

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 24th day of July, 2014.



*[Signature]*  
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 Tom Hughes, Council President

Attest:  
*[Signature]*  
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 Troy Rayburn, Recording Secretary

Approved as to Form:  
*[Signature]*  
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 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.