Section 5.02.015 is repealed.
4. Metro Code Section 5.04.005 is repealed.
5. Metro Code Section 5.05.010 is repealed.
6. Metro Code Section 5.09.020 is repealed.
7. Metro Code Section 5.10.010 is repealed.
8. Metro Code Section 7.01.010 is amended in the attached Exhibit B.

ADOPTED by the Metro Council this [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit "A" to Ordinance 14-1331

METRO CODE - TITLE V SOLID WASTE
CHAPTER 5.00 SOLID WASTE DEFINITIONS

5.00.010 Definitions

For the purposes of Title V Solid Waste, unless the context requires otherwise, the following terms shall have the meaning indicated:

(a) "Act" shall mean Oregon Revised Statutes Chapter 268, as amended, and other applicable provisions of the laws of the state of Oregon.

(b) "Activity" means a primary operation or function that is performed in a Solid Waste Facility or at a Disposal Site, including but not limited to Resource Recovery, Composting, Energy Recovery, and other types of Processing; Recycling; Transfer; incineration; and disposal of Solid Waste; but excluding operations or functions such as Segregation that serve to support the primary Activity.

(c) "Agronomic application rate" has the meaning provided in OAR 340-093-0030(5).

(d) "Alternative Program" means a solid waste management service proposed by a local government that differs from the service required under Chapter 5.10.

(e) "Authorized official" means a person authorized to issue citations under Chapter 5.09.

(f) "Business" means any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies and excluding businesses whose primary office is located in a residence.

(g) "Business Recycling Service Customer" means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

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

(i) "Cleanup Material Contaminated By Hazardous Substances" means solid waste resulting from the cleanup of releases of hazardous substances into the environment, including petroleum contaminated soils and sandbags from chemical spills. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.

(j) "Closure" means the restoration of a Solid Waste Facility or a Disposal Site to its condition prior to the commencement of licensed or franchised Solid Waste activities at the site. Closure includes, but is not limited to, the removal of all accumulations of Solid Waste and Recyclable Materials from the site.

(k) "Code" means the Metro Code.

(l) "Compost" means the stabilized product of composting.

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

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

(o) "Conditionally exempt generator" (CEG) means a Conditionally Exempt Small Quantity Generator as defined in 40 CFR 261.5.

(p) "Council" means the Metro Council.

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

(r) "Department" means the Metro Finance and Regulatory Services Department in Chapter 5.09.

(s) "Designated facility" means one of the facilities constituting a part of the system designated from time to time pursuant to Chapter 5.05.

(t) "Direct haul" means the delivery of Putrescible Waste from a Solid Waste Facility directly to Metro's contract operator for disposal of Putrescible Waste. Direct Haul is an Activity under this chapter.

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

(v) "Director" means the Director of Metro's Solid Waste and Recycling Program in Chapter 5.10.

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

(x) "Disposal site" means the land and facilities used for the disposal of Solid Wastes whether or not open to the public, but does not include transfer stations or processing facilities.

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

(z) "Energy recovery" means a type of Resource Recovery that is limited to methods in which all or a part of Solid Waste materials are processed to use the heat content, or other forms of energy, of or from the material.

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

(bb) "Franchise" means the grant of authority or privilege given by the Council to operate a Disposal Site, Transfer Station, Energy Recovery facility, or to conduct any other activity that requires such authorization under Chapter 5.01.

(cc) "Franchisee" means the person to whom a Franchise is granted by the Council under Chapter 5.01.

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

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

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

(gg) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. "Household hazardous waste" may include but is not limited to some cleaners, solvents, pesticides, and automotive and paint products.

(hh) "Inert" means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

(ii) "License" means the permission given by the Council or Chief Operating Officer to operate a Solid Waste Facility not exempted or requiring a Franchise under Chapter 5.01.

(jj) "Licensee" means the person to whom a License is granted by the Council or Chief Operating Officer under Chapter 5.01.

(kk) "Local Government" means any city or county that is within Metro's jurisdiction, including the unincorporated areas of Clackamas, Multnomah, and Washington Counties.

(ll) "Local Government Action" means adoption of any ordinance, order, regulation, contract, or program affecting solid waste management.

(mm) "Material recovery" means a type of Resource Recovery that is limited to mechanical methods of obtaining from Solid Waste materials which still have useful physical or chemical properties and can be reused, recycled, or composted for some purpose. Material Recovery includes obtaining from Solid Waste materials used in the preparation of fuel, but excludes the extraction of heat content or other forms of energy from the material.

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

(oo) "Metro Designated Facility" means a facility in the system of solid waste facilities and disposal sites that is authorized under Chapter 5.05 to accept waste generated within the jurisdiction of Metro.

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

(qq) "Metro South Station" is the Metro solid waste transfer station and recycling station located at 2001 Washington, Oregon City, Oregon 97045.

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

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

(tt) "Non-putrescible waste" means any Waste that contains no more than trivial amounts of Putrescible materials or minor amounts of Putrescible materials contained in such a way that they can be easily separated from the remainder of the load without causing contamination of the load. This category includes construction waste and demolition waste but excludes Cleanup Materials Contaminated by Hazardous Substances, Source-Separated Recyclable Material, special waste, land clearing debris and yard debris.

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

(vv) "Non-system license" means a license issued pursuant to and in accordance with Chapter 5.05.

(ww) "Person" has the same meaning as in Code Section 1.01.040. For any person other than an individual, the acts of such person's employees, contractors, and authorized agents shall be considered the acts of the person.

(xx) "Petroleum contaminated soil" means soil into which hydrocarbons, including gasoline, diesel fuel, bunker oil or other petroleum products have been released. Soil that is contaminated with petroleum products but also contaminated with a hazardous waste as defined in ORS 466.005, or a radioactive waste as defined in ORS 469.300, is not included in the term.

(yy) "Process," "Processing" or "Processed" means a method or system of altering the form, condition or content of Wastes, including but not limited to composting, vermiprocessing and other controlled methods of biological decomposition; classifying; separating; shredding, milling, pulverizing, or hydropulping; but excluding incineration or mechanical volume reduction techniques such as baling and compaction.

(zz) "Processing facility" means a place or piece of equipment where or by which Solid Wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerators, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.

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

(bbb) "Putrescible" means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(ccc) "Putrescible waste" means Waste containing Putrescible material.

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

(eee) "Recoverable Solid Waste" means source-separated or homogeneous material accepted in a single transaction at Metro Central Station or at Metro South Station in a form that is usable

by existing technologies, notwithstanding the presence of incidental amounts or types of contaminants, for reuse, recycling, controlled biological decomposition of organic material including composting and digestion, and the preparation of fuels that meet an engineering, industrial, or market specification; but excludes mass burning, incineration in refuse derived fuel facilities, and similar methods of extracting energy from mixed solid wastes.

(fff) "Recyclable material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and that can be reused, recycled, or composted for the same or other purpose(s).

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

(hhh) "Recycling drop center" means a facility that receives and temporarily stores multiple source separated recyclable materials, including but not limited to glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil, which materials will be transported or sold to third parties for reuse or resale.

(iii) "Regional Solid Waste Management Plan" or "RSWMP" means the Regional Solid Waste Management Plan adopted as a functional plan by Council and approved by DEQ.

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

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

(lll) "Reload" or "Reload facility" means a facility that performs only Transfer and delivers all solid waste received at the facility to another Solid Waste facility after it receives such solid waste, generally within 24 hours of receipt.

(mmm) "Required use order" means a written order issued pursuant to Chapter 5.05 requiring a waste hauler or other person to use a designated facility pursuant to the terms of the order.

(nnn) "Residence" means the place where a person lives.

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

(ppp) "Resource recovery facility" shall mean a facility described in Chapter 5.01 which has been designated by Metro as constituting part of the system.

(qqq) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(rrr) "RSWMP Requirement" means the portions of the Regional Solid Waste Management Plan that are binding on local governments as set forth and implemented in Chapter 5.10.

(sss) "Segregation" means the removal of prohibited wastes, unauthorized wastes, bulky material (such as but not limited to white goods and metals) incidental to the Transfer of Solid Waste. Segregation does not include Resource Recovery or other Processing of Solid Waste. The sole intent of segregation is not to separate Useful Material from the Solid Waste but to remove prohibited, unauthorized waste or bulky materials that could be hard to handle by either the facility personnel or operation equipment.

(ttt) "Solid waste" means all Putrescible and Non-Putrescible Wastes, including without limitation, garbage, rubbish, refuse, ashes, waste paper and cardboard; discarded or abandoned vehicles or parts thereof; sewage sludge, septic tank and cesspool pumpings or other sludge; commercial, industrial, demolition and construction waste; discarded home and industrial appliances; asphalt, broken concrete and bricks; manure, vegetable or animal solid and semi-Solid Wastes, dead animals; infectious waste as defined in ORS 459.386; and other such wastes, including without limitation cleanup materials contaminated with hazardous substances, commingled recyclable material, petroleum contaminated soil, special waste, source-separated recyclable material, land clearing debris and yard debris; but the term does not include:

- (1) Hazardous wastes as defined in ORS 466.005;
- (2) Radioactive wastes as defined in ORS 469.300;
- (3) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or
- (4) Explosives.

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

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

(www) "Solid Waste System Facility" means all facilities designated by Metro as part of its system for the management and disposal of solid and liquid waste including but not limited to all designated facilities set forth in Chapter 5.05 and any non-system facility that receives solid waste from within the Metro Area whether pursuant to an authorized non-system license or otherwise.

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

(yyy) "Source-separated recyclable material" or "Source-separated recyclables" means solid waste that has been Source Separated by the waste generator for the purpose of Reuse, Recycling, or Composting. This term includes (1) all homogenous loads of Recyclable Materials that have been Source Separated by material type for the purpose of recycling (i.e., source-sorted) and (2) residential and commercial commingled Recyclable Materials, which include only those recyclable material types that the local jurisdiction, where the materials were collected, permits to be mixed together in a single container as part of its residential curbside recyclable material collection program. This term does not include any other commingled recyclable materials.

(zzz) "Special waste" means any waste (even though it may be part of a delivered load of waste) which one or more of the following categories describes:

- (1) Containerized waste (e.g., a drum, barrel, portable tank, box, pail, etc.) of a type listed in 3 through 9 and 11 of this definition below.
- (2) Waste transported in a bulk tanker.

- (3) Liquid waste including outdated, off spec liquid food waste or liquids of any type when the quantity and the load would fail the paint filter liquid (Method 9095, SW-846) test or includes 25 or more gallons of free liquid per load, whichever is more restrictive.
- (4) Containers (or drums) which once held commercial products or chemicals, unless the containers (or drums) are empty. A container is empty when:
 - (A) All wastes have been removed that can be removed using the practices commonly employed to remove materials from the type of container, e.g., pouring, pumping, crushing, or aspirating.
 - (B) One end has been removed (for containers in excess of 25 gallons); and
 - (i) No more than one inch thick (2.54 centimeters) of residue remains on the bottom of the container or inner liner; or
 - (ii) No more than 1 percent by weight of the total capacity of the container remains in the container (for containers up to 110 gallons); or
 - (iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container for containers larger than 110 gallons.
 - (C) Containers that once held acutely hazardous wastes must be triple-rinsed with an appropriate solvent or cleaned by an equivalent alternative method. Containers that once held substances regulated under the Federal Insecticide, Fungicide, and Rodenticide Act must be empty according to label instructions or triple-rinsed with an appropriate solvent or cleaned by an equivalent method. Plastic containers larger than five gallons that hold any regulated waste must be cut in half or punctured and be dry and free of contamination to be accepted as refuse.
- (5) Sludge waste from septic tanks, food service, grease traps, or wastewater from commercial laundries, Laundromats or car washes.
- (6) Waste from an industrial process.
- (7) Waste from a pollution control process.

- (8) Residue or debris from the cleanup of a spill or release of chemical substances, commercial products or wastes listed in 1 through 7 or 9 of this definition.
- (9) Soil, water, residue, debris, or articles which are contaminated from the cleanup of a site or facility formerly used for the generation, storage, treatment, recycling, reclamation, or disposal of wastes listed in 1 through 8 of this definition.
- (10) Chemical-containing equipment removed from service (for example: filters, oil filters, cathode ray tubes, lab equipment, acetylene tanks, CFC tanks, refrigeration units, or any other chemical containing equipment).
- (11) Waste in waste containers that are marked with a National Fire Protection Association identification label that has a hazard rating of 2, 3, or 4, but not empty containers so marked.
- (12) Any waste that requires extraordinary management or special handling.
Examples of special wastes are: chemicals, liquids, sludge and dust from commercial and industrial operations; municipal waste water treatment plant grits, screenings and sludge; contaminated soils; tannery wastes, empty pesticide containers, and dead animals or by-products.
- (13) Medical waste.

(aaaa)"Standard Recyclable Materials" means newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard and kraft paper, aluminum, container glass, high-grade office paper, tin/steel cans, yard debris, mixed scrap paper, milk cartons, plastic containers, milk jugs, phone books, magazines, and empty aerosol cans.

(bbbb)"State" shall have the meaning assigned thereto in Chapter 1.01.

(cccc)"Substantial compliance" means local government actions, on the whole, conform to the purposes of the performance standards in Chapter 5.10 and any failure to meet individual performance standard requirements is technical or minor in nature.

(dddd)"System" shall mean any and all facilities now or hereafter designated by Metro as part of its system for the management and disposal of solid and liquid waste, including, but

not limited to recycling and other volume reduction facilities, sanitary landfills, or other disposal means, resource recovery facilities (including steam production and electrical generating facilities using solid waste as fuel), recycling and transfer stations, roads, water lines, wastewater lines and treatment facilities to the extent provided or operated to carry out the provisions of the Act, and all buildings, fixtures, equipment and all property, real and personal now or hereafter owned, leased, operated or used by Metro, all for the purpose of providing for solid and liquid waste disposal; said system consists of the designated facilities described in Chapter 5.05.

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

(ffff)"Transfer" means the Activity of receiving Solid Waste for purposes of transferring the Solid Waste from one vehicle or container to another vehicle or container for transport. Transfer may include segregation, temporary storage, consolidation of Solid Waste from more than one vehicle, and compaction, but does not include Resource Recovery or other Processing of Solid Waste.

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

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

(iiii)"Useful material" means material that still has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and which, when separated from Solid Waste, is suitable for use in the same or other purpose(s). Types of Useful Materials are: material that can be Reused; Recyclable Material; organic material(s) suitable for controlled biological decomposition such as for making Compost; material used in the preparation of fuel; material intended to be used, and which is in fact used, for construction or land reclamation such as Inert material for fill; and material intended to be used, and which is in fact used, productively in the operation of landfills such as roadbeds or alternative daily

cover. For purposes of this Code, Cleanup Material Contaminated By Hazardous Substances are not Useful Materials.

(jjjj) "Vermiprocessing" means a controlled method or system of biological Processing that utilizes worms to consume and digest organic materials, and that produces worm castings for productive uses.

(kkkk) "Waste" means any material considered to be useless, unwanted or discarded by the person who last used the material for its intended and original purpose. For the purpose of Chapter 5.09, the term "waste" shall also include any such material even if it is broken, recoverable, or recyclable.

(llll) "Waste hauler" means any person who is (1) franchised, licensed or permitted by a local government unit pursuant to state law to collect and haul Solid Waste; or (2) engaged, in whole or part, in the collection, transportation, delivery, or disposal of solid waste generated within Metro, including any person engaged in such activities with respect to solid waste generated by such person as well as any person engaged in such activities with respect to solid waste generated by others.

(mmmm) "Waste Reduction Hierarchy" means first, reduce the amount of solid waste generated; second, reuse material for its originally intended purpose; third, recycle or compost material that cannot be reduced or reused; fourth, recover energy from material that cannot be reduced, reused, recycled or composted so long as the energy recovery facility preserves the quality of air, water and land resources; and fifth, landfill solid waste that cannot be reduced, reused, recycled, composted or from which energy cannot be recovered.

(nnnn) "Waste Reduction Program" means the Waste Reduction Program required by ORS 459.055(2)(a), adopted by the Metro Council as part of the RSWMP, and accepted and approved by the DEQ as part of the RSWMP.

(oooo) "Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. "Yard debris" includes landscape waste, grass clippings, leaves, hedge trimmings, stumps and other vegetative waste having similar properties, but does not include demolition debris, painted or treated wood.

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

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

(Ordinance No. 14-1331)

Exhibit "B" to Ordinance 14-1331

METRO CODE - TITLE VII FINANCE
CHAPTER 7.01 EXCISE TAXES

7.01.010 Definitions

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

(a) "Accrual basis accounting" means revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.

(b) "Cash basis accounting" means revenues are recorded when cash is received.

(c) "Cleanup Material Contaminated By Hazardous Substances" shall have the meaning assigned thereto in Metro Code Section 5.00.010. ~~means solid waste resulting from the cleanup of release of hazardous substances into the environment, including petroleum contaminated soils and sandbags from containment of chemical spills provided that such substances are derived from nonrecurring environmental cleanup activity. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.~~

~~(d) "Facility Recovery Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015.~~

(~~de~~) "Inert" shall have the meaning assigned thereto in Metro Code Section ~~5.00.010~~5.01.010.

(~~ef~~) "Installment payments" means the payment of any amount that is less than the full payment owed either by any user to Metro or to an operator or by an operator to Metro.

(~~fg~~) "Metro ERC facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

(~~gh~~) "Metro facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro. Metro facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, including but not limited to the Oregon Zoo, Metro ERC facilities, all solid waste system facilities, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro.

(~~hi~~) "Metro regional park" means any park or park facility, equipment, system, function, service or improvement operated or managed by Metro, including but not limited to Oxbow Regional Park, Blue Lake Regional Park, Smith and Bybee Wetlands Natural Area, Howell Territorial Park, Chinook Landing Marine Park, M. James Gleason Memorial Boat Ramp, and Sauvie Island Boat Ramp. For purposes of this chapter, "Metro regional park" does not include Glendoveer Golf Course.

(~~ij~~) "Operator" means a person other than Metro who receives compensation from any source arising out of the use of a Metro facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

(~~jk~~) "Payment" means the consideration charged, whether or not received by Metro or an operator, for the use of a Metro facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(~~kl~~) "Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

(~~lm~~) "Processing Residual" shall have the meaning assigned thereto in Metro Code Section ~~5.00.0105-02.015~~.

(~~mn~~) "Recoverable solid waste" shall have the meaning assigned thereto in Metro Code Section ~~5.00.0105-02.015~~.

(~~ne~~) "Regional Recovery Rate" shall have the meaning assigned thereto in ORS 459A.010(4)(a).

(~~op~~) "Solid waste system facility" shall have the meaning assigned thereto in Metro Code Section 5.00.010.~~means all facilities defined as such pursuant to Section 5.05.010(aa) including but not limited to all designated facilities set forth in Section 5.05.030 and any non-system facility as defined in Section 5.05.010(k) that receives solid waste from within the Metro Area whether pursuant to an authorized non-system license or otherwise.~~

(~~pq~~) "Source Separate" or "Source Separated" or "Source Separation" shall have the meaning assigned thereto in Metro Code Section ~~5.00.0105-01.010~~.

(~~q~~) "Source-separated recyclable material" or "Source-separated recyclables" shall have the meaning assigned thereto in Metro Code Section 5.00.0105-01-010.

(~~r~~) "Tax" means the tax imposed in the amount established in Section 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

(~~s~~) "Useful material" shall have the meaning assigned thereto in Metro Code Section 5.00.0105-01-010.

(~~t~~) "User" means any person who pays compensation for the use of a Metro facility or receives a product or service from a Metro facility subject to the payment of compensation.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1331 FOR THE PURPOSE OF AMENDING METRO CODE TITLE V TO ADD METRO CODE CHAPTER 5.00, SOLID WASTE DEFINITIONS, AND TO REPEAL SECTIONS 5.01.010, 5.02.015, 5.04.005, 5.05.010, 5.09.020, AND 5.10.010; AND MODIFY CERTAIN DEFINITIONS IN SECTION 7.01.010

July 1, 2014

Prepared by: Warren Johnson
503-797-1836

The proposed ordinance establishes a new chapter (Metro Code Chapter 5.00) for the purpose of standardizing and consolidating all of the solid waste-related definitions in Title V (Solid Waste) in a centralized location in Code. The proposed ordinance also amends each of the other chapters in Title V to delete the defined terms sections and modifies certain definitions in Chapter 7.01 as necessary to update Code citations. There are no substantive changes to any definitions proposed under this ordinance.

BACKGROUND

There are 155 defined terms used throughout Metro Code Title V (Solid Waste). In many instances, the terms and definitions are duplicated in each chapter. However, there are some cases where the defined terms are not actually used in Code or their definitions are slightly different between chapters. This proposed ordinance consolidates and centralizes all solid waste related definitions within a new Chapter 5.00 (Solid Waste Definitions) to ensure that the usage and definition of terms are uniform throughout Title V and continue to be so in the future. Adoption of this ordinance would result in 60 redundant and unnecessary definitions being deleted from Title V while retaining a total of 95 defined terms.

The chart in Attachment 1 provides a detailed listing of 164 definitions that will be affected by the proposed ordinance (i.e., 155 terms from Chapters 5.01, 5.02, 5.04, 5.05, 5.09, 5.10 and nine terms from Chapter 7.01). The chart illustrates where each term is currently located and whether there are any proposed definitional updates under this ordinance. Any terms that are duplicated, no longer used or unnecessary will be deleted and any terms that require technical changes will be updated as indicated in the chart. There are no substantive definitional changes under this proposed ordinance.

This proposed ordinance is part of a package of ordinances that are intended to improve the consistency, access, and usability of the Metro Code. In addition to this action, Metro Council will also consider three similar ordinances for other housekeeping and organizational improvements to the Code at its meeting on July 24, 2014.¹

ANALYSIS/INFORMATION

1. Known Opposition

Adoption of this ordinance would result in the consolidation of defined terms, changes to the organizational structure of Title V, and minor technical corrections. There are no substantive changes to any definitions. As such, there is no known opposition to the proposed ordinance.

¹ Chapter 5.01 (Ord. No. 14-1332), Chapter 5.02 (Ord. No. 14-1338), and Chapter 5.05 (Ord. No. 14-1337)

2. Legal Antecedents

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

3. Anticipated Effects

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

- Establishment of new Chapter 5.00 to consolidate and standardize solid waste definitions throughout Title V.
- The repeal of the defined terms in Sections 5.01.010, 5.02.015, 5.04.005, 5.05.010, 5.09.020, and 5.10.010 to improve consistency and eliminate redundancy.
- Modification of certain definitions in Section 7.01.010 to update Code citations.

4. 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. 14-1331. Approval of this ordinance will establish Metro Code Chapter 5.00 (Solid Waste Definitions) as provided in Exhibit A. In addition, approval of this ordinance will repeal the defined terms in Chapters 5.01, 5.02, 5.04, 5.05, 5.09, and 5.10 and modify certain definitions in Chapter 7.01 to include updated Code citations as provided in Exhibit B.

Attachment "1" to Ordinance 14-1331

Definitions	Current Code Section						No change	Technical Change	Deleted		
	5.01.010	5.02.015	5.04.005	5.05.010	5.09.020	5.10.010			7.01.010	Deleted (Duplicate)	Deleted (Not Used)	Deleted (Not necessary)
1 Acceptable special waste		X								X	
2 Act				X			X				
3 Activity	X						X				
4 Agronomic application rate	X						X				
5 Alternative program						X		X			
6 Authorized official					X			X			
7 Business						X	X				
8 Business recycling service customer						X	X				
9 Cash account customer		X								X	
10 Chief Operating Officer	X						X				
11 Cleanup material contaminated by hazardous substances	X						X				
12 Cleanup material contaminated by hazardous substances		X							X		
13 Cleanup material contaminated by hazardous substances				X					X		
14 Cleanup material contaminated by hazardous substances						X		X			
15 Closure	X						X				
16 Code	X						X				
17 Commercial customer		X								X	
18 Compliance & Comply						X					X
19 Compost	X						X				
20 Compost		X							X		
21 Compost						X			X		
22 Composting	X						X				
23 Compostable Organic Waste		X					X				
24 Composting Facility	X									X	
25 Conditionally exempt generator		X						X			
26 Conditionally exempt generator					X				X		
27 Council	X						X				
28 Council				X					X		
29 Credit account customer		X								X	
30 DEQ	X						X				
31 DEQ						X			X		
32 Department					X			X			
33 Designated facility		X						X			
34 Designated facility				X					X		
35 Direct haul	X						X				
36 Direct haul disposal charge		X					X				
37 Director				X							X
38 Director						X		X			
39 Disposal fee		X					X				
40 Disposal site	X						X				
41 Disposal site				X					X		
42 District	X						X				

	Definitions	Current Code Section						No change	Technical Change	Deleted		
		5.01.010	5.02.015	5.04.005	5.05.010	5.09.020	5.10.010			7.01.010	Deleted (Duplicate)	Deleted (Not Used)	Deleted (Not necessary)
43	District				X					X		
44	Energy recovery	X						X				
45	Enhancement Fee		X					X				
46	Facility recovery rate		X								X	
47	Facility recovery rate										X	
48	Facility retrieval rate		X								X	
49	Franchise	X							X			
50	Franchisee	X							X			
51	Franchise fee	X						X				
52	Hazardous waste	X						X				
53	Hearings officer					X			X			
54	Household hazardous waste	X									X	
55	Household hazardous waste		X					X				
56	Household hazardous waste					X					X	
57	Inert	X						X				
58	Inert								X			
59	License	X							X			
60	Licensee	X							X			
61	Limited purpose solid waste		X								X	
62	Local government						X					
63	Local government action						X					
64	Material recovery	X						X				
65	Material recovery				X						X	
66	Metro Central Station		X					X				
67	Metro Code				X							X
68	Metro designated facility	X							X			
69	Metro disposal system		X					X				
70	Metro facility fee		X								X	
71	Metro South Station		X					X				
72	Metro waste management system		X					X				
73	Non-commercial customer		X					X				
74	Non-putrescible waste	X						X				
75	Non-putrescible waste				X						X	
76	Non-system facility				X				X			
77	Non-system license				X				X			
78	Person	X									X	
79	Person		X								X	
80	Person				X						X	
81	Person					X		X				
82	Person						X				X	
83	Petroleum contaminated soil	X						X				
84	Process, Processing & Processed	X						X				

	Definitions	Current Code Section						No change	Technical Change	Deleted		
		5.01.010	5.02.015	5.04.005	5.05.010	5.09.020	5.10.010			7.01.010	Deleted (Duplicate)	Deleted (Not Used)	Deleted (Not necessary)
85	Processing facility	X							X			
86	Processing facility				X					X		
87	Processing residual	X						X				
88	Processing residual		X							X		
89	Processing residual				X					X		
90	Processing residual						X		X			
91	Putrescible	X						X				
92	Putrescible				X					X		
93	Putrescible waste	X						X				
94	Putrescible waste				X					X		
95	Rate	X						X				
96	Recoverable Solid Waste		X					X				
97	Recoverable Solid Waste						X		X			
98	Recyclable material	X						X				
99	Recyclable material		X							X		
100	Recyclable material			X						X		
101	Recyclable material				X					X		
102	Recyclable material						X			X		
103	Recycle or Recycling	X						X				
104	Recycle or Recycling						X			X		
105	Recycling drop center	X						X				
106	Regional Solid Waste Management Plan or RSWMP	X						X				
107	Regional Solid Waste Management Plan or RSWMP			X						X		
108	Regional Solid Waste Management Plan or RSWMP				X					X		
109	Regional System Fee		X					X				
110	Regional System Fee				X					X		
111	Regional transfer charge		X					X				
112	Regional transfer station		X								X	
113	Reload or Reload facility	X						X				
114	Required-use order				X				X			
115	Residence						X	X				
116	Resource recovery	X						X				
117	Resource recovery facility				X				X			
118	Reuse	X						X				
119	RSWMP						X			X		
120	RSWMP Requirement						X		X			
121	Segregation	X						X				
122	Solid Waste	X						X				
123	Solid Waste		X							X		
124	Solid Waste				X					X		
125	Solid Waste					X				X		
126	Solid Waste disposal transaction		X					X				

	Definitions	Current Code Section						No change	Technical Change	Deleted		
		5.01.010	5.02.015	5.04.005	5.05.010	5.09.020	5.10.010			7.01.010	Deleted (Duplicate)	Deleted (Not Used)	Deleted (Not necessary)
127	Solid waste facility	X						X				
128	Solid waste system facility		X						X			
129	Solid waste system facility						X		X			
130	Source separate, source separated or source separation	X						X				
131	Source separate, source separated or source separation		X							X		
132	Source separate, source separated or source separation						X			X		
133	Source separate, source separated or source separation						X		X			
134	Source-separated recyclable material	X						X				
135	Source-separated recyclable material				X					X		
136	Source-separated recyclable material						X		X			
137	Special waste	X							X			
138	Special waste		X							X		
139	Special waste				X					X		
140	Standard recyclable materials					X		X				
141	State				X				X			
142	Substantial compliance					X			X			
143	System				X				X			
144	Transaction charge		X					X				
145	Transfer	X						X				
146	Transfer facility		X									X
147	Transfer station	X							X			
148	Transfer station				X					X		
149	Unacceptable waste		X					X				
150	Useful material	X						X				
151	Useful material						X		X			
152	Vermicomposting	X						X				
153	Waste	X							X			
154	Waste		X							X		
155	Waste				X					X		
156	Waste					X				X		
157	Waste hauler	X							X			
158	Waste hauler				X					X		
159	Waste Reduction Hierarchy					X		X				
160	Waste Reduction Program					X		X				
161	Yard Debris	X						X				
162	Yard Debris					X				X		
163	Yard Debris facility	X						X				
164	Yard Debris reload facility	X						X				

Agenda Item No. 6.2

Ordinance No. 14-1332, For the purpose of Amending Metro Code Title V, Solid Waste, to Revise Chapter 5.01 and to Repeal Chapter 5.03.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 14-1332
CODE TITLE V, SOLID WASTE, TO REVISE)	
CHAPTER 5.01 AND TO REPEAL CHAPTER	)	Introduced by Chief Operating Officer Martha
5.03.	)	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 5.01 contains the requirements for Solid Waste Facility Regulation; and

WHEREAS, the Chief Operating Officer recommends organizational changes to Chapter 5.01 to improve access to the Metro Code, including separating the requirements for solid waste franchising and licensing and relocating certain provisions pertaining to the payment of regional system fees to Chapter 5.02; and

WHEREAS, portions of Metro Code Section 5.01.150 (User Fees) are more appropriate for inclusion in Chapter 5.02;

WHEREAS, the Chief Operating Officer recommends additional modifications to Chapter 5.01, including repealing Metro Code Section 5.01.410(i) to clarify regulatory requirements for certain solid waste facilities;

WHEREAS, Metro adopted a franchise fee ordinance in August 1981 pursuant to Metro Ordinance No. 81-112 (An Ordinance Establishing Solid Waste Disposal Franchise Fees), codified in Metro Code Chapter 5.03; and

WHEREAS, Metro Code Chapter 5.01 contains all necessary franchise fee language, and thus Metro Code Chapter 5.03 is unnecessary; and

WHEREAS, portions of Metro Code Chapter 5.01, including citation references, must be revised to update the code to reflect these changes; and

WHEREAS, to achieve the above-references objectives, it is necessary to revise Metro Code Chapter 5.01, Solid Waste Facility Regulation, and to repeal Metro Code Chapter 5.03, Disposal Site Franchise Fees; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 5.01 is amended as set forth in the attached Exhibit A; and
2. Metro Code Chapter 5.03 is repealed.

ADOPTED by the Metro Council this [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit "A" to Ordinance 14-1332

CHAPTER 5.01

SOLID WASTE FACILITY REGULATION

SECTIONS TITLE

GENERAL PROVISIONS

- 5.01.010 Definitions (Repealed & Replaced Ord. 14-1331)
- 5.01.020 Purpose
- 5.01.025 Authority and Jurisdiction
- 5.01.030 Prohibited Activities
- 5.01.040 Exemptions
- 5.01.045 License and Franchise Requirements
-(Repealed Ord. 14-1332)
- ~~5.01.050 Administration (Repealed Ord. 98-762C §10)~~ License Requirements and Fees

APPLICATIONS FOR SOLID WASTE FACILITY LICENSES ~~& FRANCHISES~~

- 5.01.050 License Requirements and Fees
- 5.01.051 Pre-Application Conference for Licenses
- 5.01.052 Applications for Licenses
- 5.01.053 Issuance and Contents of Licenses
- 5.01.054 Record-keeping and Reporting for Licenses
- 5.01.055 Renewal of Licenses
- 5.01.056 Transfer of Ownership or Control of Licenses
- 5.01.057 Change of Authorizations for Licenses
- 5.01.058 Variances for Licenses
- ~~5.01.055 Pre Application Conference~~
- 5.01.060 Applications for Licenses or Franchises
-(Repealed Ord. 14-1332)
- 5.01.062 Application Fees (Repealed Ord. 14-1332)
- 5.01.065 Issuance and Contents of Certificates (Repealed Ord. 03-1018A §7)
- 5.01.067 Issuance and Contents of Licenses
(Repealed Ord. 14-1332)

APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES

- 5.01.070 Franchise Requirements and Fees

- 5.01.071 Pre-Application Conference for Franchises
- 5.01.072 Applications for Franchises
- 5.01.073 Issuance and Contents of Franchises
- 5.01.074 Record-keeping and Reporting for Franchises
- 5.01.075 Renewal of Franchises
- 5.01.076 Transfer of Ownership or Control of Franchises
- 5.01.077 Change of Authorizations for Franchises
- 5.01.078 Variances for Franchises
- ~~5.01.070 Issuance of Franchise~~
- ~~5.01.075 Contents of Franchise~~
- 5.01.080 Term of Franchise (Repealed Ord. 98-762C §21)
- 5.01.085 Franchises for Major Disposal System Components
(Repealed Ord. 98-762C §21)
- 5.01.087 Renewal of Licenses and Franchises
(Repealed Ord. 14-1332)
- 5.01.090 Transfer of Ownership or Control (Repealed Ord. 14-1332)
- 5.01.095 Change of Authorizations (Repealed Ord. 14-1332)
- 5.01.100 Appeals
- 5.01.110 Variances (Repealed Ord. 14-1332)

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

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

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

- 5.01.130 Administrative Procedures for Franchisees (Repealed Ord. 98-762C §29)
- 5.01.131 Designation and Review of Service Areas and of Demand
(Repealed Ord. 12-1272 § 4)
- 5.01.132 Adoption & Amendment of Administrative Procedures and
Performance Standards
- 5.01.135 Inspections and Audits of Solid Waste Facilities
- 5.01.137 Record-keeping and Reporting
- 5.01.140 License and Franchise Fees
- 5.01.150 User-Regional System Fees
- 5.01.160 Reports from Collection Services (Repealed Ord. 98-762C
§42)
- 5.01.170 Determination of Rates

ENFORCEMENT AND APPEALS

- 5.01.180 Enforcement of Franchise or License Provisions
- 5.01.190 Right to Purchase (Repealed Ord. 98-762C §46)
- 5.01.200 Penalties

- 5.01.210 Acceptance of Tires at a Disposal Site (Repealed Ord. 98-762C §48)
- 5.01.220 Additional Provisions Relating to Issuance of a Franchise for a Facility Processing Petroleum Contaminated Soil (Repealed Ord. 98-762C §48)

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

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

MISCELLANEOUS PROVISIONS

- 5.01.400 Treatment of Existing Licenses and Franchises (Repealed Ord. 03-1018A §23)
- 5.01.410 Miscellaneous Provisions

GENERAL PROVISIONS

(5.01.010 Definitions. Repealed Ord. 14-1331)

5.01.020 Purpose

This chapter governs the regulation of Solid Waste Disposal Sites and Solid Waste Facilities within Metro. 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; and to reduce the volume of Solid Waste disposal through source reduction, recycling, reuse and resource recovery. The provisions of this chapter shall be liberally construed to accomplish these purposes.

(Ordinance No. 81-111, Sec. 3. Amended by Ordinance No. 95-621A, Sec. 2. Repealed by Ordinance No. 98-762C, Sec. 2; replaced by Ordinance No. 98-762C, Sec. 3. Amended by Ordinance No. 02-974, Sec. 1.)

5.01.025 Authority and Jurisdiction

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

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

(Ordinance No. 98-762C, Secs. 4-5. Amended by Ordinance No. 02-974, Sec. 1.)

5.01.030 Prohibited Activities

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

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

(b) For any person or Solid Waste Facility to either (1) mix Source-Separated Recyclable Material with other solid waste in any vehicle, box, container or receptacle used in solid waste collection or disposal, or (2) to dispose of Source-Separated Recyclable Material by any method other than reuse or recycling. As used in this subsection, "reuse or recycling" includes the transfer, transport or delivery of such materials to a person or facility that will reuse or recycle them.

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

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

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

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

(Ordinance No. 81-111, Sec. 4. Amended by Ordinance No. 87-217, Sec. 1; Ordinance No. 95-621A, Sec. 3; Ordinance No. 98-762C, Sec. 6; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.2; Ordinance No. 06-1102, Sec. 1.)

5.01.040 Exemptions

(a) In furtherance of the purposes set forth in this chapter, except as provided in Sections 5.01.040(b) through (d) below, the Metro Council declares the provisions of this chapter shall not apply to:

- (1) Municipal or industrial sewage treatment plants accepting sewage, sludge, septic tank and cesspool pumpings or other sludge.
- (2) Disposal Sites, Transfer Stations, or Solid Waste Facilities owned or operated by Metro.
- (3) Facilities that (A) exclusively receive non-Putrescible Source-Separated Recyclable Materials, and (B) reuse or recycle such materials, or transfer, transport or deliver such materials to a person or facility that will reuse or recycle them.

- (4) Facilities that exclusively receive, process, transfer or dispose of Inert Wastes.
- (5) The following operations, which do not constitute Yard Debris Facilities:
 - (A) Persons who generate and maintain residential compost piles for residential garden or landscaping purposes.
 - (B) Residences, parks, community gardens and homeowner associations.
 - (C) Universities, schools, hospitals, golf courses, industrial parks, and other similar facilities, if the landscape waste or yard debris was generated from the facility's own activities, the product remains on the facility grounds, and the product is not offered for off-site sale or use.
 - (D) Operations or facilities that chip or grind wood wastes, unless:
 - (i) such chipped or ground wood wastes are processed for composting; or
 - (ii) such operations or facilities are otherwise regulated under Metro Code Section 5.01.045.
- (6) Temporary transfer stations or processing centers established and operated by a government for 60 days or less to temporarily receive, store or process Solid Waste if Metro finds an emergency situation exists.
- (7) Any Reload facility that:
 - (A) Accepts Solid Waste collected under the authority of a single solid waste collection franchise granted by a local government unit, or from multiple solid waste collection franchises so long as the area encompassed by the franchises is geographically contiguous; and
 - (B) Is owned or controlled by the same person granted franchise authority ascribed in subsection (A); and
 - (C) Delivers any Putrescible Waste accepted at the operation or facility to a Transfer

Station owned, operated, Licensed or Franchised by Metro; and

(D) Delivers all other Solid Waste accepted at the facility except Inert Wastes to a Metro Designated Facility authorized to accept said Solid Waste, or to another solid waste facility under authority of a Metro Non-System License issued pursuant to Chapter 5.05.

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

(b) Notwithstanding Section 5.01.040(a), all persons shall comply with Sections 5.01.030(a), (b), (d) and (f).

(c) Notwithstanding Section 5.01.040(a)(2) of this chapter, Metro shall comply with Section 5.01.150 of this chapter.

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

(Ordinance No. 81-111, Sec. 5. Amended by Ordinance No. 82-136, Sec. 1; Ordinance No. 91-422B, Sec. 2; Ordinance No. 95-621A, Sec. 4; Ordinance No. 98-762C, Sec. 7; Ordinance No. 00-866, Sec. 2; Ordinance No. 02-933, Sec. 1; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.3; Ordinance No. 06-1102, Sec. 2; and Ordinance No. 07-1147B, Sec. 2.)

(5.01.045 License and Franchise Requirements. Repealed Ord. 14-1332)

LICENSING REQUIREMENTS

5.01.050 License Requirements and Fees

(a) A Metro Solid Waste License shall be required of the Person owning or controlling a facility at which any of the following Activities are performed:

(1) Processing of Non-Putrescible Waste.

(2) Processing of Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that destroy or remove such petroleum contamination from the soil.

(3) Processing or Reloading of Yard Debris. A local government that owns or operates a Yard Debris

Facility may enter into an intergovernmental agreement with Metro under which the local government will administer and enforce yard debris standards at the facility in lieu of compliance with this chapter.

(4) Operating a Reload.

(5) Chipping or grinding wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 of this chapter.

(b) The annual fee for a solid waste License shall not exceed three hundred dollars (\$300.00). The Council may revise these fees upon 90 days written notice to each Licensee Franchisee and an opportunity to be heard.

(c) Upon the filing of an application, every applicant for a License ~~or Franchise~~, or for renewal of an existing License ~~or Franchise~~, shall submit an application fee of three hundred dollars (\$300.00).

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

(e) The Licensee shall pay the License fee in the manner and at the time required by the Chief Operating Officer.

(Ordinance No. 81-111, Sec. 15. Amended by Ordinance No. 98-762C, Sec. 40; Ordinance No. 98-767, Sec. 5; Ordinance No. 02-974, Sec. 1.)

(Ordinance No. 98-762C, Secs. 8-9. Amended by Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2; Ordinance No. 03-1018A, Sec.4.)

(5.01.050 Administration. Repealed Ord. 98-762C §10)

APPLICATIONS FOR SOLID WASTE FACILITY LICENSES

5.01.051 Pre-Application Conference for Licenses

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

(b) If a prospective applicant for a License does not file an application for a License ~~or Franchise~~ within one year from the

date of the pre-application conference, such applicant shall participate in a subsequent pre-application conference prior to filing another application.

(Ordinance No. 98-762C, Secs. 11-12. Amended by Ordinance No. 02-974, Sec. 1.)

5.01.052 Applications for Licenses

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

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

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

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the License;
- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any Closure plan required to be submitted to DEQ, or if DEQ does not require a Closure plan, a Closure document describing Closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of Closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of Closure of the facility. The proposal shall include an estimate of the cost to implement the Closure plan required in Section 5.01.052~~60~~(c)(3). If an application is approved, the license or franchise shall require that financial assurance is in place prior to beginning

any activities authorized by the license or franchise. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the Closure plan required in Section 5.01.05260(ce)(3) will be less than \$10,000.00;

- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;
- (6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning Goals of the Land Conservation and Development Commission; and
- (7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application and any permit that has been granted shall be provided.

(Ordinance No. 81-111, Sec. 7. Amended by Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.5; Ordinance No. 04-1056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1;

Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; and Ordinance No. 07-1161, Sec. 1.)

5.01.053 Issuance and Contents of Licenses

(a) Applications for Licenses filed in accordance with Section 5.01.05260 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.

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

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

(d) On the basis of the application submitted, the Chief Operating Officer's investigation concerning the application, and public comments, the Chief Operating Officer shall determine whether the proposed License meets the requirements of Section 5.01.05260 and whether to approve or deny the application.

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

operation conditions that are regulated under the license and affects the residents' quiet enjoyment of the property on which they reside.

(f) If the Chief Operating Officer does not act to grant or deny a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the standard terms and conditions included in other comparable licenses issued by Metro.

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

(h) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six (6) months from the date of denial.

(i) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Chief Operating Officer. In addition to all other requirements of this section, a license approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:

- (1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.
- (2) Health and Safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.

- (3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.
- (4) Material Recovery. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) Record-keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

(j) The term of a new or renewed License shall be not more than five (5) years.

(Ordinance No. 98-762C, Secs. 16-17. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.8; Ordinance No. 06-1098B, Sec. 2; Ordinance No. 07-1138, Sec. 1; Ordinance No. 07-1139, Sec. 2.)

5.01.054 Record-keeping and Reporting for Licenses

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

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

(c) Licensees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the regulation of a Solid Waste facility within five (5) days of the receipt or provision of the correspondence or information.

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

(e) All records required by this chapter shall be retained by the Licensee, or its operator for three (3) years and shall be available for inspection by the Chief Operating Officer.

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

(Ordinance No. 98-762C, Secs. 38-39. Amended by Ordinance No. 02-974, Sec. 1.)

5.01.055 Renewal of Licenses

The Chief Operating Officer shall renew a Solid Waste Facility License unless the Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300.00) not less than 120 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.

(Ordinance No. 98-762C, Secs. 22-23. Amended by Ordinance No. 98-767, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.11.)

5.01.056 Transfer of Ownership or Control of Licenses

(a) Any Person in control of a License may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the License to another person unless an application therefore has been filed in accordance with Section 5.01.050 and has been granted. The proposed transferee of a License must meet the requirements of this chapter.

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

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

(Ordinance No. 81-111, Sec. 10. Amended by Ordinance No. 98-762C, Sec. 24; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 12.)

5.01.057 Change of Authorizations for Licenses

(a) A Person holding a License shall submit an application pursuant to Section 5.01.0520 when said Person seeks authorization to:

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

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

(c) An application for a change in authorizations or limits to the applicant's License shall not substitute for an application that would otherwise be required under Section 5.01.05045 of this chapter.

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

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars (\$100.00).

(Ordinance No. 98-762C, Secs. 25-26. Amended by Ordinance No. 98-767, Sec. 4; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 13.)

5.01.058 Variances for Licenses

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

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

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

(c) A request for a variance shall not substitute for an application that would otherwise be required under Section 5.01.050 of this chapter.

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

(e) If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six (6) months from the date of denial.

(Ordinance No. 81-111, Sec. 12. Amended by Ordinance No. 98-762C, Sec. 27; and Ordinance No. 02-974, Sec. 1.)

FRANCHISING REQUIREMENTS

5.01.070 Franchise Requirements and Fees

(a) Metro Solid Waste Franchise shall be required for the Person owning or controlling a facility at which any of the following Activities are performed:

- (1) Processing of Putrescible Waste other than Yard Debris.
- (2) Operating a Transfer Station.
- (3) Operating a Disposal Site or an Energy Recovery Facility.
- (4) Any process using chemical or biological methods whose primary purpose is reduction of Solid Waste weight or volumes.

(5) Any other Activity not listed in this section or exempted by Metro Code Section 5.01.040.

(b) The annual fee for a solid waste Franchise shall not exceed five hundred dollars (\$500.00). The Council may revise these fees upon 90 days written notice to each Franchisee and an opportunity to be heard.

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

(d) The Franchisee shall pay the Franchise fee in the manner and at the time required by the Chief Operating Officer.

(e) Upon the filing of an application, every applicant for a Franchise, or for renewal of an existing Franchise, shall submit an application fee of five hundred dollars (\$500).

(Ordinance No. 98-762C, Secs. 8-9. Amended by Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2; Ordinance No. 03-1018A, Sec.4.)

APPLICATIONS FOR SOLID WASTE FACILITY FRANCHISES

5.01.071 Pre-Application Conference for Franchises

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

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

(Ordinance No. 98-762C, Secs. 11-12. Amended by Ordinance No. 02-974, Sec. 1.)

5.01.072 Applications for Franchises

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

(b) In addition to any information required on the forms or in the format provided by the Chief Operating Officer, all applications shall include a description of the Activities

proposed to be conducted and a description of Wastes sought to be accepted.

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

- (1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise;
- (2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;
- (3) A duplicate copy of any Closure plan required to be submitted to DEQ, or if DEQ does not require a Closure plan, a Closure document describing Closure protocol for the Solid Waste Facility at any point in its active life;
- (4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of Closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of Closure of the facility. The proposal shall include an estimate of the cost to implement the Closure plan required in Section 5.01.07260(c)(3). If an application is approved, the license or franchise shall require that financial assurance is in place prior to beginning any activities authorized by the license or franchise. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the Closure plan required in Section 5.01.07260(c)(3) will be less than \$10,000.00;
- (5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Franchisee, the duration of that interest and shall include a statement that the property owner(s) have

read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the Franchise is revoked or any Franchise renewal is refused;

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

(d) An application for a Franchise shall be accompanied by an analysis of the factors described in Section 5.01.0730(f) of this chapter.

(e) Notwithstanding any other provision in this section, Metro shall not accept an application for a new Franchise for authority to operate a Transfer Station until January 1, 2016.

(Ordinance No. 81-111, Sec. 7. Amended by Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.5; Ordinance No. 04-1056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; and Ordinance No. 07-1161, Sec. 1.)

5.01.073 Issuance and Contents of Franchise

(a) Applications for Franchises filed in accordance with Section 5.01.07260 shall be reviewed by the Chief Operating Officer and are subject to approval or denial by the Metro Council.

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

(c) Upon the basis of the application, evidence submitted and results of the investigation, the Chief Operating Officer shall formulate recommendations regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of Section 5.01.07260, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements.

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

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

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

- (1) Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;
- (2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;
- (3) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;
- (4) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;

(5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.

(g) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this section. If the Council does not act to grant or deny an application by the deadline for such action, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.

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

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

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

(j) If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six (6) months from the date of denial.

(k) The term of a new or renewed Franchise shall be not more than five (5) years.

~~(1) Notwithstanding any other provision in this section, Metro shall not accept an application for a new Franchise for authority to operate a Transfer Station until January 1, 2016.~~

~~(1m) The Franchise shall constitute a grant of authority from the Council to accept the Waste(s) and perform the Activity(ies) described therein, the conditions under which these Activities may take place and the conditions under which the authority may be revoked.~~

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

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

~~(n) In addition to all other requirements of this section, a franchise approving acceptance of mixed non-putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:~~

- ~~(1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.~~
- ~~(2) Health and Safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.~~
- ~~(3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.~~

- (4) Material Recovery. Facilities conducting material recovery on non-putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.
- (5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.
- (6) Record-keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.

(Ordinance No. 98-762C, Secs. 19-20. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.10; and Ordinance No. 07-1138, Sec. 2.)

(5.01.080 Term of Franchise. Repealed Ord. 98-762C §21)

(5.01.085 Franchises for Major Disposal System Components. Repealed Ord. 98-762C §21)

5.01.074 Record-keeping and Reporting for Franchises

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

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

(c) Franchisees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the regulation of a Solid Waste facility within five (5) days of the receipt or provision of the correspondence or information.

(d) Franchisees shall maintain records of any written complaints received from the public or a customer, including but

not limited to, information on the nature of the complaint, name, address and phone number of the complainant, date the complaint was received and any action taken to respond to the complaint.

(e) All records required by this chapter shall be retained by the Franchisee or its operator for three (3) years and shall be available for inspection by the Chief Operating Officer.

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

5.01.075 Renewal of Franchises

The Council shall approve or deny renewals of Solid Waste Facility Franchises. A Franchisee seeking renewal of a Franchise shall file a completed application for renewal accompanied by payment of an application fee of five hundred dollars (\$500.00) not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the Franchise and any other information required by the Chief Operating Officer or by the Council. The Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.0730 of this chapter. The Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.0730. The Council may attach conditions or limitations to the renewed Franchise.

(Ordinance No. 98-762C, Secs. 22-23. Amended by Ordinance No. 98-767, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.11.)

5.01.076 Transfer of Ownership or Control of Licenses

(a) Any Person in control of a Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the Franchise to another person unless an application ~~therefor~~therefore has been filed in accordance with Section 5.01.07260 and has been granted. The proposed transferee of a Franchise must meet the requirements of this chapter.

(b) The Council shall not unreasonably deny an application for transfer of a Franchise. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.

(dc) The term for any transferred Franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.

(Ordinance No. 81-111, Sec. 10. Amended by Ordinance No. 98-762C, Sec. 24; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 12.)

5.01.077 Change of Authorizations for Franchises

(a) A Person holding a Franchise shall submit an application pursuant to Section 5.01.0720 when said Person seeks authorization to:

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

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

(c) An application for a change in authorizations or limits to the applicant's Franchise shall not substitute for an application that would otherwise be required under Section 5.01.07045 of this chapter.

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

(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars (\$100.00).

(Ordinance No. 98-762C, Secs. 25-26. Amended by Ordinance No. 98-767, Sec. 4; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 13.)

5.01.078 Variances for Franchises

(a) The Council, upon recommendation of the Chief Operating Officer, may grant specific variances from particular requirements of this chapter to applicants for Franchises or to Franchisees upon such conditions as the Council may deem necessary to protect public health, safety and welfare, if the Council finds that the purpose and intent of the particular Franchise requirement can be

achieved without compliance and that compliance with the particular requirement:

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

(b) A variance must be requested by a Franchise applicant, or a Franchisee, in writing and state in a concise manner facts to show cause why such variance should be granted. The Chief Operating Officer may make such investigation as the Chief Operating Officer deems necessary and shall make a recommendation to the Council to approve or deny the variance coincident with any recommendation made on approval or denial of any Franchise application; or, upon a request for variance from an existing Franchisee, within 120 days after receipt of the variance request.

(c) A request for a variance shall not substitute for an application that would otherwise be required under Section ~~5.01.050~~ or ~~5.01.070~~ of this chapter.

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

(e) If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six (6) months from the date of denial.

(Ordinance No. 81-111, Sec. 12. Amended by Ordinance No. 98-762C, Sec. 27; and Ordinance No. 02-974, Sec. 1.)

~~5.01.045 License and Franchise Requirements~~

~~— (a) A Metro Solid Waste License shall be required of the Person owning or controlling a facility at which any of the following Activities are performed:~~

- ~~(1) Processing of Non Putrescible Waste.~~
- ~~(2) Processing of Petroleum Contaminated Soil by thermal destruction, distillation, bioremediation, or by any other methods that destroy or remove such petroleum contamination from the soil.~~
- ~~(3) Processing or Reloading of Yard Debris. A local government that owns or operates a Yard Debris Facility may enter into an intergovernmental~~

~~agreement with Metro under which the local government will administer and enforce yard debris standards at the facility in lieu of compliance with this chapter.~~

~~(4) Operating a Reload.~~

~~(5) Chipping or grinding wood waste for use as an industrial fuel if such facility is otherwise regulated under this Section 5.01.045 of this chapter.~~

~~(b) A Metro Solid Waste Franchise shall be required for the Person owning or controlling a facility at which any of the following Activities are performed:~~

~~(1) Processing of Putrescible Waste other than Yard Debris.~~

~~(2) Operating a Transfer Station.~~

~~(3) Operating a Disposal Site or an Energy Recovery Facility.~~

~~(4) Any process using chemical or biological methods whose primary purpose is reduction of Solid Waste weight or volumes.~~

~~(5) Any other Activity not listed in this section or exempted by Metro Code Section 5.01.040.~~

~~(Ordinance No. 98-762C, Secs. 8-9. Amended by Ordinance No. 00-866, Sec. 3; Ordinance No. 02-933, Sec. 2; Ordinance No. 03-1018A, Sec.4.)~~

~~(5.01.050 Administration. Repealed Ord. 98-762C §10)~~

~~APPLICATIONS FOR SOLID WASTE FACILITY LICENSES & FRANCHISES~~

~~5.01.055 Pre Application Conference~~

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

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

~~(Ordinance No. 98-762C, Secs. 11-12. Amended by Ordinance No. 02-974, Sec. 1.)~~

~~5.01.060 Applications for Licenses or Franchises~~

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

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

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

- ~~(1) Proof that the applicant can obtain the types of insurance specified by the Chief Operating Officer during the term of the Franchise or License;~~
- ~~(2) A duplicate copy of all applications for necessary DEQ permits and any other information required by or submitted to DEQ;~~
- ~~(3) A duplicate copy of any Closure plan required to be submitted to DEQ, or if DEQ does not require a Closure plan, a Closure document describing Closure protocol for the Solid Waste Facility at any point in its active life;~~

- ~~(4) A duplicate copy of any documents required to be submitted to DEQ demonstrating financial assurance for the costs of Closure, or if DEQ does not require such documents or does not intend to issue a permit to such facility, the applicant must demonstrate financial assurance or submit a proposal for providing financial assurance prior to the commencement of Metro-regulated activities for the costs of Closure of the facility. The proposal shall include an estimate of the cost to implement the Closure plan required in Section 5.01.060(c)(3). If an application is approved, the license or franchise shall require that financial assurance is in place prior to beginning any activities authorized by the license or franchise. However, regarding applications for licenses, if DEQ does not issue a permit or require such financial assurance documents, then the Chief Operating Officer may waive this requirement if the applicant provides written documentation demonstrating that the cost to implement the Closure plan required in Section 5.01.060(c) will be less than \$10,000.00;~~
- ~~(5) Signed consent by the owner(s) of the property to the proposed use of the property. The consent shall disclose the property interest held by the Licensee or Franchisee, the duration of that interest and shall include a statement that the property owner(s) have read and agree to be bound by the provisions of Section 5.01.180(e) of this chapter if the License or Franchise is revoked or any License or Franchise renewal is refused;~~
- ~~(6) Proof that the applicant has received proper land use approval; or, if land use approval has not been obtained, a written recommendation of the planning director of the local governmental unit having land use jurisdiction regarding new or existing disposal sites, or alterations, expansions, improvements or changes in the method or type of disposal at new or existing disposal sites. Such recommendation may include, but is not limited to a statement of compatibility of the site, the Solid Waste Disposal Facility located thereon and the proposed operation with the acknowledged local comprehensive plan and zoning requirements or with the Statewide Planning~~

~~Goals of the Land Conservation and Development Commission; and~~

~~(7) Identify any other known or anticipated permits required from any other governmental agency. If application for such other permits has been previously made, a copy of such permit application and any permit that has been granted shall be provided.~~

~~(d) An application for a Franchise shall be accompanied by an analysis of the factors described in Section 5.01.070(f) of this chapter.~~

~~(e) Notwithstanding any other provision in this section, the Chief Operating Officer shall not accept for filing any application for authority to operate a new Transfer Station until December 31, 2008.~~

~~(Ordinance No. 81-111, Sec. 7. Amended by Ordinance No. 82-136, Sec. 2; Ordinance No. 91-422B, Sec. 3; Ordinance No. 95-621A, Sec. 5; Ordinance No. 98-762C, Sec. 13; Ordinance No. 00-866, Sec. 4; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 5; Ordinance No. 04-1056, Sec. 1; Ordinance No. 05-1093, Sec. 1; Ordinance No. 06-1098B, Sec. 1; Ordinance No. 06-1101; Ordinance No. 07-1139, Sec. 1; and Ordinance No. 07-1161, Sec. 1.)~~

~~5.01.062 Application Fees~~

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

~~(b) Application fees shall be as follows:~~

~~(1) For a Solid Waste Facility License, three hundred dollars (\$300.00).~~

~~(2) For a Solid Waste Facility Franchise, five hundred dollars (\$500.00).~~

~~(Ordinance No. 98-767, Secs. 1-2. Amended by Ordinance No. 03-1018A, Sec. 6.)~~

~~(5.01.065 Issuance and Contents of Certificates. Repealed Ord. 03-1018A §7)~~

~~5.01.067 Issuance and Contents of Licenses~~

~~(a) Applications for Licenses filed in accordance with Section 5.01.060 shall be subject to approval or denial by the Chief Operating Officer, with such conditions as the Chief Operating Officer may deem appropriate.~~

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

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

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

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

~~(f) If the Chief Operating Officer does not act to grant or deny a License application within 120 days after the filing of a complete application, the License shall be deemed granted for the Solid Waste Facility or Activity requested in the application, and the Chief Operating Officer shall issue a License containing the~~

~~standard terms and conditions included in other comparable licenses issued by Metro.~~

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

~~(h) If a request for a License is denied, no new application for this same or substantially similar License shall be filed by the applicant for at least six (6) months from the date of denial.~~

~~(i) Licenses shall specify the Activities authorized to be performed, the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility, and any other limitations or conditions attached by the Chief Operating Officer. In addition to all other requirements of this section, a license approving acceptance of mixed non putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:~~

- ~~(1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.~~
- ~~(2) Health and Safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.~~
- ~~(3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.~~
- ~~(4) Material Recovery. Facilities conducting material recovery on non putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-~~

~~putrescible waste that has not yet undergone material recovery.~~

~~(5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while protecting the quality of non-putrescible waste that has not yet undergone material recovery.~~

~~(6) Record keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.~~

~~(j) The term of a new or renewed License shall be not more than five (5) years.~~

~~(Ordinance No. 98-762C, Secs. 16-17. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 8; Ordinance No. 06-1098B, Sec. 2; Ordinance No. 07-1138, Sec. 1; Ordinance No. 07-1139, Sec. 2.)~~

5.01.070 Issuance of Franchise

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

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

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

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

~~(e) Subsequent to receiving the recommendation of the Chief Operating Officer, the Council shall issue an order granting or~~

~~denying the application. The Council may attach conditions to the order or limit the number of franchises granted. If the Council issues an order to deny the application, such order shall be effective immediately.~~

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

- ~~(1) Whether the applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan;~~
- ~~(2) The effect that granting a Franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region;~~
- ~~(3) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of Metro's residents;~~
- ~~(4) Whether granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood;~~
- ~~(5) Whether the applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to Section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise.~~

~~(g) The Council shall act to grant or deny a Franchise application within 120 days after the filing of a complete application. The deadline for the Council to act to grant or deny an application may be extended as provided in this section. If the Council does not act to grant or deny an application by the deadline for such action, the Franchise shall be deemed granted for the Solid Waste Facility or Disposal Site requested in the application, and the Chief Operating Officer shall issue a Franchise containing the standard terms and conditions included in other comparable franchises issued by Metro.~~

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

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

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

~~(j) If a request for a Franchise is denied, no new application for this same or substantially similar Franchise shall be filed by the applicant for at least six (6) months from the date of denial.~~

~~(k) The term of a new or renewed Franchise shall be not more than five (5) years.~~

~~(l) Notwithstanding any other provision in this section, Metro shall not accept an application for a new Franchise for authority to operate a Transfer Station until January 1, 2016.~~

~~(Ordinance No. 81-111, Sec. 8. Amended by Ordinance No. 82-136, Sec. 3; Ordinance No. 98-762C, Sec. 18; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 9; Ordinance No. 04-1056, Sec. 2; Ordinance No. 05-1093, Sec. 2; and Ordinance No. 13-1306 Sec. 2.)~~

5.01.075 Contents of Franchise

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

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

- ~~(1) The term of the Franchise;~~

- ~~(2) The specific Activities authorized to be performed and the types and amounts of Wastes authorized to be accepted at the Solid Waste Facility;~~
- ~~(3) Such other conditions as the Council deems necessary to insure that the intent and purpose of this chapter will in all respects be observed; and~~
- ~~(4) Indemnification of Metro in a form acceptable to the Metro Attorney.~~

~~(c) In addition to all other requirements of this section, a franchise approving acceptance of mixed non putrescible waste for the purpose of conducting material recovery or reloading shall be subject to the performance standards, design requirements, and operating requirements adopted as administrative procedures pursuant to Section 5.01.132, and shall require that the facility operate in a manner that meets the following general performance goals:~~

- ~~(1) Environment. Facilities shall be designed and operated to preclude the creation of undue threats to the environment including, but not limited to, stormwater or groundwater contamination, air pollution, and improper acceptance and management of hazardous waste asbestos and other prohibited wastes.~~
- ~~(2) Health and Safety. Facilities shall be designed and operated to preclude the creation of conditions that may degrade public health and safety including, but not limited to, fires, vectors, pathogens and airborne debris.~~
- ~~(3) Nuisances. Facilities shall be designed and operated to preclude the creation of nuisance conditions including, but not limited to, litter, dust, odors, and noise.~~
- ~~(4) Material Recovery. Facilities conducting material recovery on non putrescible waste shall be designed and operated to assure materials are recovered in a timely manner, to meet standards in Section 5.01.125, and to protect the quality of non-putrescible waste that has not yet undergone material recovery.~~
- ~~(5) Reloading. Facilities conducting reloading of non-putrescible waste shall be designed and operated to assure that the reloading and transfer of non-putrescible waste to Metro authorized processing facility is conducted rapidly and efficiently while~~

~~protecting the quality of non putrescible waste that has not yet undergone material recovery.~~

- ~~(6) Record-keeping. Facilities shall keep and maintain complete and accurate records of the amount of all solid waste and recyclable materials received, recycled, reloaded and disposed.~~

~~(Ordinance No. 98-762C, Secs. 19-20. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.10; and Ordinance No. 07-1138, Sec. 2.)~~

~~(5.01.080 Term of Franchise. Repealed Ord. 98-762C §21)~~

~~(5.01.085 Franchises for Major Disposal System Components. Repealed Ord. 98-762C §21)~~

5.01.087 Renewal of Licenses and Franchises

~~(a) The Chief Operating Officer shall renew a Solid Waste Facility License unless the Chief Operating Officer determines that the proposed renewal is not in the public interest, provided that the Licensee files a completed application for renewal accompanied by payment of an application fee of three hundred dollars (\$300.00) not less than 120 days prior to the expiration of the License term, together with a statement of proposed material changes from its initial application for the License and any other information required by the Chief Operating Officer. The Chief Operating Officer may attach conditions or limitations to any renewed License.~~

~~(b) The Council shall approve or deny renewals of Solid Waste Facility Franchises. A Franchisee seeking renewal of a Franchise shall file a completed application for renewal accompanied by payment of an application fee of five hundred dollars (\$500.00) not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the Franchise and any other information required by the Chief Operating Officer or by the Council. The Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070 of this chapter. The Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. The Council may attach conditions or limitations to the renewed Franchise.~~

~~(Ordinance No. 98-762C, Secs. 22-23. Amended by Ordinance No. 98-767, Sec. 3; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.11.)~~

~~5.01.090 Transfer of Ownership or Control~~

~~(a) Any Person in control of a License or Franchise may not lease, assign, mortgage, sell or otherwise transfer, either in whole or in part, control of the License or Franchise to another person unless an application therefor has been filed in accordance with Section 5.01.060 and has been granted. The proposed transferee of a License or Franchise must meet the requirements of this chapter.~~

~~(b) The Council shall not unreasonably deny an application for transfer of a Franchise. If the Council does not act on the application for transfer within 120 days after filing of a complete application, the application shall be deemed granted.~~

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

~~(d) The term for any transferred Franchise shall be for the remainder of the original term unless the Council establishes a different term based on the facts and circumstances at the time of transfer.~~

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

~~(Ordinance No. 81-111, Sec. 10. Amended by Ordinance No. 98-762C, Sec. 24; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 12.)~~

~~5.01.095 Change of Authorizations~~

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

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

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

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

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

~~(e) The fee for applications for changes of authorizations or limits shall be one hundred dollars (\$100.00).~~

~~(Ordinance No. 98-762C, Secs. 25-26. Amended by Ordinance No. 98-767, Sec. 4; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 13.)~~

5.01.100 Appeals

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

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

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

(c) Upon a finding of serious danger to the public health or safety, the Chief Operating Officer may suspend a Franchise or License or the Council or Chief Operating Officer, as appropriate, may refuse to renew a Franchise or License and such action shall be effective immediately. If a Franchise or License renewal is refused effective immediately, the Franchisee or Licensee shall have 30 days from the date of such action to request a contested case hearing.

(Ordinance No. 81-111, Sec. 11. Amended by Ordinance No. 95-621A, Sec. 6; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 14.)

5.01.110 Variances

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

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

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

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

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

~~(e) If a request for a variance is denied, no new application for this same or substantially similar variance shall be filed for at least six (6) months from the date of denial.~~

~~(Ordinance No. 81-111, Sec. 12. Amended by Ordinance No. 98-762C, Sec. 27; and Ordinance No. 02-974, Sec. 1.)~~

OBLIGATIONS AND LIMITATIONS FOR SOLID WASTE FACILITIES

5.01.120 General Obligations of All Regulated Parties

All Persons regulated by this chapter shall:

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

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

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

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

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

(Ordinance No. 81-111, Sec. 13. Amended by Ordinance No. 98-762C, Sec. 28; Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec.15.)

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 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 percent 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 (8) 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.

(d) A holder of a Franchise for a 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 unless the franchisee provides written authorization from the DEQ or evidence of exemption from such requirement.
- (3) Shall be limited in accepting Putrescible Waste during any year to an amount of Putrescible Waste as established by the Metro Council in approving the Transfer Station Franchise application.
- (4) 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.

(e) 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.

(f) 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.

(Ordinance No. 98-762C, Secs. 30-31. Amended by Ordinance No. 00-866, Sec. 5; Ordinance No. 01-916C, Sec. 4; Ordinance No. 02-952A, Sec. 1; Ordinance No. 03-1018A, Sec. 16; Ordinance No. 07-1147B, Sec. 3; Ordinance No. 12-1272, Sec. 3; and Ordinance No. 13-1306, Sec. 3.)

5.01.127 Direct Haul of Putrescible Waste

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

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

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

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

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

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

(Ordinance No. 98-762C, Secs. 32-33. Amended by Ordinance No. 02-974, Sec. 1.)

REGULATORY ADMINISTRATION OF SOLID WASTE FACILITIES

(5.01.130 Administrative Procedures for Franchisees. Repealed Ord. 98-762C Sec. 29)

(5.01.131 Designation and Review of Service Areas and of Demand. Ordinance No. 01-916C, Secs. 2-3. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 17; and repealed Ord. 12-1272. Sec. 4.)

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.

(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.

(Ordinance No. 98-762C, Secs. 34-35. Amended by Ordinance No. 01-916C, Sec. 5; Ordinance No. 02-974, Sec. 1; Ordinance No. 07-1138, Sec. 3; and Ordinance No. 12-1272, Sec. 5.)

5.01.135 Inspections and Audits of Solid Waste Facilities

(a) The Chief Operating Officer shall be authorized to make such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of a licensed or franchised facility, and all other Solid Waste Facilities, at all reasonable times during business hours with or without notice or at such other times with 24 hours notice after the Franchise or License is granted to assure compliance with this

chapter, the Code, the Franchise or License, and administrative procedures and performance standards adopted pursuant to Section 5.01.132 of this chapter.

(b) Inspections or audits authorized under subsection (a) of this section shall occur regularly and as determined necessary by the Chief Operating Officer. Results of each inspection shall be reported on a standard form specified by the Chief Operating Officer.

(c) The Chief Operating Officer shall have access to and may examine during such inspections or audits any records pertinent in the opinion of the Chief Operating Officer to the License or Franchise, or to the provisions of this chapter, including but not limited to the books, papers, records, equipment, blueprints, operation and maintenance records and logs and operating rules and procedures of the Licensee, Franchisee or Solid Waste Facility operator. Such inspections or audits may include taking samples and conducting analysis of any waste or other material, including storm water runoff, water treatment or holding facilities, leachate, soil and solid waste. The Chief Operating Officer shall coordinate any sampling or follow-up activities with DEQ or local jurisdictions as necessary to prevent the imposition of redundant requirements on operations.

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

(Ordinance No. 98-762C, Secs. 36-37. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 18; and Ordinance No. 07-1147B, Sec. 4.)

5.01.137 Record-keeping and Reporting

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

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

(c) Licensees or Franchisees shall provide copies of any correspondence or information received from or provided to any federal, state or local government agency related to the

regulation of a Solid Waste facility within five (5) days of the receipt or provision of the correspondence or information.

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

(e) All records required by this chapter shall be retained by the Licensee, Franchisee or its operator for three (3) years and shall be available for inspection by the Chief Operating Officer.

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

(Ordinance No. 98-762C, Secs. 38-39. Amended by Ordinance No. 02-974, Sec. 1.)

5.01.140 License and Franchise Fees

(a) The annual fee for a solid waste License shall not exceed three hundred dollars (\$300.00), and the annual fee for a solid waste Franchise shall not exceed five hundred dollars (\$500.00). The Council may revise these fees upon 90 days written notice to each Licensee or Franchisee and an opportunity to be heard.

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

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

(Ordinance No. 81-111, Sec. 15. Amended by Ordinance No. 98-762C, Sec. 40; Ordinance No. 98-767, Sec. 5; Ordinance No. 02-974, Sec. 1.)

5.01.150 ~~User Fees~~Regional System Fees

(a) ~~Notwithstanding Section 5.01.040(a)(2) of this chapter, the Council shall set user fees annually, and more frequently if necessary, which~~ In accordance with Chapter 5.02 of this title, regional system fees shall apply to Solid Waste Facilities and

Disposal Sites which are owned, operated, licensed or franchised by Metro or which are liable for payment of ~~user~~ such fees pursuant to a special agreement with Metro.

~~(b) User fees shall not apply to:~~

~~(1) Solid waste received at facilities that are licensed, franchised or exempt from regulation under this Chapter, other than any Disposal Sites or Transfer Stations that are not subject to the requirements of Section 5.01.125(a);~~

~~(2) Cleanup Material Contaminated By Hazardous Substances accepted at facilities that treat said Cleanup Material Contaminated By Hazardous Substances to applicable DEQ standards;~~

~~(3) Useful Material that is accepted at a Disposal Site that is listed as a Metro Designated Facility in Chapter 5.05 or accepted at a Disposal Site under authority of a Metro Non System License issued pursuant to Chapter 5.05, provided that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of the Disposal Site such as for roadbeds or alternative daily cover; and (B) is accepted at the Disposal Site at no charge; or~~

~~(4) Processing Residual produced by any tire processor that is regulated pursuant to this chapter and that sorts, classifies or processes used tires into fuel or other products, provided said Processing Residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro license or franchise.~~

~~(c) Notwithstanding any other provisions of this Code, user fees shall apply to Cleanup Material Contaminated By Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System Facility authorized to accept such substances. Such Cleanup Materials Contaminated By Hazardous Substances may be subject to credits against user fees pursuant to Section 5.02.047 of this Title.~~

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

~~(ce) User-Regional system fees shall be separately stated upon records of the Solid Waste Facility or Disposal Site.~~

~~(df) User-Regional system fees and finance charges on user such fees shall be paid as specified in Section 5.02.055 of this Title.~~

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

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

~~(i) License or Franchise holders are eligible to apply for and receive Regional System Fee Credits pursuant to Section 5.02.047 of this Title.~~

(Ordinance No. 81-111, Sec. 16. Amended by Ordinance No. 86-214, Sec. 1; Ordinance No. 91-422B, Sec. 4; Ordinance No. 93-509, Sec. 2; Ordinance No. 95-621A, Sec. 7; Ordinance No. 98-762C, Sec. 41; Ordinance No. 00-866, Sec. 6; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 19.)

(5.01.160 Reports from Collection Services. Repealed Ord. 98-762C §42)

5.01.170 Determination of Rates

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

(b) Notwithstanding any other provision of this section,

(1) Licensees shall be exempt from all rate setting;
and

(2) Franchisees shall be exempt from rate setting unless rate setting is required as a condition of their Franchise.

(Ordinance No. 81-111, Sec. 19. Amended by Ordinance No. 82-136, Sec. 4. Renumbered by Ordinance No. 91-436A, Sec. 2, which repealed former Section 5.01.170, "Rate Review Committee." Repealed by Ordinance No. 98-762C, Sec. 43; replaced by Ordinance No. 98-762C, Sec. 44; and amended by Ordinance No. 03-1018A, Sec. 20.)

ENFORCEMENT AND APPEALS

5.01.180 Enforcement of Franchise or License Provisions

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

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

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

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

(d) Upon a finding of serious danger to the public health or safety as a result of the actions or inactions of a Franchisee or Licensee under this chapter, the Chief Operating Officer may in accordance with Code Chapter 2.05 immediately suspend the Franchise or License and may take whatever steps may be necessary to abate the danger. In addition, in the case of a Franchise, the Chief Operating Officer may authorize another Franchisee or another person to provide service or to use and operate the site, station, facilities and equipment of an affected Franchisee for reasonable compensation in order to provide service or abate the danger for so long as the danger continues. If a Franchise is immediately suspended, the Franchisee shall have 90 days from the date of such action to request a contested case hearing in accordance with Code Chapter 2.05.

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

(Ordinance No. 81-111, Sec. 20. Amended by Ordinance No. 82-136, Sec. 5; Ordinance No. 95-621A, Sec. 8. Renumbered by Ordinance No. 91-436A, Sec. 2. Amended by Ordinance No. 98-762C, Sec. 45; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec. 21.)

(5.01.190 Right to Purchase. Repealed Ord. 98-762C §46)

5.01.200 Penalties

(a) Each violation of this chapter shall be punishable by a fine of not more than \$500.00. Each day a violation continues constitutes a separate violation. Separate offenses may be joined in one indictment or complaint or information in several counts.

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

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

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

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

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

- (1) Imposition of a remedy suitable to Metro to be implemented by and at the expense of the Licensee or Franchisee;
- (2) Suspension of all solid waste Activities on site;
- (3) Imposition of a lien on the property for the amount of the fines; or
- (4) Suspension, modification or revocation of the License or Franchise pursuant to Section 5.01.180 of this chapter.

(g) In addition to subsection (a) of this section, any violation of this chapter may be enjoined by Metro upon suit in a court of competent jurisdiction and shall also be subject to a civil penalty not to exceed \$500.00 per day for each day of violation.

(Ordinance No. 81-111, Sec. 22. Renumbered by Ordinance No. 91-436A, Sec. 2. Amended by Ordinance No. 98-762C, Sec. 47; Ordinance No. 98-767, Sec. 6; Ordinance No. 02-974, Sec. 1; and Ordinance No. 03-1018A, Sec.22.)

(5.01.210 Acceptance of Tires at a Disposal Site. Repealed Ord. 98-762C §48)

(5.01.220 Additional Provisions Relating to Issuance of a Franchise for a Facility Processing Petroleum Contaminated Soil. Repealed Ord. 98-762C §48)

(5.01.230-380 Additional Provisions Relating to the Licensing of Yard Debris Processing Facilities and Yard Debris Reload Facilities. Repealed Ord. 98-762C §49)

MISCELLANEOUS PROVISIONS

(5.01.400 Treatment of Existing Licenses and Franchises. Repealed Ord. 03-1018A §23)

5.01.410 Miscellaneous Provisions

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

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

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

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

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

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

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

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

of other regulatory agencies, including but not limited to, local health departments, regional water quality control boards, local land use authorities, and fire authorities.

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

(Ordinance No. 98-762C, Secs. 52-53. Amended by Ordinance No. 02-974, Sec. 1; Ordinance No. 03-1018A, Sec. 24.)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1332 FOR THE PURPOSE OF AMENDING METRO CODE TITLE V, SOLID WASTE, TO REVISE CHAPTER 5.01 AND TO REPEAL CHAPTER 5.03.

July 1, 2014

Prepared by: Warren Johnson
503-797-1836

The proposed ordinance amends Title V (Solid Waste) to revise and reorganize Chapter 5.01 (Solid Waste Facility Regulation) to separate licensing and franchising requirements, revise and repeal certain provisions related to regional systems fees, and make various technical corrections to improve the readability and organizational structure of the Code. In addition, the proposed ordinance repeals the obsolete Chapter 5.03 (Disposal Site Franchise Fees) since such provisions are already included in Chapter 5.01. There are no substantive changes to any current policies, practices, or regulatory requirements under this proposed ordinance.

BACKGROUND

Metro Code Chapter 5.01 (Solid Waste Facility Regulation) governs the regulation of solid waste facilities and disposal sites within the region. Applicants seeking solid waste facility authorizations often find it difficult to navigate the applicable requirements in Chapter 5.01 because the license and franchise provisions are intermingled throughout the chapter. In order to make the Code more accessible and easier to use, the Chief Operating Officer recommends reorganizing Chapter 5.01 to separate licensing and franchising requirements into distinct sections. The proposed reorganization also includes various technical corrections and revisions to improve the readability and continuity of the Code. The Chief Operating Officer also recommends that certain provisions related to the payment of regional system fees be repealed from Chapter 5.01 and replaced in Chapter 5.02 (Disposal Charges and User Fees) under a separate ordinance for further organizational improvement.¹ In addition the Chief Operating Officer recommends that the obsolete Chapter 5.03 (Disposal Site Franchise Fees) be repealed since its provisions are redundant and currently covered under Chapter 5.01.

This proposed ordinance is part of a package of ordinances that are intended to improve the consistency, access, and usability of Metro's solid waste Code. In addition to this action, Metro Council will also consider three similar ordinances for other housekeeping and organizational improvements to the Code at its meeting on July 24, 2014.²

ANALYSIS/INFORMATION

1. Known Opposition

Adoption of this ordinance would result in changes to the organizational structure of Title V, including reorganization and minor technical corrections to Chapter 5.01 and the repeal of Chapter 5.03. There are no substantive changes to any current policies, practices, or regulatory requirements. As such, there is no known opposition to the proposed ordinance.

¹ Ordinance No. 14-1338

² Chapter 5.00 (Ord. No. 14-1331), Chapter 5.02 (Ord. No. 14-1338), and Chapter 5.05 (Ord. No. 14-1337)

2. Legal Antecedents

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

3. Anticipated Effects

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

- Reorganization of Chapter 5.01 so that licensing and franchising requirements for solid waste facilities are organized separately in distinct sections.
- Revisions to and repeal of portions of 5.01.150 for relocation to Chapter 5.02 (under separate Ordinance No. 14-1338).
- Repeal of Section 5.01.410(i) to improve regulatory consistency.
- Minor technical corrections and renumbering of sections as necessary.
- Repeal of obsolete Chapter 5.03 (Disposal Site Franchise Fees) to improve consistency and eliminate redundancy.

4. 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. 14-1332. Approval of this ordinance will revise and reorganize Chapter 5.01 (Solid Waste Facility Regulation) to separate licensing and franchising requirements, repeal certain provisions related to regional systems fees, make various technical corrections, as provided in Exhibit A, and repeal the obsolete Chapter 5.03 (Disposal Site Franchise Fees).

Agenda Item No. 6.3

Ordinance No. 14-1333, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Lakeside Reclamation from the List of Metro Designated Facilities.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE CHAPTER 5.05 TO DELETE LAKESIDE)
RECLAMATION FROM THE LIST OF METRO)
DESIGNATED FACILITIES)

ORDINANCE NO. 14-1333
Introduced by Chief Operating Officer Martha
Bennett in concurrence with Council
President Tom Hughes

WHEREAS, Metro Code Section 5.05.030 authorizes the Metro Council to add and delete facilities from the list of designated facilities included in that section; and

WHEREAS, in Metro Ordinance No. 89-319, the Metro Council adopted Metro Code Section 5.05.030 and added Lakeside Reclamation as a designated facility of the system; and

WHEREAS, in Metro Resolution No. 08-4009, the Metro Council terminated the Designated Facility Agreement with Lakeside Reclamation, effective December 31, 2008; and

WHEREAS, Metro Code Section 5.05.030(b) requires the Metro Council to consider seven criteria when deciding whether to amend or delete an existing designation; and

WHEREAS, as set forth in the staff report accompanying this Ordinance, the Chief Operating Officer analyzed the criteria set forth in Metro Code Section 5.05.030(b) and recommends that the Metro Council delete Lakeside Reclamation from the list of designated facilities; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 5.05.030 (a) (4) listing Lakeside Reclamation as a Designated Facility of the System is deleted.
2. The remaining provisions are renumbered as provided in Ordinance No. 14-1337.

ADOPTED by the Metro Council this [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1333, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.05 TO DELETE LAKESIDE RECLAMATION FROM THE LIST OF METRO DESIGNATED FACILITIES

Date: July 1, 2014

Prepared by: Bill Metzler, 503-797-1666

The proposed Ordinance, if approved by Council, will delete Lakeside Reclamation from the list of designated facilities of the system described in Metro Code Chapter 5.05.

BACKGROUND

Metro solid waste flow control provisions (Chapter 5.05 of the Code) allow Council to “designate” facilities located outside the Metro boundary to be part of the Metro solid waste system. Metro Code Section 5.05.030 describes the designated facilities of the system. Once designated, these facilities enter into contracts (designated facility agreements) with Metro to receive specific waste streams from in the Metro region without the need for individual haulers to obtain a Metro non-system license (NSL). Designated facilities also collect and remit to Metro Regional System Fee and Excise Tax on waste when applicable. Designated facility agreements are a way for Metro and the private sector to cooperatively allow the free flow of certain wastes, and gives Metro some level of regulatory oversight at the facility; thereby ensuring proper management of the waste generated in the Metro region.

Lakeside Reclamation has been listed as a designated facility in Metro Code Chapter 5.05 since 1989 (Ordinance No. 89-319) and was subject to the terms of an agreement with Metro. Metro Ordinance No. 93-483 modified the designated facility listing of Lakeside Reclamation in Metro Code Chapter 5.05. As a result, Metro and Lakeside Reclamation entered into a designated facility agreement in April 1993 (Metro Contract No. 902857), until it was terminated by the Metro Council on December 31, 2008 (Resolution No. 08-4009). During this time the landfill received primarily construction and demolition debris generated in the Metro region.

On July 1, 2009, Lakeside Reclamation initiated closure of the landfill and ceased accepting solid waste for disposal in accordance with its Solid Waste Disposal Site Closure Permit No. 214 issued by the Oregon Department of Environmental Quality (DEQ).

Deleting an existing designated facility

Metro Code Section 5.05.030(a) contains a list of designated facilities. Metro Code Section 5.05.030(b) states that, pursuant to a duly enacted ordinance, the Metro Council may add facilities or delete them from the list. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider several factors listed in Code.

These factors may be relevant when considering whether or not to designate an additional facility or amend an existing designation. However, these factors are not particularly relevant for deleting an existing designation for a closed disposal site such as Lakeside Reclamation. Lakeside Reclamation is no longer an active disposal site and it has been closed since July 1, 2009 in accordance with its DEQ Solid Waste Disposal Site Closure Permit No.214.

Below is a list of the factors listed in Section 5.05.030(b), followed by staff consideration.

- 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;*

Lakeside Reclamation has been a designated facility since 1993. Metro and Lakeside Reclamation held a designated facility agreement from April 1993 (Metro Contract No. 902857) until it was terminated by the Metro Council on December 31, 2008 (Resolution No. 08-4009). During this time the landfill received primarily construction and demolition debris generated in the Metro region.

The disposal site is closed. On July 1, 2009, Lakeside Reclamation Landfill ceased accepting solid waste for disposal in accordance with its Solid Waste Disposal Site Closure Permit No. 214 issued by the DEQ. The permit no longer authorizes Lakeside accept solid waste for disposal and required the landfill to close in accordance with DEQ specifications and protocols set forth in its Closure Permit.

- 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;*

The disposal site is closed. On July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal in accordance with its Solid Waste Site Closure Permit No. 214 issued by the DEQ.

Lakeside Reclamation operated under a Solid Waste Disposal Site Permit and closed in accordance with its Solid Waste Disposal Site Closure Permit No.214 issued by the DEQ. According to DEQ reports, during the DEQ permit period from 1998 through 2008, DEQ compliance inspectors cited Lakeside Reclamation several times for accepting prohibited materials for disposal.

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

- 3) *The adequacy of operational practices and management controls at the facility;*

The disposal site is closed. On July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal in accordance with its Solid Waste Site Closure Permit No. 214 issued by the DEQ.

Lakeside Reclamation operated under a Solid Waste Disposal Site Permit and closed in accordance with its Solid Waste Disposal Site Closure Permit No.214 issued by the DEQ. According to DEQ reports, during the DEQ permit period from 1998 through 2008, DEQ compliance inspectors cited Lakeside Reclamation several times for accepting prohibited materials for disposal.

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

4) *The expected impact on the region's recycling and waste reduction efforts;*

The disposal site is closed. On July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal pursuant to its Solid Waste Site Closure Permit No. 214 issued by the DEQ.

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

Starting on January 1, 2009, any landfill accepting non-putrescible waste (such as construction and demolition debris) from the Metro region has been prohibited from accepting and disposing of non-putrescible waste that has not first undergone material recovery. This has resulted in an increase in the region's recycling and waste reduction efforts.

5) *The consistency of the designation with Metro's existing contractual arrangements;*

Deleting Lakeside Reclamation from the list of designated facilities in Metro Code Section 5.05.030(a) does not conflict with Metro's disposal contract or any other of 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;*

The Metro Council terminated the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009) because Lakeside Reclamation failed to establish a modified agreement with the Chief Operating Officer by the required deadline established in Metro Code which constituted good cause for termination of the agreement.

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.*

There are no other benefits or detriments regarding deleting the existing designation other than providing consistency with the following actions taken by Metro and the DEQ: (1) the Metro Council's action to terminate the designated facility agreement between Lakeside Reclamation and Metro on December 31, 2008 (Resolution No. 08-4009), and (2) on July 1, 2009, Lakeside Reclamation ceased accepting solid waste for disposal pursuant to its Solid Waste Site Closure Permit No. 214 issued by the DEQ. There are no regional impacts since Lakeside Reclamation has not accepted waste from the Metro region for disposal since January 1, 2009.

The proposed Ordinance No. 14-1333 serves as a companion to Ordinance No. 14-1334 and Ordinance No. 14-1335 in which it is recommended that Cedar Grove Composting, Inc. and Weyerhaeuser Regional Landfill also be removed from the list of designated facilities of the system in Metro Code Section 5.05.030 (a).

ANALYSIS/INFORMATION

1. Known Opposition. There is no known opposition to this Ordinance.

- 2. Legal Antecedents.** Metro Code Section 5.05.030 (b) provides that Metro Council may, from time to time, acting pursuant to a duly enacted ordinance, may remove a facility from the list of designated facilities described in Metro Code Section 5.05.030 (a).
- 3. Anticipated Effects.** Adoption of Ordinance 14-1333 will delete Metro Code Section 5.05.030 (a) (4) that lists Lakeside Reclamation as a Designated Facility of the System. The remaining provisions will be renumbered as provided in Ordinance No. 14-1337.
- 4. Budget Impacts.** There are no budget impacts associated with the adoption of this Ordinance.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 14-1333

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Agenda Item No. 6.4

Ordinance No. 14-1334, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Cedar Grove Composting, Inc. from the List of Metro Designated Facilities.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 14-1334
CODE CHAPTER 5.05 TO DELETE CEDAR)	
GROVE COMPOSTING, INC. FROM THE LIST	)	Introduced by Chief Operating Officer Martha
OF METRO DESIGNATED FACILITIES	)	Bennett in concurrence with Council
		President Tom Hughes

WHEREAS, Metro Code Section 5.05.030 authorizes the Metro Council to add and delete facilities from the list of designated facilities included in that section; and

WHEREAS, in Metro Ordinance No. 05-1081, the Metro Council amended Metro Code Section 5.05.030 to add Cedar Grove Composting, Inc. as a designated facility of the system; and

WHEREAS, Metro Code Section 5.05.030(b) requires the Metro Council to consider seven criteria when deciding whether to amend or delete an existing designation; and

WHEREAS, as set forth in the staff report accompanying this Ordinance, the Chief Operating Officer analyzed the criteria set forth in Metro Code Section 5.05.030(b) and recommends that the Metro Council delete Cedar Grove Composting, Inc. from the list of designated facilities; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 5.05.030 (a) (11) listing Cedar Grove Composting, Inc. as a Designated Facility of the System is deleted.
2. The remaining provisions are renumbered as provided in Ordinance No. 14-1337.

ADOPTED by the Metro Council this [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1334, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.05 TO DELETE CEDAR GROVE COMPOSTING, INC. FROM THE LIST OF METRO DESIGNATED FACILITIES

Date: July 1, 2014

Prepared by: Bill Metzler797-1666

The proposed Ordinance, if approved by Council, will delete Cedar Grove Composting, Inc. from the list of designated facilities of the system described in Metro Code Chapter 5.05.

BACKGROUND

Metro solid waste flow control provisions (Chapter 5.05 of the Code) allow Council to “designate” facilities located outside the Metro boundary to be part of the Metro solid waste system. Metro Code Section 5.05.030 describes the designated facilities of the system. Once designated, these facilities enter into contracts (designated facility agreements) with Metro to receive specific waste streams from in the Metro region without the need to obtain a Metro non-system license (NSL). Designated facilities also collect and remit to Metro Regional System Fee and Excise Tax on waste when applicable. Designated facility agreements are a way for Metro and the private sector to cooperatively allow the free flow of certain wastes, and gives Metro some level of regulatory oversight at the facility; thereby ensuring proper management of the waste generated in the Metro region.

The two Cedar Grove Composting, Inc. facilities are located in Maple Valley, Washington and Everett, Washington. Cedar Grove Composting, Inc. has been a designated facility in Metro Code Chapter 5.05 since 2005 (Metro Ordinance No. 05-1081). Cedar Grove Composting, Inc. entered a designated facility agreement of five year’s duration with Metro in June of 2005 (Metro Contract No. 926533). In June 2010 an amendment was executed to extend the expiration of the designated facility agreement to December 31, 2011. Metro also entered into a separate contract with the facility for processing organic waste from the Metro Central Transfer Station. Since its designation in 2005, the facility has only received organics (food waste) from the Metro Central Transfer Station under its operations contract with Metro. As a result, Cedar Grove Composting, Inc. never received organics from any other source within the Metro region under the terms of the designated facility agreement.

The designated facility agreement expired on December 31, 2011 to align with the expiration of Metro’s operations contract with the facility. Cedar Grove Composting, Inc. has not sought to enter into a new agreement with Metro since that time. Further, a facility representative informed Metro staff that Cedar Grove Composting, Inc. does not intend to make application in the future nor does the facility object to the removal of Cedar Grove Composting, Inc. from the list of designated facilities in Metro Code. Cedar Grove Composting, Inc. has not accepted organic waste from the Metro region since 2009.

Currently, residentially generated organics from the city of Portland program (food waste with yard debris) that are delivered to the Metro Central Station are transferred to the Recology owned and operated Nature’s Needs composting facility located in North Plains. Organics generated from the commercial sector that are delivered to the Metro Central Station are transferred to the JC-Biomethane facility in Junction City where they are digested in-vessel to produce biogas and useful by-products including soil amendments for agricultural use.

Deleting an existing designated facility

Metro Code Section 5.05.030(a) contains a list of designated facilities. Metro Code Section 5.05.030(b) states that, pursuant to a duly enacted ordinance, the Metro Council may add facilities or remove them from the list. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider several factors listed in Code. However, these factors are not particularly relevant for deleting an existing designation such as Cedar Grove Composting, Inc. This is because Cedar Grove Composting, Inc. no longer seeks to accept organics generated from the Metro region or to be listed as a designated facility of Metro's system. As a result, Cedar Gove Composting, Inc. has allowed its designated facility agreement with Metro to expire on December 31, 2011 and does not seek to maintain its designated facility status.

Below is a list of the factors listed in Section 5.05.030(b), followed by staff consideration.

- 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;*

Cedar Grove Composting, Inc. has been operating its Maple Valley facility since 1989. The Everett facility began operations in July 2004. The facilities have accepted only source-separated organics for composting. Therefore, it is highly unlikely that the organic waste accepted at the facilities is likely to pose a risk of environmental contamination. Metro area waste is no longer delivered to or accepted by the facility.

- 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;*

The Maple Valley facility operates under a Solid Waste Permit issued by Seattle-King County, a Puget Sound Clean Air Agency Permit, and a King County Industrial Waste Discharge Permit. The Everett facility's solid waste permit was issued by the Snohomish County Health Department. Both facilities are considered by their regulatory agencies to be well run and in compliance with all federal, state, and local requirements including those related to public health, safety and environmental rules and regulations. In 2011, the facility was fined for odor violation notices during 2009 and 2010 at the Maple Valley and Everett facilities. Over the years, both facilities have had to make operational changes and facility modifications in order to help mitigate odor impacts. Metro area waste is no longer delivered to or accepted by the facility.

- 3) *The adequacy of operational practices and management controls at the facility;*

Metro staff have periodically visited both the Maple Valley and Everett facilities during the term of the now expired designated facility agreement. Both facilities used operational practices and management controls that were judged by Metro staff to be adequate for the protection of health, safety and the environment.

- 4) *The expected impact on the region's recycling and waste reduction efforts;*

Deleting the facility from Metro's designated facility list will not result in any negative impact on the region's recycling and waste reduction efforts. Organic waste from the region that was diverted from Cedar Grove Composting Inc. is now being delivered to less distant processing facilities. Currently, organic waste generated in the Metro region is being processed at other composting or anaerobic digestion facilities.

- 5) *The consistency of the designation with Metro's existing contractual arrangements;*

The designation or deletion of the designation does not conflict with Metro's disposal contract or any other of Metro's existing contractual obligations.

- 6) *The record of the facility regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement;*

Cedar Grove Composting, Inc. operated in compliance with its Metro designated facility agreement.

- 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.*

Staff are not aware of any other benefits or detriments regarding deleting the existing designation other than providing consistency with the wishes of Cedar Grove Composting, Inc.

The proposed Ordinance No. 14-1334 serves as a companion to Ordinance No. 14-1333 and Ordinance No. 14-1335 for the purpose of also removing Lakeside Reclamation and Weyerhaeuser Regional Landfill from the list of designated facilities of the system in Metro Code Section 5.05.030 (a).

ANALYSIS/INFORMATION

- 1. Known Opposition.** There is no known opposition to this Ordinance.
- 2. Legal Antecedents.** Metro Code Section 5.05.030 (b) provides that Metro Council may, from time to time, acting pursuant to a duly enacted ordinance, may remove a facility from the list of designated facilities described in Metro Code Section 5.05.030 (a).
- 3. Anticipated Effects.** Adoption of Ordinance 14-1334 will delete Metro Code Section 5.05.030 (a) (11) that lists Cedar Grove Composting, Inc. as a Designated Facility of the System. The remaining provisions will be renumbered as provided in Ordinance No. 14-1337.
- 4. Budget Impacts.** There are no budget impacts associated with the adoption of this Ordinance.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 14-1334.

Agenda Item No. 6.5

Ordinance No. 14-1335, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Weyerhaeuser Regional Landfill from the List of Metro Designated Facilities Effective January 1, 2015.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO) ORDINANCE NO. 14-1335
CODE CHAPTER 5.05 TO DELETE)
WEYERHAEUSER REGIONAL LANDFILL) Introduced by Chief Operating Officer Martha
FROM THE LIST OF METRO DESIGNATED) Bennett in concurrence with Council
FACILITIES EFFECTIVE JANUARY 1, 2015) President Tom Hughes

WHEREAS, Metro Code Section 5.05.030 authorizes the Metro Council to add and delete facilities from the list of designated facilities included in that section; and

WHEREAS, in Metro Ordinance No. 05-1083, the Metro Council amended Metro Code Section 5.05.030 to add Weyerhaeuser Regional Landfill as a designated facility of the system; and

WHEREAS, Weyerhaeuser has transferred ownership of the landfill to Cowlitz County, and Metro has consented to assignment of the designated facility agreement to Cowlitz County; and

WHEREAS, the designated facility agreement for the landfill expires December 31, 2014; and

WHEREAS, Metro Code Section 5.05.030(b) requires the Metro Council to consider seven criteria when deciding whether to amend or delete an existing designation; and

WHEREAS, as set forth in the staff report accompanying this Ordinance, the Chief Operating Officer analyzed the criteria set forth in Metro Code Section 5.05.030(b) and recommends that the Metro Council delete Weyerhaeuser Regional Landfill from the list of designated facilities; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Section 5.05.030 (a) (12) listing Weyerhaeuser Regional Landfill as a Designated Facility of the System is deleted.
2. The remaining provisions are renumbered as provided in Ordinance No. 14-1337.
3. These changes are effective January 1, 2015.

ADOPTED by the Metro Council this [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1335, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.05 TO DELETE WEYERHAEUSER REGIONAL LANDFILL FROM THE LIST OF METRO DESIGNATED FACILITIES EFFECTIVE JANUARY 1, 2015

Date: July 1, 2014

Prepared by: Bill Metzler, 503-797-1666

The proposed Ordinance, if approved by Council, will delete Weyerhaeuser Regional Landfill from the list of designated facilities of the system described in Metro Code Chapter 5.05 effective January 1, 2015.

BACKGROUND

Metro solid waste flow control provisions (Chapter 5.05 of the Code) allow Council to “designate” facilities located outside the Metro boundary to be part of the Metro solid waste system. Metro Code Section 5.05.030 describes the designated facilities of the system. Once designated, these facilities enter into contracts (designated facility agreements) with Metro to receive specific waste streams from in the Metro region without the need for individual waste haulers to obtain a Metro non-system license (NSL). Designated facilities also collect and remit to Metro Regional System Fee and Excise Tax on waste when applicable. Designated facility agreements are a way for Metro and the private sector to cooperatively allow the free flow of certain wastes, and gives Metro some level of regulatory oversight at the facility; thereby ensuring proper management of the waste generated in the Metro region.

The Weyerhaeuser Regional Landfill located in Castle Rock Washington, and the Weyerhaeuser Material Recovery Facility, located in Longview Washington, together, have been a designated facility in Metro Code Chapter 5.05 since 2005 (Metro Ordinance No. 05-1083). The Weyerhaeuser Material Recovery Facility was designated only for the purpose of accepting non-putrescible solid waste processing residual and alternative daily cover for transfer to the Weyerhaeuser Regional Landfill. As a designated facility, Weyerhaeuser Regional Landfill has operated under the terms of a designated facility agreement with Metro since 2005 (Metro Contract No. 930885). During this time the landfill received primarily automobile shredder residue and non-putrescible waste residual from Metro regional material recovery facilities.

On February 18, 2014, Weyerhaeuser entered into an agreement with Cowlitz County to sell the assets of Weyerhaeuser’s Regional Landfill to the County. The transaction closed in March 2014, and Cowlitz County assumed control and began performing Weyerhaeuser’s obligations related to the Weyerhaeuser Regional Landfill. On March 31, 2014, at the request of Weyerhaeuser, Metro consented to the assignment of the designated facility agreement (Contract No. 930885) to Cowlitz County in order to minimize disruption through the end of 2014. The term of the designated facility agreement expires on December 31, 2014. The landfill has been renamed the Cowlitz County Headquarters Landfill.

Deleting an existing designated facility

Metro Code Section 5.05.030(a) contains a list of designated facilities. Metro Code Section 5.05.030(b) states that, pursuant to a duly enacted ordinance, the Metro Council may add facilities or remove them from the list. In deciding whether to designate an additional facility, or amend or delete an existing designation, the Council shall consider several factors listed in Code.

However, these factors are not particularly relevant for deleting the existing designation for the Weyerhaeuser Regional Landfill. This is because the Weyerhaeuser Regional Landfill no longer exists as initially designated, because it has been sold to Cowlitz County and was renamed the Cowlitz County

Headquarters Landfill. Furthermore, the operational practices and types of waste received at the Cowlitz County Headquarters Landfill are no longer consistent with the designation that was approved by Council for the Weyerhaeuser Regional Landfill on May 19, 2005 (Ordinance No. 05-1083). In particular, Cowlitz County Headquarters Landfill now accepts mixed municipal putrescible solid waste and uses a third-party transfer station (Waste Control, located in Longview, Washington) for receiving and reloading waste prior to disposal at the landfill. Therefore, the Cowlitz County Headquarters Landfill is now a significantly different facility than that which was initially approved by the Metro Council and listed in Metro Code Section 5.05.030(a)(12). As a result, the landfill must apply for and obtain Metro Council approval to be designated in its own right beyond the term of the current contract. The current designated facility agreement (Contract No. 930885) that has been assigned to Cowlitz County Headquarters Landfill from the Weyerhaeuser Regional Landfill will expire on December 31, 2014. Therefore, the effective date for deleting the designation for Weyerhaeuser Regional Landfill will be January 1, 2015.

Below is a list of the factors listed in Section 5.05.030(b), followed by staff consideration.

- 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;*

The disposal site was a Weyerhaeuser owned and operated limited-purpose landfill located near Castle Rock, Washington in Cowlitz County. The landfill began operations in 1993 and primarily served as a disposal site for wastes generated by Weyerhaeuser's own forest products and manufacturing operations. The landfill permit was approved by the Cowlitz County Department of Building and Planning under authority of a Memorandum of Agreement with the Washington Department of Ecology. Staff research did not uncover any evidence of any waste accepted at the landfill that was likely to pose a risk of environmental contamination.

However, in March 2014 Cowlitz County Public Works took over ownership and operations of the landfill. At the request of Weyerhaeuser, Metro assigned the designated facility agreement to Cowlitz County (Contract No. 930885). The landfill is now permitted by Cowlitz County to accept different waste streams than previously accepted by Weyerhaeuser. For example, Cowlitz County has authorized the landfill to accept mixed municipal solid waste (putrescible waste). Further, the Weyerhaeuser Material Recovery Facility located in Longview, Washington will no longer be used by Cowlitz County as a point of transfer for solid waste destined to be delivered to the landfill. However, Weyerhaeuser will continue to send waste from its own operations to the landfill through its Weyerhaeuser Material Recovery Facility located in Longview, Washington.

- 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;*

With respect to the Weyerhaeuser Regional Landfill operations, Weyerhaeuser was considered by the Cowlitz County to be a well run facility that was in compliance with all federal, state, and local requirements including those related to public health, safety and environmental rules and regulations.

- 3) *The adequacy of operational practices and management controls at the facility;*

Metro staff visited the landfill several times over the term of the designated facility agreement. Weyerhaeuser Regional Landfill's operational practices and management controls were judged by Metro staff and Cowlitz County staff to be adequate and consistent with other similar facilities. The Weyerhaeuser Regional Landfill used operational practices and management controls that are

typical of limited-purpose landfills and considered adequate for the protection of health, safety and the environment. The landfill has since changed ownership and operational practices that are not consistent with the designation originally approved by the Metro Council and Section 5.05.030(a)(12) of the Metro Code.

4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste authorized for disposal under the existing designated facility agreement includes only solid wastes that do not have a potential for recycling. Such wastes include special waste and processing residue from recycling facilities. Thus, deleting the facility from Metro Code Chapter 5.05 is not expected to have an impact of the region's recycling and waste reduction efforts.

5) *The consistency of the designation with Metro's existing contractual arrangements;*

Deleting Weyerhaeuser Regional Landfill from the list of designated facilities in Metro Code Section 5.05.030(a) does not conflict with Metro's disposal contract or any other of 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;*

Weyerhaeuser Regional Landfill has been cooperative with Metro and has a good record of compliance with Metro ordinances and agreements.

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.*

Deleting the Weyerhaeuser Regional Landfill from Metro Code Chapter 5.05 will ensure that the designated facilities of the system that are approved by the Metro Council and when listed in Metro Code Section 5.05.030(a) are accurate and up to date.

The Weyerhaeuser Regional Landfill no longer exists as initially designated because it has been sold to Cowlitz County and was renamed the Cowlitz County Headquarters Landfill. Furthermore, the Cowlitz County Headquarters Landfill's operations and types of waste accepted are no longer consistent with the Weyerhaeuser Regional Landfill designation as provided in Section 5.05.030(a)(12) and as approved by the Metro Council on May 19, 2005 (Ordinance No. 05-1083). The Cowlitz County Headquarters Landfill is now a different facility and must apply for and obtain Metro Council approval in order to be designated in its own right beyond the term of the current contract. The current designated facility agreement (Contract No. 930885) that has been assigned to Cowlitz County Headquarters Landfill from the Weyerhaeuser Regional Landfill will expire on December 31, 2014. Therefore, the effective date for deleting the designation for Weyerhaeuser Regional Landfill will be January 1, 2015.

The proposed Ordinance No. 14-1335 serves as a companion to Ordinance No. 14-1333 and Ordinance No. 14-1334 in which it is recommended that Lakeside Reclamation and Cedar Grove Composting, Inc. also be removed from the list of designated facilities of the system in Metro Code Section 5.05.030 (a).

ANALYSIS/INFORMATION

1. **Known Opposition.** There is no known opposition to this Ordinance.
2. **Legal Antecedents.** Metro Code Section 5.05.030 (b) provides that Metro Council may, from time to time, acting pursuant to a duly enacted ordinance, may remove a facility from the list of designated facilities described in Metro Code Section 5.05.030 (a).
3. **Anticipated Effects.** Adoption of Ordinance 14-1335 will delete Metro Code Section 5.05.030 (a) (12) that lists Weyerhaeuser Regional Landfill as a Designated Facility of the System. The remaining provisions will be renumbered as provided in Ordinance No. 14-1337.
4. **Budget Impacts.** There are no budget impacts associated with the adoption of this Ordinance.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 14-1335

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Agenda Item No. 6.6

Ordinance No. 14-1337, For the Purpose of Amending Metro
Code Title V, Solid Waste, to Revise Chapter 5.05.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE TITLE V, SOLID WASTE, TO REVISE)
CHAPTER 5.05.)
)
)
)

ORDINANCE NO. 14-1337

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 [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit "A" to Ordinance 14-1337

CHAPTER 5.05

SOLID WASTE FLOW CONTROL

SECTIONS	TITLE
5.05.010	Definitions (repealed Ord. 14-1331)
5.05.015	Special Findings for Solid Waste Flow Control
5.05.020	Authority, Jurisdiction, and Application
5.05.025	Prohibited Activities
5.05.027	Exemptions
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>
5.05.032 <u>5.05.032</u>	<u>Deletions and Amendments to the List of Designated Facilities</u>
5.05.033 <u>5.05.033</u>	<u>Contents of Designated Facility List and Council Adoption Every Five Years</u>
5.05.034 <u>5.05.034</u>	<u>Agreements with Designated Facilities</u>
5.05.040 <u>5.05.040</u>	<u>License to Use Non-System Facility</u>
5.05.038 <u>5.05.041</u>	<u>Application for License</u>
5.05.040 <u>5.05.042</u>	<u>License Application Fees</u>
5.05.043 <u>5.05.043</u>	<u>Factors to Consider to Determine whether to issue License</u>
5.05.044 <u>5.05.044</u>	<u>Timetables to Determine whether to issue License</u>
5.05.045 <u>5.05.045</u>	<u>Issuance of Non-System License; Contents</u>
5.05.046 <u>5.05.046</u>	<u>Requirements to be met by License Holder</u>
5.05.047 <u>5.05.047</u>	<u>Failure to Comply with License</u>
5.05.050 <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 OperatingHearings 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 know 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.~~

(~~db~~) 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.

(~~ec~~) 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.

(~~fd~~) 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~~e) 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).

(~~3~~c) 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.)

5.05.04050 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.~~05055~~.

(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.

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Agenda Item No. 6.7

Ordinance No. 14-1338, For the Purpose of Amending Metro
Code Title V, Solid Waste, to Revise Chapter 5.02.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE TITLE V, SOLID WASTE, TO REVISE)
CHAPTER 5.02.)
)
)
)

ORDINANCE NO. 14-1338
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 5.02 contains the requirements for Disposal Charges and User Fees; and

WHEREAS, the Chief Operating Officer recommends organizational changes to Chapter 5.02 to improve access and readability of the Metro Code, including incorporating certain provisions pertaining to the payment of regional system fees; and

WHEREAS, Metro revised Chapter 5.01 in July 2014 pursuant to Ordinance No. 14-1332 to repeal certain regional system fee exemptions and requirements for relocation to Chapter 5.02;

WHEREAS, portions of Metro Code Chapter 5.02 must be revised to update the code to reflect these changes and other necessary changes; and

WHEREAS, to achieve the above-referenced objectives, it is necessary to revise Metro Code Chapter 5.02, Disposal Charges and User Fees; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Amendment. Metro Code Section 5.02.045 is amended as set forth in the attached Exhibit A.
2. Metro Code Amendment. Metro Code Section 5.02.055 is amended as set forth in the attached Exhibit B.
3. Metro Code Amendment. The term “Community Enhancement Fee” shall replace the term “Community Rehabilitation and Enhancement Fee” in Metro Code subsection 5.02.025(a)(1)(C), and all other subsections of Metro Code Section 5.02.025 shall remain unchanged.

ADOPTED by the Metro Council this [insert date] day of [insert month] 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit "A" to Ordinance 14-1338

CHAPTER 5.02

DISPOSAL CHARGES AND USER FEES

5.02.045 Regional System Fees

(a) The Regional System Fee shall be the dollar amount per ton of solid waste adopted by an ordinance of the Metro Council, prorated based on the actual weight of solid waste at issue rounded to the nearest one-hundredth of a ton.

(b) Any waste hauler or other person transporting solid waste generated, originating, or collected from inside the Metro region shall pay Regional System Fees to Metro for the disposal of such solid waste. Payment of applicable system fees to the operator of a Designated Facility shall satisfy the obligation to pay system fees, provided that, if such solid waste is transported to a Designated Facility outside of the Metro region, then such waste hauler or other person must have informed the operator of the Designated Facility that the solid waste was generated, originated or collected inside the Metro region. In any dispute regarding whether such waste hauler or other person informed such operator that the solid waste was generated, originated, or collected inside the Metro region, such waste hauler or other person shall have the burden of proving that such information was communicated.

~~——(e)(c) Regional system fees shall not apply to:~~

- ~~(1) Solid waste received at solid waste facilities that are licensed, franchised or exempt from regulation under Chapter 5.01;~~
- ~~(2) Cleanup material contaminated by hazardous substances accepted at facilities that treat said cleanup material contaminated by hazardous substances to applicable DEQ standards;~~
- ~~(3) Useful material that is accepted at a disposal site that is listed as a Metro Designated Facility in Chapter 5.05 or accepted at a disposal site under authority of a Metro Non-System License issued pursuant to Chapter 5.05, provided that the useful material: (A) is intended to be used, and is in fact used, productively in the operation of the disposal site such as for roadbeds or alternative~~

daily cover; and (B) is accepted at the disposal site at no charge; or

- (4) Processing residual produced by any tire processor that is regulated pursuant to Chapter 5.01 and that sorts, classifies or processes used tires into fuel or other products, provided said processing residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro license or franchise.

(d) Designated Facility operators shall collect and pay to Metro the Regional System Fee for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with ~~Metro Code Section 5.01.150~~this chapter. There is no liability for regional system fees on charge accounts that are worthless and charged off as uncollectible, provided that an affidavit is filed with Metro stating the name and amount of each uncollectible charge account and documenting good faith efforts that have been made to collect the accounts. Regional system fees may not be deemed uncollectible unless the underlying account is also uncollectible. If the fees have previously been paid, a deduction may be taken from the next payment due to Metro for the amount found worthless and charged off. If any such account is thereafter collected, in whole or in part, the amount so collected shall be included in the first return filed after such collection, and the fees shall be paid with the return.

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

(f) When solid waste generated from within the Metro boundary is mixed in the same vehicle or container with solid waste generated from outside the Metro boundary, the load in its entirety shall be reported at the disposal site by the generator or hauler as having been generated within the Metro boundary, and the Regional System Fee shall be paid on the entire load unless the generator or hauler provides the disposal site operator with documentation regarding the total weight of the solid waste in the vehicle or container that was generated within the Metro boundary and the disposal site operator

forwards such documentation to Metro, or unless Metro has agreed in writing to another method of reporting.

~~(c) System fees described in this Section 5.02.045 shall not apply to exemptions listed in Section 5.01.150(b) of this Code.~~

(Ordinance No. 82-146, Sec. 8. Amended by Ordinance No. 85-191, Sec. 4; Ordinance No. 86-214, Sec. 4; Ordinance No. 88-257, Sec. 6; Ordinance No. 88-278, Sec. 4; Ordinance No. 89-269, Sec. 2; Ordinance No. 90-337, Sec. 6; Ordinance No. 90-351, Sec. 1; Ordinance No. 90-372, Sec. 3; Ordinance No. 91-386C, Sec. 6; Ordinance No. 92-455B, Sec. 1; Ordinance No. 94-531, Sec. 6; Ordinance No. 97-681B, Sec. 4. Repealed by Ordinance No. 98-720A, Sec. 19; replaced by Ordinance No. 98-720A, Sec. 20. Amended by Ordinance No. 99-823A, Sec. 2; Ordinance No. 00-867, Sec. 3; Ordinance No. 01-918A, Sec. 3; Ordinance No. 03-1000A, Sec. 2; Ordinance No. 04-1042A, Sec. 2; Ordinance No. 05-1080, Sec. 3; Ordinance No. 06-1103, Sec. 2; Ordinance No. 06-1118, Sec. 4; Ordinance No. 07-1146, Sec. 3; Ordinance No. 08-1186A, Sec. 2; Ordinance No. 09-1217A, Sec. 2; Ordinance No. 10-1237, Secs. 2 and 4; Ordinance No. 11-1257A, Sec. 2; Ordinance No. 12-1277, Sec. 2 and Ordinance No. 13-1323, Sec 3.)

(5.02.046 Special Findings for Regional System Fee Credits. Repealed Ord. 07-1147B, effective 7/01/09)

Exhibit "B" to Ordinance 14-1338

CHAPTER 5.02

DISPOSAL CHARGES AND USER FEES

5.02.055 Remittance to Metro of Fees and Other Charges

(a) Fees and charges owed to Metro by any person pursuant to this Chapter shall constitute a debt owed to Metro, and such debt shall be extinguished only by payment of such fees and charges to Metro as provided in this section. Franchisees and other operators of Designated Facilities shall remit fees and charges other than excise taxes to Metro as specified in this section. In addition, waste haulers and other persons liable for the payment of user fees as provided in Metro Code Section 5.02.045(b) shall remit fees and charges other than excise taxes to Metro as specified in this section.

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

(Ordinance No. 93-509, Sec. 3. Amended by Ordinance No. 94-533, Sec. 1; Ordinance No. 97-681B, Sec. 5; Ordinance No. 98-720A, Sec. 23; Ordinance No. 06-1103, Sec. 3.)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1338 FOR THE PURPOSE OF AMENDING METRO CODE TITLE V, SOLID WASTE, TO REVISE CHAPTER 5.02.

July 1, 2014

Prepared by: Warren Johnson
503-797-1836

The proposed ordinance amends Title V (Solid Waste) to revise Chapter 5.02 (Disposal Charges and User Fees) to include certain provisions related to the payment of regional systems fees and other technical corrections to improve the readability and organizational structure of the Code. There are no substantive changes to any current policies, practices, or regulatory requirements under this proposed ordinance.

BACKGROUND

Metro Code Chapter 5.02 (Disposal Charges and Fees) governs the establishment and assessment of disposal charges and regional system fees on solid waste within the region. In order to make the Code more accessible and easier to use, the Chief Operating Officer recommends revising Chapter 5.02 to add certain provisions related to the payment of regional system fees that were repealed from Chapter 5.01 under a separate ordinance.¹ Such fee-related provisions are more appropriate for Chapter 5.02. The proposed ordinance also includes two minor technical corrections to update and improve the readability the Code.

This proposed ordinance is part of a package of ordinances that are intended to improve the consistency, access, and usability of Metro's solid waste Code. In addition to this action, Metro Council will also consider three similar ordinances for other housekeeping and organizational improvements to the Code at its meeting on July 24, 2014.²

ANALYSIS/INFORMATION

1. Known Opposition

Adoption of this ordinance would result in changes to the organizational structure of Title V, including relocating certain fee-related provisions from Chapter 5.01 to Chapter 5.02. The proposed ordinance also includes two minor technical corrections to Chapter 5.02. There are no substantive changes to any current policies, practices, 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:

- Revisions to Metro Code Section 5.02.045 to incorporate certain fee-related provisions that were repealed from Section 5.01.150 (under separate Ordinance No. 14-1332).

¹ Ordinance No. 14-1332

² Chapter 5.00 (Ord. No. 14-1331), Chapter 5.01 (Ord. No. 14-1332), and Chapter 5.05 (Ord. No. 14-1337)

- Revision of subsection 5.02.055(b) to delete certain obsolete specifications regarding fee remittance procedures.
- Minor technical correction in subsection 5.02.025(a)(1)(C).

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. 14-1338. Approval of this ordinance will revise Chapter 5.02 (Disposal Charges and User Fees) to include certain provisions related to the payment of regional systems fees, as provided in Exhibit A, and other technical corrections, as provided in Exhibit B, to improve the readability and organizational structure of the Code.

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Agenda Item No. 6.8

Ordinance 14-1342, For the Purpose of Amending Metro Code
Section 2.19.130 to Change the Name of the Solid Waste
Advisory Committee.

Ordinances – Second Read

Metro Council Meeting
Thursday, July 24, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 14-1342
CODE CHAPTER 2.19 TO CHANGE THE NAME)	
OF THE SOLID WASTE ADVISORY	)	Introduced by Chief Operating Officer Martha
COMMITTEE	)	Bennett in concurrence with Council
	)	President Tom Hughes

WHEREAS, Metro Code Chapter 2.19 provides the authority for the Metro Council to establish advisory committees, including the purpose, authority and membership of those committees; and

WHEREAS, the Metro Council established the Solid Waste Advisory Committee to provide advice regarding regional solid waste management and planning; and

WHEREAS, the Metro Council wishes to change the name of the committee to Solid Waste Alternatives Advisory Committee to better reflect the purpose of the committee; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Metro Code Amendment. Metro Code Sections 2.19.020, "Definitions," and 2.19.130, "Metro Solid Waste Advisory Committee (SWAC)" are amended as set forth in the attached Exhibit A.

ADOPTED by the Metro Council this _____ day of _____ 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

Exhibit "A" to Ordinance No. 14-1342

CHAPTER 2.19

METRO ADVISORY COMMITTEES

2.19.020 Definitions

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

- (1) "SWAAC" means Solid Waste Alternatives Advisory Committee.

2.19.130 Metro Solid Waste Alternatives Advisory Committee (SWAAC)

(a) Purpose. The purpose of the Metro Solid Waste Alternatives Advisory Committee (SWAAC) is to develop policy options that, if implemented, would serve the public interest by reducing the amount and toxicity of waste generated and disposed, or enhancing the effectiveness and sustainability of the system through which the region's solid waste is managed. For the purpose of this Section, the term sustainability is as defined in Metro Council Resolution No. 08-3931.

- (b) Membership. Members are categorized as follows:

(1) <u>Regular Voting Members:</u>	
Jurisdictions with a population under 50,000	3
Jurisdictions with a population between 50,000 and 500,000	3
Jurisdiction with a population over 500,000	<u>1</u>
Total Local Government Members:	7
(2) <u>Non-Voting Members:</u>	
Oregon Department of Environmental Quality	1
Non Governmental	1
Solid Waste Industry	3
Chair, Metro	<u>1</u>

Total Non-Voting Members:	6
TOTAL MEMBERS	13

(c) Appointment of Members.

- (1) Local government members shall be nominated by a jurisdiction's presiding executive, appointed by the Metro Council President, and subject to confirmation by the Metro Council. In making the local government appointments, the Metro Council President will seek members directly involved in solid waste regulation or oversight and those involved in resource conservation.
- (2) The Oregon Department of Environmental Quality (DEQ) member shall be nominated by DEQ's presiding executive, appointed by the Metro Council President, and subject to confirmation by the Metro Council.
- (3) The Metro member shall be nominated by the Chief Operating Officer, appointed by the Metro Council President, and subject to confirmation by the Metro Council. The Chief Operating Officer also shall nominate an alternate Metro member who can serve when the confirmed member is unavailable.
- (4) The remaining non-voting members shall be nominated through a public application process, appointed by the Metro Council President, and subject to confirmation by the Metro Council.

(d) Membership.

(1) Terms of Office.

- (a) The local government members shall serve for a term of two (2) years. A member may be reappointed for additional terms through the process set forth above.
- (b) The DEQ member shall serve until a replacement is nominated by the DEQ executive.
- (c) The Metro member shall serve until a replacement is nominated by the Chief Operating Officer.
- (d) The remaining non-voting members shall serve for a term of two (2) years. A non-voting member in this category may serve for a second consecutive two (2) year term.

- (2) Meetings. SWAAC shall meet on a schedule determined by the Chairperson, with no fewer than two meetings per calendar year. The Chairperson shall schedule additional meetings as needed to respond to requests from the Metro Council for analysis of particular issues.
- (3) Attendance. Members should be present at and participate in all regular meetings. Members who are absent for more than one regular meeting in a calendar year may be asked by the Council President to resign.
- (4) Local government. For the members from jurisdictions with a population under 50,000, the Metro Council shall confirm at least one member each from a community west and east of the Willamette River. A County's population includes only those residents of the County's unincorporated areas.
- (5) Solid Waste Industry. Solid Waste Industry members shall include persons involved in the collection, transfer, processing, disposal, or recycling of Solid Waste generated in the Metro Region.
- (6) Non Governmental. The Non Governmental member shall be from a non-profit organization whose mission related to advancing sustainability in the Metro Region.

(e) Chair. The Chairperson of SWAAC shall be the Metro member or, in the Metro's member's absence, the Metro alternate member.

(f) Reports to Council. SWAAC shall include a summary of the minority opinions of voting and non-voting members when describing the policy options that it recommends to the Metro Council for consideration.

(g) Subcommittees. SWAAC may establish subcommittees of a limited and defined duration. Membership composition shall be determined by SWAAC and may include individuals who are not members of the Committee. All such subcommittees shall report to SWAAC.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1342, FOR THE PURPOSE OF AMENDING METRO CODE SECTION 2.19.130 TO CHANGE THE NAME OF THE SOLID WASTE ADVISORY COMMITTEE

Date: July 17, 2014

Prepared by: Matt Korot, 503-797-1760

BACKGROUND

The proposed ordinance would change the name of the Metro Solid Waste Advisory Committee (SWAC) to the Metro Solid Waste Alternatives Advisory Committee (SWAAC).

Metro Code section 2.19.130 establishes that the purpose of the Metro Solid Waste Advisory Committee is:

. . . to develop policy options that, if implemented, would serve the public interest by reducing the amount and toxicity of waste generated and disposed, or enhancing the effectiveness and sustainability of the system through which the region's solid waste is managed.

The "policy options" component of this statement, which dates to the reestablishment of SWAC in 2009, purposefully distinguishes the committee's scope of work from that of its predecessor, which was charged with ". . . present[ing] policy recommendations to the Metro Council." While the current SWAC is operating in accordance with its chartering code language, staff recommends changing the name to more explicitly communicate that the committee should be identifying and/or providing input on a range of alternative courses of action in order to provide the Council with a broad spectrum of potential choices to make. The new name would also more closely align with that of TPAC, the Transportation Policy Alternatives Committee.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. Legal Antecedents

Change to Metro Code requires an ordinance of the Metro Council.

3. Anticipated Effects

Adoption of this ordinance would result in changes to the Metro Code, as indicated in Exhibit A.

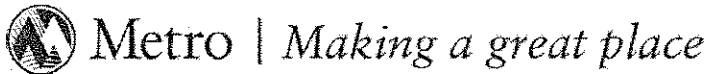
4. Budget Impacts

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

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Ordinance No. 14-1342.

Materials following this page were distributed at the meeting.



METRO COUNCIL MEETING

Meeting Minutes

Jul. 17, 2014

Metro, Council Chamber

Councilors Present: Deputy Council President Sam Chase, and Councilors Shirley Craddick, Kathryn Harrington, Bob Stacey, Carlotta Collette and Craig Dirksen

Councilors Excused: Council President Tom Hughes

Deputy Council President Sam Chase called the regular council meeting to order at 2:03 p.m.

1. INTRODUCTIONS

Deputy Council President Chase stated that the Metro Council meeting agenda had been re-organized to allow for consideration of the Ordinance to adopt the Regional Transportation Plan (RTP) [Ordinance No. 14-1340] to immediately follow consideration of Resolutions related to the RTP so that public testimony on the legislation could be heard in succession.

2. CITIZEN COMMUNICATIONS

Ellen Ino, Portland: Ms. Ino identified herself as a union organizer retired from state service under SEIU 503 and discussed cuts to classification for new hires at the Oregon Zoo. She requested that the Metro Council consider union workers as an investment in the Oregon Zoo.

Matt Ellison, Vancouver: Mr. Ellison shared his status and experience as a food worker at the Oregon Zoo. He discussed privileges of union wages and benefits as he witnessed growing up with parents in unions. He stated that the best thing the Metro Council can do to make the Zoo a more profitable and sustainable place is to support the workers through a contract recognizing human dignity.

3. CONSENT AGENDA

Motion:	Councilor Craig Dirksen moved to approve Jul. 17 Consent Agenda, which consisted of: <ul style="list-style-type: none"> • Consideration of the Council Minutes for Jul. 10, 2014; and • Resolution No. 14-4550, For the Purpose of Authorizing the Chief Operating Officer to Purchase Property in the Johnson Creek and Watershed Target Area.
Second:	Councilor Bob Stacey seconded the motion.

Vote: Deputy Council President Chase, and Councilors Craddick, Harrington, Dirksen, Collette and Stacey voted in support of the motion. The vote was 6 ayes, the motion passed unanimously.

4. RESOLUTIONS

4.1 Resolution No. 14-4545, For the Purpose of Submitting to the Voters on November 4, 2014, the Question of Whether or Not to Retain Metro Charter Provision Chapter ii, Section 5 (4)(b).

Ms. Alison R. Kean provided a brief staff report on Resolution No. 14-4545. Metro Charter requires Council to submit to the Metro area voters at the November 2014 general election the question of whether or not to retain Metro Charter provision Chapter II, Section 5 (4)(b). Ms. Kean explained that although resolutions normally have only one read, Metro Code section 9.02.020 requires that any Metro Council referral of charter language have two reads, the first being at least 28 days prior to the vote. The code also requires that a public hearing be held at the first read.

Ms. Kean summarized the three exhibits contained in the resolution: Exhibit A contains the proposed charter language, Exhibit B is the ballot titled which consists of a caption, a question, and a summary within the constraints of the law, and Exhibit C is the explanatory statement. If the resolution passes in August, all exhibits will go to onto the Oregon Secretary of State and to Multnomah County Election Offices for printing for the November ballot.

Council will consider Resolution No. 14-4545 on August 14. Council and Legal Counsel clarified that Metro Code does not require a second public hearing when the resolution is considered in August, but that Council may request one.

Deputy Council President Chase gaveled and opened a public hearing on Resolution No. 14-4545 as required by Metro Code 9.02.020(A). Seeing no citizens who wished to comment, the public hearing was closed.

4.2 Resolution No. 14-4533, For the Purpose of Approving the Environmental Justice and Title VI Assessment for the 2014 Regional Transportation Plan and the 2015-2018 Metropolitan Transportation Improvement Program.

Deputy Council President Chase introduced Resolution No. 14-4533, which if approved would adopt staff's report to the U.S. Department of Transportation as a summary of how Metro has addressed civil rights requirements for the 2014 Regional Transportation Plan (RTP) and the 2015-2018 Metropolitan Transportation Improvement Program (MTIP).

Motion:	Councilor Shirley Craddick moved to approve Resolution No. 14-4533.
Second:	Councilor Carlotta Collette seconded the motion.

Mr. Ted Leybold of Metro provided the staff report for Resolution No. 14-4533. Mr. Leybold stated that while Resolution Nos. 14-4533, 14-4534, and 14-4526 will be considered separately, they are each in support of the Regional Transportation Plan, representing milestones on the path of conducting an outcomes-based planning implementation process, guided by the Council's six

desired outcomes for the region. The plans represent consensus with regional partners on how to address transportation-related issues.

Mr. Leybold summarized requirements of the Environmental Justice and Title VI assessment. He identified communities of concern as persons of color, low-income persons, elderly persons, youth, and people with limited English proficiency. Based on the quantitative and qualitative assessments, a few condensed overall findings for the 2014 RTP and 2015 MTIP Environmental Justice and Title VI Assessment include:

- The region is investing in communities of concern at rates higher than the regional average.
- In the long-range RTP only, concentrated communities of youth would receive investment at a lower rate on average than the remainder of region.

The 2014 RTP and 2015-2018 MTIP Environmental Justice and Title VI report also includes a draft list of recommendations based on feedback received from stakeholders throughout the process for conducting analyses and addressing potential issues in the future.

Council discussion

Councilors inquired about Joint Policy Advisory Committee on Transportation (JPACT)'s requested change in language regarding stakeholder engagement through a workgroup. Mr. Leybold explained that the legislation under Council consideration is targeted toward the federally required report, but that there's a broader interested in the community to address transportation equity as a whole. The draft recommendations in the report direct staff to coordinate transportation equity planning beyond meeting federal regulations. Local partners expressed interest in engaging in the process to develop that work program with Metro.

Councilor Harrington discussed the quantity and quality of information on regional demographics and conditions available in the Environmental Justice and Title VI assessments. She requested that more information be available in presentations to make Metro's work more visible.

Council clarified with staff that under the RTP, but not the MTIP, concentrated communities of youth have a lower rate of investment when compared to the rest of the region. Mr. Leybold stated that the list of recommendations provided will be cognizant of this issue when Metro updates the 2018 RTP.

Deputy Council President Chase opened the meeting to citizen comment on the resolution:

- Jon Oscar, Portland: Mr. Oscar stated that 2014 marked the 50th anniversary of Title VI and the 20th anniversary of the Executive Order on environmental justice and thanked Metro staff for their engagement during the assessment process. He argued that if local jurisdictions properly engage communities and their community-based organizations, these assessments would not be necessary. He discussed the Needs Assessment outreach and engagement tool as a means to address shortcomings in reflecting the needs of communities of concern. On air quality conformity, Mr. Oscar stated that there was a six month period in which the region was not in conformity due to Tri Met's investment levels.

Vote:

Deputy Council President Chase, and Councilors Craddick, Harrington, Dirksen, Collette and Stacey voted in support of the motion. The vote was 6 ayes, the motion passed unanimously.

4.3 **Resolution No. 14-4534**, For the Purpose of Approving the Joint Air Quality Conformity Determination for the 2014 Regional Transportation Plan and the 2015-2018 Metropolitan Transportation Improvement Program.

Motion:	Councilor Carlotta Collette moved to approve Resolution No. 14-4534.
Second:	Councilor Craig Dirksen seconded the motion.

Mr. Ted Leybold provided staff's report on Resolution No. 14-4534, which if adopted would submit the air quality conformity determination to the Federal Highways Administration and Federal Transit Administration after conferring with the U.S. Environmental Protection Agency. He summarized requirements for air quality analysis work:

- Demonstrate the projected carbon monoxide emissions from transportation sources are equal to or less than the motor vehicle emissions budget established for each analysis year; and;
- Demonstrate the region is meeting performance standards for any adopted transportation control measures (TCMs), including: increasing transit service, building bicycle infrastructure, and building pedestrian infrastructure.

Mr. Leybold stated that Metro also voluntarily reports on emissions related to Ozone and air toxics and greenhouse gas emissions.

Council discussion

Councilor Stacey requested clarification on the increase in transit service from a rate of 1.0 percent to 1.8 percent. Staff explained that the shift was due to a change in methodology Metro received permission to make and in the last year Tri Met has had the capacity to start increasing service again.

Councilor Collette asked for clarification as to whether there were benchmarks for compliance with air toxins, greenhouse gases, and other emissions. Staff explained that the measurements are federally regulated with carbon monoxide emissions regulated by the state as well. After Metro met compliance in regulations for toxins related to the Ozone, Metro volunteered to continue to report on those emissions.

Vote:

Deputy Council President Chase, and Councilors Craddick, Harrington, Dirksen, Collette and Stacey voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> unanimously.
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4.4 **Resolution No. 14-4526**, For the Purpose of Adopting the 2014 Regional Active Transportation Plan.

Motion:	Councilor Kathryn Harrington moved to approve Resolution No. 14-4526.
Second:	Councilor Bob Stacey seconded the motion.

Ms. Lake McTighe provided a staff report on Resolution No. 14-4526, which if approved would adopt the 2014 Regional Active Transportation Plan (ATP) attached to the resolution as Exhibit A, to service as guidance for development and completion of the regional active transportation

network; and direct Metro staff to begin implementing the 2014 ATP through the Regional Transportation Plan (RTP). Ms. McTighe stated that implementation would include policy, partnerships, project development and funding.

The ATP, as recommended for adoption by Metro Policy Advisory Committee (MPAC) and JPACT, includes plans for regional pedestrian and bicycle networks that connect to transit and daily destinations. Ms. McTighe stated that these networks represent the highest priority of pedestrian and bicycle routes of cities and counties and were updated and expanded with extensive input from partners and stakeholders. The plan also includes a set of recommended policies and actions that will contribute to increasing the safety, efficiency, and effectiveness of walking and bicycling in the region. The networks are approximately 50 percent complete at present and have updated the same elements in the 2014 RTP.

Council discussion

Councilors thanked Ms. McTighe and other Metro staff and local jurisdictions who provided input on the ATP, commended the plan's potential for increasing the region's livability, expressed appreciation for the opportunity to invest in active transportation, and emphasized the importance of active transportation networks in a complete transportation system.

Deputy Council President Chase opened the meeting to citizen comment on the resolution:

- Philip Wu, Kaiser Permanente: Mr. Wu congratulated Metro Council, Metro staff, and members of local jurisdictions who helped draft the ATP. He stated Kaiser Permanente's support of the plan with health as a significant guiding principle to the organization. He compared the ATP to a health plan and highlighted the importance of its implementation through the RTP.

Vote:

Deputy Council President Chase, and Councilors Craddick, Harrington, Dirksen, Collette and Stacey voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> unanimously.
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5. ORDINANCES – SECOND READ

5.1 Ordinance No. 14-1340, For the Purpose of Amending the 2035 Regional Transportation Plan to Comply with Federal and State Law; and to Amend the Regional Framework Plan.

Mr. John Mermin provided staff's report on Ordinance No. 14-1340, which if adopted would:

- Amend the 2035 Regional Transportation Plan to become the 2014 RTP, as indicated in Exhibit A and Appendices and the addendum to Exhibit A, attached and incorporated into this ordinance,
- Amend Chapter 2 of Metro's Regional Framework Plan, as indicated in Exhibit B,
- Direct staff to submit this ordinance and exhibits to the Land Conservation and Development Commission (LCDC),
- Recognize the 2014 RTP as the federally-recognized metropolitan transportation plan to be transmitted to the U.S. Department of Transportation

Mr. Mermin provided a summary of the plan, timeline for updating the RTP, work program completed, and final adoption process.

Mr. Mermin identified the materials for Council consideration within Ordinance No. 14-1340 as follows: the ordinance, Exhibits A, B, C, and D, staff report with an attached public comment report, addendum to Exhibit A, and City of Portland Project list edits.

Deputy Council President Chase gaveled and opened the public hearing on Ordinance No. 14-1340:

Kari Schlosshauer, Oregon Walks: Ms. Schlosshauer discussed public comments submitted from Oregon Walks and 10 other organizations supporting the ATP. She spoke of the benefits of active transportation and applauded Metro's effort to base the plan off of existing systems. She commended the design guidelines provided in the ATP and the cost-effectiveness of the plan in reducing greenhouse gas emissions. She identified funding as the biggest barrier facing the ATP.

Linda Bauer, Portland: Ms. Bauer requested that Council not adopt Project Item 10857, a double left turn lane from southeast Jennings Road into a single travel lane on southeast Foster Road, into the RTP at this time because the project is not part of any plan adopted by Portland City Council and has not had any public involvement opportunities for Portland residents.

Elizabeth Williams, Coalition for a Livable Future (CLF): Ms. Williams thanked the Council for listening to community concerns regarding updating the RTP and levels of investments in low-income communities and communities of color. She stated that Metro had met all of CLF's requests except the request related to adequate opportunities for community engagement.

Seeing no other citizens who wished to testify, Deputy Council President Chase gaveled and closed the public hearing.

Council discussion

In response to Council inquiry, staff explained that language revisions to the addendum to Exhibit A in response to comments made by Mayor Denny Doyle were included in the appendix to the RTP.

Council asked staff to respond to Ms. Bauer's comments on Project Item 10857 in the RTP Project List. Mr. Mermin stated that it was his understanding the project was a result of planning work by Pleasant Valley and Ms. Bauer's comment had been received during the public comment period. The project was originally listed on Gresham's project list, but was found to lie in Portland's boundary.

Council thanked Metro staff and Councilor Dirksen for contributions to updating the RTP within a short timeframe using limited resources. Councilor Harrington discussed increasing ambitions in the 2018 RTP update.

Metro Attorney Roger Alfred shared testimony to be submitted into the record regarding the Tonquin Industrial Group (TIG). He directed Council to his memo [Re: Ordinance No. 14-1340 / Adoption of 2014 RTP; Supplemental findings and evidence regarding trails in industrial areas] and proposed an amendment to Supplement to Exhibit D to Ordinance No. 14-1340 Findings, adding two paragraphs on page 20. Mr. Alfred advised that any motion to approve Ordinance No. 14-1340 include proposal to amend Supplement to Exhibit D to Ordinance No. 14-1340 Findings.

Motion:	Councilor Dirksen moved to approve Ordinance No. 14-1340 with the additional language on page 20 of the Supplement to Exhibit D to Ordinance No. 14-1340 Findings as presented by Metro Attorney Roger Alfred.
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Second:	Councilor Collette seconded the motion.
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Vote:	Deputy Council President Chase, and Councilors Craddick, Harrington, Dirksen, Collette and Stacey voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> unanimously.
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5.2 **Ordinance No. 14-1339**, For the Purpose of Amending Metro Code 7.03 (Investment Policy) for Fiscal Year 2014-2015.

Mr. Calvin Smith provided staff's report on Ordinance No. 14-1339, which if adopted would amend and re-adopt Metro Code 7.03 (Investment Policy) for Fiscal Year 2014-2015. Metro Code Chapter 7.03 contains the Investment Policy that applies to all cash-related assets held by Metro. Metro Code requires an annual review and re-adopting with the assistance of the Investment Advisory Board who are appointed on staggered terms by the Council President.

Mr. Smith explained that changes proposed to Metro Investment Policy all relate to the response letter from Metro's Director of Finance, Tim Collier, to the Oregon Short Term Fund (OSTF) Board that addressed the OSTF last review of Metro's Investment Policy. Mr. Smith identified items noted as good areas to tighten up wording and clarify Metro's Investment Policy.

Deputy Council President Chase gaveled and opened a public hearing on Ordinance No. 14-1339.

Seeing no citizens who wished to testify, Deputy Council President Chase gaveled and closed the public hearing.

Motion:	Councilor Dirksen moved to approve Resolution No. 14-1339.
Second:	Councilor Collette seconded the motion.

Vote:	Deputy Council President Chase, and Councilors Craddick, Harrington, Dirksen, Collette and Stacey voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> unanimously.
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6. **ORDINANCES – FIRST READ**

6.1 **Ordinance No. 14-1331**, For the Purpose of Amending Metro Code Title V to Add Metro Code Chapter 5.00, Solid Waste Definitions, and to Repeal Sections 5.01.010, 5.02.015, 5.04.005, 5.05.010, 5.09.020, and 5.10.010; and Modify Certain Definitions in Section 7.01.010.

Second read, public hearing and Council consideration and vote scheduled for July 24.

6.2 **Ordinance No. 14-1332**, For the Purpose of Amending Metro Code Title V, Solid Waste, to Revise Chapter 5.01 and to Repeal Chapter 5.03.

Second read, public hearing and Council consideration and vote scheduled for July 24.

6.3 **Ordinance No. 14-1333**, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Lakeside Reclamation from the List of Metro Designated Facilities.

Second read, public hearing and Council consideration and vote scheduled for July 24.

6.4 **Ordinance No. 14-1334**, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Cedar Grove Composting, Inc. from the List of Metro Designated Facilities.

Second read, public hearing and Council consideration and vote scheduled for July 24.

6.5 **Ordinance No. 14-1335**, For the Purpose of Amending Metro Code Chapter 5.05 to Delete Weyerhaeuser Regional Landfill from the List of Metro Designated Facilities Effective January 1, 2015.

Second read, public hearing and Council consideration and vote scheduled for July 24.

6.6 **Ordinance No. 14-1337**, For the Purpose of Amending Metro Code Title V, Solid Waste, to Revise Chapter 5.05.

Second read, public hearing and Council consideration and vote scheduled for July 24.

6.7 **Ordinance No. 14-1338**, For the Purpose of Amending Metro Code Title V, Solid Waste, to Revise Chapter 5.02.

Second read, public hearing and Council consideration and vote scheduled for July 24.

6.8 **Ordinance No. 14-1342**, For the Purpose of Amending Metro Code Section 2.19.130 to Change the Name of the Solid Waste Advisory Committee.

Second read, public hearing and Council consideration and vote scheduled for July 24.

7. **CHIEF OPERATING OFFICER COMMUNICATION**

Ms. Martha Bennett provided updates on the following items:

- Multnomah County Health Department is still investigating the cause of illnesses at Blue Lake Regional Park. The park will remain closed until a report is received that identifies the causes. Updates will be posted on the newsfeed and website.
- Anticipated release of Draft Urban Growth Report materials online at www.oregonmetro.gov/growth and in the July 22 work session.
- The Association of Zoos and Aquariums is sending a special inspection team to the Oregon Zoo. Ms. Bennett stated that the final report would be distributed to Council as soon as Metro receives it.

8. **COUNCILOR COMMUNICATION**

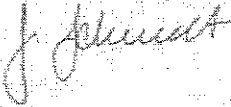
Councilors provided updates on the following meetings or events: Willamette Falls Legacy Project, Gresham's celebration of a new fountain, Oregon Zoo Foundation Zoolala on July 19, and the T4America transportation breakfast forum co-hosted by JPACT Chair Dirksen and the Chair of T4 America.

In response to Council inquiry about considering the ordinances related to solid waste en bloc on July 24, Ms. Kean explained that the Office of the Metro Attorney found the ordinances to contain substantial enough differences that they would necessitate individual consideration.

9. **ADJOURN**

There being no further business, Council President Hughes adjourned the regular meeting at 3:53 p.m. The Metro Council will convene the next regular Council meeting on Thursday, Jul. 24 at 2 p.m. at Metro's Council Chamber. The Metro Council recessed to the Council annex for an executive session held pursuant to ORS 192.660(2) (d), to conduct deliberations with persons designated by governing body to carry on labor negotiations.

Respectfully submitted,



Jill Schmidt, Council Policy Assistant

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF JUL. 17, 2014

Item	Topic	Doc. Date	Document Description	Doc. Number
3.1	Minutes	7/10/2014	Council minutes for Jul. 10, 2014	71714c-01
3.2	Legislation	N/A	Revised Resolution No. 14-4550	71714c -02
4.2	Legislation	N/A	Revised Resolution No. 14-4533	71714c -03
4.2	Testimony	7/16/2014	Re: Resolution No. 14-4533, For the Purpose of Approving the Environmental Justice and Title VI Assessment for the 2014 Regional Transportation Plan and the 2015-2018 Metropolitan Transportation Improvement Program.	71714c -04
4.2	Handout	May 2014	E-mail correspondence with Wendie Kellington regarding air quality conformance determination	71714c -05
4.3	Handout	May 2014	E-mail correspondence with Wendie Kellington regarding air quality conformance determination	71714c -06
4.3	Testimony	7/16/2014	Re: Resolution No. 14-4534, For the Purpose of Approving the Joint Air Quality Conformity Determination for the 2014 Regional Transportation Plan and the 2015-2018 Metropolitan Transportation Improvement Program.	71714c -07
4.4	Handout	May 2014	E-mail correspondence with Wendie Kellington regarding air quality conformance determination	71714c -08
4.4	Testimony	7/16/2014	Re: Resolution No. 14-4526, For the Purpose of Adopting the 2014 Regional Active Transportation Plan.	71714c -09

5.1	Testimony	7/16/2014	Re: Ordinance No. 14-1340, For the Purpose of Amending the 2035 Regional Transportation Plan to Comply with Federal and State Law; and to Amend the Regional Framework Plan.	71714c -10
5.1	Memo; handouts	7/17/2014	Re: Ordinance No. 14-1340 / Adoption of 2014 RTP; Supplemental findings and evidence regarding trails in industrial areas	71714c -11
6.8	Legislation	N/A	Revised Resolution No. 14-1342	71714c -12

